

TRANSACTIONAL ACTIVITIES OF CONTEMPORARY ORGANIZATION

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Summary. The essence of the transactional activities of an organization is considered. Author analyses the role of implicit and explicit contracts, complete and incomplete agreements. The efficiency of transactional activities of the organization strongly depends on the situation with contract enforcement.

Key words: transaction, agreement, contract enforcement, complete contract, incomplete contract, implicit agreement.

INTRODUCTION

A transaction can be defined as a contract. Accordingly, the transactional activity of the organization includes the preparation, conclusion, monitoring of various contracts. Broadly speaking, transactional activities of the organization includes not only the conclusion, monitoring of contracts with partners across, but also tracking the various commitments to state.

Law as a discipline pays great attention to legal aspects of transactions and transactional activities. Economists, starting with the famous work of Ronald Coase [Coase 1960] focused on the study of transaction costs [Battigalli, Maggi, 2002];, transactional sector of the economy [Chasanov, 2009]. However, it makes sense to pay attention on the problem of transactional activity of a single organization. This activity predetermines in many ways successes and failures of the organization.

Transactional activities of the organization is carried out in relation to agreements with employees; clients; suppliers of material resources etc. These activities can take place in the domestic markets of the country-based organization, or in the foreign markets.

Transactional activities of the organization are as important as its transformational activities, i.e activities connected with transformation of inputs into finished product. Quality of the transformational activities of a company depends on the quality of contracts which she concludes on the markets of finished goods and production factors.

RESEARCH OBJECT

All the units of the organization are involved in transactional activity one way or another. Personnel division recruits staff, signs agreements with the recruited personnel. The Marketing service studies changes in demand for the company's products and prepares information on agreements with existing and potential customers. Finance and Accounting services are engaged in the calculations of various indicators of the company, which characterize implementation of the agreements. Legal department prepares and concludes contracts.

Most of the staff of any organization is involved in transactional activity. First of all, this applies to senior management, functional and line managers who constantly monitor and evaluate the performance of their subordinates of their job duties, quality of products and purchased inputs.

There are organizations for which the transactional activity is the main or even sole area of work, they do this work for others. Those are various intermediaries. For other organizations transactional activity is also important, but it accompanies a major, transformational activity. Some organizations serve their transaction operations themselves. Others apply to third party for doing these operations.

The scale of transactional activities of the organization depends on: the number of markets on which it operates; complexity of contracts (volume of the responsibilities which the organization exchanges in the course of each transaction); the number of areas of responsibility that must be monitored.

Transactional nature of the organization is due to: a focus on those or other markets; focus on particular areas of responsibility of the parties, the nature of interactions with customers, suppliers and government agencies. Each organization should prioritize its transactional activities. In one case this could be an analysis of wages and benefits in certain segment of the labor market. In another case - monitoring the quality of a particular product of a supplier.

No less important is the identification of key institutions and the factors influencing the transactional activities of the organization. Among them: changes in the standards of the factors of production, finished goods; the organization of markets, changes in the level of market competition; macroeconomic ups and downs; activities of chamber of commerce, advertising agencies, intermediary organizations; natural disasters.

RESEARCH RESULTS

Implicit and explicit agreements in the activity of organization. One aspect of transactional activities of the modern organization is the definition of the relation between explicit and implicit parts in the contracts it concludes. As is known, an explicit agreement usually recorded on paper. Implicit contract may take the form of an oral agreement. Implicit agreement can be considered as an adherence to some kind of unwritten rules, norms [Baker, Gibbons, Murphy, 2002].

In what cases implicit contracts are suitable for the organization? It makes sense to resort to the implicit agreements, where there are difficulties in concluding explicit

agreements; or preparation, conclusion and monitoring of the latter are costly. In addition, by the implicit agreement businesses fill legal voids that are formed in the current legislation.

Implicit agreements are more flexible and less inertial than explicit agreements, because they are concluded, in particular, in cases where it is necessary to quickly and flexibly respond to changing market conditions.

Implicit agreements are usually practiced when it is not required to make significant investments in specific assets from the organization and its contractor, i.e. investments in assets that can not be in case of failure of the transaction be refocused on other tasks. It happens that the agreement provides for investment in specific assets from one side only. In this case, mixed implicit-explicit version of the agreement of the parties is possible. The party in whose favour the investment is implemented, can take on liabilities denominated explicitly. A party who carries out such an investment - the implicit obligations.

In most contracts exists an explicit part as well as an implicit part. Certain provisions of the agreement can make explicit part, and others - an implicit part.

Share of an implicit component can vary depending on: a) the intentions of contracting parties, the actual situation; b) the legislative framework in the field, c) the operating environment of the parties. In an unstable environment an organization may choose to increase the explicit part of their relationship and to reduce the implicit part.

