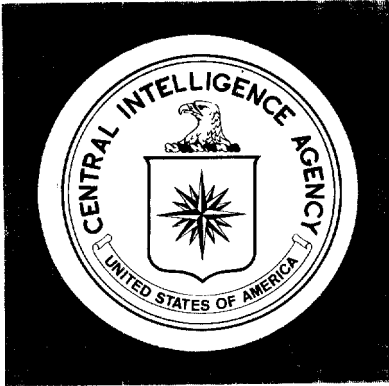


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# Law of the Sea Country Study

*Bolivia*

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GCR LOS 75-9  
May 1975

NATIONAL SECURITY INFORMATION  
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## Law Of The Sea Country Study Supplement

BGI LOS 74-9 SUPP  
May 1975

### Federal Republic of Germany

West Germany's four major goals in the U.N. Law of the Sea (LOS) Conference continue to be the retention of freedom of navigation over the greatest possible sea area, maintenance of traditional distant-water fishing rights, access by German firms to deep seabed mineral resources under reasonable regulations for exploitation, and unhindered scientific research. The Germans realize that the Federal Republic, as a developed and geographically disadvantaged state, will gain nothing from an economic zone and will stand to lose on the distant-water fisheries issue. (U)

West Germany joined a worldwide group of landlocked and shelf-locked states at Caracas in sponsoring draft articles that would limit the breadth of the territorial sea to 12 miles and require the conservative use of straight baselines. The Federal Republic's support for a 12-mile territorial sea remains conditional upon conference acceptance of the U.S. straits position, unimpeded transit and overflight of straits overlapped by an extension of territorial seas. (C)

Although not prepared to endorse the archipelago principle, Bonn will not publicly oppose an understanding on the issue. It probably accepts the inevitability of the economic zone but insists that high seas navigation rights be maintained within the zone and that coastal states be required to respect traditional distant-water fishing rights. Coastal state jurisdiction must end at 200 miles, Germany notes, and coastal state rights must be specified in detail in the convention. (C)

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This supplement was prepared by the Office of Geographic and Cartographic Research to support the NSC Interagency Task Force on the Law of the Sea. The supplement updates, but is not a replacement for, BGI LOS 74-9. Comments and questions may be directed to Code 143, Extension 2257.

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The West Germans continue to favor a deep seabed licensing system that would preclude direct participation in exploitation by the International Seabed Authority (ISA). They believe that applicants should be granted exploitation rights upon submission of the following information to the ISA: evidence of financial and technical ability, a work program, prospecting data, and a description of opportunities for training of personnel from less developed countries. They may be prepared, however, to accept a parallel licensing/direct exploitation system for mining the deep seabeds if the ISA is required to compete on equal terms with private firms. Bonn remains opposed to price and production controls and to the performance of scientific research by the ISA. The industrialized nations, in Germany's view, must have an effective right of "co-determination" in decisions of the Authority. (C)

The Federal Republic joined 8 European members of the Group of 17 [leading maritime states] at Geneva in sponsoring draft articles on marine pollution that emphasize flag state enforcement of international pollution control standards. Port state enforcement, while authorized, would be hamstrung by conditions requiring a 6 months' delay after a violation, during which time the flag state could preempt the enforcement procedure by initiating its own investigation. Coastal states would be limited to the right to require identification from passing vessels and to notify the flag state and the next port of call of alleged violations of international standards. States seeking special pollution regimes for ecologically sensitive areas would be required to submit their proposals to a competent international organization for review. Germany argues strongly against the use of the economic zone as a pollution control zone. (U)

West Germany still supports the "Dutch proposal" on scientific research submitted during the Caracas session, which would limit coastal state veto authority in the economic zone to those situations involving deep drilling or the use of explosives. Bonn may be willing, however, to fall back to a position that distinguishes between resource and non-resource research in order to ensure the freedom of academic research in the oceans. (C)

Compulsory dispute settlement for the entire LOS Treaty is endorsed by West Germany. Common Market consultations on dispute settlement procedures have touched on the creation of a special tribunal solely for the adjudication of deep seabed controversies; territorial sea, strait, economic zone, and fishery disputes would be referred to the International Court of Justice. (U)

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FOREWORD

The Law of the Sea Country Studies are prepared to support the NSC Interagency Task Force on the Law of the Sea. The countries to be included in the series are selected on the basis of priorities suggested by the chairman of the Task Force.

Each study has two parts. Part I is an analysis of the primary geographic, economic, and political factors that might influence the country's law of the sea policy, the public and private expressions of that policy, [REDACTED] [REDACTED] involved. Part II provides basic data and information bearing on law of the sea matters.

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This study was prepared by the Office of Geographic and Cartographic Research. [REDACTED] was provided by the Central Reference Service. The study was coordinated within the Directorate of Intelligence and with the Department of State. Comments and questions may be directed to the LOS Country Studies Working Group, Code 143, Extension 2257.

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UN LOS draft articles submitted by Bolivia  
Maps: Regional map  
Theoretical Division of the World Seabed

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## BOLIVIA

### Part I -- Law of the Sea Analysis

#### A. SUMMARY (U)

Bolivia's chief concern, as a developing landlocked country, is to obtain free and non-discriminatory access to the sea and seabed. Bolivia's belief that the ocean and its riches are the "common heritage of mankind" is apparent in most of its statements on the deep seabed and in its concept of a "regional economic zone."



Although Bolivia has no marine fishing industry or fleet, it hopes to obtain rights to participate in the area beyond the territorial sea on a preferential basis. Recent efforts have been directed toward obtaining agreement on the formation of a 200-mile-wide\* "regional economic zone" with all neighboring states -- coastal and landlocked -- participating equally.

Hoping to gain maximum benefits from the international area, Bolivia would like to see the creation of a strong international authority that would be able to grant licenses or contracts to states and private enterprises for the exploration and exploitation of seabed mineral resources in the international area. Bolivia does not support the concept of coastal state consent for scientific research conducted in the area of national jurisdiction beyond the territorial sea; instead, it favors prior notification by the researcher to the coastal and neighboring landlocked states.

The issues Bolivia has addressed in LOS negotiations revolve around one central theme -- the rights of landlocked states. Bolivia supports a 12-mile territorial sea and a 200-mile economic zone. Although Bolivia has not taken a formal position on the straits issue, it can reasonably be expected to support free transit in international straits.

\* Distances and areas throughout this study are in nautical miles unless specified otherwise.

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B. FACTORS INFLUENCING LOS POLICY (U)

Special Geographic Features

Bolivia, South America's fifth largest country, has several geographical drawbacks. It is landlocked -- by Peru and Chile on the west, Brazil on the north and east, and Paraguay and Argentina on the south -- and has few road or rail ties with its neighbors and no direct inland waterway links with either the Pacific or the Atlantic. This inaccessibility makes Bolivia one of Latin America's poorest nations despite its wealth of mineral deposits. Since becoming independent in 1825 it has been a buffer among states, possibly excepting Paraguay, which are stronger both economically and militarily.

Having lost its Pacific seacoast to Chile in the War of the Pacific (1879-1884), Bolivia depends on its neighbors' continued good will or at least legal conformance for limited access to the sea. Most of Bolivia's foreign trade is carried on through Pacific coast seaports in both Chile and Peru. Bilateral agreements with Chile allow Bolivia the use of Arica and Antofagasta but Bolivia has long disliked the terms which, in some cases, grant rights it cannot exercise. Bolivia continues to press for its own sovereign port -- preferably Arica, which handles approximately 70% of all foreign trade and is near La Paz, the commercial and industrial center.

Political and Economic Factors

The Bolivian military plays a dominant role in government and is the only unified force capable of providing the order necessary for economic progress. Since Bolivia views access to the sea as prerequisite to economic development, its key foreign-policy objective is to regain an outlet to the Pacific.

Relations with Chile have been strained since the Treaty of 1904 which ceded Bolivia's Pacific territory to Chile and consigned Bolivia to landlocked status. In 1962 Bolivia broke relations in a dispute over Chile's use of Lauca River waters and demanded total sea access as fair compensation. The Act of Charana, which restored ties in early 1975, referred only in general to Bolivia's landlocked status but Bolivia was gratified that Chile, during negotiations, admitted that Bolivia's lack of sea access was a problem.



Bolivia has long received U.S. economic aid but at the same time resented U.S. power. The United States has been its chief donor of foreign assistance and this aid, in the 1950's, was the greatest per capita to any Latin American country. Bolivian officials stress the U.S. "obligation" to give their nation massive economic aid and support its efforts to regain a Pacific seacoast.

With an estimated per capita GNP of only \$230, Bolivia is one of Latin America's least developed countries. Over half the labor force works the land but most Bolivian acreage is not being farmed and foodstuffs as well as consumer goods and capital equipment must be imported.

Bolivia is the Western Hemisphere's leading tin producer and its other minerals include significant potential for petroleum and natural gas output. Because mineral products make up almost 95% of all exports -- with tin the cornerstone of the economy and the major source of foreign exchange -- Bolivia is extremely sensitive to world fluctuations in mineral prices.

#### C. LAW OF THE SEA POLICY

##### Landlocked Status (U)

Bolivia's overriding objective in LOS negotiations is free access to the sea, which it considers its most urgent national problem. Its relentless pressure on this issue has both economic and psychological roots deriving from its landlocked status since the loss of its Pacific territory to Chile in 1884. Bolivian LOS delegates stress that the right to free access should be not merely a courtesy or an arbitrary concession from coastal states but guaranteed by international law. They often point out that free transit to and from the sea would not jeopardize transit-state sovereignty.

Bolivia early viewed LOS negotiations in terms of its own interests and joined forces with other landlocked and geographically disadvantaged states. It has become a relatively vocal, though not belligerent, spokesman for that group with regard to free access to the sea and seabed, rights of free transit, revenue sharing, an international deep seabed authority, and an international dispute settlement forum (see Annex 1).

In May 1974, Bolivia and other developing landlocked countries issued the Kampala Declaration (see Annex 2) affirming that free and unrestricted access to the sea should be one of the basic rights recognized by international law and calling on transit

states to respect and facilitate the exercise of this right by geographically disadvantaged countries. Bolivia deplors the fact that, under existing laws, landlocked countries are at the mercy of transit states if the latter choose not to comply with bilateral agreements granting free access to the sea.

Bolivia's sea outlet goal will continue to be a key factor in dealing with other nations until some equitable solution is reached. Bolivia has sought and received recognition of its unique problems from Venezuela, Mexico and other Latin American countries.

