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**LEGAL ANALYSIS OF THE INTERNATIONAL  
TRANSPORT CORRIDORS DEVELOPMENT IN  
CENTRAL AND SOUTH ASIA REGIONS**

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**Abstract:** Nowadays, the countries of Central and South Asia are making great efforts to create international transport corridors connecting these regions. One of the main goals of creating these corridors is to ensure mutual access to markets for the countries of the two regions. The purpose of this article is to identify whether the regional legal framework is capable of ensuring the free movement of goods between the countries of the region. For these purposes, the legal framework at the regional level was studied, as well as the participation of countries in international treaties regarding transport and transit issues. The author concluded that the circumstances of the cases do not prevent the free movement of goods between the countries of Central Asia, and also, due to the weak legal framework, the free movement of goods between the countries of South Asia is not possible.

**Keywords:** international transport corridors, Central Asia, South Asia, international agreements in the field of transport and transit, regional international agreements, free movement of goods.

**Introduction**

Today, the creation of international transport corridors (ITC) connecting the two regions is relevant for many countries in Central and South Asia. Countries are making considerable efforts to provide direct routes to establish intensive trade between regions. Speaking about the construction of the trans-Afghan railway connecting Uzbekistan and Pakistan, President Shavkat Mirziyoyev noted: “The Termez–Mazar-i-Sharif–Kabul–Peshawar railway is our common future. When the construction of this route is completed, we will

create the closest, cheapest and safest corridor connecting Pakistan with Central Asia, and Uzbekistan with the ports of Karachi, Gwadar and Qasim”<sup>1</sup>.

One of the main goals of creating these corridors is to ensure mutual access to markets for the countries of the two regions. Having gained access to the market of one state in the region, it is therefore possible to deliver goods to other states in the region. In this case, the regional transport system will play a key role, including the legal mechanisms existing between the countries of the region regulating the transport system. In this regard, it seems appropriate to consider the international legal aspects of intraregional regulation of transport routes in Central and South Asia.

***International legal aspects of intraregional regulation of transport routes in Central Asia.***

The modern transport system of Central Asia is actually part of the once unified transport system of the former USSR. All major highways and railways were built during the Soviet Union. It is worth noting that the first railway tracks in Central Asia were laid at the end of the 19th and beginning of the 20th centuries by the Russian Empire<sup>2</sup>. The transport system of the USSR provided and still provides road and rail connections between all countries of Central Asia.

The first thing that the former republics of the USSR faced with the acquisition of independence was a sharp decline in production, and an acute shortage of supplies of products traditionally supplied by other republics, which forced them to establish new, this time international, economic relations among themselves, trying to overcome the negative economic consequences of the collapse. The CIS was founded in December 1991 as the institutional framework for managing and developing these relations. One of the declared goals of the new organization was to preserve the previously existing economic unity, while respect for sovereignty and mutual benefit became the basis of interstate relations<sup>3</sup>.

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<sup>1</sup> What did the President of Uzbekistan and the Prime Minister of Pakistan agree on? // <https://uznews.uz/posts/53950> - 2022. - March 4.

<sup>2</sup> Akhmedzhanova Z.K. On the history of railway construction in Central Asia (1880-1917). -T.: “Nauka”, 1965, P.22-25.

<sup>3</sup> Rilka Dragneva and Joop de Kort. The Legal Regime for Free Trade in the Commonwealth of Independent States // The International and Comparative Law Quarterly. Vol. 56, No. 2 (Apr., 2007), pp. 233-266.

The once unified, well-developed transport network built during the Soviet period, after the collapse, became international transport corridors connecting the former republics of the USSR, and allowing them to have foreign economic relations while already being independent. The position of the Central Asian countries was critical, since they are all landlocked and were completely dependent on the routes of the unified transport network of the former Soviet Union running through Russia.

### ***Transport corridor agreements***

Under the current conditions, within the CIS, in different periods, several attempts were made to recreate a free trade zone, which would, among other things, ensure the effective functioning of transport corridors through free transit. In 1994, a Free Trade Agreement was signed between Azerbaijan, Armenia, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Uzbekistan and Ukraine.

However, this Agreement was mainly of a framework nature. It lacked the most essential thing: a specific list of exemptions from free trade, the application and phasing out of exemptions during the transition period, as well as the timing of this period<sup>4</sup>. It was understood that duty-free trade would be carried out in this zone, and tariff and non-tariff restrictions would be abolished. Article 10 of the Agreement established the free transit regime.

