

THE ROLE OF THE WORLD TRADE ORGANIZATION IN THE ENERGY SECTOR
AND PRICE REGULATION

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Abstract: The WTO's evolving role in energy price regulation is highlighted. Its influence through case studies, legal provisions, and comparative international approaches is illustrated. The article examines the impact of the regulatory function of the World Trade Organization (WTO) on energy markets in general. The subject of this work is the regulation of energy trade by international legal norms, the analysis of the effectiveness of the implementation of contractual agreements, relations between a number of international organizations engaged in energy trade at the present stage. The objectives of the study are: to analyze the current regulatory framework governing relations between subjects of international law in the field of energy trade; to identify the principles of functioning of international energy organizations and analyze the regulations underlying their activities; to formulate assumptions about possible vectors for the further development of legal regulation of energy trade.

Keywords: World Trade Organization, subsidies, tariffs, WTO agreements, border measures, tariff policies.

Annotatsiya: Ushbu maqolada Jahon savdo Tashkilotining energiya narxlarini tartibga solishda rivojlanayotgan roli ta'kidlangan. Uning amaliy tadqiqotlar, huquqiy qoidalar va qiyosiy xalqaro yondashuvlar orqali ta'siri tasvirlangan. Bundan tashqari JSTning tartibga solish funktsiyasining umuman energiya bozorlariga ta'siri ko'rib chiqiladi. Ushbu ishning mavzusi energiya savdosini xalqaro huquqiy normalar bilan tartibga solish, shartnomaviy bitimlarni amalga oshirish samaradorligini tahlil qilish, hozirgi bosqichda energiya savdosi bilan shug'ullanadigan bir qator xalqaro tashkilotlar o'rtasidagi munosabatlardir. Tadqiqotning vazifalari energiya savdosi sohasidagi xalqaro huquq sub'ektlari o'rtasidagi munosabatlarni tartibga soluvchi amaldagi me'yoriy-huquqiy bazani tahlil qilish; xalqaro energetika tashkilotlarining ishlash tamoyillarini aniqlash va ularning faoliyati asosidagi qoidalarni tahlil qilish; energiya savdosini huquqiy tartibga solishni yanada rivojlantirish uchun mumkin bo'lgan vektorlar to'g'risida taxminlarni shakllantirishdan iboratdir.

Kalit so'zlar: Jahon savdo tashkiloti, subsidiyalar, tariflar, JST shartnomalari, chegaraviy chora-tadbirlar, tarif siyosati.

Аннотация: В этой статье подчеркивается растущая роль Всемирной торговой организации в регулировании цен на энергоносители. Иллюстрируется ее влияние с помощью тематических исследований, правовых положений и сравнительных международных подходов. В статье рассматривается влияние регулирующей функции Всемирной торговой организации (ВТО) на энергетические рынки в целом. Предметом данной работы является регулирование торговли энергоносителями международно-правовыми нормами, анализ эффективности реализации контрактных соглашений, отношений между рядом международных организаций, занимающихся торговлей энергоносителями на современном этапе. Целями исследования являются: анализ действующей нормативной базы, регулирующей отношения между субъектами

международного права в сфере торговли энергоносителями; выявление принципов функционирования международных энергетических организаций и анализ нормативных актов, лежащих в основе их деятельности; сформулировать предположения о возможных векторах дальнейшего развития правового регулирования торговли энергоносителями.

Ключевые слова: Всемирная торговая организация, субсидии, тарифы, соглашения ВТО, пограничные меры, тарифная политика.

INTRODUCTION

In the context of modern globalization, a country's economic development largely depends on how integrated it is into the global economic community. Therefore, the development of foreign economic relations is a priority. Economic theory and practice show that foreign investments, when combined with the right set of investment policies, generally contribute to the economic development of host countries. International trade is a powerful catalyst for a country's economic growth, which contributes to the development of efficient production of goods and services, enhances the competitiveness of entrepreneurs, as well as the inflow of foreign exchange funds into the national economy. Industry is the most important sector of the economy, which has a positive impact on the socio-economic development of country.

The global energy sector is the lifeblood of industrial economies, underpinning growth, development, and innovation. However, energy markets—particularly those involving fossil fuels and electricity—are subject to substantial market distortions, often driven by government interventions such as subsidies, tariffs, and pricing regulations. The World Trade Organization (WTO) plays a crucial but indirect role in shaping the rules-based framework governing trade in energy goods and services. While the WTO does not set or control energy prices, its disciplines influence how countries structure energy policies, particularly those affecting subsidies, market access, and trade-related measures.