#### Territorial Seas and Straits (C)

Originally opposed to extension of the territorial sea beyond 3 miles, Bolivia now favors a 12-mile territorial sea and cosponsored draft articles to that effect at Caracas in July 1974 (see Annex 3). It conditions its support, however, on the rights inherent in a territorial sea not being exercised by the coastal state in such a way as to cut geographically disadvantaged states off from the sea. Bolivia also claims that its acceptance of an extended territorial sea means ceding, without reparation, its rights to an area traditionally considered high seas. Bolivia thus insists that the rights of landlocked states in the territorial sea and in areas beyond it should equal those accorded other states.

The straits issue has not been formally addressed. However, Bolivia might well favor the maritime powers' position on unimpeded passage through international straits in return for support of the landlocked states' desires for equal and non-discriminatory access to the sea.

#### Coastal State Jurisdiction Beyond the Territorial Sea (C)

Bolivia's main objective for the area beyond the territorial sea is to see the landlocked states' rights and unique problems recognized. Over the years its position on the economic zone has changed along with its own needs and interests and, recently, with the likelihood that a 200-mile economic zone under coastal-state control would be adopted.

To benefit from as wide an international area as possible, Bolivia at first backed a narrow zone extending only to 40 miles or to the 200-meter isobath. At the UN Seabed Committee in mid-1973 Bolivia said landlocked developing states' support

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for any exclusive zone would hinge on their being allowed to explore and exploit the zone's resources on equal terms with coastal states (see Annex 4).

At Caracas in 1974 Bolivia claimed, like Peru, that their natural riches that have been carried to the sea for millions of years should be returned. So great are the needs of all developing noncoastal states, moreover, that the sea should now give back to them, as well as to coastal states, the vast mineral riches that are rightfully theirs. Believing a broad regional zone would best serve landlocked and geographically disadvantaged states, Bolivia, together with Paraguay, outlined to Committee II the basic features such a zone should incorporate (see Annex 5). Coastal and neighboring landlocked states would jointly create regional economic zones, up to 200 miles wide, where they would share the use of all renewable and nonrenewable resources as well as all rights and obligations. Zonal resources would be managed by regional machinery similar to the international type proposed for the deep seabed. This machinery would ensure equal distribution of benefits -- a key point since Bolivia cannot conduct large-scale fishing operations or exploit nonrenewable resources -- and would assure that mineral resource exploitation not harm the economies of land-based producers like Bolivia. Participating states would protect and preserve the marine environment and permit joint scientific research in the zone. Also at Caracas, Bolivia and other landlocked countries called on all states profiting from an economic zone's non-living resources to give the international authority part of their proceeds (see Annex 6).

At Geneva in 1975 Bolivia was expected to press strongly for its regional zone concept but most of its neighbors, who favor an exclusive 200-mile "territorial sea," were believed to be opposed. If the idea is turned down, Bolivia might well settle for some joint arrangement enabling landlocked states to harvest the economic zone's living and non-living resources and share its revenues on equal or preferential terms with coastal states.

#### Fisheries (U)

Although Bolivia has no prospects for owning or operating a marine fishing fleet, its LOS delegates have often championed the landlocked states' rights to exploit living resources beyond the territorial seas of neighboring states on an equal basis with other countries. Such sharing is a must, they believe, if landlocked states are to support a 200-mile economic

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zone. Should the Bolivia/Paraguay "regional economic zone" idea (see "Coastal State Jurisdiction etc." and Annex 5) be rejected at Geneva, however, and should landlocked states be permitted to exploit nearby living resources, the latter might be hard pressed to do so. Bolivia and other landlocked countries feel they should be allowed to seek third-party aid to develop fishing industries of their own, and hold -- as they did at the UN Seabed Committee in July 1973 -- that developed coastal states should give part of their revenues from living resources to the international authority for equitable distribution (see Annex 7).

Deep Seabeds (U)

Bolivia has long maintained that the deep seabed is the "common heritage of mankind" and believes an international regime should control the exploration and exploitation of resources in the international area to avoid a scramble by advanced states.

In August 1973 Bolivia and other landlocked states submitted guidelines to the UN Seabed Committee for their involvement in the exploration and exploitation of the seabed (see Annex 8). They called for free access to and from the international area, representation in any international seabed authority organ, as well as consideration in all decisions and participation in those directly affecting their interests.

Bolivia feels the international seabed authority should be empowered to promote, carry out, and control all activities in the area. These include the exploration, exploitation and marketing of resources, equitable sharing of benefits, and maintenance of the marine environment. Scientific research in the area should involve personnel from the developing countries so as to facilitate the transfer of technology.

Although Bolivia supports a strong international authority, it is somewhat flexible with regard to that body's power. Bolivia feels that until the authority has acquired the technological and economic means to carry out all activities itself, it should be allowed to assign some of those to interested states subject to licenses or service contracts. Private enterprises could enter into contracts provided they are controlled and directed by the authority and sponsored by one or more states who would be responsible for them.

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As a producer and exporter of various minerals, Bolivia is naturally interested in deep seabed mining. It is particularly concerned about potentially adverse effects on international price levels since its economy is extremely vulnerable to price fluctuations. It feels that preventative and compensatory methods for protecting land-based producers of minerals should be incorporated in any treaty adopted by the international community.

#### Scientific Research (U)

At Caracas, Bolivia and 17 other states -- 10 of them landlocked -- cosponsored draft articles on scientific research that stressed the rights of landlocked and geographically disadvantaged states (see Annex 9). The articles define marine scientific research as any study and related experimental work in the marine environment, excluding research aimed directly at exploration and exploitation of marine resources, designed to increase knowledge and conducted for peaceful purposes. Within the territorial sea, they stipulate, scientific research may be carried out only with the explicit consent of the coastal state. In the area of national jurisdiction beyond the territorial sea, researchers are to give prior notification to the coastal state and neighboring landlocked states. The coastal state is to receive a detailed description of the research project, be allowed to participate, and be given access to data. Neighboring landlocked states, at their request, also are to be given a detailed description of the project and assistance in interpreting the research results. The articles specify that research in the international area may be carried out by all states, coastal and landlocked, and by international organizations. The results of such research should be transferred to the developing states, particularly the landlocked.

In an effort to increase their level of knowledge the landlocked states have proposed that, where facilities permit, they be granted the opportunity to participate in marine research projects. Bolivia possesses no sophistication in this field and feels participation would provide an excellent means whereby technology and scientific training might be transferred and applied to other areas.

#### Dispute Settlement (U)

Since Bolivia is not satisfied with previous bilateral agreements or the treatment it has received from neighboring states regarding access to the sea or its rights therein, the

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dispute settlement issue is important and is one to which it often draws attention. Bolivia's belief that disputes should "be subject to the procedures for the compulsory settlement of disputes provided for in the Convention" appears in many of its statements and in several articles it has cosponsored. Draft articles Bolivia has submitted both to the Seabed Committee and to various committees at Caracas state that disputes over the interpretation or application of any aspect of an international LOS treaty shall, at the request of any party to a dispute, be settled by international dispute settlement machinery. Bolivia has stated that where bilateral arrangements must be worked out -- as with fishing rights or the use of ports and facilities -- each party should have recourse to some international juridical body in order to settle what may be considered an injustice. This is an area where Bolivia can be presumed to take a firm stand in LOS negotiations.

D. KEY POLICY MAKERS, LOS NEGOTIATORS AND ADVISERS

Bolivia is ruled by a military government headed since 1971 by President Hugo Banzer Suarez. Banzer has strong executive and legislative powers and, as was the case with former presidents, has recognized that a strong stand on the sea outlet issue is a political necessity. In 1972 Banzer created a Law of the Sea Department in the Foreign Ministry to deal specifically with LOS negotiations; until March 1974 it was headed by Dr. Humberto Palza Soliz, former diplomat and the Foreign Ministry's leading expert on LOS matters. The office was renamed the Department of Internal Regime in November 1974. Of the five Bolivian LOS delegates to the 1974 Caracas session of the Third Law of the Sea Conference, only two were appointed to the 1975 Geneva session -- Dr. Felipe Tredinnick Abasto and Gustavo Medeiros Querejazu. (C)

Dr. Tredinnick, Director of the Internal Regime Department of the Foreign Ministry, is considered Bolivia's leading expert on technical questions involving LOS matters and has assumed the position of acting head of its delegation at Geneva. He represented Bolivia in 1974 at the Group of 77 meeting in Nairobi and at the Landlocked Nations Conference in Kampala. Recent reporting indicates that negative attitudes carried away from these two meetings toward Peruvian, Chilean and some African diplomats might sway Bolivia and other landlocked nations into voting alliances with developed nations. Tredinnick is reported to be very favorably oriented toward the United States. (C)

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Gustavo Medeiros Querejazu, ex-Foreign Minister and a member of Bolivia's Maritime Commission, has enjoyed a long and distinguished career in Bolivia's Foreign Ministry. He was chief of the Bolivian delegation to the Caracas session and has continued in that role at Geneva, although he was not expected to attend the session until the late stages. With his lack of in-depth knowledge of complex LOS issues he was expected to rely heavily on Tredinnick and be no more than a figurehead. (C)

Following is a list of Bolivian attendees at the Third UN LOS Conference's three sessions as well as at preparatory sessions of the UN Seabed Committee. (U)

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LOS Conference Attendees (U)	Seabed Committee Session						LOS	Third Conference	
	Mar 71	Jul Aug 71	Feb Mar 72	Jul Aug 72	Mar Apr 73	Jul Aug 73	Dec 73	Jun-Aug 74	Mar-May 75
Dr. Gonzalo de ACHA PRADO Representante Permanente Adjunto ante la Oficina de las Naciones Unidas		X							
Sr. Federico ARANA SERRUDO								X	
Sta Willma BANZER Consejero, Mision Permanente ante la Oficina de las Naciones Unidas									X
Sr. Carlos CHAIN Secretario, Embajada de Bolivia en Caracas								X	
Sr. Julio EGUINO LEDO Representante Alterno ante la Oficina de las Naciones Unidas						X			X
Dr. Manuel FRONTAURA ARGANDONA								X	
Sr. Moises FUENTES IBANEZ Embajador							X		
Sr. Walter GUEVARA ARCE Embajador						X			
*Sr. Gustavo MEDEIROS QUEREJAZU Embajador en Mision Especial								X	X
Sr. Alfredo OLMEDO VIRREIRA Embajador Representante Permanente ante la Oficina de las Naciones Unidas		X		X		X			
Sergio PALACIOS								X	
Sr. Jose SERRATE Embajador, Representante Permanente ante la Oficina de las Naciones Unidas									X

