PARTICULAR ASPECTS OF THE WTO MECHANISMS APPLICATION TO PROTECT THE NATIONAL ECONOMIC INTERESTS OF UKRAINE

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Abstracts. *The purpose* of the paper is to analyze the issue of applying by Ukraine of mechanisms developed in the legal framework by the World Trade Organization to protect the internal market in order to prepare appropriate recommendations to state power authorities empowered to carry out trade policy. *Methodology*. The study is based on studying the experience of Ukraine to revise its commitments on tariff lines for the first three-year period after the accession to the WTO, as well as on the analysis of the most resonant steps to protect the internal market taken by Ukraine and the consequences of these steps. *Result*. The issue of applying by Ukraine of tools developed by the World Trade Organization to protect the interests of national producers has been described in this article. The situation of the use by Ukraine of a right to review the conditions of membership in the WTO has been reviewed step by step starting from the studying of this issue within the country and to the statements by the Government not to use this feature. All the stages of the process of using the possibility to revise the conditions of membership in the WTO have been analyzed as well as the mistakes that led to the absence of the desired result in the end. Also, the basic tools of protection of the domestic market in the WTO system, such as anti-dumping investigation and the investigation concerning the subsidized imports has been considered The dynamics of the use of such investigations by all WTO member countries since the establishment of the WTO, with particular emphasis on the period of the financial and economic crisis of 2008-2010 has been reviewed. The number of successful investigations led to the application of certain protective measures also has been determined. The risks that arise in the absence of the Government of Ukraine steps to improve the efficiency of representation of interests in the WTO have been analyzed. Recommendations improving the use of WTO mechanisms to protect domestic producers have been offered. Changes in the legislative framework of Ukraine, which will help to improve the practice of defending the interests of national producers in compliance with WTO rules, have been proposed. Special attention is paid to the issues under discussion by WTO committees and the impact that will have the decisions taken in these committees on the WTO member countries. The main objectives of participation of WTO member countries in the work of these committees have been systemized and the main benefits of active participation in their work have been indicated. *The practical significance.* The data obtained can be used by public authorities of both Ukraine and other countries that have recently acceded to the WTO in order to improve the use of institutions and mechanisms created by this organization for the realization of their national economic interests. The same analysis of the experience of the first attempts to revise by Ukraine of its commitments to the WTO will be useful during the second revision of the conditions which, according to the rules of the WTO, occurs every three years.

Key words: World Trade Organization, domestic producers, the protection of national economic interests, tariff regulation, the revision of the conditions for membership in the WTO, the protection of intellectual property rights.

JEL Classification: F13, F53

1. Introduction

Accession of Ukraine to the World Trade Organization (WTO) on May 16, 2008 was actually joining the existing system of rights and obligations, much of which concerns the protection of national economic interests of Ukraine. Preserving the right to protect its national economic interests, the country is obliged to do so under the rules and procedures established by the WTO. However, in addition to the legal framework established by the WTO, there is also the aspect of presenting by a country of its interests in this organization. In the case of introduction by a separate country of protective measures, other organization members expect the trading partner not only to clear by implementation the relevant regulations, but also to take into account the broader context of the interaction of the Member States, especially when it comes to initiatives to

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review the conditions for membership in the organization. The need to comply with the rules and practices on the one hand and the need to protect the interests of the country on the other hand, causes finding a balance between this two aspects.

2. Implementation of national economic interests in the WTO

The balance between national economic interests and WTO membership was always in the spotlight of scholars. Some of them stated that the WTO provides greater certainty in relations between states and constrains what might otherwise be a chaotic and self-defeating pursuit of national interest (Birkbeck, 2009).

The other scholars pay attention on fact, that WTO mechanisms, especially anti-dumping procedures, were rather used by developed countries for promoting there interests. A growing body of information indicates that antidumping law is more about extending anti-competitive behavior at home than about resisting such behavior from abroad. Messerlin (1990) presented evidence that the European chemicals industry in the 1980s used the antidumping law to support European cartel. Hindley and Messerlin (1996) carried this analysis farther and found that in several industries use of antidumping against competitors had become a normal part of business strategy. Kelly and Morkre (2002, 8-9) review additional evidence that firms use antidumping to create or support collusive arrangements.

