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**МЕЖДУНАРОДНОЕ ПРАВОВОЕ РЕГУЛИРОВАНИЕ ТРАНСПОРТНОЙ ИНФРАСТРУКТУРЫ  
В КОНТЕКСТЕ НОВОГО ШЕЛКОВОГО ПУТИ. СОВРЕМЕННЫЕ ВЫЗОВЫ  
И НОВЫЕ ВОЗМОЖНОСТИ ДЛЯ СТРАН ЦЕНТРАЛЬНОЙ АЗИИ**

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Рассмотрены определенные проблемы, касающиеся развития транспортной инфраструктуры в рамках Экономического пояса Шелкового пути (ЭПШП). Сделан обзор существующих соглашений и правовых норм в данной области, приведены примеры успешного сотрудничества между разными государствами в Евразийском регионе, определены проблемы на пути реализации проекта. Кроме того, предложены определенные решения для углубления сотрудничества с особым акцентом на страны Центральной Азии и их благоприятные географические условия и международное положение. Приведены экспертные мнения, а также выдержки из официальных докладов известных международных организаций, таких как Организация Объединенных Наций (ООН), Шанхайская организация сотрудничества (ШОС) и Мировой банк.

*Ключевые слова:* ШОС; ЕврАзЭС; Один пояс – один путь; транспортная инфраструктура; Китай; Россия; закон; международные отношения; культура; Центральная Азия; Евразия.

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**INTERNATIONAL LEGAL REGULATION OF TRANSPORT INFRASTRUCTURE  
IN THE CONTEXT OF THE NEW SILK WAY. MODERN CHALLENGES  
AND NEW OPPORTUNITIES FOR COUNTRIES OF THE CENTRAL ASIA**

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This article is dedicated to certain problems regarding development of transport infrastructure within the Silk Road Economic Belt (SREB). The authors provide an overview of existing agreements and legal frameworks in this area, give several examples of successful cooperation between various countries of Eurasian Region, identify certain obstacles to its implementation. There are also given suggestions to improve the collaboration with particular emphasis on the countries of the Central Asia and their favorable geographical and political conditions. The article includes expert opinions as well as extracts from official reports of well-known international organizations such as United Nations (UN), Shanghai Cooperation Organization (SCO) and The World Bank (WB).

*Keywords:* SCO; EuroAsEC; One Belt One Road; policy; transport Infrastructure; China; Russia; law; international relations; culture; Central Asia; Eurasia.

The Silk Way being the system of cross-Eurasian caravan routes between the Mediterranean and China has a great history of several thousand years. In ancient times, it played an important role in trade and cultural relations between various actors of this region [1, p. 19].

The main purpose of the Silk Way has a traditional meaning of convergence and mutual enrichment of countries, peoples and civilizations.

In May 1993, on the European Commission Summit in Brussels the idea of creation of TRACECA, which represented the transport corridor Europe-Caucasus-Asia, was raised for the first time [2, p. 34]. This meeting became one of the first practical steps in recreation of the Great Silk Way Concept.

The railway road “Tedjen-Sarakhs-Mashhad”, which now is a part of the Trans-Asian Railroad, which connects Peking and Istanbul, was one of the first steps of practical implementing of the Agreement. Along with the construction of the railroad, Uzbekistan participated in creation and reconstruction of the road system “Andijan-Osh-Irkeshtam-Kashgar”, which are interconnected with Chinese and Pakistan roads, and also the road system “Bukhara-Sarakhs-Mashhad-Terheran-Termez-Herat-Kandahar-Karachi” which leads to the Indian Ocean. The above-mentioned roads perfectly match the direction of the Great Silk Way; they are also focused on creation of favorable conditions for conducting the international trade between different countries of Middle Asia [3, p. 34].

In the face of growing globalization, international transportation system obviously takes one of its most important functions.

For example, the European Economic Commission of the UN in one of its reports noted that “production and redistribution of supplies as well as domestic and international trade depend on the effectiveness of the transportation systems. Furthermore, transport is essential for balance between more and less wealthy regions of one single country or a group of countries [4, p. 47].

International community always paid a great attention to the legal regulation of the international cargo transportation. In this regard, development of international regulation of rights and responsibilities of transport operators of all types was the major topic in the sphere of international law during the long period of time.

