

Prospects for Protecting the Interests of the Republic of Uzbekistan in the Dispute Settlement System of the World Trade Organization

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Abstract: The article examines the prospects for improving the activities of the Republic of Uzbekistan to protect its interests in the dispute settlement system of the World Trade Organization. It is noted that the transition of Uzbekistan to international trade standards requires strengthening the institutional, personnel and legal framework capable of effectively using WTO mechanisms. Key challenges are analyzed: lack of practical experience, insufficient training of specialists, weak coordination between government agencies and businesses, as well as resource constraints. Improvement measures are proposed - creating a hotline for entrepreneurs, attracting foreign consultants, publishing and explaining DSU standards, conducting training seminars and forming a national arbitration staff. Their implementation will protect the interests of Uzbek producers during anti-dumping and countervailing investigations, and will also strengthen Uzbekistan's place in the global trading system.

Keywords: Uzbekistan, WTO, DSU, dispute resolution, anti-dumping, subsidies, arbitration, safeguards, personnel education, international trade policy.



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Currently, the level of political and economic development of a country is undoubtedly influenced by such factors as the well-being of its citizens, relations with other states and, most importantly, the level of its economic development. Each state strives to take a certain place in trade and market relations, since the development of the national economy is impossible without integration into world trade. The clash of interests of various states and the emergence of disputes are inevitable phenomena in the process of global integration. Contradictions of an economic, political and social nature may arise between states participating in international economic relations. Therefore, the existence of a mechanism for regulating the contradictions that have arisen is considered necessary. Thus, a mechanism for settling trade disputes between states participating in international trade in goods and services has been created and is functioning in the World Trade Organization system. According to the WTO agreements, all member states have the opportunity to resolve disputes, but developing countries use this opportunity much less often than

developed countries¹. This is primarily due to the lack of financial resources, as well as difficulties caused by the lack of qualified specialists capable of handling such cases.

Uzbekistan is in the final stages of negotiations to join the World Trade Organization. After joining this organization, our country will be able to use all of its mechanisms, including the dispute resolution system. The WTO dispute resolution system is one of its central elements and ensures the security and predictability of the multilateral trading system². The ability to use the dispute resolution mechanism against illegal actions by other WTO member states in trade relations is one of the main advantages of membership in this organization. For example, at present, if a trade dispute arises between Uzbekistan and any other state, there is no universal international mechanism for its settlement.

Uzbekistan's accession process to the World Trade Organization began in 1994, but was suspended in 2005 due to the self-sufficiency policy pursued at that time. In 2016, following the elections, President Shavkat Mirziyoyev initiated large-scale socio-economic reforms and transformations aimed at trade liberalization and modernization of the domestic trading system. As a result of these reforms, the WTO accession process was resumed, and in March 2018, an official statement signed by the Minister of Foreign Trade was submitted to the WTO Secretariat. In July 2019, Uzbekistan shared with WTO members an updated Memorandum of Foreign Trade Regime, and also submitted a number of other necessary documents for accession to the organization, including initial proposals on market access for goods and services. The progress made by Uzbekistan was supported by WTO members, and as a result, the fourth meeting of the Working Party on Uzbekistan's accession to the WTO was held on July 7, 2020, after a break in negotiations of almost fifteen years³. This important event confirmed Uzbekistan's return to negotiations and the government's commitment to its efforts to join the WTO.

The fifth meeting of the Working Party was held on June 21, 2022. The participants of the event positively assessed the activities of the "Interdepartmental Commission" on Uzbekistan's accession to the WTO, in particular, expanded documentation was prepared, and bilateral negotiations on market access were conducted. After the fifth meeting of the Working Party, the sixth meeting was held on March 14, 2023. During the sixth meeting, Uzbekistan reported that it had completed bilateral negotiations on access to commodity markets with three WTO members⁴. On November 16, 2023, Ambassador Seong deok Yun chaired the seventh meeting of the Working Party on Uzbekistan's accession to the World Trade Organization⁵. Uzbekistan once again confirmed its firm position on WTO accession - a delegation of almost 50 officials who arrived in Geneva was personally led by Deputy Prime Minister Jamshid Khodjaev. The Working Party continued to review Uzbekistan's foreign trade policy and reaffirmed support for the country's efforts to join the WTO. The eighth meeting of the Working Party on Uzbekistan's accession to the WTO was held on 24 May 2024. The meeting discussed Uzbekistan's efforts to bring its trading system into line with WTO rules and standards. The Working Party members