The legal framework of the WTO provides a number of tools to protect the interests of domestic producers both on the domestic and foreign markets. Thus, among the protective measures in the domestic market the main are the following:
- Tariff regulation;
- Technical regulations and standards;
- Sanitary and phytosanitary measures;
- Internal taxes;
- Protection of intellectual property rights;
- The use of trade defense instruments (anti-dumping, countervailing and special safeguard measures and general defensive measures) and others.

Protection on foreign markets is carried out by use of dispute settlement, which operates in the WTO:
- Complaints;
- Initiation of the investigation concerning protective measures against domestic producers made by other WTO member countries;
- Initiation of bilateral and multilateral consultations,
- Participation of the government in the negotiation process within the framework of the WTO with the purpose to develop new regulations and WTO rules.

In this article we analyzed some of them, which are the most relevant for Ukraine in the context of improving the efficiency of its participation in the World Trade Organization.

3. Revision of the conditions of Ukrainian membership at the WTO

Thus, the most common mechanism for protecting national producers on the domestic market is review (upward) of the protective duties on imported goods. In particular, the WTO rules do not prohibit changing the commitments agreed by the countries accession to the WTO, especially if the country has reserved such a right (which was made by Ukraine during joining the WTO). According to Article XXVIII of GATT obligations revision can be made no earlier than 3 years after accession to the WTO, under certain conditions. The basic principle of change of tariff concessions is that in case of negotiations on changes of fixed dimensions of tariff rates, which were recorded in the schedules of tariff commitments, stakeholders should strive to make compensatory adjustment with respect to other products in order to maintain a general level of reciprocal and mutually beneficial concessions. A WTO member that intends to change or withdraw the concession should hold talks with the parties that have priority negotiating rights and are greatly interested in the concession.

Under the terms of Ukraine's accession to the WTO, the maximum level of its customs protection rate was fixed at a much lower level than that of the majority of its trading partners. It is therefore logical that after acquiring some experience of participation in the WTO and the manifestation of certain negative effects of the current tariff regulation, Ukraine declared its intention to exercise the right to change the tariff lines. However, as it can be seen from the reaction of trade partners, Ukraine's position before the negotiations on the revision of tariffs turned out to be weak due to a number of errors.

Guided by paragraph 5 of XXVIII Article of the General Agreement on Tariffs and Trade 1994, on the October 27, 2011, Ukraine has reserved the right to review the concessions set forth in the Schedule of Concessions and Ukraine's commitments under the WTO agreements in the next three-year period that began on January 1, 2012 (WTO document G/MA/262 of 09.11.2011). According to this decision and after studying the needs in implementing additional protective measures Ukraine has expressed its intention to enter into negotiations and consultations with WTO members to modify the obligations relating to tariffs, providing a relevant list of tariff lines.

The interagency working group to study the issue of amending the rates of import duty under the WTO agreements, composed of representatives of central executive bodies, the Federation of Employers of Ukraine, some industry brunch associations of domestic producers and academic institutions was created by the Order of the Ministry of Economic Development and Trade of Ukraine. However, the meetings of the working group did not have a public character, contrary to practice established by the WTO. In addition, the agenda for these meetings

did not include all issues that were late included into the notification, which caped the WTO members informed of Ukraine's intention to make some modification bound rates of tariffs. On the September 12, 2012, this document was circulated by the WTO Secretariat.

The notification includes 371 tariff lines, accounting for 3% of the total number of headings in the customs tariff of Ukraine (at 10 characters HS2007), including certain types of products: meat and offal from beef, pork and poultry; flowers; vegetables and fruits; sausage; household appliances; agricultural machinery; cars; furniture etc. There are 371 tariff lines, 224 of them cover agricultural products (61% of tariff lines listed in the document WTO), 147 – industrial products (39%). Meanwhile, according to information from public sources, Ukraine did not submit proposals to the desired level of tariff rates.

