



An Analysis On The Concept Of Multimodal Transport And Advantages And Disadvantages Of Multimodal Transport

Multimodal Taşıma Kavramı Ve Multimodal Taşımaların Avantaj Ve Dezavantajlarına İlişkin Bir Değerlendirme

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ABSTRACT

Multimodal transport is the mode of transport which is mostly used in the transport industry today and has arisen as different form other modes of transport enjoys some advantages and disadvantages. In this study, we will highlight these advantages and disadvantages and evaluate the necessity of multimodal transport.

Keywords: Concept of Multimodal Transport, Advantages of Multimodal Transport, Disadvantages of Multimodal Transport

ÖZET

Multimodal taşımalar günümüzde taşıma endüstrisinde sıklıkla kullanılmakta olan, diğer taşıma türlerinden farklı olarak ortaya çıkmış bir taşıma türü olup bu taşımanın getirdiği birtakım avantaj ve dezavantajlar bulunmaktadır. Çalışmamızda bu avantaj ve dezavantajlara değinilecek olup, multimodal taşımalara olan gereksinim değerlendirilecektir.

Anahtar Kelimeler: Multimodal Taşıma, Diğer Taşıma Türleri, Multimodal Taşımanın Avantajları, Multimodal Taşımanın Dezavantajları

1. INTRODUCTION

International transportation of goods plays an important role in economic growth of countries through the development of effective transport networks. Thanks to container transportation (Alhan Yunus, Liability of Multimodal Transport Operator, Akdeniz University Social Science Institute, Unpublished Doctoral Thesis, Antalya, 2022, p.1) which has been used since 1950s to "unitise" cargo and make easy its use by different carriers and transfers between different modes of transport and in particular use of containers in sea logistics, which is accepted as the basis of transportation, significant increase in the scope of sea transport operations in recent years indicates that transportation has a crucial role in commercial life (Adıgüzel, Burak, The Liability of the Carrier in Multimodal Carriages, Adalet Publishing, Ankara, 2015, p.1; Değirmenci, Nil Kula, An Analysis on Liabilities of Multimodal Forwarder as Multimodal Operator and the Protection of Liability Insurance , İzmir, 2012, p.1; Tomlinson, J, The History and Effect of Intermodal Transport Container, Pratt Institute, 2009, p.1, www.johntomlinson.com Maritime Container pdf; Hoeks, Marian, "Multimodal Transport Law – The Law Applicable to the Multimodal Contract for the Carriage of Goods", Kluwer Law International, Great Britain, 2010, p.4; De Wit, Ralph, "Multimodal transport", Lloyd's of London Press Ltd., Cornwall, Great Britain, 1995, p.5). It has become increasingly common for goods to be transported with containers in the maritime industry and other sectors of transportation (Tomlinson, p.1, In a report published by UNCTAD, the world production volume of containers, which is the number of movements carried out in ports, rose from zero in 1965 to about 488.0 million in 2007 and 515.7 million in 2008, Sopacı Birgül: Problems with Multimodal Transport, Marmara University Social Science Institute, Unpublished Doctoral Thesis, İstanbul, 2001, p.1). Therefore, multimodal transport, in which different modes of transportation are brought together, as well as international transportation of goods via door-to-door transport, are paved the way (Kindred, M./Brooks, M. R., Multimodal Transport Rules, Holland, International Kluwer Law, 1997, p.1; Adıgüzel, B., p.2; Coşkun, Gürkan, Law to be Applied to Multimodal Contracts, Yetkin Publishing, Ankara, 2018, p.29). With the advent of container transportation, which has been increasing since the 1960s (UNCTAD, Multimodal transport; the feasibility of an international legal instrument UNCTAD/SDTE/TLB/2003/1, http://unctad.org/en/docs/sdtetlb20031_en.pdf. p.4; Değirmenci, p. 1) due to technological advances, international

