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"Foreign Trade Regime of Uzbekistan and Its Compliance to Norms of Agreements of WTO"

Introduction

Integration of Uzbekistan into the world economy is one of the main directions of reforms implemented in the country. Therefore, introduction of common standards set forth by WTO into the country foreign trade practice is one of the important aspects for attaining planned targets.

The Republic of Uzbekistan has achieved tangible success in this process. During the independence period the strong legal base has been formed to support economic reforms including those that anticipate far going liberalization of foreign trade regulation, creation of favorable conditions for foreign trade activity. Yet, to assess more precisely country's potential capacity for accession to WTO one should determine the adequacy of the foreign trade regime to WTO agreements through analysis of legislation on foreign trade regulation and relevant economy sectors.

World Trade Organization represents the global legal and institutional mechanisms established for liberalization and unification of trade regimes in sovereign states based on multilateral agreements. Agreement on WTO establishment includes 29 juridical documents that cover practically all spheres-from agriculture to textile and clothes as well as norms regulating commodity origin and intellectual property. Besides, there exist more than 25 declarations, decisions and agreements at the level of ministries that formulate additional obligations and rules that all WTO members are to assume.

WTO declares that provisions of international agreements dominate over national legislation. WTO rules, contained in international agreements, considerably restrict opportunity for direct government intervention in the national economy, including implementation of traditional industrial policy, and make government highly responsible for violations of these rules. WTO rules demand that country should allow considerable and irreversible trade regime liberalization, ban subsidies and price restriction (fixation) prohibited by WTO rules, protect intellectual property rights, follow requirements on trade regime transparency and accountability for WTO members and etc.

Extent of economy adaptation (openness), trade regime in particular, to WTO rules and norms is determined by the broad terms of economic legal base and existence of relevant mechanisms ensuring full-range functioning of principles and agreements within WTO framework.

The process of the Republic of Uzbekistan accession to WTO: experienced of past stages

WTO accession procedure is prescribed by the Article 12 of the Marrakech Agreement on “WTO establishment” In practice, accession procedure demand long-term and complicated negotiations of four stages:

- Stage of Formalities and Memorandum; submitting of application for accession to WTO and Memorandum on a country –applicant trade regime;
- The Stage of Questions and Answers: WTO members study and assess Memorandum viewing the country-applicant trade policy aspects;
- The Stage of Multilateral and Bilateral Negotiations: negotiations between the country-applicant and countries-WTO members in regard of terms and time for the country-applicant to access WTO. This stage covers both multilateral negotiations between the country-applicant and specially formed WTO working group, and bilateral negotiations of this country with WTO members that have the most apparent trade interests in the country-applicant;
- Conclusion of legal act on accession- ratification of accession act thus putting the act in effect.

The period of accession to WTO may last for long years. Negotiations on country accession to WTO may go on until parties come to agreement. And concrete meaning of “agreement terms” is the subject of negotiations between countries-WTO members and a country –applicant. The negotiation process on accession of any country to WTO is characterized by the narrowness of negotiations: the country-applicant must demonstrate to the WTO members how it is going to meet the WTO existing requirements, provided that it cannot change them. WTO members may demand that the country-applicant should reduce the extent of protectionism at the national market, but the country–applicant cannot expect the same from WTO members.

The first stage of accession to WTO is the submission of application and memorandum on a country trade regime. After the country-applicant has sent its letter-application to the WTO Director- General declaring intentions to access WTO, the WTO General Council, upon presentation of the Director - General initiates the consideration of the official application. The General Council is composed of the representatives of all WTO members. The General Council forms the working group and its chairman. This group will begin and conduct negotiations with the new candidate seeking accession to WTO in conformity with technical tasks. All countries-WTO members can be included into the Working Group, but usually this group is composed of the countries that have trade links with the country-applicant and the most active participants, i.e. USA, EU, Australia and Japan.

Presentation of the full and comprehensive memorandum on the trade regime is the first important step to accession to WTO. The Memorandum on the trade regime is a document, that characterizes and describes in details measures and institutions involved in the country-applicant foreign trade practice. The Memorandum, as a rule, touches upon problems that do not concern only trade of commodities and services-although the latter anticipates financial sector, insurance, telecommunications, professional services, and others -that, by themselves, is a huge work, but also various aspects of macroeconomic policy, particularly in terms of exchange rate regulation, antimonopoly policy, protection of intellectual property and privatization of enterprises. Having presented the Memorandum on the trade regime the country receives the WTO Associated Member Status.

