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LEGAL FRAMEWORK AND DEVELOPING PART OF TRADE FACILITATION IN THE SHANGHAI COOPERATION ORGANIZATION

The Shanghai Cooperation Organization's Inaugural Declaration explicitly initiated negotiations on investment facilitation, a theme consistently reaffirmed in subsequent heads of state declarations. From the perspective of organizational law, the SCO Charter advances investment facilitation, while memoranda and protocols function as soft law instruments supporting its implementation. Despite the absence of a unified definition of investment facilitation at the global level, the SCO conceptualizes it as a set of practices undertaken by member states to attract foreign investment, enhance efficiency across the investment cycle, and ensure transparency, simplified procedures, and predictability, in line with the requirements of the prospective SCO Free Trade Area.

The article first analyzes the current status of the SCO, identifying four key reasons for the absence of a formal trade facilitation framework. It then examines both the contemporary context and the inherent institutional advantages for developing such a mechanism, while also exploring its normative foundations from a legal perspective. On this basis, the study proposes a prospective framework for SCO trade facilitation rules and discusses the potential for adopting a Shanghai Cooperation Organization Trade Facilitation Agreement. The article argues that the institutionalization of the facilitation under the SCO would not only stimulate economic development among member states but also contribute to the deepening of regional cooperation within the organization.

Keywords: Shanghai Cooperation Organization (SCO), trade and investment facilitation, legal framework, soft law instruments, regional economic cooperation, free trade area.

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Шанхай Ынтымақтастық Ұйымы шеңберінде сауданы жеңілдетудің құқықтық негізі мен дамуы

Шанхай ынтымақтастық ұйымының Учредителдік декларациясында инвестицияларды жеңілдету мәселелері бойынша келіссөздердің ресми түрде басталуы жарияланды. Бұл тақырып кейінгі мемлекет басшыларының декларацияларында да жүйелі түрде расталды. Ұйымдық құқық тұрғысынан алғанда, ШЫҰ Жарғысы инвестицияларды жеңілдетуді бекітеді, ал меморандумдар мен хаттамалар оның іске асырылуын қамтамасыз ететін «жұмсақ құқық» құралдары ретінде қолданылады. Инвестицияларды жеңілдетудің бірыңғай жаһандық анықтамасының жоқтығына қарамастан, ШЫҰ оны мүше мемлекеттердің шетелдік инвестицияларды тартуға, инвестициялық циклдің барлық кезеңдеріндегі тиімділікті арттыруға, сондай-ақ ашықтықты, рәсімдердің жеңілдетілуін және болжамдылықты қамтамасыз етуге бағытталған тәжірибелер жиынтығы ретінде қарастырады. Бұл талаптар ШЫҰ болашақ еркін сауда аймағының қағидаттарына сәйкес келеді.

Мақалада алдымен ШЫҰ-ның қазіргі жағдайы талданып, сауданы жеңілдету саласында ресми құқықтық базаның жоқтығының төрт негізгі себебі анықталады. Одан әрі заманауи жағдай мен осындай тетікті әзірлеудің институционалдық артықшылықтары қарастырылады, сондай-ақ оның құқықтық тұрғыдағы нормативтік негіздері зерттеледі. Осы негізде ШЫҰ аясында сауданы жеңілдету қағидаларының болашақтағы үлгілік жүйесі ұсынылып, Сауданы жеңілдету туралы ШЫҰ келісімін қабылдау мүмкіндігі талқыланады. Зерттеу барысында ұйым шеңберінде сауданы жеңілдету тетіктерін институционалдандыру мүше мемлекеттердің экономикалық дамуына ықпал етіп қана қоймай, сонымен бірге өңірлік ынтымақтастықты тереңдетудің маңызды факторы болатыны дәлелденеді.

Түйін сөздер: Шанхай ынтымақтастық ұйымы (ШЫҰ), сауда және инвестицияларды жеңілдету, құқықтық негіз, «жұмсақ құқық» құралдары, өңірлік экономикалық ынтымақтастық, еркін сауда аймағы.