trade has been primarily conducted door-to-door (Kindred, M./Brooks, M. R., p.11-26). This brings us to the concept of multimodal transport (For multimodal transport See. MT Convention Art.1 “International multimodal transport means carrying goods by at least two modes of transport. Multimodal transport contract basically refers to the contract in which goods are taken by the multimodal operator from one country to a different country designated for delivering them. 24 May 1980, The United Nations International Multimodal Transportation of Goods Contract <http://treaties.un.org/doc/Treaties/1980/05/19800524%2006-13%20PM/Ch XI E 1.pdf> (“MTC”)), which is a single contract, a single person takes responsibility for the entire transportation process, and is used most commonly in transportation today (Hoeks, s.6-7; De Wit, s.5; Spanjaart, Michiel, *Multimodal Transport Law*, Routledge, 2017, p.12-14; Gürkan, C., p.29; Adıgüzel, B., p.2). Multimodal transport has some important advantages. This technology not only saves time, but may also limit negative environmental effects and save money. We prefer multimodal transportation not only because of its practical advantages but also for other reasons. Transporting goods by multimodal means is all about getting them to their destination on time, in good condition, and at the lowest price possible. For that reason, in order to make easy the transfer of goods, a single person (multimodal transport operator) has the responsibility for all time during the whole carriage process. The advantages of multimodal transport compared to other modes of transport in this regard will be touched upon in this study.

2. THE CONCEPT OF MULTIMODAL TRANSPORT

However, multimodal transport is defined as a mode of transport that combines multiple modes of transportation for the purpose of transport, but there is still no internationally accepted multimodal system. (Even though it is a matter of argument that multimodal transport is, in essence, the international carriage of goods by more than one mode of transport in a single seamless journey where the multimodal transport operator undertakes legal and physical liability of goods, as there is no consensus on the definition of it. This, despite the definition used, depends on the viewpoint of the person who makes the definition. Different parties tend to define multimodal transport as function of the specific activity that they encounter. See. De Wit, Para, 1.3; Clarke, “Multimodal transport in the new millennium”, *1WMU Journal of Maritime Affairs*, 2002, p. 71). Therefore, multimodal transport or multimodal transport contracts do not have any single concept or definition. In addition, we encounter different perspectives against multimodal transport by persons who define it when we review the present definitions (The parties of the carriage see multimodal transport as the function of particular transaction that they are involved. In other words, parties involving in different modes of transport interprets multimodal transport from their points of view.). It is important to emphasize the fact that mode of transport is more than one when explaining how multimodal transport can be defined. It is not important that these modes of transport are known at the beginning of multimodal transport. What is important is to carry goods from one place to another using more than one mode of transport under a single person’s responsibility. However, this criterion is not enough alone. Multimodal is used to refer to modes where different industries are more important than general transportation concepts. This implies a concept of multimodal modes that is constituted from multiple modes. Today, we observe that the focus is shifting from modal transport to multimodal transport in the transport industry which includes more than one mode of transport and different liability regimes for each of mode and academia, with the advent of containerization. This trend has reflected on the transport itself. The shipping industry is no longer interested in modes of transportation, but only in the delivery of goods on time. When these modes are brought together under a contract, it should be given more importance to constituting a new contract which will not be deemed a separate contract for each different mode of transport (Malcolm, A. C., *Multimodal Transport in the New Millennium*, *Wmu Journal Of Maritime Affairs*, No.1, 2002, p.72, Clarke, *International Carriage of Goods by Road: CMR (4th ed., 2003) Para 15*; Clarke, “The line inn Law between Land and Sea” [2003] *JBL*, p. 522). Hence, the concept of multimodal transport, where goods are received and delivered to the consignee at the place of destination using at least two different modes of transport under a single person responsibility on the basis of a single carriage contract, prevails (Paschke Oetker, *Handelsgesetzbuch HGB § 407 Frachtvertrag* 6. Auflage 2019 Rn. 33, 34, *Münchener Kommentar zum BGB Vom I-VO Art. 5 Rom I-VO Beförderungsverträge*, 7. Auflage 2018, Rn. 140, Gunnar Groh Creifelds, *Rechtswörterbuch Multimodaler Verkehr (Transport)*, 24. Edition 2020).

While there is a case to be made that multimodal transportation is, at its core, the international movement of products via a number of modes of transportation in a single, seamless route, a multimodal transport operator also accepts responsibility for the commodities' physical safety. As there is no consensus on how it should be defined, the 1980 Multimodal Convention Article 1.1 contains the most accepted definitions (The International United Nations Convention on International Transport of Goods was adopted in 24 May 1980 in Geneva but did not come into force. The reasons why this Convention did not have a wide international support will be analyzed later. Değirmenci, p.71).

