

A.A. Akhmetova\*<sup>ID</sup>, Z.M. Baimagambetova<sup>ID</sup>

Al-Farabi Kazakh National University, Kazakhstan, Almaty,  
\*e-mail: asema1903@gmail.com

## INTERNATIONAL LEGAL MECHANISM FOR REGULATING GRAIN TRADE IN THE CONTEXT OF THE WORLD TRADE ORGANIZATION

This article considers the necessity and importance of the process of regulating grain trade at the international level, taking into account the effectiveness of the application of international treaties, the purpose of which is to resolve differences between countries and maintain a common grain policy. The article analyzes the chronology of legal problems of adaptation of the world grain industry and considers the issue of compliance of the current International Grains Agreement with the conditions of modern trade within the World Trade Organization. It should be noted that the provisions of the International Grains Agreement, taking into account the problems of hunger and food security, should comply with the principles of free trade, without hindering the development of the agricultural sector of the economy of developing countries. The article considers the legal aspects of the grain industry of the Republic of Kazakhstan in the conditions of its membership in the World Trade Organization. The analysis of compliance of the norms of the Kazakhstan legislation regulating the issues of regulation of the grain industry of the economy, the WTO regulatory and legal documentation is carried out. The study used the norms of the International Grains Agreement, the World Trade Organization, as well as official and scientific views in the field of legal problems of the formation, development and regulation of the grain sector. The purpose of the study is to identify the degree of effectiveness of international cooperation in the field of world grain trade, taking into account the issues of ensuring food security. At the same time, the authors propose to regulate the creation of a single global grain reserve through decisions taken by the International Grains Council.

**Key words:** grain trade, international trade law, World Trade Organization, grain trade disputes, international legal regulation.

А.А. Ахметова\*, З.М. Баймагамбетова

Әл-Фараби атындағы Қазақ ұлттық университеті, Қазақстан, Алматы қ.  
\*e-mail: asema1903@gmail.com

### Дүниежүзілік сауда ұйымы жағдайында астық саудасының халықаралық-құқықтық механизмін реттеу

Осы мақаланың мақсаты елдер арасындағы келіспеушіліктерді шешу және Бірыңғай астық саясатын жүргізу болып табылатын халықаралық шарттарды қолданудың тиімділігін ескере отырып, астық саудасын халықаралық деңгейде реттеу процесінің қажеттілігі мен маңыздылығы мәселесі қаралды. Әлемдік астық саласының бейімделуінің құқықтық проблемаларының хронологиясын талдай отырып, мақалада қолданыстағы астық жөніндегі халықаралық келісімнің Дүниежүзілік сауда ұйымының шеңберіндегі қазіргі заманғы сауда шарттарына сәйкестігі қарастырылады. Бұл ретте астық жөніндегі халықаралық келісімнің ережелері ашаршылық пен азық-түлік қауіпсіздігін қамтамасыз ету проблемаларын ескере отырып, дамушы мемлекеттер экономикасының аграрлық секторының дамуын тежемей, еркін сауда қағидаттарына сәйкес келуге тиіс екенін атап өткен жөн. Мақалада Қазақстан Республикасының Дүниежүзілік сауда ұйымына мүшелігі жағдайындағы астық саласының құқықтық аспектілері қарастырылған. Экономиканың астық саласын реттеу мәселелерін регламенттейтін қазақстандық заңнама нормаларының, ДСҰ нормативтік-құқықтық құжаттамасының сәйкестігіне талдау жүргізілді. Зерттеу барысында астық жөніндегі халықаралық келісімнің, Дүниежүзілік сауда ұйымының нормалары, сондай-ақ астық секторын қалыптастырудың, дамытудың және реттеудің құқықтық мәселелерінің ресми және ғылыми көзқарастар пайдаланылды. Зерттеудің мақсаты азық-түлік қауіпсіздігін қамтамасыз ету мәселелерін назарға ала отырып, астықтың әлемдік саудасы саласындағы халықаралық ынтымақтастықтың тиімділік дәрежесін анықтау болып табылады. Сонымен қатар, авторлар Халықаралық астық кеңесі қабылдаған шешімдер арқылы бірыңғай Әлемдік астық пулын құруды реттеуді ұсынады.