One of the factors influencing the relationship between implicit and explicit agreements can be an external shock. In a crisis situation in Ukraine barter transactions (especially in engineering) became widespread many of which are wholly or partly implicit.

In practice, transitions from contracts with a significant implicit component to contracts with small implicit component and vice versa are possible. In other words, in the course of their business relationship the parties may regulate the level of the implicit part. For example, the strengthening of trust between them will be accompanied by an increase in this part. A complication of the contractual relationship - can be accompanied by an increase in explicit part. Initially, the lease of equipment owned by the organization may stipulate in writing only the size of the monthly payment. But the tenant is very carelessly handled the equipment and at the conclusion of an agreement for a new term explicit part of the agreement is supplemented by new items, governing the use of equipment.

The entry into an implicit agreement involves risk. It makes sense to resort to implicit agreement in cases where confidence in the pursuit by the opposite party to the agreement exists. For example, when it is unlikely that a customer refuses to buy the product if the organization has already invested in the creation of capacities for its production.

If the managers of organization are not inclined to take risks, then they will enter into implicit agreement only in a situation of complete transparency and confidence in counterparty. If managers are neutral or even risk-averse, they will be more likely to practice implicit agreement.

Implicit agreement prevail in cases of long-term relationships with contractors which organization knows well. In contrast, explicit agreement practiced in case of short-term contacts with the organizations which reputation is in doubt.

The next situation is possible. Initially, the agreement is implicit, based on good knowledge of the organization of the counterparty. But then, the organization finds opportunistic behaviour of the counterparty, and an implicit agreement change on an explicit one. However, an implicit agreement may be beneficial to our organization, because it allows to: a) to hide her opportunistic behaviour, and b) to close eyes to non implementation or incomplete implementation of its obligations by the opposite side.

In general, other things being equal the conclusion of the implicit agreement puts the organization at greater risk than the conclusion of the explicit one. And the higher the proportion of implicit part in the rights and obligations of the organization, the higher the risk it is subjected. In some cases, the high proportion of implicit component in agreement is objective, and can not be avoided. In other cases, the organization unreasonably comes to risk and uncertainty by entering into an implicit agreement where it could easily be replaced by explicit one.

Widespread are implicit agreements in the modern marketing: a) between wholesalers and retailers, retailers and customers, in the process of the organization of trade networks, and b) on the market of the government agencies, c) in advertising, and d) in the network marketing and in the organization of "sales pyramids". The objects of such agreements may include: quality, durability of goods, delivery dates, quantities and quality of after sales service, number of attracted clients.

Client is "taught" to use certain products of the company. An implicit agreement is concluded between the respective company and its customers. Customer: "I buy your products because I know your company and that she cares about a fair price and quality." Company: "I hope for your loyalty to our products, so I will not fail you with its quality and price." It should be noted that this kind of implicit agreement is concluded largely with the help of explicit tools: a written assurances, the assurances in advertising displays; free samples of products.

Virtually all transactions have implicit component when: a) the good is paid first, and only then is consumed; b) uniquely determine the quality of consumption good is not possible, then there exists information asymmetry between buyer and seller.

Modern organization: complete and incomplete agreements. As we know, one of the characteristics of the agreement is the degree of completeness. According to the common opinion incomplete contract is a contract with a minimum specification of the rights, responsibilities of the parties. Incomplete contract differs from the complete contract by the level of specifications in such aspects:

- the level of investment by each of the parties;
- the conditions of termination;
- conduct of the parties (industrial, labour etc.);
- payment arrangements;
- the rights of the parties;
- duties, responsibilities of the parties;
- description of changes in the environment (laws, rules, behaviour of competitors, NGOs), which can lead to change of contractor's positions.

It should be highlighted a few main reasons for concluding incomplete contracts. Some aspects of the behaviour of environment, the behaviour of the contractants themselves may be unforeseen, that is, these aspects can not be specified in the agreement in advance. In the case where the means of labour, more or less unchanged,

the worker performs the day-to-day standard functions, there are conditions for the conclusion, renewal of a complete labour agreement. If the means of production and labour results vary due to various unanticipated events occurring in the environment of operation of the business, the more appropriate is incomplete contract.

Detailed specification of the agreement may be objectively impossible. Excessively high transaction costs of drawing up and implementing the full agreement may become the reason explaining the incompleteness of the contract.

The agreement may not be enough specified by mistake and deliberately. "Gaps" in such an agreement make possible to interpret its provisions to a certain degree of freedom and derive by organization benefit from this.

It is, above all, of the benefits due to lack of awareness of the counterparty of the seller. The latter may deliberately withhold some information about the defects, the possibility of failure in the operation of equipment sold. Informed party - the vendor may not want to formulate in the contract that event B can occur in case of an event A due to a reluctance to draw the attention of the buyer to this possibility.

