

Regional Integration in Southern Africa:
Comparative International Perspectives

Regional Integration in Southern Africa: Comparative International Perspectives

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This volume is dedicated to the memory of Anna Morner, who played an instrumental role in the staging of the conference on which this publication is based, and who was tragically killed in November 2000. Her friendship, enthusiasm, energy and extensive knowledge of Africa will be sorely missed. At the time of her death Anna Morner was a lecturer in law at the Centre for Commercial Law Studies at Queen Mary and Westfield College, University of London. She served as an adviser to one of the Regional Integration Arrangements in Southern Africa on Financial Sector Reform and was the Associate Editor of *Essays in International Financial and Economic Law*.

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Table of Contents

Introduction and Acknowledgements: Trends, Problems and Projections in Southern African Integration	9
Greg Mills and Elizabeth Sidiropoulos	
SOUTHERN AFRICA AND THE WORLD: POLICY-MAKERS' PERSPECTIVES	
The Challenge of Integrating Africa into the World Economy	13
Pascal Lamy	
Regional Integration: The Path to Prosperity?	19
Justin Malewezi	
Challenges for Southern Africa	27
Pandelani Thomas Mathoma	
SADC: The Way Forward	33
Prega Ramsamy	
Reviewing the Differences and Common Goals of SADC and Comesa	43
Sindiso Ngwenya	
Regional Integration	51
Rob Davies	
SADC and Comesa: Balancing the Benefits	55
Harry Zarenda	
SOUTHERN AFRICA AND THE WORLD: ANALYTICAL PERSPECTIVES	
The Changing World of Regional Integration in Africa	59
Christopher Clapham	
The State of Regional Integration: The Intra- and Inter-regional Dimensions	71
Richard Gibb	

Variable Geometry and Varying Speed: An Operational Paradigm for SADC	87
Séan Cleary	
From Collective Security to Peace-Building? The Challenges of Managing Regional Security in Southern Africa	105
Rocky Williams	
Organised Crime and State Responses in Southern Africa	115
Mark Shaw	
A Review of Regional Integration in Southern Africa: Comparative International Perspectives on the Legal Dimensions of Cross-Border Trade	121
Annina H. Persson	
COMPARATIVE INTERNATIONAL PERSPECTIVE	
Comparative International Experiences: Latin America	137
Claudia Mutschler	
Regional Integration: The Case of Asean	167
Mya Than and Daljit Singh	
European Integration on the Threshold of a New Era: Challenges and Dilemmas Raised by EU Enlargement	187
Ron Ton	
Variable Geometry and Setting Membership Conditionalities: A Viable Strategy?	193
Marise Cremona	
Nordic Co-operation	223
Svend Erik Hovmand	
Nordic Co-operation on the Environment	229
Harald Rensvik	
The Role of the Media: More Courageous Editors and Media Owners Needed	235
Christina Jutterström	
List of Acronyms	241

Introduction and Acknowledgements: Trends, Problems and Projections in Southern African Integration

*Greg Mills and Elizabeth Sidiropoulos**

The path and progress of the regional integration process in Southern Africa faced, during 2000, ongoing crises in Zimbabwe, Angola and the Democratic Republic of Congo (DRC), three of the region's four largest states. With this in mind, the South African Institute of International Affairs (SAIIA), in conjunction with the Nordic Council of Ministers, the Konrad-Adenauer-Stiftung, the British High Commission in Pretoria, and the Universities of the Witwatersrand and London, staged a conference from 19–20 June 2000 on *Reviewing Regional Integration in Southern Africa: Comparative International Experiences*. This volume is based on the papers presented at that event.

A number of questions were posed in devising the agenda for the conference, among which were the following:

- What is the current process of regional integration in Southern Africa?
- What are the successes and weaknesses?
- What are the comparative international experiences?
- What are the security difficulties at the inter-state level, and how best should these be addressed?
- What is the relationship between regional bodies?
- Is there a role for 'regional variable geometry' in taking this process forward, and, if so, how can this best be applied?

In introducing this volume, each of these questions will be highlighted.

The current process of regional integration

The Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (Comesa) illustrate many of the potential benefits of

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regional integration. SADC, for example, represents a market of 190 million people and a \$180 billion economy. Comesa, without regional giant South Africa whose economy comprises more than 40% of the gross domestic product (GDP) of the 48 sub-Saharan countries, has 21 members, with a combined GDP of \$200 billion and a population of 380 million.

Integrated regions are more attractive to external investors, and possess a range of infrastructural, institutional and developmental advantages. Put another way, regions are more attractive than the sum of their parts. As Klaus Schwab of the World Economic Forum has argued, 'In the global economy, regional strength is paramount.' Or as Moeletsi Mbeki argued at the start of the conference, regional integration is generally accepted as a stepping stone to wider global economic involvement and competitiveness. It offers better global market access at a lower cost, due to improved economies of scale.

For South Africa, operating as it does in a relatively unstable regional milieu, the stability of the region is critical to the success of its own transition. As the South African industrialist Anton Rupert noted over 30 years ago, 'If they [South Africa's neighbours] don't eat, we won't sleep.'

But there are immense challenges to be overcome by regional units as they attempt to suppress and deal with political differences and economic insecurities. And the deeper levels of integration so necessary for regional stability paradoxically increase the ability to transmit instability.

Whatever the logic and the rhetoric, however, why has regional integration in Southern Africa until now moved ahead only in fits and starts?

The problems and challenges

The conference presented a number of problems and challenges for the process of regional integration in Southern Africa, however. As one analyst, when asked recently: 'Is regional integration happening in Africa and where does it lead?' answered, 'It is not happening and it does not lead anywhere.'¹

Integration among the 14 member states of SADC is made problematic by political and economic differences and difficulties which at times have resulted in political failures and conflict. For example, the strife in the Congo, Angola and Zimbabwe is not conducive to the conditions necessary for a deeper, wider and more sustained process of regional integration.

More than that, an absence of stability contains both direct and indirect costs. In the latter regard, as the South African Department of Trade and Industry's chief director for African trade relations, Mfundo Nkuhlu, has put it with respect to Zimbabwe, there was the risk of 'cross-border contagion'. He was referring to perceptions of South Africa worsening internationally because of the situation of its northern neighbour.

