

ON NATIONAL APPROACHES TO THE DEVELOPMENT OF INTERNATIONAL TRANSPORT CORRIDORS (LEGAL ASPECTS)

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World trade continues to develop at a rapid pace, and therefore, the need for cost-effective international transportation is also growing. Transport, which is critical in all economies, is doubly important for the economies of landlocked countries whose economic development is linked to the possibility of access to the sea. The international trade of these countries depends on international transport corridors that passes through transit states and lead to seaports.

Since two-thirds of the earth's surface is water, transportation by sea is the most extensive, accessible and cheapest. For the world's 32 landlocked developing countries [1], coastal states are an invaluable link in the transport chain.

For landlocked countries, the most important and almost exclusive challenge is free access to the sea. This prompts them to demand that the international community recognize the fundamental right of access and vouch for a universal convention on this issue, a trend that has intensified in the post-World War II period in particular.

The international community traditionally recognizes the unequal conditions of countries and reaffirms the right of such landlocked countries to free transit. Thus, UN General Assembly Resolution 1028 (XI) invites Member States to fully recognize the needs of Member States in the field of landlocked transit trade and to provide them with appropriate benefits in law and in practice, taking into account future needs arising in as a result of the economic development of these countries [2].

One of the eight principles adopted by the United Nations Conference on Trade and Development (UNCTAD) and reflected in the Convention on Transit Trade of Landlocked States (New York, 1965) states that “recognition of the right

of every landlocked country to free access to the sea constitutes a principle necessary for the expansion of international trade and economic development.”

According to another principle, all states grant landlocked states, on the basis of reciprocity, the right of free and unrestricted transit, so that they can freely participate in regional and international trade under all circumstances and in relation to all types of goods [3].

Right to communication includes more than the right to enter and stay in a given state. World trade also requires the transit of goods through states. The outstanding French jurist P. Reuter noted that the problem of transit concerns specifically communication by land, mainly for countries that are in a disadvantageous geographical position due to the lack of all or some types of access to the sea [4].

A prominent international legal scholar, Kishor Uprety, believes that public international law is an evolving and dynamic institution, not a static one. The growing participation of developing countries in international activities further underscores its contradictory but malleable nature. Whenever more or less coherent solutions to a given problem are proposed, new questions arise, along with economic, political, and sociological data, which complicate the discussion and leave the questions unresolved from the point of view of positive law. Perhaps for this reason, practice calls for a completely different picture. In reality, landlocked countries have to fight for the right to free access to the sea in order to participate in international trade [5].

Leading international lawyer Charles Cheney Hyde, consider that the transit law of landlocked countries is not a principle recognized by international law, but rather a law governed by agreements concluded with coastal states. The transit cannot violate the sovereignty of the coastal state. The exercise of the right of transit requires the approval of the coastal state, which has the exclusive right to permit passage [6].

All Central Asian countries, including Uzbekistan, are among the landlocked countries, and therefore face problems in entering global markets. Uzbekistan, accepting the realities of international legal practice, in its foreign policy prioritizes the task of creating a legal framework with transit countries regarding

the development of international transport corridors with access to sea and ocean ports.

In order for transport corridors to function as efficiently as possible and bring financial benefits to the states along which the corridor passes, it is very important that these states have legal relations not only in the field of transport and transit, but on economic integration issues, paying special attention to legal relations in the trade and economic sphere, which will provide a significant increase in cross-border and transit traffic. In this regard, Uzbekistan has focused its foreign policy on the development of international transport corridors leading to seaports within the framework of regional economic integration.

The most ambitious is the Trans-Afghan Transport Corridor project, promoted by Uzbekistan in partnership with Pakistan and Afghanistan. The project was announced by the countries in 2021, and involves the construction of the Termez-Mazar-i-Sharif-Kabul-Peshawar railway, which will provide the closest and cheapest corridor connecting Pakistan with Central Asia and Uzbekistan with the Pakistani ports of Karachi, Gwadar and Qasim [7]. Thus, Uzbekistan intends to provide access to world markets, including the common market of the ASEAN countries, whose economy, according to forecasts, may become the fourth largest in the world by 2030, including a consumer market worth more than US\$4 trillion [8].

