

UZBEKISTAN'S ACCESSION TO THE WTO: LEGAL REFORMS AND CHALLENGES

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Abstract

Uzbekistan's ongoing accession to the World Trade Organization (WTO) represents a pivotal transformation in its economic and legal architecture. This thesis investigates the complex legal adjustments and institutional reforms required for WTO membership. The study particularly focuses on legal harmonization with WTO agreements, the transition to a market economy governed by rules, and the challenges posed by aligning domestic law with international trade obligations. By examining comparative international models and the experience of other transitioning economies, this research identifies both challenges and strategic pathways for successful accession. This thesis also provides recommendations grounded in legal scholarship and Uzbekistan's regulatory realities.

Keywords: WTO, legal reform, trade legislation, market economy, technical regulation, intellectual property.

Introduction

Uzbekistan, since gaining independence in 1991, has been gradually integrating into the global economy. The accession process to the WTO, reinitiated with vigor in 2017, represents an inflection point that demands substantive legal reforms across trade, intellectual property, customs, investment, and competition law. The WTO is not simply a trade club—it is a rules-based system requiring uniformity, predictability, and enforceable commitments [2; B.22]. For Uzbekistan, this demands an overhaul of both legislative texts and institutional practices. This thesis delves into the legal challenges and reforms necessitated by WTO

accession, drawing on treaties, national legislation, comparative experiences, and legal theory.

Legal Nature and Obligations of WTO Membership

Joining the World Trade Organization (WTO) involves accepting a complex framework of around 60 legal agreements, including foundational instruments such as the GATT 1994, GATS, TRIPS, the Technical Barriers to Trade (TBT) Agreement, and the Sanitary and Phytosanitary (SPS) Agreement [1; B.3]. These agreements create binding commitments for member countries, shaping both their legislative agendas and regulatory practices.

For instance, Article III of the GATT requires WTO members to offer national treatment to imported goods—meaning foreign products must be treated no less favorably than domestic ones. This has direct implications for Uzbekistan’s tax system and technical regulations, which must be reformed to ensure non-discrimination [3; B.175]. Similarly, the TRIPS Agreement obliges Uzbekistan to bring its intellectual property (IP) laws, including those on patents and trademarks, into line with international standards [9; B.1].

Legal Reforms Already Undertaken

Uzbekistan has already taken important steps to align its legal system with WTO requirements. Notable reforms include:

- **The Law on Technical Regulation (2021)**, which brings product standards into conformity with the TBT Agreement [7; B.4];
- **Amendments to the Customs Code (2022)**, aimed at improving transparency and predictability in customs procedures in line with Article X of the GATT [8; B.12];
- **The Law on Investments and Investment Activities (2019)**, which updates investor protections to reflect WTO investment facilitation principles [2; B.45].

Despite this progress, challenges remain. The current legal framework still shows signs of fragmentation. For example, Uzbekistan’s sanitary and phytosanitary (SPS) regulations require further updates to comply with the WTO SPS Agreement, particularly its emphasis on scientific justification for trade-related health measures [1; B.81]. Additionally, the enforcement of IP rights remains uneven. TRIPS Article 41 calls for effective legal procedures to address

infringement, an area where Uzbekistan's enforcement mechanisms still need to be strengthened [9; B.41].

Institutional and Administrative Readiness

Legal reforms, while essential, are not enough on their own for successful WTO accession. Membership also requires strong institutions capable of interpreting and applying laws in line with WTO standards and jurisprudence [3; B.183]. In Uzbekistan's case, the judiciary currently lacks the expertise and capacity to effectively resolve trade-related disputes. Additionally, regulatory bodies—such as the customs authority and national standards agency—must not only apply rules consistently but also ensure transparency in their operations, in accordance with the WTO's transparency requirements outlined in GATT Article X and the Trade Policy Review Mechanism [6; B.11].

