

1965 CONVENTION ON TRANSIT TRADE OF LAND-LOCKED STATES

Adopted in New York, the United States of America on 8 July 1965

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PREAMBLE

The States Parties to the present Convention,

RECALLING that Article 55 of its Charter requires the United Nations to promote conditions of economic progress and solutions of international economic problems,

NOTING General Assembly resolution 1028 (XI) on the land-locked countries and the expansion of international trade which, "recognizing the need of land-locked countries for adequate transit facilities in promoting international trade", invited "the Governments of Member States to give full recognition to the needs of land-locked Member States in the matter of transit trade and, therefore, 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",

RECALLING article 2 of the Convention on the High Seas which states that the high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty and article 3 of the said Convention which states:

1. 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. To this end States situated between the sea and a State having no sea-coast shall by common agreement with the latter and in conformity with existing international conventions accord:
 - (a) To the State having no sea-coast, on a basis of reciprocity, free transit through their territory; and
 - (b) To ships flying the flag of that State treatment equal to that accorded to their own ships, or to the ships of any other States, as regards access to seaports and the use of such ports.
2. States situated between the sea and a State having no sea-coast shall settle, by mutual agreement with the latter, and taking into account the rights of the coastal State or State of transit and the special conditions of the State having no sea-coast, all matters relating to freedom of transit and equal treatment in ports, in case such States are not already parties to existing international conventions."

REAFFIRMING the following principles adopted by the United Nations Conference on Trade and Development with the understanding that these principles are interrelated and each principle should be construed in the context of the other principles:

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 on 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 State.

PRINCIPLE III

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. To this end States situated between the sea and a State having no sea-coast shall by common agreement with the latter and in conformity with existing international conventions accord to 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 seaports 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 the 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 and particular 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 conclusions of such agreements in the future, provided

that the latter do not establish a regime which is less favourable than or opposed to the above-mentioned provisions.

Have agreed as follows:

ARTICLE 1 DEFINITIONS

For the purpose of this Convention,

- (a) the term "land-locked State" means any Contracting State which has no sea-coast;
- (b) the term "traffic in transit" means the passage of goods including unaccompanied baggage across the territory of a Contracting State 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. The trans-shipment, warehousing, breaking bulk, and change in the mode of transport of such goods as well as the assembly, disassembly or reassembly of machinery and bulky goods shall not render the passage of goods outside the definition of "traffic in transit" provided that any such operation is undertaken solely for the convenience of transportation. Nothing in this paragraph shall be construed as imposing an obligation on any Contracting State to establish or permit the establishment of permanent facilities on its territory for such assembly, disassembly or reassembly;
- (c) the term "transit State" means any Contracting State with or without a sea-coast, situated between a land-locked State and the sea, through whose territory "traffic in transit" passes;
- (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 porters and pack animals;
 - (iii) if agreed upon by the Contracting States concerned, other means of transport and pipelines and gas lines when they are used for traffic in transit within the meaning of this article.

ARTICLE 2 FREEDOM OF TRANSIT

1. Freedom of transit shall be granted under the terms of this Convention for traffic in transit and means of transport. Subject to the other provisions of this Convention, the measures taken by Contracting States for regulating and forwarding traffic across their territory shall facilitate traffic in transit on routes in use mutually acceptable for transit to the Contracting States concerned. Consistent with the terms of this Convention, no discrimination shall be exercised which is based on the place of origin, departure, entry, exit or destination or on any circumstances relating to the ownership of the goods or the ownership, place of registration or flag of vessels, land vehicles or other means of transport used.
2. The rules governing the use of means of transport, when they pass across part or the whole of the territory of another Contracting State, shall be established by common agreement among the Contracting States concerned, with, due regard to the multilateral international conventions to which these States are parties.

3. Each Contracting State shall authorize, in accordance with its laws, rules and regulations, the passage across or access to its territory of persons whose movement is necessary for traffic in transit.
4. The Contracting States shall permit the passage of traffic in transit across their territorial waters in accordance with the principles of customary international law or applicable international conventions and with their internal regulations.

