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## ADMINISTRATIVE AND LEGAL FRAMEWORK FOR THE NATIONAL SECURITY OF THE UNITED STATES AND ITS IMPACT ON THE ASEAN SOCIAL AND ECONOMIC SECTOR

**Abstract. Purpose.** The purpose of this article is the study of the administrative and legal framework for the U.S. national security and its impact on the ASEAN socio-economic sector.

**Results.** In the article, the historical and legal analysis makes it possible to formulate, reveal and review the administrative and legal framework for the U.S. national security and its impact on the ASEAN socio-economic sector. In the second half of the XX century, this sector was under the focus by the international community due to dynamic changes in the political, financial and economic sectors, which had logical impact on the development of their concepts of national security. Free trade and open markets are key elements for stability and security in the Asia-Pacific region and long-term prosperity. The use of bilateral and multilateral free trade treaties ensures high levels of interdependence and economic growth in Asian countries and the USA. It is revealed that the U.S. national security relations with ASEAN are aimed at promoting the development of the socio-economic sector of U.S. influence. The United States focus economically on increasing investment and trade, intervening actively in education, disaster management, etc. The likelihood of the United States becoming the only world State with a huge impact on this sector in ASEAN countries, includes certain risks that make other countries nervous. Therefore, the issue has been very acute, both for the United States and for ASEAN and for countries interested in domination.

**Conclusions.** A historical and legal analysis of the administrative and legal framework for U.S. national security and its impact on the ASEAN socio-economic sector reveals that the APAC has recently played an increasingly important role in the economic and political life of the USA, and therefore has a significant impact on her national security. Leading and influential representatives of the U.S. ruling elite continue to further support strengthening of the power component in American SEA policy. By participating directly in decision-making, they advocate the use of force to achieve U.S. strategic goals in the world. The analysis reveals that the appropriate administrative and legal framework for the U.S. national security is being formed, which is further transferred to the APAC in various sectors of interaction on the basis of bilateral and multilateral treaties.

**Key words:** administrative and legal framework, Asia-Pacific region (APAC), Association of Southeast Asian Nations (ASEAN), foreign economic policy, investment climate, national security, South-East Asia (SEA), socio-economic sector, United States of America (USA).

### 1. Introduction

The U.S. partnership with the Association of South-east Asian Nations (hereinafter referred to as ASEAN) is now at the stage of finding new ways to build relations, including through the conclusion of ASEAN - China, ASEAN - Republic of Korea, ASEAN - Japan, ASEAN - India ASEAN - Australia and New Zealand free trade agreements, etc.

In bilateral economic dialogue with ASEAN countries, the U.S. considers its inter-

est in: expansion of trade, investment, production and technology links between the USA and ASEAN, deepening of cooperation in the fields of energy, infrastructure, health care, education, use of information and communication technologies, disaster management, protection and rational use of natural resources and other sectors in the context of globalisation and regional integration, which have a multifaceted impact on the scale, forms and mechanisms of trade and economic relations among

the actors of the world economy. It should be noted that such activities are strategic from the perspective of their national security. After all, some dependence of these countries on the U.S. investment cannot but affect the national security of ASEAN.

General theoretical issues of the administrative and legal regulatory mechanism for security have been studied by legal experts in administrative law. Our considerations are based on the scientific works by scientists such as O.M. Bandurka, A.I. Berlach, Y.P. Biytiak, I.P. Holosnichenko, V.V. Verkhohliad, R.A. Kaliuzhnyi, V.H. Komziuk, O.V. Kuzmenko, V.Y. Nas-tiuk, A.V. Nosach, V.I. Olefir, A.A. Starodubtsev, V.V. Sokurenko, M.M. Tyshchenko, M.V. Tsvik and others.

In the article, we propose to dwell on the coverage and analysis of the problems of socio-economic mechanisms of political stability in South-East Asia (hereinafter referred to as SEA), which can have both general theoretical and practical significance for the formation of the foreign policy of the USA, in particular, on a national security strategy for the development of closer socio-economic relations with the countries of South-East Asia.

The purpose of this article is the study of the administrative and legal framework for the U.S. national security and its impact on the ASEAN socio-economic sector.

## 2. U.S. National Security Fundamentals

It is believed that in the classical research model, national security is an integral characteristic of human security, public security and State security, and its desired level depends on the observance in the process of public administration of some combination of variables in the triangle: “national interests” – “the danger of their realisation” – “the capabilities of the State” (Sytnyk, 2011, p. 82).

In the course of our research, the historical and chronological method was used, which allowed studying the stages of formation of the concept of political stability in the SEA and to find out the dynamics of the development of institutional mechanisms for ensuring the national security of its countries.