Multimodal transport refers to transport of goods by at least two different modes of transport based on a contract for multimodal transport. An operator (someone who takes on the duty of transportation) transports products from one location in one country to another location in another country where they are to be delivered..”(The definition of multimodal transportation is substantially formed by the MT Convention, and common multimodal concepts at present are very similar to the definition made in Article 1 of MT Convention “It is a contract whereby a multi

modal transport operator undertakes, against payment of freight, to perform or to procure the performance of international multimodal transport.”). Article 1.2 of the Multimodal Convention defines "multimodal transport operator" in conjunction with this article (Moreno, Carlos, *Legal Nature and the Functions of the Multimodal Transport Document*, Münih,2002, p.5).

3. THE ADVANTAGES OF MULTIMODAL TRANSPORT

First of all, multimodal transport takes advantage of every mode of transport, used in transport, itself and generates synergy and efficiency that cannot be achieved in other modes. The offered service is different and superior from and to a single unimodal transport. MTO who performs the carriage aims to provide a full and continuous door-to-door service. Since the MTO manages its own communication channels and coordinates transfers smoothly, there is less risk of goods being damaged or lost (Değirmenci, p.118; Colebunders Caroline: *Multimodal Cargo Carrier Liability And Insurance: In Search Of Suitable Regime*, Master in de Rechten Faculteit Rechtsgeleerdheid Universiteit Gent, 2013, p.4).

A multimodal transport system will also lessen the disadvantages associated with a long distance between the outlet and the consumer by enabling fast transfers of goods between them. Through its superior features, multimodal transport reduces the number of administrative paperwork and formalities associated with each transport leg. Carriage and insurance fees are usually decreased by these advantages (Değirmenci, p.122-123; Colebunders, p.4).

Multimodal transport has the characteristic of a single person, the MTO, dealing exclusively with issues related to the carriage of goods, including any claims for cargo damage or delays. This benefit of multimodal transportation will help to cut export costs and boost international market competitiveness.

The option of incorporating less environmentally harmful modes of transportation into the transportation chain is provided by multimodal transportation. By assuring the employment of the most energy-efficient mode of transportation at every stage, a successful multimodal transportation system lowers energy consumption and emissions (Değirmenci, p.124-125; Colebunders,p.4).

Carrying goods to long distances by a single mode of transport and delivering them at the place of destination may take rather a long time (Colebunders, p.5; For example, when the client or the owner of goods prefers carrying goods from America to Belgium, he may perform the carriage by air or sea. If he prefers by rail, carriage of goods may take longer time. If the carriage was performed by air, it might take less time. Nevertheless, it can be said that the Belgium port or airport is not the last stop. A new carriage contract may have to be concluded. For example, a contract is concluded with road carrier to deliver goods It is also a carriage leg.). To make the carriage easier, more than one means of transport should be under one contract, and the carriage should be conducted by one person. In the case of multimodal transport, MTO might combine rail, air, sea, and road shipments into a single contract for the length of time acceptable to the consignor. During the carriage, the consignor is not required to work toward signing a new contract with additional carriers. This can save the consignor time because he won't have to waste time looking for a new transport provider or negotiating contract terms at each stage of the journey. Today, time is the most import thing for all sectors including transportation.

Multimodal transport can be used to reduce carriage costs. The consignor may require different alternatives for the shipment and expect whether or not a combination of modes of transport will actually end up with a lower cost. In addition, MTO itself may conclude the job of carriage with a more reasonable price as a result of a more sophisticated service that he offers.

There are some legal advantages to executing a single contract for multimodal transportation of goods rather than separate contracts with different carriers for each stage of the journey.

First and foremost, the owner or consignor of the goods must ensure that the goods are delivered at the appropriate time and location in order for them to be passed to the next carrier since he must engage into several contracts with different carriers. If this isn't the case, temporary storage of the products will be required, which will slow down the delivery process and, more crucially, raise the cost of the delivery.

Secondly, every single carrier has his own contract and terms and use different documents.

