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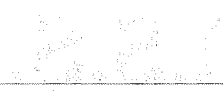
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Transit Trade of Land-Locked States

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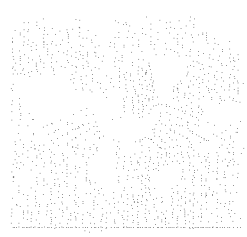
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1. Problems of land-lockedness

With the emergence of many newly independent states after the Second World War, the number of land-locked states or states having no sea coast, has also grown significantly. More than one-fourth of the states in the world are land-locked. In Asia, land-locked states are Afghanistan, Bhutan, Laos, Outer Mongolia and Nepal. But the largest number of land-locked states is in Africa. There are 14 in number, comprising almost half the number of land-locked states in the world. The African land-locked states are: Botswana, Burundi, Central African Republic, Chad, Lesotho, Malawi, Mali, Niger, Rwanda Swaziland, Uganda, Upper Volta, Zambia and Zimbabwe where a white minority government has been ruling over ten years. The other two developing land-locked states, Bolivia and Paraguay, are in Latin America. While in Asia, Africa and Latin America the land-locked states are all developing or least developed among the developing ones, the land-locked states of Europe fall within the category of developed states. They are Austria, Czechoslovakia, Hungary, Liechtenstein, Luxembourg, San Marino, Switzerland and the Vatican. Liechtenstein is a typical land-locked state, as it lies between two other land-locked states, Austria and Switzerland. Like Lesotho in Africa, San Marino is surrounded on all sides by a single country, the only difference being that Lesotho is surrounded by a hostile country, that of South Africa, whereas San Marino is surrounded by a friendly country, that of Italy.

It is interesting to note that all land-locked states of Asia, with wide socio-cultural diversities and geographical distances, have common borders with the People's Republic of China. Paraguay is the only land-locked state whose transit trade also passes through international rivers, that of Paraguay-Parana. Of all the land-locked states of Western Africa, Chad and Central African Republic have the least satisfactory existing routes to the sea.¹ The land-locked state of Rwanda has to use another land-locked state in East Africa, that of Uganda, as its intermediate transit state.

In addition to imposing economic difficulties over land-locked states, in certain cases, transit states might have 'proclivity to influence internal politics of land-locked states'² by using the bilateral agreement of transit trade as an instrument for their own ends.

The minority white regimes near the land-locked states of Southern Africa have created additional politico-psychological problems to those land-locked countries. Botswana's chief economic planner, H.C.L. Hermans, has very painfully observed: 'To be land-locked is difficult enough. To be black and land-locked in Southern Africa is a lonely and expensive experience.'³

Speaking about land-locked states one must refer to the land-locked city of West Berlin. This city became land-locked as a result of the great power rivalry towards the end of World War II. This city has had to face enormous problems due to its land-lockedness and it would require a special paper to study it.

For many developing transit states, it must be said in all fairness, the problem associated with the improvement of transit transport systems is a difficult one unless they also receive external assistance. This could be achieved more effectively if joint cooperative action were launched between the land-locked and the transit state. And unless transit routes and port facilities for the land-

locked states are not improved in the transit states, the economic growth of land-locked states will continue to be adversely affected. 'The less efficient the transit routes and ports, the less the capability of the land-locked states to absorb increased costs, and the less physically secure the transit routes.'⁴

The recognition of free and unrestricted transit is not only a matter of great importance for land-locked countries, but also that of survival. Merryman and Ackerman have put it very rightly when they observe: 'Freedom of transit over the territory of adjacent states is a matter of convenience to a coastal state. To a land-locked state it is a matter of survival.'⁵ This question of survival has led land-locked countries to raise this question, even at Heads-of-State level at international conferences.

In his analysis of convention on transit trade of land-locked countries, Dr. John H.E. Fried has hinted that the absence of solutions to transit trade problems might lead to a new source of international misunderstanding. Dr. Fried says: 'Transit trade problems are getting more, not less, important as time goes on, because unhampered, fast, reliable and economical transit is becoming ever more essential for nations and individuals. Unless progress is made in this field, the world will be faced, because of frustration of land-locked states, with a new source of dissent and complications on an international scale.'⁶

2. *International Law and the Freedom of Transit*

During the last three hundred years, consistent efforts have been made to establish the right of free and unrestricted transit. Firstly in relation to the freedom of the high seas and secondly in relation to the expansion of international trade, this right has assumed significance in the international community.

