

THE SOUTH CHINA SEA DISPUTE AS A THREAT TO ASEAN COOPERATIVE SECURITY IN THE ASIA-PACIFIC REGION

КОНФЛІКТ У ПІВДЕННО-КИТАЙСЬКОМУ МОРІ ЯК ЗАГРОЗА КООПЕРАТИВНІЙ БЕЗПЕЦІ АСЕАН В АЗІЙСЬКО-ТИХООКЕАНСЬКОМУ РЕГІОНІ

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Abstract. *The article provides an overview of the dispute in the South China Sea between China and the member states of the Association of Southeast Asian Nations (ASEAN) through the prism of ASEAN cooperative security. Emphasis is placed on the study of documents that envisage mechanisms for resolving the dispute between China and ASEAN.*

It is determined that the activities of the Association of Southeast Asian Nations as a collective actor in resolving the dispute in the South China Sea are limited exclusively to confidence-building measures as the ultimate goal of activities in this area and the development of a code of conduct with the People's Republic of China. At the same time, the main legal instrument of ASEAN's relations with China at the mentioned waters remains the legally non-binding Declaration on the Conduct of Parties in the South China Sea of 4 November 2002, which indicates China's unwillingness to create a direct framework for cooperation in the South China Sea with a view to further strengthening its position in the waters through militarisation and land reclamation activities.

The authors also consider and analyse the main limitations of ASEAN's security policy in the Asia-Pacific region and its cooperative security regime, including absolutisation of sovereignty and non-interference in internal affairs, consensus as the basis for decision-making, adherence to the principle of mushyawarah - consultations as an end in itself, non-use of potential conflict resolution mechanisms due to soft institutionalism and the use of bilateral joint resource development in the South-China Sea, which undermines the principle of multilateralism of ASEAN cooperative security.

Keywords. *Cooperative security, cooperative security regime, ASEAN, Southeast Asia, Asia-Pacific Region, ASEAN Regional Forum, East Asia Summit, South China Sea, ASEAN Way.*

Анотація. *У статті здійснено огляд конфлікту у Південно-Китайському морі між Китаєм та країнами-членами Асоціації країн Південно-Східної Азії (АСЕАН) через призму кооперативної безпеки АСЕАН. Акцент зроблено на дослідження документів, що передбачають механізми врегулювання даного конфлікту між Китаєм та АСЕАН.*

Визначено, що діяльність Асоціації як колективного актора при вирішенні конфлікту в Південно-Китайському морі зводиться виключно до засобів зі зміцнення довіри як кінцевої мети діяльності у даній акваторії та виробленні кодексу поведінки з Китайською Народною

Республікою. При цьому, основним правовим інструментом відносин АСЕАН з КНР у розглянутій акваторії залишається юридично незабов'язуюча Декларація про поведінку учасників у Південно-Китайському морі від 4 листопада 2002 року, що свідчить про небажання Китаю створити безпосередню рамку співробітництва у Південно-Китайському морі, щоб продовжувати посилювати свої позиції в акваторії шляхом мілітаризації та меліоративної діяльності.

Також розглянуто та проаналізовано основні обмеження безпекової політики АСЕАН в Азійсько-Тихоокеанському регіоні та її кооперативного безпекового режиму, серед яких: абсолютизація суверенітету та невтручання у внутрішні справи, консенсус як основа прийняття рішень, дотримання принципу муш'яварах – консультацій як самоцілі, невикористання потенційних механізмів врегулювання конфліктів внаслідок слідування м'якому інституціоналізму та використання формату спільного освоєння ресурсів, який започатковується на двосторонній основі, що підриває принцип багатосторонності кооперативної безпеки АСЕАН.

Ключові слова. Кооперативна безпека, режим кооперативної безпеки, АСЕАН, Південно-Східна Азія, Азійсько-Тихоокеанський Регіон, Регіональний Форум АСЕАН, Саміт країн Східної Азії, Південно-Китайське море, шлях АСЕАН.

