

Economic Integration as a Factor in the Development of International Transport Corridors: Prospects for the Development of ITC North-South from the Point of View of International Law

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Abstract: In order for international transport corridors to function as efficiently as possible, it is important that the states along which the corridor passes have legal relations not only in the field of transport, but on all issues, to one degree or another, related to the transportation of goods and passengers. In this paper, the author studies the issue of legal regulation and functioning of international transport corridors within the framework of the economic integration of the EU and ASEAN in order to identify the necessary legal framework for the successful functioning of the corridors. Studies show that international transport corridors cannot function effectively in the absence of economic integration, as can be seen in the example of the International transport corridor “North-South”. It is this corridor, legally founded back in 2000, due to the lack of international agreements adopted for the purpose of economic integration between the participating countries, that still does not function at the proper level. The author concludes that for the effective functioning of the International transport corridors, it is necessary to have multilateral agreements aimed at economic integration between the states through which the corridor passes.

Keywords: international transport corridors, economic integration, free transit, International transport corridor “North-South”.

Introduction.

The trade relations of states, the external trade turnover of the country, and the external economic relations of any state as a whole are closely connected by international transport corridors, which provide the most efficient cross-border movement of goods and passengers, thereby accelerating the growth rate of the economy. In fact, these corridors arise as a result of the connection of several states by a transport artery, agreeing to create a single corridor.

International transport corridors (hereinafter - ITC) are primarily designed to ensure cross-border movement and transit of goods and passengers through the territory of two or more states. Consequently, the legal regulation of the ITC addresses issues related to these tasks, which include a wide range of legal relations, both of an international public nature and of an international private law nature. Particular attention is required to international public legal relations between the states through which the ITC passes, or, if I may say so, the member countries of the ITC. It is the agreements between states on issues of a public nature, such as tariff regulation, border crossing, transit, customs procedures, etc., that predetermine the effectiveness of the functioning of the ITC. All these issues in an integrated approach can be regulated in the process of economic integration, both on a regional and global scale.

Brief historical outline of the legal basis for economic integration.

Perhaps one of the first who put forward the modern theory of economic integration is an outstanding economist, Professor Balassa, who outlined it in his work *The Theory of Economic Integration*. According to Balassa, the theory of economic integration can be seen as part of the international economy, but it also expands the field of international trade theory by examining the impact of the merger of national markets on growth and examining the need for coordinating the economic policies of countries. The classical theory proposed uses five stages of economic integration: Free Trade Area; Customs Union; Common Market; Economic Union; Full economic integration (Balassa 1961).

According to Harvard Law School professor Marsha Echols, regional economic integration is primarily driven by tariff and non-tariff agreements. In addition, today integration is also provided by agreements in the field of services, intellectual property, investment, labor relations and competition. Economic integrations are usually expressed in regional and bilateral agreements between states, the purpose of which is primarily mutually beneficial access to the markets of the contracting parties through the regulation of tariffs (Echols 1997).

Economic integration in multiple cases manifests itself in the form of free trade zones and customs unions. It is based on trade agreements, most of them in the form of free trade agreements in a regional format, one of the goals of which is to bring tariffs to the lowest levels, down to zero. States have entered into trade agreements of various types for many hundreds of years. Nevertheless, the Anglo-French trade treaty of 1860 may be considered as a very clear beginning of modern trade agreements, since this treaty was based on the idea of mutually binding tariff cuts. The concept of tariff reduction commitments formed the basis of international trade agreements over a hundred years later, and even today is perhaps the most important part of these agreements.

The economic conferences of the League of Nations in the 1920s and 1930s resulted in various bilateral trade agreements that provided for a broader trade regime. The new agreements they developed, first as bilateral agreements in the 1930s and 1940s and then as the General Agreement on Tariffs and Trade (GATT), went beyond earlier tariff reduction agreements by laying down a set of more general rules (Lester 2011).

After World War II, the emphasis shifted from bilateral agreements to multilateralism. Regional economic integration has become one of the most important international phenomena since the end of the war (Riesenfeld 1974).

In economic integration on a global scale, the World Trade Organization (WTO) Agreements hold a special place. This agreement expanded traditional trade obligations to include a number of new requirements that are more indirectly related to trade. However, the WTO system itself has traditionally allowed for agreements that provide better market access in the form of lower tariffs or related border measures for states in free trade areas or customs unions (Howse 2015).