**Түйін сөздер:** астық саудасы, халықаралық сауда құқығы, Дүниежүзілік сауда ұйымы, астық саудасы жөніндегі даулар, халықаралық-құқықтық реттеу.

А.А. Ахметова\*, З.М. Баймагамбетова

Казахский национальный университет им. аль-Фараби, Казахстан, г. Алматы,

\*e-mail: asema1903@gmail.com

### **Международно-правовой механизм регулирования торговли зерном в условиях Всемирной торговой организации**

В настоящей статье рассмотрен вопрос необходимости и значимости процесса регулирования торговли зерном на международном уровне, учитывая эффективность применения международных договоров, целью которых является разрешение разногласий между странами и ведение единой зерновой политики. Проанализировав хронологию правовых проблем адаптации мировой зерновой отрасли, в статье рассматривается вопрос соответствия действующего Международного соглашения по зерну условиям современной торговли в рамках Всемирной торговой организации. Целесообразно при этом отметить, что положения Международного соглашения по зерну, учитывая проблемы голода и обеспечения продовольственной безопасности, должны соответствовать принципам свободной торговли, не сдерживая развития аграрного сектора экономики развивающихся государств. В статье рассмотрены правовые аспекты зерновой отрасли Республики Казахстан в условиях ее членства во Всемирной Торговой Организации. Проведен анализ соответствия норм казахстанского законодательства, регламентирующих вопросы регулирования зерновой отрасли экономики, нормативно-правовой документации ВТО. В ходе исследования были использованы нормы Международного соглашения по зерну, Всемирной торговой организации, а также официальные и научные взгляды в области правовых проблем формирования, развития и регулирования зернового сектора. Цель исследования заключается в выявлении степени эффективности международного сотрудничества в области мировой торговли зерном, принимая во внимание вопросы обеспечения продовольственной безопасности. Вместе с тем, авторы предлагают урегулировать создание единого мирового зернового пула посредством решений, принимаемых Международным Советом по зерну.

**Ключевые слова:** торговля зерном, международное торговое право, Всемирная торговая организация, споры по торговле зерном, международно-правовое регулирование.

#### **Introduction**

The global grain trade involves a wide range of complex issues. The discrepancy between the mechanism of legal regulation in States and the goals pursued by the international community leads to acute contradictions. The inconsistency is evident in the particular grain market, which consists in the fact that grain as a food product is of an important strategic nature. First, grain is the basis for the sustainable development of the national economy of the grain-exporting states, establishing and determining the food security of the states. Secondly, grain is the basis not only of the international mechanism for ensuring food security, but also of food aid.

FAO experts note that the availability of grain reserves determines the degree of food security of the state. In the context of the COVID-19 pandemic, there have been disruptions in the supply of products, including grain, in the world, which threatens food security. The consequences caused by the pandemic, such as an increase in unemployment, an increase in food prices, a reduction in the income of the population, negatively affect the food security of any state.

In the modern conditions of globalization, Kazakhstan occupies an important role in the

world grain market. Kazakhstan's participation in the process of international economic integration through grain trade requires the effective functioning of the mechanism of legal regulation of the grain market, in accordance with the rules of the World Trade Organization.

Grain exports, both to the markets of the near and far abroad, form the basis of foreign trade within the framework of the Kazakh agro-industrial complex. According to the State Program for the Development of the Agro-industrial complex of the Republic of Kazakhstan for 2017-2021, «in terms of grain and flour, Kazakhstan quickly became one of the largest exporting countries in the world. Kazakhstan's membership in the Eurasian Economic Union and the World Trade Organization creates opportunities and at the same time places high demands on competitiveness in both domestic and foreign markets» (Государственная программа развития агропромышленного комплекса Республики Казахстан на 2017-2021 годы, 2017). The legal institute for regulating the activities of the grain market of Kazakhstan is focused on increasing the competitiveness of domestic agricultural products in the world trade market.