As soon as the Memorandum is sent to the Working Group members the WTO accession process enters the next, important stage –the state of questions and answers. This stage requires the longest period. The first part of this process is dedicated to first priority questions and answers on measures and institutions regulating foreign trade and mentioned in the Memorandum on trade regime. The first part of this period ends at the moment of the first personal meeting

between the Working Group and the country-applicant delegation. Resulting from discussions and approval received during the Working Group/Country Delegation meeting the new, more specific questions on trade policy measures and its regulation by the country-applicant are asked. Regular meetings in order to work out the common position on terms allowing the country-applicant to access WTO may take the long period. They may not concentrate only on study of Memorandum.

Upon completion of the “question/answer” stage the country –candidate presents to the Working Group its initial program of “suggestions” on access to the market. Thus, the accession process enters the third stage of bilateral negotiations between the country-candidate and each country-WTO member wishing to discuss the accession terms expressed through level of tariffs, access to market of services and etc.

When bilateral negotiations reach their logical conclusion and the Working Group is convinced that the legal and institutional basis of the country-candidate conforms to the WTO requirements and norms the Secretariat presents to the Working Group the draft report determining the country-candidate accession procedure. Upon Working Group approval this report goes to the General Council. Following the positive decision of the General Council the county-candidate is invited to sign the Protocol on Accession to WTO.

In December 1994 the application of intention to access WTO in the Full-Fledged Member Status was sent to WTO on behalf of the Government of the Republic of Uzbekistan. The application received positive respond and the Working Group had been formed to direct Uzbekistan accession to WTO. In September 1998 the presentation of Memorandum on Uzbekistan foreign trade regime was organized in WTO. Written answers to questions asked by a number of countries-WTO members were prepared and sent to Secretariat of this organization.

In December 1998 the Government made a decision¹, according to which the staff of Inter departmental Commission to work with WTO had been approved. Representatives of the Agency on Foreign Economic Relations, the Ministry of Macroeconomics and Statistics, Ministry of Finance, the State Tax Committee, other ministries and departments were included in the Commission. According to the Decree, the Agency on Foreign Economic Relations was entrusted functions of Secretariat of Inter departmental Commission. A number of Commission meetings had been held.

Official delegations from the Republic of Uzbekistan took part in three WTO Ministerial Conferences held in Singapore (1996), Geneva (1998) and in Seattle (1999). Within the second stage of accession to WTO working groups were formed in ministries and departments on:

- Preparation of information on sanitary and phytosanitary measures and technical barriers in trade;
- Preparation of information on internal support and export subsidies in agriculture;
- Preparation of information on measures in policy concerning trade of services;
- Preparation of information within the WTO agreement framework on trade aspects of intellectual property rights;
- Preparation of suggestions on tariff concessions for commodities and liabilities on services;
- Making alterations to the national legislation according to WTO agreement provisions;
- Preparation of research on assessment of the impact made by Uzbekistan accession to WTO on various economic sectors.

¹ Decree of the Cabinet of Ministers of the Republic of Uzbekistan# 520 of 14.12.98

On July 17, 2002 the first Working Group meeting on Uzbekistan accession to WTO was held in Geneva. The main issue of agenda was article-by-article study of the memorandum on foreign trade regime in the Republic of Uzbekistan.

During discussion the most active and interested in discussion of foreign trade policy measures in Uzbekistan were representatives of delegations from USA, EU, Switzerland, Korea and Australia. The questions covered such areas as price regulation, regime of access to foreign currency, regulation of access to Uzbekistan market of commodities and services, existing restrictions in this sphere, custom tariff level, plan for application of Harmonized System, 2002, customs payments and methods of their levy, regime for import of goods from CIS countries. As for the protection of intellectual property rights it was recommended to apply in practice the country legislation in this sphere and join Bern's Convention.

Current phase of accession to WTO is characterized by the implementation of works that help to resolve the broad range of organizational, legislative, technical and other issues relevant to the preparation for the oncoming meetings of the Working Group.

So, the country has passed the preliminary stages of accession to WTO and now it will have to begin negotiating with countries-WTO members. This process may require concentration of considerable resources and make clear definition of the country position on debatable issues mentioned below. A part of the questions may be accepted and has already been accepted due to implemented reforms. The work carried out earlier revealed that the country legislation relevant to the sphere and scrutinized in the report is in the process of permanent development. It is apparent from the character of answers on the Memorandum and on the content of the Memorandum that the government directed to countries-members. If, answering the questions of US Government, our side focused on convertibility, licensing of foreign trade activity, in answers to additional questions we gave explanation of alterations in legislation that considerably improved aspects under discussion. As it was noted before, the Memorandum became obsolete and requires permanent updating.