Ensuring free trade within the framework of economic integration is primarily due to free transit between the states involved in integration, which in turn gives rise to the need for detailed international legal regulation of the ITCs through which transportation is carried out. The legal regulation of the ITC includes all legal relations that are related to the functioning of the ITC itself and directly affect the life of the ITC. All successful economic integrations pay special attention to the legal regulation of the ITC, fixing the relevant norms in the fundamental multilateral agreements, as well as developing separate international treaties that regulate legal relations in the field of transport.

Impact of economic integration on the development of transport corridors in the EU.

Undoubtedly, the most successful integration scheme of our time is the European Union, which was born back in 1957 in the form of the European Economic Community in accordance with the Treaty establishing the European Economic Community (Treaty of Rome) concluded between the Federal Republic of Germany, the Kingdom of Belgium, the French Republic, the

Italian Republic, Luxembourg, Kingdom of the Netherlands. It was with the formation of this community that the creation of free trade zones and common markets became a reality.

The Treaty of Rome, in terms of economic integration, set itself the goal of creating a common market and an economic union, to achieve which specific actions were determined. Among the main tasks for achieving economic integration, it is easy to see preferential measures in the form of the abolition of duties in trade between countries, as well as free transit of goods and a common transport policy between countries. Trade agreements go hand in hand with transport agreements, underpinned by convergence, or in modern terminology, “harmonization” of national laws, which further contributes to law enforcement practice.

At the same time, special attention is paid to transport policy, so according to Article 70 of the Treaty of Rome, a common transport policy implies the establishment of general rules applicable to international transport to the territory of a Member State and in the opposite direction or through the territory of one or more Member States.

Separately, international transport corridors are also mentioned, which in the document are designated by the term "transport routes". In accordance with Article 75 of the Treaty of Rome, in the case of intra-Community transport, any discrimination consisting in the application by transport agencies of different tariffs and different conditions for the transport of the same product and along the same transport routes depending on the country of origin or destination must be abolished transported goods.

In Article 154 of the Treaty of Rome, where international transport corridors are designated by the term "trans-European networks in the field of transport", it is determined that the Community shall contribute to the establishment and development of trans-European networks in the field of transport.

Subsequently, the Treaty of Rome was amended by the 1992 Maastricht Treaty, which formed the EU, and gave the treaty the name Treaty establishing the European Community, and later by the Lisbon Treaty of 2007, by which the Treaty was renamed the Treaty on the Functioning of the European Union and also renumbered articles.

At all stages of the evolution of the Treaty, there have always been norms related to the functioning of the ITC. In addition to those noted above, in the contracts much attention is paid to one of the most important factors - the free movement of goods. Article 26 of the Treaty on the Functioning of the European Union defines the EU as a territory without internal borders, in which the free movement of goods, persons, services and capital is ensured.

The protection of the free movement of goods is implemented, among other things, by eliminating national barriers of EU members, through the harmonization of laws at the EU level, which can be considered as a deepening of the process of integration through law. The result of harmonization at the EU level is a common set of business rules. These principles, on which the development of the EU internal market is built, challenge national trade barriers (Weatherill 2012). It is the free movement of goods that contributes to the implementation of the most basic task of the ITC - to ensure the most efficient transportation of goods.

It is necessary to note the adoption of international agreements regulating in terms of international public relations, which include the following agreements: the European Agreement on International Highways 1975, the European Agreement on International Main Railway Lines 1985, the European Agreement on the Most Important Lines of International Combined Transport and Related Facilities 1991, European Agreement on Main Inland Waterways of International Importance 1996.

In addition, a considerable number of conventions of a private international law nature have been adopted that regulate transportation issues, which can undoubtedly be attributed to the number of international sources of regulation of the ITC. One striking example is the Customs Convention on the International Carriage of Goods under the TIR Carnet (TIR Convention 1975).

The course taken by the European Union for the development of transport corridors within the framework of economic integration, established by the Treaty of Rome, has led not only to the creation of a legal framework, but also to the emergence of large-scale projects for the development of transport corridors, creating a common policy and a unified legal framework (supranational) for regulation and development of corridors at the level of the European Union.

First of all, it is worth noting the Trans-European Transport Network (TEN-T), which is a planned network of roads, railways, airports and water infrastructure in the European Union. The current Regulation on Union guidelines for the development of the trans-European transport network was adopted by Decision No. 1315/2013 of the European Parliament and of the Council of 11 December 2013.

One of the main objectives of the Regulation is to ensure the international mobility of passengers and goods. The capacity of the trans-European transport network and the use of this capacity should be optimized and, if necessary, expanded by removing infrastructure bottlenecks and building missing infrastructure links within and between Member States and, if necessary, neighboring countries (Official Journal of the European Union 2013).