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LOS, Conference Attendees (U)	Seabed Committee Session LOS							Third Conference	
	Mar 71	Jul Aug 71	Feb Mar 72	Jul Aug 72	Mar Apr 73	Jul Aug 73	Dec 73	Jun- Aug 74	Mar- May 75
Victor TORREZ Ministro Consejero								X	
*Dr. Felipe TREDINNICK ABASTO Embajador, Director General de Regimen Interno del Ministerio de Relaciones Exteriores								X	X
Sr. Jaime VALDES HERTZOG Consejero Economico, Mision Permanente ante las Naciones Unidas					X				
Sr. Julio de ZAVALA-URRIOLAGOITIA Embajador Extraordinario y Plenipotenciario Representante Permanente ante las Naciones Unidas					X		X		

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BOLIVIA

Part II - Background Information\*

Geography

World region: Latin America  
Category: landlocked  
Bordering states: Brazil, Paraguay, Argentina, Chile, Peru  
Land: 424,000 sq. statute mi.  
Population: 5,206,000

Industry and Trade

GNP: \$1.14 billion (1974, in 1973 dollars); \$230 per capita  
Major industries; mining, smelting, petroleum refining, food processing, textiles and clothing  
Exports: \$490.7 million (f.o.b., 1974 est.); tin, petroleum, lead, zinc, silver, tungsten, antimony, bismuth, gold, coffee, sugar, cotton  
Imports: \$358.0 million (f.o.b., 1974 est.); foodstuffs, chemicals, capital goods, pharmaceuticals  
Major trade partners: exports -- U.K. 26%, U.S. 17%, West Europe 4%, Latin America 20%; imports -- U.S. 28%, Latin America 27%, Japan 17%, West Europe 26% (1972)

Petroleum Resources

Petroleum: production -- 16 million 42-gal. bbl. (1.9 million metric tons) onshore; proved recoverable reserves -- 200 million 42-gal. bbl. (24 million metric tons) onshore (1972)  
Natural gas: production -- 121 billion cubic feet (3.4 billion cubic meters) onshore; proved recoverable reserves -- 4,800 billion cubic feet (135.9 billion cubic meters) onshore (1972)

Navy

Ships: 2 small patrol craft, 13 small river transports, 1 hospital barge (C)

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Government Leaders

Head of State: President Hugo Banzer Suarez  
Foreign Minister: Alberto Guzman Soriano

Multilateral Declarations

Optional Protocol of Signature concerning the Compulsory Settlement of Disputes Arising from the Law of the Sea Conventions, October 17, 1958.  
Nuclear Test Ban Treaty, January 25, 1966.

Membership in Organizations Related to LOS Interests

IAEA .....	International Atomic Energy Agency
IADB .....	Inter-American Defense Board
ICAO .....	International Civil Aviation Organization
International Tin Council	
LAFTA and Andean Sub-Regional Group .....	(created in May 1969 within LAFTA)
	Latin American Free Trade Association
OAS .....	Organization of American States
Seabed Committee .....	United Nations Committee on the Peaceful Uses of the Sea-bed and Ocean Floor beyond the Limits of National Jurisdiction
UN .....	United Nations

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Action on Significant UN Resolutions

- Moratorium Resolution  
(A/RES/2574 D, XXIV, 12/15/69) In favor  
*Pending establishment of international regime, States and persons are bound to refrain from exploiting resources of or laying claim to any part of the seabed and ocean floor beyond the limits of national jurisdiction.*
- LOS Conference  
(A/RES/2750 C, XXV, 12/17/70) In favor  
*Convene in 1973 a Conference on Law of the Sea to deal with establishment of international regime for the seabed and ocean floor, and enlarge Seabed Committee by 44 members and instruct it to prepare for the conference draft treaty articles embodying international regime.*
- LOS Conference, Timing and Site  
(A/RES/3029 A, XXVII, 12/18/72) Adopted w/o vote
- Indian Ocean as a Zone of Peace  
(A/RES/2992, XXVII, 12/15/72) In favor  
*Called upon littoral and hinterland states of Indian Ocean area, permanent members of the Security Council and other major maritime users of Indian Ocean to support concept that Indian Ocean should be zone of peace.*
- Landlocked/Shelf-Locked Study Resolution  
(A/RES/3029 B, XXVII, 12/18/72) In favor  
*Called for study of extent and economic significance in terms of resources, of international area resulting from each proposal of limits of national jurisdiction presented to Seabed Committee.*
- Peruvian Coastal State Study Resolution  
(A/RES/3029 C, XXVII, 12/18/72) Against  
*Called for study of potential economic significance for riparian states, in terms of resources, of each of the proposals on limits of national jurisdiction presented to Seabed Committee.*
- Permanent Sovereignty over Natural Resources  
(A/RES/3016 XXVII, 12/18/72) Against  
*Reaffirmed right of states to permanent sovereignty over all their natural resources, wherever found.*

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# UNITED NATIONS

## THIRD CONFERENCE ON THE LAW OF THE SEA

ANNEX 1

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A/CONF.62/C.2/L.29  
30 July 1974

ORIGINAL: ENGLISH

### SECOND COMMITTEE

Afghanistan, Bhutan, Bolivia, Botswana, Burundi, Czechoslovakia, Hungary, Laos, Lesotho, Mali, Mongolia, Nepal, Paraguay, Swaziland, Uganda, Upper Volta and Zambia: explanatory paper on draft articles relating to land-locked States 1/

In accordance with the list of subjects and issues relating to the law of the sea which was approved by the Sea-Bed Committee in 1972 and which, according to its report to the twenty-seventh session of the General Assembly, "should serve as a framework for discussion and drafting of necessary articles" at the Third United Nations Conference on the Law of the Sea, 2/ legal norms ensuring the rights and interests of land-locked and other geographically disadvantaged States shall become a part of the new codification of international law of the sea which will emerge from that Conference, for the list includes two specific items, one dealing with the problems of land-locked countries, the other with the problems relating to the rights and interests of shelf-locked States and States with narrow shelves or coastlines.

Item 9, relating to land-locked States, includes inter alia the following subitems:

- "9.1 General Principles of the Law of the Sea concerning the land-locked countries
- 9.2 Rights and interests of land-locked countries
  - 9.2.1 Free access to and from the sea: freedom of transit, means and facilities for transport and communications
  - 9.2.2 Equality of treatment in the ports of transit States
  - 9.2.3 Free access to the international sea-bed area beyond national jurisdiction
  - 9.2.4 Participation in the international régime, including the machinery and the equitable sharing in the benefits of the area"

1/ Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 21 (A/9021), vol. II.

2/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721), para. 23).

C-0739

/...

Needless to say, a just and satisfactory solution of the above-mentioned points and their implementation in adequate provisions are of the utmost significance for all land-locked countries, both developed States exporting industrial goods and importing raw materials, and developing States whose economy largely depends on the exportation of raw materials and the importation of industrial products and complexes.

Under present international law the right of land-locked States to free access to and from the sea is a firmly established and legally binding principle. It shall be reaffirmed and elaborated in the new codification instrument on the law of the sea.

Such a conclusion is indispensable if the land-locked States are to be given a real opportunity to participate in the uses of the seas and to enjoy benefits from them on equal terms with coastal States. For this purpose the land-locked States must obtain adequate legal means and guarantees ensuring them of the exercise of their right of free access to and from the sea, including the right of free access to the sea-bed area beyond national jurisdiction. This necessity arises from their geographically disadvantaged position, from the fact that they lack any sea coast whatsoever and, in most cases, vast distances separate them from the coast.

\* \* \*

As a principle of international law the right of land-locked countries to free access to and from the sea was also provided for and implemented step-by-step in bilateral and multilateral treaties, mostly concluded in this century. This development had several significant milestones, particularly the Barcelona Convention and Statute on Freedom of Transit in 1921, the Geneva Conventions on the Law of the Sea in 1958 and the New York Convention on Transit Trade of Land-Locked States in 1965.

Without underestimating the relevance of these instruments, their positive contributions to the struggle for recognition and development of the right of free access to and from the sea, as well as to practical settlements of many issues involved, it must be stated that in some respects they brought only partial solutions.

Thus, for example, the Barcelona Statute facilitated transit in general and was helpful to land-locked States, particularly those in Europe, by opening up to them necessary routes to the sea. Moreover, this multilateral regulation inspired the conclusion of bilateral agreements which were based on the principles of the Barcelona Statute.

On the other hand, this instrument did not provide for all means of transport and communication, having left aside, in particular, traffic by roads and pipelines, the importance of which has significantly grown since that time. Furthermore, the number of contracting parties to the Barcelona Convention and Statute, still in force, has remained relatively limited and it has lacked adherence among non-European States.

In the years preceding the first United Nations Conference on the Law of the Sea, the land-locked countries made vigorous efforts on different international levels to draw the attention of the whole international community to their specific problems and needs for ensuring their rights in the forthcoming codification. Their efforts were remarkably supported by the United Nations General Assembly which recognized in its

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resolution 1028 (XI) of 20 February 1957 "the need of land-locked countries for adequate transit facilities in promoting international trade" and invited all Members of the United Nations "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".

On the eve of the first United Nations Conference on the Law of the Sea a Preliminary Conference of Land-Locked States was held in Geneva from 10 to 14 February 1958 which adopted, as a result of its work, a document entitled "Principles Enunciated by the Preliminary Conference of Land-Locked States". Seven principles included in this document represented a restatement of principles and norms of international law concerning the right of land-locked States to free access to the sea and specific rights derived therefrom. Endorsed by all the then land-locked States this document became the basic paper of the Geneva Conference in its consideration of problems of States having no seacoast. 3/

In the Geneva Codification of the Law of the Sea significant progress towards the recognition of full equality of land-locked States in the exercise of freedoms of the seas was made. Article 2 of the 1958 Convention on the High Seas confirmed that the high seas were open "to all nations" and that freedoms arising from the freedom of the high seas were provided "both for coastal and non-coastal States". The right of land-locked States to free access to the sea was specifically declared in article 3 of this Convention. It stated that "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".

