

SOME ASPECTS OF INTERNATIONAL LEGAL REGULATION OF ECONOMIC COOPERATION IN THE SCO

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ABSTRACT

The SCO has become an influential international structure today. Throughout its existence, the Organization has acted as an important mechanism for ensuring regional stability, as well as sustainable political and economic cooperation in the area in which it operates. Today the

SCO is playing an increasingly efficient part in building the global security system, which is largely due to the new threats and challenges the world community now faces.

Kazakhstan's chairmanship in the SCO ended with a celebratory sitting of the Council of Heads of Member States held on 15 June,

2011 in Astana. At this meeting, the Astana declaration of the SCO's Tenth Anniversary was adopted, which states that during this time, the Organization has successfully advanced from its institutionalization to the establishment of efficiently functioning mechanisms of interaction in different spheres.

The SCO is a regional international organization, the main tasks of which are strengthening stability and security in the broad area that joins the states belonging to it, fighting terrorism, separatism, extremism, and drug trafficking, developing economic cooperation and energy partnership, and enhancing scientific and cultural interaction.

The SCO is an essentially new model of geopolitical integration that makes it possible to unite the interests of Central Asia,

Russia, and China. This statement is based on the experience of the SCO member states that are pooling their efforts to oppose non-traditional threats to security in Central Asia—terrorism, flagrant fundamentalism, drug crimes, and separatism.

Of course, there are political reasons for unifying the countries within the SCO borne by the desire to ensure security in the region, while economic factors predominate in the traditional integration models. In this case, free trade is the springboard for forming a political union.

However, despite the prime importance of the political component in the SCO's activity, it is the economic factors that make it possible to oppose the negative trends in the life of the Central Asian region.

KEYWORDS: *SCO, Central Asian Region, security, the economy, legal regulation, fighting terrorism.*

Introduction

The development of economic relations among the member states is one of the important areas of cooperation in the SCO, which largely predetermines the need for transferring from a specialized to a multivectoral model.

There can be no doubt that, at the initial stage, the Organization's activity was aimed at one goal—achieving security in the region; over time, economic cooperation among the SCO member states began to intensify and new common problems appeared. It became impossible to take efficient steps to combat threats and challenges to economic security without coordinating the economic policy of the region's countries.

I would like to note that during the chairmanship of the Republic of Kazakhstan in the SCO, a certain amount of progress was achieved in the economic sphere; nevertheless, economic cooperation remains a weak link in the Organization's activity. The numerous economic programs and plans require careful revision, since they are not being fully implemented and are not having the necessary effect.

There is still a significant gap between the SCO's economic potential and its practical implementation. Bilateral cooperation still prevails over multilateral, although it is large-scale joint projects that are capable in practice of integrating the SCO's economic expanse.

In our view, the SCO's main strategic task in the next decade should be intensifying multilateral economic interaction. Multilateral cooperation must be given a serious boost and such structures as the Business Council and SCO Interbank Union are called upon to play a special role in this matter.

The principles for forming and operating a Special Account must be ultimately coordinated as soon as possible, reciprocal goods turnover significantly expanded, new markets created, a new boost

given to regional development, and transport corridors between Europe and Asia diversified on parity terms.

Today, it can be affirmed that the SCO is an essentially new model of geopolitical integration representing the interests of CA, Russia, and China. Based on their own experience, the SCO member states are pooling their efforts to oppose the non-traditional threats to security in Central Asia—terrorism, flagrant fundamentalism, drug crimes, and separatism.

Key Problems in the SCO's Activity

Of course, there are political reasons for unifying the countries within the SCO borne by the desire to ensure security in the region, while economic factors predominate in the traditional integration models. In this case, free trade is the springboard for forming a political union. However, despite the prime importance of the political component in the SCO's activity, it is the economic factors that make it possible to oppose the negative trends in the life of the Central Asian region. The terrorism, extremism, drug trafficking, crime, and extreme forms of religious fanaticism rampant in Central Asia are largely due to the poverty of the region's population. Jobs must be created and wide-scale social programs implemented to resolve this problem, which in turn implies accelerated economic development of the region within the framework of economic integration and close investment and technical cooperation with Russia and China.