I would like to draw special attention to the administrative regulation of the ITC in the European Union. EU legislation provides for the management of the ITC, which allows for the effective implementation of corridor development plans. The European Rail Network Regulation 2010 for Freight Transport is an initiative to create seamless rail freight transport corridors in Europe and provides for the management of these transport corridors (Öberg 2014).

At the same time, it is necessary to note the role of the pan-European transport conferences held at the initiative of the European Parliament and the Commission. During the second pan-European transport conference, held in 1994 on the island of Crete (Greece), which was a great success, large-scale issues were discussed. As a result, the Crete Declaration on Principles, Objectives and Measures for a Common European Transport Policy was adopted. The Declaration is not binding, but because it is largely self-committing, it forms the basis for pan-European cooperation in the field of transport.

The Declaration determined that the transport sector should be organized in accordance with the principles of social market economy and free competition. Transport markets should gradually reopen on a reciprocal basis as progress is made in harmonizing competitive conditions.

It is also prescribed that legal and administrative provisions should be harmonized, especially with regard to the compatibility of technical systems and fiscal measures, as well as the establishment of minimum standards in social, environmental and energy policies and in the field of transport security.

These principles are followed by a number of individual measures that are intended to define the general approach for the coming years, such as: liberalization of cross-border transport; improvement of border crossings; setting priorities for infrastructure corridors and coordinating planning and implementation; infrastructure financing through private capital, improvement of border crossings. The Crete Declaration has identified nine priority transport corridors that are intended to operate as extensions of the Trans-European Networks (TEN) (Official Journal of the European Communities 1996).

Impact of economic integration on the development of transport corridors in ASEAN.

Another successful example of regional economic integration within which ITCs are dynamically developing is ASEAN (the Association of South-East Asian Nations). ASEAN, originally established by Indonesia, Malaysia, Singapore, Thailand and the Philippines in 1967 based on the ASEAN Declaration, had the goals of accelerating economic growth, social progress and cultural development in the region through joint efforts, to promote regional peace and stability, without any specific tasks or measures. necessary for their implementation.

Only 10 years later, the first agreements aimed at economic integration were adopted, such as the Treaty of Amity and Cooperation in Southeast Asia (1976) and the Agreement on ASEAN Preferential Trading Arrangements 1977.

This agreement did not bring any significant effect and the reason for this was political. Like all newly independent states in the Third World Movement, the ASEAN members vigorously defended independence and sovereignty. The ASEAN countries decided to integrate their economies into the world economy. The ASEAN ideology emphasized national sustainability followed by regional sustainability. The concept of sustainability included strong national sovereignty. Thus, even economic cooperation, which requires national economies to adapt to some extent to regional changes, has been difficult for ASEAN countries (Tan 2004).

The fear of becoming an outsider in a world increasingly divided into trading blocs, as well as the economic strength of emerging powers such as India and China in the region, with which they have become strong competitors for foreign direct investment, forced ASEAN to establish the ASEAN Free Trade Area in 1992 (or AFTA) to support high growth rates through the creation of a single market and international manufacturing base; attracting foreign direct investment; and expanding trade and investment within ASEAN (Seah 2009).

The legal basis for the implementation of AFTA was the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) 1992. The agreement provided for a sectoral approach and fifteen product groups were selected for immediate liberalization through tariff reductions. These groups covered all industrial products, including agricultural products (Tan 2004).

Serious economic integration efforts among ASEAN members began precisely with the establishment of the 1992 ASEAN Free Trade Area (AFTA), which covers trade in goods, supplemented by the ASEAN Framework Agreement on Services 1995 (AFAS) and the ASEAN Investment Area (AIA) agreement 1998. In 2003, the decision was made to deepen economic integration with the formation of the ASEAN Economic Community (AEC) to create a single market and manufacturing base through the free flow of goods, services, foreign direct investment, skilled labor, and a freer flow of capital (Chia 2013).

The deepening of economic processes prompted the ASEAN countries to pay special attention to the development of the ITC. Thus, Article 2 of the 1992 ASEAN Free Trade Area Agreement on the Commonly Effective Feed-in Tariff Scheme states that Member States agree to further strengthen regional cooperation to ensure a safe, efficient and innovative transport infrastructure network. This provision served as the basis for the adoption of a number of important legal acts within the framework of ASEAN in the field of regulation of the ITC.

