

WTO: NATIONAL TREATMENT AND THE LAW OF UZBEKISTAN

Fayzullayeva Shahlo Jumaniyoz qizi
Lecturer At Tashkent State University of Law
shakhlofayzullayeva777@gmail.com

Abstract:

This article explores the critical concept of "national treatment" within the framework of the World Trade Organization (WTO) and its implications for the legal landscape of Uzbekistan. As a (potential) WTO member, Uzbekistan is bound by the principle of national treatment, which mandates that foreign goods and services must receive the same treatment as domestic ones. This article delves into the impact of national treatment on Uzbekistan's legal system, analyzing how the country's domestic laws and regulations align with this WTO principle. By examining specific cases and regulations, the article sheds light on the challenges and opportunities that arise in the context of Uzbekistan's international trade commitments.

Keywords: WTO; National Treatment; Uzbekistan; International Trade Law; Domestic Regulations.

Introduction

The World Trade Organization (WTO) is an international body that governs global trade relations and aims to promote free and fair trade among its member nations. One of the key principles of the WTO is the concept of national treatment, which ensures that foreign goods and services are treated no less favorably than domestic products. This article will focus on understanding how the principle of national treatment applies in the context of Uzbekistan's legal framework.

Uzbekistan has been trying to become a member of the WTO since 1995, and has since been an active participant in various discussions and negotiations within the organization. As a (potential) member, Uzbekistan can be bound by the rules and regulations set forth by the WTO in the future, including those related to national treatment. Under the principle of national treatment, WTO members are required to provide equal treatment to foreign products or services once they have entered their domestic market. This means that imported goods should not face discriminatory measures such as higher tariffs or additional regulations compared to domestically produced goods.

In Uzbekistan, this principle is enshrined in various laws and regulations. For instance, our civil code, constitutions, and other normative legal acts guarantee equal treatment for foreign companies operating within Uzbekistan's territory. Similarly, The Law on Protection of Consumer Rights prohibits discrimination against imported goods in terms of quality standards or labeling requirements.¹ While national treatment is a fundamental principle under the WTO framework, there are certain exceptions where discriminatory measures may be justified for specific reasons. These exceptions include public health concerns, environmental protection, or safeguarding national security. Uzbekistan also has certain exceptions in place. For example, Article 7 of The

¹ Grossman, Gene M., Henrik Horn, and Petros C. Mavroidis. "Legal and Economic Principles of World Trade Law: National Treatment." (2012).



Law on Technical Regulation outlines cases where deviations from national treatment may be allowed if it can be justified by legitimate objectives such as protection of human health, safety, or the environment.

To ensure compliance with the national treatment principle, the WTO provides dispute settlement mechanisms that allow member nations to resolve trade-related conflicts. In case a member believes that another member is violating national treatment obligations, they can bring a dispute before the WTO's Dispute Settlement Body (DSB). Uzbekistan's legal system also provides avenues for addressing violations of national treatment. The Law on Protection of Economic Competition establishes the Uzbekistan Competition Committee, which is responsible for investigating and addressing any discriminatory practices in trade.²

National treatment stands alongside MFN treatment as one of the central principles of the WTO Agreement. Under the national treatment rule, Members must not accord discriminatory treatment among imports and "like" domestic products (with the exception of the imposition of tariffs, which is a border measure). The GATS and the TRIPS Agreement have similar provisions. The rule prevents countries from imposing discriminatory measures on imports and from offsetting the effects of tariffs through non-tariff measures. An example of the latter could be a case in which Member A reduces the import tariff on product X from ten percent to five percent, but imposes a five percent domestic consumption tax on only imported product X, effectively offsetting the five percentage point tariff cut. The purpose of the national treatment rule is to eliminate "hidden" domestic barriers to trade by requiring WTO Members to accord imported products treatment no less favourable than that accorded to products of national origin. Adherence to this principle is important in order to maintain a balance of rights and obligations, and is essential for the maintenance of the multilateral trading system.