ARTICLE 3 CUSTOMS DUTIES AND SPECIAL TRANSIT DUES

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. Nevertheless on such traffic in transit there may be levied charges intended solely to defray expenses of supervision and administration entailed by such transit. The rate of any such charges must correspond as nearly as possible with the expenses they are intended to cover and, subject to that condition., the charges must be imposed in conformity with the requirement of non-discrimination laid down in article 2, paragraph 1.

ARTICLE 4 MEANS OF TRANSPORT AND TARIFFS

1. 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.
2. The Contracting States undertake to apply to traffic in transit, using facilities operated or administered by the State, tariffs or charges which, having regard to the conditions of the traffic and to considerations of commercial competition, are reasonable as regards both their rates and the method of their application. These tariffs or charges shall be so fixed as to facilitate traffic in transit as much as possible, and shall not be higher than the tariffs or charges applied by Contracting States for the transport through their territory of goods of countries with access to the sea. The provisions of this paragraph shall also extend to the tariffs and charges applicable to traffic in transit using facilities operated or administered by firms or individuals, in cases in which the tariffs or charges are fixed or subject to control by the Contracting State. The term-"facilities" used in this paragraph shall comprise means of transport, port installations and routes for the use of which tariffs or charges are levied.
3. Any haulage service established as a monopoly on waterways used for transit must be so organized as not to hinder the transit of vessels.
4. The provisions of this article must be applied under the conditions of non-discrimination laid down in article 2, paragraph 1.

ARTICLE 5 METHODS AND DOCUMENTATION IN REGARD TO CUSTOMS, TRANSPORT, ETC.

1. The Contracting States shall apply administrative and customs measures permitting the carrying out of free, uninterrupted and continuous traffic in transit. When necessary, they should undertake negotiations to agree on measures that ensure and facilitate the said transit.
2. The Contracting States 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 on 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 STORAGE OF GOODS IN TRANSIT

1. The conditions of storage of goods in transit at the point of entry and exit, and at intermediate stages in the transit State may be established by agreement between the States concerned. The transit States shall grant conditions of storage at least as favourable as those granted to goods coming from or going to their own countries.
2. The tariffs and charges shall be established in accordance with article 4.

ARTICLE 7 DELAYS OR DIFFICULTIES IN TRAFFIC IN TRANSIT

1. Except in cases of force majeure all measures shall be taken by Contracting 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 the land-locked State shall co-operate towards their expeditious elimination.

ARTICLE 8 FREE ZONES OR OTHER CUSTOMS FACILITIES

1. For convenience of traffic in transit, free zones or other customs 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. Facilities of this nature may also be provided for the benefit of land-locked States in other transit States which have no sea-coast or seaports.

ARTICLE 9 PROVISION OF GREATER FACILITIES

This Convention does not entail in any way the withdrawal of transit facilities which are greater than those provided for in the Convention and which under conditions consistent with its principles, are agreed between Contracting States or granted by a Contracting State. The Convention also does not preclude such grant of greater facilities in the future.

ARTICLE 10 RELATION TO MOST-FAVOURED-NATION CLAUSE

1. The Contracting States agree that the facilities and special rights accorded by this Convention to land-locked States in view of their special geographical position are excluded from the operation of the most-favoured-nation clause. A land-locked State which is not a Party to this Convention may claim the facilities and special rights accorded to land-locked States under this Convention only on the basis of the most-favoured-nation clause of a treaty between that land-locked State and the Contracting State granting such facilities and special rights.
2. If a Contracting State grants to a land-locked State facilities or special rights greater than those provided for in this Convention, such facilities or special rights may be limited to that land-locked State, except in so far as the Withholding of such greater facilities or special rights from any other land-locked State contravenes the most-favoured-nation provision of a treaty between such other land-locked State and the Contracting State granting such facilities or special rights.