China is also interested in the region's economic development. After the Tashkent summit, it issued its SCO partners loans totaling \$900 million. Moreover, China signed agreements with Kyrgyzstan, Tajikistan, and Kazakhstan in trade, industry, and oil and gas pipeline construction.

In 2010, the PRC imported more than 40 million tonnes of Kazakh oil. As for Russia, it is actively cooperating with Kazakhstan in the fuel and energy complex. Joint development of oil fields on the Caspian shelf is going on. There is no doubt that both Russia and China are interested in the region's economic development. In this respect, it is worth noting China's initiative, which, beginning in 2002, has been exerting significant effort to create a free trade area in the region.

Even now China is one of the leading foreign trade partners of the Central Asian states, so it is not at all surprising that it is coming forward with initiatives to simplify customs procedures on both sides of the border.

On the whole, the region's relations with Russia and China are polarized; the flows of goods and services correspond to all factors of production. This is not a bad scenario for the transition period, but in order to create prerequisites for transferring to a contemporary model of international economic relations, the manufacturing industry of the Central Asian region must be restored and developed.

Accelerated economic development within the framework of deep economic integration that corresponds to contemporary reality is a very important element in preserving political security in Central Asia. The countries of the region have all the prerequisites for that based on the surplus of production factors (mineral and energy resources) and the existence of a relatively cheap and sufficiently qualified workforce. Full-scale implementation of the region's competitive advantages in light of globalization of the world economy is only possible through regional economic integration and close political cooperation within the EurAsEC and SCO.

At the same time, it should be kept in mind that the existence of a huge number of production factors ensures the countries' development only at the first stage of economic development. Later, in

order to ensure efficient international investment cooperation, they will need to make advances in the manufacturing industry and the production of high-tech commodities and equipment.

In addition to resources, the Central Asian countries possess immense transport potential. The CA region is situated at the crossroads of major Eurasian railroads. When the trans-Asian railroad went into operation, road and air communication was developed, export oil and gas pipelines appeared, the geopolitical and economic significance of CA significantly grew.

Large cargo flows will pass through the region from east to west (from the Asia Pacific Region to Europe and back) and within the framework of the North-South corridor. In terms of its geopolitical position, CA acts as a kind of bridge spanning Europe, Asia, and the Middle East, which should undoubtedly guarantee the security of the region's countries. Pursuing an extensive transport policy requires restructuring of the region's economy and development of infrastructure (transportation means and warehouses) in keeping with current world standards.

Based on the above, it can be concluded that the available prerequisites for regional economic integration are opening up broad opportunities for resolving not only a whole set of economic, social, and environmental issues, but also for overcoming problems of political security in CA. They are caused by extreme poverty, which gives rise to terrorism and extremism.

Resolving the problem of poverty in light of the accelerated economic processes within regional integration will make it possible to reduce drug trafficking, terrorist acts, and crime to the minimum. This integration could promote the acceleration of the CA states' economic and political development, and so it is beneficial to each of them.

However, the integration processes going on in the CA countries are still at the initial stage of their development (at the formation stage so to speak). Unfortunately, formation of the Common Economic Space in the Central Asian region is proceeding slowly and coming up against significant difficulties for the following reasons:

- First, the economic reforms in the region's countries are being carried out at different times and different rates, which means that visions of the future are out of sync.
- Second, there is no common understanding of the integration development strategy, or of its goals, tasks, and priorities.
- Third, problems of interstate relations are not being resolved in such spheres as joint water use, the environment, environmental protection, and the prevention of natural disasters.
- Fourth, the CA states are pursuing different foreign policies and have different international orientations.
- Fifth, trade relations among the region's states have slackened; their interests are shifting to the developed countries of the world, primarily the U.S., the EU member states, Turkey, and China.
- Sixth, the region is afflicted with a worsening geopolitical situation and intensification of such negative trends as a rise in extremism, terrorism, and drug trafficking.