As Professor S. Aidarbayev notes, the legislation of Kazakhstan, gradually adapting to international

standards, acquires features of greater openness (Айдарбаев, 2010: 392). Thus, the entry of the Republic of Kazakhstan into the membership of the World Trade Organization required the adoption and introduction of amendments to the current national legislation.

According to Z. Baimagambetova «in order to determine the international legal consequences of Kazakhstan's accession to the WTO, priority attention should be paid to analyzing the state of the current legislative framework for its compliance with WTO agreements» (Баймагамбетова, 2015: 125). Thus, during the period of accession to the WTO, the Republic of Kazakhstan assumed a number of obligations related to the regulation of agricultural issues: a reduction in the volume of state support, a ban on the use of export subsidies. In the conditions of membership in the organization, the legal regulation of the grain industry must meet the requirements of an international organization, while taking into account the specifics of the mechanism for applying state support measures in the state.

The issues of grain trade have been studied by scientists in the economic aspect, but in the science of international trade law, the mechanism for regulating the world trade in grain has not been considered. Today, the fundamental source of regulation of the world grain trade is the International Grains Agreement. However, in the context of the existence of the World Trade Organization, world grain trade is determined by agreements and treaties adopted within the framework of this organization, in particular, and the Agreement on Agriculture. At the same time, a special place in the settlement of trade relations is occupied by the WTO Dispute Settlement Body. This raises many questions: how is the world grain trade carried out? How are emerging conflicts on issues related to the grain trade effectively resolved? How to take into account the interests of all WTO member States, regardless of their economic position and role in the world grain trade?

Undoubtedly, participation in the World Trade Organization is an integral part of the economic integration of States into the world community. Fundamental to the settlement of trade disputes between WTO member States is the dispute settlement mechanism that operates within the WTO. At the same time, the process of making legal changes and additions to the provisions of the International Grains Agreement leads to the need to determine the place and role of the WTO in regulating world agricultural production, by

considering the components of WTO law directly related to grain trade.

It is obvious that the development of international cooperation in the field of grain trade consists in the settlement of differences between the policies of individual States and the world community as a whole, pursuing conflicting goals. It should be assumed that the key to effective international cooperation in the field of grain trade is the creation of a global grain reserve, which would be regulated by the International Grains Council.

### **Materials and methods**

The methodological basis of the study was a systematic approach, in particular, the following methods were used in the research: synthesis, system-structural analysis of normative legal acts, comparative legal method. In addition, the use of the historical and legal method in the course of writing the article allowed us to determine the degree of effectiveness of the current international legal mechanism for regulating grain trade.

### **Discussion**

Before proceeding to the analysis of international agreements regulating grain trade, it is necessary to consider the stages and reasons for the transformation of these agreements. The legal experience of improving international legislation and cooperation will help determine the effectiveness of achieving the goals of such treaties.

The implementation of the policy of protectionism, the lack of stability of wheat prices in the period of the 30s of the XX century prompted the world community to raise this issue at the international level. Having discussed the problems of regulating the world wheat market at three conferences held in 1927, 1930 and 1931, the first International wheat agreement was signed in London in 1933, with the United States, Canada, Australia, Argentina and a number of European states as participants. A special feature of this legal document was the obligation of the participants to limit the production and export of wheat, which subsequently became one of the factors in the revision of the provisions of the Agreement and the adoption of a new international treaty (International wheat agreement, 1933). However, the conclusion of the Agreement was a prerequisite for the establishment of an international organization- the Wheat Advisory Committee, which, in our opinion, was a prerequisite for the creation of the current International Grains Council in London.