Nevertheless, though including a provision in favour of free transit for land-locked States through the territory of States situated between the sea and a State having no seacoast, as well as equal treatment for ships flying the flags of land-locked States as regards access to seaports and the use of such ports, article 3 of the Geneva Convention on the High Seas included a number of elements that in fact diminished the practical effect of the above-mentioned principle. By emphasizing that transit States shall accord free transit and other facilities by "common agreement" with a State having no seacoast and, moreover, by indicating that free transit should be accorded "on a basis of reciprocity", article 3 of the Geneva Convention on the High Seas made in fact the exercise of the principle of free access of land-locked States to the sea dependent primarily on transit States.

Besides, the principle of the 1921 Barcelona Declaration concerning the right of flags of both, coastal and non-coastal States was restated in article 4. Finally, a principle relating to land-locked States, equally with other States, was included in article 14 of the Convention on the Territorial Sea and the Contiguous Zone. This provision states generally that "ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea".

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3/ Document A/CONF.13/C.5/L.1, annex 7.

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Therefore, it must be concluded that the 1958 Geneva Codification, though declaring the principle of free access to the sea and recognizing the equality of States having no sea coast with coastal States, did not adopt adequate measures to ensure their effective exercise. Its half-way provisions, more declaratory than effective, could not satisfy the real needs of land-locked countries, for they did not take into due account their geographically most disadvantaged position in relation to the uses of the sea.

This fact was confirmed by developments following the Geneva Codification Conference, particularly by the first United Nations Conference on Trade and Development which was considering, among other points, "the proposal for the formulation of an adequate and effective International Convention, or other means to ensure the freedom of transit trade of land-locked countries". As a result the first UNCTAD Conference adopted a special document including eight principles, together with an Interpretative Note. <sup>4/</sup>

It should be recalled that Principle I of this significant document emphasized that "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 VII already reflected the idea that the right of free access of land-locked countries to the sea originated from their disadvantaged position in relation to the sea, for it stated that "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".

The principles concerning land-locked countries adopted at the first UNCTAD Conference have much significance for a full recognition and implementation of the right of free access to and from the sea, a right which the land-locked countries urgently need if they are to compensate for the adverse effects of their disadvantaged geographical situation depriving them of any sea coast.

Moreover, the first UNCTAD Conference inspired the preparatory work for and the convocation of, a Conference on Transit Trade of Land-Locked Countries which was held in New York. In the Convention, drawn up at this Conference and adopted on 8 July 1965, the UNCTAD principles including a full recognition of the right of each land-locked State of free access to the sea, were incorporated. Furthermore, specific questions of the freedom of transit were settled in 16 substantive articles of the Convention.

The solutions offered by the Convention may be qualified as a compromise between the needs of land-locked countries and the interests of their transit partners. In some aspects, however, the interests of transit States prevailed. This is evident especially from article 15 of the New York Convention which states that "the provisions of this Convention shall be applied on a basis of reciprocity". The Convention thus made no difference between the needs for transit arising from the geographical location of States having no sea coast, and any other transit serving only to facilitate transport and communication in general.

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<sup>4/</sup> Final Act of UNCTAD, document E/CONF.46/428, Annex A.I.2.

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The land-locked States therefore earnestly hope that this Conference will not adopt the same restrictive approach which would create an unbalanced burden for the land-locked States.

The practical impact of the New York Convention on Transit Trade of Land-Locked Countries has not been great, for the number of its parties has remained rather limited. Moreover, they are mostly land-locked States or such coastal States which are not typical transit countries.

For all these and other reasons it must be concluded that a further step to facilitate the exercise of the right of free access of land-locked States to and from the sea is necessary, in order to make it more corresponding to present and expected conditions. This step should be taken now, in the framework of the Third United Nations Conference on the Law of the Sea.

In this connexion it should be recalled that the developing land-locked and other geographically disadvantaged States, which met in a conference held in Kampala, Uganda, from 20 to 22 March 1974, adopted a declaration containing principles reflecting the essential rights and interests of the developing land-locked and other geographically disadvantaged States to be embodied in the Convention on the Law of the Sea (document A/CONF.62/23 of 2 May 1974)

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In order to facilitate the work of the Conference in this field a group of non-coastal States submitted at the last session of the Sea-Bed Committee in Geneva a document called "Draft Articles relating to Land-Locked States" (document A/AC.138/93 of 2 August 1973). The draft articles should serve as a basis for the chapter of the future Convention on the Law of the Sea that would deal with problems of land-locked countries relating to free access to and from the sea, including the international sea-bed area, as well as their participation in the international régime, including the machinery and the equitable sharing of the benefits of the area.

As stated in the explanatory note to the draft articles, they are not intended to stand alone but "shall form an inseparable part of the law of the sea to be fitted to appropriate places into a comprehensive Convention relating to the law of the sea". Neither do the draft articles include a detailed regulation, thus remaining on the level of fairly general but legally binding principles, following the pattern of other principles to be included in the new Codification of the Law of the Sea.

First of all, attempts have been made in this document to express the up-to-date outcome of the development regarding the right of free access to the sea, starting with the 1921 Barcelona Statute on Freedom of Transit until the 1965 New York Convention on Transit Trade of Land-Locked Countries. Therefore, the greater part of the draft articles presents a restatement and confirmation of recognized principles, using as much as possible the language of previous instruments.

In some respects, however, the draft articles go further and are introducing new elements, taking into account the real needs of land-locked countries under present economic and technological conditions. Nevertheless, it has been the over-all aim of the drafters of this document to reflect in their proposals adequately existing practice and experience as developed in different parts of the world and to derive therefrom a common denominator that might be shared by all land-locked States and recognized by the whole international community.

(a) Fundamental principles

The draft articles relating to land-locked States begin with definitions of the notions "traffic in transit", "person in transit", "transit State" and "means of transport" which are based on the definitions of the Barcelona Statute and New York Convention.

It is evident from the definition of "means of transport" that the draft articles are intended to regulate transit by rail, road and waterways, and under special arrangements by pipelines, gaslines and storage tanks. They shall not, however, affect the conditions of transport by air which, though being undoubtedly one of the means of transport serving the land-locked countries in their speediest access to and from the sea and therefore quite indispensable, shall remain, due to its special character, subject to bilateral or multilateral agreements relating to air transport, as explicitly stated in paragraph 3 of article XX of the draft.

The term "traffic in transit" also includes, beside transit of baggage, goods and means of transport across the territory of one or more transit States, transit of persons as in the 1921 Barcelona Statute. However, the transit of persons is limited to passage of persons "whose movement is not prejudicial to security, law and order of the transit State".

The principles inserted in articles II and III may be qualified as corner-stones of the whole draft:

Article II characterizes the right of land-locked States to free access to and from the sea as "one of the basic principles of the law of the sea" and "an integral part of the principles of international law". In this way it is emphasized that the realization of the rights of land-locked countries in the uses of the sea is the concern of the international community as a whole and shall be considered as an inseparable part of the new Codification of the Law of the Sea.

The fundamental right of free access to and from the sea is declared in paragraph 2 of article II: land-locked States, irrespective of the origin and characteristics of their land-locked conditions, shall have this right "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".

In article III the stipulation of the main instrument that permits the exercise of the right to free access to and from the sea is inserted, i.e. the obligation of transit States to 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". Needless to say, without the right of free and unrestricted transit, and the corresponding obligations on the part of transit States, fundamental right of States having no sea coast to free access to and from the sea, as well as their equal rights to enjoy the benefits from the uses of the sea would remain ineffective, a nudum ius without any practical significance.

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Both principles are based on several relevant documents. Their present wording is abstracted from Principles Enunciated by the 1958 Preliminary Conference of Land-Locked Countries (in particular Principle V); from article 3 of the 1958 Convention on the High Seas; from UNCTAD Principles of 1964 (in particular Principle IV); and from article 2 of the 1965 Convention on Transit Trade of Land-Locked Countries. Of course, both the right of free access to and from the sea and the freedom of transit are spelled out in a manner which corresponds to contemporary conditions and to the aims of the new Codification of the Law of the Sea.

Without any doubt, the right of free access to and from the sea, as well as the freedom of transit originating from this right, shall be exercised in accordance with the provisions of the future Convention on the Law of the Sea.

(b) Position of land-locked States on the high seas and in maritime ports

The two fundamental articles are followed by a group of provisions confirming the traditional rights of land-locked countries arising from their right of free access to and from the sea, and their equal position on the high seas, in the territorial sea and in internal waters:

Article IV deals first with the rights of flags of land-locked States which was recognized as early as in 1921 by a special declaration unanimously adopted by the Barcelona Conference. In accordance with a generally recognized principle of international law, which is reflected in article 2 of the 1958 Convention 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. Similarly, in the territorial sea and in internal waters, their vessels shall have identical rights and enjoy treatment equal to that enjoyed by vessels flying the flags of coastal States.

Article V declares the right of vessels of land-locked States to use maritime ports under the most favoured treatment, and article VI provides that traffic in transit shall not be subject to any custom duties, taxes or other charges, except charges levied for specific services rendered in connection with such traffic.

As to their substance all these articles are based on provisions of previous documents, in particular on paragraph 1 of article 3 of the 1958 Convention on the High Seas; article 14 of the 1958 Convention on the Territorial Sea and the Contiguous Zone; principles II - IV of the UNCTAD Principles as included in the 1965 New York Convention; and article 4 of the New York Convention.

A new element is, however, included in paragraph 2 of article VI, according to which "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". The adoption of such a provision and its application in particular cases is justified by the extent of use of some ports and communications by certain land-locked States.

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For the purposes of these draft articles "maritime port" is understood to signify any port receiving sea-going vessels and serving international economic relations or transit of land-locked States. The granting of most favourable conditions to land-locked States, as provided in draft articles V and VI should balance the very considerable disadvantages of States having no sea coast or maritime ports.

Also belonging to this group of articles are rules concerning free zones and other facilities which may be provided, according to article VII, at the ports of entry and exit in the transit States, of course by agreement between those States and the land-locked States concerned. Such zones, which will be needed mostly in those maritime ports where a free port does not exist, shall be exempted from the customs regulations of the coastal States; they remain, however, subject to their jurisdiction with regard to police and public health regulations.

It should be recalled that the main provision of article VII of the draft is identical with article 8, paragraph 1 of the 1965 New York Convention.

As provided in article VIII of the draft, in the ports of transit or free zones, land-locked States shall have the right to appoint customs officials of their own, empowered in accordance with practice of States to make necessary arrangements and supervise operations and services for movement of traffic in transit. This draft provision reflects practice existing in different coastal States on the basis of their bilateral agreements with neighbouring land-locked countries. It is believed that such practice should become a general standard.