Note that from a legal standpoint Article XXVIII of the GATT 1994 does not limit the number of tariff lines that can be modified. However, the number of tariff lines proposed by Ukraine, according to estimates of authorized representatives of the trade partners of Ukraine is unprecedented. In the past, other WTO member countries used this article to making small technical changes to the tariff plan, and not for the broad revision of tariff lines. This practice is determined by the need for careful calculation of potential losses of interested partner countries to export to the country that initiates the revision of tariff rates. Shortly after analyzing the possible losses from the introduction of protective measures the interested parties carry out compensatory measures concessions with the purpose of reaching consensual solution. But if Ukraine puts forward a request for reviewing of the level of protected tariffs in respect relating to these tariff lines, but does not declare their volume, the use of traditional legal procedures for the Ukrainian proposal is problematic because the talks are usually intended to reach a consensus, which has primarily financial dimension.

The international reaction to the Ukraine's proposal was quite tough. This move caused dissatisfaction in major trading partners and within the WTO: Ukraine was accused of undermining the world trading system. On November 26th, 2012 Australia introduced a joint statement made by 23 delegations to the WTO, which called for Ukraine in the interests of the multilateral trading system and the global economy, to withdraw its notice to revise tariffs for a grate variety of products (WTO documents G/C/W/678). This statement indicates that the Ukraine's notification under Article XXVIII of the General Agreement on Tariffs and Trade 1994 goes beyond the volume negotiations on the revision of tariffs. It was also noted that it was not clear to what extent Ukraine would be able to compensate the losses of the other members through their proposed tariffs, as stipulated by this provision. In addition, the WTO members have expressed concern over the lack of transparency in this matter from Ukraine. This statement was supported by Egypt, Uruguay, El Salvador, Israel, China, Dominican Republic, Peru and Pakistan.

In March 2013 the US Embassy in Ukraine stated that more than 100 WTO members expressed concern about the actions of Ukraine. Also in March 2013 the EU Representation indicated that Article XXVIII of the General Agreement on Tariffs and Trade did not provide for review of such a large number of absolutely or all of conditions of accession to the WTO, and there was no precedent for such a serious review. The EU also noted the difficulty in resolving the issue was caused by the refusal of Ukraine to provide the complete information about the claims. In particular, by the fact that Ukraine has provided information about 371 tariff lines, which it would like to change, but has not provided information about what new tariffs to be offered and countervailing measures to WTO members states.

On July 11, 2013 US urged Ukraine to listen to many members of the WTO and to reject the reviewing of its bound tariffs. Concerns over the negative impact of Ukraine's intention to review the tariff commitments on the predictability of the multilateral trading system were expressed by Singapore (on behalf of ASEAN), the European Union, Turkey, Canada, Japan, Mexico, Guatemala, El Salvador, Colombia, Chile, Israel, South Korea, New Zealand Iceland, Australia, Norway, China and Hong Kong.

However, despite the criticism of the Ukrainian position, most countries have used their right to submit a request to Ukraine. In accordance with the established procedure within 90 days from the date of the spread of notification the Ministry of Economic Development and Trade of Ukraine received requests from 31 WTO member countries.

These requests were processed by the Ministry of Economic Development and Trade of Ukraine for the relevant rights and in cooperation with the Ministry of Agrarian Policy and Food of Ukraine, Ministry of Finance of Ukraine, State Customs Service of Ukraine a common position was developed on the modification of import duties on goods and compensatory concessions. However, within the period provided to it Ukraine has not reached a consensus regarding the modification of tariff import taxes on goods and compensatory adjustment. On the one hand this demonstrated the lack of sufficient flexibility to use this option, on the other hand it's showed the country's readiness to be a predictable trading partner (Ukraine fixed the terms of its membership in the WTO admission in 2008 and does not clamed to change these global commitments).

4. The most popular methods of protection in the WTO

The introduction of extraordinary measures to protect the internal market is another relatively simple and common way of protecting, which is often resorted too by countries. Particularly widespread extraordinary measures to protect the domestic market gained during the deployment of the

global economic crisis. Thus, in October 2008 – October 2009 governments of WTO member countries launched 223 anti-dumping investigations, 30 investigations on countervailing measures and 35 investigations on safeguard measures. During this period India initiated 63 anti-dumping investigations, China – 26, USA – 21. Although in 2010 during the recovery from the crisis the activity in the sphere of using emergency measures WTO countries has decreased, there is a real possibility of its renewal in case of the deployment of a second wave of the global crisis.