However, in practice, not everything went as planned; the views of the CIS members differed significantly regarding their foreign economic activities<sup>5</sup>. This is further confirmed by the fact that a total of 44 bilateral international free trade agreements were concluded between the CIS members<sup>6</sup>.

Only in 2011, the CIS members managed to sign a new effective Free Trade Agreement, on the basis of which it became possible to eliminate a considerable number of barriers to mutual trade. This agreement replaced all bilateral international free trade agreements between the parties to the Agreement<sup>7</sup>. The main point was the abolition of Article 2 of the Treaty on the

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<sup>4</sup> Velyaminov G.M. International economic law and process: (Academic course): Textbook. - M., 2004.

<sup>5</sup> Mulyukova V.A. International legal aspects of the development of economic cooperation of member states of the Commonwealth of Independent States // Bulletin of the Russian Peoples' Friendship University. Series: Legal sciences. No. 2, 2011. pp. 96-106.

<sup>6</sup> Tiunov O.I. On the peculiarities of the development of integration processes in the post-Soviet space // Journal of Russian Law. No. 8 (188), 2012. pp. 92-98.

<sup>7</sup> Vityuk V.V. Tariff-preferential regime: concept and legal basis for regulation // Customs policy of Russia in the Far East. No. 3 (88), 2019. pp. 68-81.

Application of Customs Duties<sup>8</sup>. Also, an important decision was reached regarding the abolition of quantitative restrictions in mutual trade. The agreement unifies the approach regarding the rules for determining the country of origin of goods, and defines the granting of national treatment by the parties to each other in accordance with Article III of GATT 1994.

Undoubtedly, the Free Trade Agreement of 2011 gave a significant impetus to international trade between CIS members<sup>9</sup>, which in turn had a positive impact on the functioning of the ITC in the CIS space. However, it should be noted that the Treaty does not pay much attention to issues related to the ITC. Article 7 of the Treaty covers certain aspects of transit. In particular, it can be noted that the customs authorities of the parties mutually recognize national means of identification, other means of customs support, as well as documents necessary for the control of goods and vehicles carrying them. Also, the parties shall mutually accord to goods in transit through the territory of any other party treatment no less favorable than the treatment that would be accorded to such goods if they were transported without passing through the territory of such other party.

In order to develop the ITC within the CIS, an Agreement on the coordinated development of international transport corridors passing through the territory of the CIS member states was adopted in 2009<sup>10</sup>. The agreement does not contain certain mandatory rules regarding the regulation of the ITC, and also does not provide for the implementation of any specific measures, and only defines the main directions for the development of the ITC in general terms.

At the same time, it should be noted that the countries of Central Asia, along with other countries of the former USSR, within the CIS have a considerable number of agreements ensuring the functioning of land transport routes, i.e. road and railway, both in the Central Asian region and in the CIS. These include the following agreements:

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<sup>8</sup> CIS Free Trade Agreement // available at: <https://cis.minsk.by/reestr2/doc/3183#text>

<sup>9</sup> Tretyakova A.A. CIS free trade zone: problems and prospects // International scientific research journal. No. 6-3 (108), 2021. pp. 136-139.

<sup>10</sup> Agreement on the coordinated development of international transport corridors passing through the territory of the CIS member states // available at <https://lex.uz/docs/2756518?ONDATE2=11.06.2021&action=compare>

Intergovernmental agreement on coordinating bodies of railway transport in the CIS (1992)<sup>11</sup>;

Convention on the International Carriage of Passengers and Luggage by Road (1997);

Agreement on interaction between CIS member states in the field of international road transport (2003);

Agreement on the masses and dimensions of vehicles carrying out international transportation on the roads of the CIS member states (1999);

Agreement on the introduction of an international certificate for weighing cargo vehicles on the territory of the CIS member states (2004).

Thus, the countries of Central Asia did not achieve great results in the development of new regional transport routes during the years of independence, however, within the CIS they managed to preserve the transport system of the former USSR, which ensures regular and stable cargo flows between the countries.

At the same time, the transportation of goods between the countries of Central Asia is ensured by a number of international agreements in the field of transport and transit.

Road transport is mainly provided by the Convention on the International Transport of Goods under Carnet (TIR) 1975. All countries of Central Asia are parties to this Convention, which greatly facilitates the legal regulation of transport by this type of transport. As is known, the Convention forms a customs transit system and contains provisions aimed at facilitating border crossing and customs formalities in the framework of international transport of goods. This helps reduce the time and costs associated with the border and simplifies the transportation process<sup>12</sup>.