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Правовая основа и развитие содействия торговле в рамках Шанхайской Организации Сотрудничества

В Учредительной декларации Шанхайской организации сотрудничества было официально инициировано начало переговоров по вопросам содействия инвестициям – теме, которая последовательно подтверждалась в последующих декларациях глав государств. С точки зрения организационного права, Устав ШОС закрепляет развитие инвестиционного содействия, тогда как меморандумы и протоколы используются как инструменты «мягкого права», обеспечивающие его реализацию. Несмотря на отсутствие единого определения инвестиционного содействия на глобальном уровне, ШОС трактует его как совокупность практик государств-членов, направленных на привлечение иностранных инвестиций, повышение эффективности на всех этапах инвестиционного цикла, а также на обеспечение прозрачности, упрощённых процедур и предсказуемости – в соответствии с требованиями перспективной зоны свободной торговли ШОС.

В статье анализируется текущее состояние ШОС и выделяются четыре ключевые причины отсутствия формальной правовой базы в сфере содействия торговле. Далее рассматриваются современный контекст и институциональные преимущества для разработки соответствующего механизма, а также исследуются его нормативные основания с правовой точки зрения. На этой базе предлагается перспективная модель рамочных правил содействия торговле в рамках ШОС и обсуждается возможность принятия Соглашения о содействии торговле в ШОС. В работе аргументируется, что институционализация механизмов содействия в рамках организации не только будет способствовать экономическому развитию государств-членов, но и станет фактором углубления регионального сотрудничества.

Ключевые слова: Шанхайская организация сотрудничества (ШОС), содействие торговле и инвестициям, правовая база, инструменты мягкого права, региональное экономическое сотрудничество, зона свободной торговли.

Introduction

The Shanghai Cooperation Organization (SCO) is the first regional international organization named after a Chinese city. Since its inception, the SCO has aimed to maintain regional security and peace. However, as cooperation among its member states has deepened, its collaboration has gradually expanded from security to economic, cultural, and political fields, becoming a comprehensive, multi-layered regional international organization. At the same time, Chinese President Xi Jinping once said that “the world is in the midst of a major change unseen in a century”. The world is shifting, trade protectionism is on the rise, and anti-globalization thoughts are surging. When the WTO dispute settlement mechanism was suspended, it was replaced by various regional economic organizations. Against this background, accelerating the promotion of trade facilitation cooperation within regional organizations has become a consensus among countries around the world. The SCO’s trade facilitation needs to be improved badly, and especially it is important to build a legal framework.

Materials and methods

This study adopted literature analysis and empirical analysis methods. Literature analysis method – By reading relevant legal documents, this article points out that the SCO’s economic and trade regulations are somewhat weak, and makes suggestions based on current laws.

Comparative analysis method – After comparing the legal systems of different SCO countries, this article points out the important reasons why SCO legislation system are difficult to construct.

Literature review

The Construction of Shanghai Cooperation Organization Legal Framework Analyze: Current Status and Challenges. The concept of “trade facilitation” was first proposed at the WTO Singapore Ministerial Conference in 1996. Although there is no broad consensus on the definition of its connotation among international organizations, the World Trade Organization (WTO, 1998) and the United Nations Conference on Trade and Development

(UNCTAD, 2001) both believe that it is a general term for simplifying and coordinating international trade processes. It focuses on the coordination and simplification of customs procedures in cross-border trade activities, and also emphasizes the unification of trade laws and regulations, the coordination of facilities and the consistency of regulations and standards. In essence, trade facilitation is aimed at strengthening and accelerating the circulation of goods and services within the organization. As early as 2018, former Chinese Premier Li Keqiang called on SCO member states to conduct research on the establishment of an SCO Free Trade Area. As research deepened, Premier Li Keqiang also called for discussions on how to deepen and institutionalize regional economic cooperation, thereby providing stable prospects for economic cooperation. To further deepen SCO economic and trade cooperation, at the SCO Qingdao Summit that same year, the heads of state of the member states reached consensus and adopted the “Joint Statement of the Heads of State of the Shanghai Cooperation Organization Member States on Trade Facilitation,” a legal document.

However, up to now, the construction of the legal mechanism for trade facilitation in the SCO is mainly a series of soft law documents, mainly declarations and statements, with a low degree of systematization and a relatively loose organization. The SCO member states have signed a series of bilateral and plurilateral treaties. In general, the construction of the trade facilitation mechanism within the SCO is fragmented. This provides the possibility of building a complete SCO trade facilitation mechanism.