Significant in the formation of the legal framework of the trans-Afghan transport corridor are the agreements signed between Uzbekistan and Pakistan. These include the Transit Trade Agreement signed between the governments of the two countries in Tashkent on July 15, 2021, as well as the Preferential Trade Agreement and the Railway Cooperation Agreement signed between Uzbekistan and Pakistan in Islamabad on March 4, 2022.

The issue of involving Afghanistan in the process of forming a trilateral legal framework, as well as attracting funding for a project estimated at US\$ 4.8 billion, is aggravated by the unstable situation in Afghanistan and the absence of a government recognized by the international community. However, the parties are determined to implement the project, including the Taliban, in whose hands is power in Afghanistan. Uzbekistan, like all countries of the world, also does not recognize the current Afghanistan as a full-fledged subject of international law.

However, demonstrating commitment to the principles of international law, Uzbekistan continues to cooperate with Afghanistan for the sake of stability, prosperity, economic and social development of the region, including in the field of transport and transit.

Article 55 of the UN Charter states that “with a view to creating the conditions of stability and prosperity necessary for peaceful and friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, the United Nations promotes:

- raising the standard of living, full employment of the population and conditions for economic and social progress and development;
- resolution of international problems in the field of economic, social, health and similar problems; international cooperation in the field of culture and education;
- universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.”

In accordance with Article 56 of the UN Charter, which establishes that all UN members undertake to take joint and independent actions in cooperation with the UN to achieve the goals specified in Article 55, Uzbekistan, from the rostrum of the UN General Assembly, systematically draws the attention of the whole world to the extreme importance of preventing isolation Afghanistan, and the need to integrate Afghanistan into interregional economic processes.

On July 2022, UN General Assembly adopted Uzbekistan-Initiated resolution A/RES/76/295 “Strengthening interconnectedness between Central and South Asia”. The document emphasizes the importance of the potential role of Afghanistan in establishing links between Central and South Asia, as well as its economic development and integration into interregional economic processes, to ensure lasting peace and stability [9].

It will be quite logical if the efforts of Uzbekistan in the near future will serve as the recognition of Afghanistan on an ad hoc basis, in issues regarding transport transit corridors. It should be noted that ad hoc recognition has already been used in international legal practice, for example, the United States, not recognizing the

Democratic Republic of Vietnam, signed the Paris Agreements of 1973 with its participation as part of the settlement of the armed conflict.

Another significant result of the efforts of Uzbekistan is signing in 2022, a trilateral agreement on the construction of the China-Kyrgyzstan-Uzbekistan railway. The parameters for the construction of the Kyrgyz section of the road, the missing link that should connect the existing railways in China and Uzbekistan, were mainly agreed upon. The new transport corridor will open a route from China to Europe through Central Asia, shortening the journey by about 900 km and eight days. This will allow building a route bypassing Russia, through which it has become difficult to move goods due to sanctions imposed by the European Union, which caused great uncertainty among European customers [10]. At the same time, Uzbekistan will provide the shortest and cheapest route to China, its main foreign trade partner and second economy in the world [11].

At the same time, Uzbekistan is actively working on the issue of access through the Black Sea ports to the European Union, the third economy in the world [12]. The idea of connecting Europe and Central Asia with transport corridors originated in 1993, when the European Union has established the program "Transport Corridor Europe-Asia-Caucasus (TRACECA)". The main goal was to create and develop a transport corridor from Europe through the Black Sea and further through the Caucasus and the Caspian Sea to Central Asia. This project is in line with the EU strategy for the Caucasus and Central Asia and aims to achieve the political and economic independence of the Central Asian countries by increasing their access to European markets using alternative transport routes. This transport corridor is the fastest and cheapest route from Central Asia to European ports connected to world markets [13].