Incomplete contract can also be used for future blackmail one party by another. Implicit and explicit contracts may be incomplete. Specification of rights, responsibilities in the agreement can be achieved on paper, but can - in the course of an oral agreement.

The problem of implementation of contracts. Enforcement of contracts which organization concludes is very important for her. The problem of contract enforcement was particularly acute in Ukraine after collapse of the Soviet Union. Administrative levers of the realization of contracts have not been replaced by new ones: the legislative, economic instruments. A vacuum was created: the country has entered a market economy almost exclusively with one real working mechanism of contracts enforcement - implicit mechanism, which is based on personal connections of contractors. But this mechanism was often glitched, evidence of that was the desire of suppliers to insure themselves demanding full payment for products shipped.

The contract can not be realised when:

- in the course of the contract realization it becomes clear that the costs of its implementation exceed the benefits. Such a situation may arise, for example, if legal, technical, technological, financial difficulties appear on the way to contract realization;

- realization of the contract, as well as failure of this realization bring benefits to its sides, but the failure is more economically attractive;

- the parties of the contract have the ability and desire not to implement the contract and effective enforcement is expensive;

- enforcement is possible and paid off, but for the contractors it is not advantageous for some reasons;

- one or both parties of the agreement are forced to conclude it by the law, unwritten rules, norms;

- party / parties of the contract from the outset do not intend to perform the contract, but voluntarily come to his conclusion, due to various reasons.

Quite often, the failure of various obligations of economic actors is a consequence of external factors, such as financial and economic crisis. The action of a third party can facilitate or hinder enforcement of agreements. Recipients of externalities may resist or encourage the enforcement. Managers of the resort, near

which is a farm for breeding pigs is situated, may prevent the conclusion and then implementation of contracts for the supply of pork by the farm.

Sometimes it happens that if one party does not comply with a provision of a contract, the other party does not raise his break, but begins to answer the same manner: does not perform its obligations. Further developments may evolve under different scenarios: a) a mutual escalation of non fulfillment of obligations ; b) the party which initiates failure of commitment after observing the same reaction of the other side, begins to treat its obligations responsibly.

In modern literature [Bull 1987, Dixit 2003, Radygin, Entov 2003] attention draws to the different instruments of contract enforcement: legal procedures, accompanied by monetary losses by violators of agreement; informal arbitration, the social sanctions in the form of loss of trust and reputation, etc. All the tools of enforcement can be grouped into three types: economic, legal and social. At the same time a clear division between different groups of instruments to ensure the contract realization in most cases does not exist. Such tools as the deposit, bank guarantee, insurance, etc. can be referred to both legal, and economic instruments.

Contract has the most effective enforcement if all instruments are at work. However, in practice, the implementation of contract is based usually on one or several efficient tools, which are supported by the less powerful ones. In particular, possible options include:

- the basis of enforcement are legal instruments, but they are complemented by economic ones;
- the basis of enforcement are the economic levers, which are supplemented by legal instruments;
- execution of the contract is based on economic instruments, which are complemented by social norms (reputation, trust);
- in the early stages of the contract implementation only legal instruments may be used but then such instruments, as reputation, economic incentives, sanctions enter in action.

Enforcement of agreements depends mostly on the interaction of legal and economic instruments. For example, such legal means of ensuring the implementation of contracts as mortgage securities, goods in turnover successfully complemented the economic benefits derived from the agreement between the parties.

Several provisions that "overlap" each other may appear in the contract: one is a prerequisite for another, "tied" to the fulfillment of other provisions. For example: a) the employee must keep technological discipline; b) he must constantly worry about raising his qualifications. But in order to keep discipline, specialist must constantly improve his professional abilities .

If the implementation of one agreement is in danger, parallel agreement is concluded, which strengthens enforcement of the first agreement. For example, in contracts for supplying goods, works and services the weakest point is to get money from the recipient of products and services. So a letter of credit agreement that guarantees payment to the supplier is concluded along with the delivery contract.

To strengthen the implementation mechanism of the agreements some kind of escalating liability for breach of its obligations can be used in relation to violator. Here is a typical example of a Ukrainian company. The employee violates the discipline

(come to work drunk, do not follow the instructions of supervisor) and he loses monthly premium, and the day of the appearance in drunken form is considered as absence from work. If this continues, the employee is fired by Art. 40, paragraph 7 of the Labour Code of Ukraine [Labour Code of Ukraine 2010].

In general, the task of the modern organization, consists in determining the strength of enforcement of its contracts and the development of economic instruments that would: a) strengthen the legal and social mechanisms of the implementation of these contracts; b) supplement the economic part of contract by the new provisions (new awards, bonuses, allowances).