Introduction. The Association of Southeast Asian Nations (ASEAN) has declared its subjectivity in the development of the security architecture in the Asia-Pacific region (APAC) – primarily through attempts to extrapolate its intra-regional norms of multilateralism, respect for sovereignty, consensus and consultation to the wider Asia-Pacific. This was manifested in the establishment and development of the ASEAN Regional Forum, one of the few dialogue platforms where the Asia-Pacific countries could discuss issues of cooperative security in the late 20th and early 21st centuries.

This approach has helped to improve the climate of international relations in the Asia-Pacific region and to develop a cooperative security regime based on norms and mechanisms designed to promote constructive cooperation. Such mechanisms include, for example, the ASEAN Regional Forum and the East Asia Summit. However, the ongoing dispute in these waters between ASEAN member states and China undermines the established ASEAN cooperative security regime. Taking into account China's unilateral actions aimed at strengthening its position by militarizing this area, a number of problems arise. Among them are the mechanisms for regulating relations between the parties in the South China Sea; potential opportunities from the use and implementation of the ASEAN cooperative security regime to resolve the dispute and limitations of ASEAN cooperative security, which determine the role of the Association in resolving the conflict with China over islands in the South China Sea.

Recent literature review. ASEAN itself and security in the Asia-Pacific region have received a lot of attention from both foreign and domestic researchers. Among the recognized experts are J. Haacke, M. Leifer, A. Acharya, M. Gund, R. Emmers, E. Tan and R. Severino. At the same time, a number of Ukrainian scholars, including Y. Barshchevskiy, O. Kravchuk, V. Shynkarenko, S. Averyanov, S. Shergin, and I. Krupenia, are engaged in the study of ASEAN and security in the Asia-Pacific region. It is worth highlighting the work of A. Rustandi "The South China Sea: Opportunities for ASEAN to Strengthen its Policy to Resolve the Conflict" [Rustandi, 2016], where the author analyzes ASEAN's involvement in the South China Sea dispute and suggests three ways in which ASEAN can contribute to the resolution of the conflict, in particular through continued diplomatic efforts, recourse to previously unused legal mechanisms and joint resources development in the above-mentioned waters. Other relevant works by Ukrainian researchers include I. Krupenia's articles "The Problem of Disputed Territories in the South China Sea" [Krupenia, 2019] and "The Conflict in the South China Sea as a Challenge to ASEAN Countries" [Krupenia & Lenskyi, 2022], which describe the origins of the dispute and provide a geopolitical analysis of the positions of the parties, including ASEAN member states, China, and the United States. Similarly, S. Averyanov's study "ASEAN Security Activities in Southeast Asia" [Averyanov, 2021] analyzes the geopolitical positions of ASEAN member states and China on the South China Sea and provides key legal mechanisms for improving the climate of international relations in this area, in particular the 1992

ASEAN Declaration on the South China Sea. The topic of ASEAN cooperative mechanisms, in particular the ASEAN Regional Forum, is also covered in the article by O. Kovtun and T. Dovhai "ASEAN in World Politics" [Kovtun & Dovhai, 2014], where the formation and progress of the ASEAN cooperative mechanism is analyzed.

The aims of the article are to analyze the dispute in the South China Sea in terms of its impact on ASEAN's cooperative security in the Asia-Pacific region and to identify the main limitations of the security policy pursued by ASEAN in the Asia-Pacific.

