

TREATY ON ACCESS TO THE SEA

BETWEEN

THE GOVERNMENT OF _____

AND

THE GOVERNMENT OF _____

The Government of (Coastal State X) and the Government of (Land-locked State Y) (the “Contracting Parties”),

Prompted by the desire to develop, maintain and reinforce the existing bonds of friendship and co-operation between the two countries,

Recognizing that (Land-locked State Y) is a land-locked country which needs permanent access to and from the sea across the land territory of (Coastal State X),

Acknowledging that freedom of transit across the land territory of (Coastal State X) is essential to ensure permanent access to and from the sea for (Land-locked State Y),

Wishing to give full effect to the provisions of the 1982 Law of the Sea Convention that pertain to the right of access of land-locked States to and from the sea and freedom of transit, and particularly to the provisions of Part X of that Convention;

Recalling the existing arrangements pertaining to access to and from the sea for (Land-locked State Y) across the territory of (Coastal State X),

Have agreed as follows:

Article 1

Use of Terms

“Traffic-in-transit” means the transit of persons, baggage (including unaccompanied baggage), goods and means of transport across the territory of (Coastal State X) when the passage across (Coastal State X), with or without transshipment, warehousing, breaking bulk or change in mode of transport, is only a portion of a complete journey which begins or terminates within the territory of (Land-locked State Y).

“Means of transport” means:

- (i) railway, rolling stock, sea, lake and river craft and road vehicles;
- (ii) pipelines and gas lines .

Article 2

Right of Access to and from the Sea

(Land-locked State Y) shall have the right of access to and from the sea for the purpose of exercising the rights provided for in the 1982 Law of the Sea Convention, including those rights relating to access to living resources of Exclusive Economic Zones of other States, the freedoms of the high seas and the common heritage of mankind.

Article 3

Freedom of Transit

(Coastal State X) shall accord to traffic-in-transit to and from (Land-locked State Y) freedom of transit across the territory of (Coastal State X) through the routes specified in Annex 1 to this Agreement.

Article 4

Customs duties, Taxes and Other Charges

- (1) Traffic-in-transit shall not be subject to any customs duties, taxes or any other charges, except reasonable charges for transportation and such other charges as are commensurate with the cost of services rendered in respect of such transit.
- (2) The means of transport in transit and other facilities provided for and used by (Land-locked State Y) shall not be subject to taxes or charges higher than those levied for the use of means of transport in (Coastal State X).

Article 5

Free Zones and Other Customs Facilities

For convenience of traffic-in-transit, (Coastal State X) agrees to provide at points of entry and exit, on such terms as may be agreed upon, and subject to relevant laws and regulations in (Coastal State X) warehouse facilities for the storage of traffic-in-transit awaiting customs clearance before onward transmission.

Article 6

Measures to Facilitate Transit

- (1) Traffic-in-transit shall be subject to the procedure specified in Annex II to this Agreement, and as modified by mutual agreement between the Contracting Parties.
- (2) Traffic-in-transit shall not be subject to avoidable delays or other difficulties of a technical nature. (Coastal State X) shall take all appropriate measures to avoid such delays and to remove other difficulties of a technical nature.

Article 7

Equal Treatment in Maritime Ports

Ships flying the flag of (Land-locked State Y) shall be accorded in all maritime ports of (Coastal State X) treatment no less favourable than that accorded to ships with the nationality of (Coastal State X) in respect of matters relating to navigation, entry into and departure from ports, use of ports and harbour facilities, as well as loading and unloading dues, taxes and other levies.

Article 8

Protection of Legitimate Interests

- (1) In order to protect its legitimate interests, (Coastal State X) may maintain or introduce such measures or restrictions as may be necessary for the purpose of:
 - (a) protecting essential security interests;

- (b) protecting human, animal and plant life; and
 - (c) safeguarding such other interests of (Coastal State X) as may be mutually agreed upon by the Contracting Parties.
- (2) No measure or restriction may be maintained or introduced pursuant to paragraph 1 of this Article if that measure or restriction would have the effect of establishing a duty, tax or other charge on traffic-in-transit.

Article 9

Effect of Multilateral Conventions

Nothing in this Agreement shall prevent (Coastal State X) from taking any measures which may be necessary, in pursuance of multilateral conventions, whether already in existence or concluded hereafter, to which (Coastal State X) is party, relating to the transit, export or import of narcotic or psychotropic substances, or in pursuance of multilateral conventions intended to prevent infringement of industrial, literary or artistic property or relating to false marks, false indications of origin or other methods of unfair competition.

Article 10

Exclusion of Application of Most-Favoured-Nation Clause

No foreign country may derive any of the rights or privileges accorded to (Land-locked State Y) under this Agreement through the application of the most-favoured-nation clause in conventions or other arrangements creating rights and duties between the foreign country and (Coastal State X).

Article 11

Consultations

In order to facilitate effective and harmonious implementation of this Agreement, the Contracting Parties shall consult each other on a regular basis, and at least once every six months.

Article 12

Settlement of Disputes

Any dispute between the Contracting Parties arising out of or relating to this Agreement, or the breach, termination or invalidity thereof which cannot be settled by consultation between them shall be referred to _____.¹

Article 13

Entry into Force

This Agreement shall enter into force upon signature of the Contracting Parties. It shall remain in force until (a date to be fixed) and shall thereafter be automatically be extended for a further period of (seven) years, unless either Contracting Party gives to the other written notice, six months in advance, of its intention to terminate the Agreement.