(c) Provisions relating to questions of transport and communications

Articles IX-XIII of the draft include provisions regulating different questions of transport and communications.

According to article IX, 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. This draft article corresponds again to a similar provision of paragraph 1 of article 4 of the 1965 New York Convention.

Article X may be considered as an innovation according to which the land-locked States, in agreement with the transit State or States concerned, shall have the right to construct, modify or improve means of transport and communications or the port installations and equipment in the transit States when such means are inadequate or may be improved in any respect. Such principle, however, is justified by the need to develop and improve the means of transport and communications which, in the second half of the twentieth century are much greater than in previous periods.

Article XI, dealing with delays or difficulties in traffic in transit, is identical with article 7 of the 1965 New York Convention.

Some additional provisions to the general principle of freedom of transit are included in articles XII and XIII:

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.In the first of these provisions, the right of land-locked States to access to and from the sea through navigable rivers which pass through their territories and the territories of transit States or which form a common boundary between those States and the land-locked States, should be recognized. This provision concerns all navigable rivers which may be used for traffic in transit, be they declared as international in a special legal instrument or not.

It should be recalled that from the historical point of view navigable rivers were the first means of communication used for international transit and that in the 1921 Barcelona Statute on Freedom of Transit its contracting parties assumed the obligation "to facilitate free transit by rail or waterway on routes in use convenient for international transit".

By the second of the above mentioned articles is provided the right of land-locked States to use one or more of the alternative routes or means of transport for purposes of access to and from the sea. Though an innovation, this provision is justified by the need to ensure the speedy and smooth movement of traffic in transit that might be, in fact, hindered or made more expensive when limited to a single route of access to the sea.

(d) Sovereignty of transit States and protection of their rights

Land-locked States, while possessing the rights provided for in the draft articles, which are derived from the principle of their free access to and from the sea, are well aware that transit States maintain sovereignty over their respective territories.

However, this provision shall not be construed as prejudicing territorial disputes of any kind.

Therefore, in article I the inclusion of pipelines, gaslines, and storage tanks when they are used for traffic in transit and other means of transport in the definition of "means of transport" shall remain "subject to appropriate arrangements as and when necessary". According to article VII free zones and/or other facilities at the ports of entry and exit in the transit States may be provided, but it shall be done by agreement between those States and the land-locked States. Any improvement of the means of transport and communications that would be made by the land-locked States under the scope of article X should be subject to agreement with the transit State or States concerned.

Moreover, the draft articles include a general clause safeguarding the rights of transit States against eventual infringements of any kind: according to article XIV the transit State 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.

Furthermore, the 1973 draft articles include in article XV a special provision concerning "temporary deviations in exceptional cases". This provision is identical with the language of article 7 of the 1921 Barcelona Statute and analogical to article 12 of the 1965 New York Convention.

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(e) Question of reciprocity

The land-locked States attach a great importance to a just solution of the question of reciprocity.

As is known the 1958 Geneva Convention on the High Seas in its article 3, and in similar terms the 1965 New York Convention on the Transit Trade of Land-Locked Countries in its article 15, have secured to land-locked States the freedom of transit "on a basis of reciprocity". These provisions were apparently based on a wrong supposition that both the land-locked and the transit States have comparable positions and identical needs for transit. This is however not the case, for the purpose of free transit of land-locked countries is just that of ensuring them the exercise of their right of access to and from the sea.

The present draft declares therefore that "reciprocity shall not be a condition of free transit of land-locked States" the fulfilment of which might be required by transit States in favour of their own transit to any other country, for it would not be necessitated by the need for access to the sea. Such condition would not be just, in particular, in relation to those land-locked countries which are surrounded by several transit States.

At the same time article XVI of the draft does not exclude the possibility of providing reciprocal transit facilities under special agreements, if the level of relations between the partners concerned or their other interests lead them to such arrangements. Certainly, exact economic data would permit to recognize in each individual case whether at all, or to what degree, both sides might derive benefits from reciprocity, or a strict application of this condition would create an unbalanced burden for the land-locked State alone.

(f) Position of land-locked States in the régime of the sea-bed and their participation in the Sea-Bed Machinery

The draft articles submitted by land-locked States also contain, in the form of general guidelines, certain provisions concerning their participation in the exploration and exploitation of the sea-bed and its resources.

Article XVII first declares that land-locked States shall have the right of free access to and from the area of the sea-bed, a principle which was already raised in discussions on the régime of the sea-bed in the Sea-Bed Committee. For this purpose the land-locked States shall have the right to use all means and facilities provided with regard to traffic in transit.

It is obvious from the language of this provision that land-locked States do not require some privileges in this respect, but only equal rights and opportunities in the framework of the régime to be established for the area of the sea-bed beyond the limits of national jurisdiction. The aim of this article is to ensure that land-locked States will exercise free and unrestricted transit across the territory of one or more transit States not only for reasons of their access to the surface and waters of the sea for purposes of its traditional uses, such as navigation,

fisheries and others, but as well to its newly accessible areas of the sea-bed and subsoil thereof. Of course, their activities in this area shall be governed by principles and provisions of the Convention concerning the régime of the sea-bed and its machinery.

Furthermore, article XVIII includes some guidelines regarding representation of land-locked States in organs of the future international organization of the sea-bed in which not all member States would be represented, in particular in its Council. In such organs there should be an adequate and proportionate number of land-locked States, both developing and developed.

Article XIX deals with the very crucial point of decision-making in the machinery. It is understandable why the land-locked States, as a group of countries facing special problems arising from their disadvantaged geographical position in relation to the seas, insist on observing the principle that decisions of substance shall be made with due regard to their special needs and problems. It means that on questions of substance which affect the interests of land-locked States, decisions shall not be made without their participation or even against them. In this connexion the land-locked States maintain the view that they shall have equal rights in the decision-making process of the machinery.

(g) Relation of the general regulation to special agreements and question of most-favoured-nation clause

As has been already stated, a general regulation of the problems of land-locked countries would not at all exclude the possibility of concluding bilateral, regional or multilateral agreements in which special arrangements would be made. On the contrary, the draft requires the settlement of specific questions between the land-locked and transit States concerned in such agreements. Therefore, article XX of the draft states that the provisions of the future Convention governing the right of free access to and from the sea shall not abrogate existing special agreements between two or more States, nor shall they raise an obstacle as regards the conclusion of such agreements in the future.

On the other hand, the regulatory role of the new Convention, which will introduce a general standard, must be preserved. The same article XX provides therefore that in case existing special agreements ensure less favourable conditions than those which will be contained in the Convention, the States concerned will undertake that they shall bring them in accord with the present provisions at the earliest occasion.

A similar undertaking is usual in conventions dealing with a general regulation. It was also provided in article 10 of the 1921 Barcelona Statute on Freedom of Transit.

Of course, the future Convention, as the 1965 New York Convention, shall not preclude providing greater facilities in special agreements.

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Since the new Convention would establish rights and facilities in view of the special geographical position of land-locked States and their fundamental right to free access to and from the sea, its provisions, as well as provisions of special agreements regulating the exercise of the right of free access to and from the sea and the area of the sea-bed, should be excluded from the application of the most-favoured-nation clause in favour of any third State. This principle, included in article XXI of the draft, is analogical to article 10 of the 1965 New York Convention.

Similarly, it does not prevent the extension of facilities and special rights that would be accorded to land-locked States under the new Convention or special agreements in favour of a land-locked State which would not become a party to this Convention on the basis of the most-favoured-nation clause of a treaty between that land-locked State and a contracting State of the Convention which have arranged such facilities and special rights.

The last provision of the draft (article XXII) includes a principle concerning settlement of disputes that would arise from the interpretation and application of the articles relating to land-locked countries. This principle, too, is drafted in general terms, stating that any such dispute "shall be subject to the procedures for the settlement of disputes provided for in the Convention".

Therefore, it is no way prejudicial to a later agreement on procedures that would govern the settlement of disputes arising from the interpretation and application of other provisions of the future Convention on the Law of the Sea.

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UNITED NATIONS  
GENERAL  
ASSEMBLY



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2 May 1974

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THIRD UNITED NATIONS CONFERENCE  
ON THE LAW OF THE SEA

THE KAMPALA DECLARATION\*

The Conference of the Developing Landlocked and other Geographically Disadvantaged States, meeting in Kampala, Uganda, from 20 March to 22 March 1974,

Having in mind the Third United Nations Conference on the Law of the Sea, inaugurated in New York on 3 December 1973, the second session of which is due to be held in Caracas, Venezuela, from 20 June to 29 August 1974,

Aware of the fact that the Conference is called upon to draw up a future comprehensive legal order for the sea and ocean space,

Believing that the Conference should strive, in drawing up the said order, to ensure the common interests of the international community as a whole and to provide for the orderly and equitable development and enjoyment of ocean resources, with the participation of all nations, including the land-locked and other geographically disadvantaged States,

Emphasizing the necessity of taking into consideration the needs and interests of the developing countries, particularly those of the land-locked and other geographically disadvantaged States,

Calling once again the attention of all States to the vital role and importance of the exercise by land-locked States of their right of free access to and from the sea, and their right of free transit and other facilities in the process of their economic development, and recognizing that developing land-locked States are among the least developed of the developing countries,

Affirming that the peaceful uses of the sea and the development and enjoyment of its resources represent vital and crucial elements of trade, commerce and communications in the world, which in turn play a very significant role in the process of economic development of nations,

\* Circulated as a Conference document at the request of the Permanent Representative of Uganda.

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Recognizing the needs of the land-locked States for the availability, suitability and operating efficiency of the transportation system, and port and other facilities in the transit States, upon which facilities they depend for their international trade,

Recalling that numerous international legal instruments have recognized the rights of land-locked States of free access to and from the sea and other related matters,

Convinced that the viability of the legal order of the oceans depends upon the fulfilment of the needs and interests of all nations on the basis of equality and non-discrimination in attaining higher levels of economic prosperity for their peoples,

Declares that the future legal order of the oceans should embody in an appropriate form the following principles representing the essential rights and interests of the developing land-locked and other geographically disadvantaged States:

1. The right of land-locked States of free and unrestricted access to and from the sea is one of the cardinal rights recognized by international law.
2. The right of geographically disadvantaged States of free and unrestricted access to and from the high seas is one of the cardinal rights recognized by international law.
3. Transit States shall respect and facilitate the exercise of the right of free access to and from the sea by land-locked States and their right of free and unrestricted transit, and provide them with all other facilities necessary for traffic in transit without discrimination, by all means of transport and communication, through all the routes of access in the transit State.
4. Land-locked States and other geographically disadvantaged 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.
5. In order that land-locked States shall exercise the right to sail ships under their own flag and to use ports, coastal States shall respect the right of land-locked States to use on an equal basis, facilities, equipment and all other installations in the ports.
6. 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.