'... the right of way under public law provided land-locked states with an unquestionable right of passage over territories separating them from the sea, without need of any treaty or, in theory, even of an international agreement.'⁷ In these emphatic words, George Scelle has correctly enunciated the legal basis of freedom of transit.

In Europe the recognition of the principle of freedom of transit started long before the question became a matter of importance for the developing land-locked countries.

'The principle of free transit was reinvigorated by the armies of France which in 1792 reopened the mouth of the River Scheldt, closed by the Dutch in 1648, and by the diplomacy of Thomas Jefferson which resulted in the Treaty of San Lorenzo el Real of 1795. This treaty gave Americans the right to navigate the Mississippi River and other Spanish rivers to the sea, conceding in fact if not in principle Jefferson's claim that 'the ocean is free to all men and their rivers to all their inhabitants.'⁸

The first codification of freedom of navigation on international rivers was done at the Congress of Vienna in 1815, as a consequence of which the Rhine, Meuse and Scheldt became legally open for international riverine traffic. Following the Congress of Vienna the European states constantly cooperated for the interest of land-locked and transit states, and evolved bilateral arrangements for the freedom of transit.

President Woodrow Wilson championed the principle of 'a free and secure access to sea', in his historically famous Fourteen Points. He asked the right of free and secure access to the sea for Serbia and Poland. 'The Treaty of Versailles in articles 338 and 379 considered the problem of transit an important question in the world. Article 23 of the covenant of the League of Nations also contains the relevant provisions which made the Council of the League of Nations convene a conference on freedom of transit in Barcelona in 1921 for the preparation of the first convention on freedom of transit.'⁹

The Barcelona Convention, which was signed on 20 April 1921, was the first attempt to formalise all the principles relating to freedom of transit that were developed in Europe in the years preceding the Convention. The Convention and statute on freedom of Transit, as this Convention is called, does not refer to right of transit of land-locked countries as such, because it deals with the principle of freedom of transit applicable both to the land-locked and transit states. In Europe there are many coastal states which act as intermediate transit states. As there is economic competition between these states to offer transit facilities for the goods of the land-locked states, European land-locked states have a more advantageous position compared to the developing land-locked countries. Moreover, 'an elaborate system of internationalized rivers and canals, free zones and free ports, and special transit arrangements has produced a situation in Europe so adequate that there have been no recent difficulties with transit, not even between Communist and non-Communist countries.'¹⁰

The General Agreement on Tariffs and Trade (GATT) re-emphasized the question of freedom of transit, thereby making this an economic as well as a legal question. Article V of GATT 'Freedom of Transit', includes the following clauses:

2. There shall be freedom of transit, through the territory of each contracting party, via the routes most convenient for international transit, for traffic in transit to or from the territory of other contracting parties ...

6. Each contracting party shall accord to products which have been in transit through the territory of any other contracting party treatment no less favourable than that which would have been accorded to such products had they been transported from their place of origin to their destination without going through the territory of such other contracting party ...

Article 33 of the Havana Charter also reiterates the principle of 'free and secure access to the sea'.

In 1958 at the Conference on the Law of the Sea, the following recommendation was adopted as part of the Convention on the High Seas:

'In order to enjoy the freedom of the seas on equal terms with coastal states, states having no seacoast should have free access to the sea. To this end States situated between the sea and a State having no seacoast shall by common agreement with the latter and in conformity with existing international convention accord:

(a) To the State having no sea-coast, on a basis of reciprocity, free transit through their territory ...