Main research results. The South China Sea (hereinafter referred to as SCS) is one of the most intensive international maritime trade routes in the world. However, activities there are not limited to maritime trade and shipping, as there is significant development and exploration of natural resources, such as natural gas and oil, with a potential production of more than 7.7 billion barrels [Barshchevskiy, 2013]. Coastal countries with certain interests in these resources include China, as well as ASEAN member states, namely: Indonesia, Vietnam, the Philippines, Brunei, and Malaysia. China's long-standing conflict with the aforementioned Southeast Asian countries has led to the South China Sea being referred to as "troubled waters" [Rustandi, 2016]. However, for the purposes of this study, this conflict will be considered exclusively in terms of the activities conducted by ASEAN as a collective actor within the framework of the Association's cooperative security regime. Cooperative security is defined as a concept for developing relations based on ASEAN's cooperation with international actors outside the Southeast Asia, particularly in the Asia-Pacific region. The concept focuses on agreed norms of behavior both in relations between participants and within institutions, despite the heterogeneity of participants. Cooperative security is based on the principles of multilateralism, inclusiveness, transparency, and the use of consultation and consensus mechanisms. At the same time, the ASEAN cooperative security regime includes codes of conduct and agreements between the Association's member states and other partner states, including the establishment of joint security platforms for dialogue. For example, such ASEAN cooperative security platforms are the ASEAN Regional Forum, established in 1994, and the East Asia Summit, founded in 2005. ASEAN has been developing a framework for cooperation in the South China Sea to reduce tensions and improve the climate of interstate relations, in particular, 1992 ASEAN Declaration on the South China Sea and the Declaration on the Conduct of Parties in the South China Sea of November 4, 2002 [Documents on ASEAN and the South China Sea, 2011]. When considering the 1992 ASEAN Declaration on the South China Sea, it is worth noting that it concerns the intra-regional dimension of the conflict in the South China Sea, i.e., exclusively interstate relations between the member states of Southeast Asia. The following main aspects of this document should be emphasized. Firstly, it emphasizes the sovereignty and jurisdictional affiliation of certain territories and waters within the South China Sea, which indicates the sensitive nature of these concepts for ASEAN member states. Secondly, the Declaration calls for resolving jurisdictional and sovereignty issues over the islands, which include the Spratlys, Paracel Islands, Scarborough Reef, Natuna Islands and Pratas Islands [Documents on ASEAN and South China Sea, 2011], by peaceful means without the use of force, and for exercising self-restraint to create a positive climate for conflict resolution. Therefore, the 1992 Declaration is in line with the nature of the ASEAN cooperative security regime, as it aims to improve the climate of international relations through non-military means.

Overall, the 1992 ASEAN Declaration on the South China Sea has helped to reduce tensions among ASEAN member states, and several disputes have been resolved through bilateral agreements or third-party involvement. For example, the 2002 conflict between Indonesia and Malaysia over the ownership of Sipadan Island and Ligitan Reef, as well as the 2008 conflict between Malaysia and Singapore over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge were resolved by involving a third party, namely the International Court of Justice. This also applies to the 1997 bilateral agreement between Thailand and Vietnam on the delimitation of the continental shelf and the boundaries of the exclusive economic zone in the Gulf of Thailand; the 2003 agreement between Indonesia and Vietnam on the delimitation of the continental shelf in the area north of the Natuna Islands; and the 2014 agreement on the boundaries of the exclusive economic zone in the Mindanao and Sulawesi Seas between Indonesia and the Philippines [Rustandi, 2016]. Thus, the 1992 ASEAN Declaration on the South China Sea became a framework document that managed to resolve issues

related to traditional security threats, but only within the Southeast Asia and in relation to some territorial disputes between the Association's member states in the South China Sea.

The second important document was the Declaration on the Conduct of Parties in the South China Sea, signed by the ASEAN member states and China on November 4, 2002. It is worth noting several important points contained therein. Firstly, as in the case of the 1992 ASEAN Declaration on the South China Sea, the document is based on the principles of cooperative security, as its purpose consists of " promoting good neighbourliness and transparency, establishing harmony, mutual understanding and cooperation, and facilitating peaceful resolution of disputes..." [Declaration On The Conduct Of Parties In The South China Sea, 2002], which coincides with the principles of cooperative security, including transparency, non-violence and good neighborliness based on friendly consultations and negotiations. Thus, the Declaration on the Conduct of the Parties in the South China Sea is based on confidence-building measures, in this case to improve the climate of relations in the given waters, which indicates that there are no prospects for conflict resolution through preventive measures or regional dispute resolution mechanisms. In addition, given the fact that this Declaration is the only legal instrument that directly regulates China-ASEAN relations in the South China Sea, it is worth noting the low level of trust between the participants during the first two decades of the twenty-first century and the impossibility of resolving the conflict solely by ASEAN and its cooperative security regime.

