

ON COMPETITION ON EURASIAN ROUTES AND ON CONSOLIDATION OF LEGAL RELATIONS

Zhukov, Victor P., Organization for Cooperation between Railways, Warsaw, Poland.

ABSTRACT

The article shows how the main tasks that the Organization for Cooperation between Railways (OSJD) sets for itself while meeting the challenge of growing competition in the international transportation market are being solved. The problems of transport

corridors between Europe and Asia, mechanisms of legal regulation, economic contracts, border crossings, as well as the effectiveness of the existing programs for development of the railway complex within the borders of OSJD member countries are particularly considered.

Keywords: OSJD, international transportation, railway transport, Eurasian corridors, market, competition, legal relations.

Background. All OSJD activities are aimed primarily at developing and improving international rail transportation between Europe and Asia. And it is in this line that the strategic and current calendar tasks of the organization are formulated. At the same time, there is that side of our day-to-day work, which is allocated in a special direction: being the depositary of two agreements: on the international railway cargo message (SMGS) and international passenger traffic (SMPS), we provide legal context for those types of transportations.

Objective. The objective of the author is to consider the activity of OSJD aimed at increase in competition on Eurasian routes and consolidation of legal relations.

Methods. The author uses general scientific method, comparative analysis, scientific description.

Results. It should be noted that we have done a lot in this direction, which allowed 28 OSJD member countries to increase the volume of cargo transported by more than 1,5 times from 1998 till 2015. However, today these countries transport by all types of transport more than 53,5 billion tons of cargo and only 6 billion tons (11,5%) by rail. We do not just have something to work on – we are worried about the tendency in a number of regions to reduce the level of cargo transportation, which leads to the closure of certain sections and even railroad lines. It is easy to disassemble a railway, but it will not always be possible to restore it.

There are several reasons to talk about that. We see that today international highways are suffocating from heavy vehicles, their number is growing every year, jams on borders, jams on roads, there is an urgent need to expand the motorways, build new ones, and we know that the price of 1 km = 10–15 million euro.

And in such situation competitors do not use possibilities of railways, although they are all-weather, economical, environmentally friendly, they allow crossing the borders in an accelerated mode, transporting goods at speeds of more than 1000 km per day.

What prevents the more intensive growth of international rail transportation? These are, first of all, border problems, insufficiently developed infrastructure of some sections of railway corridors, the existence of two legal systems of COTIF and SMGS regulating these transportations, uncompetitive tariffs, lack of state regulation and a number of other issues.

OSJD in its activities pays constant attention to the study of existing problems, the development of appropriate measures and recommendations to improve the work of railway corridors, elimination of «bottlenecks», barriers, achievement of increase in railways' competitiveness.

As for competition, it is hardly worth remembering the operational advantages of rail transport, they are undeniable, and at the same time one indicator outweighs them – this is the price of transportation. In the price of transportation by rail the cost of infrastructure

is at the level of 30–40%. In the automotive and maritime transport, the price share of the infrastructure is practically nonexistent.

What can be done in this connection?

I believe that we need to connect science, conduct a detailed study of the problem and prepare expert opinions of relevant specialists for transferring to the governments of interested countries, so that they can assess the actual situation with the use of railways, an unrealized potential, compare the situation with the roads, ecology, etc.

Switching of a part of transportations at the state level from road to rail transport would allow, firstly, to avoid enormous costs for construction of roads, and secondly, to support undeservedly overshadowed railways, give them a second wind.

We understand that all this is not so simple, but the experience of several countries shows that this can be done by introducing a tax on the environment, fees for the use of international motorways, reducing quotas on border crossing, limiting traffic in the daytime and on weekends, etc.

All this will help to equalize and strengthen the competitiveness of railways as compared to other modes of transport.

International transportation is, first and foremost, well-established railway corridors, therefore in the Eurasian space one should especially take care of their further development.

According to the transport policy of OSJD in 1991, 13 railway corridors were determined. Mapping routes is half the battle, in the development of the topic, detailed passports were developed for each corridor, illustrating their characteristics by 12 parameters. In 2013, at the XLI session of the OSJD Ministerial Meeting, member countries signed memorandums in the field of technical, operational and commercial development of the related railway corridors.