In accordance with the ASEAN Framework Agreement on the Facilitation of Goods in Transit 1998, where the ITCs are defined as "transit transport routes", the list of ASEAN automobile ITCs is approved. The agreement allows unhindered access and movement of vehicles, including people and goods, along transport routes, establishes the adoption of standards and requirements for the technical design of the ASEAN highway network, defines measures for the harmonization of border control of goods, harmonization of traffic rules and road signs operating on the territory of each state, unified requirements for permits for road transport and more. In addition, the Agreement regulates issues related to the designation of border posts, railways, including border and interchange stations, the customs transit system, sanitary and phytosanitary measures.

Article 7 of the Agreement determines that the Parties agree to establish border outposts at the border points specified in Protocol 2 to the Agreement to facilitate transit traffic. However, in practice, these measures have not been implemented, which in turn leads to difficulties in cross-border transportation and sometimes requires unloading and reloading of goods at state borders. Land transport sometimes requires passing through the territory of third countries and, in the absence of a transit agreement, carriers need to go through customs procedures twice when

entering a third country; and when entering the country of destination from a third country (Umezaki 2019).

In 2005, The ASEAN Framework Agreement on Multimodal Transport was signed, which defines the legal responsibilities of multimodal transport operators and shippers, as well as the standard format of their transport contracts. The agreement applies to international multimodal transport services provided by registered transport operators of ASEAN members. All ASEAN members must adopt domestic legislation regarding multimodal transport.

In order to simplify and harmonize transport, trade and customs rules and requirements, as well as to facilitate interstate transportation of goods, the ASEAN framework agreement on the facilitation of interstate transport was adopted in 2009, where there are also related issues with ITC.

The measures taken by ASEAN member states to develop transport in all directions, leads to the creation of new ITC projects, such as the flagship project to connect Singapore with China's Kunming, the so-called Singapore-Kunming Rail Link (SKRL). SKRL will link major cities in seven ASEAN member states, namely Singapore, Malaysia, Thailand, Cambodia, Vietnam, Lao People's Democratic Republic and Myanmar. SKRL currently links Singapore-Malaysia, Malaysia-Thailand and Thailand-Laos PDR (ASEAN Transport Development 2017).

The consequences of the lack of economic integration between countries through which the ITC "North-South" passes.

Based on the history of the development of successful ITCs, it becomes obvious that ITCs cannot function effectively without the economic integration of states through whose territory transport corridors pass. One such example is the ITC North-South, created by Russia, India and Iran in accordance with the Agreement on the International Transport Corridor "North-South" in 2000. Later, Kazakhstan, Azerbaijan, Armenia, Belarus, Kyrgyzstan, Oman, Syria, Tajikistan, Turkey and Ukraine. The document does not fix a detailed route, does not indicate uniform technical requirements for transport routes, an approximate route from India by sea through Iran, the Caspian region to Russia and back is indicated. The plan was to provide a shorter route from Southeast Asia to Europe and compete with the transit of goods through the Suez Canal (Chatterjee 2018).

However, the parties do not have the most important agreements necessary for the functioning of the ITC, in particular, there are no free trade agreements between all participants, an effective interstate body for coordinating the activities of the ITC, a specific plan for the development of a transport infrastructure network along the entire route, legal mechanisms for simplifying the procedures for transporting goods, harmonizing customs transit and border control, liberalization of cross-border transport, common transport policy.

Barriers can also include administrative barriers, which consist in the access of providers to the provision of services, which is limited at the legislative level. This is seen for international road transport of goods on the ITC: a permit system, transportation quotas, differences in the procedures for issuing permits to carriers, licensing criteria, various fees, etc. Intergovernmental bilateral agreements on road transport lay down various legal regimes for the transport of goods between individual states.

The lack of legal mechanisms to simplify the procedures for the transportation of goods, harmonization of customs transit leads to lengthy customs clearance at border crossing points, which leads to significant downtime of vehicles and rolling stock.

In addition, there is no agreed policy on visas for drivers. In different countries, drivers - carriers of goods can stay for a different amount of time, there are differences in the cost and procedures for obtaining entry and transit visas. In some countries, there is no practice of issuing long-term multiple-entry visas for drivers, as a result of which truck drivers are forced to apply for a new visa for each trip. There is also no practice of issuing visas at border crossings, as a result of

which drivers are forced to apply for a visa at the embassies located in their country of residence, which in turn forces them to interrupt travel while the visa application is being processed.

