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EVOLUTION OF MULTIMODAL TRANSPORTATION IN INTERNATIONAL TRADE

Summary. The main objective of the development of the transport industry is to increase the volume of multimodal transportation of goods, as this will reduce the imbalance between different types of transport, and thereby optimize transport system in order to meet the needs of both economic growth and sustainable development. Providing the industry with a predictable, transparent liability regime is one of the few tools to encourage such development. Consequently, standard contractual regulation of multimodal obligations should become mandatory practice for all participants in the transport process. The existence of multimodal transport chains is a prerequisite for sustainable cargo traffic. Therefore, updating the regulatory framework for the regulation of multimodal transport is extremely important.

Keywords: multimodal transportation, transport, INCOTERMS, regulation, legislation.

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ЕВОЛЮЦІЯ МУЛЬТИМОДАЛЬНОГО ТРАНСПОРТУ В МІЖНАРОДНІЙ ТОРГІВЛІ

Анотація. Основна мета еволюції індустрії перевезень, як зазначено в цій статті, полягає в збільшенні обсягу мультимодальних вантажоперевезень. В свою чергу вона зменшує нерівність наявних видів транспорту, внаслідок чого транспортна система буде оптимізована. Це призведе до збільшення показників прогресу і зростанню економіки. Виходячи з цього, головною метою у розвитку транспортної системи має бути збільшення обсягу мультимодальних перевезень. Мультимодальні перевезення – це майбутнє сфери транспорту, тому що авто і залізничний транспорт значно поступаються в мобільності. Надання сфері передбачуваного і прозорого режиму відповідальності є одним з небагатьох інструментів, що сприяє такому розвитку. Мультимодальний оператор транспорту відіграє ключову роль в здійсненні міжнародних перевезень. Це свідчить про допомогу в загальній модальності, тобто найкраще поєднання основних видів транспорту в рамках єдиного транспортного ланцюга. Наявність мультимодальних ланцюгів транспорту є передумовою постійного потоку вантажів. Тим самим необхідність модернізації нормативної бази для управління мультимодальних перевезень стає питанням номер один. Недоліком у регулюванні мультимодальних відносин є те, що правовий режим такого регулювання надзвичайно непередбачуваний. Відсутність уніфікованого режиму перехресного моделювання відповідальності, що свідчить про існування єдиних правил відповідальності, застосовуються незалежно від того, яка частина транспортного ланцюга була втрачена, пошкоджена або затримана. Це є одним з факторів, що перешкоджають галузі вибирати альтернативу мультимодальних перевезень. Впровадження єдиної системи відповідальності неодмінно сприятиме збільшенню кількості мультимодальних перевезень. Сьогодні альтернативою єдиній відповідальності є мережева відповідальність, яка ґрунтується на існуючих транспортних конвенціях. Проте головною проблемою є те, що система мережевої відповідальності не забезпечує вирішення проблем, пов'язаних із заподіяною втратою, пошкодженням або затримкою вантажу під час мультимодальних перевезень.

Ключові слова: мультимодальні перевезення, транспорт, ІНКОТЕРМС, регулювання, законодавство.

Formulation of the problem. The bottleneck in the regulation of multimodal relations is that the legal regime of such regulation is extremely unpredictable. The lack of a unified, cross-modal liability regime, which means the existence of uniform liability rules, applied regardless of which part of the transport chain there was a loss, damage or delay of cargo, is one factor that prevents the industry from choosing a multimodal transport alternative. The **introduction** of a unified system of responsibility will certainly contribute to an increase in the number of multimodal transport.

Recent research and publications analysis. Analyzing recent publications of Deepankar Sinha and Aman Dua about Assessment of Quality of Multimodal Transportation the decision about the necessity of solving the problems of evolution of multimodal transportation can be made.

Identification of previously unsettled parts of the general problem. Today, an alternative to unified responsibility is network liability based on existing transport conventions. However, the main problem is that the network liability system does

not provide a solution to the problems associated with the harm caused by the loss, damage or delay of the cargo during multimodal transportation.

The purpose of the article. The main purpose of article is to define an effective solution of problems of the development of the transport industry, to increase the volume of multimodal transportation of goods, to reduce the imbalance between different types of transport, and thereby optimize transport system in order to meet the needs of both economic growth and sustainable development.

Main material presentation. Over the past decades, the sustainability and effectiveness of legislation are key issues in high-growth transport policy. The stability of the legislation means its stability, and its effectiveness – its compliance with the economic situation, the absence of destructive relations between the subjects of transport activity.

Therefore, the Rotterdam Rules introduced a new modified liability system that aims to regulate multimodal transport involving sea transport at the global level. Currently, the Rotterdam Rules have not entered into force, but remain open for accession to

them by the states. If the Rotterdam Rules achieved international success, it will lead to greater predictability in determining the size of responsibility.