Secondly, the 2002 Declaration refers to the principle of self-restraint, which should serve as an element of deterring the complication and escalation of the conflict in the South China Sea, but it is not in force due to China's continued militarization of this area. Thus, we can state that it is impossible to fully transfer ASEAN's norms and practices beyond the South China Sea, which indicates the limitations of its cooperative security regime and security policy in Asia-Pacific in terms of attempts to resolve the issue of traditional, hard security. Therefore, the best way out for the Association remains to focus on non-traditional security threats, which are widely represented in the 2002 Declaration, namely, protection of the marine environment, marine research, ensuring the safety of navigation and communication at sea, search and rescue operations, as well as combating transnational crime, including piracy, illegal arms trade, etc. [Declaration On The Conduct Of Parties In The South China Sea", 2002]. Thus, it is expected that ASEAN will continue to focus on confidence-building measures in the South China Sea to establish a climate of relations with China in these waters.

Thirdly, the 2002 Declaration states that the next step to promote peace and stability in the South China Sea should be the adoption of a code of conduct, which should be developed on the basis of consensus. The latter is the reason why it has not yet been adopted. This also applies to the document supplementing the 2002 Declaration – the 2011 Guidelines for the Implementation of the DOC, which were developed in 2005 between ASEAN and China, but adopted on July 20, 2011 [Chang, 2020]. They define the following principles: the implementation of the 2002 Declaration should be based on its gradual implementation; the parties to the Declaration will continue to promote dialogue and consultation; cooperation in the South China Sea will be voluntary; the initial steps in implementing the Declaration should be confidence-building measures; implementation of specific actions should be based on consensus, etc [2011 Guidelines For The Implementation Of The Declaration Of Conduct On The South China Sea, 2011].

Thus, the Declaration on the Conduct of Parties in the South China Sea is still the only legal instrument governing relations in this area between ASEAN, its member states, and China. However, the lack of binding nature makes it ineffective, which can be seen in China's continued practice of militarizing and strengthening its territorial claims in the South China Sea. This is a key problem of ASEAN's security policy in the Asia-Pacific region, namely the inability to address traditional, hard security issues and the inability to fully extrapolate its cooperative security regime from Southeast Asia to Asia-Pacific region, especially with regard to the principle of self-restraint. While it has been effective since ASEAN establishment in 1967, and in the case of the South China Sea since 1992, this principle is not accepted by extra-regional powers such as China, primarily because of its non-binding nature and the perception that there are no effective regional mechanisms that could influence confrontational behavior in the South China Sea. This could be solved by a code of conduct, which has not yet been finalized, despite the existence of a draft of such a code that was agreed upon in 2018

[Chang, 2020]. However, its legal nature is still unclear, i.e., whether it will be binding on ASEAN and China.

There are three possible ASEAN responses to China's activities in the South China Sea: compliance with legal mechanisms, continued political negotiations on a code of conduct, and joint resource development [Rustandi, 2016]. As for the first two options, they are important in view of ASEAN's security policy in the Asia-Pacific region, which is based on the concept of cooperative security, characterized by reliance on norms, as well as dialogue, which is a fundamental element of ASEAN's domestic and foreign policy.

Finding and adhering to legal mechanisms will not be easy, but it is the most reasonable option for ASEAN to respond to China's policy in the South China Sea. This option is based on the Association's continued adherence to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), to which not only all ASEAN member states but also China is a signatory [Rustandi, 2016]. Therefore, the Association can use UNCLOS as a framework document to try to resolve the dispute over the South China Sea, as this international convention is a binding document, unlike the 2002 Declaration. However, the main problem with resolving the conflict on the basis of UNCLOS is China's refusal to recognize the July 2016 decision of the Permanent Court of Arbitration, which upheld the Philippines' claim against China regarding the unjustified territorial claims based on the nine-dash line [Rustandi, 2016]. Thus, the use of legal mechanisms will not give an immediate result, but may have an effect in the long run by deteriorating China's international image due to its refusal to recognize the decision of an international judicial body.