Rail transportation is provided by the Agreement on International Freight Transport by Rail (SMGS). The purpose of SMGS is to ensure safe and efficient transportation of goods, establish common standards and rules, and promote the development of international cooperation in the field of rail freight transport<sup>13</sup>. All countries of Central Asia are parties to this Convention,

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<sup>11</sup> Merkusheva O.V. Cooperation of the CIS countries to ensure the safety of transport infrastructure facilities, transportation of passengers and cargo by different modes of transport // International cooperation of Eurasian states: politics, economics, law. No. 3 (16), 2018. pp. 90-98.

<sup>12</sup> Kholopov K.V. International private transport law. Analysis of the norms of international and Russian transport law: Textbook. - M.: Statute, 2010. p. 528 – 533.

<sup>13</sup> Andreev V.K. Prospects and stages of the formation of a single transport space in the EAEU and the CIS // International cooperation of Eurasian states: politics, economics, law. No. 2(11), 2017. pp. 50-59.

which indicates the application of a single legal regime in regulating international rail transport.

At the same time, all Central Asian countries are parties to the following international agreements:

Convention on the Contract for the International Carriage of Goods by Road (CMR) (1956);

International Convention on the Simplification and Harmonization of Customs Procedures (1973);

International Convention on the Harmonization of Frontier Controls of Goods (1982);

Convention on Road Traffic (1968);

Convention on Road Signs and Signals (1968).

These conventions clearly contribute to the development of transport communications in the region, ensuring freer and faster movement of goods between states. For example, Article 7 of the International Convention on the Harmonization of Frontier Controls of Goods (1982) obliges Central Asian countries to make every effort to organize joint control of goods and documents through the installation of shared equipment. This implies ensuring similarity in the operating hours of border posts, control services operating at the corresponding posts, as well as categories of cargo, means of transport and international customs transit systems that are used or may be accepted for use in the countries of the region<sup>14</sup>.

In addition, there are international agreements to which individual Central Asian states are parties:

International agreements	States				
	Uzbekistan	Kazakhstan	Kyrgyzstan	Turkmenistan	Tajikistan
Convention on the Customs Treatment	✓	✓	✓	✓	✓

<sup>14</sup> Sarsembayev M.A. How to identify and solve organizational and legal problems of cargo control at the borders of Kazakhstan and Central Asia // Bulletin of the Institute of Legislation and Legal Information of the Republic of Kazakhstan. No. 4 (20), 2010. pp. 110-118.

of Containers Pooled and Used in International Transport (Container Pool Convention) (1994)			-		-
Convention on Temporary Admission (Istanbul Convention, 1990)	✓	✓	-	-	✓
Customs Convention concerning Containers (1972)	✓	✓		✓	-

These international agreements play a major role in the organization of international transport and, accordingly, in the functioning of international transport corridors. Particular attention should be paid to agreements regulating issues related to containers during international transportation, because in most cases, containers are imported in connection with a commercial transaction, but their importation does not itself constitute a commercial transaction<sup>15 16</sup>.

As can be seen, the countries of Central Asia are members of most international agreements in the field of transport and transit, which indicates a unified legal framework and a unified approach to the organization of international land communications. There are seven international agreements and seven regional multilateral agreements governing issues related to transport and transit in the Central Asian region. This circumstance allows the countries of the region to carry out regular and stable transportation among themselves along transport routes. Thus, it can be assumed that cargo delivered to one of the states of Central Asia can be delivered to another state in this region without any special obstacles.

### ***International legal aspects of intraregional regulation of transport routes in South Asia.***

South Asia is often described as one of the least integrated regions in the world. Despite geographical proximity, the share of intraregional trade in total trade of South Asian countries remains small at about 5%. Trade potential remains largely untapped due to poor cross-border transport infrastructure and facilitation. Given the advantages of geographic proximity,

<sup>15</sup> Khalipov S.V. Customs features of importing containers into the Eurasian Economic Union // Russian Foreign Economic Bulletin. No. 4, 2020. pp. 48-57.

<sup>16</sup> Arefkina M.Yu. The role of chambers of commerce and industry in the international ATA system // Law and State: Theory and Practice. No. 1 (133), 2016. pp. 138-141.

land transport corridors should ideally be the most important factor for strengthening transport links and facilitating cross-border transport<sup>17</sup>.

Rail and road transport are the most suitable and cheapest mode of trade related transport in South Asian countries. Ineffective trade and transport facilitation in South Asian countries has also significantly reduced the benefits of trade liberalization under the South Asian Free Trade Area (SAFTA). The relevance of the agreement is likely to become even weaker over time as bilateral free trade agreements in the region, which are already more liberal, are implemented earlier<sup>18</sup>. In addition, the agreement does not provide for specific rules regarding transit provision<sup>19</sup>.

