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## THE SHANGHAI COOPERATION ORGANIZATION: INSTITUTIONALIZATION AND LEGITIMATION

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**ABSTRACT:** This article explores main stages of the formation of Shanghai Cooperation Organization (SCO) as a full-fledged international structure in a relatively short time, on the basis of the dialogue platform "Shanghai Five", in turn, established in the late 1990s with the participation of China, Russia, Kazakhstan, Kyrgyzstan and Tajikistan in order to resolve border issues, as well as institutional aspects of the evolution of the SCO based on an analysis of its framework.

**KEYWORDS:** Negotiations, international organization, dialogue format, treaty, Shanghai Five, Shanghai Cooperation Organization, summit, multilateral institutions.

### INTRODUCTION

The success of cooperation in international and regional organizations is largely determined by their internal rules, the extent to which legal-regulatory and institutional mechanisms regulating relations between member states are carefully developed and their practical effectiveness. The Shanghai Cooperation Organization (the SCO) emerged and developed under conditions that are significantly different from the multilateral institutions that have emerged in other regions of the world. Nevertheless, institutionally, it went through the processes of formation characteristic of all international organizations.

Initially, in the late 1990s, the "Shanghai Five", which began to operate in the form of "ad hoc" diplomacy and did not have permanent and stable working bodies, turned into a full-fledged organization. In order to implement the tasks, of course, the formation of its legal foundations and institutions was necessary in the early years of the SCO.

The initial period of SCO development (2001-2004) was associated with the launch of new formats of mutual cooperation. On June 7, 2002, the Summit of in St. Petersburg (Russia) adopted the SCO Charter, which reflects the goals, principles and main directions of cooperation, was signed.

Among the main working bodies of the organization, the following were defined in the charter:

- Council of Heads of State;
- Council of Heads of Government (Prime Ministers);
- Council of Ministers of Foreign Affairs;
- Council of Heads of ministries and (or) agencies;
- Council of National Coordinators;
- Regional anti-terrorist organization;

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- Secretariat.

At the third summit of the organization held in Moscow on May 29, 2003, the heads of state adopted a number of rules and decisions regulating the operation of the internal mechanisms of the SCO and introduced the position of the chairman of the SCO Executive Committee (later renamed the Secretary General). On January 15, 2004, the official opening ceremony of the SCO Executive Committee was held in Beijing. The establishment of the Secretariat marked the end of the first stage of the formation of the SCO as an organization and the beginning of the second stage.

Now on the agenda was the issue of recognition of the SCO as a full-fledged international regional organization. In 1992, then UN Secretary General Boutros Boutros-Ghali proposed a definition of regional organization, according to which, "groups formed for mutual protection and defense, for the purpose of mutual cooperation in regional development or certain economic issues, as well as for solving special political, economic or social tasks due to current threats are considered regional organizations.

The SCO fully meets all the criteria mentioned by the former UN Secretary General. It is open to the accession of other countries in the region, which undertake to respect the goals and principles written in its Charter and other international agreements adopted on the basis of it. In addition, the SCO considers its main task to support peace and stability in the region and to stimulate its economic development. SCO members undertake to strengthen mutual trust and good-neighborly relations, promote effective cooperation in political, trade-economic, scientific-technical, cultural, educational, energy, communication, environmental and other fields, and make joint efforts to ensure regional peace, security and stability. Structurally, the SCO is a clear example of a comprehensive intergovernmental international organization, as it was shown above. It has two permanent bodies, namely the Secretariat and the Executive Committee of the Regional Counter-Terrorist Structure.

For the institutionalization of the SCO as a regional block, the legitimacy of its influence in the international arena was also an important issue. In December 2 2004 UN General Assembly resolution 59/48 was approved, according to which the SCO obtained the status of observer of the UNGA. Thus, during its several years of development, the SCO has turned from an informal club of the leaders of the "Shanghai Five" countries into a regional organization whose activities are aligned with the UN Charter. The SCO received full international recognition after it was granted observer status by the UN General Assembly.

The SCO has its own mechanism for accepting new members, according to which a state interested in membership can send an official request to the current chairman of the Council of Foreign Ministers. After that, according to the decision of the Council of Heads of State and on the basis of the presentation of the Council of Foreign Ministers, this state can be accepted as a full member of the organization. It is a process that requires an in-depth study of how the candidate for membership will affect the cooperation potential in the SCO and bilateral relations with the permanent member states and many other such factors.