But security, as Christopher Clapham of Lancaster University noted at the conference, is about more than just wars and refugees, or about achieving a basic level of peace. It extends into maintaining good governance; a framework of law and order;

the guarantee of property rights; a solid and stable currency; and a reliable, responsive and trustworthy banking system, all of which are preconditions for economic development. As he argued, these can often be ensured only at the regional level, not least because governments cannot be trusted to provide these goods given the inevitable temptation to break such 'rules' when under domestic political or economic pressure in the face of declining or minimal domestic resources. Or as Tim Thahane, deputy governor of the SA Reserve Bank, has argued, we require 'effective, functioning institutions for development purposes, both within and between states'.

The vice-president of Malawi, Justin Malewezi, provided the conference with a compendium of the challenges facing SADC, stressing, as did Séan Cleary, the need for intra-regional peace and domestic stability and tranquillity, limited and effective governance, accelerated investment, human resource development, improved rates of structural employment, and better access to international capital markets. The per capita income in Malawi is \$200, one of the lowest in SADC, where the average per capita income is around \$360.

Cleary has argued that these could be subsumed into the greatest, most central challenge, 'How can we balance the achievement of global competitiveness and social equity?' Yet in attempting to meet such challenges, SADC, he observes, has 'been marred by dispute, rather than distinguished by consensus'.

Indeed, both SADC and Comesa appear structurally inadequate to handle such challenges, both in terms of managing the process of regional integration, and of inculcating a sense of what was described as 'regional democratic community'. However, it is necessary to distinguish between the respective secretariats and the member states. The secretariats are not solely responsible for the successes and failures: both SADC and Comesa are, the conference was reminded, only as strong as their constituent member states.

For example, by June 2000, SADC had signed 11 protocols, of which seven had been ratified by its member states. But given regional incapacities, it is not clear how many will ever be implemented or operationalised. As SADC's acting executive-secretary, Prega Ramsamy, points out, these protocols range in focus from those ratified on Immunities and Privileges, Trade, Mining, Energy, Transport, Communications and Meteorology, Combating Illicit Drug Trafficking, and Shared Water Courses to those signed but not yet ratified on Education and Training, Health, Tourism and Wildlife Conservation, and Law Enforcement. Or as Rocky Williams has noted with regard to the development of security responses in Southern Africa, the region is characterised by disagreement between two groupings: the 'defence pact' bloc, and the bloc led by South Africa which is committed to preventative diplomacy and peacemaking.

Here, too, the question of overlapping institutions as much as undercapacity bedevils the regional integration project in Southern Africa.

The relationship between regional bodies

Both Comesa and SADC face the challenge of overlap of their membership and

programmes of action. Nine of 14 SADC members are also members of Comesa.² Yet, as Sindiso Ngwenya, the deputy secretary-general, notes, Comesa aims, like SADC, to liberalise trade, foster co-operation in industry, agriculture, transport and communications, and create a regional common market through the breaking down of tariffs.

On 31 October 2000, Comesa launched its free trade area (FTA). Nine states (Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe) signed this accord in Lusaka, with four more (Burundi, Rwanda, Seychelles and Uganda) planning on joining within 12 months. These 13 states hope to achieve a common external tariff in 2004. Like SADC, it has a scheme planned to provide political risk insurance to reduce the cost of capital to the region, one of the critical impediments identified by Mfundo Nkuhlu to the region's efforts to achieve growth and development.

There are also questions about the future of the Southern African Customs Union (SACU), which shares all its membership (South Africa, Botswana, Lesotho, Namibia and Swaziland) with SADC, and two (Namibia and Swaziland) of five with Comesa. Despite negotiations on a revenue-sharing formula having been under way since 1993, by 2000 SACU had not yet reached agreement, partly due to South Africa's focus on concluding the EU Trade, Development and Co-operation Agreement, and the SADC free trade protocol ratified in January 2000. Negotiations apparently stalled because it suited the members thus avoiding the need to move formally away from SACU's current redistribution-type revenue mechanism.

Agreement was, however, apparently reached in November 2000 on a new revenue-sharing formula based on the volume of intra-SACU trade, which by favouring those states which import more will provide a measure of benefit to the smaller partners. There are also plans to share a percentage of revenue from excise duties for developmental purposes. Currently, the smaller members are heavily dependent on SACU, contributing 10% of total government income in Botswana in 1996/97, more than 50% in Swaziland, 30% in Namibia, and over 40% in Lesotho.

What can be learnt from other, international experiences?

Comparative international experiences

International experience teaches us that a number of different criteria can be used to assess the potential for regional integration, including:

- geographic propinquity;
- cultural and political homogeneity, or at least like-mindedness (as was stressed at the conference by the Danish parliamentarian Svend Hovmand, citing the Nordic and Baltic experience);
- economic (trade and investment) and infrastructural integration and advantage;
- common and related security concerns;
- common political values, or what Cleary refers to as 'high value congruence', particularly among the largest regional states (such as Brazil and Argentina in Mercosur; France and Germany in the European Union);

- the absence of major political and security disagreements and conflict; and
- effective regional leadership.

These criteria can be translated into a number of factors which can be used to assess whether regional integration projects are likely to succeed, including:

- the higher the proportion of goods imported from within the region rather than from outside the region, the greater the chance of success;
- the related size of the intra-regional market;
- the diversity of production structures among member states;
- the costs of integration among states, including transport;
- the political diversity of members; and
- the existence, as Mya Than of Singapore's Institute for Southeast Asian Studies notes, of extra-regional region-region partnerships.

Here the fundamental point about regional integration, whether this is found in Mercosur in Latin America or in Western Europe, is that it rests on common assumptions about political institutions and frameworks. For economic co-operation to succeed, there has first to be a basic level of political agreement and a common set of liberal democratic institutions, extending not just to multiparty democracy, but also to effective market economies and, critically in the light of more recent developments in Southern Africa, the rule of law. Importantly, too, this has not yet been applied in the Southern African region in the form of conditionalities upon new member states or even upon the deeper, existing membership links.

