

## A Study of Some Dimensions of International Marine Laws in Countries with No Seas or with Inappropriate Coasts

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**Abstract:** The interminable resources underneath the seas belong to all countries, nations and human beings. However, while some governments make the optimal use of such natural boon, other governments are still deprived of these huge resources due to inappropriate condition dominant in their coasts. In the world of today and regarding the concept of global village, developing a global justice and fairness seems totally inevitable. In this case, the most efficient factor for achieving such purpose seems to be the international marine laws which can develop and preserve the rights of such countries through the preparation of sound principles and legislation of international conventions. In the present study, such topics as navigation and shipping laws for countries with no seas, access to the harbors and resources of free seas and duty-free areas and conventions and transit fees will be investigated.

**Key words:** International laws • Countries with no seas (sea-less countries) • Marine convention • Free harbors

### INTRODUCTION

According to scientists, international laws can be assumed as a set of rules that define and determine the relationship among individuals, governments and the international organizations based on genuine and authentic principles[1]. From among the seventy countries in the whole world, thirty countries are deprived of any coasts which can be categorized as follows:

- *14 African countries* (Botswana, Brandi, Central Africa, Chad, Lesotho, Malawi, Mali, Niger, Rwanda, Swaziland, Uganda, Burkina Faso, Zambia and Zimbabwe)
- *9 European countries* (Austria, Belarus, Czechoslovakia, Vatican, Hungary, Lighten Stein, Luxembourg, San Marino, Switzerland)
- *5 Asian countries* (Afghanistan, Bhutan, Laos, Mongolia, Nepal)
- *2 Latin American countries* (Bolivia, Paraguay)

The countries surrounded by lands are not only deprived of the sea and its resources, but they are also deprived of many natural resources on land and therefore they are considered as the poorest countries and nations in the world. In addition to such countries, there are a

remarkable number of countries like Iraq and Zaire which do not possess ant appropriate coastal areas due to geographical factors or sometimes it is because of the condition of their neighboring countries so that the utilization of marine resources cannot be effectively fulfilled. Countries such as Germany, Singapore and Togo, belong to the afore-mentioned category. Sometimes the duty-free areas in some countries do not have sufficient natural resources. In this case, countries such as Jamaica and Tanzania are such eye-catching examples [1-3].

Regarding the countries surrounded by land and those with improper geographical condition, some issues such as navigation and shipping rights, access to the harbors and access to the marine resources are controversial issues which will be briefly discussed as follows:

**Navigation and Shipping Rights:** Based on the negotiation of countries and regarding Rule No. 273 of Wers Contract in 1919, it was determined that the flags of the ships of the countries with no seas must be officially accepted and considered as authentic. Besides, during the International Communication and Transit Conference in 1921, the acceptance and justification of the flags of countries with no seas was officially approved. Considering such conventions of Geneva in 1958 and

1982, the ships of all countries, whether coastal or non-coastal, have the right to pass all the seas and the free seas freely and without any limitation. Right now, eight countries with no seas have commercial fleets [1-2].

**Access to the Harbors:** In accordance with international laws, there is no public access to the harbor except for emergency cases. Regularly, the access right to harbor will be determined based on a navigational and commercial compromise on both sides. The right which was passed in the 1923 convention for the international protocol of sea-less country is in contrast with the 1982 convention of navigation rights. Rule No. 131 says: "ships with the flags of sea-less countries will be treated just the same as the ones with the flags of coastal countries". However, the limitations and delimitations of the afore-mentioned rule are vague [3].

Does such treatment include access to the harbors (as it was pre-determined and predicted in 1923 convention)? Or is it a sort of treatment which requires the permission of coastal countries based on specific rules? Generally speaking, nothing will make it feasible for the coastal countries to force the sea-less countries to be deprived of their rights from navigation and shipping [2].

**Access to the Aqua Resources:** This factor has three important considerations for the non-coastal countries and those with improper coasts including: access to the free sea resources, the international compromise for the bottom of the sea and access to the duty-free areas. These factors are briefly discussed as follows:

**Access to the Free Sea Resources:** The second rule of 1958 conventions and Rule No. 87 of 1982 convention say that the freedom of the free seas should be respected by both the coastal countries as well as the countries with no seas. Therefore, the countries with no seas and those with inappropriate coastal condition have the rights to utilize the natural resources of the free seas as well as conducting scientific research and installing cables and pipes on the bottom of the sea. However, there is a big gap from the theory to practice since most of such countries are deprived of their natural rights and suffer from the consequences [1].

**The International Compromise for the Sea Bottom:** The 1982 convention consists of various items supporting the rights of non-coastal countries and fewer items for coastal countries regarding the improper geographical condition.

Rule No. 148 which embeds in itself one of the general principles concerning the sea bottom says: "the effective cooperation of the developing countries and specifically the non-coastal countries and those with improper coastal condition will be approved and encouraged based on their needs so that, in this way, they could overcome some of the problems emanating from their inappropriate geographical situation [4].

Part 11 of convention Rule No. 160 asks the international authority to "pay tribute to the general problems and issues related to the regional performance of the developing countries and supervise the performance of the non-coastal countries and those with improper coastal condition in relation to the utilization of the resources from the bottom of the free seas."

**Access to the Free-duty Areas:** items 70 (1) and 69 (1) of 1982 convention assert that countries without seas or with improper coastal condition have the equal right to make use of the advantages of the resources available in the duty-free areas of those countries benefiting from the free seas and duty-free areas. This, of course, will be achieved through reaching a compromise based on the conditions mentioned in items No. 69 (2, 3, 4, 5) and 70 (3, 4, 5, 6) of 1982 convention. Any scientific research on the part of a third party must be conducted under the notification of the neighboring countries.

**Transit Right:** The transit right needs to be investigated on both territorial and conventional laws. Regarding the Territorial laws, the transit right is still under the question and there's a little evidence supporting such a notion. Here, the question is that whether there would be any transit right based on the international conventions for the transition of ships in the rivers and seas.

Unfortunately, there is no consensus upon this issue among the scientists. However, most of them seem to agree that there is no rule or principle that would support the navigation of non-coastal countries in the rivers of another country. In spite of this fact, as we will see, such right has been given to other countries in some contacts and compromises [3-5].

As far as the contract laws are concerned, although there is no transit right officially expressed in any convention, such a condition has been repeatedly used in different contract and compromises. The 1921 convention of free transit asks its members to allow the transition of goods and people in the seas, rivers and railway, without any bias and through receiving the charging fees. The 5<sup>th</sup>

item of 1974 protocol mentions the free transit right based on the principles of 1921 convention. Practically speaking, the transit right mostly depends on the its and buts of the compromise established on the agreement of both sides in conformity with item No. 125(3). Therefore, it seems crucial to continue the negotiation and discussion for the sake of achieving a unique and comprehensive protocol in order to preserve the right of the sea-less countries to use the transit right as efficiently as possible [4].

### **CONCLUSION**

Regarding the afore-mentioned conditions for the countries with no seas, it seems as if the rights of the so-called countries for utilizing the sea resources have not been fully asserted and the current conventions cannot fully satisfy the needs of these countries. In addition, there are some legal limitations and restrictions which seem to limit the access of the non-coastal countries to the free seas, rivers and the natural resources. Such rules have been so vaguely asserted that the degree of their usefulness for the non-coastal countries or those with improper coasts is drastically under question. Therefore, a comprehensive revision over the current conventions and protocols seems inevitable [4-5].

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