The post-war period, which was characterized by a shortage and, consequently, the high cost of wheat, required the creation of new mechanisms for regulating the process of international grain trade. In 1949, a new multilateral agreement was adopted, aimed at organizing a system for ensuring the supply and purchase of grain and stabilizing the price of wheat. However, this Agreement and a number of subsequent ones contained legal gaps that did not allow it to be sufficiently effective (Golay, 2020: 443). The destabilization of the international grain trade was caused by the application of the common agricultural policy of the European Economic Community; the ability of individual States to use different systems of support and subsidies for agriculture and measures aimed at stimulating exports; the difference between the growth rates of the economies of developed and developing countries. It should also be noted that the drought and the retention of grain surpluses by major exporting countries have created the threat of global famine.

In 1967, as a result of the Kennedy Round negotiations, the General Agreement on Tariffs and Trade, in accordance with the Wheat Trade Convention and the Food Aid Convention, established the obligation of States to provide food assistance to developing countries by providing 4.5 million tons of grain (International wheat agreement, 1967). However, the high yield of wheat and, consequently, the fall in grain prices below the values allowed by the agreement, led to the adoption of the new International Wheat Agreement of 1971, the text of which no longer contained economic provisions (International wheat agreement, 1971).

Declining stocks and rising grain prices led to the world grain crisis of 1972-1974. Within the framework of the international conference on wheat trade, the issue of creating grain stocks was considered, which was never documented due to the lack of consistency between the participants regarding the price of wheat. The failure of a number of agreements adopted in the period before the creation of the World Trade Organization is due to the fact that exporting countries pursued only their own personal economic interests. At the same time, grain was also used as a political tool. For example, during the Cold War, the United States imposed an embargo on the supply of grain to the USSR. Thus, in our opinion, the adopted legal mechanism for regulating the grain trade turned out to be ineffective due to the selfishness of the participants in the international grain agreement.

In order to regulate international trade relations and liberalize world trade, the World Trade

Organization was established on January 1, 1995, which defined new terms of trade between States. As a result of the creation of the WTO, a new, up-to-date International Grains Agreement of 1995 was signed, regulating grain trade and food assistance issues. Thus, at the legislative level, these issues were enshrined in two interrelated conventions, united in one international multilateral agreement. At the same time, it should be noted here that participation in a particular convention is an independent decision of each State. For example, the Republic of Kazakhstan is a party to the Grains Trade Convention, but has not joined the Food Assistance Convention.

According to the newly adopted Grains Trade Convention, the scope of regulatory objects was no longer limited to wheat, but was expanded to all types of grain and products of its processing. Article 2 of the Convention defines grain as “barley, maize, millet, oats, rye, sorghum, triticale and wheat, and their products, and such other grains and products as the International Grains Council may decide” (Grains Trade Convention, 1995). Thus, the decisions of the International Grains Council that controls the functioning of the Grains Trade Convention determine the nature and direction of the activities of the organization’s participants in the field of grain trade.

During the 49th Session of the International Grains Council, which was held on June 10, 2019, the validity of the International Grains Trade Convention was extended until June 30, 2021. According to this convention, international cooperation and stability in the field of grain trade is carried out through the forums of the International Grains Council, during which information is exchanged that has an impact on the grain sector of the world economy. It should be noted that as a result of the 27th and 35th sessions of the Council, the International Grains Council is reviewed the market not only for grain, but also for rice, oilseeds and their processed products. Thus, the expanded information system of the international organization reflects the need for continuous monitoring of the Council’s decisions.

The current Food Assistance Convention entered into force in January 2013 and replaced the Food Aid Convention that preceded it and was adopted in the framework of the International Grains Agreement of 1995, which was a continuation of the 1967 Convention discussed above. The peculiarity of the new adopted Convention is that the list of products provided as assistance included not only grain and a traditional set of food products available to socially vulnerable segments of the population, but was expanded to food and household kits and

cash. It should be noted that the activities carried out under this Convention are implemented in accordance with the established rules of the World Trade Organization. At the same time, Article 3 of the Convention emphasizes the pre-emptive legal force of agreements concluded within the framework of the WTO (Food Assistance Convention, 2012).

