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The Legal Basis of Foreign Trade Regulation by the State

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ABSTRACT

This article delves into the legal aspects of foreign trade relations in Uzbekistan, emphasizing the significance of regulatory frameworks and legal documentation. It explores the application of laws, legislative practices in foreign jurisdictions, and conceptual foundations in international private law, shedding light on their role in shaping international business interactions.

Keywords: Foreign trade, export, import, customs, WTO, Doing Business, protectionism, cryptocurrencies, contracts.

Introduction: There is a global trend towards establishing trade relations based on principles of fair competition and equitable trading conditions, with international organizations providing practical support to countries in this endeavor. Annually, various foreign trade indicators of countries are published to facilitate transparency and comparison. The World Trade Organization's 2019 report revealed that over 5,300 products are traded across more than 220 countries worldwide, with the volume of global trade goods experiencing an average annual growth rate of 5.5%. Consequently, there is a pressing need for countries to systematically enhance their foreign trade practices, ensure proper legal regulation, and develop effective mechanisms for resolving conflicts that may arise in this sphere.

In defining the particular avenues for legal regulation of global trade relations, significant emphasis is placed on the integration of modern information technologies through digitalization, efficient resource utilization, and the electrification of contracts. Key aspects include the strategic structuring of international trade, implementation of "smart regulation" frameworks, establishment of effective mechanisms for conflict resolution in trade contracts, and the application of virtual world laws to govern foreign trade relations, highlighting their growing importance in the field.

In recent years, Uzbekistan has made significant progress in improving its global economic ranking, elevating from 146th to 76th place among 190 countries in the "Doing Business - 2020" report. This advancement also reflects a positive shift compared to its 78th position in 2012. The country's foreign trade development is underpinned by a focus on effectively regulating investment and trade activities, including minimizing state intervention, forging international regulatory agreements, ratifying global conventions, and engaging in systematic endeavors in various spheres.

The expansion of international economic cooperation, strengthening ties with prominent international and foreign financial institutions, prudent management of foreign debt, efficient utilization of foreign investments and loans, as well as active engagement in foreign policy and economic initiatives, are highlighted as pivotal aspects of furthering Uzbekistan's economic development. Enhancing the normative-legal framework and contractual basis of international collaboration is identified as a key priority in economic advancement, underscoring the growing importance of research in this domain.

Literature review: The independent study of international trade, international private legal analysis of foreign trade relations, the historical and contemporary evolution of state law in relation to these matters, international standards, and the experiences of foreign nations in this field have not been thoroughly explored in our country.

Some issues of legal regulation of foreign trade relations were discussed by the scientists of our country - H. Rahmonkulov, S. Gulyamov, B. Samarkhojayev, I. Rustambekov, V. Ergashev, S. Khamrayev, N. Kha-A. Rakhmonkulova, O. Hazratkulov, D. Imamova, V.N. It was considered to a certain extent in the scientific works of Hoshimov, E.F.Trushin and others.

Recent studies have delved into the peculiarities of private legal regulation of foreign trade relations in foreign countries, as well as examined international electronic trades, their legal frameworks, issues related to cryptocurrencies, the application of blockchain technologies, and "smart contracts." Scholars such as N. Nwafor, C. Lloyd, M. Douglas, N. Loadsman, J. Levin, C. S. A. Okoli, B. G. Slocum, S. Guran, O. Toch, T. I. Kiviat, S. Kataoka, among others, have contributed to this evolving body of research.

Researchers such as Beshpalova, A.E., Vaulina, O.A., V.A., Yegupov, M.A. Pleshkov, P.V. Belousov, A.O. Inshakova, V.I. Fedulov, V.K. Shaydullina, L.G. Yefimova, M.A. Yegorova, N.V. Makarchuk, S.I. Kusevalov, and others have been active in conducting studies in the field of research within the CIS countries in recent years.

However, their focus has primarily been on topics such as foreign economic contracts in private international law, the legal regulation of foreign investment and its socio-economic aspects, as well as intricate issues surrounding the legal aspects of foreign trade relations based on domestic legal norms and international agreements. As a result, there is a noticeable gap in research concerning these areas within our country, highlighting the pressing need for a comprehensive exploration of these crucial topics.

Notably, there has been a lack of dedicated monographic studies specifically addressing the legal regulation of foreign trade relations within our country.

Research methodology: The research work utilized various methodologies including in-depth examination of historical, systematic-structural, comparative legal, logical, and scientific sources, as well as the application of induction and deduction, and analysis of statistical data. Additionally, grouping and comparative analysis methods were employed in the study.

Analysis and results: It is argued that the civil legislation in the Republic of Uzbekistan falls short in addressing modern market demands such as electronic commerce, cryptocurrency circulation, and other emerging forms of civil contracts and relationships.

the regulations governing the registration process for export contracts have been critiqued for their restrictive nature, which contravenes the principle of freedom of contract;

a critical analysis of how developed countries handle cryptocurrency regulation highlights the necessity of developing legislative frameworks for cryptocurrencies and tokens, both in public and private legal domains;

there is a recognized need within the civil code to accommodate smart contracts and incorporate provisions relating to their formalization;

in cases where one of the parties involved in commercial activities is located outside Uzbekistan,

it is proposed that disputes stemming from contractual and other civil relations during foreign trade activities be resolved through arbitration;

an arbitration agreement should be considered international if the parties have explicitly agreed that it pertains to multiple countries;

according to the parties' agreement, disputes arising from all commercial relations can be resolved through arbitration;

in cases where a foreign trade agreement aligns with national interests, the UN Convention on Contracts for the International Sale of Goods may be directly applicable as a law governing the agreement, highlighting the importance of incorporating the convention into national legislation;

there has been a development of conflicting principles in regulating international electronic contractual relations, underscoring the necessity of incorporating conflict resolution mechanisms such as "lex venditoris," "lex informatica," and "lex electronica" in national legislation pertaining to the regulation of these relations.

Conclusion: From the point of view of the concept of foreign trade relations and their regulation, there is a tendency to implement them in two forms: public legal regulation and private legal regulation.

In Uzbekistan, the foreign trade activity does not meet the requirements of the time, and the outdated bureaucratic barriers to the sale of goods (services) to the foreign market, based on the unlimited control function of state administration bodies, still remain. It was concluded that Uzbekistan's trend of public-legal regulation of foreign trade activities in this form is characterized by excessive use of administrative-legal means aimed at protecting the domestic market.

In our opinion, it is necessary to create conditions for the contractual liberalization of this sector by sharply reducing the administrative means of the state's participation in foreign trade relations in Uzbekistan.

The nature of foreign trade relations shows the mutual integration of international-legal, civil-legal, state-legal and other spheres, and the method of legal regulation aimed at the harmonious application of national, international and customary law norms to regulate it.

The fact that the Republic of Uzbekistan joined the Hague Conference on Private International Law in March 2020 as the 83rd country indicates the need to ratify international documents adopted by this organization in the field of foreign trade. In particular, it is proposed to join the "Hague Convention on the Law Applicable to Contracts for the International Sale of Goods" dated June 15, 1955. The ratification of this international document does not create the need to identify and apply national conflict binders in finding solutions to conflict issues that arise in cases where one of the parties is Uzbekistan and the parties have not previously agreed on the law applicable to the contract.

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