

Transportation



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TRANSPORTATION SECTOR - THE ANNOUNCED CRISIS

It is undoubtedly true that the transportation sector plays a crucial role in the world economy, being absolutely unthinkable to live in a world where circulation of people and goods is not done in a rapid and effective way.

Globalization has made it perfectly normal for a Portuguese citizen to study and/or work in another country, no matter how distant. Furthermore, goods that were once proudly referred to as being a product manufactured in country X or Y, today are no more than goods produced by a company whose headquarters are located in a certain country and assembled in a factory owned by that company in a third and different country. In addition, parts and components assembled in that factory are, in fact, produced in several other countries. In the end, those goods are in reality the compilation of a number of different pieces already produced in other locations, as a result of a joint effort of citizens of different States.

It is clear that these final goods still have to be taken to distribution points, for sale and resale, and only then to the final consumer. The latter, thanks to the internet and other means of distance communication, can also buy products that are unavailable in his country, without leaving the comfort of home, only having to wait for them to be literally delivered at his door.

Even after that moment the transportation sector is still needed. In fact, not only may those goods be sold as used parts, but also the residues (waste) resulting from the end of the products' useful life period need to be sent to an appropriate facility/location. Waste that, if recycled, shall continue to circulate throughout the world trade in different forms, but

always thanks to the transportation sector.

In addition to these elements, recreational and business trips are becoming increasingly more comfortable and fast, and, at the same time, less expensive, so it is easy to acknowledge that transports are a vital component of any economy.

Despite being indispensable to market economies, the transportation sector does not escape nor is immune to the enormous changes and problems recently caused by globalisation (e.g. the "domino effect" in the rupture of global economies) and international terrorism which, increasing the operations complexity and costs, have brought additional difficulties.

September 11th caused the need to take new precautions and security measures, increasing costs and decreasing operation capacity. Attacks perpetrated by Somali pirates to oil vessels have also caused the loss of millions of Euros, whether in direct damages or insurance premiums, and other necessary costs for future operations. Moreover, the fuel price has exponentially increased and experienced a subsequent brutal correction, thus making it impossible to accurately predict this essential production cost.

It may come as a surprise that this extremely speedy and low cost form of dispute resolution has such a high success rate. Indeed, in Anglo-Saxon countries, 70% of disputes are resolved by way of settlement.

On the other hand, the environmental issues that are reasonably becoming more relevant led some Governments to apply the so-called "green taxes", even in some situations that

violate international agreements, in particular Article 15 of the Chicago Convention on Civil Aviation. With this assertion we do not intend to imply that the environment is not an absolutely invaluable resource that we all must preserve.

Nonetheless, caution must be taken when it comes to create burdens on a sector as vital and essential in a market economy, which started to suffer the effects of the financial crisis seven years before the current subprime crisis effects were felt. Consideration should be given on stimulating the sector through tax benefits or other incentives rather than penalizing it. What Governments probably saw was an opportunity to collect immediate funds, despite losing with this measure in the long term, as the indirect taxes that are generated by the transportation sector will necessarily decrease.

If, over these negative issues, we also have in consideration that the passengers'/consumers' purchasing capacity will considerably diminish due to the present crisis whose effects we are all currently suffering, it is undoubtedly true that the transportation sector is particularly exposed to the economic risks affecting global economy.

It is not our intention with this article to be overly pessimistic. Times of crisis tend to promote innovative solutions that allow us to "leap forward". We will certainly end our oil dependency by developing alternative energy sources, in a near future. By

doing so, pollution will also decrease, as the development of any non-ecological alternative to oil does not seem viable.

Safety has been improving even more. Speed and load capacity have been constantly increasing. Thus, consumers will eventually take advantage of solutions found for the crisis (just think of creative ideas that are already available for consumers such as low cost transports and the operation of business jets based on the fractional ownership of the aircrafts).

New challenges must be jointly solved by Governments and market operators, always ensuring transportation safety. Some Governments are already taking action by privatising airline companies (until now regarded as a sovereignty symbol) and adopting schemes of private management for airports - as will happen in Portugal.

In conclusion, the crisis cannot be ignored and must be examined with due respect and responsibility. However, we are sure that "the longest day must have an end" and that a major breakthrough in the transportation sector and consequently in world economy will result from this crisis. Lawyers must therefore be aware of these new challenges providing solutions to their clients of the transportation sector that, within the law, allow them to take the necessary "step forward".

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