Within the framework of the World Trade Organization, trade is regulated through the application of international legal norms established during the Uruguay Round in the 1994 Marrakesh Agreement establishing the WTO, which replaced the General Agreement on Tariffs and Trade of 1947 (Marrakesh Agreement Establishing the World Trade Organization, 1994). Today, the legal system of the World Trade Organization is represented by three main groups of sources: international treaties regulating world trade; decisions of the Dispute Settlement Body; and WTO practice.

The WTO sources directly related to the regulation of grain trade are:

- General Agreement on Tariffs and Trade of 1947;
- General Agreement on Tariffs and Trade 1994;
- Agreement on Agriculture;
- Agreement on the Application of Sanitary and Phytosanitary Measure;
- Technical Barriers to Trade Agreement;
- Agreement on Implementation of Article VI of GATT 1994 (Anti-dumping Agreement);
- Agreement on Safeguards;
- Agreement on Subsidies and Countervailing Measures (“SCM Agreement”);
- Agreement on Trade-Related Investment Measures (TRIMS).

The specifics of the legal regulation of agricultural trade are mainly determined by the Agreement on Agriculture adopted during the negotiations of the Uruguay Round. This Agreement establishes the following main directions of liberalization of the grain sector of the economy:

- determination of import duties on grain and its processed products;
- reduction of the level of state support for the production of the grain sector;
- phased reduction and elimination of export subsidies for grain-related activities (Agreement on Agriculture, 1994).

Taking into account the extent and possibility of applying state subsidies, the types of state support for agricultural producers under the WTO are grouped into “boxes”: Green, Amber and Blue.

The “Green Box” establishes the use of subsidies allowed by the state, such as: the development

of trade and logistics infrastructure, scientific and personnel support of the grain sector, the formation of a system of insurance of grain crops, information support. These support measures are not limited to WTO rules, but the State party must inform the organization of the existence and implementation of such measures.

The “Amber box” policies distort the terms of trade and boost production and market development. The “Amber box” includes measures related to government pricing, lending, debt cancellation and other actions that affect the distortion of the grain market. The list of obligations of this subsidy for each WTO member is determined separately and is limited by applying the indicator of the aggregated level of support. Such measures are determined by a quantitative indicator in the form of an annual state sum of money aimed at providing support to agriculture.

The “Blue box” includes direct payments to the state in order to reduce yields. These measures are not subject to strict reduction, provided that they are extended to certain areas and crops. The “Blue box” includes subsidies that restrict grain production in order to increase the price of grain that is beneficial to producers.

It should be noted that the WTO has a De minimis rule, which sets an acceptable minimum level of support not higher than 5% of the value of certain agricultural products.

It should be noted that one of the main conditions for the entry of the Republic of Kazakhstan into the World Trade Organization is the compliance of normative legal acts of internal action with WTO standards. During the accession to the WTO, the process of economic integration of Kazakhstan was aimed at organizing an effective mechanism for export and import, taking into account the interaction of regulation of state support for agriculture and food security of the country.

One of the main problems of Kazakhstan’s accession to this international organization was the inconsistency of the national agricultural law with the norms of WTO law. The regulatory legal acts of an internal nature did not fully reflect the system of state support for the “Green box” of the WTO Agreement on Agriculture, the issues of the application of protective measures and international technical standards.

In the Report of the Working Group on Kazakhstan’s Accession to the WTO, the provisions of agricultural policy were fixed in section “C” of Chapter IV “Policy in the field of trade in goods”. The condition for the entry of the Republic of Kazakhstan

into WTO membership was to change a number of existing Kazakh laws by making amendments or adopting new legal acts. Thus, in January 1996, the Government of the Republic of Kazakhstan adopted the order according to which 25 new laws are required to be adopted, 7 laws need to be amended and 13 laws need to be revised (Ceyssens, 2006). At the same time, Aidarbayev, Baimagambetova and Umirzakova note the peculiarity of the norms regulating the agricultural sector of Kazakhstan, emphasizing that “the volume of subsidies to the agricultural sector and the right to provide transport subsidies for grain exports are one of the “sensitive” issues for the Kazakh economy, which was the most controversial in this area during the negotiations” (Aidarbayev, 2015).

