

# LOGISTICS LEGAL REGULATION PROBLEMS

## ПРОБЛЕМЫ ПРАВОВОГО РЕГУЛИРОВАНИЯ ЛОГИСТИКИ

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**Abstract** : Relationships that are the subject of logistics in general, in principle have still not been resolved from a juridical standpoint. Even individual types of logistics do not have holistic, integrated legal regulation. However, even the legal regulation of the transport logistics is a fragmented set of norms regulating individual types of transportation, but not a transport logistics in general.

It is hard to imagine that in principle it is possible to develop a set of international legal standards, which would constitute a coherent legal system ensuring the functioning of macro-logistics systems, i.e. the so-called "the international logistics right" or "the right of international logistics systems". International practice is on the way of the development of legal regulation of individual logistics operations, but not of the logistics in general.

Many of the logistics spheres are not regulated by international law even on that level. Moreover, a large number of logistics operations is not regulated, even at the level of national law. Management of the goods distribution process, from the legal point of view, is one of the most "non-image" fields of economic activities.

There are adopted many international agreements in the field of international goods distribution (especially in the field of transport and customs regulation). However, majority of these agreements have hardly representative character (many of them, which are adopted quite a long time ago, still await either entry into force, because they do not have the required number of ratifications).

International trade interests, the process of international division of labor, and the internationalization of economic life have created a special tool of legal regulation - "Lex mercatoria" (international commercial law).

**KEY WORDS** : INTERNATIONAL LAW; LOGISTICS; LEGAL FLOW; TRADE TERMS.

### 1. Introduction

The progress of the logistics in all spheres of economic activities significantly exceeds its regulation by the state and state institutions. Functioning of the separate areas and spheres of logistical activities is subject to laws and subordinate legislation, whereas there is need for the methodologies of centrally unified regulation of the logistics chains as the set of subjects, objects and logistical activities for moving the material, information, financial and other flows from the initial point to the receiving point.

Insufficient readiness of the methods of legal regulation of the logistics processes in the supply chains, including the relevant legal framework, has a direct and indirect effect on: the activities of the logistics subjects, creation and application of documentation flows, execution of logistical operations and functions. In this context, there is required a scientific explanation of the processes of distribution and ownership exchange for the economic resources inside the logistical systems, as well as of the delegation of rights, duties and responsibilities of logistics subjects at all levels of logistics.

Guidelines for regulation of the interactions of the supply chain participants inside the logistics flows allow implementing more effectively the logistical management of material and followed flows inside and outside enterprise. It would be advisable to address the main logistics processes with a view to application to them the methods of legal regulation.

At present, such scientific areas began to take off as, on the one hand, legal economics, which combines an economic approach to legal aspects and, on the other hand, considering the economic and logistics theories from a juridical standpoint.

### 2. Preconditions and means for resolving the problem

The research data are based on the analysis of "boundary" zones of logistics as an area of the economics and other sciences – information technology, commerce, and employment and labor law. A logistical approach to the management of economic processes is based on the operation of information standards, business and other statutory acts in the field of logistics.

In the process of the development of logistics as a science, there have been studied the issues of the existence and functioning of

logistics flows. Along with the generally accepted – material, financial and information – flows, they also started to consider the supporting, accompanying flows, including the documentation and legal ones.

Some issues of the application of the statutory acts in logistics are considered in the majority of manuals on logistics. However, they dwell on administrative or legal accompanying of the logistics procedures at meso- and macro-levels, for example, conclusion of the supply agreements, transport operations, considering the basis terms of delivery, legal status of the trade agents within the distribution channels, transfer of ownership during the process of the delivery of goods and so on. Thus and so, it is time to pose the question of the elimination of gap in the theoretical-methodological tooling of investigation of logistics chains with a view to legal regulation. Based on the analysis of statistical data of the contract-based activities of enterprises, as well as on the information on the pre-action and legal controversies on the issues of non-fulfillment of obligations flowed from these agreements, taking the account for the legal constituent in the modeling of meso- and macro-logistical systems contributes to the decrease in the number of violation of administrative and contractual obligations of enterprise to their employees, contractors and state, and consequently, the reduction of the amount of losses incurred in connection with payments of penalties. For the clearer substantiation of the character and role of legal regulation of the activities of enterprises, there is introduced the concept of legal flow as a kind of logistics flows. It is defined as a combination of legal standards and in-house acts of the organizations, and legal actions based on them, which regulate the rights and duties of the subjects of logistics in the management and control of logistical operations and functions for reaching the efficient solution of goals and objectives at micro-, meso- and macro-logistics levels. There is a need for the inclusion of legal flow in synchronizing band of the logistics flows that allows, on the one hand, considering the legal aspects of the activities of enterprises as an element of the logistical system, and on the other hand, taking account for the legal constituent of the logistical management during the enterprise costing, including determination of transaction expenses [1].

The role of the legal flow within the logistical system consists in: legal regulation of participants (subjects) of the logistical systems; setting the norms and rules for execution of logistical operations and functions; accompanying other types of logistics flows; creating the regulatory environment acting within a single logistical system or going beyond its limits.

The structure of the legal flow is represented by the following elements: documents; rights and functional duties of the logistics subjects; logistical operations and functions as a basis for arising the rights and responsibilities of participants of logistical processes. These elements act at three levels of logistics: micro-, meso- and macro-logistics levels. Based on the classification and structure of flow, there are identified the following main functions of it: ensuring the principles of economic efficiency, legal environment and optimizing logistical processes; creating the integrated legal environment, in which the subjects and objects of logistical system are acting; creating the effective basis for authorizing the subjects of logistical systems with rights, duties and responsibilities during the process of logistical activities; ensuring the integrated system of interaction of material, financial, information and other flows; ensuring the coordinated operation of all logistical sections during execution of logistical operations and functions; efficient distribution of rights of logistics subjects during vertical and horizontal integrations; inclusion of legal foundation in vertical hierarchy of the supply chain management.