What does this all mean?

This means essentially that today regional integration in Africa is largely a by-product of integration with the global economy. It is not a substitute for it, nor in its current guise is it a stepping stone towards it.

Regional integration is unlikely in an environment where there are low levels of industrialisation, a heavy extra-regional dependency on imports and foreign trade, high transport costs and small economies and population numbers. It is also arguably less likely where, as Claudia Mutschler observes with respect to the Latin American experience, there is undue stress on the construction of an institutional base at the expense of functional attributes. Most important, it is extremely difficult where there are high levels of disagreement and even conflict among and between member states and regional leadership.

How does Southern Africa match up?

Intra-SADC trade is fairly unremarkable, though it has increased from around five percent in the early 1990s to over 20% by the end of the same decade. (SACU, however, accounts for around 70% of intra-SADC trade.) Currently over 80% of

intra-regional imports are supplied by South Africa. The region also has one of the most costly transport networks globally. For over 30% of imports into SADC and about two-thirds of domestic goods, transport costs amount to more than 30% of the final sales price. In Brazil, by comparison, costs amount to just 12%.

Arguably, such concerns can be subsumed into the central conundrum behind regional integration in Africa, referred to by a number of speakers as, in sum: 'putting together tiny African states to create a slightly less tiny group of states'. Stated differently, the combined economic strength of the 48 states of sub-Saharan Africa equals that of Belgium.

Is there scope for what was variously referred to at the conference as 'two speed', 'multispeed', 'variable geometry', or 'varying speed' approaches to regional integration? Put crudely, this means on the one hand, accepting those states capable of progressing apace with integration policies; and on the other, preventing accession to states whose rate of development is slower, through the application of conditions relating, for example, to economic policies and status, human rights and democracy, and respect for the rule of law. Richard Gibb of the University of Plymouth observes that 'an emerging variable geometry approach to regional integration is already taking place', given overlap and the different programmes of the various institutions.

A key question in this regard is whether such conditionalities can be applied retroactively, and by whom. Perhaps here there is a need for a more proactive role for the donor community. In this volume Marise Cremona of the University of London highlights the use of conditionalities within an EU context, in terms both of the widening and deepening of membership.

Conclusion

How then can regional integration in Southern Africa be made relevant in what Ron Ton of the Netherlands Institute of International Relations describes as the 'new information economy'?

Ultimately African economies will grow and create the virtuous circle of stability and prosperity if investors have faith in governments and their policies. Regional integration can assist in this aim by committing governments to transparency, accountable and limited governments, to broadly the same macro-economic policy direction, and, critically, to the rule of law. Cleary identifies a Southern African 'action agenda' worth highlighting:

- Bureaucratic, managerial, technical and entrepreneurial skills should be developed to ensure better use of scarce human, financial and natural resources.
- Limited capital resources through regional rather than national planning should be used effectively.
- An enabling environment to attract foreign direct investment (FDI) flows should be created.
- A regional manufacturing and processing capacity based on principles of competitive advantage should be developed.
- Regional economic integration should be progressive.

- A regional security management framework, with a stress on preventative diplomacy, conflict management and conflict resolution, peacekeeping, and co-operation between regional police forces to combat crime should be created.

This last area has also been stressed by Rocky Williams and SAIIA's Mark Shaw in terms of the need for the harmonisation of foreign and defence policy, perhaps through the conducting, as Williams suggested, of a regional strategic defence review. As Colonel Pekka Majuri noted at the conference, 'Defence is no longer about defending one's own country, but also about dealing with regional issues.'

Free trade is part of this process, but trade alone will not ensure growth and stability. Most important, as Jonathan Oppenheimer reminded the conference, *growth begets effective regional integration, not the other way around*. Growth and stability have, in turn, to come from a change in policy, particularly in a movement towards policies which encourage labour-intensive industries. Here SADC and Comesa, even SACU, can play an important role in securing and maintaining a commitment to democracy and stability from which greater regional co-operation and thus global integration can be launched.

Speaking at a conference on 24 October 2000 in São Paulo which focused on building links between SADC and Latin America's Mercosur market, South Africa's deputy foreign minister, Aziz Pahad, stated that 'regional associations ... must be based on a ... shared value system of like-minded associates'. In doing so, he underlined the importance of common economic interests, shared and sound political and social values, and the presence of larger economies as conditions for success.

How might regional institutions assist in creating such a convergence of regional values? In the longer term, a region-wide FTA should theoretically be a step towards a customs union of the sort that South Africa enjoys in SACU with Botswana, Lesotho, Swaziland and Namibia. This goal could help to facilitate region-wide industrialisation through unfettered market access particularly to the South African market. Given the size of African markets, it appears folly to continue to operate in defined yet overlapping groups such as SADC and Comesa.

In the past, it was suggested that SADC be essentially a 'PTA South', Comesa a 'PTA North'. This concept has, however, proven a non-starter. Given that SADC is already politically, economically and socio-culturally inchoate to operate in unison, perhaps the time has come to bite the bullet and find a common objective around which regional trade and investment efforts could be focused.

It also makes sense to avoid duplicatory efforts and to refocus SADC's goals away from trade facilitation toward infrastructure co-ordination and development with the primary goal of reducing the costs of doing business. African governments will have to consider what, apart from vested bureaucratic interests, justifies keeping Comesa and SADC distinct yet with overlapping agendas, at least in the area of trade and investment.

Also critical is the role of regional leadership, not just of personalities, as Clapham has noted, but of leading regional states or a particular state. Indeed, there is a danger of 'overpersonalising' the process of integration and co-operation, although agreement among key personalities (currently absent in Southern Africa) is critical.

Pandelani Mathoma, the chief director for Southern Africa in the SA Department of Foreign Affairs, has said that ‘South Africa will do all in its power to see the ideals of good governance and democracy upheld in Southern Africa’. He has also stated that ‘South Africa believes in an all-inclusive, political, negotiated solution in Lesotho, DRC, Angola and elsewhere in the region, a stance informed by South Africa’s own history’.

