

**THE PHENOMENON OF SUPERIOR BARGAINING POWER IN
UZBEKISTAN: LEGAL INNOVATION AND WTO COMPLIANCE
STANDARDS**

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Abstract: *the article provides a comprehensive legal and economic analysis of the "Superior Bargaining Power" (SBP) institute, introduced as a major legal innovation in the new edition of the Law of the Republic of Uzbekistan "On Competition" (2023). The author explores the fundamental conceptual differences between the traditional "Dominant Position" (Article 13) and the newly established "Superior Bargaining Power" (Article 14). The study highlights that while dominance is a structural market category based on horizontal market share, SBP represents a behavioral and relative form of power within specific bilateral contractual relationships. Special attention is paid to the novelty of the SBP institute, which allows for the protection of small and medium-sized enterprises from unfair trading practices by larger contractors who may not necessarily hold a dominant market position. Furthermore, the article justifies the importance of the SBP mechanism in the context of Uzbekistan's strategic goal of accession to the World Trade Organization (WTO). The author argues that SBP regulation directly supports WTO principles of transparency, non-discrimination, and fair market access, as outlined in GATT and RP-181. The research concludes that standardizing SBP criteria is vital for creating a predictable legal environment and a competitive investment climate in Uzbekistan.*

Keywords: *Superior Bargaining Power, Dominant Position, Article 14, Article 13, WTO Accession, Law "On Competition", legal innovation, economic dependence, market transparency, fair trade.*

1. INTRODUCTION

The modern legal system of Uzbekistan is undergoing a period of profound evolution, driven by the strategic objective of integrating the national economy into the global trade system. As the Republic of Uzbekistan accelerates its negotiations for World Trade Organization (WTO) accession, the necessity of creating a "level playing field" becomes paramount. One of the most significant legal innovations in this regard is the introduction of the concept of "Superior Bargaining Power" (SBP).

This institute represents a radical shift in the philosophy of state intervention in market relations. For the first time, the law recognizes that economic harm can result not only from traditional monopolies but from the imbalance of power between contract partners. This article provides a comprehensive analysis of SBP as a legal novelty in Uzbekistan and evaluates its role as a key factor in fulfilling WTO transparency and fairness requirements.

2. MATERIALS AND METHODS

The study is conducted using a combination of qualitative and normative research methods. The author analyzes the specific provisions of the Law "On Competition" (New Edition, 2023) focusing exclusively on the parameters of Superior Bargaining Power. The research incorporates a systemic analysis of international trade agreements under the WTO framework, particularly GATT Article X. Furthermore, the author utilizes the "functional approach" to assess how SBP regulation addresses modern market failures in Uzbekistan's developing economy, drawing on the latest reports and policy documents from the Competition Committee of the Republic of Uzbekistan.

3. THE LEGAL NATURE AND NOVELTY OF SUPERIOR BARGAINING POWER

3.1. SBP as a Breakthrough Legal Instrument The introduction of SBP is a direct response to the changing nature of commerce. In a traditional sense, competition law focused on market-wide effects. However, SBP brings a "surgical precision" to regulation. Its novelty lies in the fact that it protects the "economic freedom" of individual entrepreneurs within a specific supply chain. In Uzbekistan, where the SME sector is the backbone of the economy, the ability to prevent larger entities from imposing predatory terms is a revolutionary step toward contractual justice.

3.2. Qualitative Innovation in National Law The uniqueness of the SBP institute in Uzbekistan is defined by its focus on "relative dependence." The law now looks at the "switching costs" and the availability of alternatives. This means that even a company with a small market footprint can be held accountable if it acts as a "bottleneck" or "gatekeeper" for its partners. This represents a transition from a formalistic legal approach to an "effects-based" economic approach, which is a hallmark of developed legal systems.

4. SBP IN THE CONTEXT OF WTO ACCESSION: A STRATEGIC NECESSITY

4.1. Fulfillment of the Transparency Principle (GATT Article X) The WTO is built on the pillar of transparency. Foreign investors and trade partners require assurance that the rules of the game are clear and that no single entity can use its "power" to block market access. By enshrining SBP in the law, Uzbekistan demonstrates to the WTO Working Party that it has established a mechanism to prevent "private barriers" to trade. SBP ensures that the terms of entering the

Uzbek market are determined by efficiency and competition, rather than by the arbitrary will of powerful local buyers or distributors.