The combination in multimodal transportation of different types of transport determines the choice of an international legal regime. Thus, the Convention on the Contract for the International Carriage of Goods by Road (CMR), for example, applies if the contract of carriage includes the international carriage of goods by road. The Hague-Visby Rules apply to contracts of carriage certified by a bill of lading or any similar document, which is the basis for the carriage of goods by sea.

The Rotterdam Rules regulate the carriage of goods "in whole or in part" by sea. This suggests that the Rotterdam Rules are expanding in scope compared to previous maritime conventions. Thus, the Rotterdam Rules are characterized as a "maritime plus" convention and indicate that they apply to multimodal contracts for the transport of goods with the participation of the maritime component. Regarding the liability of a multimodal carrier, it is, however, traditionally interpreted as the responsibility of a carrier.

In multimodal transport, the multimodal transport operator (MTO) is responsible for the cargo from the point of departure to the destination on the basis of one transport document, which includes freight, as well as transit time guarantees. MTO concludes a number of subcontracts with individual carriers for road, rail, air transport, shipping lines, with port authorities, terminal operators, stevedores, etc. From now on, MTO will also act as shipper and consignee with subcontractors. Only MTO has the right to accept delivery of goods from each actual carrier and transfer them to the next carrier. The MTO, acting as a principal, is responsible for the entire transportation chain.

Consideration of the transport system cannot be separated from consideration of the social, economic and political system of the region. Using system analysis, MTO has the ability to use an integrated approach in the operation, management and control of traffic, so as to quickly deliver the goods to the destination. Such a delivery will reduce the transit time of transportation from the point of departure to the point of destination and will provide greater control over the delivery times, costs and cargo safety.

The main objective of the MTO is to plan a high level of use of transport links in combination with the continuity of cargo traffic, while storing cargo during its transfer from one type of transport to another should be kept to a minimum. MTO is the only responsible party capable of coordinating all modes of transport when organizing multimodal transportation. Shippers and consignees are not able to independently organize multimodal transportation because they do not have enough knowledge and experience in transport management to determine the best route follow up and best price. Therefore, integrated services offered by MTO are the best alternative for their clients.

The use of multimodal transport generally introduces structural changes in the transport process, covering the new trade and transport practices. Basically, such changes relate to the improvement of commercial regulations and the development of transport infrastructure. Modernization of three ba-

sic elements, such as commercial practice, administrative requirements and transport infrastructure, is necessary to make the multimodal transport system efficient. Let's consider these elements.

Commercial practice. Disputes and misunderstandings, often arising between buyers and sellers, mainly relate to discrepancies in the understanding of terms used in contracts. To avoid such situations the International Trade, the International Chamber of Commerce (ICC) developed standard trade terms known as INCOTERMS 2010. INCOTERMS was first published in 1936. Amendments and additions were later made in 1953, 1967, 1976, 1980, 1990, 2000 and 2010 in order to bring the rules in line with current international practice.

These standard delivery terms are designed to distribute the risks and costs between the buyer and seller arising from the delivery of goods. In other words, these conditions determine at what point the seller fulfilled his obligations to deliver the goods to the buyer. However, it should be borne in mind that the INCOTERMS terms apply only to the relationship between the buyer and the seller, the relationship with the participation of the carrier rules do not apply.

In 1990, INCOTERMS was amended to reflect new technologies and especially the increasing importance of containerization and multimodal transport.

INCOTERMS 2000 compared to INCOTERMS 1990 contains several differences. Substantial changes were made only in two directions: customs clearance and payment of duty under the basic conditions of FAS and DEC and the obligation to load and unload on FCA terms.

INCOTERMS 2010 also introduced its changes. The number of basic conditions was reduced from 13 to 11. Two new conditions were introduced: DAT (delivery at the terminal) and DAP (delivery at the destination) instead of INCOTERMS 2000 DAF (delivery at the border), DES (delivery from the vessel), DEQ (delivery from the berth), DDU (delivery without payment of duties).

The emergence of the new DAT and DAP terms made the terms DAF, DES, DEQ, DDU that previously existed in INCOTERMS 2000 superfluous, because they unified them. Thus, the DAT condition (delivery at the terminal) fully covers the DEQ condition (delivery from the berth) and expands its use mainly for container transport in a multimodal message, since the goods are delivered to the buyer in the unloaded form not only at the berth in the port, but and to any other terminal. The DAP condition (delivery at destination), in turn, covers the conditions of DAF (delivery at the border), DES (delivery from the vessel), DDU (delivery without payment of duties), since on all these conditions the goods are transferred ready for unloading duties paid by the buyer.