However, the developed and developing land-locked countries at the conference on the Law of the Sea were not happy with this for-

mulation. Dr. Vratislav Pechota, former Head of the Legal Department of the Czechoslovak Ministry of Foreign Affairs has observed: 'Article 3 of the Convention on the High Seas was an anticlimax, a far cry from what had been demanded, Moreover, the draft left much to be desired in terms of legislative precision and accuracy. Its main weakness is perhaps the deliberate reference to the concept of 'common agreement' and 'reciprocity' in a context which might invite expectations of different kind.'¹¹

The adoption of Article 3 of the Convention on the High Seas was the consequence of General Assembly Resolution 1105 (XI), which directed the convening of an international conference to examine the law of the sea, recommending in that connection that the conference 'study the question of free access to the sea of land-locked countries, as established by international practice of treaties.'

The Economic Commission for Asia and the Far East continued its interest in the land-locked countries of the region. In 1963, at the first Asian Ministerial Conference on Economic Cooperation, Nepal, Afghanistan and Laos stressed the importance of providing adequate and unrestricted transit facilities for developing the trade of land-locked countries. The Ministerial Conference 'recognized the right of free and unrestricted transit for land-locked countries and the special considerations which applied to their problems in this regard, and considered the importance of the relationship of these problems to questions of regional cooperation and the expansion of intra-regional trade.' The Conference, at the suggestion of Nepal, Afghanistan and Laos, requested the assistance of the ECAFE Secretariat in preparing a draft convention on transit trade of land-locked countries for preliminary consideration by the governments of Nepal, Afghanistan and Laos.

At the twentieth session of ECAFE, a resolution was unanimously adopted, recommending the United Nations Conference on Trade and Development to give urgent and sympathetic consideration to the question of transit trade of land-locked countries.

3. Action at UNCTAD I

At the first United Nations Conference on Trade and Development, a draft convention on transit trade of land-locked countries was introduced on behalf of the land-locked countries of Asia and Africa. This aimed at modernising and amplifying the existing Barcelona Convention on freedom of transit.

The Barcelona Convention applies to transit by rail and waterway and does not apply to road or other media of transit. The Havana Charter, which also includes the principles of freedom of transit, was never implemented. GATT confines itself to certain general principles relating to transit, referring to goods and not to passengers. Therefore, prior to the Convention on transit trade of land-locked countries, there was no international convention which covered wider aspects of the problems connected with their transit trade.

In introducing the Afro-Asian draft convention, an appeal was made to the developing countries that if they sought certain concessions on trade from the developed countries, they themselves should show greater willingness to help countries at lower stages of development. Such assistance received by the land-locked countries from their coastal neighbours could help them to attain a stable and adequate rate of growth.

The General Assembly of the United Nations, by Resolution 1028 (XI) adopted on 20 February 1957, recognised the need of land-locked countries for adequate transit facilities in promoting international trade, and invited the Governments of Member States to accord them adequate facilities in terms of international law and practice in this regard, bearing in mind the future requirements resulting from the economic development of the land-locked countries. Keeping in mind General Assembly resolution 1028 (XI), it was maintained at the United Nations Conference on Trade and Development that it would be impossible for land-locked countries to meet export shortfall if their transit trade was not governed by an instrument recognised internationally.

In its general commentary, the Commission of Enquiry on Freedom of Communication and Transit, set up by the League of Nations, had stated that every state whose external trade was absolutely or virtually forced to pass across neighbouring territory, ought to enjoy a guaranteed right of freedom of transit across that territory. It was laid down in article 23 of the Covenant of the League of Nations that 'subject to and in accordance with the provisions of international Conventions existing or hereafter to be agreed upon, the members of the League will make provision to secure and maintain freedom of communication and of transit and equitable treatment for the commerce of all members of the League.'

The Barcelona Convention on freedom of transit was the outcome of the efforts of the members of the League of Nations. The draft Convention on transit trade of land-locked countries which was presented at the United Nations Conference on Trade and Development was guided by the spirit of freedom of transit contained in the Barcelona Convention.

After much effort by the land-locked countries, UNCTAD I adopted the following eight principles relating to transit trade of land-locked countries.

Principle I

The recognition of the right of each land-locked state of free access to the sea is an essential principle for the expansion of international trade and economic development.