The most common of the WTO emergency mechanism of protection is anti-dumping duties. The process by which the scope of anti-dumping was expanded is examined in Finger (1993). During the period of 1995-2014, 4757 anti-dumping investigations were initiated. But it is not always that these investigations are completed with the introduction of anti-dumping duties. From all anti-dumping investigations launched during this period only 3058 (64%) resulted in the introduction of appropriate measures. The effects of anti-dumping measures can be compared with those of the introduction of import tariffs, namely they increase the price competitiveness of domestic producers on the internal market, help to increase payments to the budget (though not always), but raise the cost of imports for domestic consumers. However, the effects of anti-dumping measures have their own characteristics. Anti-dumping duties do not apply to all sources of imports, which increases the possibility of growing of imports from other countries, along with a decrease in imports from the countries to which such measures apply. But anti-dumping duties may not lead to a significant reduction of the presence of imports in the market.

Often countries resolve to compensatory protective measures. Theoretically the countervailing duty amount should just exactly not follow the negative effects that are created by subsidizing in the country's exports of the product. In practice this is not always easy to achieve. Consequently, the compensatory measures fully protect domestic producers from competition created imported products. The import of goods is considered to be the subject of compensatory measures if the imported goods should benefit from illegitimate subsidy (a subsidy is considered specific, namely illegitimate when access to the relevant public authority or law under which it operates, is provided only to certain enterprises). Since the system of subsidizing agriculture in the EU, US and other developed countries does not fall within the definition of specific, or illegitimate, WTO Members may apply countervailing measures against these subsidized their agricultural products only in limited cases.

According to the data of the WTO Committee on Subsidies and Countervailing Measures, the recent widespread use is significantly lover than that of the anti-dumping measures. Totally during the period from 1995 to 2014 WTO members initiated 380 investigations of compensation and safeguards and applied 202 protective measures.

The use of protective measures aimed at creating fair competition for groups of goods in the internal market irrespective of the country of import. Meanwhile, often the initiative to introduce protective measures is a result of political lobbying, so the attitude to such initiatives from trading partners is ambiguous. To avoid a negative reaction from the international community, the country initiated the introduction of protective measures, at a minimum, should provide the necessary evidence base that would convince trading partners in the absence of facts of unfair competition.

5. Legislative barriers to protect the domestic market

Ukraine as a member of the WTO, which has recently joined this organization, should use the experience of developed countries and on this basis creates the relevant institutional environment and acquires its own experience on using the emergency protective measures. Combined with an active policy of stimulating domestic producers, protection measures create conditions for the effective import substitution on the relevant product markets and for improving the trade balance of the country.

Protection of the internal market is provided by a number of WTO agreements, which on the one hand, include restrictions on their use, on the other hand – provide countries, at a proper understanding of these transactions, with sufficient tools to implement there opportunities. Meanwhile, justifying of the facts of dumping, illegitimate subsidies etc. requires involvement to the investigations materials of authoritative expert opinions (including those that relate to prices on the domestic market of the exporting country that born the basis which reviling the fact of dumping) and customs statistics of foreign countries with regard to separate codes. At the same time obtaining of this information for majority of countries is not free, therefore Ukrainian companies suffering from dumped, subsidized and growing imports, often complain of the lack of adequate financial resources.

The legal framework of the WTO clearly regulates the initiation of the investigation. Paragraph 5.1 of Article 5 of the Agreement on Implementation of Article VI of the GATT 1994 (Antidumping Agreement) states that an investigation can be initiated only following the written submission directly from the domestic industry branch or representatives on their behalf. Paragraph 5.5 of Article 5 states that the government should avoid initiatives about beginning of the anti-dumping investigation. However, by paragraph 5.6 of Article 5 of the Agreement, the Government is entitled, under special circumstances, to decide to initiate an investigation without receiving a written submission from the domestic industry directly or representatives on their behalf to initiate such an investigation. Such an investigation should be carrying

out only if there is sufficient evidence, as stipulated by paragraph 5.2 of this Article.

The Ukrainian legislation does not allow the government to initiate anti-dumping investigations, providing eligible domestic producers, there representatives and trade unions of employees of enterprises of national producers (Article 12 of the Law of Ukraine "On protection of domestic producers from dumped imports"). As a foreign trade information in full is often inaccessible to domestic producers, and requires specially trained personnel, that is to scarce away domestic producers, the probability of absence of complaints, and thus of the beginning antidumping investigation is quite significant.