Here a constant process of coalition-building or diplomacy is critical in allaying fears of regional domination or hegemony. Thahane highlighted a critical question facing South Africa in this regard: How could it drive the process of regional integration without dominating it? For, as Clapham observed at the conference, the greatest benefits from the creation of regional security are likely to accrue to the major states in the region, but they will have to meet the costs up front. We should also realise, on a sombre note, that a regional hegemon can easily become the regional destabiliser. The need for increased rates of employment in South Africa is, in this regard, critical if it is to play this stabilising role.

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The speakers at the conference, who travelled from far and wide from Scandinavia to Singapore, must also be singled out for special thanks, as should the SAIIA staff who worked hard to make the conference and this book possible, including Doug Brooks, Gareth Elliot, Pippa Lange, Nobuhle Moyo, Claudia Mutschler, Beverly Peters, André Snyders, Heather Thuynsma, the KAS interns, and all the others in the team. Finally, our co-editors deserve a special word of mention for their assistance in helping to meet the deadline to which this volume was produced.

Notes

- ¹ Teal F, 'Trends and Projections for Africa'. Unpublished paper. Centre for the Study of African Economies, University of Oxford, 2000.
- ² The exceptions are South Africa, Mozambique, Lesotho, Tanzania and Botswana.

The Challenge of Integrating Africa into the World Economy

*Pascal Lamy**

Introduction

We all know that statistics are notoriously easy to use to support one's case; we all make liberal use of them. However, when it comes to assessing the progress made in integrating Africa into the world economy, whichever way you look at them, the figures show that that progress has been disappointing to say the least. Whilst world production has more than quadrupled and global trade has risen seventeen-fold since the 1950s, the performances of developing countries have been a model of inconsistency, where splendid successes stand side by side with stark failures. Where South-east Asia and China have recorded an annual increase in gross domestic product (GDP) per head of more than five percent in the 30 years to 1996, sub-Saharan Africa has suffered a sharp deterioration in living standards. Its share of world trade, shrinking from three percent in 1950, is less than one percent today. Although statistics should always be viewed with healthy scepticism, we cannot get away from the fact that most African countries have, if anything, been further marginalised, rather than integrated into the world economy.

What should we read into this reality?

The lesson is clear and unambiguous. The inescapable fact is that a large part of the African continent has failed, or been unable, to take advantage of the unprecedented wave of technological innovation to sweep the rest of the world after the Second World War. Freer trade and increased foreign direct investment (FDI), coupled with short-term capital flows, have had what can at best be described as a marginal impact on global development in the region. Miracles do happen, but even King Midas would have had trouble conjuring them up in sub-Saharan Africa, with no more than

* PASCAL LAMY is the Trade Commissioner at the European Commission, Brussels. This is an address given at Jan Smuts House, South African Institute of International Affairs on 21 June 2000.

four percent of the world's annual FDI flows to all developing countries to work with. The process of globalisation and, more specifically, trade liberalisation, can and will be good for development *if* (and this is an important *if*) these forces are harnessed correctly. But freer trade, which this paper will return to later, is only part of the development equation.

As the saying goes, 'charity begins at home'. The same holds true for development, where the elaboration and implementation of sound domestic policies are essential to success.

The need for adequate domestic policies

So why have only a few African countries derived significant benefits from pursuing greater integration with the global economy, in terms of higher growth rates and reduced levels of poverty, whilst many others have been left behind?

Clues to explaining this lie in an examination of Africa's success stories. These countries have been much more successful in creating an incentive structure that encourages investment in human and physical capital. This is key, because the accumulation of human and physical capital is what drives economic growth. Countries with unstable, unpredictable and inconsistent policy frameworks will find it difficult to create an incentive structure which rewards growth-enhancing behaviour in their citizens. To create such a structure, a multi-faceted approach is required which encompasses appropriate macro-economic policies, a commitment to wide-ranging structural reforms, a credible legal system, an adequate social framework, improvements in the quality of governance and, above all, political and social stability in order to prevent or solve conflicts.

If the process of reform is to be sustained over a sufficiently long-term horizon to generate visible results, it is essential that the stakeholders in the process should go beyond governments to include civil society, both non-governmental organisations (NGOs) and economic operators. This is a country which is fortunate to have both a stable government and probably the continent's most vibrant civil society. South Africa stands as an example that the rest of the region can look to for inspiration.

With the foundations that a solid domestic framework provides in place, an African country can add an international dimension to contribute to development and a successful integration into the world economy. On the one hand, this dimension involves the definition and implementation of international rules that take into account the specific needs of the continent. On the other, it involves strengthening the regional integration process.

An international support framework for development

To be successful, an appropriate policy framework at the domestic African level must also be buttressed by multilateral rules and coherent supporting actions from key international actors. An element of crucial importance is the capacity of the

multilateral system to address and take into account the specific economic and social capacities and constraints of African countries, particularly, the least developed among them.

In this context, the European Union (EU) has proposed some priorities in the World Trade Organisation (WTO) framework which relate to the concerns of Africa, which has the highest concentration of least-developed countries in the world:

- to improve market access for least-developed countries with a view to providing them with duty-free access for essentially all products;
- to make special and differential treatment more operational to meet African countries' needs effectively, having regard to the specificity of each WTO agreement or decision;
- to address the concerns of African countries on the implementation of WTO agreements in a way that will genuinely help their efforts towards full and faithful implementation of these agreements;
- to ensure that future multilateral negotiations in new areas support and make a contribution to the African development processes, ensuring that the development dimension is at the centre of negotiations in such new areas, and that liberalisation is carried out in a sustainable fashion; and
- to enhance capacity building and to support participation of African countries in the multilateral negotiations.

Regional integration is a stepping stone to integration into the multilateral trading system. Support at the international level must be complemented by actions at the regional level. For the weaker African economies, it is often very difficult to follow and understand the realities of the global economy; how domestic laws require to be reviewed so that a country can compete with other nations on an equal footing and in what areas growth would be most beneficial for the welfare of their populations.

Recent advances in regional integration in Africa are a clear indication that most African countries have themselves decided to anchor their integration into the world economy through regional economic integration.