Still, there is a number of problems mentioned practically by all countries-WTO members. It stresses the need for further implementation of measures that help to bring the national legislation in conformity with provisions of WTO agreements.

New negotiations agenda toward to WTO

Formation and improvement of the republican foreign trade regime is closely linked to social-economic development of the country. Many-facet aspects of social –economic policy plunge the country into the depth of protectionism, first, but, second, globalization challenges determine the economic growth potential to integrate into the world market. But in any case, building of feasible and adequate policy on protectionism and liberalism must be based on pragmatic approaches that take into account international practice and principles of law.

Improvement of legal base of foreign trade relations as well as creation of more flexible trade regime adequate to requirements and real situation in economy development may be achieved only through legal system adjusted to basic norms of international trade laws, where the World Trade Organizations serves as the guarantor of such a law in current globalizing environment of international trade.

This report is the first one dedicated to the legal aspects of Uzbekistan accession to WTO. Therefore, the work on assessment of perspectives for Uzbekistan accession to WTO had started

from comparison of trade regime regulation of Uzbekistan and WTO basic principles. The conducted analysis on existing trade regime in Uzbekistan and the extent of its compatibility with WTO requirements allows to make the following conclusions and recommendations:

- 1. Rather simplified and flexible regime on regulation of commodity trade does exist in Uzbekistan.** Particularly, the practice on application of quality import/export quotas prohibited by the WTO rules is not used, the types of import contracts due to be registered in the Agency for Foreign Economic Relations have been curtailed and real conditions are being created for further cutting down of such a list. It indicates the further trade liberalization in Uzbekistan. Yet, regulation of import goods needs to be brought to terms of WTO practice on internal taxation and import duties. In this case the methodic on tax estimation and levy and the area of their application must precisely fit into the national regime. The great job must be done in order to improve the use of technical barriers in trade, i.e. – reformation of standardization and certification systems. As for export regulation, according to WTO requirements, it is necessary to continue narrowing the list of commodities banned for export. This measure may create additional pre-requisites for the growth of country export potential. In the result of elimination of misbalance between the internal and external prices the need for licensing of non-strategic commodity must be no longer relevant. Still, the most significant problem in this aspect will be the harmonization of norm in the sphere of export subsidizing and support to national import substituting production and sectors. Therefore, it is necessary to receive the “developing country” status in the process of negotiations on accession to WTO. It will allow to retain some volume of medium -term support to perspective sectors.
- 2. As for regulation of trade of services there are no significant restrictions.** The trade of services is not the subject of the Law “On foreign economic activity”, Custom Code and other acts. Due to their specific character and their diversity, they are regulated in the current time by the special laws, for example, the Law “On insurance activity” and sub departmental acts which cover some services. In the context of negotiations with WTO the sphere of services will occupy the special place for industrially developed countries. Therefore, the development of common policy in this area will be necessary taking into consideration that the sphere of services will include such most important economic spheres as banking business, insurance, business services, telecommunications, transport, tourism and etc.
- 3. Uzbekistan has developed required legal base for protection of intellectual property.** In future, procedures on intellectual right protection should be set forth clearly to eliminate violations in this area. It concerns, first of all, administrative and criminal legislation and relevant legal procedures and frontier control system. Considering the economic importance of property protection great attention, upon legislation improvement, should be paid to responsibility for breach of intellectual property rights. Besides, within the accession to WTO, the republic will have to join Bern and Rome conventions on intellectual property right protection.
- 4. For transit regulation Uzbekistan practices differential regime.** WTO agreement system creates favorable conditions for cargo transit through the territories of countries-WTO members. At the same time Uzbekistan, with very convenient geographical location, may serve as the center of transport corridors going through Central Asia. For this purpose the good incentive may be unification and optimal reduction of transit duties regardless of country of destination and transit cargo origin.
- 5. Considerable disproportion of internal and external prices for agricultural goods exists in agriculture regulation system that requires reformation of price**

formation system. Main direction of reformation is creation of competitive environment in agriculture and minimization of state order role for specific goods.

- 6. As for institutional aspects of Uzbekistan accession to WTO** it is worth establishing a permanent body and staff it with specialists from relevant ministries and departments. The objective of this approach is to invite experts on all spheres of WTO regulation and deal with problems of accession at the professional level. The important aspect is also the guaranteeing the professional level and permanent character activity of members of Uzbekistan delegation conducting negotiations on accession. It is required by the fact that negotiations take a long time, require professional and logical position of the country in settlement of all problems of accession both normative and organizational.