Although the relevant measures of trade facilitation have a long history, the rate of acceptance on the TFA created by the SCO party states right now is not high. The earliest trade facilitation agreement was signed in the World Trade Organization around 1950, which was also the earliest prototype of the trade facilitation agreement. The TFA(WT/L/940) inherited the trade facilitation measures under the WTO, and further simplified and upgraded the procedures and formalities for the release of goods, such as the introduction of the customs guarantee system, special preferential measures for express goods and perishable goods, and the adoption of the “authorized operator” system, etc., and put forward higher requirements for the transparency of laws and regulations and policies, as well as the disclosure of customs information(Xiaoqiong Guo, 2021). However, among the ten formal member states of

the SCO, the Islamic Republic of Iran, the Republic of Belarus, and the Republic of Uzbekistan are not WTO members so far, and the Kyrgyz Republic and the Republic of Tajikistan have not ratified the Trade Facilitation Agreement. In this way, the proportion of SCO formal member states that have not participated in TFA is as high as 50%(Yi Zhu, 2016). This means that there are certain obstacles to the direct implementation of the trade facilitation mechanism of the WTO system in the SCO.

Today, to quote Chinese President Xi Jinping, “the deglobalization is accelerating, and the world’s century-old scriptwriting is accelerating.” US President Trump threatens to impose tariffs on various countries and rebuild and restore trade barriers. As the role of the WTO gradually decreases, the newly established trade agreements focus on establishing regional trade mechanisms, and trade tends to be organized and regionalized. However, even if we refer to the regional trade agreements that are currently more influential, such as the Regional Comprehensive Economic Partnership (RCEP) led by China; or the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) led by the United States and then withdrawn, and now led by Japan, as well as organizations such as ASEAN, they generally put forward higher requirements for the degree of trade facilitation of member countries than TFA. Therefore, although global trade barriers have increased compared to before, the requirements for the degree of trade facilitation of member countries within the organization have increased. The member countries of agreements such as RCEP and CPTPP are mostly coastal developed countries, so their trade facilitation laws are more perfect. In terms of the degree of facilitation achieved by the formal member states of the SCO in cross-border trade, it is difficult to meet such requirements(Xing Han, 2019). The degree of regional trade freedom in the SCO countries is relatively weak, and there is still a long way to go.

The voting system is a crucial stage in the legal system’s operational procedures. Without it, legal operations become mere formalities. For international organizations, voting procedures are crucial for making final decisions and ensuring that signed legal documents are binding on member states. The Shanghai Cooperation Organization’s voting process is based on consensus, a principle established based on the SCO’s current status. This is because SCO member states are all emerging nations, which deeply value sovereignty. Consensus is not only a primary manifestation of sovereign

equality, but also ensures that all member states, regardless of strength or size, can maximize the representation of their needs and opinions. The principle of consensus makes the SCO a negotiating platform, ensuring equal participation in decision-making by member states. Widely accepted by member states, the consensus principle, because it helps maximize benefits, is being applied in an increasingly wide range of areas, becoming an essential principle in all dispute resolution. For example, international organizations such as GATT, APEC, and ASEAN all implement the principle of consensus. However, one of the major drawbacks of this principle is the lack of decision-making efficiency. When this principle violates the core interests of certain countries, when one country opposes, all countries are unable to reach an agreement. And because of the principle of national equality in international law, the national will of a country cannot be forced by another country, which leads to decision-making in many specific areas taking too long or even difficult to make. Due to the lack of coercive force, most can only form principled declarations or soft law documents. In the SCO trade facilitation mechanism, although the SCO Charter and the founding declaration in 2001 proposed efforts to facilitate trade and investment among member states, when the member states signed the Joint Statement of the Heads of State of the Shanghai Cooperation Organization on Trade Facilitation in 2018, the statement was still quite principled and did not have more in-depth mandatory or semi-mandatory provisions. Moreover, to date, the SCO has not formed any legal documents other than the statement to promote this matter.

At present, the SCO member states still face many obstacles in four major areas, including customs procedures, standardization, business flows and regulatory environment. The policies of various parties are quite different, and coordination is difficult. For example, in the field of technical standards, the CIS countries mainly refer to Russian standards (partially inherited from Soviet standards) and European standards. China, on the other hand, has a unique set of standards modified from European standards. In order to meet the requirements of the target country and obtain approval from the relevant departments of the target country, imported and exported products need to be approved. This means that when Chinese companies enter the CIS market, they need to collect, translate, compare and adjust the indicators of their products (Zhou Deng, 2023). For example, in terms of approval, logistics, customs

clearance, and remittance of funds, the requirements of the SCO member states are different. Every time they pass through a country, they need to work again, which is time-consuming and laborious. In addition, the labor visa procedures are complicated and time-consuming, which also hinders companies from investing and solving technical problems to a certain extent.