Regional economic integration will increase the stability of economic policy and the legal framework, provide a multiplier effect on growth, and should be complementary to multilateral trade liberalisation. In the case of many African countries, it can be a stepping stone in preparing for their integration into the world economy.

Regional integration makes both economic and political sense, providing economies of scale, allowing a more powerful voice in the international arena and playing an important role in the prevention of the armed conflicts which have for so long plagued Africa and held back its development. Again, the role played by South Africa as a leading regional player in the Southern African Customs Union (SACU) and the Southern African Development Community (SADC) is essential in encouraging further integration in the African continent.

The EU has been traditionally supportive of regional economic integration initiatives in Africa that are coherent with national economic reform programmes and open towards the world market, keeping tariffs and non-tariff barriers at a level that

guards against trade diversion. This support is concentrated in four main areas: capacity building; assistance to the private sector; balance of payments support; and assistance to regional trading agreements among African countries.

This continued support will be confirmed in Cotonou, where the EU and its Afro-Caribbean Pacific (ACP) partners will be signing a new agreement which will serve as a framework for their future economic and trade relations, building (where appropriate) on regional integration initiatives among ACP countries and in full coherence with them.

Both parties have agreed to conclude WTO-compatible trading arrangements, progressively removing barriers to trade between them and enhancing co-operation in all areas relevant to trade. These agreements will be introduced gradually; therefore, a preparatory period is necessary in order to facilitate the transition. During this preparatory period, measures to enhance competitiveness, to develop capacity building in the public and private sectors of the ACP countries, to strengthen their legal system and, where appropriate, to give assistance to budgetary adjustment and fiscal reform will be promoted.

It is important to underline that, in the framework of these trade arrangements, liberalisation will occur according to the ACP countries' own economic and social constraints. The approach followed by the EU in its trade relations with South Africa concerning asymmetry, differentiation and flexibility principles offers an example that could be emulated. These trade agreements will contribute to the consolidation of the trade policies of the ACP states, making them more predictable, transparent and reliable. They will also represent an important contribution to the consolidation of the regional integration processes, thus preparing the ACP for their full participation in a liberalised world economy.

I cannot conclude my remarks without underlining the crucial role to be played by South Africa in fostering the development of Africa if this continent is finally to integrate itself fully into the world economy.

A plea for joint EU–South Africa co-operation

The EU places a great deal of faith in South Africa, a country which has already contributed greatly to peace and stability in the Southern African region and beyond. It is noted with satisfaction that the EU and South Africa have moved into a new and promising era in their relationship with the entry into force of the Trade, Development and Co-operation Agreement, which will undoubtedly reinforce and expand political and economic co-operation.

As Europe's Commissioner for Trade, I am personally committed to ensuring that the Free Trade Agreement framework which is now up and running is correctly implemented, and that the enormous potential for further expanding our bilateral trading relationship is fully realised.

In taking up the challenge of working with South Africa to integrate Africa fully into the world economy, I count on the support of my influential friend Alec Erwin, with whom I have struck up a good rapport in the short time we have worked together.

I am sure that closer links between South Africa and Europe will also benefit the region and the whole African continent. Let us make our economic, trade and political co-operation a model for other African countries to follow. Let us engage in an open, friendly dialogue with a view to a better understanding and respect for each other's positions and concerns. We have a common responsibility towards the future of Africa. Together we can discharge it successfully, to the benefit of Africa, Europe and the world at large.

Regional Integration: The Path to Prosperity?

*Justin Malewezi**

Introduction

African leaders have always accorded high priority to regional co-operation and integration. It was a central theme of the 1980 Lagos Plan of Action, the special United Nations (UN) session on Africa in 1986, and numerous other high-level statements and reports on African policy and development strategy. Regional integration is particularly important for landlocked countries; Africa has more of these than any other continent, and this is viewed as a formidable constraint on development.

Many institutions for regional integration and co-operation were created, often without much planning or preparation, soon after countries gained their independence. In Africa there are more than 200 organisations for regional co-operation, and the Lagos Plan of Action is widely seen to have provided a conceptual and planning framework for economic integration. But progress toward market integration has been disappointing, with the share of intra-regional trade still at the level it was 20 or more years ago.

Lessons from market integration

Among Africa's market integration schemes, the West African Economic Community (CEAO) has achieved a high degree of integration that has supported economic specialisation and facilitated the flow of labour from the poor Sahelian countries (such as Burkina Faso and Mali) to the richer coastal countries (such as Côte d' Ivoire and Senegal), while supplying goods in the opposite direction. By reducing non-tariff barriers and establishing a satisfactory compensation mechanism, the organisation has ensured that trade within the CEAO has expanded significantly.

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The Economic Community of West African States (Ecowas) has made little progress toward economic integration. Because tariff and non-tariff barriers have not been reduced, trade among its partners is at the level of the early 1970s because their pattern of trade has not changed much. On the front of labour mobility there have been some setbacks; in 1981 and 1983 Nigeria expelled more than one million Ghanaian workers. Furthermore, Ecowas' rule of product origin has become a source of serious disagreement.

The collapse of the most promising economic community, the East African Community, demonstrates how inability to solve political differences can compound the problems inherent in any integration process involving countries at different levels of development.

The community began with a shared currency, a regionally co-ordinated infrastructure, harmonised economic policies, a system of common institutions, and a high degree of labour mobility. The regional community fell apart in the late 1970s over the sharing of benefits, political divisions, and conflicts of interest between Kenya, Tanzania and Uganda.

Southern Africa

The recent experience of Southern Africa with regional integration illustrates a re-orientation towards a production-focused approach, marked by increased efforts to undertake regionally-based projects and the joint exploitation of natural resources. Recognising that road transport and communications are instrumental in removing operational constraints and facilitating the cross-border movement of people and goods, member states of the Southern African Development Community (SADC) have embarked on the implementation of development corridors.

SADC has adopted a number of protocols. The objective of the protocols is to implement compatible policies, rules and procedures; to remove impediments to movement of people, goods and services; to secure sufficient domestic finance for the maintenance of infrastructure facilities; and to build strategic partnerships between the government and the private sector in the provision of infrastructure.