Principle II

In territorial and internal waters, vessels flying the flag of land-locked countries should have identical rights and enjoy treatment identical to that enjoyed by vessels flying the flag of coastal States other than the territorial States.

Principle III

In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast shall, by common agreement with the latter, and in conformity with existing international conventions, accord the ships flying the flag of that State treatment equal to that accorded to their own ships or to the ships of any other State as regards access to sea ports and the use of such ports.

Principle IV

In order to promote fully the economic development of the land-locked countries, the said countries should be afforded by all States, on the basis of reciprocity, free and unrestricted transit, in such a

manner that they have free access to regional and international trade in all circumstances and for every type of goods.

Goods in transit should not be subject to any customs duty.

Means of transport in transit should not be subject to special taxes or charges higher than those levied for the use of means of transport of the transit country.

Principle V

The state of transit, while maintaining full sovereignty over its territory, shall have the right to take all indispensable measures to ensure that the exercise of right of free and unrestricted transit shall in no way infringe its legitimate interests of any kind.

Principle VI

In order to accelerate the evolution of a universal approach to the solution of the special problems of trade and development of land-locked countries in the different geographical areas, the conclusion of regional and other international agreements in this regard should be encouraged by all States.

Principle VII

The facilities and special rights accorded to land-locked countries in view of their special geographical position are excluded from the operation of the most favoured nation clause.

Principle VIII

The principles which govern the right of free access to the sea of the land-locked State shall in no way abrogate existing agreements between two or more contracting parties concerning the problems, nor shall they raise an obstacle as regards the conclusion of such agreements in the future, provided the latter do not establish a regime which is less favourable than or opposed to the above mentioned provisions.

Interpretative Note

These Principles are inter-related and each Principle should be construed in the context of the other principles.

UNCTAD by resolution requested the UN Secretary General to appoint a Committee of 24 members, representing land-locked, transit and other interested States, as governmental experts. The Conference also requested the Committee to prepare a draft convention relating to transit trade of land-locked countries, treating the proposal made by Afro-Asian land-locked countries as a basic text. The Conference further recommended that the United Nations decide to convene a conference of plenipotentiaries in the middle of 1965 to consider and adopt the convention.

Acting upon the request of the Conference the UN Secretary General designated the following States as members of the Committee: Afghanistan, Argentina, Austria, Bolivia, Chile, Czechoslovakia, India, Ivory Coast, Japan, Liberia, Mali, Nepal, Netherlands, Niger, Nigeria, Pakistan, Paraguay, Senegal, Switzerland, Union of Soviet Socialist Republics, United Kingdom, United States of America, Upper Volta and Yugoslavia.

4. *Convention on Transit Trade of Land-locked Countries*¹²

The Conference of plenipotentiaries adopted the convention on transit trade of land-locked countries on 8 July 1965. The Convention entered into force on 9 June 1967. But only one developing transit country, Nigeria has ratified this convention, while other developing transit countries have not acceded to it.

The Convention on transit trade of land-locked countries in its preamble recalls Article 55 of the Charter of the United Nations which required it under this Article to promote conditions of economic progress and solution of international economic problems.

The Preamble has noted General Assembly resolution 1028 (XI) which, recognising the need of land-locked states for adequate transit facilities in promoting international trade, has invited Member States 'to give full recognition to the needs of land-locked Member States in the matter of transit trade and to accord them adequate facilities in terms of international law and practice in this regard, bearing in mind the future requirements resulting from the economic development of land-locked countries.'

The preamble has recalled Articles 2 and 3 of the Convention on the High Seas. Article 3 of this Convention recognises the legal right of a land-locked State of access to the Sea. It says, 'in order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast should have free access to the Sea.'

The preamble has reaffirmed all the eight principles adopted by UNCTAD I of which the most important is that which states: 'The recognition of the right of each land-locked state of free access to the sea is an essential principle for the expansion of international trade and economic development.'