In addition, since China is a party to the Treaty of Amity and Cooperation in Southeast Asia, the militarization of the South China Sea, as well as the artificial reclamation of the islands, is a violation of the provisions of this treaty, as such activities reduce the level of peace and stability in Southeast Asia as part of the Asia-Pacific region. And since the Treaty of Amity and Cooperation in Southeast Asia forms the basis of the ASEAN cooperative security regime, China's non-compliance with the Treaty also undermines the security architecture of the Asia-Pacific region, i.e., it shows a *de facto* dissonance between China's actions and its official position as a responsible state, which has a long-term effect in the form of a deterioration of China's image.

The second option for ASEAN's possible response to China's actions in the South China Sea is to continue political negotiations on a code of conduct. This variant is the most problematic in view of China's insurance strategy, i.e., delaying negotiations on the development of the above-mentioned code of conduct in order to strengthen its claims in the waters by further militarizing and reclamation [Rustandi, 2016]. The option of political negotiations is indeed problematic, primarily because of its time-consuming nature - negotiations on the development of a code of conduct in the South China Sea have been underway for more than 20 years, and the basis of ASEAN-China relations is still a non-binding legal instrument – the 2002 Declaration on the Conduct of Parties. It should be noted that the length of negotiations on the development of a code of conduct in the South China Sea relates to consensus as the basis for decision-making, and consensus makes it impossible to make decisions quickly. In the case of the South China Sea (SCS), the delay is beneficial for China in order to strengthen its *de facto* presence in the area and strengthen its territorial claims there.

This is confirmed by the adoption of guidelines to accelerate the negotiation process for the Code of Conduct in the South China Sea at the ASEAN Foreign Ministers Meeting and the Director of the Foreign Affairs Committee of the Central Committee of the Chinese Communist Party in July 2023 [ASEAN-China Agree on Guidelines to Accelerate Negotiations for the Code of Conduct in the South China Sea, 2023].

Therefore, the conflict and territorial claims around the SCS cannot be resolved within the ASEAN cooperative security regime. The absence of a binding regulatory framework, China's refusal to comply with the 2016 Permanent Court of Arbitration ruling, and the lengthy political negotiations on the development of a code of conduct in the South China Sea make ASEAN's security policy in the Asia-Pacific limited and unable to resolve territorial disputes outside the Southeast Asia. At the same time, ASEAN's activities in the South China Sea are at the level of confidence-building measures, and its main goal in this area is to improve the climate of relations between the parties to the dispute, which is another confirmation of the Association's limited security policy in the Asia-Pacific region in general and its cooperative security regime in particular.

When considering ASEAN's security policy in the Asia-Pacific, we note the inability of the Association's cooperative security regime to resolve territorial conflicts outside the Southeast Asia, which indicates the limitations of extrapolating the above-mentioned security regime to the Asia-Pacific region. In this regard, we should highlight the main limitations of ASEAN's cooperative security, which affect its security policy and reduce the role of the Association in building the security architecture of the Asia-Pacific region.

An analysis of the limitations of the ASEAN cooperative security regime has identified two fundamental weaknesses in dispute resolution in the South China Sea. These limitations relate to the internal aspect of ASEAN's functioning, in particular, adherence to some principles of the ASEAN Way, and its extra-regional attempts to create a zone of cooperation in the SCS within the format of joint resource development with China.

ASEAN's internal constraint on conflict resolution in the SCS and its security policy in the Asia-Pacific region in general relates to the concept of the ASEAN Way. This concept is described by N. M. Morada and J. Haacke as ASEAN norms and principles [Haacke & Morada, 2010], while Ralph Emmers defines the ASEAN Way as a process of relations between the member states of the Association based on standard international norms and a number of features through which the ASEAN countries achieve, but also avoid, common solutions [Emmers, 2003].

Despite the lack of legal consolidation of the ASEAN Way, it exists as an awareness of the exclusivity of the ASEAN's functioning based on the principles and practices that it has applied since 1967. Thus, we can distinguish the following components: non-interference in internal affairs, respect for state sovereignty, informal diplomacy, resolution of bilateral conflicts between its members without recourse to ASEAN, and soft institutionalism [Barshchevskiy, 2013]. The latter element means strengthening cooperation while avoiding the use of an institutional framework for cooperation. This type of institutionalism includes informality, pragmatism, non-confrontational bargaining and consensus building. The other type - hard institutionalism - is characterized by recourse to official structures, delegation of provisions to supranational bodies and reliance on legal agreements, etc. [Moldashev, 2018].