Legal regulation of logistical processes is based on the application of regulatory and legal framework as one of the instruments of centralized and objective impact on the activities of economic entities. An important thing is the correct definition of legal regulation principles of logistics management of the production-commercial activities of company at micro-, meso- and macro-levels of logistics that allows assessing the necessity of effective application of the regulatory legal acts in organization of logistical processes.

The methodology of legal regulation of the analysis of company's economic activities is based on the elements of general economic analysis with consideration of logistics principles. At each logistics level there are used the same particular principles. For example, the micro-level is represented by company's internal structure and combination of main stages of its activities. Taking into consideration of the matter of logistic analysis of legal flows, as well as their character, structure and link with other logistics flows as an algorithm of analysis, the outline of analysis of management of micrologistical system is applicable.

The meso-level is represented by commercial activities of enterprise, its relationship with the state, municipal organizations, legal and natural persons during the execution of all logistical business-processes.

The macro-level is represented by the external environment of enterprise, which is conditioned by economic, social, political and other factors of regional, federal and international importance. The highest significance is given to the analysis of the activities of enterprise at a meso-level, which consists of the following stages:

1. Defining purpose and performance evaluation criterion of legal ensuring with account for peculiarities of logistical system of a particular enterprise, tied with logistics subjects at meso-level, and strategic and tactical plans of the company;
2. Decomposition of purpose, its breakdown into sub-purposes according to strategic, tactical and operational plans, functional area of logistical activities and subject matter of existing commercial relations of the company.
3. Evaluation of objectives and factors with a view to time, resource and financial costs, conditions of environment and interdependence of objectives.
4. The analysis of the structure of mutual relations – studies of subject and object matters, and logistics tooling of commercial activities of enterprise with account for legal constituent.
5. Identification of problems in functional areas of logistical activities – studies of drawbacks in logistics chains of different functional areas of logistics, in commercial and contracting documentation, violations of requirements of legislative and regulatory acts. Identification of problems includes finding and exact defining of problem, analysis of its statistical and dynamic state, defining the ties with other problems.

6. Decomposition and analysis of sources of problem – determining the factors influencing on origin, development and transformation of problem, its breakdown with respect to object and functional signs.
7. Determining the means for problem solving:
  - the availability of possibilities of problem solving;
  - defining and evaluating the options of solving;
  - selection of option (options) for problem solving.
8. Forming of the program and control include elaborating the program, projects and development plans of legal logistical system, their regular succession and stage-by-stage approach, determination of executives, their rights and duties, and control of program performance.

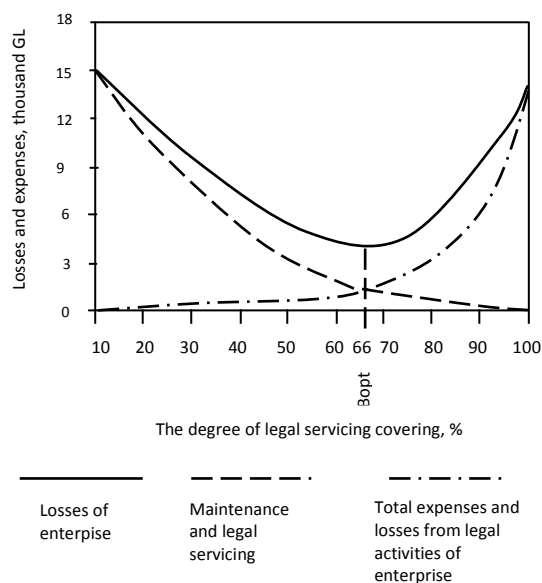


Fig. 1. Nature of the change of total cost structure of the company for legal support of the production-commercial activities.

The increase of the effect occurs owing to decreasing, but not excluding expenses, including for legal support of the activities of enterprise. With effective legal servicing, the economic losses of company go down, but there are appeared the service costs. Thus and so, there is a certain optimum relationship of the volume of legal ensuring and total costs incurred by enterprise (Fig. 1).

Performance evaluation of legal support of the production-commercial processes in logistical systems has a complex nature of dependency on the degree of covering the costs for this support. The legal ensuring of the company's activities is carried by legal service, and it can be evaluated by using a number of legal indicators. Thus and so, it is possible to set a question about performance evaluation of the activities of legal service in the enterprise with a view to relation of costs for its maintenance and savings, which is ensured by it for the enterprise.

The formation process of the model of logistical activities of enterprise comprises conducting the following steps:

- 1) Analysis of exiting legal regulation of logistical processes within supply chains;
- 2) Planning of statutory-legal support of company's logistical system.
- 3) Developing the project of public administration of processes company's logistical system, including legal support.
- 4) Approbation and application of proposed logistical system.
- 5) The process of using and evaluating of logistical system with account for its state regulation.

- 6) Approbation and application of proposed logistical system.
- 7) The process of using and evaluating of logistical system with account for its state regulation.

### ***3. Conclusion***

The model of logistical activities of company with account for legal elements fosters identification of economic, legal, production and other factors influencing on passing all stages from the initial point to the point of destination by material and followed flows, with account for logistics subjects, objects and activities at all levels. Taking account for the combination of these factors should allow lowering the negative impact of these factors and increasing efficiency of company's logistical activities due to reducing costs, decreasing the number and volume of penal sanctions and losses caused by legal infringements in the activities of logistical systems at micro, meso and macro levels.

### ***4. Literature***

1. Donald J.Bowersox, David J. Closs Logistical Management (The Integrated Supply Chain Process) "olimp" Moscow,2008. 564p.