Much of the economic activity in the Southern African region is based on the extraction of minerals and agriculture. There is also considerable hydro-electric and irrigation potential.

Current policies of many Southern African countries aim at fiscal and monetary restraint, privatisation, and increasing efficiency in the public sector. Most countries in the region follow a tight monetary policy. Generally, fiscal performance has improved significantly. The region as a whole has a fiscal deficit under five percent of gross domestic product (GDP). A substantial portion of the budget is necessarily committed to investment in basic social services.

As the dominant economy in the region, South Africa is the most highly integrated with the global economy and, as a result, it has been negatively affected by the East Asian crisis and by a significant outflow of capital. Its economic performance inevitably affects other economies in Southern Africa, because most countries in the

region have a trade relationship with South Africa. The region also serves as a market for many South African products.

Making regional integration work

How can regional integration work, or work better? The limited achievement of the market integration efforts following independence has opened a debate about the efficacy of such a policy under present African conditions. Critics have declared market integration a failure. They argue that the model, taken from the experience of highly industrialised European countries that have a high level of trade among themselves, is not relevant to Africa, where both trade among countries and the levels of industrialisation are low. The range of tradable commodities is seen as limited, and the transport and communication infrastructure inadequate. They recommend that the market integration approach be abandoned and that a new approach that emphasises broadening the regional production base take its place.

However, other evidence suggests that regional integration for Southern Africa can work. In the past, governments have been preoccupied with negotiating preferential agreements. Less attention has been given to the real issues: the non-competitiveness of products of member states compared with third-country suppliers, the high cost of doing business, the shortage of foreign exchange and credit, and the restrictions on free trade, services and movement. The sizable volume of informal trade shows that the constraints of poor transport and communications can be overcome.

Rationalising regional institutions

Many regional organisations for co-operation and integration exist in the Southern African region, often with overlapping mandates. Proliferation and duplication of functions give rise, at the regional level, to conflicts over mandates and to divided loyalty among governments, and they impose heavy financial and administrative burdens on governments.

In some cases, the institutions' budgets are too small for the tasks assigned to them. Most institutions are mandated to hold several high-level conferences annually, and regional conferences cost governments money that cannot be justified by the benefits gained from them. Proliferation also makes the problem of co-ordination unmanageable.

Despite recognising these problems, some organisations have not been closed down, and overlapping institutions have not been combined. At the same time, regional institutions in critical fields such as agricultural research, river basin planning, higher education and training (including centres of excellence), transportation (airlines and shipping), and pest control have yet to be strengthened or, in some cases, created.

As an urgent first step, therefore, regional organisations need to be rationalised. They should be reformed and consolidated into lean and efficient institutions, with a

clear mandate and capacity for making decisions. These institutions could then spearhead the creation of a physical, technical and legal infrastructure that would support regional exchanges in goods, services, labour and capital.

Trade liberalisation

The current reality of Southern African economic integration is that it is already extensively practised through informal trade. Its growth across borders partly re-establishes the extensive trade in goods and the migration of people that were a feature of economic and social life before colonisation. For many of us, the benefits of greater economic integration are already visible in daily life through this informal exchange which keeps prices down by increasing competition, supplies otherwise unavailable products across borders, provides opportunities for employment in neighbouring countries, and encourages entrepreneurial activities. Therefore, the challenge for Southern Africa is to create market incentives that will encourage the private sector to engage in wealth-creating exchanges across borders.

Over 200 years ago, imports of machinery and the immigration of skilled workers helped carry the industrial revolution from Britain to Europe. Japan and the United States were both highly successful at borrowing established technologies and establishing linkages with advanced industrial countries to become major players in the world markets. In the past 50 years, East Asia has grown rapidly through the expansion of trade.

Flows of capital and skilled workers across countries continue to provide an important avenue for technology transfer. The East Asian countries have successfully assimilated technology by sending students abroad, exploiting linkages with overseas nationals, and encouraging exchanges with research centres. Direct foreign investment has also contributed to technology transfer, and fostered export growth in some such economies as Brazil and Mexico. By increasing competition and expanding access to technology, trade generates benefits that may even exceed the gains from improved resource allocation. Yet almost all developed and developing countries have restricted trade to promote and protect domestic industries and sometimes to raise revenues.

Trade within Southern Africa can stimulate economic growth, and not simply because it will permit countries to exchange complementary commodities and services. Trade between countries producing similar goods is most beneficial, because it helps increase the efficiency of firms and farms so that they can compete against alternative sources of supply. Japan and South Korea are often cited as countries that built industries behind high protective barriers, but they adopted tough policies to ensure that producers became efficient, particularly through domestic competition. This approach needs to be built into Southern Africa's development strategy.

Increased trade within the region will also depend on the availability of finance and financial instruments, such as banking networks providing letters of credit, export credits and other financial services to traders and firms. Even if Southern African suppliers could become competitive on price and quality, inadequate financial

arrangements place them at a disadvantage against non-African competitors. Therefore, the banking system needs to expand and become responsive to the needs of the private sector in the region.

Movement of labour and capital

To sustain trade liberalisation in Southern African countries, policy should make it possible to free the movement of labour. Freeing labour flows within the region would improve growth prospects. Migration, transfers of skilled personnel, and returning workers from abroad all contribute to the diffusion of technology.

In the United Kingdom (UK) in the 19th century, there were legal barriers to the emigration of workers and the export of machinery. However, after these restrictions were removed (in 1825 and 1842 respectively), British investors and workers helped to develop railways and coal mining in Europe and elsewhere. In the period after the Second World War, large numbers of foreign students received science and engineering training in the United States and then returned home to use and spread their knowledge.

Labour mobility provides other benefits. It is another avenue for reducing the disparity in incomes worldwide. Apart from the potential to improve welfare, immigration also helps to relieve pressure in labour-scarce regions. That is why in recent years the migration of skilled workers who cannot find work in their own countries has increased within Southern Africa. Such migrants are making important contributions to innovation and entrepreneurial activity, especially in the informal sector. Therefore, looser immigration and emigration policies in Southern Africa are likely to lead to regional gains in welfare.

