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IMPACT OF RESOLUTIONS OF THE UN GENERAL ASSEMBLY ON INTERNATIONAL LEGAL REGULATION OF TRADE RELATIONS

The role and place of resolutions of the UN General Assembly in the system of sources of international law that regulate trade relations and are applied in the practice of the functioning of trade missions is examined. A classification of resolutions is proposed in accordance with the subject of their legal regulation.

Keywords: resolution of the UN General Assembly, decisions of international organizations, specialized agencies, technical assistance, diplomatic protection.

Дерунец Н. Влияние резолюций Генеральной Ассамблеи ООН на международно-правовое регулирование торговых отношений. Исследованы роль и место резолюций Генеральной Ассамблеи ООН в системе источников международного права, которые регулируют торговые отношения и применяются в практике функционирования торговых представительств. Предложена классификация резолюций в соответствии с предметом их правового регулирования.

Ключевые слова: резолюция Генеральной Ассамблеи ООН, решения международных организаций, специализированные учреждения, техническая помощь, дипломатическая защита.

Background. Modern comprehensive globalization processes, growing interdependence and cooperation between the states in the international arena have led to an increase in the role of international organizations in regulating international trade. Creation of special trade and economic organizations was characterized by the use of a full range of institutional and legal mechanisms for the effective conduct of the world economy, the development of international economic relations, preserving the state sovereignty of their participants.

International trade of states requires effective legal regulation at the international level to ensure the sovereign equality of actors, prevention of

discrimination, sustainable development of developing countries, definition of clear rules of trade in one or another type of goods.

Analysis of recent research and publications. National science studies on the regulation of international trade by international organizations were dealt with by I. Dahno [1], V. Opryshko [2], E. Perederiev [3], N. Tatarenko [4], V. Chubarev [5], T. Tsygankova [6], K. Yurchenko [7]. However, their papers are largely devoted to the functioning of the GATT/WTO system, and the role of the UN General Assembly remains without proper study.

The **aim** of the paper is to carry out a legal study of the role and place of resolutions of the UN General Assembly in the system of sources of international law regulating trade relations.

Materials and methods. The methodological basis of the article is a set of philosophical, general scientific and special-legal methods and methods of scientific knowledge. The author used the dialectical, comparative law and method of system analysis.

The main provisions and conclusions of the article are based on empirical research, elaboration of decisions of international organizations, analysis of scientific publications.

Results. The world economy is currently governed by a number of economic and regulatory institutions, including rules and procedures. Establishment of the WTO in 1995 brought an order in trade relations, trade between countries became the subject to international rules that were negotiated, adopted and should be respected [6]. The first decade of the XXI century indicated an increase in the number of bilateral free trade agreements between States that have expanded the network of regional trade agreements such as the North American Free Trade Agreement of 1992, the Treaty Establishing the European Union in 1992, the Southern African Development Community in 1992, and the Association for Regional Cooperation South Asia in 1985, which expanded the agenda and the need for trade diplomacy [4]. Much of the literature on trade diplomacy focuses on multilateral trade talks, and in particular on detailed GATT/WTO Roundtables.

In particular, during the Uruguay Round negotiations, the Trade-Related Aspects of Intellectual Property Rights (TRIPs) 1995 Agreement were adopted; during the Doha Round of the WTO particular attention was paid to the issue of trade in agricultural products, trade in services and trade facilitation [3].

It should also be noted that international organizations are one of the important institutional mechanisms for conducting economic diplomacy. The Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character of 1975 defines the rules for the functioning of permanent missions and missions of permanent observers in such organizations.

As stated in the Preamble, the participating States recognize the growing role of multilateral diplomacy and the responsibility of the UN within the framework of the world community. The Convention determines that an international organization of a universal nature is the United Nations, its specialized agencies, the International Atomic Energy Agency, or any similar organization whose membership and responsibility are of a broad international nature (Art. 1). Art. 6 defines the main functions of foreign representations in international organizations: ensuring representation of the state in an international organization; maintaining communication between the state and the organization; holding negotiations with and within the organization; elucidation of the activity carried out by the organization and informing about it of the state; ensuring the participation of the state in the full work of the organization; protection of the interests of the state before the organization; assistance in the implementation of the goals and principles of organization through cooperation with its members [8].

Bilateral agreements can also be signed between States and international organizations. Such agreements are usually concluded on behalf of the government, set provisions on the legal status of the permanent establishment of the organization, its employees, privileges and immunities (Agreement between the Government of Ukraine and the European Bank for Reconstruction and Development on Cooperation and Activities of the Permanent Delegation to the EBRD in Ukraine in 2007 [9], Agreement between the Government of Ukraine and the United Nations on the Establishment of the United Nations Office in 1992 [10], the Agreement between the Cabinet of Ministers of Ukraine and the Organization of Economic Cooperation Labor and Development on the Privileges, Immunities and Privileges granted to the Organization in 1999 [11]).