The signing of memoranda is very important, since all 13 corridors were officially recognized by the states. We hope that the recognition and consolidation of their status at this level will help revive the work in the railway corridors, make it more efficient and focused.

Investigating the corridors, experts noted that border crossings remain among strong barriers to the passage of cargo through them. In the corridors of OSJD to date, we have 126 of these crossings. Time of passage of goods across borders is in the interval from 30 to 4550 minutes. More than 160000 cars and containers are delayed there from 1 to 30 days, and in some cases even longer.

To facilitate the crossing of borders by freight trains OSJD jointly with OTIF, UIC, CIT, the European Economic Commission of the United Nations conducted and conducts regular work. One of the priorities was the development and adoption by the United Nations of





«Annex No. 9 on rail transport to the Convention on the Harmonization of Frontier Control of Goods of 1982». This is a big breakthrough, because with the introduction of the annex, it becomes possible to systematize processes at border crossings. The only thing that is required from all countries is as soon as possible to make the annex fully working.

It is possible to carry out international transportations only as a participant of the Agreement on International Railway Freight Communication, mentioned earlier, and the Agreement on International Passenger Transport, of which OSJD has been the depositary, since 1951. In recent years, significant political and economic changes have taken place in the OSJD member countries. In this regard, the issues of legal harmonization in the field of transport and transit are coming to the forefront today, and they are the most relevant precisely with regard to rail transportation of goods. Especially if we bear in mind the intensity of integration processes in the Eurasian space.

Taking into account the new realities of the market, the significant reforms carried out by the railways of most OSJD member countries in terms of the division of responsibilities between the state and railway enterprises, as well as between the infrastructure and the carrier, complex changes in the SMGS became necessary. Over the past seven years, we have carried out a fundamental revision of this agreement, and now since July 1, 2015, a new SMGS has come into force. Its essence is that the carriers («contractual carrier», «subsequent carrier»), owners and operators of the car fleet, as well as the infrastructure manager became the subjects of legal relations under the contract of carriage instead of the railway.

On February 26, 2013 in Geneva, there was a historic event – the Declaration on the Development of Eurasian Transportation and Activities for the Creation of a Unified Railway Law was signed. The Movement «Towards a Unified Railway Law», initiated by the United Nations, has contributed a lot to that and the very idea it proclaimed in every way needs support.

It is obvious to all that this urgent issue has matured, and solidarity countries, railways, customers need in the long term to have a single legal support. What it should

be, let us understand the main directions of the Declaration, but all aspects cannot be taken into account. Therefore, colossal collective efforts are needed to prepare a legal and regulatory document that allows railways to work more efficiently, increasing and not losing the potential for competitiveness.

And one more aspect. As part of the improvement of OSJD basic documents, we have worked for seven years on the draft of a new convention «On Direct International Railway Traffic». This work is completed. Almost all members of OSJD, including nine EU countries, participated in the preparation of documents. It seems that when developing a unified railway law, a new convention can really become its basis.

The existence of two legal regimes undoubtedly complicates the organization of international transportation, in its activities OSJD has been looking for ways of convergence and unification of SMGS and Uniform legal prescriptions to the agreement on international freight transportation by rail (CIM). A huge breakthrough for such rapprochement was the implementation of a joint project of CIT-OSJD to develop a unified railway consignment note CIM / SMGS. Since 2006, when the first train was sent from the Ukraine to Germany on a new consignment note, the application of this progressive form was increasing every year at the border crossing. In 2015, almost 100 000 cars in both directions were handed over to the border crossing of Belarus and Poland using the CIM / SMGS consignment note. Time of passage of borders had been reduced by 8–10 hours, plus we have obtained the economy of 40 euro for each car through simplification of operations at registration of documents.

Conclusion

In conclusion, it should be noted that the promotion of certain projects, ideas and programs does not remove the main task that OSJD is facing now – the situation requires focusing on more efficient use of rail transport, more intensive development of railway corridors, which implies consolidation of efforts in this direction by all cooperating parties, interested in the final outcome.

Information about the author:

Zhukov, Viktor P. – Deputy Chairman of the Committee of the Organization for Cooperation between Railways, Warsaw, Poland, zhukov@osjd.org.pl.

Article received 08.08.2016, accepted 20.09.2016.