In fact, regional economic cooperation has not really become a recognized priority area for all parties, and the positioning of the SCO by various countries is somewhat different. Russia often relies on the SCO to carry out its geopolitical cooperation. In fact, there is already a Eurasian Economic Union led by Russia in the CIS countries, and the SCO's trade facilitation activities may overlap with it; although Central Asian countries are willing to take advantage of China's economic growth, they are also worried about economic dependence on China in the process of cooperation. China has not joined the Eurasian Economic Union, and the "Belt and Road" initiative is a unilateral initiative led by China, and does not have a regional organizational framework like the SCO. The SCO member states act independently, which to a certain extent hinders the promotion of the trade facilitation mechanism.

Background Analysis of the SCO Trade Facilitation Mechanism Construction. At present, the trend of deglobalization is prevalent. Since the then US President Trump came to power around 2016, the world has gradually turned to deglobalization. Under the influence of Trump, there is a tendency to put US interests first only in benefit analysis, while disregarding any established rules and ignoring the existing world order and the legitimate development demands of other countries. As a result, the United States frequently breaks international practice and is unwilling to accept the constraints of the rules of international organizations including the WTO. Since the United States has repeatedly obstructed the start of the selection process for new judges of the Appellate Body, the Appellate Body of the WTO has been suspended for a long time, and the member countries of the Multiparty Interim Appeal Arbitration Arrangement (MPIA) are very limited and cannot resolve trade disputes.

After the WTO was essentially suspended, the road to global free trade suffered a major setback. In contrast, regional economic and trade negotiations have shown an accelerating trend. Various regional free trade agreements have accelerated the signing process, and various forms of regional trade agreements with the content of mutual exemption of

tariffs and reduction of trade barriers have continued to increase.

Since US President Trump came out with the “reciprocal tariff” plan on April 7, 2025, he intends to continuously raise trade barriers in the form of additional tariffs. Affected by this, major economies in the world such as China, the European Union, Australia, Canada, and Japan have claimed to fight back. Recently, the United States and other countries are in negotiations. The results of the trade negotiations are still unknown, but the trend of deglobalization is an indisputable fact. At the same time, the share of trade and the contribution rate of the global southern countries to driving global growth have increased year by year, and their international influence has been significantly enhanced. The Shanghai Cooperation Organization is an international organization established between southern countries. Establishing a trade facilitation mechanism or even a trade community within the framework of the SCO is an important step to give full play to the advantages of the organization and fight against the trend of deglobalization.

At the 2019 SCO Heads of State Council, Chinese President Xi Jinping first proposed the “SCO Community of Shared Future” initiative, charting the course for the SCO’s future development. As cooperation deepened, the following year, Chinese President Xi Jinping further proposed the “Building an Even Closer SCO Community of Shared Future” initiative, building on the SCO’s shared future. This initiative has put forward higher requirements for cooperation and exchanges among SCO member states, and is more closely connected with the concept of a community with a shared future for mankind and a community with a shared future for the surrounding areas (Min Yin, 2022). Starting from the purpose of security cooperation, after 20 years of development, the cooperation areas of various countries have long been expanded to the economic and trade fields. The construction of the SCO trade community can further promote economic and trade cooperation among countries, deepen the level of openness, and take common interests as the basis and economic win-win as the goal.

Today, the international community still holds the view that the interests of individual countries and the interests of the international community are incompatible or irreconcilable (Shouping Li, 2020). This view holds that the interests of different countries are mutually exclusive, and each country has the right to plan and implement its own development plan without being interfered with or

constrained by the international community (Hedley Bull, 2015). National interests are related to national development and people’s well-being, and are the inevitable pursuit of countries. Conflicts usually arise in the process of pursuing interests (Zuxue Gu, 2012). To resolve conflicts of will between countries, only through mutual cooperation between countries can international law norms be formed on the basis of mutual agreement. The concept of a community with a shared future for mankind advocates that the interests of countries are closely related and coexist with each other. The construction of a trade community promotes economic and trade cooperation among member states, emphasizes mutual benefit and win-win results, and is in line with this concept.

At a time when the global crisis is becoming increasingly prominent, facing the trend of deglobalization of trade and the unfair suppression of Western states, constructing a closer SCO community with a shared future, as I see it, is probably the best way to achieve win-win results for the SCO party states in the world and the correct answer to dealing with the global crisis (Xiaohong Liu, Shuo Feng, 2020). Discovering wisdom from the “Shanghai Spirit” and gaining strength from unity and cooperation are also vivid manifestations of the wisdom raised by the member states.