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7. Land-locked and other geographically disadvantaged States shall be adequately and proportionately represented in all the organs of the international sea-bed machinery, the decisions of which shall be made with due regard to their special needs and problems.

8. In the exploitation of the resources of the sea and sea-bed and subsoil thereof, beyond the territorial sea, the following principles shall apply:

(a) The rights and interests of all States, whether coastal or land-locked shall be taken into account.

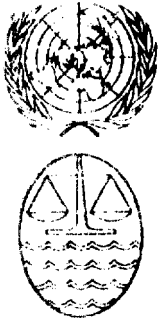
(b) All rights which land-locked and other geographically disadvantaged States have with regard to such resources under existing international law shall be maintained.

(c) The international area that would be governed under the concept of the common heritage, within the meaning of United Nations General Assembly resolution 2467 A (XXIII), shall be so extensive and contain such resources, as to ensure viable economic exploitation.

9. With respect to the exercise of jurisdiction over resources in areas adjacent to the territorial sea, the land-locked States and other geographically disadvantaged States shall have equal rights with other States and without discrimination in the exercise of such jurisdiction, in accordance with international standards to be drawn up by the Third United Nations Conference on the Law of the Sea.

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ANNEX 3



# UNITED NATIONS

## THIRD CONFERENCE ON THE LAW OF THE SEA

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31 July 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Austria, Belgium, Bolivia, Botswana, Byelorussian Soviet Socialist Republic, Czechoslovakia, Federal Republic of Germany, Finland, Hungary, Laos, Lesotho, Luxembourg, Mongolia, Netherlands, Paraguay, Singapore, Swaziland, Sweden, Switzerland, Uganda, Upper Volta and Zambia: draft articles on territorial sea

### Explanatory Note

The following draft articles on the territorial sea reflect the basic attitude of the sponsors concerning some questions relating to the territorial sea. Regarding the problem of delimitation of the boundary lines of the territorial seas in the case of opposite or adjacent coasts, the sponsors recognize the need for further elaboration of the rules laid down in the respective Geneva Conventions and are willing to listen in a spirit of compromise to any suggestion which may be made on the subject.

The proposal contained in document A/CONF.62/C.2/L.14 is considered a very valuable basis for discussion of this matter.

The problem of the semi-enclosed seas has not been referred to in the present draft articles; the sponsors nevertheless wish to indicate their willingness to consider any formula relating thereto.

### Article

1. The sovereignty of a State extends, beyond its land territory and internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.
2. The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.
3. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

### Article

1. Each State shall have the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines drawn in accordance with articles ... of this Convention.

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2. The right referred to in paragraph 1 shall not be exercised by a State in such a manner as to cut off from the high seas the territorial sea of another State or any part thereof.

Article

Except where otherwise provided in these articles, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Article

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.
2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.
3. Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them.
4. Where the method of straight baselines is applicable under the provisions of paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.
5. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.
6. The coastal State must clearly indicate straight baselines on charts, to which due publicity must be given.

Article

1. Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.
2. Where the establishment of a straight baseline in accordance with article ... has the effect of enclosing as internal waters areas which have previously been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles ..., shall exist in those waters.

/...

Article

1. This article relates only to bays, the coasts of which belong to a single State.
2. For the purpose of these articles, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.
3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water marks of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water areas of the indentation.
4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed ... miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.
5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds ... miles, a straight baseline of ... miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.
6. The foregoing provision shall not apply to so-called "historic" bays or in any case where the straight baseline system provided for in article ... is applied.

Article

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form part of the harbour system and which are above water at high tide shall be regarded as forming part of the coast.

Article

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea. The coastal State must clearly demarcate such roadsteads and indicate them on charts, together with their boundaries, to which due publicity must be given.

Article

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

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UNITED NATIONS  
GENERAL  
ASSEMBLY



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

Letter dated 10 July 1973 from the Permanent Representative of  
Bolivia addressed to the Chairman of the Committee on  
the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond  
the Limits of National Jurisdiction

I have the honour to transmit to you herewith, in your capacity as Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, a document containing some draft articles concerning land-locked countries which my delegation is formally presenting, with the request that it should be circulated in the Committee as an official Bolivian communication.

Accept, etc.

(Signed): ALFREDO OLMEDO VIRREIRA  
AMBASSADOR  
PERMANENT REPRESENTATIVE OF BOLIVIA

GE.73-48270



## B O L I V I A

DRAFT ARTICLES RELATING TO LAND-LOCKED COUNTRIES

## ARTICLE

The right of land-locked States to free access to the sea (whatever the origin and nature of their land-locked conditions) is one of the basic principles of the law of the sea and forms an integral part of the principles of international law.

## ARTICLE

States situated between the sea and one or more land-locked States retain full sovereignty over their territory and have the right to adopt such measures as may be necessary to ensure that the right of land-locked States to free access to the sea in no way prejudices their legitimate interests.

## ARTICLE

For the purpose of enjoying the freedom of the sea and participating in the exploitation of the resources of the sea-bed and the ocean floor, and the sub-soil thereof, beyond the limits of national jurisdiction on an equal footing with coastal States, land-locked States shall exercise the right of free access to the sea in the manner and subject to the conditions established in this Convention.

## ARTICLE

(1) The existence and the nature of the right of land-locked States to free access to the sea derive from the application of the principles of the freedom of the sea and the designation of the sea-bed and the ocean floor, and the sub-soil thereof, beyond the limits of national jurisdiction, as well as the resources of that area, as the common heritage of mankind.

(2) Its validity and application do not depend exclusively on the unilateral will (or national laws) of States situated between the sea and one or more land-locked States, but concern the community of nations as a whole.

(3) Depending on the nature of each case, its exercise shall be governed by agreement between the land-locked States and the States situated between them and the sea.

## ARTICLE

Conventions or other international agreements governing the exercise of this right shall not contain any clauses or provisions which limit the rights recognized by this Convention as an integral part of the right of land-locked States to free access to the sea.

ARTICLE

The lack or inadequacy of conventions or other international agreements to cover particular cases of the right of land-locked States to free access to the sea shall neither nullify that right as recognized in this Convention nor restrict the exercise thereof in the manner set out herein. (articles .... etc.).

ARTICLE

States situated between the sea and one or more land-locked countries shall, without discriminating between the latter and in accordance with the principles (articles) of this Convention, guarantee to the land-locked State or States:

- (a) Free and unrestricted transit through their territory (for all classes of movable goods, livestock, objects, merchandise and persons);
- (b) for vessels flying the flag of the land-locked State, the same treatment as that given to their own vessels or vessels of any other State in respect of entry into and departure from seaports;
- (c) the use of such ports, installations and equipment as may be appropriate for the movement of traffic in transit, under the same conditions as for themselves;
- (d) alternatively, free zones in the aforesaid ports in which land-locked States may, at their own expense, erect or construct warehouses or stores, facilities for the separation of cargoes, goods-yards and railway sidings, oil or gas tanks and pipes for the loading of tank vessels, office and residential buildings, etc.;
- (e) the right to appoint, in the ports of transit or free zones, national customs officials who may, without prior notice and without control or supervision by the local authorities, authorize the docking of vessels whose cargo is destined for, or originates primarily in, the land-locked country, and organize and supervise the loading and unloading of such vessels, as well as such port or free zone services as may be necessary for that purpose, without restrictions other than those relating to security, public health and the police regulations of the coastal transit State;
- (f) the use of the means of transport and communication existing in their territory, under the same conditions as for themselves.

ARTICLE

When means of transport and communication in the States situated between the sea and one or more land-locked States are insufficient to give effect to the right of land-locked States to free access to 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 may construct, modify or improve them at their own expense.

ARTICLE

If the port installations and equipment and the means of transport and communication existing in the country of transit are used in a proportion equal to or greater than fifty per cent of their capacity by the land-locked State or States, any tariffs, fees or other charges for services rendered shall be fixed by agreement among the States concerned.

ARTICLE

Goods and passengers in transit traffic to or from the land-locked State shall not be subject to the jurisdiction or competence of the judicial authorities of the coastal transit State.

ARTICLE

The reciprocity of free transit, when this concept is embodied in the right of land-locked States to free access to the sea, is not an essential principle but may be agreed among the parties.

ARTICLE

The rights and facilities established by this Convention as inherent in the right of land-locked States to free access to the sea by reason of special geographical situation, shall be excluded from application of the most-favoured-nation clause.

AMENDMENT

Amend the last line of Principles 7 and 8 of the Declaration of Principles (General Assembly resolution 2749 (XXV)) to read:

"... and taking into particular consideration the interests and needs of the developing countries, especially those which are land-locked"

ARTICLE

The land-locked (developing) countries shall have the same obligations and rights as contiguous (developing) coastal States with regard to participation in the live resources of the seas adjacent to the region, the natural resources of the continental shelf and those lying in the sea-bed or the sub-soil thereof within the limits of the jurisdictional sea (Exclusive Economic Zone).



# UNITED NATIONS

ANNEX 5

Distr.  
LIMITED



## THIRD CONFERENCE ON THE LAW OF THE SEA

A/CONF.62/C.2/L.65  
16 August 1974  
ENGLISH  
ORIGINAL: SPANISH

SECOND COMMITTEE

Bolivia and Paraguay: draft articles on the  
"regional economic zone"

Explanatory note: The delegations of Bolivia and Paraguay have held consultations on a number of questions concerning the law of the sea, in particular the topic of the regional economic zone. They now present the following draft articles for consideration in the debate on that item at the Third United Nations Conference on the Law of the Sea.

The preparation and submission of these draft articles do not, of course, imply the withdrawal or replacement of any proposals already submitted separately or jointly by the sponsoring States. This proposal is intended as an improved and expanded version of previous proposals. The basic philosophy underlying the regional economic zone has already been outlined in the statement made by the representatives of Bolivia and Paraguay on 5 August 1974.

Article 1

Coastal States and neighbouring land-locked States shall have the right to establish jointly regional economic zones between the 12-mile territorial sea and up to a maximum distance of 200 nautical miles, measured from the applicable baselines of the territorial sea.