The negotiation process on Kazakhstan’s accession to the WTO covered the provisions of the Kazakh legislation regulating the issues of Kazakhstan’s exports, the conditions for the import of imported goods and services to the territory of the state, the policy of state support for the agricultural sector. In order to implement the objectives of the policy aimed at joining the WTO, the state is implementing the process of harmonization of domestic legislation.

Before joining the WTO, the development and implementation of trade activities in the field of agriculture in Kazakhstan was formed on the basis of the Law of the Republic of Kazakhstan No. 544-II of April 12, 2004 “On the regulation of trade activities” and the Law of the Republic of Kazakhstan No. 66-III of July 8, 2005 “On State regulation of the development of the agro-industrial complex and rural territories”. These normative legal acts comply with the basic principles of the international organization’s activities, which allowed maintaining the applicability of these laws. Since the beginning of the negotiation process, in order to comply with the requirements of the World Trade Organization, a number of laws have been adopted and amended in Kazakhstan: the Customs Code of the Republic of Kazakhstan No. 401-2 of April 5, 2003, the Law of the Republic of Kazakhstan No. 373-II “On Investments” of January 8, 2003, the Law of the Republic of Kazakhstan No. 603-II “On Technical Regulation” of November 9, 2004, and others.

An important stage in the legal regulation of relations arising in the process of grain trade is the adoption of the Law of the Republic of Kazakhstan No. 143-II of January 19, 2001 “On Grain”. According to R. Oshakbayev, in the period before joining the WTO, Kazakhstan actively used measures of state intervention in the wheat market, such as

the purchase of grain by the state for commercial purposes, subsidizing the production and export of wheat, a ban on exports (Ошакбаев, 2012).

At the same time, despite the ineffectiveness of the existing international agreements on wheat adopted before the WTO, the dispute resolution mechanism functioning within the framework of the GATT in some cases contributed to the settlement of grain conflicts between States. For example, in 1958, a dispute between Australia and France related to the financing of wheat exports by the French government was considered by an arbitration panel, as a result of which Australian suppliers were forced out of the South-East Asian market by products from France. The panel concluded that France had violated article XVI of the GATT 1947, as it took a larger share of wheat exports than the “fair share”, and on the basis of this fact, it was decided to review the size and nature of subsidies for wheat exports by France (General Agreement on Tariffs and Trade, 1947). However, it should be noted that the decisions taken by the arbitration panel were a recommendation and were not binding. As Thomas notes, the dispute resolution system that operated under the GATT 1947 was an instrument of trade diplomacy, and the decisions of the arbitration group could not be applied by the GATT Council (Thomas, 1996: 56-57).

As a result of the Uruguay Round, Understanding on rules and procedures governing the settlement of disputes (DSB) was adopted, which defines the dispute resolution system within the World Trade Organization (Understanding on rules and procedures governing the settlement of disputes, 1994). Peter Van den Bossche notes the high importance of the activity of this system, emphasizing the wide range of issues on which it is competent (Van den Bossche, 2013: 256). However, today, as a result of the suspension of the work of the WTO Appellate Body, most lawyers tend to believe that the current system of settlement of international trade disputes is experiencing a crisis. Brewster believes that the failure to maintain the primacy of WTO law over the domestic legislation of the participating states will lead to a weakening of the importance of the WTO as an instrument for the settlement of international trade disputes (Brewster, 2009: 63). Giorgio Sacerdoti systematizes the ways proposed by lawyers to resume the system of settlement of international trade disputes and suggests possible ways to resolve the current crisis (Sacerdoti, 2019: 787).