It counted that, the population amount of the SCO member states reaches nearly half of the world’s population, and the territory of the SCO account for more than 60% of the Eurasian continent, and the GDP totality of the SCO party states accounts for more than 20% of the world’s GDP. In 2021, SCO Secretary-General Norov said that the total economic output of SCO member states currently accounts for 22.5% of the global GDP. According to experts from the International Monetary Fund, this proportion will rise to 38%~40% in 2025. According to data from the Ministry of Commerce, China’s trade volume with SCO member states was US\$12 billion in 2001, and reached US\$245 billion in 2020, an increase of 20 times in 20 years. From January to July 2021 alone, my country’s trade volume with SCO member states was US\$180.6 billion, an increase of 41%. At the same time, according to the United Nations Goods Trade Database, the total trade volume of the six founding member states of the SCO increased from US\$672 billion in 2001 to US\$112.5 trillion in 2019 (Dexue Yan, 2021).

Since the establishment of the SCO, China’s foreign trade imports and exports with other SCO member states have generally shown a positive

trend (Songji Wang, Rui Han, 2024). Taking China as an example, according to the 2023 China-SCO trade annual index report released by the General Administration of Customs of the People's Republic of China, the trade scale, development speed, trade quality, and trade entities are used as primary measurement indicators to compile the China-SCO trade index. The index generally showed a fluctuating recovery trend, closing at a historical high of 150.1 in December; in 2023, China's total import and export value with other SCO member states hit a record high. In December 2024, China's development trade index with SCO member states reached a new historical high of 168.2. This fully proves that trade and other connections between member states are gradually increasing. The demand for trade implies an increased demand for further simplifying trade barriers (Deborah Elms, 2014).

Against the backdrop of anti-globalization sentiment, countries around the world are rebuilding trade barriers. Given that many regional trade facilitation agreements have been signed and multiple free trade zones have been established, the Shanghai Cooperation Organization Trade Facilitation Agreement itself has a legal basis, so it may facilitate the advancement of the mechanism.

Results and discussion

The Silk Road Economic Belt rests on a profound historical foundation, having long served as a crucial transportation artery linking the economies of East and West. In the twenty-first century, this historical legacy has been revitalized and endowed with new strategic significance. In 2013, during his visit to Kazakhstan, the President of China introduced the vision of constructing the Silk Road Economic Belt, drawing on its historical role while aligning it with the developmental imperatives of the contemporary era. Subsequently, General Secretary Xi Jinping expanded the concept into the broader Belt and Road Initiative (BRI), thereby rearticulating its relevance in the context of globalization and regional economic integration.

The BRI is conceived as a platform to create an open, inclusive, and mutually beneficial economic corridor for states along its routes. Its principal objectives include strengthening infrastructure connectivity, enhancing the free flow and efficient allocation of resources, and fostering market complementarity. Through these measures, the initiative aims to address the persistent challenges

of uneven and unstable economic growth faced by participating states.

To date, countries located along the Belt and Road have entered into a series of bilateral agreements with China that serve to operationalize the BRI's objectives (Yiyuan Liu, 2023). These agreements underscore both the strategic scope of the initiative and its capacity to reshape patterns of trade and cooperation across Eurasia. Importantly, they also provide a foundation for multilateral cooperation frameworks, such as those under the Shanghai Cooperation Organization (SCO) may serve as complementary mechanisms for advancing trade facilitation and regional integration.

For instance, in August 2015, China and Russia established a working group on the coordination mechanism for aligning the Silk Road Economic Belt with the Eurasian Economic Union. In parallel, China and Kazakhstan institutionalized a «regular prime ministers' meeting» mechanism, which evolved into a multi-tiered cooperation framework comprising the «prime ministers' meeting+ the China-Kazakhstan Cooperation Committee+ nine subcommittees» covering economy and trade, transportation, border ports, science and technology, finance, energy, mining, cultural and humanitarian exchanges, and security.

This institutional arrangement has produced notable interim results, particularly in the implementation of joint projects and the development of financing mechanisms. In the same way, China and Uzbekistan established an Intergovernmental Cooperation Committee, supported by specialized subcommittees in the areas of economy and trade, science and technology, energy, transportation, agriculture, cultural cooperation, and security. Moreover, China has concluded Intergovernmental Economic and Trade Cooperation Committees with both Kyrgyzstan and Tajikistan. Nevertheless, it is essential to underscore that the BRI remains primarily China-centered, with the geographical core of the Silk Road Economic Belt substantially overlapping with the territories of the Shanghai Cooperation Organization member states.

