

INTERNATIONAL REGIMES AND TRANSPORTATIONS; TIR REGIME AND ITS MAIN TRAITS

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Abstract: *The paper aims to indicate that the processes of regionalization and globalization were in a great manner determined and influenced by collaboration and coordination among states. But collaboration and cooperation couldn't have been promoted in a sustainable manner in the absence of international regimes; their creation is indispensable and it is responsible for the world we know it. Collaboration in order to attain common interests has been facilitated by international regimes' creation and international organization, as framework for multilateral negotiations. Transport area is an area where states' interests related to security and welfare overlap; collaboration for infrastructure construction has a very technical character, but it is covered by a legal structure which provide common principles, norms, rules, and procedures applicable in a specific transport area. This is in fact exactly the international regime, which facilitates common interests' promotion through a steady horizontal, vertical and oblique negotiation process. It brings together international regimes, international organizations, and multilateral negotiations. One of the most successful multilateral negotiations is related to road transport: it is TIR Regime and Convention, which have promoted public and private interests with a great success. Since its creation in 1959, its principles and norms were expanded geographically and technically, including today the container transport which has global coverage. The paper carries reader through what international regime is, how it works through multilateral negotiations carried under the aegis of permanent international institutions, the main traits of regimes in transportation, following with a more detailed presentation of principles and norms specific to TIR regime.*

Keywords: *collaboration; international institutions; international regime; TIR Convention; transportations*

JEL Classification: N40; 70; O43; R40

1. Background

First, what an international regime is? At first sight "international regimes are principles, norms, rules, and procedures" related to decision-making process, around which actors' behaviour converges in a specific area of international relations (Krasner, 1981: p. 1). But a better definition would be that focused upon the base which supports the regime in operation and the process which sustains it.

In this regard Zartman looks in a more comprehensive way at international regimes, his definition being more accurate and actual; he affirms that international regimes are “continuous bi-dimensional negotiations carried on among sovereign states”, aiming at solving coordination problem, in condition of incertitude (Zartman, 2003: p.14).

As a result, international regimes represent much more than an international convention; if this could be looked at as being a static framework related to a specific area of activities in international relations, a regime is a *living* international institution in evolution. This evolution is influenced by multiple factors such as international political context and its changing character, technical-scientific evolution and inventions which are applied in activities related to a specific regime, or learning process related to specific actions and activities which have connection with this international regime.

International regimes can cover a larger area, from geographical point of view, or from the point of view of actions and activities it helps to coordinate; but being a living thing, in evolution, their effects can evolve from a smaller geographical area to a larger one, and from a narrow and specific activity towards a larger one.

As a consequence, regimes become instruments for international cooperation or instruments for coordination and collective management of interdependencies (Zartman, 2003: p. 19). Coordination and management are necessary in order to facilitate the flux of information, the fulfilling of specific functions, conflict reduction and solutions to different divergences (Eden and Hampson, 1990: p. 6).

As we noted above, *principles* represent beliefs related to facts, rectitude and causality, *norms* are behaviour standards framed in terms of rights and obligations; they help guiding regimes members' behaviour providing collective results in harmony with shared aims and convictions, in accordance with regime's principles (Hasenclever, Mayer and Rittberger, 2001: p. 9); *rules* are prescriptions and proscriptions regarding actions which will be undertaken, and *procedures* regard prevalent practices when decisions are taken and implemented (Krasner, 1983: p. 2); but a regime is much more than these principles, norms, regulations and types of behaviour: it is an institutionalized effort which shapes these elements, monitors them and ensures their support, specifying that this institutionalization stays *international*, and not *supranational* (Zartman, 2003: p. 19).

Anyway, international regimes in international transports area have more common elements; their principles and norms are quite alike, the elements of differentiation being in the sphere of rules and procedures; but the most stable elements of an international regime are related to principles and norms, which emanate from a peculiar international political context where important players in international system have agreed upon areas where their *common interests overlap*, regardless inevitable disputes specific to some geographical areas and/or issues. Financial and economic interests determine these important players to open themselves to international trade and exchanges, with transports' development and facilitation being an indispensable factor in achieving this larger goal; it can be said that regimes' purposes are to *facilitate* the negotiations and conclusion of agreements, going beyond some unilateral short-term interests.