Last but not least, each carrier's obligation is only for the actual carriage he did in the event of damage or loss. As the consignor does not travel with goods, it is usually hard to locate where the damage or loss occurs. It is not an easy task to provide the proof of the liability of any of the carriers. The owner of goods may be forced to claim the damage or loss against all carriers, which will incur additional costs. A multimodal transport contract is negotiated with a single individual to assume obligation when damage, delay, or loss happens. The owner of goods has no difficulty in locating the moment when the damage, delay or loss happens. He relies on a single contract and takes a legal action for compensation in accordance with this contract.

4. THE DISADVANTAGES OF MULTIMODAL TRANSPORT

Depending on the mode of transportation utilized when performing a conveyance, several responsibility regimes may be in effect. Crossing boundaries may alter the regulations that apply. As a consequence, parties are free to decide on a set of guidelines to govern their business dealings. Because specialized contracts tailored for certain modes of transportation typically include necessary restrictions on carrier responsibility, parties are not permitted to circumvent these laws. In reality, this violates the legal relationship and is governed by the contract between the consignor and the carrier. These required restrictions generate uncertainty for both parties, particularly when they disagree with one another. Due to the rapid growth of international trade, door-to-door transportation services have become more and more common as a method of conducting business. Multimodal transportation loses appeal when anything goes wrong though since there is no enforceable unified responsibility scheme (Hoeks, p.17.).

The network of complicated relations relating to identifying risks and duties in case of damage, loss, or delay has not been able to be streamlined and regulated by enforceable international and national legislation for unimodal transport regimes. Each regime controls a certain aspect of multimodal functioning. None of them are in charge of everything. It is not always possible for the owner of the goods or the multimodal transport operator to include a provision attached to the contract to apply a specific responsibility regime due to the required nature of most liability regimes. The application of multiple concepts intended to establish the relevant liability regime and restrictions for carriers in each method of transportation is therefore made commercially and legally ambiguous. In addition, prescribing a solution to start particular transactions may differ from one regime to another and, in case of conflict between mandatory rules; there is not a general rule on what to do.

Untraceable loss is a common issue in the multimodal delivery of goods (Damar, Duygu: Exceeding Liability Limits of Multimodal Transportation ", Tul. Mar. L. J. 2011-2012, Volume: 36, p.679-681). When the stage of conveyance that produces the loss cannot be identified, a loss that is not localized occurs, making it challenging to define the appropriate legal framework.. Any of the uniform carriage contracts cannot be applied in terms of the liability regime unless loss can be ascribed to any step of the carriage and only if the legal contract does not state otherwise.

It should be established which national law should be used when any international treaty is not applicable. Typically, this is the legislation that governs the carriage contract. However, not all national legal frameworks establish guidelines for the multimodal transportation of products, which leaves MTO in a highly uncertain and confusing scenario (Hoeks, M., Multimodal Transport Law. Applicable Law for Multimodal Contract for Goods Transportation, Holland, International Law, 2009, p. 17).

Additionally, claims typically expire after a comparatively shorter period of time. Depending on the prevailing uniform transit regime, the time limit may fluctuate. It is crucial to know how long the time limit is and when it will start. When used different modes of transport, it is not always easy to determine the time bar. All these lead to formation of a set of uniform principles which allocate responsibilities of multimodal transport operator under multimodal transport contract ((Kindred, M./Brooks, M. R., p.1-2). The resulting set of regulations streamlines the intricate network based on rules and encourages export and global trade. What legal system is the best suitable, though, remains unclear.

5. CONCLUSION

Firstly, we seek to reveal the difference of multimodal transport from other modes of transport and eliminate the uncertainty on this matter. While doing this, we discuss the elements that constitute multimodal transport one by one. In light of these discussions, we make the definition of multimodal transport, considering national and international regulations and draft works which regulate multimodal transport. Then, we evaluate the concept of multimodal transport operator who assumes the liability of carrying goods in multimodal transport. After explaining this concept, we focus on advantages of multimodal transport which distinguish it from other modes of transport. It is no doubt that multimodal transport brings a lot of disadvantages together with it along with the advantages that it offers. It is obvious that there is a need for internationally accepted uniform regulations which regulate multimodal transport specifically so that this mode of transport, which is mostly used today, can be more effective; comparing its advantages with its disadvantages. If such a regulation is introduced, advantages of multimodal transport will outweigh, and this mode of transport will become more popular.

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