6. Ukraine controversial steps to protect their producers

However, it should be noted that the violation of any investigation or reviewing of existing obligations is a procedure carried out in accordance with the requirements of such laws and WTO Agreements, in particular, according to the list of information that must contain complaint (application) about launching the investigation. Based on information contained in the complaint (statement), the evidence is considered sufficient and such that gives rise to the initiation of the investigation. Failure to observe these requirements may result in illegitimacy of the entire process of investigation and its results, which in turn can cause claims to Ukraine from other countries, including the relevant bodies of the WTO. In addition, there is a probable of relevant actions from other WTO Members in other branches of economy. Thus creating favourable conditions for one sector, through the use of instruments of protection, can lead to deterioration in other sectors. The risks of such a situation arouse following the introduction by Ukraine on April 14, 2013 of special duties on imports of new cars, which led simultaneously to a negative reaction among other WTO member states and to act in response.

On the 11 of July, 2013 at a meeting of the WTO Counsel on trade with goods the trade representative of Japan expressed his serious concern over the introduction in Ukraine of special protective duties on cars, which, he stated, seriously affected Japanese exporters. He questioned the basis for action, adding that Ukraine did not provide sufficient opportunities for prior consultation in accordance with the requirements of the legal framework of the WTO. Japan's position was supported by representatives of Australia, South Korea, European Union, Russia and Turkey.

Along with public condemnation and image losses, rising on duties on cars resulted in actions in responses. In particular, on July 12, 2013 the decision made by the Government of Turkey June 25, 2013 came into force, to introduce an additional duty in the amount of 23% on imports from Ukraine walnuts. Ultimately the duty for this type of product was 66.2%. Considering that the duty on imports of walnuts from other countries with which Ukraine competes in this market has remained at the same level, and the duty on walnuts from Bosnia and Herzegovina is set to zero, Ukraine risks to lose this market, its total import amount being almost 150 million USD annually.

In a notification sent to the WTO Secretariat, Turkey stated that it had introduced additional duties on Ukrainian walnuts on 12 July 2013 in accordance with Article 8.2 of the Safeguards Agreement of the WTO as a response to restrictions imposed by Ukraine on import of cars. Article allows the resort to countervailing duties providing that requirements of WTO consultations with stakeholders on additional safeguards measures have been violated. According to Bloomberg BNA, this was the first case of application of this Article in the WTO history.

7. WTO committees

Protection of domestic producers can be carried out on the basis of active participation in the institutions created by the WTO. The Committee on Technical Barriers to Trade (TBT) established in the WTO framework provides members the opportunity to get advice on any matters relating to the functioning of the TBT Agreement or the realization of its objectives. Nearly a third of the TBT Committee meetings are dedicated to discussion of concrete problems of trade facing WTO members-states, particularly on technical regulations, standards and conformity assessment procedures used by member countries of the WTO. In the majority of cases issues are raised in relation to the provision of further information and clarification of the measures considered under the TBT Committee, as well as installing unnecessary barriers in trade.

Most protective measures discussed within the Committee on TBT implemented by WTO members to ensure the health and safety of life, the protection of consumers and their information, food safety, fair trade, trade facilitation, protection of the environment. The major activity at the meetings of the TBT Committee is shown by such industrially advanced countries as the EU, USA, Japan, South Korea, which through the effective use of tools and mechanisms laid down in the TBT Agreement, on the one hand, protect their markets and citizens from unsafe products, and on the other hand do not allow to the other countries to impose unjustified technical barriers to access of their products to the markets of these countries.

In addition to technical barriers to limit imports the member countries of the WTO are using sanitary and phytosanitary standards. According to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, countries are eligible to apply such measures to protect the life or health of humans, animals or plants, based on scientifically grounded reasons and without creating unjustifiable discrimination or a disguised restriction on trade. However, in practice, countries often abuse the use of TBT. An example of such

actions can be considered the introduction of sanctions by the Russian Federation against the Ukrainian manufacturer of confectionery product – the company Roshen. However, for such cases, the WTO rules also provided some tools of appealing the imposed restrictions that can be made use of by Ukraine.

