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LAW

THE IMPACT OF CRYPTOCURRENCY ON INTERNATIONAL TRADE: LEGAL ISSUES

Kristina Tokareva
student,
Saint Petersburg State University,
Russia, Saint Petersburg

ABSTRACT

Cryptocurrency has a solid potential for positive economic changes, however, its current impact on international trade has negative sides too. I will try to offer a possible legal solution to this problem.

Keywords: cryptocurrency, blockchain technology, international trade.

Despite the active pace of social progress and globalization, modern international trade is still experiencing some difficulties in its development: high banking fees and currency conversion rates, improper document storage and errors in documentation, late payments and document transfers - all these supply chain barriers come at high added costs. Fortunately, digitalization has brought lots of intangible assets that are capable to improve global trade cooperation and productivity – for example, cryptocurrency.

It worth noting that the underlying technology of most cryptocurrencies is «the blockchain» – a distributed ledger technology that does not imply support by the law. One of its prime goals is to dispense with intermediaries and overcome problems that result from the division of the world into different legal systems. The underlying blockchain technology uses consensus mechanisms, hash functions and public and private key encryption to control transactions, which leads to the fact that the user does not have to check the counterparty as it provides transparency of all transactions. The nature of the blockchain determines the impact that cryptocurrency has on international trade.

Firstly, using cryptocurrencies provides an increasing speed of money transfer and lower transaction costs as it allows making cross-border payments without an intermediary institution's participation. Secondly, it gives a fast and secure access to end-to-end supply chain information, so it is possible to monitor the trading process through a number of channels. This in turn enables a new layer of transparency and accountability that allows trust free interaction between counterparties. Thirdly, cryptocurrencies are not restricted to a specific geographic area and can be traded around the world due to their decentralization. Moreover, cryptocurrency provides a "global market saturation": it ensures business expansion by unlocking the potential for consumers, small and medium enterprises to trade in markets that previously were inaccessible and allowing to participate in international trade without having a merchant account that traditional e-commerce systems often require. So, cryptocurrency supports financial inclusion as its using does not imply any high technological standards besides having access to the internet and a digital device to engage in transactions. All in all, cryptocurrency is capable of removing the challenges that international trade faces and allows to optimize the global value chains that the digital revolution has made possible.

However, cryptocurrency can be used as a medium of exchange with some limitations compared to most traditional fiat currencies **(Figure 1).** Moreover, it also can have negative impacts on international trade that also need to be considered. So, cryptocurrency presents particularly difficult law enforcement challenges because of its unique jurisdictional issues, ability to transcend state borders in seconds and anonymity due to encryption. Thus, it has been linked to numerous types of crimes, including facilitating marketplaces for attacks on businesses and providing illegal transactions in international trade. Additionally, the decentralization and the lack of collateral causes the high level of cryptocurrency price volatility that depreciates its functions as a store of value and the unit of account, and consequently - complicates making contracts in cryptocurrencies. Thus, consumer protection agencies around the world have recorded a spike in the number of cryptocurrency-related complaints after the volatile price of Bitcoin between end of December, 2016 and mid of 2018, with 60% decrease in price.

As a result, the mixed effects that cryptocurrency has on economy cause ambiguous state's attitude to it. National approaches differ from a forbidding (such as in China, South Korea and Indonesia) to a facilitating ones (such as in Australia and Switzerland). In general, cryptocurrency is still not recognized as a legal tender in most countries for many reasons. However, the situation when one country prohibits cryptocurrencies completely, whereas another country legalizes and facilitates it, impedes economic interaction as it may increase transaction costs, produce thorny conflict-of-laws problems and thereby impede the development of international trade relations. Thus, in the absence of uniform rules, markets risk being fragmented into national segments, with an inevitable diminution of their depth and liquidity.

In my view, it becomes critical to develop unified and well-balanced (strict, but not enough to reduce all the benefits cryptocurrencies have) regulatory framework for cryptocurrency at the global level. This in turn requires political support and massive adoption of this financial tool. Perhaps, this would result in a centralized system with governmental control due to intention of states to maintain their monetary sovereignty. Obviously, it would diminish many advantages of cryptocurrencies but still provide a reduction of their risks and optimize transnational economic processes **(Figure 2).**

Undoubtedly, there is great potential to further strengthen the development of international trade with the help of cryptocurrency. This instrument allows to build an open, reliable and predictable trading system that is consistent with sustainable development goals. However, capturing all the opportunities of cryptocurrency requires its mass adoption and supportive international legal framework for all parties involved in its establishment, issuing, storing or trading. Until that has been accomplished, cryptocurrency affects international trade on both positive and negative ways.

Comparison of different types of money

Traits of money	Gold	Fiat money (Euro)	Cryptocurrency (Bitcoin)
Way of exchange	Physical	Physical and digital	Digital
Controlled	Market	European Central Bank	Algorithm
Highly divisible	○	+	+
Globally transferable	+	+	+
Durable	+	+	+
Acceptable	+	+	○
Centralization	○	+	–
Secure (counterfeiting)	+	○	+
Stability (Volatility)	○	○	–
Predictable supply	+	○	+
Collateral	+	○	–

+ High ○ Medium – Low

Figure 1. Comparison of different types of money

Requirements and possibilities of crypto currencies

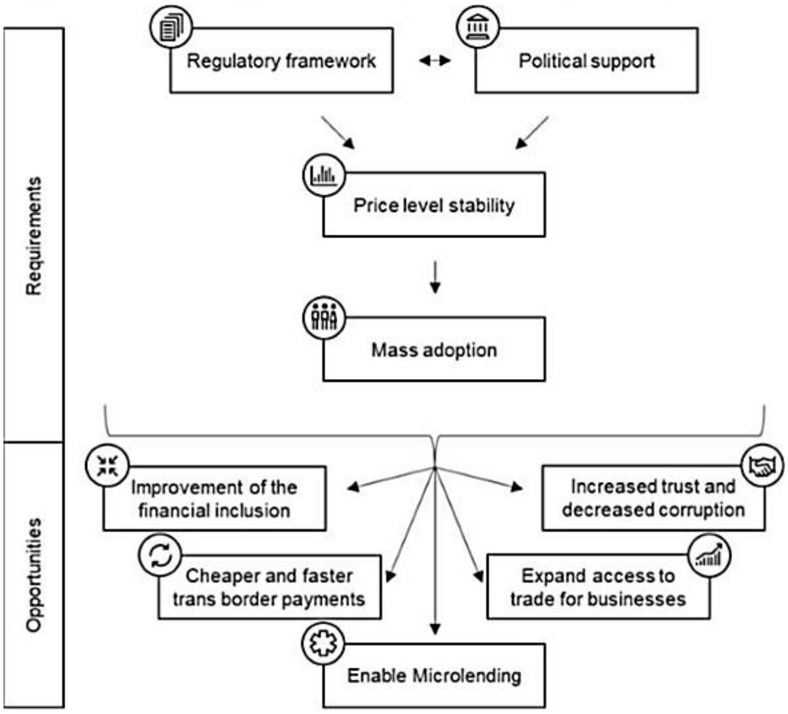

Figure 2. Requirements and possibilities of crypto currencies

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