It is clear that the United Nations as a universal international organization is a key one among other international organizations that implement international legal regulation of trade relations. One of the forms of such activities is the adoption of resolutions by the UN General Assembly, as well as decisions of the specialized agencies of the United Nations. Some scholars believe that, as the resolutions and decisions of the UN General Assembly are of a recommendatory nature (they are so-called soft law), then they are not binding and not legal [1].

However, we believe that the resolutions of the UN General Assembly belong to the sources of international law that regulate the trade and economic relations, and according to their subjects they can be divided into the following groups: a) the establishment of specialized institutions and the convening of conferences; b) provision of technical assistance, c) trade of developing countries, d) economic and social development, e) granting of diplomatic protection to trade representatives and attachés. Below, let's study each of the categories.

Within the United Nations framework, the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Commission on International Trade Law (UNCITRAL) deal with issues of international legal regulation of trade relations. The United Nations Conference on Trade and Development was established by the resolution of the General Assembly of the United Nations of 1995 (XIX) of December 30, 1964 [12] as a special body of the UN General Assembly, which was not an international trade organization. The main objective of UNCTAD's work is to promote the development of international trade with a view to accelerating economic growth, in particular of developing countries. UNCTAD resolutions and declarations are of a recommendatory nature. UNCTAD's highest body is the Conference and the Trade and Development Board, which has six committees. The functions of UNCTAD are defined in the resolution of the General Assembly of the United Nations of 1995 (XIX) and consist, in particular, in the development of principles of policy in international trade, the mechanisms for its functioning and the establishment of the legal basis for international trade, the adoption of international legal instruments in the field of trade [2].

Under the auspices of UNCTAD, multilateral agreements and conventions are being developed. At its very first meeting the Principles of International Trade and Trade Policy were adopted.

The United Nations Commission on International Trade Law (UNCITRAL) was established by the General Assembly in 1966 (Resolution 2205 (XXI) of December 17, 1966 [13]). Having established the Commission, the General Assembly acknowledged that the discrepancy in national laws governing international trade posed an obstacle to the development of trade and considered the Commission as a means by which the United Nations could play a more active role in reducing or eliminating those barriers.

The General Assembly granted the Commission a general mandate for the further gradual harmonization and unification of the law of international trade. Since then, the Commission has become the main legal body of the United Nations system in the field of international trade law. In particular, the Commission is responsible for the preparation of new international conventions, standard and uniform laws in the field of international trade law, promotion of the codification of international trade customs, collection and dissemination of information in this area [5].

The commission identified the international sale of goods, international payments and commercial arbitration as the top priority in its work. On the basis of drafts prepared by the Commission, the United Nations Convention on Contracts for the International Sale of Goods of 1980, the Convention on Limitation Proceedings in International Sale of Goods of 1974, and the 1978 United Nations Convention on the Carriage of Goods by Sea [14] were adopted.

The UN General Assembly approves the adoption of documents developed by UNCITRAL, for example, UN General Assembly Resolution A/RES/31/98 of December 15, 1976, Arbitration Rules of the United Nations Commission on International Trade Law [15], General Assembly Resolution UN A/RES/40/72 of December 11, 1985 Model Law on International Trade Law on International Commercial Arbitration [16], United Nations General Assembly Resolution A/51/628 of 16 December 1996 Model Law on Electronic Commerce [17].

Resolutions and acts of other international organizations also play important role in the development of international economic relations. These include the Declaration on the Establishment of a New International Economic Order and the Program of Action for the Establishment of a New International Economic Order adopted at the VI Special Session of the General Assembly of the United Nations in 1974; Charter of Economic Rights and Duties of States, adopted at the 29th session of the UN General Assembly in 1974.

The second category of the UN General Assembly resolutions includes those relating to the granting of technical assistance for the development of underdeveloped countries. In particular, in resolution 722 (VIII) of 23 October 1953 [18], the General Assembly encourages States to promote the effective operation of the Expanded Program of Technical Assistance, which was established on 15 August 1949 by General Assembly resolution A/RES/304 (IV) UN Assembly [19].

The main objective of the program was economic and political assistance to underdeveloped countries in strengthening their national economies and ensuring the high and sustainable development of the citizens of such countries. On 14 October 1958, Resolution A/RES/1240 (XIII) of the United Nations General Assembly [20] established the United Nations Special Fund, authorized to provide technical assistance to less developed countries, including projects related to the development of industry, agriculture, transport and communications the way The United Nations Development Program (UNDP) was established on November 22, 1965 as a result of the merger of the Extended Technical Assistance Program and the UN Special Fund, as mandated by General Assembly resolution A/RES/2029 (XX) [21].

The third type of the UN General Assembly resolutions is aimed at regulating the trade of developing countries. Resolution A/RES/S-18/3 of the UN General Assembly [22] seeks to restore economic growth and the development of developing countries. Resolutions A/RES/66/186 [23], A/RES/72/201 [24] of the UN General Assembly on unilateral economic measures as methods of political and economic coercion of developing countries could be included in this category. On 22 December 2006, the General Assembly adopted resolution A/RES/61/229 [25] «stressing the need for the implementation of various commitments by the international

community on the economic and social development of Africa». In addition, on 23 April 2014, the General Assembly adopted resolution A/RES/68/270 [26] entitled United Nations Second United Nations Conference on Landlocked Developing Countries which was devoted to the 10th anniversary review of the Almaty Declaration.