This is evidenced by the fact that the average period of admission of Pakistan (2014-2017), India (2014-2017) and Belarus (2022-2024) to the organization is 3 years. Despite the fact that the Islamic

Republic of Iran officially submitted an application to become a full member of the SCO in 2008, it was officially accepted as a full member of the organization only in 2023. The example of Iran shows that admission to the SCO is not only a legal-organizational process, but also a matter of geopolitical and diplomatic features. The members of the organization were worried that the acceptance of this country as a full member of the SCO would further complicate the attitude of the Western countries towards the system due to the conflicts between the USA and Iran on this issue. In particular, in 2006, the US Defense Minister at that time, D. Rumsfeld, made a statement about this, underscoring, " It is very strange that an organization that considers itself an anti-terrorist structure hosts one of the leading terrorist states in the world". With such a geopolitical situation, SCO members could not make a decision against the opinion of the international community. As seen, membership is a process that depends not only on legal procedures, but also on diplomatic-political and geopolitical factors.

The SCO Charter stipulates the right of any member of the organization to withdraw from it. Withdrawal shall mean complete termination of membership; partial termination of membership is not permitted. The conditions for this are also written in this place itself. These are: firstly, a country interested in leaving the organization must send an official notification to the depositary (that is, the Secretariat) no later than 12 months after the date of withdrawal. Fulfillment of this condition is mandatory according to the Vienna Convention on International Treaties; secondly, the state's obligations arising from its membership in the SCO bind this country to the SCO until they are fully fulfilled (Article 13 of the SCO Charter). But, at this point, it should be noted that in the 24-year history of the SCO, the issue of withdrawal has not been raised by any country.

In accordance with the founding documents, the SCO may grant the status of dialogue partner or observer to any country or international organization. The procedures and rules for granting these statuses are determined by a special agreement between the member states. On June 17, 2004, the Council of Heads of State of the SCO approved the "REGULATION on the Status of Observer to the Shanghai Cooperation Organization", and on August 28, 2008, the "Regulation on the Status of Dialogue Partner of the Shanghai Cooperation Organization" was adopted. SCO observer status is an intermediate period between SCO dialogue partner and member.

A state or organization that has received observer status may be invited to open meetings of the Council of Heads of State and Government; has the right to participate in meetings of the Council of Foreign Ministers and conferences of heads of ministries and agencies of SCO member states, without voting rights.

The period from 2009 2022 can be seen as the period of growth and expansion of the organization, that is, the third stage. In the same year, at the summit held in Yekaterinburg, Russia, the leaders of the member states decided to grant dialogue partner status to Sri Lanka and Belarus, as well as give observer status to Afghanistan and Turkey - dialogue partner status.

At the 2010 summit in Tashkent, a set of minimum criteria that must be met by a country seeking to join the SCO and become a full member was defined and determined. According to this regulation, the country candidate for membership should be located in the Eurasian region, have observer or partner status of the SCO, have diplomatic relations with all current members of the

organization, and the existence of intensive economic and humanitarian relations; Should not be subject to UN sanctions and should not be in a state of military conflict with another country. In turn, at the 2014 Dushanbe summit, a decision was made to finalize the formation of legal, administrative and financial conditions for the admission of new members to the organization. During the Summit in Ufa (Russia) in 2015 it was launched the process of accepting India and Pakistan as full members of the SCO. In addition, Belarus received observer status, joining Afghanistan, Iran, and Mongolia, while Azerbaijan, Armenia, Cambodia, and Nepal became new "dialogue partners". At the Tashkent Summit of 2016, Memorandums were signed with India and Pakistan defining the obligations of these countries to be accepted as full member states of the SCO.

The new, fourth stage in the evolution of the Shanghai Cooperation Organization began on September 16 at the Summit in the city of Samarkand, Uzbekistan. The Samarkand summit approved a very important decision on "Improving the Shanghai Cooperation Organization". For the first time in the history of the organization, this was a legal document providing for the modernization of its activities, legal and institutional foundations. In accordance with it, the SCO Council of Foreign Ministers is tasked with developing proposals for improving the organization's activities. According to the Secretary General of the SCO, the member states of the organization are actively working on this issue. In our opinion, there is a full reason to describe this stage, which started at the Samarkand summit, as the stage of improving the Shanghai Cooperation Organization.

In conclusion, it can be said that despite the differences in the political, economic and political-cultural spheres between the member states, the SCO has made great evolutionary progress in a relatively short period of time. The significant increase in the role and influence of the organization at the regional and international level during this period is determined not only by the diplomatic achievements of its member countries, but also by the fact that its institutional and legal base has been carefully developed and implemented in many ways.

True, with the passage of time, the rapid changes in international relations, as well as the admission of India and Pakistan, and later Iran, to the organization, there are some deficiencies in the institutional and regulatory framework of the SCO, and the need to adapt them to the requirements of the times is becoming evident. In this sense, within the framework of the decision taken at the Samarkand summit to improve the SCO, the prospects for how effective and efficient the modernization of its activities will be will be of great importance for the organization's development path in the future.

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