Article 2

All the States concerned shall participate fully in the regional economic zone and shall be entitled to enjoy the use and benefits of all renewable and non-renewable resources therein, with equal rights and obligations.

Article 3

The States which form part of a regional economic zone shall jointly manage the exploration, exploitation and conservation of the resources of the zone through regional machinery, on the same lines as that proposed for a similar purpose in the sea-bed and ocean floor beyond the limits of national jurisdiction, which shall also ensure an equitable distribution of the resulting benefits.

C-1368

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Article 4

Third States, international, governmental and non-governmental organizations whatever their scope, and natural or legal persons may be allowed to co-operate in the regional economic zones, and financing may be accepted from any source for the operation of the regional machinery.

Article 5

Within the limits of each regional economic zone there shall be regional sovereignty for the exploration, exploitation and conservation of the natural resources, whether renewable or non-renewable, of the sea-bed, the subsoil and the superjacent waters, and jurisdictional powers over the contiguous zone shall be exercised exclusively by the coastal States.

Article 6

On the basis of the equality of rights and obligations of all participating States without discrimination of any kind, the regional economic zone shall protect and preserve, and ensure the protection and preservation of, the marine environment, and may permit joint scientific research to be carried on.

Article 7

The regional economic zone may establish, preferably through the regional machinery, an enterprise as the organ of the authority responsible for carrying out all technical, industrial and commercial activities, including the regulation of production, the marketing and the distribution of raw materials from the regional economic zone resulting from exploration of the zone and exploitation of its natural resources. The enterprise, in the exercise of its functions and powers, which shall be laid down in a convention and its pertinent regulations, shall assume responsibility for the relevant activities, either directly or through operational contracts, joint ventures, joint management or any other type of legal régime which does not conflict with the interests of the zone and the machinery shall ensure effective administrative and financial control in all circumstances.

Article 8

In the exercise of its powers and functions, the enterprise shall act in accordance with the general policy and conditions laid down by the competent regional assembly, and shall submit proposals with regard to its activities and the legal provisions required for such activities to the competent body or council for consideration and authorization.

Article 9

On the same lines as the international zone and the marine and ocean resources beyond national jurisdiction, which are deemed to be the common heritage of mankind - a principle that has already acquired the character of a rule of international law - the regional economic zones and their renewable and non-renewable resources shall be declared the common heritage of the region.

/...

Article 10

The regional economic zones may organize themselves on the broadest possible basis and shall also exploit their resources in such a manner as to ensure that they do not adversely affect the national land-based economies of countries dependent on a single commodity which are members of the zone or of other zones.

Article 11

The members of each regional economic zone, whether or not they are coastal States, shall be equitably and fairly represented both in the regional machinery and in the enterprise.

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**UNITED NATIONS**

ANNEX 6



**THIRD CONFERENCE  
ON THE LAW OF THE SEA**

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5 August 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Afghanistan, Austria, Belgium, Bhutan, Bolivia, Botswana, Finland, Iraq, Laos, Lesotho, Luxembourg, Nepal, Netherlands, Paraguay, Singapore, Swaziland, Sweden, Switzerland, Uganda, Upper Volta and Zambia: draft articles on participation of land-locked and other geographically disadvantaged States in the exploration and exploitation of the living and non-living resources in the area beyond the territorial sea

Article 1

Subject to the provisions of these articles, coastal States shall have the right to establish, adjacent to their territorial sea, a ... zone, the breadth of which shall not exceed ... nautical miles from the baselines from which the breadth of the territorial sea is measured, for the purpose of exploring and exploiting the living and non-living resources therein.

Article 2

Land-locked and other geographically disadvantaged States 1/ shall have the right to participate in the exploration and exploitation of the living resources of the ... zone of neighbouring coastal States 2/ on an equal and non-discriminatory basis. For the purpose of facilitating the orderly development and the rational exploitation of the living resources of the particular zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in those zones.

Article 3

Land-locked and other geographically disadvantaged States shall have the right to participate in the exploration and exploitation of the non-living resources of the ... zone of neighbouring coastal States on an equal and non-discriminatory basis. Equitable arrangements for the exercise of this right shall be made by the States concerned.

1/ The precise scope of the term "other geographically disadvantaged States" is still to be defined.

2/ The expression "neighbouring coastal States" not only refers to States adjacent to each other, but also includes States of a region situated within reasonable proximity to a land-locked or other geographically disadvantaged State.

C-0950

/...

Article 4

1. Land-locked and other geographically disadvantaged States shall not transfer their rights under articles 2 and 3 to third States, except when otherwise agreed upon by the States concerned.
2. The provisions of paragraph 1 shall, however, not preclude land-locked and other geographically disadvantaged States from obtaining technical or financial assistance from third States, or appropriate international organizations, for the purpose of enabling them to develop viable industries of their own.

Article 5

1. All States deriving revenues from the exploitation of the non-living resources of the ... zone shall make contributions to the international authority at the rate of ... per cent of the net revenues.
2. The international authority shall distribute these contributions on the same basis as the revenues derived from the exploitation of the international sea-bed area.

Article 6

Coastal States and land-locked and other geographically disadvantaged States within a region or subregion may enter into any arrangement for the establishment of regional or subregional ... zones with a view to giving effect to the provisions of articles 2 and 3 on a collective basis.

Article 7

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

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ANNEX 7



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Original: ENGLISH

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

DRAFT ARTICLES ON RESOURCE JURISDICTION OF COASTAL STATES  
BEYOND THE TERRITORIAL SEA

proposed by the delegations of Afghanistan, Austria,  
Belgium, Bolivia, Nepal and Singapore

- (1) in the context of the discussions on the recognition of the jurisdiction of coastal States over the resources in a zone adjacent to their territorial sea, and
- (2) as a formula attempting to accommodate the vital needs and major interests of all States, which does not necessarily reflect the final views of the sponsoring delegations.

ARTICLE I

(1) Coastal States shall have the right to establish, adjacent to the territorial sea, a ..... Zone which may not extend beyond ..... nautical miles from the baselines from which the breadth of the territorial sea is measured.

(2) Coastal States shall have, subject to the provisions of Articles II and III, jurisdiction over the ..... Zone and the right to explore and exploit all living and non-living resources therein.

ARTICLE II

(1) Landlocked and coastal States which cannot or do not declare a ..... Zone pursuant to Article I (hereinafter referred to as the Disadvantaged States), as well as natural or juridical persons under their control, shall have the right to participate in the exploration and exploitation of the living resources of the ..... Zone of neighbouring coastal States on an equal and non-discriminatory basis. For the purpose of facilitating the orderly development and the rational management and exploitation of the living resources of particular ..... Zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in that Zone.

GE.73-48576

(2) In the ..... Zone the coastal State may annually reserve for itself and such other Disadvantaged States as may be exercising the right under the preceding paragraph, that part of the maximum allowable yield, as determined by the relevant international fisheries organization, which corresponds to the harvesting capacity and needs of these States.

(3) States other than those referred to in paragraph 1 shall have the right to exploit that part of the remaining allowable yield subject to payments, to be determined under equitable conditions, and regulations laid down by the coastal States for the exploitation of the living resources of the ..... Zone.

(4) Disadvantaged States shall not transfer the right conferred upon them in paragraph 1 to third parties. However, this provision shall not preclude the Disadvantaged States from entering into arrangements with third parties for the purpose of enabling them to develop viable fishing industries of their own.

(5) A developed coastal State, which establishes a ..... Zone pursuant to Article I, paragraph 1, shall contribute .... per cent of its revenues<sup>a/</sup> derived from the exploitation of the living resources in that Zone to the International Authority. Such contributions shall be distributed by the International Authority on the basis of equitable sharing criteria.

(6) In exploiting the living resources the States referred to in paragraphs 1 and 3 of this Article shall observe the regulations and measures pertaining to management and conservation in the respective ..... Zones.

ARTICLE III

(1) A coastal State shall make contributions to the International Authority out of the revenues<sup>a/</sup> derived from exploitation of the non-living resources of its ..... Zone in accordance with the following paragraph.

(2) The rate of contribution shall be .... per cent<sup>b/</sup> of the revenues from exploitation carried out within forty miles or 200 metres isobath of the ..... Zone,

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<sup>a/</sup> The word "revenues" shall have to be defined.

<sup>b/</sup> It is understood that different rates should apply to developed and developing countries.

whichever limit the coastal State may choose to adopt, and.... per cent<sup>b/</sup> of the revenues from exploitation carried out beyond forty miles or 200 metres isobath within the ..... Zone.

(3) The International Authority shall distribute these contributions on the basis of equitable sharing criteria.

ARTICLE IV

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

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<sup>b/</sup> It is understood that different rates should apply to developed and developing countries.

ANNEX 8



UNITED NATIONS  
GENERAL  
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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.

GE.73-50023

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 IIIFreedom 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 IVRight 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 VRight 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 VICustoms 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.



**UNITED NATIONS**

ANNEX 9



**THIRD CONFERENCE  
ON THE LAW OF THE SEA**

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ORIGINAL: ENGLISH

THIRD COMMITTEE

Austria, Belgium, Bolivia, Botswana, Denmark, Germany, Federal Republic of, Laos, Lesotho, Liberia, Luxembourg, Nepal, Netherlands, Paraguay, Singapore, Uganda, Upper Volta and Zambia:  
draft articles on marine scientific research

**Note:** These draft articles do not necessarily represent the final position of the sponsors on individual articles or on the draft as a whole. Sponsorship does not prejudice their position on previous or future draft proposals.

Article 1

"Marine scientific research" means any study of and related experimental work in the marine environment, excluding industrial exploration and other activities aimed directly at the exploitation of marine resources, designed to increase man's knowledge and conducted for peaceful purposes.

Article 2

All States, whether coastal or land-locked, as well as appropriate international organizations, have the right to conduct marine scientific research subject to the provisions of this Convention.

Article 3

Marine scientific research shall be conducted with due regard to other legitimate uses of the sea and it shall not be subject to undue interference caused by such other uses.

Article 4

Marine scientific research shall be conducted in conformity with those provisions of this Convention and other rules of international law concerning the preservation of the marine environment.

Article 5

Marine scientific research within the territorial sea established in accordance with this Convention may be conducted only with the consent of the coastal State. Requests for such consent shall be submitted to the coastal State well in advance and answered without undue delay.