2. International Regimes and International Organizations

We can go further and say that international regimes are very well connected to permanent international institutions/organizations; this permanent framework provide institutional and legal arena that facilitate permanent contact among states and private interests and the progress of multilateral negotiations. The continuous bi-dimensional negotiations carried among states can be looked at in the following way: there is a process multilateral negotiation under the aegis of international organizations which is carried among states (through their representatives); this is a *horizontal* negotiations process. Of course, there can be a parallel negotiation process aiming at harmonizing private interests from different states, which is in the same time a horizontal process; it can involve those private interests through non-governmental organizations which gather similar private interests, in order to crystallize them and promote them further at international level.

There is another process of negotiations between private interests and interests represented by society and state's executive and legislative; this is a *vertical* process of negotiation, which takes place simultaneously in states with interests in the subject.

And there is another process of negotiation, an *oblique* process; namely between private interests manifesting in one or more states and public interests from another state/states.

In this way the international context which facilitated international organizations' creation has provided key-stones for future multilateral negotiations which would give birth to international regimes, which are comprehensive frameworks facilitating the conclusion of specific agreements and conventions in specific areas of international relations.

There are some areas where states avoid being constrained or limited in their action (especially areas of national security), while in other areas specific to economic field, there are strong stimulus to avoid unilateral and independent actions (Axerlod and Keohane, 1993: p. 86). These are situations where individualistic calculus related to individual interests push international actors to opt for common decision making, independent egoist behavior bringing undesirable effects. These situations are specific to common interest's dilemma and common fears dilemma (Stein, 1993: p. 35).

Regimes which are related to common interests need collaboration, while those related tom common fears need coordination (Stein, 1983: p. 128).

Anyway, the main point is that international regimes aim to harmonize public and private interests through facilitating international multilateral negotiations and conclusion of conventions and agreements in specific areas of international relations. Sovereignty and security stays face-to-face with economic interests; as a consequence, international regimes promote harmonization of interests between state and market, between public sphere and private activity.

3. International Regimes and Transportation

State development and security cannot be attained in the absence of transport infrastructure and efficient logistic chains. Transports reunite state and market around them. Public interests are guarded with jealousy by state, while market press for a more free and flexible capacity to move goods.

When a state decide to build new infrastructure projects, or to modernize old ones, this decision is of outmost importance from the security point of view, but it is of great economic impact, too; that for, there are carried on negotiations in a multilateral framework to identify common border crossing points to meet infrastructure in neighboring countries, while *technical standards* are harmonized, in order to provide similar actions and procedures, especially in border crossing points.

Air and maritime modes of transport are with global coverage. Rail and road are regional; anyway, if something is discovered in one region in these two areas of transport, it could be used in other regions in the world. Furthermore, if the creation/modernization of projects determines multilateral negotiations related to technical harmonization for these infrastructure projects and for the means of transport, the regime (and conventions) which regards the way transport activities are carried on, determines harmonization in administrative field, especially in border crossing points or in places where custom activities are realized.

The main principles of regimes specific to international transport sphere are (Zacher and Sutton, 1996):

- Free movement of trade (states aim to reduce the obstacles for moving goods);
- Free movement for information (states aim to allow information flow among people from different states);
- Efficiency (states want to provide their citizens goods and services at lowest possible costs);
- Transnational control of damages (states work to avoid that their nationals generate damages to foreign nationals or their properties, and to cover those damages through compensations, in case misdeeds happen);
- Domestic political control (states maintain the capacity to exercise jurisdiction and control on their territory in relation with foreign companies);
- Equity (states provide to other states a reasonable quota of resources and incomes resulting from foreign trade operations).

As noted above, the other element of an international regime which gives him strength is related to *norms*.