¹ Singh, A., & Tara, P. (2019). A CRITICAL ANALYSIS OF THE DEVELOPING COUNTRIES PARTICIPATION IN THE WTO DISPUTE SETTLEMENT MECHANISM. *Journal of the Indian Law Institute*, 61(3), 323–349. <https://www.jstor.org/stable/27097371>

² Reich, Arie, The Effectiveness of the WTO Dispute Settlement System: A Statistical Analysis (2017). EUI Department of Law Research Paper No. 2017/11, Bar Ilan University Faculty of Law Research Paper No. 18-01, Available at SSRN: <https://ssrn.com/abstract=2997094> or <http://dx.doi.org/10.2139/ssrn.2997094>

³ European Union Trade-Related Assistance. (n.d.). *Facilitating the process of Uzbekistan's accession to the WTO*. <https://uzbwto.uz/en>

⁴ United Nations Development Programme. (2022, July 22). *Uzbekistan held the 6th Working Party meeting on the accession to the WTO with the support of UNDP*. <https://www.undp.org/uzbekistan/press-releases/uzbekistan-held-6th-working-party-meeting-accession-wto-support-undp>

⁵ Permanent Mission of the Republic of Korea in Geneva. (2023, March 28). *Ambassador Seong Deok Yun presides over the 7th meeting of the Working Party on the accession of Uzbekistan*. https://overseas.mofa.go.kr/ch-geneva-en/brd/m_8814/view.do?seq=758807

praised Uzbekistan's progress and identified areas where further work is needed. A high-level delegation from Uzbekistan, led by Deputy Prime Minister Jamshid Khodjayev, attended the ninth meeting of the Working Party on Uzbekistan's accession to the WTO, held in December 2024. The delegation reaffirmed that the country has set itself the goal of completing the accession process by 2026⁶.

After Uzbekistan joins the World Trade Organization, the country will face the need to protect its interests in trade disputes based on the rules of this organization. In this regard, it is appropriate to dwell on some aspects of dispute resolution within the framework of the World Trade Organization. The 20th and 21st centuries show that "the desire to resolve interstate economic disputes within the framework of universal and regional international organizations is becoming increasingly noticeable. These organizations provide for a multi-stage procedure for considering disputes, which makes a significant contribution to achieving effective and mutually beneficial results". The World Trade Organization can be included among such global international organizations. The World Trade Organization, through its "Dispute Settlement Body", actually has a quasi-judicial body that has the authority to independently interpret the main documents of the organization and makes decisions that directly affect the development of international trade law.

The activities of the Dispute Settlement Body, which is part of the system of main organs of the World Trade Organization, are regulated by the "Dispute settlement understanding" (DSU)⁷. This agreement is Annex 2 to the Marrakesh Agreement Establishing the World Trade Organization of 1994 and is part of the WTO legal system. The decisions of the Dispute Settlement Body and WTO law have priority over the national law of the participating states. Thus, the full participation of any state in the activities of the World Trade Organization presupposes the possibility of using the dispute settlement system as one of the tools for protecting its interests.

The dispute resolution system of the World Trade Organization has special features: on the one hand, it is strictly regulated, and on the other hand, it is a fairly flexible mechanism within which any WTO member state has the right to demand compliance with the obligations assumed by other members, as well as to seek the cancellation of unreasonable trade measures or the elimination of other violations applied to it. Of course, participation in such disputes requires a certain level of development of economic and intellectual resources, since this is a complex and lengthy process. Nevertheless, the WTO dispute resolution system is effective and open to use by any member state, regardless of its status or capabilities⁸.

As noted in the legal literature, "any state" may participate in a dispute within the WTO in the following forms:

- as a claimant who initiated the dispute, or joined another claimant;
- as a respondent - a state that applied the contested measure;
- as a third party not putting forward a separate claim, but believing that the decision may affect its interests.

⁶ World Trade Organization. (2024, January 24). *Uzbekistan advances WTO accession negotiations, reaffirms commitment to conclude by 2026*.

https://www.wto.org/english/news_e/archive_e/country_arc_e.htm?country1=UZB#:~:text=Uzbekistan%20advances%20WTO%20accession%20negotiations%2C%20reaffirms%20commitment%20to%20conclude%20by%202026&text=At%20the%209th%20meeting%20of,into%20conformity%20with%20WTO%20norms

⁷ Maggi, G., & Staiger, R. W. (2018). TRADE DISPUTES AND SETTLEMENT. *International Economic Review*, 59(1), 19–50. <http://www.jstor.org/stable/45018883>

⁸ Трофименко, О. Ю. (2008). Механизм разрешения споров в ГАТТ/ВТО. Вестник Санкт-Петербургского университета. Экономика, (2), 80-90.

