The Marine Fishery Rights of Land-locked States with Particular Reference to the EEZ

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Introduction

The latter half of this century has become an era of great competition between coastal states to enclose as large areas as possible of the high seas within their zones of national jurisdiction. The areas of the high seas which continue to be "open to all" have been radically reduced. With the introduction of the concept of the 200-miles Exclusive Economic Zone (EEZ) and the extensive claims to continental shelf areas, most of the economically valuable parts of the high seas are now subject to the jurisdiction of coastal states. As a result, it is often the "biological desert" areas that remain under the high seas regime. In the sixteenth century, coastal states such as Spain and Portugal divided the oceans between themselves, according to the current doctrine of mare clausum. However, the hard-won concept of mare liberum now seems to be reversing itself because of the jurisdictional extensions of the coastal states.

In the twentieth century, "the era of the recolonization of the seas", the 31 land-locked states (LLS) of the world have been struggling to obtain their fundamental rights, those of free access to and from the sea, and equal opportunities in the exploration and exploitation of the living and non-living resources therein.

Between the Barcelona Convention and Statute on Freedom of Transit (1921)
and the 1982 Convention on the Law of the Sea (LOSC), the LLS have tried to assert greater rights. The LLS gained a few rights in attempts made prior to the Third United Nations Convention on the Law of the Sea (UNCLOS III). UNCLOS III provided them with an important opportunity, for it had been convened in order to seek to "accommodate the interests and needs of all states, whether land-locked or coastal" in an international law of the sea, in accordance with the UN's purpose, inter alia, "to achieve international co-operation in solving international problems", e.g. those having an economic or humanitarian character.

Throughout the nine consecutive years of the Conference period, the LLS strove to have their interests accommodated. Many coastal states, however, appeared to be against any significant concessions to the LLS, and finally a more or less coastal state oriented Convention was adopted. As a result, the LLS have been described by writers such as Prescott, Wijkman, Sinjela, and Larson as the "great losers" in UNCLOS III.

However, some of the LLS' rights have been reaffirmed by the Convention; some, although a limited number, have been introduced, and for some the prospects are good—as long as they are properly utilized. Among them, the marine fishery rights of the LLS, in general with reference to the high seas and in particular with reference to the EEZ, are of importance. During UNCLOS III, the LLS spent a considerable amount of energy in securing their rights under the new EEZ regime. For many reasons this regime is significant for the LLS.

This paper aims to analyse the marine fishery rights of the LLS with particular reference to the EEZ. However, a discussion such as this must inevitably touch upon to other issues concerning the whole body of problems faced by the LLS. That is why this paper opens with an examination of the factual background of the LLS and their rights in general within the law of the sea. It will then concentrate on the main issue, that of their fishery rights. Finally, an effort will be made to present some workable strategies.

**Land-locked states: factual background**

Thirty-one states of the World—five in Asia, fourteen in Africa, two in Latin America, and ten in Europe (although the status of five of the European states is...