Now we can go further and can connect these principles specific to international transport area to norms. They can be presented in a synthetic manner as follows:

Principles	General corresponding norms
Domestic political control	State's control over its territory related to types of means of transport and the way transport activity is undertaken
Free movement of trade	Free access for foreign transport companies to undertake transport activities on and over another state's territory
Domestic political control; free movement of trade	Free innocent passage for foreign companies when they cross over other state territory, in order to connect producer with consumer, as long as there is no infringement on domestic laws and this activity does not affect security of this state
Transnational damages control; free movement; efficiency	The obligation to prevent accidents which could harm private or public interests in crossed-over states
Free movement; efficiency	Control over illegal activities in economic area connected to state's obligation to prevent fraudulent actions against means of transport or goods transported using these means of transport Technical interconnectedness and the promotion of standardization of equipment and practices, doubled by state's action related to reduction of barriers for free movement of goods and people Competition: states aim at promoting competition among transport companies
Transnational damage control	Gaseous and noise pollution's prevention and reduction

Table 1

Source: Author

4. International Institutions Related to TIR Regime

TIR regime appearance was facilitated by multilateral negotiations carried on by numerous experts under the aegis of a permanent international institution belonging to United Nations system. After the 2-nd World War, as road transport and commercial exchanges have been developing, there appeared the necessity to create an international institution related to road transport, in order interests of this type of transport be promoted and protected. There was already in place an international institution which promoted international cooperation in economic and social fields – ECOSOC which has facilitated the activity of five UN regional commissions. These organizations have promoted states' interests, and not private economic interests.

Taking account of road transport role in economic development, it was very important to create an institution directly related to road transport, to protect and promote this industry's interests, and of interests connected to international trade using road infrastructure. This necessity brought into being, in March 1948, an international institution – International Road Transport Union, IRU – reuniting, in the beginning, 8 national associations in road transport area (Alexa, 1995: pp. 30-31); in 1949 IRU gained from ECOSOC/UN consultative status along this UN body which provided it with great capacity and role during negotiations in road transport area under the aegis of ECOSOC/UNECE-Geneva, helping in development of technical-economic instruments which have promoted international road transport activities and have provided protection to those involved in this area of activity.

IRU's active role on international arena has risen during the period which *preceded* the negotiations related to TIR regime's establishment, during these *negotiations*, and *after* they were concluded; furthermore, after TIR Convention was concluded, IRU became the warrant-institution related to application of and compliance with the specific elements of TIR regime.

It important to be noted that, after 1945 states in Europe have become concerned with organization of collaboration among them. But international institutions which were created for this purpose had a closed or sub-regional character (Malita, 1975: p 177), with one important exception: UNECE-Geneva. Other institution such as Marshall Plan, Economic Community for Coal and Steel, European Economic Community, EURATOM in the West and COMECON in the East had a closed character, reflecting global political context characterized by tensions between East-West. UNECE in Geneva was the *unique* institutional framework which facilitated a permanent dialogue between Eastern and Western Europe, favoring and stimulating economic relations among countries with different economic and social systems (U Thant, 1975).

TIR Convention conclusion in 1959 and TIR regime's evolution are good proofs that IRU and UNECE are institutions which can sustain continuous contact and negotiations among multiple actors, facilitating international cooperation among actors (countries) belonging to different economic and social type of organization, springing from opposing ideologies. Of course, International Standardization Organization played an important role related to technical standards of road means of transport, especially when it comes to facilitate multimodal modes of transport.

5. TIR Regime and its Main Traits

As all states aim to provide economic welfare for their citizens keeping in the meantime their political autonomy – these being the main interests of all states – the establishment of some conditions as to promote coordination of interaction at international level through intergovernmental regulations could promote both these interests; classical economists affirm that main aim of economic activities is to satisfy individual desires and rise the welfare level for the society, at large (Gilpin, 2001: p. 41). In order to achieve these objectives, there is needed perfect mobility of production factors, which along with perfect information, low transaction costs, atomistic market, and actors' rationality, provide the base for the efficient resource's

allocation; when market alone cannot provide conditions for this, state's intervention is called upon. That for, when at international level there are elements which impede smooth flow of goods which could be due to transport activities, there we face losses of resources and economic activity does not work with maximum efficiency.