The Asia-Pacific region (hereinafter referred to as APAC) has fundamentally changed its strategy in recent decades, with four major factors contributing to these changes. The first is to create own national security concepts by increasing the region’s economic and political role. Proof of this is that the region produces 30% of world exports and its bilateral trade with the U.S. exceeds \$1 trillion per year.

A second, somewhat alarming factor is China’s growing political and economic power as a component of its national security. But this

trend poses a dilemma: China’s growing military power has impeded the economic growth of its neighbours.

The third factor is the emergence of an increasing number of nuclear-weapon States, which threatens to spread illicit weapons on a massive scale among Asian countries. The regional security situation in the field of nuclear weapons has been revitalised over the last decade. A global arms control regime is implemented. In particular, the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the decision on a comprehensive ban on testing have gained more strength. From 1990 to 1998, no nuclear weapon was seen in the shadow economy. Nowadays, however, the nuclear shadow economy is gaining momentum. For example, India and Pakistan have conducted nuclear tests, as has North Korea. China continues to modernise its nuclear and ballistic missile capabilities. There is a threat of an arms race. Moreover, there are significant concerns about the proliferation of weapons of mass destruction, technologies, materials and know-how for States and non-State actors. The threat to U.S. internal security is reflected in the excessive proliferation of weapons of mass destruction. Therefore, efforts to address this issue should include pursuing strategic treaties with Russia, China, India, Japan, and South Korea.

Proliferation of weapons of mass destruction, expansion of cooperation, climate change, energy security and other non-traditional regional and global security challenges, combating terrorism and extremism requires a more effective combination of hard political power and public diplomacy. That is why the USA is seeking to review military engagement in the region while expanding its security and free-trade order.

The fourth factor is the growing interest in multilateral cooperation. Recently, in APAC, interest in multilateral cooperation has been growing. This trend included 10 countries in South-East Asia, including ASEAN States, which have contributed to the maintenance of peace and stability in the SEA through cooperation and mutual understanding. APAC is not alone in following this trend. In particular, South Asia has eight member countries of the Association for Regional Cooperation (SAARC), and most of the Central Asian countries, together with China and Russia, are members of the Shanghai Cooperation Organisation (SCO). The economic integration of the sub-region has worsened despite periods of tension. Other aspects of globalisation, such as the spread of culture, regional tourism and sub-regional communications, have created a new situation in which cooperative approaches to

a wide range of economic, communication, social and cultural issues are best suited to address common interests, such as energy security, maritime security and pollution abatement. The political environment is particularly conducive to subregional security cooperation.

To historical lessons of previous periods, as reflected in conflicts between States of the region enable to understand the importance of modern South-East Asia. More specifically, these lessons relate to the problems associated with complex security measures that may arise in repeated crises. Assessing how these factors have contributed to the rising tensions and ultimately to the outbreak of war in Europe a century ago, it is possible to intensify efforts to understand and manage tensions in the SEA today (Chong, Hall, 2014). Therefore, the U.S. intervention in the social and economic sector is considered as a national security measure, a factor that is indispensable in the region.

Maintaining the United States' policy of "deep engagement," scholars Stephen Brooks, John Ikenberry, and William Wohlforth hypothesise that the U.S. security commitment to states in Europe, the Middle East, and East Asia, together with the American dominance, suppresses regional rivalries and hinders the resurgence of a dangerous era of multipolar power politics (Campbell, Friedman, 2013). Scientists conclude that the U.S. national security policy can restore global security, reduce conflicts between Eurasian states.

American interaction and commitment to Asia are not new, as the United States has been involved in Asia since ancient times. For example, in February 1784, the Empress of China sent a shipment of Chinese goods to New York and received an income of \$30,000. In 1835, the USA created a squadron for the East Indies Navy. This was the beginning of the continuation of U.S. military action in the western Pacific. In 1844, China granted trade rights to the United States in the Treaty of Wangxia. In 1846, the USA first tried to negotiate trade agreements with Japan. However, this attempt was futile. It was only 10 years after the signing of the Treaty of Kanagawa on 31 March 1854 between the United States represented by Commodore Matthew Perry and Japan, which opened Japanese markets to the United States and included provisions for a coal station for the United States. The Zhujiang River Delta became the first American-Asian base. In 1898, Guam and the Philippines were ceded to the United States as granted territories in the Spanish-American War. In the 21st century, diplomatic and trade relations and U.S. strategic national security interests continue to expand. The USA has demonstrated its com-

mitment to regional peace and security. This trend underlies the U.S. policy of strengthening and modernising its partnerships. They use all the instruments in their arsenal to support their interrelationships: diplomatic, political, military, economic, cultural, etc.