Transport facilitation has been identified as a key issue for improving transport connectivity and economic integration in South Asia<sup>20</sup>. Suboptimal transport connections are one of the main obstacles to the smooth and efficient cross-border movement of goods and vehicles, which negatively affects the growth of intraregional trade and investment potential in the region<sup>21</sup>.

Freedom of transit in the South Asian region faces numerous challenges. Political misunderstanding and lack of institutional and regulatory reforms have affected the development of regional transit. Although bilateral transit agreements exist between the countries (India, Nepal and Bhutan), they have made limited progress in addressing issues related to facilitation of bilateral transit procedures. Lack of political will and institutional capacity also leads to delays. Goods transported by road in South Asian countries are subject to transshipment at borders, leading to unnecessary delays<sup>22</sup>.

For example, India and Bangladesh do not have a transit agreement and goods are loaded and unloaded at border points. Similarly, India and Pakistan

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<sup>17</sup> Nagesh Kumar, Joseph George. Corridors of Knowledge for Peace and Development. Chapter 13 Connecting for Trade and Development: Issues and Prospects of Land Transport Corridors in South Asia // Sustainable Development Policy Institute (Pakistan). 2020. pp. 165-182.

<sup>18</sup> Dushni Weerakoon, Jayanthi Thennakoon. SAFTA: Myth of Free Trade // Economic and Political Weekly, Vol. 41, No. 37 (Sep. 16-22, 2006), pp. 3920-3923.

<sup>19</sup> Agreement on South Asian Free Trade Area // Available at: <https://commerce.gov.in/wp-content/uploads/2020/05/safta.pdf>

<sup>20</sup> Bipul Chatterjee, Surendar Singh. Corridors of Knowledge for Peace and Development. Chapter 14 Regional Connectivity in South Asia: Role of the International Road Transports (TIR) Convention // Sustainable Development Policy Institute (Pakistan). 2020. pp. 183-199.

<sup>21</sup> Trade Consignment Mapping in South Asia: A Study of Three SAARC Corridors // Consumer Unity and Trust Society International, Jaipur, 2015. Available at: [www.cuts-citee.org/TCMSA/pdf/Report-Trade\\_Consignment\\_Mapping\\_in\\_South\\_Asia-A\\_Study\\_of\\_Three\\_SAARC\\_Corridors.pdf](http://www.cuts-citee.org/TCMSA/pdf/Report-Trade_Consignment_Mapping_in_South_Asia-A_Study_of_Three_SAARC_Corridors.pdf)

<sup>22</sup> Bipul Chatterjee, Surendar Singh. Corridors of Knowledge for Peace and Development. Chapter 14 Regional Connectivity in South Asia: Role of the International Road Transports (TIR) Convention // Sustainable Development Policy Institute (Pakistan). 2020. pp. 183-199.



allow movement of goods only through the Attari-Wagah land border and only 137 goods can be traded through this land port. The main factor hindering connectivity in the region is the lack of effective regional transit agreements. Consequently, the cost of transporting goods for landlocked countries such as Bhutan and Nepal is high and directly affects their trade competitiveness in global markets<sup>23</sup>. In other words, the lack of effective transit mechanisms in the subregion hinders intraregional trade, economic exchange and the integration of regional markets.

Pakistan and Afghanistan have a Transit Trade Agreement concluded in Kabul in 2010. Four border points have been identified for the transportation of goods: Peshawar - Torkam, Chaman - Spin Boldak, Ghulam Khan, Sost - Tashkurgan. The agreement provides the right to transport goods to/from Afghanistan through the Pakistani border post with India "Wagah", as well as through the Pakistani seaports of Gwadar, Karachi and Qasim<sup>24</sup>.

As stated above, the Convention concerning the International Transport of Goods under TIR Carnets (TIR Convention 1975) is one of the most successful conventions in improving the efficiency of trade supply chains by reducing trade costs at various points in the supply chain. Today, it is the only global customs transit system that ensures the easy and unhindered movement of goods across borders. As noted, all Central Asian countries are parties to this convention.

However, despite the obvious benefits and benefits of the convention in South Asia, only India, Pakistan and Afghanistan are contracting parties. China has also acceded to the TIR Convention under the Belt and Road Initiative (BRI). The convention will help China realize its connectivity ambitions in South Asia as it will facilitate the smooth movement of cargo vehicles across borders. China's accession to the BRI provides a strong case for other countries to join the TIR Convention. Nepal, Bhutan, Bangladesh are members of the BRI but are yet to accede to the Convention. On the other hand, India has joined, but it is not part of the BRI. This could have implications for existing regional connectivity initiatives in South Asia and beyond.