In 1980s, during the UN Conference for Trade and Development (UNCTAD), the UN Convention on international mixed cargo transportation was signed. From our opinion, one of the most likely reasons of it was the following: provisions on liability described in the Convention are based on Hamburg Rules (UN Convention on Carriage of Goods by Sea 1978) which came into force but were not widely used before.

Railway cargo transportation is carried out in accordance with Annex to the Intergovernmental Organization Convention on International Railroad Transportation (COTIF). Now, COTIF – CIM – Convention of 1999 basically replaced the regulations of CIM Convention of 1980. Maritime transport remained the only mode of transport that had no special conventional regulations for intermodal connections. This gap was filled with relevant provisions of UN Convention on full maritime of maritime cargo transportation 2008 (Rotterdam Rules). The Convention was developed in accordance with UNCITRAL (United Nations Commission on International Trade Law) and signed during the 63th Session of the UN General Assembly in 2008 [5, p. 43-46].

Creating and proper use of international transportation system is one of the most important areas of economical and other relations regardless of historical, geographical and other conditions. The initiative to establish the Silk Road Economic Belt launched by China in 2013 enables the EECCA countries to participate in building of the transit bridges to connect European and Asian regions. The proper interface of the EAEU and SREB requires relevant discussion about different ways to simplify the regulations of trade and investment, focused on lowering and gradual abolishing of barriers for trade and investment, as well as on reduction of terms of delivering from Asia to Europe through the high-speed railway system.

In the long run, further development of the cooperation will enhance the complementarity of economies of the SREB member countries and is expected to naturally abolish the above-mentioned trade barriers. A huge free-trade area on the countries of EAEU, SCO, EU and ACEAN could be the result of this cooperation [6].

According to new tendencies, the SCO countries pay a great attention to the development of their transport systems: their mutual interests lie in this sphere; there also is a significant potential for the further cooperation.

China possesses a huge amount of natural resources, Russia possesses the greatest territory among all countries in the world, countries of the Central Asian Region are located in the very center of the Eurasian Continent – from our point of view, this complementarity can be a very positive factor [7, p. 43-46].

According to the belief widespread in the business communities of SCO countries, the transportation belongs to the priority area of cooperation within the Organization; “especially the modern infrastructure is able to open the way to implementation of various business projects, ambitious initiatives of creation of the modern production facilities and quality jobs”.

One of the essential legal instruments is the Program of Multilateral Trade and Economic Cooperation of the SCO countries that notes that goals of the member countries require the cooperation in use and further development of existing infrastructure in the area of transport and other communications.

The Program considers the cooperation in the area of transport as one of its major directions. It requires proper study of possible cooperation in the area of use of transport infrastructure and its modernization, which is essential for creating and effective use of the market of transportation services and freight forwarding services on the territory of SCO countries. The study of collective exploitation of the transit capacity is also required, as well as cooperation in implementing of high-tech technologies in information and communication spheres and development of the relevant infrastructure.

Within the SCO there are several programs focused on enhancing the complementation of various modes of transport for effective and safe movement of people and cargo between SCO countries; they are based on existing legal instruments; their secondary function is to improve the protection of natural resources and decrease the negative impact on the environment.

The newest legal instrument relevant to the Organization’s activities is the Common Statement “Of Cooperation in Interface of Silk Road Economic Belt (SREB) and Eurasian Economic Union (EAEU)” [8].

For EAEU countries, the trade volumes (as well as cargo volumes, which are rising in numbers very fast: in 2020, it is expected to reach 490.000.000 tons, which is four times more than in 2000) remain the key factors for enhancing the mutual economic integration.

According to expert opinions, the transportation system remains the most problematic aspect in the EAEU. This is due to the lack of common strategy and effective plans of infrastructure development, which would be based on the common interests shared by all member countries [9].

In order to analyze the existing potential of SCO in the area of transport and logistic, we would like to consider the rating of the logistic infrastructure provided by the World Bank [10, p. 43–46], which is based on the interviews of actors from this sector in 155 countries worldwide.