The problem of security has become a very important factor in unifying the region's countries. In April 2000, the presidents of Kazakhstan, Kyrgyzstan, Uzbekistan, and Tajikistan signed an Agreement on Joint Action in the Fight against Terrorism, Political and Religious Extremism, Transnational Organized Crime, and Other Threats to Stability and Security in Tashkent. In addition, in December 2002, a Joint Communiqué on resolving problems related to ensuring regional security was signed in Astana.

The economic vector covers quite a wide range of issues pertaining to the development of relations among the SCO member states. In this case, the matter concerns establishing cooperation in the

economy, trade, development and transportation of energy resources, transport, communications, financial relations, and the water industry.

Analysis of the Main Regulatory Legal Documents Regarding the Organization's Economic Component

The main SCO documents (from the Declaration to the SCO Charter) laud the development of economic relations.

In this regard, I would like to mention the Memorandum among the Governments of the SCO Member States on the Main Goals of Regional Economic Cooperation and Launching the Process to Create Favorable Conditions in Commerce and Investments signed on 14 September, 2001 in Almaty.

Art 1 of the Memorandum set forth the tasks facing the governments of the member states, which include identifying "economic compatibility," "harmonizing national legislation," and "creating and developing regional economic cooperation mechanisms."

The Memorandum went on to designate the ways to perform these tasks, among which the following can be singled out: gradually removing trade and investment barriers, ensuring legal, economic, organizational, and other conditions for moving goods and passengers, including by transit, developing infrastructure at checkpoints, and harmonizing standards on goods and technology.

Moreover, the sides assumed obligations for "drawing up a long-term program of multilateral trade and economic cooperation reflecting its specific areas, priorities, spheres, and targets of activity." "The Sides will enter corresponding agreements to execute this Memorandum."¹

When assessing the Memorandum and the additional agreements that accompany it as achieving a consensus on a whole series of economic cooperation issues within the SCO, it should be noted that they (like those in the security sphere) were aimed at practical resolution of the situation, since their basic textual content is not politicized and is no way declarative in nature. These documents focus on resolving practical tasks at the interdepartmental levels.

On the whole, along with the wide range of cooperation goals, tasks, and priorities in the SCO, all the main interaction parameters of the legislative regulatory framework are also becoming enhanced.

The main reason for the slowdown in economic cooperation is the absence of a mechanism for financing multilateral projects; the SCO budget is too modest and not intended for these goals.

Conversations about creating a SCO Fund or Development Bank have been going on for a long time, but nothing has been done about it yet. China is essentially insisting on creating a bank in which votes would be distributed depending on the size of contribution. This is creating worries that China will make the largest contribution, which will allow it to control the bank and use its funds in its interests.

Russia is suggesting establishing a Development Fund (Special Account) that will act as a mechanism for financing pre-project efforts, primarily in such spheres and energy, transport, and high

¹ *Memorandum among the Governments of the SCO Member States on the Main Goals of Regional Economic Cooperation and Launching the Process to Create Favorable Conditions in Commerce and Investments*, Jurist Legal Data Base, Almaty, 14 September, 2001.

technology. In so doing, it is presumed that implementation of the projects themselves will be financed by the SCO Interbank Association.²

Several Russian ministries express this viewpoint. They believe that Russia's interests will be best met not by establishing a bank with a predominating role played by China, but by the active use of a Eurasian Development Bank established within the EurAsEC, in which "the Russian share is much higher than the share of the other participants."³

This viewpoint does not seem to be very perspicacious. A SCO bank with the participation of China would possess far greater financial opportunities than the Eurasian Bank of Development (in which Russia and Kazakhstan occupy the dominant position). In so doing, some of the SCO bank's funds could be used to pay for projects implemented in Russia.⁴