8. The conclusion and recommendations of this study

1. Based on the analysis of international experience, we should acknowledge that the current practice of representation of national interests of Ukrainian producers in the WTO does not meet the needs of external economic vector of development of the national economy. In particular, in the course of exercising of the right to revise tariff rates in accordance with paragraph 5 of Article XXVIII of the General Agreement on Tariffs and Trade, Ukraine showed its unreadiness to fully use the opportunities of WTO legislation. Declaring its intention to review 371 tariff lines, Ukraine has not offered any concrete proposals on how it should change these tariff lines and that compensation will be provided to WTO members states.

2. By submitting unproperly prepared proposal to the WTO Ukraine not only failed to introduce effectively its national interests in the WTO, but also sustained serious image losses that potentially reduce the investment attractiveness of Ukrainian projects. The lack of a full package of proposals negatively affected the attitude to Ukraine as a partner. In addition, this has led to a delay of the process of tariff lines change being indefinite, but rather a considerable time period.

3. In future, if Ukraine does not significantly increase the efficiency of representation of its national interests in the WTO, a chain of negative consequences, can be expected such as:

- Restrictive sanctions (tariff and non-tariff nature) against the Ukrainian products;
- Increased pressure to use compensatory mechanisms by Ukraine, such as reducing tariffs on other goods, that would be represent interest for certain WTO members;
- Lack of partner countries' intentions to make concessions in the negotiations;
- Escalation of trade disputes with Ukraine, initiation of disputes in international courts;
- Increase of the volume of trade claims against Ukraine – in compliance with in the number of countries participating in dispute and the amount of financial claims;
- Positioning of Ukraine in the international arena as a country that violates its obligations;
- Complication of relations with trade partners in other spheres: foreign economy, finance, etc.

4. In order to minimize the possible negative consequences in the future and to accelerate the process of achieving a consensual solution with trade partners is reasonable to approve the decision optimizing of the applications for review of Ukraine's tariff commitments, leaving only those positions on which Ukraine can present to the WTO Secretariat the evidence base necessary for changing the tariff lines. In addition, the evidence must justify the proposed new value. Also the offer tariff adjustment should be based on a forecast of the possibility and acceptability for Ukraine of introducing compensatory measures in the interests of the countries concerned.

5. To effectively use such the WTO tool as "extraordinary measures", it is necessary to create an appropriate institutional environment. The experience accumulated by the WTO members on using these safeguards mechanism enable to minimizes risks introducing unpredictable volume in response to sanctions from trading partners.

In this context, it seems appropriate to develop and implement appropriate legislation provisions for special circumstances under which the Ministry of Economic Development and Trade would have the right initiating anti-dumping investigations without waiting for receipt of complaints from domestic producers. This might a significant simplification of procedures for launching investigations that would increase the efficiency of executive power and would improve the protection of domestic producers from dumped imports. Therefore, we consider it appropriate to reflect clearly the specific conditions in the Law of Ukraine "On protection of national producer against dumped imports", under which the government would get the right to initiate an anti-dumping investigation while granting it (only if there is a government initiative on anti-dumping investigation) right to collect information to the start of the investigation.

6. Ukraine as a new member of the WTO must participate more actively in the meetings of the Committee on Technical Barriers to Trade on a regular basis. With regard that TBT is one of the key measures of protection that practiced by developed countries, the purpose of such participation might be:

- Studying the experience of developed countries on the use of technical barriers;
- Expanding the tools to overcome technical barriers in the process of expanding markets for Ukrainian products;
- Improving the efficiency of protection of domestic producers of the markets of countries that widely used technical barriers on trade;
- A possibility to avoid mistakes and prevent possible trade sanctions in case of misuse of technical barriers to protect domestic markets.

7. In the context of improving the practice of using technical barriers to protect domestic market it is necessary to provide regular preparation and transfer to the WTO Committee on TBT of notifications, concerning the adoption by Ukraine scientifically grounded appropriate measures in standardization and conformity assessment, which may affect trade.

8. According to the experience of many WTO members may be appropriate to examine the possibility of opening the specialized office of Ukraine in the WTO

Secretariat for the operational work on the protection of national interests on the access of Ukrainian goods to the markets of member countries of the WTO, fitting it with highly qualified specialists in the sphere of WTO trade agreements.