The Convention on Transit Trade of Land-Locked Countries has modernised and amplified the Barcelona Convention for its application to transit trade of the land-locked countries. Its definition of 'traffic in transit' (Article 1) is more specific than the Barcelona Convention. Under the Convention on Transit Trade of Land-locked Countries, even a land-locked state may become state of transit, if 'traffic in transit' of another land-locked state passes through its borders. There is a specific qualification of 'traffic in transit' as the passage of goods, etc. 'between a land-locked state and the sea when the passage is a portion of a complete journey which begins or terminates within the territory of that land-locked state and which includes sea transport directly preceding or following such passage.' While limiting this Convention to transit trade of land-locked countries, the drafters of the Convention considered that it should not limit the wider application of a bilateral agreement (Article 9).

Whereas the Barcelona Convention covered only rail or waterway transport, the Convention on Transit Trade of Land-locked Countries has attempted to cover all media of transport-railway stock; seagoing or rivergoing vessels, road vehicles, porters, pack animals, gas-lines or pipe-lines are all included as means of transport. This was required because since the signing of the Barcelona Convention revolutionary changes have been introduced in the means of transport.

Article 2 has granted freedom of transit not only for traffic in transit but also for means of transport. It has stipulated that measures taken for regulating and forwarding traffic across the territory of contracting states shall facilitate traffic in transit. It has also provided passage across or access to the territory of contracting States

of persons whose movement is necessary for traffic in transit. Paragraph 4 of Article 2 provides that the passage of traffic in transit across the territorial waters of contracting states shall be permitted 'in accordance with the principles of customary international law or applicable international conventions and with their internal regulations.'

Article 3 of the Convention provides that 'traffic in transit shall not be subjected by any authority within the transit state to customs duties or taxes chargeable by reason of importation or exportation nor to any special dues in respect of transit', except that, 'there may be levied charges intended solely to defray expenses of supervision and administration entailed by such transit.' The levying of such charges has been limited by the provision that they 'must correspond as nearly as possible with the expenses they are intended to cover'.

The inadequacy of transport provided by the transit countries is a major complaint of land-locked countries. To overcome this problem, Article 4 states, 'the Contracting States undertake to provide, subject to availability, at the points of entry and exit, and as required at points of trans-shipment, adequate means of transport and handling equipment for the movement of traffic in transit without unnecessary delay.' The charges on traffic in transit have been asked to be 'reasonable as regards both their rates and the method of their application.' Furthermore these charges are to be so fixed 'as to facilitate traffic in transit as much as possible.'

Delays in traffic in transit have been generally caused because transit states sometimes apply rigid administrative and customs measures. Article 5 of the Convention provides that administrative and customs measures shall be applied with a view to 'permitting the carrying out of free, uninterrupted and continuous traffic in transit.' The Contracting States under this Article also undertake 'to use simplified documentation and expeditious methods in regard to customs, transport and other administrative procedures relating to traffic in transit for the whole transit journey in their territory, including any trans-shipment, warehousing, breaking bulk, and changes in the mode of transport as may take place in the course of such journey.'

Article 6 provides that the conditions for the storage of goods in transit shall be established by agreement between the States concerned. However, the transit States, have been asked to 'grant conditions of storage at least as favourable as those granted to goods coming from or going to their own countries.'

Most of the Articles of the Convention are intended to help the land-locked countries to overcome their difficulties in matters relating to transit trade. Article 7 of the Convention also conveys the same spirit. It says that 'except in cases of *force majeure* all measures shall be taken by Contracting States to avoid delays in or restrictions on traffic in transit.' Article 7 also introduces the element of cooperation so essential between transit and land-locked states, stating: 'should delays or other difficulties occur in traffic in transit, the competent authorities of the transit State or States and of the land-locked State shall cooperate towards their expeditious elimination.'

Free zones at the ports of entry and exit in the transit state would help to overcome administrative delays in transit countries as goods destined to a land-locked state may be stored there without undergoing all customs formalities, and may be transhipped giving the

transit goods similar treatment as provided to transshipments at intermediate ports. Article 8 says that free zones or other customs facilities may be provided at the ports of entry and exit in transit states, by agreement between those states and the land-locked states.

Article 9 qualifies that 'this Convention does not entail in any way the withdrawal of transit facilities which are greater than those provided for in the Convention,' nor does the Convention preclude 'such grant of greater facilities in future.'