The WTO is the principal international body that regulates trade among member states through legally binding agreements. Its key principles—non-discrimination, market access, transparency, and dispute resolution—apply to a broad array of goods and services, including energy-related products. However, the WTO does not have a specific energy agreement, making its regulatory reach in the energy sector indirect but impactful.¹

Key WTO agreements that affect the energy sector include:

- General Agreement on Tariffs and Trade (GATT)
- Agreement on Subsidies and Countervailing Measures (ASCM)
- General Agreement on Trade in Services (GATS)
- Trade-Related Investment Measures (TRIMs)
- Agreement on Technical Barriers to Trade (TBT)

General Agreement on Tariffs and Trade (GATT)

The GATT governs the trade of goods, including energy products such as oil, gas, coal, and electricity. It is built on principles of non-discrimination, meaning countries must treat imports and domestic goods equally, and tariff bindings, which limit the maximum tariffs countries can impose. GATT prohibits quantitative restrictions like import quotas, which could distort energy supply and pricing. In the energy sector, GATT helps maintain open and predictable markets, preventing countries from artificially raising prices by restricting imports or favoring domestic producers. This creates a stable pricing environment for energy goods at the international level.

¹ Marchukov I. P. Civil law regulation of foreign trade turnover of energy resources in the Russian Federation, the EU and BRICS: PhD in Law: 12.00.03. Moscow, 2017. 200 p.

Under the General Agreement on Tariffs and Trade (GATT), countries are prohibited from imposing arbitrary import restrictions that could distort trade. In this case, Argentina introduced non-automatic import licensing and trade-balancing requirements, which affected a wide range of imported products, including energy equipment and infrastructure components.²

These measures violated GATT Article XI, which bans quantitative import restrictions. The WTO ruled against Argentina, emphasizing that such policies distort the supply chain and inflate the cost of essential energy infrastructure. This case demonstrates how GATT disciplines help prevent countries from manipulating energy markets by restricting access to cheaper or more efficient imported goods, which could otherwise raise domestic energy prices.

Agreement on Subsidies and Countervailing Measures (ASCM)

The ASCM regulates the use of government subsidies that may distort international trade. It distinguishes between prohibited subsidies (like those linked to export performance or local content requirements) and actionable subsidies, which can be challenged if they cause adverse trade effects. This agreement is highly relevant to the energy sector, where subsidies for fossil fuels or renewable energy can significantly affect market prices. By disciplining such subsidies, the ASCM indirectly influences how governments can manipulate energy prices, encouraging more transparent and non-distorting support mechanisms.

The Agreement on Subsidies and Countervailing Measures (ASCM) was applied in a case against Canada, where Ontario's government provided feed-in tariffs for renewable energy but required developers to source a minimum percentage of equipment locally.

The WTO found that this local content requirement (LCR) constituted a prohibited subsidy under ASCM and violated GATT's national treatment provisions. By favoring domestic products, Ontario restricted competition, leading to higher costs for solar and wind energy projects. This case illustrates how ASCM ensures fair global competition in energy markets and discourages subsidy programs that artificially affect energy prices through trade discrimination.

General Agreement on Trade in Services (GATS)

The GATS governs international trade in services, including energy-related services such as electricity generation, transmission, and distribution, as well as engineering and consulting in energy infrastructure. GATS commitments can promote competition in domestic energy markets by allowing foreign service providers to operate under fair conditions. This increases efficiency and can reduce consumer prices over time. When countries commit to liberalizing energy services under GATS, they limit their ability to maintain state-controlled monopolies that could result in price distortions or inefficiencies.

Under the General Agreement on Trade in Services (GATS), the European Union (EU) has made commitments to open various energy-related service sectors—such as electricity generation, transmission, and distribution—to international competition.

By doing so, the EU promotes market liberalization, allowing foreign firms to enter its energy markets under transparent and non-discriminatory rules. This openness fosters competition, innovation, and efficiency, which ultimately helps reduce consumer energy prices. This example shows how GATS commitments can influence national energy pricing by limiting monopolistic control, improving service quality, and encouraging investment in cost-effective energy solutions.

Agreement on Trade-Related Investment Measures (TRIMs)

The TRIMs Agreement prohibits investment policies that conflict with GATT principles, especially those that require the use of local content or impose performance requirements on foreign investors. In the energy sector, this means countries cannot force foreign energy

² Fossil Fuel Subsidies Tracker: <https://www.iea.org/topics/energy-subsidies>

companies to buy domestically produced equipment or technology as a condition for market access. Such requirements often distort pricing by increasing production costs or reducing access to competitive inputs. By eliminating these barriers, TRIMs contributes to fairer pricing and investment conditions in the energy industry.

India launched a major solar energy initiative under its National Solar Mission, which included a requirement for developers to use domestically manufactured solar cells and modules. The United States challenged this policy at the WTO under the Agreement on Trade-Related Investment Measures (TRIMs).³

The WTO ruled that the local content requirement violated TRIMs and GATT principles, as it discriminated against imported products and distorted investment decisions. This requirement raised the cost of solar installations, delaying India's clean energy rollout and affecting renewable energy pricing.

This case highlights how TRIMs prohibits policies that interfere with investment neutrality and market pricing efficiency in energy sectors.

