



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.

MARRAKESH AGREEMENT, 1994

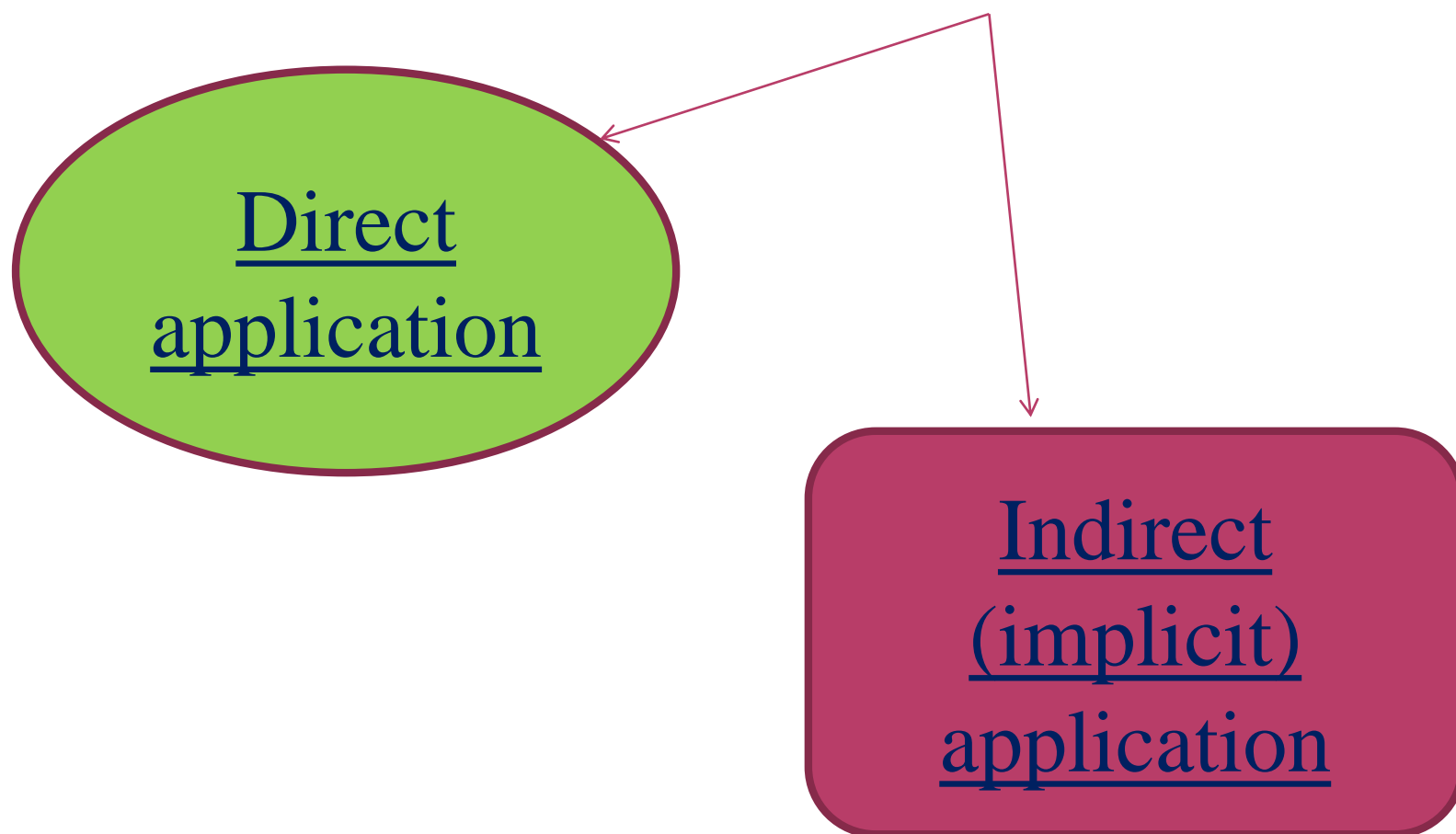


"Each Member shall ensure the conformity of its laws, internal regulations and administrative procedures with its obligations provided for in this Agreement"

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);
- **Dicisions Appellate Body** (100) **and DSB panels** (170).

LEGAL FRAMEWORK WTO RULES APPLICATION BY THE WTO MEMBERS



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

Portugal v Council, Chiquita, Biret, Intenational Fruit Company, Fiamm and Fedon and ect.). Case C-149/94, Portuguese Republic v. Council, 1999 E. C.R. I-08395.

Case T-19/01, Chiquita Brands International, Inc., [2005] ECR II-315 ECJ, Case C-377/02, Lé on Van Parys NV, [2005] ECR I-1465

Case C-94/02, 'Etablissements Biret et Cie SA v. Council, 2003 E. C.R. I-10565.

Joined Cases C-21/72 & C-24/74, Intenational Fruit Company NV v. Produktschap voor Groenten en Fruit 1972 E. C.R. I-1219.

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 top half of the image features a waving American flag with its characteristic stars and stripes. The stars are white on a blue field, and the stripes are red and white. The flag appears to be moving, creating a sense of dynamic energy.

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).

The Russian flag, featuring horizontal stripes of white, blue, and red, is shown waving against a clear blue sky.

The Russian Federation's position on the direct effect of WTO rules

- 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



EURAsEC
ЕвразЭС

**“WTO TRETIES 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)



EURAsEC
ЕвразЭС

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

1) DIF

Open questions:

HE

- 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?**



COURT EURASIAN ECONOMIC UNION

EurAsEC Court created the base :

- over nationalism 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 witness,
whether it will be use by new Court Eurasian Economic Union
or not.**