- If we try to analyze all disputes within the WTO, they can be divided into the following three categories:
- disputes concerning trade in goods - these are the most common and frequently considered disputes, the main substantive document for which is the General Agreement on Tariffs and Trade (GATT);
- disputes on trade in services (General Agreement on Trade in Services - GATS);
- disputes on intellectual property issues (Agreement on Trade-Related Aspects of Intellectual Property Rights - TRIPS).

A number of WTO member states have experience in all of the above categories of disputes. At present, there are a number of factors that may affect Uzbekistan's ability to fully participate in the activities and negotiations within the WTO Dispute Settlement Body in the future. At one time, on the eve of Russia's accession to the WTO, Russian researchers identified factors influencing participation in trade disputes within the WTO⁹. Similar factors are also relevant for Uzbekistan.

Firstly, the lack of necessary practical experience in participating in international trade disputes of this kind. After Uzbekistan's accession to the WTO, other states may make claims or complaints about Uzbekistan's compliance with international trade rules. From this point of view, it is already important to conduct a preliminary analysis of the areas and issues in which there is a risk of filing complaints.

Secondly, the lack of qualified personnel who can fully participate on behalf of Uzbekistan in the negotiations and work of the dispute settlement body. To successfully participate in trade disputes within the WTO, a team of highly trained and systematically working specialists in this field (lawyers, economists, negotiators, experts and others) is required. At the moment, there are very few such specialists in our country. International experience shows that one of the ways to solve this problem is to attract foreign experts.

Thirdly, the lack of a clear and understandable procedure for interaction between the authorized bodies of the Republic of Uzbekistan and entrepreneurs, business circles on the issue of initiating trade negotiations and disputes in the future. If there is sufficient information about such a procedure, the activity of the business community in matters of applying WTO norms and protecting their interests can significantly increase.

This was also written by Kazakh scientists, who noted the following: "It is necessary to create an effective platform free of bureaucratic barriers that will provide an "ambulance" mechanism to protect the interests of our entrepreneurs in the international trade arena. In addition, our entrepreneurs should be sufficiently informed about the legal means that they can use through the state to protect their interests. That is, if a kazakh company encounters a problem on the foreign market, it must know exactly where and how to turn, and also be confident that the state will promptly take measures to protect its interests".

Speaking about the prospects of Uzbekistan's participation in WTO trade disputes, it should be emphasized once again that there is an opportunity to flexibly use this mechanism in the interests of the country, and that the rules for the execution of decisions taken as a result of disputes within the WTO are relatively "soft". Despite the lack of experience and the limited number of qualified personnel in Uzbekistan, in accordance with the WTO rules, any interested state can achieve the necessary results.

⁹ Сизов А. Разрешение споров по правилам ВТО: международный опыт и российские перспективы. // <http://www.kiaplaw.ru/press-centr/public/146.html>

The topic of dispute resolution within the WTO is certainly relevant for Uzbekistan both in terms of protecting the interests of Uzbek producers abroad and in terms of protecting its own measures aimed at regulating the markets for goods and services. Although Uzbekistan has been negotiating its accession to the WTO for many years, and part of these negotiations were aimed at identifying norms in national legislation that do not meet the requirements of the WTO agreements and their subsequent adjustment, it is nevertheless difficult to say that changes have been made to all norms (or practices) that could potentially lead to disputes.

On the other hand, Uzbekistan is joining an international “trading community” for the first time, which, first of all, guarantees non-discriminatory access to the markets of its participants. Previously, WTO member states could apply measures to Uzbekistan’s products that did not comply with WTO requirements, but after joining this organization, this situation will change.

Private law firms can also participate in the WTO dispute resolution process to protect the interests of the state. The remuneration for their services can be fully or partially covered by representatives of the private sector. It is noteworthy that states use different approaches in forming teams of lawyers to protect their interests in WTO disputes. Some countries rely exclusively on the relevant departments of state bodies, while others, in addition, involve leading international or national law firms.

Uzbekistan also needs to define its policy in this area. Perhaps, the practice of China, a large state that recently joined the WTO, can serve as an example. In all disputes involving China, the interests of the state were defended by leading international law firms, but they were required to engage a Chinese law firm, which allowed local lawyers to gain practical experience.

In order to optimize the effective use of the WTO dispute resolution mechanism, Uzbekistan needs to develop measures for the exchange of information and consultations both within the country and in relations with other states, both openly and confidentially. Such measures, in particular, include the following. First, the publication in an expanded format of the Understanding on the Rules and Procedures for the Settlement of Disputes (DSU) with detailed comments from qualified specialists in the field of international trade law. It is especially important to provide explanations of the most significant articles in practice, under which disputes most often arise. For example, in the period from 1995 to 2015, the number of disputes on anti-dumping measures was 121, and on subsidies - 117¹⁰. These materials should be brought to the attention of the relevant government agencies, ministries, companies (which often seek to reduce prices in order to increase the competitiveness of their products), as well as law and economic universities.