However, loose immigration and emigration policies in the region can have their own costs. Foremost are criminal and drug syndicates, which are creating effective financial and drug smuggling networks to advance their interests in a world anxious to do away with economic and political barriers. These syndicates have shown that they are capable of undermining key institutions, even in established democracies. And the deadly commodities that they market debilitate even the strongest societies through the staggering health and crime costs, lost productivity, or squandered education for its youth that are associated with rising levels of drug abuse.

International drug trafficking organisations and emerging crime syndicates—those specialising in stolen automobiles and light weapons, money laundering, and counterfeiting—pose non-traditional security challenges for Southern Africa. There is therefore a need for the countries of the region to act together to attack them in innovative ways.

Beyond actions on policy, infrastructure, and institutions lies a more fundamental need: to mobilise the media and educational and cultural institutions to promote the concept that co-operation within Southern Africa is likely to enhance the progress of all African societies. In addition, relaxing travel restrictions and residence requirements would encourage increased contacts within Southern Africa.

Only when groups of African teachers, intellectuals and community leaders have

committed themselves to greater co-operation among countries and have articulated in public the steps needed to bring such co-operation about, will popular support be built and sustained. More access to information on other Southern African countries, more exposure to them, and more education about them are vital parts of the process. Our children need to learn more about their Southern African neighbours. They should also learn that self-reliance does not mean looking inward and depending solely on their own national resources. It means being able to interact competitively with neighbouring countries and with other parts of the world. It means making the most of national strengths, but compensating for weaknesses by co-operating with neighbours.

Human resources development

People are both the aim and the means of development. Although improved health, nutrition and education are ends in themselves, healthy and educated human beings are also the principal means for achieving development. Measuring development in terms of access to basic social services, education, and food is more satisfactory than using most other yardsticks. Social indicators such as life expectancy reflect the condition of most of the population more accurately than per capita incomes, because of their much broader distribution across households.

Narrowing the gap in access to basic services between Southern African countries and developed countries is a more feasible goal than narrowing the gap in income. The gaps in access to basic needs have narrowed considerably during the past 20 years, and they can be narrowed even faster in the next two decades.

Southern Africa has made impressive progress in human resources development since independence, but there have been many setbacks, due mainly to fiscal difficulties and rapidly expanding populations, which have undermined long-term development. The strategy for future development calls for a new commitment to developing SADC's human resources. There are two immediate priorities: to improve the quality and relevance of education at every level, and to redirect public resources toward basic education and health care, including family planning. For the longer term, and by 2015 at the latest, SADC countries should aim to ensure universal food security, primary education, and primary health care.

How can people in the Southern African region accomplish universal food security, primary education and primary health care by 2015? First, it is imperative to reverse the decline in per capita incomes and to achieve a sustainable improvement in living standards. Second, fertility rates must be lowered in order to improve access to education, health and other services, and also to improve their quality. Third, although all levels of education and health care require more spending, a proportionally larger amount of public resources should be allocated to primary education and primary health care services.

A critical issue related to the question of human resources development is the problem of Human Immuno-deficiency Virus/Acquired Immune Deficiency Syndrome (HIV/Aids) in Southern Africa. There are many countries outside Africa

where HIV/Aids is spreading at an alarming rate. But nowhere has it reached such emergency proportions as it has in the Eastern and Southern African regions. This area, with less than five percent of the world's population, is home to more than 50% of those living with HIV/Aids; where 60% of the deaths are HIV/Aids related; and where a generation of children is losing its parents to HIV/Aids. The 21 countries with the highest rates of HIV/Aids infections are all in Africa. Across Southern Africa, HIV/Aids is turning back the clock on development.

Yet, the spread of HIV/Aids can be curtailed and its impact alleviated. For this to happen, however, solidarity is vital, especially in Southern Africa. The epidemic knows no boundaries, which makes imperative the need to act together, as a region, to prioritise action against HIV/Aids in all our work, recognising that the disease has a close connection to the development of African countries.

Regional governance

Another important element is regional governance. As the United Nations' 1999 *Human Development Report* correctly reflects, globalisation offers greater opportunities for human development, but only if it is accompanied by stronger governance. It is true that today we are wealthier, have greater access to technology and more commitment to the global community than ever before. But there are also glaring disparities between the rich and the poor in global opportunity.

An essential part of governance is responsibility to people. Global markets, technology, ideas and solidarity can enrich the lives of people, greatly expanding their choices. Yet if global opportunities are not shared better and much more widely, the failure to grow of the last decades will persist.

The crucial question for Southern African countries is whether national and regional policies will permit the potential created by technological progress to be exploited. War and its aftermath continues to cast a cloud of uncertainty over our region. In a number of instances on the African continent, the most important cause of famine in recent years has been, not inadequate agricultural output or poverty, but military conflict.

Many wars on the African continent are the result of lack of tolerance, abuse of human rights on a massive scale, and especially undemocratic systems of government. Many wars and violent conflicts on the African continent can be avoided if we cultivate a genuine democratic culture, and if we develop effective systems in which people participate in the running of governments.

Conclusion

It is clear that Southern African integration is already extensively practised through informal trade and migration of people, which were features of economic and social life before colonisation. Openness to trade has always improved resource allocation, increased competition and product specialisation, and provided a broad avenue for

technology transfer. Ironically, greater competition and a more integrated world have also resulted in a global system which is now at a critical juncture. The world faces two important trade challenges in the new millennium. First, regional trading arrangements must be carefully managed to ensure that multilateral commitments are strengthened and not forgotten. Second, and even more urgent, the World Trade Organisation (WTO) talks need to be revived. In this, Southern African countries can play a key role; in our own interest, we should continue to press for free trade and continue to reform our trading systems. The industrial countries of today grew prosperous through trade. No effort should be spared to ensure that Southern African countries follow that same path.