The problems of transit trade of land-locked countries are of such a special nature that the Contracting States, under Article 10 of the Convention, are exempt from the operation of the most-favoured nation clause. This means that the Contracting States are not obliged to grant favours given to land-locked states to states which are not land-locked. It is maintained that the facilities and special rights accorded by the Convention to land-locked states are done so in view of their special geographical position.

Articles 11 and 12 provide exceptions to convention on grounds of public health, security, protection of intellectual property and in case of emergency. But the exception in case of emergency shall be, according to Article 12, 'in exceptional cases and for as short a period as possible.' Article 13 provides that even in time of war the Convention shall continue in force so far as the rights and duties of belligerents and neutrals permit.

The Convention does not impose upon a Contracting State any obligation conflicting with its rights and duties as a Member of the United Nations and the provisions of the Convention are to be applied on a basis of reciprocity (Articles 14 and 15).

One of the most important Articles is Article 16 which refers to the settlement of disputes: 'any dispute which may arise with respect to the interpretation or application of the provisions of this Convention which is not settled by negotiation or by other peaceful means of settlement within a period of nine months shall, at the request of either party, be settled by arbitration.' This Article provides protection to land-locked countries from possible economic strangulation by coastal States.

Articles 17, 18, 19, 20, 21, 22 and 23 of the Convention relate to signature, ratification, accession, entry into force, revision notifications and authentic text of the Convention.

This Convention, which is the first international recognition of the rights of land-locked countries, also attempts to protect the interests of transit states, although some of the developing transit states consider that it has gone much further than the facilities that transit states are in a position to accord. Some transit states did not sign the Convention and have not yet acceded to it. Developing land-locked countries have therefore raised this question each year in the Economic Committee of the General Assembly, at the United Nations Conference on Trade and Development, and in regional Economic Commissions.

Referring to actions taken by UNCTAD in favour of the least developed and land-locked countries, it is interesting to note that the organisers of UNCTAD I did not perceive the magnitude of the problems of the least developed and land-locked countries, as these were not mentioned on the agenda, although subsequently even the UN General Assembly has included this question in its agenda. At UNCTAD I, the land-locked countries, after a great effort, were able to organise a sub-committee on land-locked countries.

The Secretariat of the United Nations Conference on Trade and Development in its report (TD/17), three years after the first Conference, observed: 'Apart from the special attention given to the needs of all least developed countries in respect of shipping and other invisibles, particular attention should be paid to those that are land-locked. One of the factors inhibiting the expansion of trade and economic development of some of the least developed countries is their land-locked position, which leads to special problems connected with their transit trade, difficulties in bulk transactions, high transport costs and other invisible costs adversely affecting their competitive position.'

'The Convention on Transit Trade of Land-locked Countries of 8 July 1965 entered into force on 9 June 1967, but many important transit countries have not yet ratified or acceded to it. The significance of the Convention to the land-locked countries would be enhanced if all important transit and maritime countries were encouraged to ratify or accede to it and implement its articles.'

The land-locked countries want nothing more than what has been recommended by the Secretariat of UNCTAD. The Convention should be acceded to by all transit countries. Wherever necessary, a new transit agreement based on the guidelines provided by the Convention should be entered into.

Certain provisions of the Convention have been strongly objected to by transit countries, especially that of Free Zone and Arbitration. But free zone is not a new concept, having been provided in many earlier agreements. The provisions of the free zone will be more helpful to transit countries because transit goods may then be stored without unnecessary customs formalities. After all, the interests of land-locked countries in the safe arrival at destination of transit goods are more involved than those of the transit countries. If goods imported by a land-locked country do not arrive at destination, it will lose not only the goods and the duty on them but also the foreign exchange involved in the importation. Thus, who would be more interested than the land-locked countries in the safe arrival of goods?

Countries which have objected to the arbitration clause of the Convention include developing transit countries which have not only accepted arbitration in other cases but have repeatedly expressed their active faith in the International Court of Justice. Arbitration is intended solely for the judicious settlement of a dispute if the land-locked and transit countries should fail to solve it mutually.

