

## **International law as the basis of "WTO law"**

Romanova Ekaterina Evgenievna

*Postgraduate*

*Kutafin Moscow State Law University*

Abstract. Over the past decade, disputes between international lawyers over the law governing the activities of the World Trade Organization (WTO) have not subsided. The WTO is a "traditional" international organization established by an international treaty, membership-based, has international legal personality and contractual legal capacity. In turn, the WTO law is a set of agreements and annexes to them, protocols of accession, decisions of the WTO bodies, which allows WTO law to be considered a special treaty regime within the framework of international law. WTO law is not isolated, as it is implemented in accordance with the 1969 Vienna Convention on the Law of Treaties. This article attempts to determine the place of WTO law in international law and the international community as a whole. A historical excursion into the formation of the WTO law is given, as well as its relationship with general international law.

Keywords: World Trade Organization, WTO law, international law, trade, international trade law, 1969 Vienna Convention on the Law of Treaties, international economic law, special regime, autonomous regime, treaty regime, WTO Dispute Settlement Body.

Discussions about the belonging of the WTO law to international law and about its "autonomy" have been going on since the organization was founded. However, at present this issue is more acute, due to the fact that the formation of "autonomous" regimes is a problem for the integrity of international law.

In the modern world, it is impossible to imagine human relations and international law in general without trade relations. With the passage of time and the evolution of society, the activities of people and their trade relations began to go beyond the boundaries of one country.

The origins of international law are associated with trade. It is fully covered by one of the main sources of international law - the treaty. One of the first international legal documents that left a mark on history was the trade agreement concluded by Amenophis IV and King Alasia (Cyprus) in the XIV century BC. This treaty exempted Cypriot traders from customs duties in exchange for copper and timber imports. Since then, nothing has fundamentally changed: at the beginning of the XXI century, bilateral agreements still exist in trade relations.

The regulation of such relations is a complex process that gets more complicated every year. The evolution of trade relations led to the idea of creating a special organization - the

World Trade Organization (hereinafter - WTO). This organization, created on the basis of the Marrakesh Agreement, can truly be classified as international, since it has all the same characteristics – "it is an organization established by a treaty or other document governed by international law and has its own international legal personality".

The establishment of the WTO has led to the emergence of many controversial issues in international legal science, including the relationship of the norms of this specialized organization with the law of international organizations, the principles and norms of "WTO law" and the domestic law of the member countries, as well as the definition of the concept and place of WTO law in international law.

On January 1, 1995, the emergence and formation of the main doctrinal approaches to the definition of the term WTO law began. A detailed analysis of foreign and domestic studies, as well as the law enforcement practice of the WTO Dispute Settlement Body (hereinafter - the WTO DSB) indicates that there is still no generally accepted understanding of WTO law.

The WTO is an international organization that provides a forum for negotiations between sovereign states and therefore a cooperation organization similar to international conferences established under traditional international law. But it also includes a sophisticated dispute settlement mechanism based on modern international law, which makes its competence broader and more versatile.

WTO internal law documents are very difficult to attribute to the source of WTO law. This conclusion is confirmed in a monographic study presented in the collective work "WTO Law: Theory and Practice of Application": "It would be clearly erroneous to interpret the WTO law in terms of such a category as" domestic law of international organizations. " So, in paragraph "c" of Article XXI (c) of the GATT it is fixed:"Nothing in this Agreement should be construed as preventing any Party from taking any action to fulfill its obligations under the Charter of the United Nations to maintain international peace and security", which further confirms the affiliation of WTO law to international law. Agreements within the WTO, like the WTO law itself, directly have the same features as international law itself.

According to V. M. Shumilov, the WTO law is a unique legal phenomenon of our time, and he interprets the WTO as the "core" of the institutional part of international trade law.

According to L. P. Anufrieva, the "treaty regime" cannot go beyond the framework of international law, "confirming this position, including by the fact that no agreement within the WTO goes beyond the law of international treaties and the Vienna Convention of 1969, including".

The first decisive step towards defining the WTO law and its place in the system of public international law is the work of D. MacRae "The Contribution of International Trade Law

to the Development of International Law". D. McRae was one of the first to argue that WTO law belongs to the sphere of public international law.

WTO law is consistent with general international law, while adjusting it to the specific conditions of international trade. While joining the international legal order, the WTO nevertheless created its own unique system of principles and norms, among which the rules on dispute resolution procedures and on international responsibility in the framework of the multilateral trading system occupy a special place.

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It is not uncommon for the WTO law to be viewed from the standpoint of the integral processes taking place in the world. In foreign and domestic doctrine, there are several opinions regarding this concept. Some scholars are of the opinion that WTO law is an integral part of international law, while others deny its belonging to international law. At present, it is practically not disputed that the WTO law is in the "orbit" of international law.

WTO law should be understood as a complex and heterogeneous structure, with the help of which it is possible not only to defend national interests, but also to protect them. To do this, it is necessary to correctly and clearly not only apply the WTO rules, but also skillfully use spaces and exceptions to the rules in this area.

In particular, "the absence of a single subject of WTO law and the use of "various methods of legal regulation (both private and public) do not allow V. M. Shumilov to consider WTO law as an independent sub-branch of international economic law".

In addition, it should be noted that international legal norms, including the norms of special regimes, including the norms that are part of the WTO law, should not contradict the generally recognized norms and principles of international law. So, we can conclude that the WTO law is an integral part of the system of international law, and the same features and patterns are inherent in it. The process of globalization of the modern world has led to the "birth" of WTO law in the system of international law. If all member states comply with their obligations, compliance with generally recognized principles and norms of international law, it is possible to avoid opposition to international law and WTO law, as well as to competently manage the process of "fragmentation" of international law.

When joining the WTO, each member state expresses its will and consent to abide by the rules and regulations of the organization, which does not allow the WTO law to be attributed to

the national legal system, but refers it to the "international space", obliging to comply with generally recognized norms and principles of international law. In accordance with Article 2 of the Vienna Convention on the Law of Treaties of 1969, these agreements are essentially international treaties, which indicates that WTO law is an integral part of the system of international law.

Having a number of specific features, the WTO law is an integral part of international law, which is confirmed by the WTO OPC, referring to the principles and norms of international law in the absence of special provisions of "covered agreements" or the need for their interpretation.

In conclusion, it can be concluded that the WTO is a "traditional" international organization established by an international treaty, based on membership, having international legal personality and contractual legal capacity, which is also inherent in WTO law itself - which, therefore, like the WTO itself, is located in "Orbit" of international law. This is evidenced by the norms of the Marrakesh Agreement and the conclusions that arbitration groups and the Appellate Body often come to in the course of resolving disputes.

The law of the World Trade Organization regulates a wide range of relations between member states, provides an opportunity for the settlement of disputes amicably or with the participation of arbitration bodies. WTO law cannot be associated with international trade law or international economic law, and WTO law does not govern relations between individuals and legal entities. WTO law is a separate system of agreements, acts and reports, not isolated from general international law. WTO law is a special treaty regime based on general international law.

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