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<sup>23</sup> Review of Developments in Transport in Asia and the Pacific: Transport for Sustainable Development and Regional Connectivity // United Nations Economic and Social Commission for Asia and the Pacific, no. ST/ESCAP/2815, Bangkok, Thailand, 2017.

<sup>24</sup> Afghanistan - Pakistan Transit Trade Agreement, 2010 (APTTA) // Available at: [https://tadb.unescap.org/AFG/bilat\\_AFG\\_PAK\\_2010\\_eng.pdf](https://tadb.unescap.org/AFG/bilat_AFG_PAK_2010_eng.pdf)

South Asian countries recognize the importance of regional connectivity, especially for landlocked countries, to enhance their competitiveness and stimulate economic growth. This was due to improved political relations due to closer regional cooperation. Countries have undertaken a number of regional connectivity initiatives to expand their trade and investment ties, thereby shaping a broader regional economic integration agenda<sup>25</sup>.

Attempts were made by SAARC (South Asian Association for Regional Cooperation) member countries in 2014 to adopt the SAARC Regional Railway Agreement and the SAARC Vehicle Agreement aimed at enhancing cross-border and regional connectivity, but this was delayed due to lack of response from Pakistan side.

Next, we will consider the participation of South Asian countries in international agreements related in one way or another to transport and transit issues.

States International agreements	Afghanistan	Bangladesh	Bhutan	India	Nepal	Pakistan	Sri Lanka
Convention on the International Transport of Goods under Cover of Carnets (TIR) 1975		-					-
Convention on the Contract for the International Carriage of Goods by Road (CMR) (1956)		-					-
International Convention on the Simplification and Harmonization of Customs Procedures (1973)		+					+
International Convention on							-

<sup>25</sup> Nagesh Kumar, Joseph George. Corridors of Knowledge for Peace and Development. Chapter 13 Connecting for Trade and Development: Issues and Prospects of Land Transport Corridors in South Asia // Sustainable Development Policy Institute (Pakistan). 2020. pp. 165-182

the Harmonization of Frontier Controls of Goods (1982)		-					
Convention on Road Traffic (1968)		-					-
Convention on Road Signs and Signals (1968)		-					-
Convention on the Customs Treatment of Containers Pooled and Used in International Transport (Container Pool Convention) (1994)		-					-
Convention on Temporary Admission (Istanbul Convention, 1990)		-					-
Customs Convention concerning Containers (1972)		-					+

Thus, it becomes apparent that South Asian countries are very poorly integrated into the global legal system in the field of transport. The countries have practically no common legal framework to ensure regular and stable transportation; there is not a single international agreement in the field of transit and transport, to which all countries of South Asia are parties; there is also not a single regional multilateral agreement in the field of transit and transport. All indications are that South Asian countries are facing various challenges with regard to transit and transport facilitation.

### ***Conclusion***

The countries of Central Asia did not achieve great results in the development of new regional transport routes during the years of independence, however, within the CIS they managed to preserve the transport system of the former USSR, which ensures regular and stable cargo flows between the countries.

The Central Asian states are parties to most international agreements in the field of transport and transit, which indicates a unified legal framework and a unified approach to the organization of international land transport communications. There are seven international agreements and seven regional multilateral agreements governing issues related to transport and transit in the Central Asian region. This circumstance allows the countries of the region to

carry out regular and stable transportation among themselves along transport routes. Thus, it can be assumed that cargo delivered to one of the Central Asian states can be delivered to another state in the region without any special obstacles.

The situation is completely different in South Asia, where countries in the region face a variety of problems with regard to transit and transport facilitation. The countries of South Asia practically do not have a common legal framework among themselves to ensure regular and stable transportation, there is not a single international agreement in the field of transit and transport, to which all countries of South Asia are parties, and there is not a single regional multilateral agreement in the field of transit and transport. This circumstance indicates the absence of a unified legal framework and a unified approach to the organization of international land transport communications.

The region's two largest economies, India and Pakistan, deny each other transit rights, having a large land border with the potential to connect the region by both road and rail. Afghanistan, having agreements in the field of transport and transit with Pakistan, can provide Central Asian countries with access only to Pakistan.

The legal situation in the field of transport and transit within the South Asian region indicates that when creating international transport corridors with the countries of the region, having gained access to the market of one state, from the point of view of transit, it will not be possible to gain access to the rest of the states in the region. Thus, access will be limited; the transport corridor will provide transport connections not with the entire region, but only with the country with which the corridor will be built.

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