One of the arguments often repeated by some of the transit countries is that land-locked countries have no legal right under the international law of free access to the seas. They maintain that this right has not been accorded to the land-locked countries even by Article 3 of the Conventions on the High Seas, the first sentence of which states: 'in order to enjoy the freedom of the seas on equal terms with Coastal States, States having no sea-coast should have free access to the sea.'

The contention of those transit countries which wish to deny a legally recognised right to the land-locked countries is that in this sentence the word 'should' does not extend or establish an unqualified right of transit to the land-locked states. They contend further that had the word used been 'shall' instead of 'should' the meaning would have been the same as the land-locked countries deduce.

There being no sovereign authority to enforce it, international law has no coercive nature such as that of municipal law. International law operates in the community of nations because it receives the sanction of consent from the nation-states. Even Chapter VII of the Charter of the United Nations, which has armed the Security Council with the power of enforcement, has provided that for undertaking any enforcement action the Security Council has to receive first the consent of the Five Permanent Members of the Council.

The Convention on Transit Trade of Land-locked Countries cannot be effective unless it receives the consent of both land-locked and transit countries for its operation. The basic purpose of the Convention is to provide a guideline for bilateral agreements on this question, and also that no bilateral agreement should run counter to the universal principles enunciated by the Convention.

The adoption of the Convention on Transit Trade of Land-locked countries has aroused wider interest in international organisations with regard to the question of land-locked and least developed countries. Both at UNCTAD II and III this question received greater attention. Even the World Bank Group, which has been concentrating on larger countries, has started showing interest towards land-locked and least developed countries. In pursuance to the resolution of UNCTAD II, groups of experts have been organised by the UNCTAD secretariat to identify the problems of such countries. The ECAFE (now called ESCAP) Secretariat has created a special unit to deal with land-locked countries, in line with that of ECLA, and has also appointed a special body on land-locked countries.

The first group of experts appointed by UNCTAD on the problems of the least developed countries has identified the basic characteristics of the least developed countries as follows: 'Low level of labour productivity, scarcity of skilled manpower, inadequate knowledge about the nature and extent of their natural resources, low level of physical and institutional infrastructure, the predominance of subsistence production, dependence on a very narrow range of primary commodities in their production and export structure, and lack of integrated and coordinated industrialisation.' Following this identification, another ad hoc group of experts appointed by UNCTAD classified the following characteristics as least developed: '*per capita* gross domestic product of 10 per cent or less; and literacy rate - proportion of the literate persons in the age group of fifteen years or more - of 20 per cent or less.'

The United Nations has named 25 countries as falling within the category of least developed, and it is interesting to note that 15 of these are land-locked. They are: 'Botswana, Burundi, Chad, Dahomey, Lesotho, Malawi, Mali, Niger, Rwanda, Uganda, Upper Volta, Afghanistan, Bhutan, Laos, Nepal and Sikkim.'¹³

UNCTAD also appointed another group of experts to recommend a transport strategy for land-locked developing countries. The group has recommended that study be made of the question of improvement of transiting procedures by joint action; international joint ventures in the field of transport and the pricing in the transport sector.

The UNCTAD-established criteria of least development have been disputed by some economists. 'Although the choice and application of such indicators has generated and remains subject to much controversy, one can fairly conclude that levels of poverty and structural deficiencies constitute the basic components of this approach.'¹⁴

Reginald Herbold Green, Economic Adviser to one of the least developed countries, Tanzania, has correctly said: 'Significant transport, power and water deficiencies are major obstacles to development and to the attainment of a decent standard of living outside a few of the larger centres. This situation greatly aggravates the lack of adequate human resources development (education, health, skilled manpower).'¹⁵

The land-locked countries have unceasingly continued their efforts to get their right of free and unrestricted transit recognised at every international conference dealing with international economic problems or related legal questions. The Conference of the Law of the Sea at Venezuela and the current Conference in Geneva indicate that the land-locked countries are working very hard to get a legal formula in their favour included as part of the forthcoming convention on the high seas. They are also keen to be common partners in the exploitation of the sea-bed resources, as they know that they should not be treated as being in the phase of stone age economic simplicity when the developed world has reached the sophisticated age of exploitation of sea-bed resources.