The Belt and Road Initiative as a Framework for the Shanghai Cooperation Organization Trade Facilitation Mechanism. The Silk Road Economic Belt possesses a deep historical legacy as a vital artery connecting the economies of East and West. In the twenty-first century this historic route has been revitalized and endowed with new strategic significance. In 2013 during the visit to Kazakhstan, The President of China introduced the idea of

establishing the Silk Road Economic Belt, drawing on its historical traditions while aligning it with the developmental imperatives of the contemporary era. Subsequently, General Secretary Xi Jinping expanded this vision into the Belt and Road Initiative (BRI), presenting it as comprehensive strategy designed to foster an open, inclusive, and mutually beneficial economic corridor. The BRI seeks to enhance infrastructure connectivity among participating states, promote the free flow and efficiency allocation resources, and strengthen market complementarity. With these measures, the Initiative seeks to reduce the persistent problems of unbalanced and unstable economic growth in the region.

To date, countries along the Belt and Road have signed a wide range of bilateral cooperation agreements with China (Ning Zhang, 2017). For instance, in August 2015, China and Russia established a working group on the coordination mechanism between the Silk Road Economic Belt and the Eurasian Economic Union. Similarly, China and Kazakhstan institutionalized a «regular prime ministers' meeting» mechanism, which has evolved into a structured cooperation platform comprising the prime ministers' meetings, the China-Kazakhstan Cooperation Committee, and nine specialized subcommittees covering economy and trade, transportation, border ports, science and technology, finance, energy, mining, cultural and humanitarian affairs, and security. This framework has produced significant interim achievements in project implementation and the establishment of financing mechanisms. In addition, China and Uzbekistan created an «Intergovernmental Cooperation Committee», further supported by subcommittees on economy and trade, science and technology, energy, transportation, agriculture, cultural cooperation, and security. Likewise, China has established «Intergovernmental Economic and Trade Cooperation Committees» with both Kyrgyzstan and Tajikistan. These agreements show that China is becoming more involved in the region and building stronger cooperation.

Even so, the Belt and Road Initiative is still mainly focused on China. Its main part, the Silk Road Economic Belt, largely covers the same area as the SCO member states. This overlap shows that the BRI could become a base for creating a trade facilitation system within the SCO, but it also raises concerns about how influence will be shared and whether the framework will truly be multilateral.

On the one hand, the construction of this mechanism is conducive to the constraints on member parties. The SCO is a large international law subject in the pan-Central Asian region. International law has a relatively clear definition of international organizations, and modern international law has long recognized the international legal subject status of international organizations, and the SCO has become an observer of the United Nations General Assembly since 2005 (Hui Zhang, 2018). Under the BRI framework, most of them are bilateral trade framework agreements signed between China and the corresponding countries, which are weaker in effectiveness and influence than multilateral agreements. Moreover, bilateral treaties are not conducive to the construction of free trade zones or economic zones.

On the other hand, in terms of development concepts, the “Shanghai Spirit” of win-win cooperation advocated by the SCO is similar to the Silk Road Spirit of the principle of consultation, joint construction and sharing contained in the “Belt and Road” initiative, and is highly consistent with the development strategies of each member country, enabling countries to promote economic and trade cooperation more smoothly and friendly.

Driven by the “Belt and Road” initiative, the development of the SCO continues to gain momentum and expand steadily. It is expected that in the future, various strategic goals will continue to be promoted and steadily move towards the goal of economic “integration”. The BRI initiative can be further deepened to pave the way for trade facilitation in the SCO.