According to this, despite of the intensive collaboration in the area of transport infrastructure, no SCO country except of China reached the considerably high level of development; in this regard, customs regulations got the lowest ratings among other factors.

Thus, implementation of the SREB and proper use of the Fund, building of the modern railways will have a positive impact in the transport and logistic infrastructure of the SCO countries. In addition to, e-flow and modern logistic system of customs offices will also influence the ratings in a positive way.

It should be noted, that despite of the extensive efforts, the legal regulation of transport relations within the SCO as well as within the bilateral and other multilateral relations on the Eurasian region is not developed enough yet. There are no categorized acts of transport legislation, as well as no special uncategorized acts focused on all transport modes used in movement of people and cargo. In the same time, many documents include some very general information regarding the direction of legal activity in the area of transport and its usage. Thus, according to the 3<sup>rd</sup> Charter of the Shanghai Cooperation Organization signed in St. Petersburg, general directions of the cooperation within the SCO are: “effective use of existing infrastructure in the area of transport and communications, development of the transit potential of the member countries, development of their energetic systems, interchange of legal information in order to develop the cooperation within the SCO; increasing of interaction in the scientific and technological areas, as well as in the areas of education, medicine, culture, sport and tourism”. The above-mentioned directions may be considered as major development vectors that define the future structure of the legal acts in the area of transport focused on the SCO area. Furthermore, one of the major issues that is not resolved until now is

the unification of all administrative regulation procedures in the transport system (licensing, customs regulations, restrictions on the types of cargo, the rules of accessing the market, the exemption of the transportation from the application of the antimonopoly regulation). In Central Asian countries, considering challenges in the area of environment protection like the problems of Aral Sea and pure water shortages, ecological standards are of special importance [11, p. 153–154].

The next serious issue is that countries of this region are lacking the unified regulation of relations in this sphere. If there is the point of contention within the SCO as well as within other international organizations, there is no single body to resolve it. Obviously, one option is to apply to the international courts, but their decision may lack of legitimacy, their terms may last too long, and there is no guarantee that all the parties involved will implement their decisions.

Sometimes scientists suggest to declare transport law or certain elements of it the independent branch of law, what would provide some theoretical base. The unification of the legal frameworks in this area in different countries in the area of the Silk Road Economic Belt is one of the main targets to achieve.

For countries of the Central Asian Region, regional cooperation plays an essential role in development in security. Being the members of different political and military alliances, this countries aim to maintain their security both on the national and regional level. Integration into the system of the Silk Road Economical Belt will require the willingness to cooperate also in this area. Central Asian countries are located on the territory of the ancient Silk Road and do not have an outlet to the Sea, their neighbors are Middle East countries, China, Russia. In the same time, the country possesses certain strategic advantages to be represented in both European and Asian international organizations.

While frontier trade and migration can promote the development and contribute to the reduction of poverty, border conflicts related to the illegal arms and drug trafficking, demarcation of border, redistribution of natural resources and social tension are considered as negative factors in country’s development.

Modern roads, airways, railway roads, sea routes, river and pipeline communications form a single internet providing the delivering of products in every location in world. This is due to the use of already existing transport routes, several modes of transport on one single route, as well as to the use of transit schemes, logistic technologies and other components of the modern logistic branch.

The main purpose of the transport legal regulation remains the creation of the legal framework for

the transport that would correspond with the market conditions. It means the providing of the development of the governmental and non-governmental sectors of transport in order to reduce monopoly; establishing of the safety rules priorities in various laws and regulations; fighting the discrimination and creating of equal conditions to enter the transport market for all companies, simplifying of the licensing procedures and paperwork, implementing of the effective governmental control over the transport activity without intrusive regulation.

Transport serves as a link between various elements of the country's economy, uniting all types of production and industry, redistribution and interchange. Effective work of transportation companies, timely movement of peoples and cargo influences the industry, commerce and other branches of economy.

Despite of the great meaning of the transport corridors, their international legal regulation still needs a significant improvement.

The most important issue remains the absence of the single international treaty. The majority of existing international legal frameworks are separated from each other in their use and need to be systematized and categorized. For further international integration, it is essential to start harmonizing legal systems of all the parties interested, which will not only enhance economic growth, but also help to bring together cultures of different countries.

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