Challenges in Legislative Harmonization

Aligning domestic legislation with WTO obligations presents several challenges, especially when such reforms risk conflicting with Uzbekistan's broader development goals. For instance:

- **Tariff Bindings:** Joining the WTO means Uzbekistan would be committed to maximum tariff levels, restricting its ability to adjust rates in support of industrial development (GATT Article II) [1; B.17].
- **Subsidy Limitations:** The Agreement on Subsidies and Countervailing Measures (SCM) would require significant reductions in agricultural and industrial subsidies—measures that currently play a crucial role in supporting rural communities and local industries [10; B.2].
- **State-Owned Enterprises (SOEs):** WTO disciplines, particularly those under GATT Article XVII, require SOEs to operate on commercial terms. This expectation stands in contrast to Uzbekistan's strategic use of SOEs for broader economic planning and policy implementation [3; B.237].

These examples highlight the legal and policy tensions that may arise between fulfilling WTO commitments and maintaining domestic policy flexibility. Therefore, a careful, phased approach to accession is essential. This includes negotiating for special and differential treatment, making use of allowable transition periods, and designing gradual reform strategies that align with both WTO obligations and national development objectives [2; B.53].

Comparative Legal Experiences. Uzbekistan's legal reform efforts in pursuit of WTO accession can be better understood through the lens of similar transitions in other post-Soviet and developing countries. The experiences of Kazakhstan, Georgia, and Vietnam offer instructive examples—highlighting both effective strategies and common challenges in aligning domestic legal systems with WTO norms.

Kazakhstan, for instance, joined the WTO in 2015 after nearly twenty years of complex negotiations. One of its most significant legal challenges involved reforming its tariff regime and harmonizing national technical regulations with the WTO's Agreement on Technical Barriers to Trade (TBT) [4; B.8]. Over the course of the accession process, Kazakhstan revised more than 800 laws and regulations. Central to these reforms was the modernization of its customs code, transitioning from a Soviet-style, opaque framework to a transparent, WTO-compliant system. Priorities included enhancing legal transparency, ensuring the publication of trade regulations, and guaranteeing non-discriminatory treatment of foreign goods [4; B.11].

Georgia's accession in 2000 followed a markedly different path. Embracing a radical liberalization strategy, Georgia eliminated nearly all tariffs and undertook sweeping reforms of its commercial code. Most notably, it restructured its judiciary to better handle trade-related disputes, underscoring the importance of judicial independence and procedural clarity in ensuring effective dispute resolution [3; B.210].

Vietnam's path to WTO membership took a more gradual but highly structured legal approach. The country focused on revising investment laws, restructuring state-owned enterprises, and enacting comprehensive intellectual property and competition legislation to meet WTO requirements [5; B.14]. Vietnam's experience illustrates the value of a sequenced reform strategy—one that prioritizes legal alignment with key WTO agreements such as TRIPS and GATS before formal accession.

Uzbekistan, however, faces unique challenges compared to these countries. A legacy of centralized regulation, limited legal transparency, and bureaucratic opacity means that reforms must go beyond statutory updates. What's required is a broader transformation of legal culture and administrative behavior [6; B.21]. The comparative experiences show that meaningful WTO integration relies not just on changing laws, but on fostering domestic legal consistency, strengthening

institutional independence, and embedding principles of non-discrimination in trade regulation.

Moreover, these case studies highlight the importance of ensuring public access to legal texts, conducting regulatory impact assessments before laws are adopted, and engaging stakeholders in the reform process. For Uzbekistan to successfully follow or even improve upon these models, it must institutionalize such practices through clear, enforceable legal mechanisms [5; B.17]. In this regard, comparative legal experience serves not only as a benchmark but as a practical roadmap for reform.