Since non-interference in internal affairs and the primacy of sovereignty are most often mentioned as components of the ASEAN Way, it is worth analyzing them in terms of the limitations they may impose on ASEAN's security policy. For example, according to J. Haacke and N.M. Morada, the absolutization of the principle of sovereignty and non-interference in internal affairs due to their colonial past is fundamental for the ASEAN member states, which indicates the perception of sovereignty within the Westphalian world order [Haacke & Morada, 2010, p. 121]. However, according to R. Emmers, the above-mentioned principles helped to avoid interference of extra-regional powers in the Southeast Asia affairs, which led to a decrease in intra-regional tensions [Emmers, 2003], which made the development of ASEAN possible.

However, the absolutization of sovereignty serves as a key limitation of the ASEAN cooperative security regime, as it prevents it from moving towards preventive diplomacy and conflict resolution outside the ASEAN. For example, the Association failed to establish a peacekeeping force as part of the ASEAN Security Community, as proposed by Indonesia in 1999 during the East Timor uprising for independence. A similar proposal to establish a peacekeeping force was put forward by Indonesia in 2004 at the Fourth UN-ASEAN Conference to strengthen conflict resolution mechanisms within the Association. However, the above-mentioned proposals were not supported by a number of Southeast Asia states, namely: Singapore, Thailand, Vietnam, Myanmar, Laos, Brunei and Cambodia [Tomotaka, 2008]. Thus, it should be noted that the absolutization of the principle of sovereignty is one of the main limitations of ASEAN's transition to preventive diplomacy and practical conflict resolution.

This also applies to the principle of non-interference in the internal affairs of a state. It is worth noting that there have been attempts to modify this principle, in particular during the development of the ASEAN Charter in 2005-2007. For instance, there were proposals to change the principle of non-interference so that the ASEAN Political and Security Community as a collective actor could resolve conflicts in the Southeast Asia, and the Charter itself proposed to introduce sanctions in case of non-compliance with its provisions [Tomotaka, 2008].

In addition, there have been attempts to introduce the concept of "intervention" into the practice of the Association's functioning in order to increase ASEAN's proactivity. For example, in July 1997, Malaysian Prime Minister Anwar Ibrahim (1993-1998) proposed the concept of "constructive intervention," explaining that ASEAN should transit from a reactive organization to a proactive one. A similar initiative was proposed in June 1998 by Thai Foreign Minister Surin Pitsuwan (1997-2001), who suggested modifying the principle of non-interference by introducing the concept of "flexible engagement." These initiatives were aimed at overcoming ASEAN's inability to respond to aggression, as in the case of Hun Sen's seizure of power in Cambodia in 1997, which resulted in the postponement of the process of admission of this state to ASEAN for 2 years – until 1999 [Emmers, 2003].

However, it is the principle of non-interference in internal affairs and the absolutization of sovereignty during decision-making by consensus that have made it impossible to modify the concept of the ASEAN Way. This makes the Association as a collective actor unable to resolve disputes even within the Southeast Asia. In addition, these principles are extrapolated from the intra-regional relations of the Association and its members in the Southeast Asia to the wider Asia-Pacific region, making ASEAN unable to promote preventive diplomacy, resolve conflicts, or even discuss traditional, hard security issues, which include the South China Sea and the dispute over its waters.

The second element of ASEAN Way that makes it impossible for ASEAN to effectively conduct its security policy and resolve the dispute in the SCS is consensus as a basis for decision-making. Its extrapolation as a decision-making practice within ASEAN to the Association's cooperative security mechanisms (the ASEAN Regional Forum and the East Asia Summit) significantly slows down their functioning and progress. For example, the ASEAN Regional Forum, after more than 25 years since its existence, still remains at the stage of confidence-building measures with no prospect of moving to preventive diplomacy in the near future.