However, the main problem in the direction of Europe is transit issues. Between the countries through whose territories the routes pass, transit issues are not sufficiently regulated, which does not allow the full potential of this corridor to be fully utilized. It is typical for the countries of Central Asia to regulate legal relations in a bilateral manner, rather than in an integration approach. The examples of the European Union, NAFTA and ASEAN show that the removal of barriers and obstacles to the free movement of goods between the states along which the transport corridor passes can be achieved in the process of deep regional

economic integration. As a rule, within the framework of regional integration, the free movement of goods is achieved primarily through transit and customs regimes, which is a weak point in relations between the countries of Central Asia.

In this light, attention should be paid to the efforts of Uzbekistan, Kazakhstan, Kyrgyzstan within the framework of the Organization of Turkic States (OTG). Uzbekistan, having become a member of this organization in 2019, undoubtedly gave a new impetus to the activities of the organization and systematically puts on the agenda issues related to transport transit corridors. It is gratifying that already in 2022, a Strategy for Trade Facilitation of the OTG was approved between the participating states, and an Agreement on the Formation of Simplified Customs Corridors was signed. In addition, President Sh.Mirziyoyev appealed on OTG members to consider lowering tariffs and ensuring free trade between the OTG countries [14], which indicates the prerequisites for the creation of a free trade zone.

According to prominent international lawyers Prof. Marsha Echols and Prof. Stefan A.Riesenfeld regional economic integration, from the point of view of international law, is ensured tariff and non-tariff agreements, the purpose of which is primarily mutually beneficial access to the markets of the contracting parties, through the regulation of tariffs, and this usually manifests itself in the form of a free trade zone, a customs union, a common market, an economic union [15] [16].

Proceeding from this, and considering that the countries of Central Asia* and two key states - Turkey and Azerbaijan, through whose territory the existing transport corridor passes** with direct access to Europe are also involved in the OTG, it can be assumed that the OTG is the most profitable platform for the countries of Central Asia for economic integration and the development of international transport corridors. At the same time, it is expedient for the countries of Central Asia to continue and deepen work within the framework of CAREC*** and SPECA****, the purpose of which is the economic integration of the region.

* Turkmenistan has an observer status. Tajikistan is not a member.

** Transport corridor Baku (Azerbaijan) - Tbilisi (Georgia) - Kars (Turkey).

*** The Central Asia Regional Economic Cooperation (CAREC) Program is a program established in 1997 by the Asian Development Bank (ADB) to promote economic cooperation among the countries of Central Asia and the surrounding regions of the Caucasus and South Asia.

**** The United Nations Special Program for the Economies of Central Asia (SPECA) was launched in 1998 to strengthen subregional cooperation in Central Asia and its integration into the world economy.

The world community unanimously recognizes that Central Asia is an important trade corridor between East and South Asia and Europe, as well as an important gateway to Asia from Europe and the Middle East, and is ready to develop economic ties, including through the creation of new transport corridors with the region as a whole [17] [18] [19]. The geographic location of Uzbekistan, like any other country in Central Asia, does not allow one to implement big projects along transport corridors alone. Any route requires the assistance of several, and otherwise all, states of Central Asia, and Uzbekistan, takes this circumstance into account.

We can conclude that Uzbekistan, approaching the creation and development of international transport corridors, adheres to international legal practice, the principles of international law, and, importantly, promoting the ideas of regional economic integration. The countries of Central Asia are still at the initial stage of integration, and along the way they will have to develop many legal mechanisms for removal of barriers and obstacles to the free movement of goods. Along with economic issues, it is important to promote the issues of free transit between the countries of the region, seeking to create unified legal framework. Uzbekistan, like all countries of Central Asia, should pay more attention to work within the framework of regional programs created by international institutions, which will contribute to application best international legal practice at development of legal mechanisms for free transit.

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