The Constitutional Basis for Establishing a Trade Facilitation Mechanism within the Shanghai Cooperation Organization. Article 9 of the Shanghai Cooperation Organization Declaration states that “the Shanghai Cooperation Organization will make use of the huge potential and broad opportunities for mutually beneficial cooperation in the economic and trade fields among its member states, and strive to promote the further development of bilateral and multilateral cooperation among its member states and the diversification of cooperation. To this end, the negotiation process on trade and investment facilitation will be launched within the framework of the Shanghai Cooperation Organization, a long-term multilateral economic and trade cooperation outline will be formulated, and relevant documents will be signed.”(2001) Article 3, item 5 of the Shanghai Cooperation Organization Charter states that the SCO...(2001) supports and promotes various forms

of regional economic cooperation, creates a good trade and investment environment, and gradually realizes the free flow of goods, capital, services and technology; The above provisions in the SCO Charter provide the most basic principled guarantee for the construction of trade facilitation within the SCO. Until the 2018 Shanghai Cooperation Organization Qingdao Summit, the heads of the SCO member states signed the “Joint Statement of the Heads of State of the Shanghai Cooperation Organization Member States on Trade Facilitation”, marking an important step in the process of trade facilitation and going beyond the principles set out in the SCO Charter. Since the signing of the agreement, the SCO Trade Facilitation Working Group has established a basic framework and held three meetings, laying the foundation for the formulation of practical measures to promote trade facilitation. The trade facilitation mechanism is based on the SCO Charter and the SCO Declaration, and is supported by numerous legal documents and agreements within the organization, laying a solid legal foundation for the further development of the trade facilitation mechanism.

Conclusion

Principles for Building the Legal Mechanism of Trade Facilitation under the Shanghai Cooperation Organization. The construction of the SCO trade facilitation legal mechanism is part of the SCO framework legal mechanism. The overall mechanism must uphold the spirit and specific requirements of the UN Charter and the SCO Charter (Taoqin Wang, 2021). The SCO Charter is the SCO’s constitutional document. It reaffirms the Charter of the United Nations as well as other universally recognized principles designed to maintain international peace and security, while promoting good-neighborly relations, friendship, and cooperation among states. Accordingly, the development of the SCO trade facilitation framework must be consistent with the provisions of the SCO Charter (Yi Lin, 2020). In addition, the statements in the UN Charter are what all international organizations should follow, and the SCO should naturally abide by them.

The WTO system is the cornerstone of global trade facilitation. The WTO’s trade facilitation measures have a long history, but the road has been bumpy. Since Articles 5, 8 and 10 of the GATT, the principle of trade facilitation has been running through several rounds of negotiations at the WTO. Since the WTO Singapore Round, trade

facilitation negotiations have been one of the main topics. The Doha Round marked the conclusion of the first multilateral trade agreement since the establishment of the World Trade Organization (WTO), namely the Trade Facilitation Agreement (TFA), sometimes referred to as «China’s Baby Wrap». The agreement was ratified by two-thirds of WTO members and entered into force on 22 February 2017. The TFA (WT/L/940) builds upon existing WTO trade facilitation measures while further streamlining and modernizing customs procedures. It introduces mechanisms such as a customs guarantee system, special preferential measures for express consignments and perishable goods, and the adoption of an «authorized operator» system. Moreover, it establishes more stringent requirements for legal and policy transparency, including the timely publication and disclosure of customs-related information (Bing Liu & Han Wang, 2019).

Although the depth and mandatory nature of TFA are in a relatively weak semi-soft law position, and the overall facilitation level is far behind the trade integration agreements of the EU and ASEAN, it should be considered that TFA has established a set of preliminary trade facilitation systems applicable to different countries and regions around the world. Even today, TFA still does not seem outdated and is an inevitable requirement for establishing a set of the most basic trade facilitation systems. The Joint Statement of the Heads of State of the Shanghai Cooperation Organization on Trade Facilitation, signed by the leaders of the SCO member states in 2018, emphasized the importance of joint efforts to support and strengthen the multilateral trading system based on the rules of the World Trade Organization.

The Trade Facilitation Agreement (TFA) and related supporting systems under the WTO framework are the most basic requirements of the current trade facilitation mechanism, and provide a useful exemplary framework for the construction of the SCO’s trade facilitation legal mechanism. This article believes that the construction of the SCO’s initial legal framework for trade facilitation should be based on the TFA as a demonstrative blueprint, first solving the problem of building something from scratch, and then conducting more detailed and high-standard negotiations on the facilitation agreement.

Promoting Negotiations within the Framework of the Joint Statement to Achieve a Framework Agreement. The development of a comprehensive legal framework for trade facilitation within

the SCO necessitates the adoption of a package of agreements, with the prospective Shanghai Cooperation Organization Trade Facilitation Agreement envisioned as its core instrument. In 2018, the member states adopted the Joint Statement of the Heads of State of the Shanghai Cooperation Organization on Trade Facilitation under the auspices of organization. This declaration not only provided a positive evaluation of the progress already achieved in advancing trade facilitation but also reaffirmed the collective commitment of SCO member states to deepen cooperation in this field. Specifically, the statement underscored that simplifying customs procedures, reducing formalities associated with the import, export, and transit of goods, enhancing transparency, strengthening inter-agency cooperation at borders (including customs authorities), and accelerating the flow, release, and clearance of goods would collectively advance mutual trade facilitation and stimulate trade growth among SCO member states (Dan Fang & Yan Sun).