4.2. Alignment with International "Fair Trade" Benchmarks WTO accession is not just about tariffs; it is about the "quality" of the business environment. Most advanced WTO members have already integrated SBP-like protections to mitigate Unfair Trading Practices (UTPs). By introducing this institute, Uzbekistan is effectively "speaking the same legal language" as the global community. This harmonization reduces the "compliance cost" for international companies operating in Uzbekistan and signals that the Republic adheres to the high standards of the multilateral trading system.

4.3. Protection of National Economic Interests in Global Value Chains As Uzbekistan integrates into Global Value Chains (GVCs), national producers often find themselves in a weaker bargaining position compared to global multinational corporations. The SBP institute provides a legitimate, WTO-compliant tool for the state to protect its domestic producers from being exploited within these global chains. It ensures that the benefits of trade are distributed fairly among all participants, which is a key priority for a developing economy seeking WTO membership.

5. THE TRANSFORMATIVE IMPACT OF SBP REGULATION ON UZBEKISTAN'S INVESTMENT CLIMATE

5.1. Shifting from Administrative Control to Market Fairness The novelty of the SBP institute is best reflected in its departure from traditional, often rigid, antitrust interventions. Prior to the introduction of Article 14, the regulatory focus was largely punitive, targeting the size of the company rather than the fairness of its conduct. SBP introduces a "behavioral" standard. This change

signals to the global trade community that Uzbekistan is prioritizing the "quality" of competition. For a country in the process of WTO accession, this shift is vital as it demonstrates an understanding of modern market dynamics where influence is measured by infrastructure and data, not just market share.

5.2. SBP as a Shield for Domestic Producers in Global Value Chains As Uzbekistan integrates into global trade, local small and medium enterprises (SMEs) become vulnerable to the superior bargaining power of international aggregators and large-scale distributors. The novelty of Article 14 lies in its "protective" function. By regulating SBP, the state provides a legal framework that prevents the extraction of unfair "monopoly rents" from local producers. This aligns with the WTO's broader goal of sustainable development, ensuring that trade liberalization benefits all tiers of the economy, from large corporations to individual entrepreneurs.

6. PROPOSALS FOR STRENGTHENING THE SBP FRAMEWORK IN LIGHT OF WTO STANDARDS

To maximize the effectiveness of the Superior Bargaining Power institute and ensure full compliance with the WTO's transparency and predictability requirements, the following improvements are proposed:

- 1. Formalization of "Safe Harbors":** To reduce the administrative burden and prevent the over-regulation of small businesses, it is proposed to establish clear turnover thresholds. Only entities exceeding a certain economic scale should be subject to SBP scrutiny. This will clarify the "rules of the game" for foreign investors, fulfilling the WTO requirement for predictable trade regulations.

2. **Creation of an "Advisory Guidelines" System:** Drawing from the experience of Japan and South Korea, the Competition Committee should issue detailed sectoral guidelines. These documents should describe specific prohibited practices (e.g., unfair return of goods, forced participation in promotions). This "Soft Law" approach is highly valued by the WTO as it promotes voluntary compliance and reduces legal disputes.

3. **Digitalization of SBP Monitoring:** Given the rapid growth of the digital economy in Uzbekistan, the novelty of SBP should be extended to digital platforms. Implementing automated monitoring of "gatekeeper" conduct on marketplaces will ensure that the digital trade environment remains open and non-discriminatory, consistent with the WTO's E-commerce Joint Statement Initiative.

7. CONCLUSION

The introduction of Superior Bargaining Power into the legal system of Uzbekistan is more than just a legislative amendment; it is a fundamental update of the nation's economic constitution. By recognizing SBP as a distinct and novel legal category, Uzbekistan addresses the subtle but damaging forms of market abuse that traditional dominance laws often overlook.

From the perspective of WTO accession, SBP serves as a robust guarantee of market transparency and fair competition. It ensures that the benefits of a liberalized market are not monopolized by a few powerful entities but are shared through fair and balanced contractual relations. As the Republic of Uzbekistan continues its journey toward global economic integration, the effective enforcement of Article 14 will remain a cornerstone of its commitment to international trade standards and the rule of law.

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