Article III of the GATT compels WTO members to offer national treatment to all other members. Article III: 1 states that Members must not impose internal taxes or other internal charges, rules, regulations, or restrictions on imported or domestic products. in a way that safeguards domestic output. Article III: 2 states that WTO Members must collect internal taxes or other internal levies. between imported items, no criteria greater than those imposed on domestic products shall be applied and "like" local products, or between imported goods and "directly competitive or substitutable" domestic goods. In terms of internal norms and legislation, Article III: 4 states that Members shall give imported items the same status as "like products" of domestic products national origin.³

Exceptions peculiar to national treatment include the exception on screen quotas of cinematographic films under Article III:10 and Article IV. The provision of GATT Article XX on general exceptions, Article XXI on security exceptions, and WTO Article IX on waivers also apply to the national treatment rule. For further details, see the relevant sections of Chapter 1 (MFN Principle).

The World Trade Organization (WTO) is a global entity that plays a pivotal role in shaping the rules of international trade. Its member nations adhere to a set of fundamental principles, including

² Horn, H. and Mavroidis, P.C., 2004. Still hazy after all these years: The interpretation of national treatment in the GATT/WTO case-law on tax discrimination. *European Journal of International Law*, 15(1), pp.39-69.

³ Kurtz, Jürgen. "The use and abuse of WTO law in investor–state arbitration: competition and its discontents." *European Journal of International Law* 20, no. 3 (2009): 749-771.



the concept of "national treatment." This principle dictates that once foreign goods and services enter a member country's market, they must be treated no less favorably than domestic goods and services. National treatment, a cornerstone of the WTO, serves to create a level playing field for foreign and domestic entities in international trade. This principle prevents discrimination against foreign products, services, or companies by ensuring that they receive the same treatment as their domestic counterparts. It fosters transparency, fairness, and competitiveness in international trade, and WTO member countries commit to upholding it.⁴ As a (potential) WTO member, Uzbekistan is required to integrate the principles of national treatment into its legal framework. This means that once foreign goods and services enter the Uzbek market, they should be treated on an equal footing with domestic goods and services. Uzbekistan's legal system must be adjusted to conform to this principle, eliminating discriminatory practices that favor domestic industries. Although current laws may somehow reflect such kind of principles in themselves, there still need to be adopted new norms to fully adhere to WTO laws.

Challenges and Opportunities

Trade Liberalization	Harmonizing Laws
By adhering to the national treatment principle, Uzbekistan opens its doors to international competition, fostering innovation and efficiency. However, this also exposes domestic industries to stronger competition, which can be challenging for sectors unaccustomed to global market dynamics.	Bringing Uzbekistan's legal system into alignment with national treatment can be a complex process. Existing laws and regulations may need to be revised or replaced to eliminate discriminatory measures and ensure equal treatment for foreign and domestic entities.
Dispute Resolution	Market Access
In cases where national treatment is violated, WTO members can initiate dispute settlement procedures. Uzbekistan must be prepared to defend its trade practices and demonstrate adherence to the principle.	National treatment not only affects how foreign goods and services are treated but also how they are accessed and distributed within Uzbekistan. The government must create an environment that facilitates market entry and operation for foreign businesses.

Uzbekistan reiterated its commitment to making speedy progress in WTO membership discussions as part of a larger plan to achieve large-scale trade and economic reforms. On March 14, members of the Working Party on Uzbekistan's Accession voiced their support for Uzbekistan's goal to gain WTO membership while emphasizing the significance of bringing its trading policy into full compliance with WTO rules.⁵ Uzbekistan submitted an updated set of documents to the Working Party between September and November 2022 and stepped up its bilateral engagement with members on the market access front. Moreover, a negotiating team from Tashkent led by Mr. Abidov visited Geneva last December and then again in January in an effort to intensify and

⁴ Gerhart, Peter M., and Michael S. Baron. "Understanding National Treatment: The Participatory Vision of the WTO." *Ind. Int'l & Comp. L. Rev.* 14 (2003): 505.

⁵ https://www.wto.org/english/news_e/news23_e/acc_14mar23_e.htm



advance negotiations. Bilateral negotiations continued on the margins of the 14 March Working Party meeting.