Over the past ten years, the activities of the UN General Assembly have intensified on the issues of ensuring economic and social development. In this regard, a number of resolutions were adopted under the title «International trade and development»: GA resolution 65/142 in 2010, GA resolution 66/185 in 2011, GA resolution 67/196 in 2012, GA resolution 68/199 in 2013, A/RES/70/187 in 2015, A/RES/71/214 in 2016, A/RES/72/202 in 2017.

In 1996, at its 48th session, the International Law Commission highlighted the theme «Diplomatic protection» as one of the three themes that were subject to codification and progressive development. In 1997 a Working Group on this issue was created at the 2477th meeting to implement the General Assembly resolution.

The draft article on diplomatic protection developed by the UN International Law Commission in 2006 proposes the following definition: «Diplomatic protection consists in calling the state by means of diplomatic measures or other means of peaceful settlement to the liability of another state for the damage caused by the internationally unlawful action of this state physical or legal person who is a citizen of the first state for the purpose of implementing such liability» (Article 1) [27].

The UN General Assembly Resolutions A/RES/62/67 of 6 December 2007 and A/RES/65/27 of 06 December 2010 [28] provided articles on diplomatic protection for information to Governments and encouraged them to comment on developments conventions based on these articles. The issue of diplomatic protection was also included in the agenda of the sixty-eighth session in 2013. As part of the Working Group of the Sixth Committee of the General Assembly, the issue of developing a convention on diplomatic protection is under way. States continue to send their own comments on the future convention.

Conclusion. Thus, in contemporary international law, international organizations have an impact on the international legal regulation of international trade relations. In particular, it is demonstrated within the framework of the United Nations and its specialized agencies. The influence of the UN General Assembly on the international legal regulation of international trade relations is significant. It is carried out directly through the adoption of resolutions and through the activities of established subsidiary bodies and specialized agencies.

The direct impact of international non-governmental international organizations on rule-making activities in international law relating to international economics and trade is still controversial issue and also needs further research.

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Дерунець Н. Вплив резолюцій Генеральної Асамблеї ООН на міжнародно-правове регулювання торговельних відносин.

Постановка проблеми. Сучасні комплексні глобалізаційні процеси, зростаюча взаємозалежність та співпраця між державами на міжнародній арені призвели до збільшення ролі міжнародних організацій у регулюванні міжнародної торгівлі. Створення спеціальних торговельно-економічних організацій характеризувалося використанням повного комплексу інституційних та правових механізмів ефективного ведення світової економіки, розвитку міжнародних економічних відносин, збереження державного суверенітету їх учасників.

Міжнародна торгівля держав вимагає ефективного правового регулювання на міжнародному рівні для забезпечення суверенної рівності суб'єктів, запобігання дискримінації, сталого розвитку країн, що розвиваються, визначення чітких правил торгівлі на той чи інший тип товарів.

Аналіз останніх досліджень і публікацій. Національними науковими дослідженнями регулювання міжнародної торгівлі міжнародними організаціями займалися І. Дахно, В. Опришко, С. Передерієв, Н. Татаренко, В. Чубарєв, Т. Циганкова,

К. Юрченко. Проте їх праці в основному присвячені функціонуванню системи ГАТТ/СОТ, а роль Генеральної Асамблеї ООН залишається без належного вивчення.

Метою статті є дослідження ролі та місця постанов Генеральної Асамблеї ООН у системі джерел міжнародного права, що регулює торговельні відносини.

Матеріали та методи. Методологічною основою статті є сукупність філософських, загальнонаукових та спеціально-правових методів і методів наукового пізнання. Основні положення та висновки статті ґрунтуються на емпіричних дослідженнях, рішеннях міжнародних організацій, аналізі наукових публікацій.

Результати досліджень. ООН як універсальна міжнародна організація є ключовою серед інших міжнародних організацій, що здійснюють міжнародне правове регулювання торговельних відносин. Однією з форм такої діяльності є прийняття резолюцій Генеральної Асамблеї ООН, а також рішень спеціалізованих установ Організації Об'єднаних Націй. Резолюції Генеральної Асамблеї ООН належать до джерел міжнародного права, які регулюють торговельно-економічні відносини, і відповідно до предмета їх можна поділити на такі групи: створення спеціалізованих установ та скликання конференцій; надання технічної допомоги; торгівля країн, що розвиваються; економічний і соціальний розвиток; надання дипломатичного захисту торговельним представникам та аташе. Детально проаналізовано кожну з категорій. Запропоновано класифікацію резолюцій відповідно до предмета їх правового регулювання.

Висновки. Вплив Генеральної Асамблеї ООН на міжнародно-правове регулювання міжнародних торговельних відносин, що є значним, здійснюється безпосередньо через прийняття резолюцій та діяльність допоміжних органів та спеціалізованих установ.

Ключові слова: резолюція Генеральної Асамблеї ООН, рішення міжнародних організацій, спеціалізовані установи, технічна допомога, дипломатичний захист.