The third element of the limited cooperative security regime of the Association, which stems from the ASEAN Way, is the fundamental importance of confidence-building measures, which are mainly implemented through dialogue and consultation in an effort to reach consensus. The focus on these elements of confidence-building is based on the concepts of *mushyawah* and *mufakat*, which respectively mean consultation and consensus [Mahbubani, 2018]. Building intra-regional relations on their basis and extrapolating them to institutional cooperation with Asia-Pacific actors was key to establishing cooperation and establishing a climate of international relations in the Southeast Asia and the Asia-Pacific in general, but in the case of the ASEAN Regional Forum, their observance seems to be a goal in itself, rather than being used to advance the regional security architecture. Thus, *mushyawah* and *mufakat* also do not contribute to the resolution of the dispute in the SCS and indicate that the ASEAN cooperative security regime in the Asia-Pacific will continue to be limited to confidence-building measures based on the above principles.

The fourth element of constraints is the adherence to soft institutionalism, which does not involve recourse to formal mechanisms. For example, despite the existence of the High Council mechanism in the Treaty of Amity and Cooperation in Southeast Asia of 1976 [Rustandi, 2016] and the fact that 33 APR states, in addition to ASEAN member states, have joined this treaty, this conflict resolution mechanism has never been used. This is evidence of both the adherence to the practice of soft institutionalism, which helped to develop the mechanism of the ASEAN Regional Forum in 1994 and increase its membership, and the inability of ASEAN to resolve territorial disputes involving leading actors in the Asia-Pacific region, in particular China.

The second component of the limitations of ASEAN's cooperative security regime and its dispute resolution in the SCS is the creation of a cooperation zone in this water area based on the mechanism of joint resource development, which is considered promising for conflict resolution, as it is provided for by UNCLOS and does not affect the territorial claims of the parties. This mechanism has limitations, as China's policy of joint resource development is pursued bilaterally, not within the framework of multilateral mechanisms. Thus, the bilateral nature of this mechanism of joint resource development and the low probability of its institutionalization on a multilateral basis make this mechanism, despite its prospects, a threat to the functioning of ASEAN and its multilateral cooperative security regime. In addition, the above limitations of the ASEAN Way, especially its soft

institutionalism, indicate that joint resource exploration can only become a reality in the long term perspective.

However, it is worth noting that confidence-building measures helped to improve the climate of relations between the parties to the dispute over the South China Sea, which gives grounds to state the value of the cooperative security regime for launching possible cooperation at the bilateral level, especially with regard to the joint development of natural resources.

Conclusions. ASEAN's security policy in the Asia-Pacific region is limited to confidence-building measures and is not aimed at resolving or preventing disputes related to traditional, hard security, such as territorial claims in the South China Sea. This impossibility stems from the following elements of the ASEAN Way: absolutization of sovereignty, non-interference in internal affairs, decision-making by consensus, and conducting the Association's activities on the basis of the principles of *mushyawarah* and *mufakat* - consultation and consensus - which ASEAN has extrapolated to its cooperative security mechanisms - the ASEAN Regional Forum and the East Asia Summit. In addition, despite the promise of the joint resource development format, it could undermine the Association's security regime, as it would be conducted outside ASEAN on a bilateral basis. At the same time, its institutionalization is unlikely, since the practice of both ASEAN member states and the Association itself is based on soft institutionalism, which does not imply supranational character or recourse to formal conflict resolution instruments.

The only way for ASEAN to strengthen security in the South China Sea is to continue to focus on non-traditional security challenges (natural disaster mitigation, combating piracy, illegal maritime trade, etc.) to build trust between ASEAN member states and China in particular.

Prospects for further research on the ASEAN cooperative security regime in the Asia-Pacific should focus on a detailed analysis of specific ASEAN cooperative mechanisms, such as the ASEAN Regional Forum, the East Asia Summit, the ASEAN Defense Ministers' Meeting Plus, the ASEAN+3 and ASEAN+6 formats, and what their role is in strengthening ASEAN cooperative security in the Asia-Pacific.

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