U.S. Secretary of Defense Robert Gates described the USA as a "resident power" in the region and noted in his address on May 31, 2008 that the American territory in the Pacific was from the Aleutian Islands to Guam. Consequently, the Minister's statement underlines the U.S. commitment to a stable regional environment for economic, political, and cultural development in the APAC. The bilateral structure of the U.S. alliance remains the basis for regional stable prosperity and the starting point for U.S. and regional national security support. Alliances allow the USA to provide a significant regional presence advantage, and the Japan-South Korea enhanced access structure makes the U.S. an active partner in the field. As instruments of national policy, alliances are dynamic elements that are constantly evolving. Therefore, alliances remain the necessary foundation on which any future national security strategy is built.

### 3. Areas of USA – ASEAN cooperation

Both ASEAN and the USA use the 2006 Trade and Investment Framework Agreement between the United States and ASEAN to facilitate trade and investment flows between ASEAN and the USA, exchange views on a wide range of economic issues (ASEAN-US Dialogue-The Economic and Trade Cooperation, n.d.). The Joint Council was established with the aim of ensuring the direction of trade and investment agreements between ASEAN and the USA, to be responsible for monitoring and evaluating the progress of countries.

It should be noted that cooperation between ASEAN and the USA focuses on the simplification of trade procedures, standards and conformity of goods, intellectual property rights, public-private sector interaction.

The USA is a key partner of ASEAN in advancing and providing technical assistance to standards and compliance in priority industries, including electrical, electronic, medical, and automotive.

In 2010, ASEAN Trade Minister for Public and Private Affairs visited the USA. The U.S. Reverse Trade Mission was organised in July 2012, thanks to the ASEAN-USA Business Forum, which established a regular dialogue on security policy with ASEAN member states.

According to United States statistics, total merchandise trade between ASEAN and the USA increased by 9.2% in 2011, that is, from \$178 billion to \$194 billion, compared to

2010. The geographical composition of ASEAN imports from the USA increased by 8.6% (up to \$76400 million) and ASEAN exports increased by 9.8% (up to \$118.2 billion) in 2011. The USA is the fourth largest trading partner, while ASEAN together are the fifth largest trading partner of goods for the USA (ASEAN-US Dialogue-The Socio-culture cooperation-Disaster Management, n.d.).

Given these indicators, the USA has significantly deepened its relationship with ASEAN, especially in a number of countries, helping with disaster management (ASEAN-US Dialogue-The Socio-culture cooperation-Disaster Management, n.d.), education (ASEAN-US Dialogue-The Socio-culture cooperation-Education, n.d.), promotion, protection of the rights of women and children (ASEAN-US Dialogue-The Socio-culture cooperation-Right of Women and Children, n.d.) and support of youth (ASEAN-US Dialogue-The Socio-culture-Cooperation Youth Development, n.d.). With regard to disaster management, the U.S. Agency for Trade and Development sponsored an ASEAN workshop on disaster management and mitigation, as well as expanding the capacity for adequate preparation and effective response in emergencies related to natural disasters (ASEAN-US Dialogue-The Socio-culture cooperation-Disaster Management, n.d.).

Furthermore, it should be noted that US-ASEAN cooperation in education continues. For example, on November 18, 2011 in Bali, Indonesia, at the 3rd ASEAN Leaders Meeting, a Partnership on English-language Education was announced. This partnership is a long-term commitment to improving English language capacity in the region and to supporting the ASEAN Integration Initiative. In May 2012, U.S. support helped to complete the development of the video modules for bachelor's degrees from ASEAN universities. The United States also organised two workshops to finalise the content of ASEAN training programmes.

South-East Asia, of course, is ethnically diverse region with equally diverse groups, languages and traditions. And the cultural interaction of these establishments with the USA is manifested even more directly when the inhabitants of these territories are forced to emigrate to the United States. The cultural and humanitarian cooperation of the USA with the SEA countries is now reaching a new level, due to manifestations within the United States, where cultural clashes between Asians and Americans increasingly emerge, thanks to infiltration of the former into American society as refugees and through the media.

It should be noted that the U.S. national security relations with ASEAN are aimed at promoting the development of the socio-economic sector of U.S. influence. The United States focus economically on increasing investment and trade, intervening actively in education, disaster management, etc. The likelihood of the United States becoming the only world State with a huge impact on this sector in ASEAN countries, includes certain risks that make other countries nervous. Therefore, the issue has been very acute, both for the United States and for countries interested in domination.