Among the administrative barriers, one should also single out non-harmonized customs procedures in transit states. There are differences in customs regulation in transit countries in terms of requirements and procedures, despite the fact that all ITC countries are parties to the Kyoto Customs Convention, updated in 1999, as well as most transit countries of the 1982 International Convention on the Harmonization of Conditions for Cargo Control at borders. The customs authorities of transit countries use various information systems that are not integrated with each other, which does not allow obtaining information about cargo and vehicles in advance along the entire route.

The crossing of borders during the transportation of goods is double (with the exception of Russia, Kazakhstan and Belarus). Customs, border, sanitary and other procedures are carried out twice at automobile checkpoints, by the services of one country - at the exit, the services of another country - at the entrance. At the same time, joint control, which provides for close interaction between customs, border and other authorities of neighboring states, is practically not used.

At the same time, physical inspections of vehicles, cargo and containers are carried out at railway and road checkpoints, due to the fact that customs authorities often do not trust documents issued in neighboring countries, and therefore carry out a physical inspection of the cargo for compliance with the data contained in the documents.

It should also be noted that there is no agreement between the ITC participants regarding the development of rail and road communications along the ITC routes. Many of the rail and road crossings, which were designed and built for much lower traffic volumes, are now out of step with growing trade and border crossing demand. Insufficient capacity of the railway checkpoints is related to the length of the receiving and departure tracks and platforms for customs and other types of control, as well as the lack of equipment for rearranging containers in those railway checkpoints' where the change of railway gauge takes place (1520/1435). Limitations on the capacity of roads are associated with an insufficient number of lanes for freight transport to pass through border, customs and other types of control, which leads to the emergence of queues (International North-South Transport Corridor: Investments and Soft Infrastructure 2022).

In general, there is a lot of uncertainty about the ITC itself, in particular, in many studies (International transport corridor "North South" and scenarios of transregional integration 2019) the above-mentioned lines (or branches) of routes are indicated, despite the fact that there are no approved routes. The eastern (railway) route through Turkmenistan and Uzbekistan raises many questions, since these states are not parties to the North-South ITC agreement. In addition, the studies mention a road route that runs through the territory of Georgia with a passage through the Russian-Georgian road checkpoint Dariali/Verkhny Lars, despite the fact that Georgia is also not a member of the ITC.

Meetings of the ITC North-South Coordinating Council, headquartered in Tehran, are held rarely and irregularly, which does not allow solving operational issues to create favorable conditions for transportation and simplify border crossing procedures.

The absence of a contractual and legal basis between the participants of the ITC on the above issues leads to the non-functioning of the ITC itself, which is expressed in an increase in the cost and an increase in the delivery time of goods, a decrease in the efficiency of transportation, a decrease in the competitiveness of export goods and national carriers in foreign markets, an increase in trade costs for countries that do not have access to the sea, the increase in the cost of goods transported and transport services provided. As a consequence, all this leads to the abandonment of the use of cargo delivery routes along the ITC "North-South" in favor of traditional routes, including through the Suez Canal.

Legal problems and gaps in the regulation of the ITC “North – South” leads to the fact that each country individually makes efforts to implement the project on its own. Thus, India is, in fact, a de jure member of the North-South ITC, and does not carry out transportation on this ITC. India, having great resource needs in Central Asia, is actively promoting projects to build another ITC through Iran in Central Asia. So, in 2016, an Agreement on Establishment of International Transport and Transit Corridor was signed between India, Afghanistan and Iran. The agreement provides for the creation of a transit and transport corridor between the three countries using the Chabahar port as one of the regional maritime transport hubs in Iran, in addition to multimodal transportation of goods and passengers. The port of Chabahar is seen as a gateway to great opportunities for trade between India, Iran and Afghanistan with the countries of Central Asia, in addition to expanding trade between the three countries due to Pakistan's denial of India's transit access (Pant and Mehta 2018).

Conclusion.

It can be assumed that economic integration processes and the ITC have a certain (mutual) relationship, in which the integration processes contribute to the functioning of the ITC, and the ITC contribute to the development of economic integration processes. It is obvious that the ITC cannot function effectively without the economic integration of states through whose territory transport corridors pass. For the effective functioning of the ITC, it is necessary to have economic integration between the states through which the ITC passes, by concluding multilateral agreements regarding the simplification of procedures for the transportation of goods, the harmonization of customs transit and border control of goods, the liberalization of cross-border transportation, the improvement of border crossings, the adoption of a common transport policy, the harmonization of national transport legislation.

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