In addition, Russia would have the opportunity to influence China's financial participation in projects implemented within the SCO. In this respect, it should be noted that China is already unilaterally issuing significant funds for privileged loans to Central Asian SCO members (at the moment they total more than \$10 billion), but exclusively in its own interests and without any participation from Russia.⁵

To be fair, it should be noted that China's economic domination in the region is not at all caused by the establishment of a bank, but by the situation currently existing in the SCO space. As for the SCO Interbank Association's ability and desire to finance large multilateral projects, they appear doubtful. Moreover, the correlation of financial resources in it does not differ from the correlation of the SCO member states' financial opportunities as a whole.⁶

It seems it would be expedient for Russia to agree to the establishment of a SCO development bank, providing that it and China invest an equal share of capital in it (in the same way as the SCO budget) and, correspondingly, have an equal number of votes.

As observers so astutely noted, at the initial stage, the SCO's main activity rode on two wheels—security and the economy. Now cultural-humanitarian and environmental cooperation has been added, so the SCO is steadfastly moving forward on four wheels.

The government leaders are cooperating regularly on the SCO platform, while there is also collaboration at the level of branch ministers and heads of the special services. What is more, an extensive contractual-legal base of different types of activity has been prepared. In other words, the SCO has a strong institutional foundation.⁷

Conclusion

Summing up, it can be noted that the SCO's main tasks today are strengthening stability and security in the broad area that joins its member states, fighting terrorism, separatism, extremism, and drug trafficking, and develop interaction and cooperation in the economy, energy, science, culture, and the environment.

² See: A. Lukin, "Rasshirenie ShOS: vozmozhnosti i prepiatstviia," *Kazakhstan v globalnykh protsessakh*, No. 1, 2011, p. 74.

³ P.A. Tsygankov, *Teoriia mezhdunarodnykh otnoshenyi*, Gardariki, Moscow, 2006, 590 pp.

⁴ See: V.G. Shemiatenkov, *Evropeiskaia integratsiia*, *Mezhdunarodnye otnosheniia*, Moscow, 2003, p. 66.

⁵ See: G.M. Kostyunina, *Aziatsko-tikhookeanskaia ekonomicheskaiia integratsiia*, MGIMO, Moscow, 2002, p. 66.

⁶ See: K.F. Zatulin, A.V. Grozin, V.N. Khliupin, *Natsionalnaia bezopasnost Kazakhstana. Problemy i perspektivy*, Institute of CIS Countries, Moscow, 1998, p. 78.

⁷ See: A. Lukin, "The Shanghai Cooperation Organization: What Next?" *Russia in Global Affairs*, No. 3, 2007, available at [http://eng.globalaffairs.ru/number/n_9132].

After rapidly passing through the institutionalization stage, the SCO became an efficient dialog platform⁸; nevertheless, although it has turned into a multifunctional structure with a wide range of activity, it still has a large amount of untapped potential. At the moment, it is important for the SCO not to lose its cooperation momentum, while the member states should have a clear vision of its prospects.⁹

What projects could become a fulcrum of multilateral economic trade cooperation? How can the efficiency of cooperation be raised when combating the new challenges and threats? What are the prospects for enlarging the SCO? What is the Organization's contribution to resolving stabilization of the situation in Afghanistan? How will the SCO cooperate with other organizations in the Eurasian expanse? All of these questions are on the SCO's development agenda.

Due to the contradictions that have been designated between China and Russia in certain issues, in the next few years, trade and economic cooperation within the SCO will remain within the limits of the declarative agreements currently reached.¹⁰

As for China, it will try to develop trade and economic cooperation within the framework of the SCO and resolve the contradictions between the SCO and EurAsEC. Beijing does not like the fact that these two organizations are duplicating their priorities in trade and economic cooperation.¹¹

China sees its integration into the EurAsEC as one of the ways to overcome the existing contradictions, which will lead to the Eurasian Economic Forum being absorbed by the SCO.