The original statement emphasized that «in view of the importance of joint efforts to support and consolidate the multilateral trading system based on the rules of the World Trade Organization, in order to promote trade facilitation in the region, we believe it is necessary to continue working on exploring relevant paths to achieve this goal». Building on the principles outlined in the statement, the prospective SCO trade facilitation mechanism may be structured around several key dimensions.

First, the simplification and harmonization of customs procedures constitute the most fundamental element of any trade facilitation framework. Whether in the WTO Trade Facilitation Agreement (TFA) – the cornerstone of global trade facilitation – or in trade agreements concluded within free trade areas, the unification and streamlining of customs procedures remain central. At present, however, China and most SCO member states, particularly those from the Commonwealth of Independent States (CIS), continue to face divergent customs clearance standards (Min Wang, 2021). For instance, China's import and export product standards are governed by the Regulations on Certification and Accreditation of the People's Republic of China, drafted largely in line with European and American practices, while CIS countries predominantly rely on standards inherited from the former Soviet Union. To bridge these differences, measures such as the introduction of electronic data systems, the adoption of standardized formats for submitting trade

information, and the simplification of document review requirements could be implemented. Furthermore, relevant international instruments, such as the World Customs Organization's Guidelines for the Implementation of Mutual Recognition of Authorized Economic Operators (AEO) – may be adapted to the specific circumstances of SCO member states to foster unified customs procedures and rules that enhance trade facilitation.

Second, advancing the establishment of an SCO trade facilitation mechanism requires enhanced mutual recognition in regulatory supervision, the institutionalization of information-sharing, and greater coordination of law enforcement practices. This involves expanding the cooperation at borders and in customs, bringing relevant issues to the agenda of the SCO Council of Ministers, and ensuring regular dialogue among national agencies. In particular, cooperation between China's National Development and Reform Commission, Ministry of Commerce, Ministry of Transport, and Ministry of Foreign Affairs with their counterparts in other SCO member states could help establish solid frameworks in trade, transport, and foreign affairs. Such collaboration would provide a stable basis for regional trade facilitation.

Third, building transport-related trade rules is a complex task. The experience of other international organizations can serve as a useful reference. The framework should include both transport and financial rules. On the transport side, for example, the International Freight Convention could be used as a model to create a unified bill of lading system and common rules. This would protect the rights of trade participants, involve banks, insurance companies, and others financial institutions, and safeguard legitimate business interests. On the financial side, clear rules are needed to define responsibilities and risks, strengthen credit systems, and expand financing options for different market actors. It is also important to specify which risks fall on the seller, buyer, or carrier. Together, these measures would create a more predictable and fair system for cross-border trade under the SCO.

Concluding Remarks. Trade facilitation helps to eliminate non-tariff ratios, tighten economic ties between member states, and bring significant benefits to the economic development of SCO member states. The ultimate goal of establishing a sound legal framework is to build a trade facilitation mechanism between SCO member states. At present, whether from the perspective of external environment,

political mutual trust, legal basis, or the status quo of regional economic and trade cooperation, funding guarantee level, and cooperation mechanism, the overall trend is positive. This is very beneficial for the construction of the SCO Trade Facilitation Agreement.

The vision of signing a package agreement with the Shanghai Cooperation Organization Trade Facilitation Agreement as the main body will play a role in legal protection and regulation for the establishment of trade liberalization and facilitation within the SCO. The SCO Trade Facilitation Agreement should be the first step in trade cooperation between China and Central Asian countries. Due to the large gap in the trade systems

between SCO countries and the need to improve the degree of facilitation, the signing of this agreement can solve the problem of building a trade facilitation mechanism between SCO countries from scratch. Trying to replace specific provisions with principled provisions is the key to promoting the construction of a legal mechanism for trade facilitation as soon as possible. There is no doubt that the establishment of the SCO Free Trade Area is the destination of the SCO member states to promote trade liberalization. If the SCO Free Trade Area can be established, it will significantly promote the deepening of trade volume between China and SCO member states, improve the level of trade, and enhance economic exchanges among members.

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