Within the WTO, a dispute is a process in which one or more WTO member States claim that the actions or provisions of the legislation of a particu-

lar WTO member do not comply with the norms of the WTO Agreements. In the event of a dispute, the claimant and respondent countries should try to resolve the dispute themselves through consultation and mediation. If the parties have not reached a reconciliation, the Dispute Settlement Body appoints a WTO panel, which holds hearings on the dispute and makes a final report on the case. Until December 2019, the parties could appeal against the decisions of the WTO, but to date, the WTO Appellate Body has suspended its work. Excluding this stage, the WTO Dispute Settlement Body makes a decision on the dispute according to which the State's actions are lawful, or a decision according to which the state must fulfill its obligations within a reasonable period.

## Results

Thus, the world grain trade in the conditions of modern trade dictated by the WTO is regulated through the application of the provisions of the International Grains Agreement of 1995 and the decisions of the International Grains Council. The accession of a State party of the Grains Trade Convention to the Food Assistance Convention has a significant impact on the voting process within the International Grains Council. Summarizing the above, it can be noted that the regulation of the world grain market is impossible without properly organized international cooperation by providing access to information, holding forums, discussing emerging problems, but the question of creating a global grain reserve remains open. According to economist Graham Redman there is a possibility of creating a global grain bank, which will help to stabilize the indicators of supply and demand for grain on the world market in the current conditions of international trade (Redman, 2010: 65-67).

The process of legal adaptation of the Law of the Republic of Kazakhstan "On Grain" implied the introduction of 39 amendments, which, among other things, included the exclusion of provisions aimed at providing direct measures of state support to grain producers prohibited under the WTO. The Law "On Grain" consists of 9 chapters and 42 articles. Twelve paragraphs of article 5 were excluded from the Law. These provisions of the article regulated the competence of the Government, whose powers included the development of the state grain policy, the establishment of rules and standards for accounting operations related to the sale of grain, the approval of storage rules, quantitative and qualitative accounting, and grain quality expertise. The provi-

sions concerning the competence of the Ministry of Agriculture of the Republic of Kazakhstan were eliminated from article 6, which included the organization of equipment leasing, maintenance of grain cultivation technologies, development of breeding and seed production, verification of the activities of grain receiving enterprises. Chapter 4 of the Law, which establishes and regulates the formation, sale and management of state grain resources, was excluded, which was the result of the abolition of state grain reserves. It should be noted that the provisions defining the state regulation of the activities of grain exporters provided for in Chapter 4-1 of the Law have also been eliminated. At the same time, in order to prevent actions that mislead consumers about the safety and quality of grain, chapter 2-1 was adopted in the Law "On Grain", which defines the safety requirements for grain.

The legal analysis showed that grain trade in Kazakhstan is regulated through the application of legislation that establishes measures of state regulation of the "Amber box" and "Blue box" of the Agreement on Agriculture. Thus, the state system of grain trade regulation has been compiled taking into account the requirements of the World Trade Organization.

To date, twenty-eight complaints have been filed with the WTO Dispute Settlement Body related to the trade in grain and its processed products, excluding disputes related to biofuels. Most of the disputes are related to the increase in import duties, the application of anti-dumping measures, the provision of state support measures that are not allowed under the Agreement on Agriculture. The European Union has filed two complaints against Argentina and the United States regarding the quantitative restriction of wheat gluten imports, violating the provisions of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement") and the Agreement on Safeguards. In 2008, the United States filed a complaint against Turkey regarding a rice import license that did not comply with the provisions of Article 2.1 and paragraph 1(a) of Annex 1 of the Agreement on Trade-Related Investment Measures (TRIMS). Thus, having considered complaints related to the trade in grain and its processed products, it should be noted that the vast majority of disputes are related to the implementation of protectionist policies by States.

Table 1 shows the disputes considered by the WTO dispute resolution body in the period from 2015 to 2020, the subject of which is grain and its processed products, according to the definition of "grain" adopted by the International Grains Agreement of 1995, excluding disputes on biofuels.