INCOTERMS 2010 was the first most effective attempt to introduce legal certainty into trade transactions, simplifying the process of drawing up international contracts. The advantage of these rules is that their action extends not only to international, but also to domestic trade, and a small guide, prudently brought to each term, will allow users of the INCOTERMS 2010 rules to easily navigate the document and select the desired term.

For banks accustomed to the traditional "on-board" bill of lading, this change in documentation meant accepting the risk of working with an

unknown document, so the new bill of lading was viewed with a fair amount of suspicion. Banks, therefore, insisted that the only acceptable bill of lading is a bill of lading confirming the receipt of cargo on board the ship, with a "loaded on board" stamp.

However, after some time, banking practice took the events taking place in transport, such as containerization and the growing role of multimodal transport, and the Uniform Customs and Practice for Documentary Credits (UCP) were issued. With the entry into force of this document, banks began to accept any transport document, which was issued by the carrier, taking responsibility at all stages of transportation, unless the parties have agreed otherwise in the letter of credit.

Nevertheless, banks are still reluctant to accept multimodal transport documents as evidence of shipment of goods. The lack of support for the MTO by the banking sector is sometimes justified, since there is no official or legal recognition of the admissibility of these documents at the state level, and there is also often no domestic regulation of multimodal transportation activities as such. Despite the presence of the UCP 500, banks are not willing to expose themselves, as well as exporters and importers, to the risk of being deceived by some unscrupulous MTO, which disappears with the cargo.

Administrative requirements. Another problem that arises in international trade is that each country has its own rules and procedures regarding the import and export of goods, and the fact that the speed of movement of cargo today is ahead of the speed of delivery of documents, in other words, on certain cargo routes may arrive earlier than shipping documents. This is one of the reasons for the success of a courier service, however, it is not an ideal solution to the problem of quickly obtaining various documents for their intended purpose.

For this reason, the FALPRO (United Nations Trade Facilitation Program) standardizes and simplifies documentation and trade procedures within regional or national facilitation organizations.

According to FALPRO, trade facilitation is carried out through streamlining of the information flow, mainly at three levels:

I. *simplification*: reducing the amount of information requested by various authorities to an absolute minimum. This has already been done in a number of developed countries and some developing countries. Simplification should be carried out in relation to the necessary procedures and documents.

II. *normalization*: reduction of formalities, procedures and documents, both at the national and international levels (i.e. they must be identical in all ports of the countries and equalized with similar procedures and documents in other countries). This applies primarily to transport documentation, INCOTERMS, payment terms and trade documents.

III. *harmonization*: harmonization of statistics and optimization of data transfer using EDI. Such a replacement of paper documents for electronic

transmission of information is not easy, but it will greatly facilitate trade.

Customs is an important body of each state. In many countries, customs is the main source of revenue for the government. In all countries, the customs service plays a crucial role in ensuring compliance with laws at national borders. However, with the growth of world trade, the workload of customs has also increased. The globalization of the world economy is putting increased pressure on customs services throughout the world. Entrepreneurs require the introduction of fast, standardized and uniform procedures. At the same time, customs should keep trade statistics and involve other executive bodies (health, intellectual property, etc.) in the protection of national interests. Customs authorities are faced with the prospect of assisting law enforcement.

Using a traditional approach to customs practices and procedures will not lead to trade facilitation. In the countries of the European Union and other regional organizations (for example, NAFTA – North American Free Trade Agreement), customs have reduced their working day and number of employees and focused mainly on collecting statistical data. To increase the level of multimodal transportation, it is absolutely necessary for the customs authorities to assist in the organization of container flows, minimizing import / export documents.

Transport infrastructure. In addition to customs difficulties, a certain difficulty for the development of multimodal transportation is an undeveloped transport infrastructure. In order to be able to get the maximum benefit from multimodal transportation, an infrastructure must be created that allows handling containers at the place of their arrival (for example, at the port quay, at container platforms). This minimum level of transport infrastructure must be created in order to allow taking full advantage of multi-modal transportation.

These advantages lie in the fact that the Exporter, for example, will be more competitive, since, bearing minimum costs, in the shortest possible time will be able to ensure the delivery of goods to a foreign buyer. The importer can also take advantage of multimodal transportation, since the cargo will be delivered to its location in good quality and at minimal cost.

In order to remain competitive, exporters and importers must be able to reduce transportation costs, which are included in the price of goods, if the price is determined with delivery. In order to eliminate such hidden costs, the region or country should improve the quality of international transport and logistics capabilities, mainly by adapting commercial practices to international standards and by removing unnecessary trade barriers.

The effective functioning of multimodal services depends on reducing various barriers and institutional obstacles, on simplified legal regimes and is a prerequisite for effectively improving international trade and transport. These improvements will lead to the existence of a stable multimodal transport system.

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