9. In general, to improve the use of WTO mechanisms to protect domestic producers, the following purposes have to be achieved:

- transparency in state decision-making that affects the foreign trade activity of Ukraine;
- promoting diversification of exports of goods and services both in terms of their range and geography, in order to minimize the risks that arise as a result of responses to the protective measures imposed by Ukraine;
- ensuring coordination mechanism for the formation of a national position on the mode of access of goods and services to domestic and foreign markets;
- observing during the term of an application of WTO established rules and principles of appropriate decisions to avoid lawsuits from other WTO members, or their use of discriminatory measures in response;
- providing the economic justification for the proposals to protect domestic industries. Development of forecasts of the effects of possible countermeasures against other industries should be an integral part of such substantiation;
- the creation of a permanent mechanism of conducting seminars on the use of trade protecting instruments with involvement of foreign experts;
- providing financing of receiving information of national and international information, analytical and research centers, provided for a fee, with the purpose of protecting the interests of domestic producers under anti-dumping, countervailing and special safeguard investigations in domestic and foreign markets.

Overall, it should be noted that the WTO legislation base is constantly being upgraded, that's creating new opportunities for countries to protect their producers. This raises the problem of its constant monitoring for both from the practical side (development of appropriate recommendations of the state policy) and scientific aspects (analysis of the impact of such changes on the development of ideas of free trade, etc.).

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Иван УС

ОТДЕЛЬНЫЕ АСПЕКТЫ ИСПОЛЬЗОВАНИЯ МЕХАНИЗМОВ ВТО ДЛЯ ЗАЩИТЫ НАЦИОНАЛЬНЫХ ЭКОНОМИЧЕСКИХ ИНТЕРЕСОВ УКРАИНЫ

Аннотация. Целью работы является анализ использования Украиной предоставляемых правовой базой Всемирной торговой организации механизмов защиты внутреннего рынка с целью подготовки соответствующих рекомендаций органам государственной власти, уполномоченным на проведение торговой политики. *Методика*. Исследование основано на изучении опыта Украины по пересмотру своих обязательств по тарифным линиям в первый трёхлетний период после присоединения к ВТО, а также на анализе наиболее резонансных шагов по защите внутреннего рынка, предпринятых Украиной и последствии этих шагов. *Результат*. В статье рассмотрены вопросы использования Украиной созданного Всемирной торговой организацией инструментария по защите интересов национальных товаропроизводителей. Пошагово изучена ситуация по использованию Украиной права на пересмотр условий членства в ВТО начиная от стадии изучения данного вопроса внутри страны и до заявления правительства об отказе от использования данной возможности. Проанализированы все стадии процесса использования возможности по пересмотру условий членства в ВТО и определены ошибки, которые привели к отсутствию ожидаемого результата в конечном итоге. Также рассмотрены основные инструменты защиты внутреннего рынка в системе ВТО, такие как антидемпинговые расследования и расследования касательно субсидируемого импорта. Изучена динамика использования таких расследований всеми странами-участниками ВТО с момента создания ВТО с особым акцентом на периоде финансово-экономического кризиса 2008-2010 годов. Также определено количество результативных расследований приведших к применению определённых защитных мер. Проанализированы риски, которые возникнут в случае отсутствия со стороны правительства Украины

шагов по повышению эффективности представления интересов в ВТО. Даны рекомендации улучшения использования механизмов ВТО для защиты отечественных товаропроизводителей. Предложены изменения в законодательную базу Украины, которые будут способствовать улучшению практики отстаивания интересов национальных товаропроизводителей при соблюдении правил ВТО. Отдельное внимание в статье обращено на вопросы, находящиеся на обсуждении комитетов составляющих ВТО и влиянии, которое будут иметь решения, принимаемые в этих комитетах, на страны-участницы ВТО. Таким образом, систематизированы основные цели участия стран-участниц ВТО в работе таких комитетов и определены основные выгоды от активного участия в их работе. *Практическое значение*. Полученные данные могут быть использованы органами государственной власти как Украины, так и других стран, которые недавно присоединились к ВТО, для улучшения использования институтов и механизмов созданных этой организаций для реализации своих национальных экономических интересов. Также анализ опыта первой попытки пересмотра Украиной своих обязательств перед ВТО будет полезен при повторном пересмотре условий, который, согласно правилам ВТО, происходит каждые три года.