The rise of the APAC economies has contributed to Asia's re-emergence as the central political and economic engine of the world economy. East and South-East Asian countries hold nearly one third of the world's population, generate about a quarter of world output, and produce about a quarter of world exports. Asian producers have captured much of the world's production chains. Before the recent financial crisis, growth in many parts of Asia over the past decade has approached or surpassed two-digit numbers boosting the region's economy and social improvement. Asia's market policies and its successful interaction with the world economy have become a prime example of other regions in the field of globalisation. Asia's growing demand for energy and other resources has strained relations between countries and led to environmental problems and new threats. For example, Chinese and Indian demand for energy and other commodities has been a major factor in setting energy and commodity prices in 2006 and 2007. Ten years ago, Asia was an important economic region, and today the U.S. prosperity depends on it. Trade between the United States and Asia is almost \$1 trillion a year, accounting for 27% of total U.S. trade with the world's leading economies and 19% of trade with the European Union. Asia is surrounded by important sea lines of communication for the United States, its allies and partners. The world's six largest ports are in Asia. Despite the severity of the Asian financial crisis in 1997-1998, Asia is enriching relatively quickly and is growing at a steady rate. This growing economic interdependence coincides with the growing interest in regional free trade and the establishment of bilateral and regional trade agreements, which are the geopolitical expression of peaceful relations among States, as well as the manifestation of a commercial instrument.

#### 4. Conclusions

A historical and legal analysis of the administrative and legal framework for U.S. national security and its impact on the ASEAN socio-

economic sector reveals that the APAC has recently played an increasingly important role in the economic and political life of the USA, and therefore has a significant impact on her national security. Leading and influential representatives of the U.S. ruling elite continue to further support strengthening of the power component in American SEA policy. By participat-

ing directly in decision-making, they advocate the use of force to achieve U.S. strategic goals in the world. The analysis reveals that the appropriate administrative and legal framework for the U.S. national security is being formed, which is further transferred to the APAC in various sectors of interaction on the basis of bilateral and multilateral treaties.

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## АДМІНІСТРАТИВНО-ПРАВОВЕ ЗАБЕЗПЕЧЕННЯ НАЦІОНАЛЬНОЇ БЕЗПЕКИ США ТА ЇЇ ВПЛИВ НА СОЦІАЛЬНО-ЕКОНОМІЧНИЙ СЕКТОР АСЕАН

**Анотація. Мета.** Метою статті є дослідження адміністративно-правового забезпечення національної безпеки США та її вплив на соціально-економічний сектор АСЕАН.

**Результати.** У статті на основі історико-правового аналізу сформовано, висвітлено та проаналізовано адміністративно-правове забезпечення національної безпеки США та її вплив на соціально-економічний сектор АСЕАН. Цей сектор ще у другій половині ХХ ст. привернув увагу міжнародної спільноти завдяки динамічним змінам у політичній та фінансово-економічній сфері, що логічним чином вплинуло на становлення їх концепцій національної безпеки. Вільна торгівля та відкриті ринки є ключовими елементами для стабільності і безпеки в Азійсько-Тихоокеанському регіоні та її довгострокового процвітання. Використання дво- та багатосторонніх угод про вільну торгівлю забезпечують високий рівень взаємозалежності та економічного зростання в азійських країнах та США. З'ясовано, що відносини національної безпеки США щодо АСЕАН спрямовані на заохочення розвитку соціально-економічного сектора впливу США. Сполучені Штати зосереджені в економічному плані на збільшення інвестицій та розширення торгівлі, активно втручаються в питання освіти, поведінки у разі стихійних лих тощо. Ймовірність перетворення США на єдину світову державу, що має величезний вплив на цю сферу в країнах АСЕАН, включає у собі певні ризики, що змушують інші країни нервуватися. Отже, поки що це питання стоїть надзвичайно гостро як перед самими Сполученими Штатами та АСЕАН, так і перед зацікавленими у своєму домінуванні країнами.

**Висновки.** Проведений історико-правовий аналіз щодо адміністративно-правового забезпечення національної безпеки США та її впливу на соціально-економічний сектор АСЕАН свідчить, що останнім часом АТР відіграє все більшу роль в економічному та політичному житті США, а тому має значний вплив на стан її національної безпеки. Провідні й найвпливовіші представники правлячої

еліти США залишаються прибічниками подальшого нарощування силового складника в американській політиці щодо ПСА. Безпосередньо беручи участь в ухваленні рішень, вони відстоюють силові методи досягнення стратегічних цілей США у світі. Тож, як видно з аналізу, формується відповідне адміністративно-правове забезпечення національної безпеки США, яке у майбутньому переходить на АТР у різних секторах взаємодії на підставі дво- та багатосторонніх договорів.

**Ключові слова:** адміністративно-правове забезпечення, Азійсько-Тихоокеанський регіон (АТР), Асоціація держав Південно-Східної Азії (АСЕАН), зовнішньоекономічна політика, інвестиційний клімат, національна безпека, Південно-Східна Азія (ПСА), соціально-економічний сектор, Сполучені Штати Америки (США).

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