Agreement on Technical Barriers to Trade (TBT)

The TBT Agreement ensures that technical regulations, product standards, and certification procedures are non-discriminatory and not more trade-restrictive than necessary. This is particularly relevant in the energy sector where governments may impose efficiency standards, emissions limits, or equipment requirements for energy technologies. If such standards are designed to protect local industry, they can limit competition and inflate energy prices. The TBT Agreement promotes harmonization and the use of international standards, making it easier and cheaper to trade clean energy technologies across borders, which supports price reduction and market access.⁴

China implemented unique technical standards and certification procedures for wind turbines, which made it difficult for foreign manufacturers to compete in its domestic market. Although never formally challenged at the WTO, these measures raised concerns under the Agreement on Technical Barriers to Trade (TBT).

The TBT Agreement requires that product standards be non-discriminatory, based on scientific principles, and not unnecessarily trade-restrictive. China's rules were seen as favoring domestic manufacturers, potentially inflating the cost of wind energy projects due to reduced competition and limited access to globally competitive technologies.

This case illustrates the TBT's role in ensuring transparent and fair technical regulations that facilitate cost-effective energy solutions.

Dispute Settlement Understanding (DSU)

The DSU provides the legal and procedural framework for resolving trade disputes between WTO members. It ensures that countries follow WTO rules, including those related to energy trade, subsidies, and pricing measures. For example, if a country provides illegal energy subsidies that harm another country's energy exporters, the affected country can bring a case under the DSU. The ability to challenge distortive pricing policies through formal dispute resolution helps maintain fair pricing and competitive balance in global energy markets.

While the Dispute Settlement Understanding (DSU) is not energy-specific, it is the mechanism through which all WTO rules, including those on energy subsidies and pricing, are enforced. In

³ https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds456_e.htm

⁴ Nartova O., Matteotti-Berkutova S. Russia's accession to the WTO and energy. URL: <http://ictsd.org/i/news/bridgesrussian/139559/> date 11.03.2014)

the US–Canada softwood lumber case, the U.S. imposed countervailing duties on Canadian lumber, arguing that state-controlled prices amounted to unfair subsidies.⁵

Although the case dealt with lumber, similar disputes have occurred in the biofuels and electricity sectors, where governments set prices below market value. For example, the EU–Argentina biodiesel case involved allegations of unfair pricing due to subsidized feedstock prices in Argentina. These cases show that the DSU enables countries to challenge energy pricing policies that create competitive distortions, ensuring that WTO rules are respected and market integrity is maintained.

The agreements of the World Trade Organization (WTO) collectively play a vital, though indirect, role in shaping price regulation and competitiveness in the global energy sector. While the WTO does not set energy prices itself, its legal framework disciplines the tools that governments use to influence those prices—such as subsidies, tariffs, service restrictions, technical standards, and investment measures.⁶

Through agreements like GATT, the WTO ensures open and non-discriminatory trade in energy goods, preventing artificial price distortions caused by protectionism. The ASCM regulates energy subsidies, pushing countries to adopt transparent and fair pricing support mechanisms, particularly important in the transition to renewable energy. GATS promotes competition in energy services, which can improve efficiency and reduce consumer prices. Agreements like TRIMs and TBT limit discriminatory investment policies and technical barriers that can inflate energy project costs. Finally, the Dispute Settlement Understanding (DSU) gives member states the legal tools to challenge unfair practices, reinforcing trust and stability in energy markets.

Real-world examples—from Canada’s feed-in tariffs to India’s solar policy and China’s wind standards—illustrate that WTO rules are not abstract; they have concrete impacts on how energy is produced, priced, and accessed worldwide.

In a time of growing global demand for clean, affordable, and secure energy, the WTO’s rules offer a crucial foundation for balancing national energy strategies with fair international trade. As countries pursue decarbonization, green industrial policy, and energy security, the WTO’s ability to adapt and support these goals while preserving a rules-based system will be central to the evolution of global energy governance.

CONCLUSION.

Energy is an area that requires a separate agreement within the WTO, since all existing rules of international trade do not fully take into account the specifics of the industry and, thus, practically do not regulate its trade aspects. The advantage of Russia's WTO membership is that Russia will participate in the development of principles for global regulation of energy trade, taking into account its national interests. There will be no need to accept conditions that other countries will determine, as it was when they joined the WTO.

From a conceptual point of view, the key obstacle to regional cooperation is the priority of national energy independence, while national energy strategies miss the benefits of regional cooperation in terms of energy conservation. On this basis, regional cooperation should be part of national energy efficiency strategies for the energy supply system. Similar to EU energy legislation, according to which EU member states must cooperate in the spirit of In solidarity with the aim of ensuring energy security and saving electricity, the Central Asian States should

⁵ <https://www.bundeswirtschaftsministerium.de/Redaktion/EN/Textsammlungen/Foreign-Trade/wto-dispute-settlement.html>

⁶ World Energy Outlook: <https://www.iea.org/reports/world-energy-outlook-2023>



recognize the importance of cooperation in order to improve energy efficiency based on optimal use.

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