Notes

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2. M.I. Glassner, 'The Status of Developing Land-locked States Since 1965', in *Lawyer of the Americas*, 5, 3 (October 1973), 486.
3. H.C.L. Hermans, 'Botswana's Option for Independent Existence', in Z. Cervenka (ed), *Land-locked Countries of Africa* (Scandinavian Institute of African Studies, Uppsala, 1973).
4. D. Anglin, 'The Politics of Alternative Routes in Land-locked Southern Africa', in Cervenka, *ibidem*.
5. J.H. Merryman and E.C. Ackerman, *Transit Trade of Land-locked States* (Hamburg, 1969), 16.
6. J.H.E. Fried, 'The 1965 Convention on Transit Trade of Land-locked States', in *Indian Journal of International Law*, VI (1966).
7. G. Scelle, *Manuel de droit international public*, Part I (1941), 389.
8. M.I. Glassner, *Access to the Sea for Developing Land-locked States* (The Hague, 1970), 18.
9. A. Hakim Tabibi, *The Right of Transit of Land-locked Countries* (Kabul, 1970), 1.
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Annex 1LAND-LOCKED COUNTRIES OF THE WORLD

<u>Europe</u>	Area	Population [*]
Austria	32,375 sq. miles (83,850 sq. kilometers)	7,000,000
Czechoslovakia	49,373 sq. miles (127,876 sq. kilometers)	14,000,000
Hungary	35,919 sq. miles (93,030 sq. kilometers)	10,000,000
Liechtenstein	62 sq. miles (160 sq. kilometers)	22,000
San Marino	23.5 sq. miles (61 sq. kilometers)	19,000
Switzerland	15,941 sq. miles (41,228 sq. kilometers)	6,270,000
The Vatican	0.15 sq. miles (0.4 sq. kilometers)	1,000

^{*} Figures of area and population of the land-locked countries are based on Encyclopaedia Britannica.

Annex 2

<u>Asia</u>	Area	Population
Afghanistan	251,823 sq. miles (652,221 sq. kilometers)	17,500,000
Bhutan	18,000 sq. miles (47,000 sq. kilometers)	836,000
Laos	91,400 sq. miles (236,800 sq. kilometers)	3,000,000
Mongolia	604,000 sq. miles (1,565,000 sq. kilometers)	1,250,000
Nepal	54,362 sq. miles (140,798 sq. kilometers)	11,289,000

Annex 3

<u>Africa</u>	Area	Population
Botswana	220,000 sq. miles (569,800 sq. kilometers)	600,000
Burundi	10,759 sq. miles (27,865 sq. kilometers)	3,500,000
Central African Republic	240,377 sq. miles (622,577 sq. kilometers)	1,637,000
Chad	495,750 sq. miles (1,284,000 sq. kilometers)	3,800,000
Lesotho	11,720 sq. miles (30,355 sq. kilometers)	1,000,000
Malawi	45,747 sq. miles (118,485 sq. kilometers)	4,550,000
Mali	479,000 sq. miles (1,240,000 sq. kilometers)	5,000,000
Niger	458,075 sq. miles (1,186,408 sq. kilometers)	4,200,000
Rwanda	10,169 sq. miles (26,338 sq. kilometers)	3,736,000
Swaziland	6,704 sq. miles (17,364 sq. kilometers)	446,000
Uganda	91,452 sq. miles (236,860 sq. kilometers)	10,000,000
Upper Volta	105,792 sq. miles (274,000 sq. kilometers)	6,000,000
Zambia	290,586 sq. miles (752,614 sq. kilometers)	4,500,000
Zimbabwe	150,820 sq. miles (390,622 sq. kilometers)	463,000
<u>Latin America</u>		
Bolivia	424,165 sq. miles (1,098,581 sq. kilometers)	5,000,000
Paraguay	157,048 sq. miles (406,752 sq. kilometers)	2,400,000

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