Problems of harmonization and implementation WTO rules and norms to the national Legislation of the Russian Federation.

Irina Mylnikova, Institute of State and law. Tyumen State University.
"Each Member shall ensure the conformity of its laws, internal regulations and administrative procedures with its obligations provided for in this Agreement"
WTO RULES IS A SYSTEM OF NEARLY 60 AGREEMENTS:

**GATT 1947/94** (GATT, General Agreement on Tariffs and Trade);
**GATS** (GATS, the General Agreement on Trade in Services);
**TRIMS** (The Agreement on Trade-Related Investment Measures);
**TRIPS** (Agreement on Trade-Related Aspects of Intellectual Property Rights);
**SPS** (Agreement on Sanitary and Phytosanitary Measures);
**AG** (Agreement on Agriculture);
**TBT** (Agreement on Technical Barriers to Trade);
**CV** (Customs Valuation);
**SCM** (Subsidies and Countervailing Measures);
**SG** (on Safeguards - special protective measures);
**ADA** (application VI GATT 1994 (antidumping));
**TBT** (Technical Barriers to Trade);
**SPS** (Sanitary and Phytosanitary Measures);
**DSU** (Agreement on the rules and procedures of dispute resolution);
- **Decisions Appellate Body** (100) and **DSB panels** (170).
LEGAL FRAMEWORK WTO RULES APPLICATION BY THE WTO MEMBERS

Direct application

Indirect (implicit) application
EUROPEAN COMMUNITIES IN THE WTO:
«BY ITS NATURE, THE AGREEMENT ESTABLISHING THE WTO, INCLUDING THE ANNEXES THERETO, IS NOT SUSCEPTIBLE OF BEING DIRECTLY INVOKED IN THE COMMUNITY OR MEMBER STATE COURTS». 
The effect of the WTO law within the European Union became determined under the jurisprudence of the European Court of Justice

The position has been formed in a number of landmark decisions
Joined Cases C-120/06 P & C-121/06 P, Fabbrica Italiana Accumulatori Motocarri Montecchio SpA v. Council, 2008 E. C.R. I-6513
The Uruguay Round Agreements Act of 1994:

«No provision of any of the Uruguay Round Agreements, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the US shall have effect». 
**direct effect**
WTO law

WTO agreements will have no **effect**, if they are contrary to any law of the United States.

**indirect application**
WTO law
(the interpretation of the norms of US domestic law)

priority to interpretation given by an **executive authority**
(case Charming Betsy, case Chevron).
1) ARTICLE 15 OF THE CONSTITUTION
2) REPORT OF WORKING PARTY ON THE ACCESSION OF THE RUSSIAN FEDERATION TO WTO

“- INTERNATIONAL TREATIES OF THE RUSSIAN FEDERATION FORMED AN INTEGRAL PART OF THE LEGAL SYSTEM OF THE RUSSIAN FEDERATION.
- THE JUDICIAL AUTHORITIES OF THE RUSSIAN FEDERATION WOULD INTERPRET AND APPLY ITS PROVISIONS.
- INTERNATIONAL TREATIES HAD PRIORITY IN APPLICATION".
Effect of WTO rules in Russian Federation

Direct effect

Indirect effect

a different approaches
“WTO TREATIES AND LAW OF THE CUSTOMS UNION ARE NOT IN A HIERARCHICALLY SUBORDINATED TO EACH OTHER...”

«...SO, THE COURT COMES TO THE CONCLUSION THAT THE INTERNATIONAL TREATIES CONCLUDED WITHIN THE FRAMEWORK OF THE CUSTOMS UNION, ARE SPECIAL IN RELATION TO CONTRACTS CONCLUDED WITHIN THE WTO, AS GOVERNING RELATIONS EXCLUSIVELY WITHIN THE CUSTOMS UNION».

EurAsEC DECISION OF 24 JUNE 2013 (NOVOKRAMATORSK PLANT CASE)
NESHATAEVA T.N.,
DEPUTY CHAIRMAN OF THE EURAsEC COURT:

"WE JOINED THE WTO, WITH THE CONDITION THAT WTO LAW HAS A PRIORITY IN THE CONTRADICTIONS WITH NATIONAL LAW, BUT LAWYER NEED BRAIN NOT TO FIND ANY CONTROVERSY. "

EURAsEC
ЕврАзЭС
Open questions:

2) IF PRIVATE PARTIES BRING SUITS IN DOMESTIC COURTS BASED ON WTO LAW INTERPRETATION OF THE CUSTOMS UNION LAW?

3) INTERPRETATION OF THE CUSTOMS UNION LAW?
EurAsEC Court created the base:
• over nasionalizm fixed in judicial decisions
• laid approaches to the hierarchy of international treaties
• fixed dualistic method of legal regulation in integration relations

In future we will witnesses, whether it will be use by new Court Eurasian Economic Union or not.