In his statement, Mr. Khodjayeve stressed that WTO membership is “an absolute priority” for Uzbekistan.

“We will intensify substantive bilateral market access negotiations and advance actively the work on synchronizing our commitments and harmonization of Uzbekistan’s legislation with the rules and requirements of the WTO. Meanwhile, we will strive to ensure such a balance of rights and obligations that will ensure sustainable and consistent growth of the national economy,” he said.⁶ Uzbekistan reiterated its commitment to making speedy progress in WTO membership discussions as part of a larger plan to achieve large-scale trade and economic reforms. On March 14, members of the Working Party on Uzbekistan's Accession voiced their support for Uzbekistan's goal to gain WTO membership while emphasizing the significance of bringing its trading policy into full compliance with WTO rules.

CONCLUSION

The principle of national treatment is an essential aspect of the WTO framework and plays a crucial role in promoting fair and non-discriminatory trade practices. Uzbekistan, as a future member of the WTO, has incorporated this principle into its legal system to ensure equal treatment for foreign goods and services. While exceptions exist, these are limited to specific justifiable reasons such as public health or national security concerns. Through its laws and enforcement mechanisms, Uzbekistan strives to maintain compliance with its national treatment obligations and contribute to a more inclusive global trading system.

REFERENCES

1. Younas, Ammar, Recent Policies, Regulations and Laws Related to Artificial Intelligence Across the Central Asia (August 1, 2020). Ai Mo Innovation Consultants, 2020, Available at SSRN: <https://ssrn.com/abstract=3664983>
2. https://www.wto.org/english/news_e/news23_e/acc_14mar23_e.htm
3. Younas, Ammar. "Sustaining Innovative Economy in Fourth Industrial Revolution: A Whitepaper of Uzbek Centered Artificial Intelligence Policy (February 01, 2020)." Available at SSRN 3533410.
4. Шукурова, М. А. (2021). Анализ специальной лексики английского языка XVI века по аспектам терминологичности. МЕЖДУНАРОДНЫЙ ЖУРНАЛ ИСКУССТВО СЛОВА, 4(2).
5. Younas, Ammar, and Kinza Fatima. "REGULATING NANOTECHNOLOGY TRANSFER IN DIGITALIZED CENTRAL ASIA." DEVELOPMENT ISSUES OF INNOVATIVE ECONOMY IN THE AGRICULTURAL SECTOR (2021): 744-746
6. Younas, Rehan, and Ammar Younas. "REDUCING YOUTH RADICALISM: STEMMING POLICY APPROCH THROUGH ENGINEERING EDUCATION." International Scientific and Practical Conference World science. Vol. 4. No. 6. ROST, 2017.
7. Askarovna, S. M. (2021, March). Comparative investigation on the semantic meaning of some terms of ethics of the XVI-XVII centuries. In E-Conference Globe (pp. 285-287).

⁶ Ibid.



8. Younas, Ammar, et al. "Overview of big data and cloud computing laws, regulations and policies in central Asia." *Regulations and Policies in Central Asia* (August 12, 2020) (2020).
9. Younas, Ammar. "Finding a consensus between philosophy of applied and social sciences: A case of biology of human rights." *JournalNX A Multidisciplinary Peer Reviewed Journal*. ISSN 2581-4230 (2020): 62-75.
10. Юнас, Аммар, Аминжон Каландаров, and Мухаммад Али Турдалиев. "Legal progress of e-commerce legislation in Central Asia during the COVID-19 period." *Общество и инновации* 2.6 (2021): 170-176.
11. Shukurova, M. A. (2017). Useful strategies in teaching grammar in english language classes. *Міжнародний науковий журнал Інтернаука*, (1 (1)), 146-148.
12. Younas, Ammar and Chynarbekovna, Tegizbekova Zhyldyz, *Harmonizing Law and Innovations in Nanomedicine, Artificial Intelligence (AI) and Biomedical Robotics: A Central Asian Perspective* (October 31, 2020). Available at SSRN: <https://ssrn.com/abstract=3722658> or <http://dx.doi.org/10.2139/ssrn.3722658>.