One tool for ensuring fulfillment of the contract is: a) the possession by one of the contractors of specific assets, b) ownership of specific assets by both parties. The organization "A" in some cases forced to comply with the terms of the contract with organization "B" since the "B" has a monopoly on specific asset that of vital importance to the "A". "B" is able to blackmail the "A" by threat to exit a contract.

Effective stimulus for implementation of the agreement is its short-term nature, the need for their renewal for another term. If one party does not fulfil the conditions of the leasing contract, the opposite party can not renew their relations to a new term. Of particular importance is the term of the lease. Additional items can enter with its renegotiation, for example, increasing penalties for the safety of movable and immovable property. Or, alternatively, in order to encourage the contractor, the opposite party introduces less stringent conditions of the lease. These instruments contribute to enforcement of the contract.

The modern organization concludes simple contracts and complex contracts, with the exchange of a considerable number of different powers, responsibilities. In a complex contract some of its points, items can be implemented, and some - no, or not completely. For example, the supplier fully implements agreement on the quality of the delivered product, but does not adhere to the terms of the contract on delivery time and provision of additional services. In other cases, products may not meet the specified standards of quality, were made with violation of technology. However, the volume, timing of delivery (an agreed schedule) of the contract is performed.

One practiced in the modern world agreement is an agreement governing the cooperative behavior. In the saturated markets of this type of agreement is highly relevant to organizations. When a few big companies controlling the market, agree on quotas and prices, much depends on compliance with the agreements of each party. What mechanisms will ensure compliance with these agreements? Implementation of the agreement by the parties depends on the ratio of benefits / costs of compliance with the agreement and the benefits / costs from its breach. Non-cooperative behavior of the organization may be due to the fact that the net benefits of breach of an agreement substantially exceed the net gain from its implementation.

One of the manifestation of the weak contract enforcement between buyers and sellers is a discrepancy to the standards of products.

The problem of implementation of agreements exists not only in the interaction of independent economic contractants, but also between the actors within the organization, in the system of internal transactions. Any hierarchical structure is a system of agreements, built on the directives of superiors to their subordinates, on cooperation of workers. If the agreements are regulated by effective horizontal relations,

there is no need for a strong "vertical". But failures in horizontal contacts within organization require effective administrative arrangements.

Sometimes, if enforcement of agreement between independent economic agents leads to problems, their union may occur within horizontally or vertically integrated structures. But in some cases due to difficulties with enforcement it could be more appropriate the disintegration of the organization when its divisions receive independent status.

In assessing the effectiveness of enforcement arrangements through the court one must consider that such enforcement is associated not only with the direct costs and loss of time by the organization of the claimant, but also with costs that are associated with rupture of relations with a partner. With increasing degree of specificity of the asset - the subject of the contract, this rupture can result in significant costs to find a new contractant.

CONCLUSIONS

Each organization, one way or another, is involved in the construction and periodic changes in its contractual relations. Owners and managers of firms adhere to some rational considerations in these construction and changes.

To optimize transactional activities of the organization is to optimize its agreements, in particular, on the following characteristics: the level of specification, the ratio of explicit and implicit parts, the mechanism of implementation.

Optimization of transactional activity can involve: a change in its volume, change the emphasis and resources devoted to different directions of this activity. In some cases the organization may find it expedient to reduce the number of interactions with market agents, in others the opposite - increase the amount of such interactions.

To optimize its transactional activities organization can move from internal transactions within its boundaries to external transactions and vice versa. Here are examples of such transitions:

- in order not to rent space (external transaction), the organization acquires the corresponding property and its interaction associated with use of space assumes the character of domestic transaction;
- the company sells a repair unit, and then works with it on contract basis;
- the organization comes to the need to move from using its own expertise in computer technologies to work with relevant staff of specialized computer firms;
- to implement the project organization chooses not to use their own funds, but instead concludes a contract with bank and receives a bank loan;
- at a certain stage of its development organization moves from the use of their own guards to outside security service.

The basis of such transitions is a comprehensive economic analysis, which each organization has to conduct on a regular basis.

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ТРАНСАКЦИОННАЯ ДЕЯТЕЛЬНОСТЬ СОВРЕМЕННОЙ ОРГАНИЗАЦИИ

Виталий Мортиков

Аннотация. Рассматривается сущность транзакционной деятельности организации. Автор анализирует роль явных и имплицитных контрактов, полных и неполных соглашений. Эффективность транзакционной деятельности организации находится в сильной зависимости от ситуации с осуществлением соглашений.

Ключевые слова: транзакция, соглашение, инфорсмент контракта, полный контракт, неполный контракт, имплицитное соглашение.