Need for Reform: Justification and Legal Rationale

The legal need for reform in Uzbekistan is rooted in both normative and functional deficiencies within the existing trade regulatory framework. Currently, many trade-related norms in Uzbekistan are dispersed across various legislative instruments, including presidential decrees, Cabinet of Ministers' decisions, and ministerial regulations [2; B.29]. This fragmentation undermines legal predictability and fails to meet the transparency requirements established under Articles X and XI of the GATT [1; B.11].

A comprehensive legislative reform is justified primarily on three legal grounds. First, WTO accession imposes binding obligations under international law. Upon accession, WTO agreements become enforceable and create legal expectations for non-discrimination, transparency, and due process [3; B.198]. The existing legal structure in Uzbekistan does not fully support these principles, particularly with respect to the enforcement of private rights and judicial review of administrative trade actions.

Second, Uzbekistan's national interest in expanding foreign trade and attracting foreign direct investment (FDI) depends on establishing a reliable legal environment. Empirical evidence from countries like Vietnam and Georgia suggests that post-accession periods often see a significant increase in FDI inflows, attributed largely to improved investor confidence stemming from legal certainty. For example, Vietnam's inward FDI increased by over 80% in the five years following its accession in 2007, with legal harmonization cited as a key factor [5; B.16].

Third, reform is constitutionally mandated. Article 19 and Article 45 of the Constitution of Uzbekistan guarantee the primacy of law, legal certainty, and the

protection of economic rights. In the current context, failure to adapt domestic trade laws to international standards may result in structural violations of these constitutional guarantees [2; B.51]. In particular, trade-related restrictions that lack a clear legal basis or which are applied in a discriminatory manner may contravene both domestic law and anticipated WTO obligations. From a legal theory perspective, WTO accession also represents an opportunity to transition from a command-based administrative regulatory system to a rule-of-law model consistent with international legal norms [3; B.259]. The harmonization process encourages the codification of discretionary trade practices, introduces administrative accountability, and strengthens procedural safeguards. Each of these elements is central to the doctrine of good governance and the principle of legal certainty—a cornerstone of the European legal tradition, which Uzbekistan has often sought to emulate.

In sum, the justification for legal reform in Uzbekistan is rooted in both external obligations and internal normative goals. It serves not only to facilitate WTO membership but also to modernize the country's legal and institutional landscape. A failure to enact meaningful reforms may delay accession, reduce international credibility, and inhibit economic diversification. Conversely, comprehensive legal reform aligned with WTO disciplines offers a path toward sustainable development and international integration [2; B.33].

These legal rationales underscore why accession is not merely economic, but a transformative legal process.

Recommendations

To meet the legal requirements of WTO membership effectively and sustainably, Uzbekistan should consider:

1. **Comprehensive Legal Audit:** Establish a legal review commission to assess conformity of all trade-related laws with WTO rules. Prioritize core agreements: GATT, GATS, TRIPS, TBT, SPS [1; B.63].
2. **Transition Periods:** During negotiations, legally request phase-in periods under WTO Accession Protocols. These are consistent with WTO practice and allow gradual reform [5; B.17].
3. **Judicial and Regulatory Training:** Enhance legal capacity of judges, regulators, and customs officers in WTO law through partnerships with WTO Secretariat and donor countries [6; B.28].

4. Legal Translation and Access: Ensure that all WTO-related laws are accessible in Uzbek and interpreted consistently. This improves legal certainty for both citizens and businesses [7; B.4].

5. Public Consultation and Notification: Amend legislative procedure laws to mandate public comment periods and WTO-compliant notification of trade measures [1; B.122].

Conclusion

Uzbekistan's WTO accession presents not just economic opportunity, but a foundational legal transformation. The state must align its laws, institutions, and enforcement mechanisms with the legal commitments embedded in the WTO legal system [2; B.56]. While challenges persist—especially in subsidy reform, SOE conduct, and dispute readiness—comparative experience and WTO law itself offer flexible pathways. A strategic, legally sound accession process can anchor Uzbekistan more deeply in global trade law, fostering legal predictability, economic growth, and institutional maturity [3; B.259].

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