That for, the appearance of international regimes and regulations aiming at removing/reducing barriers related to resources movement becomes inevitable. In the mean time, states guard with jealousy their political autonomy; as the most diffuse principle in international relations is that of sovereignty, it is the base of present international system. The conception of exclusive control upon a specific geographical area and the unhindered right to act at international level have encompassed present international system (Bull, 1977: p. 8-9).

In this context we must understand the importance of identification of a formula characterized by common perceptions related to the establishment of terms of exchanges, and to identify an applicable justice criterion (Zartman and Berman, 1982: p. 95).

International regimes in transport provide both the states' interests related to improving welfare and sovereignty preservation.

The main traits of TIR regime are in the area of principles:

- Free international trade
- Free flow in information;
- Transnational damage control;
- Domestic political control;
- Equity.

No one of these principles is mentioned in TIR Convention, but reading this convention provides proofs that these principles are active and influence states and transport companies' behaviour. These principles of TIR regime are determined and related to those specific to GATT/WTO activities, this being a modern commercial regime (Lipson, 1983: p.241,) facilitating international trade.

Specific *norms* of TIR regime are:

Related to jurisdiction area:

- a TIR convention member state has the right to exert control over transit activity over its territory and to survey this activity (it is related to domestic political control principle);
- transport company from another member state of TIR regime is authorized (through that state's custom authorities) to undertake international transport/transit activities using TIR Carnet over other states' territory (it is related to free flow of commerce);
- the transport company has the right to transit other state's territory and realize commercial activities there, as fuel supply and service, but only with full compliance with TIR regime rules, domestic legal specification in that state, and environmental and security requirements (it is related to free flow of commerce).

Related to avoidance of damage causing circumstances:

- there must be met conditions related to protection of transported goods (it is related to transnational damage control, free flow of goods and information);
- transport company should obey custom legal framework in transit countries and avoid illegal activities which could harm customs/fiscal interests of transited state (it is related to transnational damage control, free flow of goods and information);

- there must be a reasonable compensation for damages generated in another state through breaching customs laws in that state (it is related to transnational damage control, free flow of goods and information);
- there must be taken into account the prevention of damages' reduction of other states' environment (it is related to transnational damage control, free flow of goods and information).

Related to technical and procedural barriers TIR regime's norms aims to:

- provide technical interconnectivity, TIR regime member states looking for equipment and practices standardization, in order to quick fulfillment of customs formalities during transit activity (it is related to free flow of goods and information);
- facilitate international transit and trade (it is related to free flow of goods and efficiency).

6. Conclusions

The success of TIR Convention – which can be seen in the large number of trucks in border crossing points in the world – is a proof that international institutions and international regimes are frameworks which facilitate and promote the conclusion of international agreements which bring important benefits for each state which is part to such an agreement, and for their citizens, and that permanent international institutions are the best way to provide international regimes construction and to sustain their evolution through permanent negotiations; in this way international institutions become foreign policy tools for states with otherwise lower capacity of influence on international arena, and sustain and defend their specific interests.

Furthermore, TIR regime (and convention) brought to life favorable conditions for international road transport and commerce among TIR Convention member states facilitating closeness and integration among them, even if from ideological point of view these countries were opposed; it is the best proof that transport and infrastructure are indispensable base for a world connected around peaceful relations. Interdependence brought by transport infrastructure's interconnectedness and activity facilitate international cooperation, helping in reduction of tensions among those involved in it.

As we look to TIR regime, we can note the great importance of post-agreement negotiations; after TIR Convention was concluded in 1959, because of technical and scientific evolution producing effects in road transport area, the necessity of actualization negotiations is strongly connected to regime's evolution. Continuous negotiations under the framework of permanent international organizations (especially IRU and UNECE) morph into extension negotiations which have a crucial role in keeping together state and market interests even if international context is changing.

Furthermore, as technical evolution brought by containerization was promoted from administrative and legal point of views through TIR regime's adaptation to these new requirements, involving sea and/or rail transport with the specific condition that at least one part on logistical chain be on *road*, TIR Convention was re-actualized (in 1972) extending its principles and norms from European continent

to the whole world; and because of this evolution, this convention could be regarded as one of the most successful international conventions in history. It results from geographical coverage: now the whole world is connected by sealed containers.

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