ARTICLE 11 EXCEPTIONS TO CONVENTION ON GROUNDS OF PUBLIC HEALTH, SECURITY, AND PROTECTION OF INTELLECTUAL PROPERTY

1. No Contracting State shall be bound by this Convention to afford transit to persons whose admission into its territory is forbidden, or for goods of a kind of which the importation is prohibited, either on grounds of public morals, public health or security, or as a precaution against diseases of animals or plants or against pests.
2. Each Contracting State shall be entitled to take reasonable precautions and measures to ensure that persons and goods, particularly goods which are the subject of a monopoly, are really in transit, and that the means of transport are really used for the passage of such goods, as well as to protect the safety of the routes and means of communication.
3. Nothing in this Convention shall affect the measures which a Contracting State may be called upon to take in pursuance of provisions in a general international convention, whether of a world-wide or regional character, to which it is a party, whether such convention was already concluded on the date of this Convention or is concluded later, when such provisions relate:
 - (a) to export or import or transit of particular kinds of articles such as narcotics, or other dangerous drugs, or arms; or
 - (b) to protection of industrial, literary or artistic property, or protection of trade names, and indications of source or appellations of origin, and the suppression of unfair competition.
4. Nothing in this Convention shall prevent any Contracting State from taking any action necessary for the protection of its essential security interests.

ARTICLE 12 EXCEPTIONS IN CASE OF EMERGENCY

The measures of a general or particular character which a Contracting State is obliged to take in case of an emergency endangering its political existence or its safety may, in exceptional cases and for as short a period as possible, involve a deviation from the provisions of this Convention on the understanding that the principle of freedom of transit shall be observed to the utmost possible extent during-such a period.

ARTICLE 13 APPLICATION OF THE CONVENTION IN TIME OF WAR

This Convention does not prescribe the rights and duties of belligerents and neutrals in time of war. The Convention shall, however, continue in force in time of war so far as such rights and duties permit.

ARTICLE 14 OBLIGATIONS UNDER THE CONVENTION AND RIGHTS AND DUTIES OF UNITED NATIONS MEMBERS

This Convention does not impose upon a Contracting State any obligation conflicting with its rights and duties as a Member of the United Nations.

ARTICLE 15 RECIPROCITY

The provisions of this Convention shall be applied on a basis of reciprocity.

ARTICLE 16 SETTLEMENT OF DISPUTES

1. 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. The arbitration commission shall be composed of three members. Each party to the dispute shall appoint one member to the commission, while the third member, who shall be the Chairman, shall be chosen in common agreement between the parties. If the parties fail to agree on the designation of the third member within a period of three months, the third member shall be appointed by the President of the International Court of Justice. In case any of the parties fail to make an appointment within a period of three months the President of the International Court of Justice shall fill the remaining vacancy or vacancies.
2. The arbitration commission shall decide on the matters placed before it by simple majority and its decisions shall be binding on the parties.
3. Arbitration commissions or other international bodies charged with settlement of disputes under this Convention shall inform, through the Secretary-General of the United Nations, the other Contracting States of the existence and nature of disputes and of the terms of their settlement.

ARTICLE 17 SIGNATURE

The present Convention shall be open until 31 December 1965 for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

ARTICLE 18 RATIFICATION

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE 19 ACCESSION

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in article 17. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE 20 ENTRY INTO FORCE

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the instruments of ratification or accession of-at least two land-locked States and two transit States having a sea-coast.

2. For each State ratifying or acceding to the Convention after the deposit of the instruments of ratification or accession necessary for the entry into force of this Convention in accordance with paragraph 1 of this article, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

ARTICLE 21 REVISION

At the request of one third of the Contracting States, and with the concurrence of the majority of the Contracting States, the Secretary-General of the United Nations shall convene a Conference with a view to the revision of this Convention.

ARTICLE 22 NOTIFICATIONS BY THE SECRETARY-GENERAL

The Secretary-General of the United Nation shall inform all States belonging to any of the four categories mentioned in article 17:

- (a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with articles 17, 18 and 19;
- (b) of the date on which the present Convention will enter into force in accordance with article 20;
- (c) of requests for revision, in accordance with article 21.

ARTICLE 23 AUTHENTIC TEXTS

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in article 17.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.