Russia is not interested in strengthening the economic component of the SCO at the expense of weakening the EurAsEC and so it will not support the initiatives put forward by Beijing. For Moscow, it would be more beneficial to retain specific integration functions for the EurAsEC and more abstract ones for the SCO. So Moscow does not approve of Beijing's calls for a free trade area in the SCO space.¹²

In turn, Russia will attempt to focus the SCO's economic zone of responsibility on South Asia (Pakistan, India) and the countries adjacent to the CA region (Afghanistan, Iran) in the next few years. But Moscow's policy will be opposed by Beijing, which during acceptance of some of observer countries as full-fledged members of the SCO has already expressed its concern that enlarging membership while the Organization is still forming threatens erosion of its functional boundaries.¹³

On the whole, Russia's position is entirely explainable; it will strive to retain the competency of the economic forum it controls in the post-Soviet expanse. In this respect, China's interests do not appear to be entirely transparent. Despite the fact that no formal agreements on a free trade area have been entered within the SCO, the markets of the Organization's member states are experiencing the significant expansion of Chinese export to a certain extent. In this respect, we will note that China's desire to become integrated into the pro-Russian economic forum could be related to its desire to reduce Moscow's influence on the Central Asian countries.¹⁴

⁸ See: Ar.A. Uluinian, *Tsentrazia 2000/2005: Upushchenny shans? Otsenki i prognozy zarubezhnogo ekspertno-analiticheskogo soobshchestva*, Institute of Oriental Studies, RAS, Moscow, 2006, p. 66.

⁹ See: A.G. Larin, "Rossia, Kitai i SShA: perspektivy sotrudnichestva v Tsentralnoi Azii," in: *Rossia i Kitai v Shankhaiskoi organizatsii sotrudnichestva*, Institute of Oriental Studies, RAS, Moscow, 2006, p. 29.

¹⁰ See: S.I. Lunev, *Nezavisimye respubliki Tsentralnoi Azii i Rossii: ucheb. posobie*, Institute of Oriental Studies, RAS, Moscow, 2001, pp. 23-24.

¹¹ See: M. Buries, *Chinese Policy toward Russia and the Central Asian Republics*, RAND Report MR-1045-AF, San Francisco, 1999, p. 51.

¹² See: A. Hyman, "Moving out of Moscow's Orbit: The Outlook for Central Asia," *International Affairs*, Vol. 69, No. 2, 1993, p. 289.

¹³ See: A.A. Kniyazev, "Kirgizia i Rossia: bezopasnost, sotrudnichestvo i perspektivy razvitiia v tsentralnoaziatskom kontekste," available at [<http://vwww.eurasianhome.org/doc/kniyazev.pdf>].

¹⁴ See: M.N. Suiunbaev, "Problemy identichnosti, predelov tselesoobraznosti integratsii i neodnovenennosti ee protsessa," in: *Proekty sotrudnichestva i integratsii dlia Tsentralnoi Azii: sravnitelny analiz, vozmozhnosti i perspektivy*, ed. by A.A. Kniyazev, Bishkek, 2007, p. 44.

In contrast to Russia's approaches to ensuring the competency of the EurAsEC, joining this economic community is not of principle importance to China; therefore, Beijing will accommodate Moscow in this issue, but in so doing achieve advantageous agreements for itself in the energy sphere.¹⁵

So in order to ensure social stability and raise the quality of life of the population of the SCO member states (much depends on the normal functioning of the government agencies, carrying out efficient reforms, strengthening economic trade ties, and streamlining regional transport and communication systems), the security issue must first be resolved. However, despite the prime importance of this aspect in the Organization's activity, its long-term stability will to a great extent depend on how effectively the mechanisms of economic cooperation of its member states are utilized.

¹⁵ See: B.K. Kazbekov, "Integratsionnye vozmozhnosti razvitiia ekonomiki Kazakhstana," *Tranzitnaia ekonomika* (Almaty), No. 5-6, 2005, p. 116.