Article 14

Modifications concerning Routes and Procedures

The routes set out in Annex I, and the procedures with respect to traffic-in-transit set out in Annex II, to this Agreement shall be subject to review and modification by the Contracting Parties every (seven) years or earlier, as may be agreed by the Contracting Parties.

Article 15

Amendments

This Agreement may be amended by mutual consent of the Contracting Parties.

Done at _____, *on* _____.

¹ The parties should insert here the name of an appropriate subregional or regional dispute settlement body. The parties should avoid a reference to the International Court of Justice or the International Tribunal on the Law of the Sea, as the cost of dispute-settlement before these tribunals is likely to be prohibitive.

ANNEX I

ROUTES FOR ACCESS TO AND FROM THE SEA

FOR (LANDLOCKED STATE Y)

ACROSS THE TERRITORY OF

(COASTAL STATE X)

ANNEX II

PROCEDURES CONCERNING ACCESS TO AND FROM THE SEA

FOR (LANDLOCKED STATE Y)

ACROSS THE TERRITORY OF

(COASTAL STATE X)

TREATY ON ACCESS TO THE LIVING RESOURCES OF THE

EXCLUSIVE ECONOMIC ZONE OF (COASTAL STATE X)

FOR (LAND-LOCKED STATE Y)

The Government of (Coastal State X) and the Government of (Land-locked State Y)(the “Contracting Parties”),

Prompted by the desire to develop, maintain and reinforce the existing bonds of friendship and co-operation between the two countries,

Recognizing that (Land-locked State Y) is a land-locked country which does not have an exclusive economic zone of its own,

Noting that (Land-locked State Y) and (Coastal State X) are both parties to the 1982 Law of the Sea Convention,

Reaffirming that in its exclusive economic zone (Coastal State X) has rights as set out in the 1982 Law of the Sea Convention,

Recalling that the 1982 Law of the Sea Convention stipulates that land-locked States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region,

Recalling further that the 1982 Law of the Sea Convention requires coastal and land-locked States to establish the terms and modalities under which land-locked States may participate in the living resources of the exclusive economic zones of coastal States of the same subregion or region,

Wishing to give full effect to the provisions of the 1982 Law of the Sea Convention,

Have agreed as follows:

Article 1

Right to Surplus Living Resources

- (1) (Coastal State X) shall declare, on an annual basis, the size of the surplus of the allowable catch available in its exclusive economic zone.
- (2) In determining the surplus of the allowable catch, (Coastal State X) shall calculate the total allowable catch of the living resources of its exclusive economic zone and its capacity to harvest the living resources of the exclusive economic zone. The size of the surplus for each year shall be calculated as the extent by which the total allowable catch of the living resources of the exclusive economic zone exceeds (Coastal State X's) capacity to harvest the living resources of the exclusive economic zone.
- (3) (Land-locked State Y) shall have, on an annual basis, the right to exploit, and keep as its own, one-half of the surplus of living resources in the exclusive economic zone of (Coastal State X).

Article 2

Equitable Arrangements

When the harvesting capacity of (Coastal State X) approaches the point where there may be no surplus of the allowable catch available for (Land-locked State Y), (Coastal State X) shall enter into negotiations with (Land-locked State Y) concerning equitable arrangements that are to be made to ensure that (Land-locked State Y) continues to enjoy the right to participate in the exploitation of the living resources of the exclusive economic zone of (Coastal State X) on an equitable basis during the period when there are no surplus resources in the exclusive economic zone of (Coastal State X). In determining what constitutes an equitable basis for continued enjoyment of the right of (Land-locked State Y) in the exclusive economic zone, the Contracting Parties shall take into account:

- (a) the need to avoid effects detrimental to the economy of (Land-locked State Y);
- (b) the extent to which (Land-locked State Y) is participating in the exploitation of living resources of the exclusive economic zones of other coastal States;

- (c) the extent to which other land-locked States are participating in the exploitation of the living resources of the exclusive economic zone of (Coastal State X); and
- (d) the nutritional needs of the populations of (Coastal State X) and (Land-locked State Y).

Article 3

Consultations

In order to facilitate effective and harmonious implementation of this Agreement, the Contracting Parties shall consult each other on a regular basis, and at least once every twelve months.

Article 4

Settlement of Disputes

Any dispute between the Contracting Parties arising out of or relating to this Agreement, or the breach, termination or invalidity thereof which cannot be settled by consultation between them shall be referred to _____.²

Article 5

Entry into Force

This Agreement shall enter into force upon signature of the Contracting Parties. It shall remain in force until (a date to be fixed) and shall thereafter be automatically extended for a further period of (seven) years, unless either Contracting Party gives to the other written notice, six months in advance of its intention to terminate the Agreement.

² The parties should insert here the name of an appropriate subregional or regional dispute settlement body. The parties should avoid a reference to the International Court of Justice or the International Tribunal on the Law of the Sea, as the cost of dispute-settlement before these tribunals is likely to be prohibitive.

Article 6

Amendments

This Agreement may be amended by mutual consent of the Contracting Parties.

Done at _____, *on* _____.