Secondly, the WTO Secretariat should be contacted with a request for technical assistance in organizing specialized seminars aimed at familiarizing employees of state and non-state organizations, as well as foreign trade entities, with dispute resolution technologies. In this case, it would be advisable to ensure the participation of foreign experts.

Today, the most contentious areas of international trade between WTO member countries, as noted above, are the use of dumping and subsidies. In this regard, Uzbek entrepreneurs should act with caution when setting export prices, and the state should act when providing financial assistance to companies in any form, observing the framework of existing exceptions.

Thus, Uzbekistan, as a future WTO member, may be directly or indirectly involved in the process of resolving trade disputes within this organization. Firstly, Uzbekistan may act as a plaintiff state. It is important to remember that only member states have the right to appeal to the WTO Dispute

¹⁰ Johannesson, L., & Mavroidis, P. C. (2017). *The WTO Dispute Settlement System 1995–2015: A data set and its descriptive statistics* (IFN Working Paper No. 1148). Research Institute of Industrial Economics (IFN). <https://www.ifn.se/media/xchfti43/wp1148.pdf>

Settlement Body. Therefore, Uzbekistan needs to institutionally develop a mechanism for protecting the interests of entities engaged in foreign economic activity on behalf of the state. It is important that the state takes measures to eliminate possible unjustified restrictions on Uzbek products and services in the international market.

To effectively protect business interests in the international trade arena, it is necessary to create a platform that ensures the operation of an “ambulance” - an effective mechanism devoid of bureaucratic barriers. Explaining the need for such an operational mechanism, it is worth noting that the WTO dispute resolution system is considered one of the fastest and most effective. For example, according to Article 4 of the Agreement on Rules and Procedures for the Settlement of Disputes, in cases requiring immediate settlement, members must begin the consultation stage within 10 days of receipt of the request¹¹. This requires prompt action from states, that is, potential participants in the dispute. Uzbek entrepreneurs should know what legal means they can use to protect their interests in the international market through the state. That is, if an Uzbek company encounters a problem in a foreign market, it should know where to go and be confident that the state will take prompt measures to protect its interests.

Secondly, Uzbekistan may become the object of claims by other states. From this point of view, it is already necessary to analyze in which areas and on what issues there is a risk of claims. For example, our main trading partner, Russia, has been a WTO member since 2012, and many claims have been initiated against it by other WTO members. The European Union appealed to the WTO Dispute Settlement Body due to the fact that Russia introduced a recycling fee on imported cars¹².

Thirdly, Uzbekistan may also participate in international trade disputes as a third party in cases where the case under consideration may affect its interests. From this point of view, active participation in the WTO dispute resolution process as a third party is useful for gaining experience.

For Uzbekistan, the presence of experts in the field of World Trade Organization law is important. These specialists should consider appeals, give opinions on the validity of claims and the advisability of appealing to the WTO. In addition, it is necessary to separately work out the issue of representing the interests of Uzbekistan in the WTO Dispute Settlement Body. The issue of training relevant specialists both for internal work with subjects of foreign economic activity of the Republic of Uzbekistan and for representing state interests in the WTO is also relevant.

As a future member of the organization, Uzbekistan may also be interested in the presence of specialists who could potentially become members of expert groups considering WTO disputes. The WTO Secretariat maintains a list of highly qualified governmental and non-governmental experts in the field of international trade based on proposals from member countries.

WTO membership opens up new prospects and opportunities for Uzbekistan. However, such membership also imposes large-scale obligations, the fulfillment of which is monitored by both the organization itself and other member countries, as well as foreign business entities. In this regard, the legal protection of Uzbekistan's interests within the WTO is becoming increasingly important.

From the above description of the WTO dispute resolution system, it can be concluded that in order to maximally protect its interests, the Republic of Uzbekistan must act actively, that is, master the “rules of the game” as soon as possible and, despite the status of a “new member” of the WTO, fully use all the rights and benefits provided by this organization.

¹¹ Jackson, J. H. (1997). The WTO Dispute Settlement Understanding--Misunderstandings on the Nature of Legal Obligation. *The American Journal of International Law*, 91(1), 60–64. <https://doi.org/10.2307/2954140>

¹² Баяева Марина Алексеевна (2015). Торговые споры в рамках ВТО, в которых участвует Россия, и механизм их разрешения. *Российский внешнеэкономический вестник*, (3), 75-90.

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