

CRYPTOCURRENCY and INTERNATIONAL TRADE

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Abstract

The system of decentralised ledger technology or blockchain is actually borderless, it is based upon computer networks which are interconnected that means virtual currencies are also borderless in nature. The system of distributed ledger technology keeps record of one thing at many places which means the system keeps records relating to virtual currencies and their transactions in various jurisdictions at single time. There arises question that to what extent this potentially breakthrough technology also implies a legal revolution: do blockchain technologies, virtual currencies and smart contracts require new legal avenues to be developed, or is it instead appropriate to simply adapt existing legal categories to the new reality? In either case, how are and should they be regulated?

Keywords: Cryptocurrency, International trade.

INTRODUCTION

The advent of virtual currency has come so far surviving all fatal events, so, now we can say that it is here to stay. All these virtual currencies, block chain mechanism, distributed ledger technology, are all real, and are working in various jurisdictions for various purposes. This technology is not at nascent level, it has sufficiently grown enough to keep it in use, and it is not in beta testing stage or in hypothecation level. As it is working in various jurisdictions and there is nothing to wait for newer technology, we as a lawyer needs to study these new technologies not for our clients but for all and help the government for making appropriate legislations/regulatory framework for the adoption of these technologies.

International Trade: Virtual Currencies, Smart Contracts and Blockchain

Evolution of these new technologies may have affected international trade because of some reasons listed below:

The first reason can be that, there are several companies which are accepting payments in the form of cryptocurrencies like bitcoin. Second reason can be that, because of cost-effective nature of blockchain contracts that is decentralised smart contracts if companies started to use smart contract instead of papery contracts which has to keep safe in custody? And lastly because of cost saving nature of blockchain technology many of companies are using it for day to day applications. [1]

The feature of smart contract that, it need not to be enforced by third party or non-intervention of third party in the execution of these contracts is appealing, because the cost of litigation and undertaking can be massive.

The normal currencies i.e. fiat currency needs a central system of administration or central registry system and these virtual currencies are free from centralized system and are executed by a software and not by a central authority or registry. The same can be happen with smart contracts if they are using blockchain and cryptography techniques they will not need any administrative authority or any third party to execute them, the software will do the job for the parties, if we believe in the theory of smart contract technology, then there is no way to breach these contracts. [2]

Now we can imagine that, two companies can maintain and regulate their day to day businesses through a decentralised smart contract and payment obligations so that they are automatically executed via bitcoin. Ethereum is platform, used by various companies, to run their day to day business, to make smart contracts and to execute them. The platform is where parties drafts their contracts and run those contracts without any possibility of downtime, censorship, fraud or third-party interference. The basis of all these applications is custom build blockchain which have capability of storing and maintaining the value and ownership of property around the world. This enables developers to create markets, store registries of debts or promises, move funds in accordance with instructions given long in the past (like a will or a futures contract) and many other things that have not been invented yet, all without a middle man or counterparty risk".As above stated, it seems clear that international trade will be affected by virtual currencies, blockchain and smart contracts. Now it is needed that, we have to study it and have watch upon it because we have to be ready if these technologies took over the market suddenly, and if these come into game of international trade. [3]

A likewise situation has been stated by CFTC commissioner, by the Bank of International Settlements, which have known that "these technologies like cryptocurrency and distributed ledger technologies can impact lot of areas like payment systems and services etc. these technologies can

also have disruptive impact on current business models and systems and also it can form a new financial, economic and social interactions and linkages.” And the same can be applied to the authorities, institutions and more generally to the state legislatures. The IMF have taken the step towards providing a guidance to the authorities of countries for the further regulation of virtual currencies.

By these new technologies like smart contracts, standardized international commercial terms, blockchain technology etc. industry is driven towards completely paperless system and towards use of mobile applications. Whether import or export, air, ocean, rail or trucking needs lot of paperwork, which will be eradicated by use of these new technologies in the trade. This project clearly defines the obligations and risks of buyers and sellers and offers a dashboard system in a decentralized manner yet it can be utilized cross sector, be it international and maritime law, cargo insurance, banking and accounting, customs and government (including duties and taxes), warehousing, and transportation sectors. These technologies i.e. virtual currencies, blockchain, smart contracts are already in use in international trade though it is in its nascent stage. But now the question is that, what about legal issues arise out of these?

CONCLUSION

Block chain and smart contract will create problem of applicable law and jurisdiction. Though these contracts are designed to eliminate the intervention of third party like judges while executing the contracts. However, sometimes, either for a bug, or for other reasons related to the dichotomy between real and virtual world, the intervention of a third party may be necessary to correct them, and to reach the required lawful outcomes of the given contract.

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