**Table 1** – WTO complaints relating to grain and grain products from 2015 till 2020

Nº of the case	Year of consultations	Complainant	Respondent	Title of the case	Violations of the WTO agreements	Result or status of the case
DS457	2013	Guatemala	Peru	Peru – Additional Duty on Imports of Certain Agricultural Products	Article 4.2 and footnote 1 of the Agreement on Agriculture; Articles II:1(a), II:1(b), X:1, X:3(a), XI and XI:1 of the GATT 1994; and Articles 1, 2, 3, 5, 6 and 7 of the Customs Valuation Agreement	Reconciliation. Peru adopted the necessary measures.
DS511	2016	United States of America	China	China – Domestic Support for Agricultural Producers	Articles 3.2, 6.3 and 7.2(b) of the Agreement on Agriculture	China accepted the decision of the DSB. The United States demanded that the concessions must be suspended. China filed an appeal.
DS517	2016	United States of America	China	China – Tariff Rate Quotas for Certain Agricultural Products	Articles X:3(a), XI:1 and XI-II:3(b) of the GATT 1994	China accepted the decision of the DSB and must implement the recommendations by October 8, 2020.

It is evident that the brief legal analysis allows determining that the activities of the World Trade Organization in regulating trade in agricultural products are aimed at promoting the liberalization of global trade. Having analyzed the main provisions of the WTO law governing grain trade, the international organization does not establish a ban on subsidies, but determines the permissible measures for their provision. Thus, within the framework of the WTO, the State party is not allowed to apply subsidies focused on the policy of state export promotion and import substitution.

### Conclusion

Summarizing the above, it can be argued that the considered international agreements regulating the wheat trade, faced with great difficulties, were not sufficiently effective in implementing the creation of a unified grain monitoring system. However, on the other hand, having analyzed the reasons for the failure of the concluded agreements, the accumulated experience encourages the world community to look for new tools for regulating the international grain trading system. It is believed that the International Grains Council during the session should consider the possibility of creating a single international grain reserve and reflect this issue in its decision, or indicate it as an addendum to the International Grains Agreement.

Thus, in order for the Republic of Kazakhstan to join the WTO, the state undertook to ensure

the distribution of tariff quotas in commercially profitable quantities for all participants of the organization, the volume of support for agricultural production was reduced in accordance with the WTO Agreement on Agriculture, all forms of export subsidies and import substitution were canceled. The Government of the Republic of Kazakhstan, taking into account its membership in the World Trade Organization, has regulated measures of state support for the agricultural sector in accordance with the Agreement on Agriculture, reorganizing the nature and direction of state subsidies. Thus, the state regulation of grain trade in Kazakhstan is carried out through the use of the following basic means established in the Law of the Republic of Kazakhstan «On Grain»: the formation of a price policy for grain, the supply of fertilizers to grain producers, crop insurance and a number of others that meet the requirements of the WTO.

At the same time, despite the crisis of the WTO appeals system, the current mechanism for resolving trade disputes allows the participating States, in the case of unacceptable measures applied by another State, or violations of the norms of the World Trade Organization, to demand compliance with the obligations assumed by the State party, or the cancellation of actions contrary to the principle of liberalism. In accordance with the decision of the Dispute Settlement Body, the State must fulfill its obligations and, accordingly, eliminate violations. The disputes on grain trade considered within



the WTO are aimed at eliminating or limiting protectionist measures that are unacceptable within the framework of the World Trade Organization.

International cooperation in the field of grain trade is determined by the factor of supply and demand. The specifics of the participation of grain exporting and importing countries in world trade are regulated through the application of the norms of the International Grains Agreement, the Agreement on Agriculture adopted within the framework of the WTO. The stability of global grain markets and the

state of food security are determined through the use of information and research by the International Grains Council. Emerging international disputes on issues related to the grain trade are resolved through the application of the WTO dispute settlement system. However, despite the existing international cooperation in the field of grain trade, the problem of world grain stocks remains open. This problem can be solved by creating a global grain reserve, which would be regulated by the International Grains Council.

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