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Article 6

1. Marine scientific research beyond the territorial sea, in areas where a coastal State enjoys certain rights over resources in accordance with this Convention, shall be conducted by States as well as by appropriate international organizations in such a manner that these rights of coastal States are respected, for which purpose the coastal State shall:

(a) be given at least ... months' advance notification of the proposed research project;

(b) be given as soon as possible a detailed description of the research project, including objectives, methods and instrumentation, locations and time schedule, and information on the research institution concerned and on the scientific staff to be employed;

(c) be promptly informed of any major changes with regard to the description of the proposed research project;

(d) have the right to participate directly or indirectly in the research project;

(e) have access to all data and samples obtained in the course of the research project and be provided, at its request, with duplicable data and divisible samples;

(f) be given assistance, at its request, in the interpretation of the results of the research project.

2. States and appropriate international organizations conducting marine scientific research in the areas referred to in paragraph 1 above shall take due account of the legitimate interests and rights of the neighbouring land-locked and other geographically disadvantaged States of the region, as provided for in this Convention, and shall notify these States of the proposed research project, as well as provide, at their request, relevant information and assistance as specified in paragraph 1 (b), (c) and (f) above. Such neighbouring land-locked and other geographically disadvantaged States shall be offered, at their request, where research facilities permit, the opportunity to participate in the proposed research project.

3. States and appropriate international organizations engaged in the conduct of marine scientific research shall ensure that the research results are published as soon as possible in readily available scientific publications and that copies of such publications are supplied directly to the coastal State and to neighbouring land-locked and other geographically disadvantaged States.

4. Deep drilling or the use of explosives for the purpose of marine scientific research likely to affect the sea-bed or its subsoil may be conducted only with the consent of the coastal State. Requests for such consent shall be submitted to the coastal State well in advance and answered without undue delay.

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5. Disputes concerning the interpretation or application of this article shall, at the request of any party to such dispute, be settled in accordance with the procedures set out in the relevant articles of this Convention.

Article 7

Marine scientific research beyond the areas specified in articles 5 and 6 above may be carried out by all States, whether coastal or land-locked, and by appropriate international organizations.

Article 8

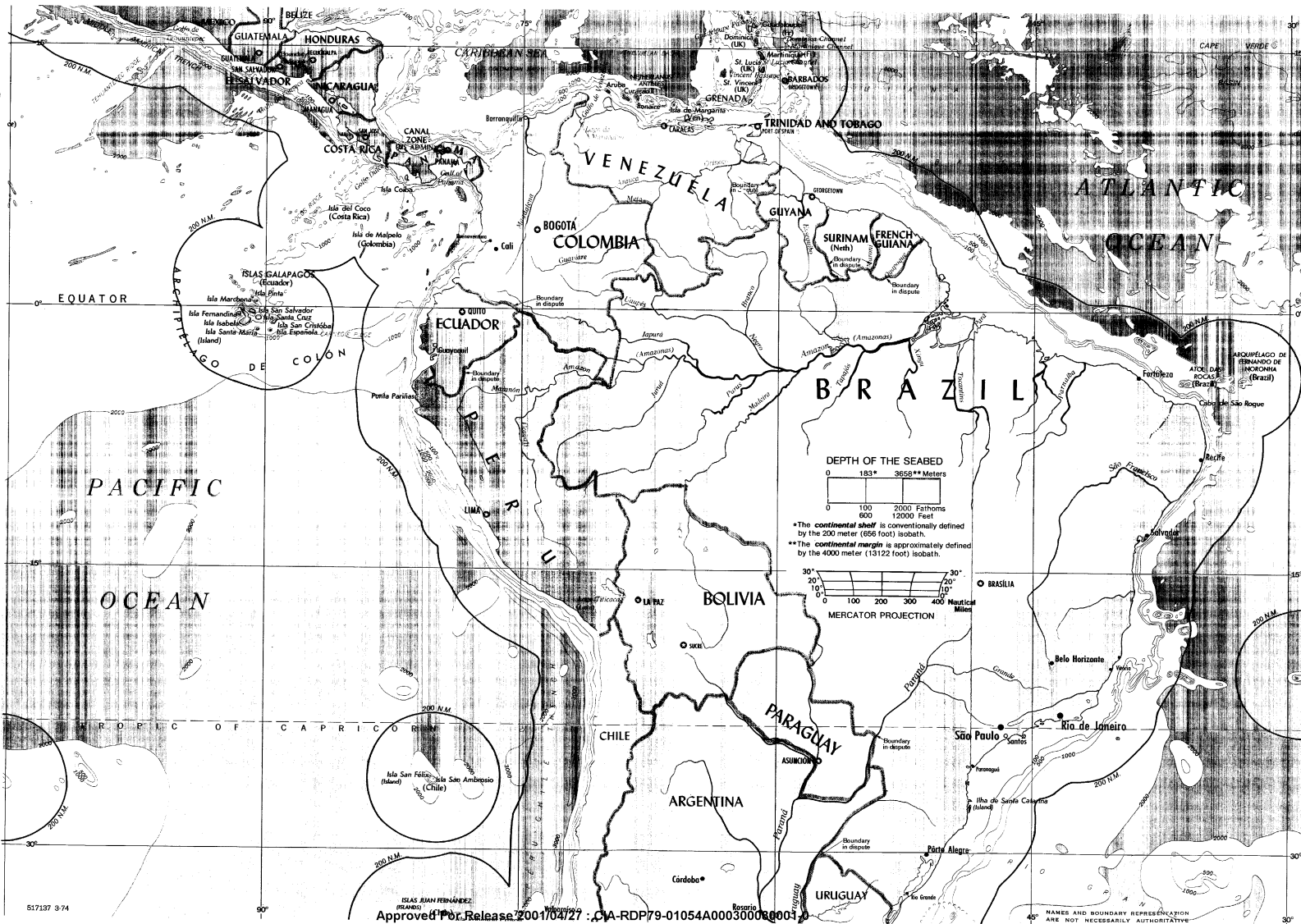
1. States shall, on the basis of mutual respect for sovereignty and mutual benefit, promote international co-operation in marine scientific research.

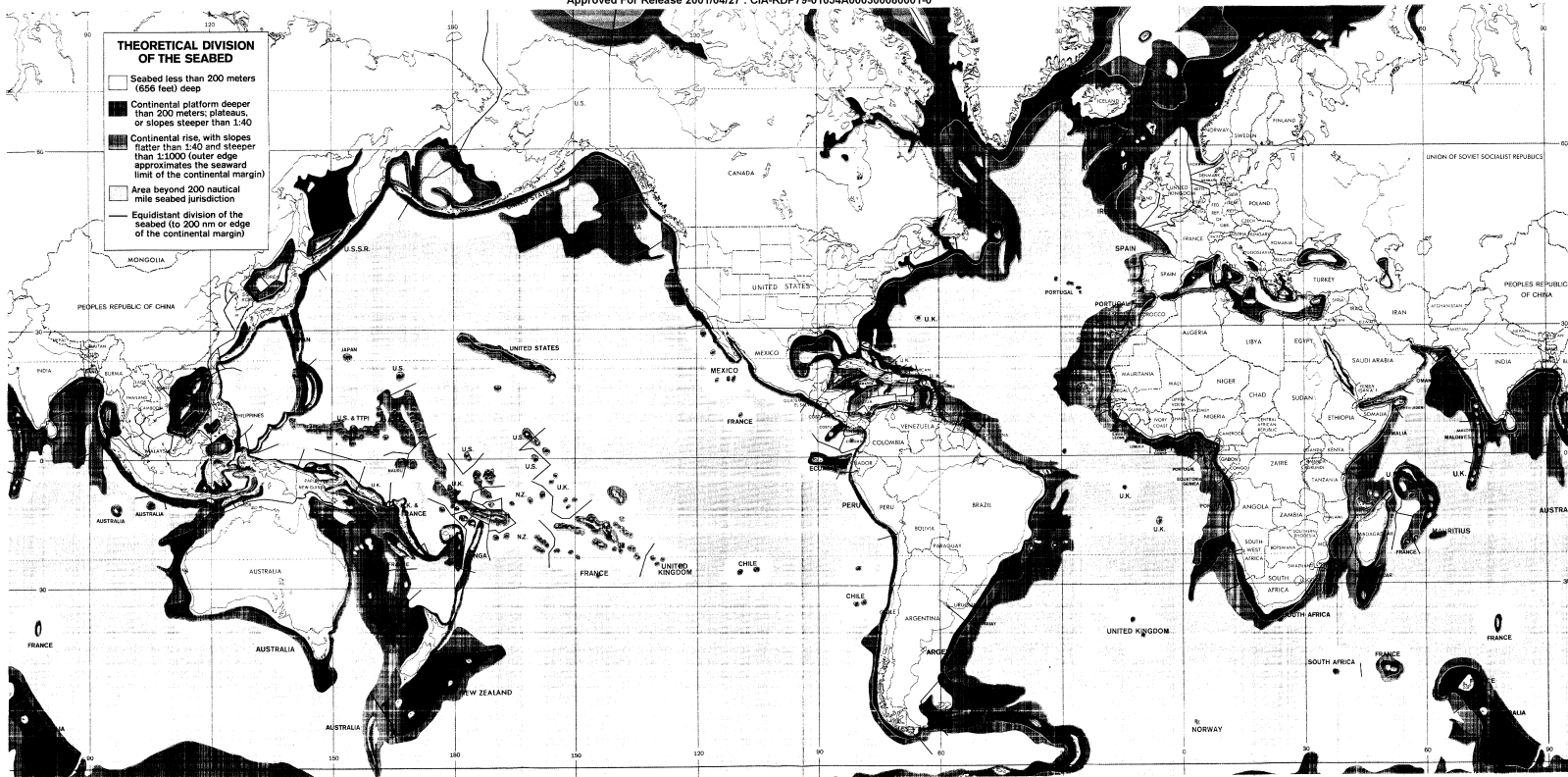
2. States shall co-operate with one another through the conclusion of bilateral and multilateral agreements to ensure favourable conditions for the conduct of marine scientific research for peaceful purposes, the removal of obstacles to such research and the co-ordination of efforts by scientists in studying the phenomena and processes occurring in the marine environment.

3. States shall individually and in co-operation with other States and with appropriate international organizations actively promote the flow of scientific data and information, the transfer of experience gained from marine scientific research to developing and land-locked countries and the strengthening of the independent marine scientific research capabilities of developing countries, particularly land-locked among them, by such means as programmes to provide adequate training of their technical and scientific personnel.

4. States shall facilitate the availability of information and knowledge resulting from marine scientific research by effective international communication of proposed major programmes and their objectives, and by publication and dissemination through international channels of their results.

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