Challenges for Southern Africa

*Pandelani Thomas Mathoma**

The concepts of change, development and conflict

At a macro level, the challenges facing Southern Africa in the 21st century will revolve around the mercurial concepts of change, development and conflict. The aim of this paper will therefore be to highlight dimensions of these phenomena, in order for us to get some idea of the magnitude of the challenge facing us all. Reference will be made throughout to strategies which could possibly assist in managing these phenomena better. In the final instance reference will be made to these within the context of South Africa's foreign policy—giving an outline of how the Ministry and the Department of Foreign Affairs view the way forward. Heraclitus, the Greek philosopher, had already come to the conclusion in around 500 BC that there is nothing permanent except change. Change and managing change is therefore not a new challenge, but one placing rigorous demands on peoples and nations in the epoch through which we are living.

Change

The defining characteristic of this era is the fact that the world is going through a period of tumultuous and ongoing change—a period of transformation. This period is characterised by epochal change which affects every aspect of human endeavour in general, and international affairs in particular. The magnitude of this process of transformation is comparable to the period in history when the Medieval Age made way for the Modern Age.

In both instances, changes in technology, trade patterns and commercial structures combined with a pervading sense of danger and opportunity to create a new epoch. It is therefore no exaggeration to state that, in the year 2000, the very tectonic plates that underlie the international landscape are shifting. The French political

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commentator Jacques Attali aptly remarks that future shock is yesterday. The old order is passing from the scene and a new one is being born. The phenomenon of globalisation is transforming the world economically, politically and culturally.

Economically, globalisation offers excellent opportunities for internationally competitive economies. It has profound implications for trade policy, increases competitive pressures in markets and makes globally based trade rules and disciplines ever more important. Economic globalisation, however, also brings in its wake challenges insofar as the management of the process is concerned.

If managed incorrectly, economic globalisation can have a devastating dark side, leading to severe economic and social dislocations. As far back as 1885, the Englishman Allan Octavian Hume made the statement that you cannot have separate, unequal peoples living alongside one another in great riches and deep poverty, without inviting catastrophe. This is even more true in a globalised, interconnected world.

Political globalisation entails that the role and functions of the nation-state are critically re-examined. Civil society is becoming better organised and more vocal. There is an insistence that the notion of the nation-state be replaced with that of the 'capable state'—a state agile in its responses to the forces of change and equipped with institutions which enable it to respond to its citizens' needs.

Culturally, we are truly living in a global neighbourhood. Innovations in communications and telecommunications technology make it possible to disseminate ideas, images and symbols at the blink of an eye. Unfortunately, much of the developing world does not have access to, and cannot share in, this wealth of information and knowledge which the World Wide Web makes instantaneously available.

In an age of increasing global secularism there is, however, also a need to provide space for cultural identity and to accommodate those who feel threatened by the former phenomenon. If this space is not created, one can expect a backlash against globalisation. The most obvious expression of this is likely to be the rise of the nation, of religion and of ethnicity as sources of identity that have to be protected against outside influence.

It is only logical that in a time of epochal change, one takes time off to rethink the way things are being done and to ask why they are being done. Africa's less than desirable economic performance over the past decades, along with the political turmoil which has plagued or still plagues many countries, has brought into sharp relief the need for a comprehensive rethink of the development-related problems of the continent and of the region.

Development

The momentous changes which have come about in the past 10 years (globalisation, technological advances and fundamental geopolitical shifts, to name but a few), have also expanded mankind's understanding of the development process. There now exists a general acknowledgment that understanding the concept of development and its processes requires knowledge transcending the confines of economics.

Probably the most important non-economic factor which should be included in economic policy thinking is the effect that politics in general, and political instability in particular, have on the development process. It is not only the instrumentalist aspect of the relationship between politics and economic development (stability and democratisation enhance economic development) that is earning currency. The very concept of development has been expanded to include, in a substantive way, issues of security, stability and freedom. There is increasing consensus that development entails not only the adjustment of some narrowly defined technical variables, but the transformation of whole societies. This entails economic transformation, a change in people's attitudes, the expansion of freedom and the elimination of all kinds of 'unfreedoms'—instability, insecurity, poverty and hunger.

Recently, a very enlightening discussion paper, entitled 'The State of Development in Africa and its Implications for Security and Stability in the Continent', was delivered by Dr Berhanu Nega, attached to the Economics Department of Addis Ababa University. In it he puts forward some suggestions as to how Africa can be placed on the path of sustainable development or on 'a stable high-growth trajectory'. I want to briefly refer to these recommendations, as they may also be applicable and valuable within the Southern African context. Dr Nega's recommendations include the importance of a country's:

- having healthy economic fundamentals and investing in physical and human capital;
- giving priority to industrialisation and structural transformation;
- implementing programmes to bring about poverty alleviation and equitable income distribution;
- practising good governance; and
- empowering its citizens.

Dr Nega comes to the conclusion that once people see their situation as hopeless and succumb to defeatism, a situation emerges which is antithetical to development. He states that such a situation of hopelessness in a society is probably the most fertile atmosphere for the spread of conflict and instability, further aggravating economic problems and thus closing the vicious circle of poverty and underdevelopment. There is, therefore, a two-way causal relationship between economic development and conflict. It is to the latter concept that the focus will now shift.

Conflict

Managing conflict in Africa, and in the subcontinent, remains a daunting challenge. These conflicts cast a dark shadow over the prospects of the region and threaten to undo many of the economic advances which have been witnessed over the past few years.

The effect which these conflicts have on economic development is self-evident. Conflict (be it intra-state or inter-state war) wreaks havoc on economies, especially in poor countries that import most of the instruments of war, using scarce foreign

exchange. Wars also kill and maim young people, which negatively affects the human resource pool of these societies. Conflicts destroy social and physical infrastructure that is already in desperately short supply, and which is crucial for economic development. Conflict in a country, and/or in neighbouring countries, creates a sense of instability which, in turn, translates into an unfriendly environment for foreign investors. Among the local business community, war creates an attitude in favour of short-term economic gains as opposed to long-term productive investment. Capital flight from Africa, as well as Africa's 'brain drain', can be traced back to political and economic insecurity.

The trafficking in, and abuse of, narcotic drugs and psychotropic substances is increasingly being linked to the various conflicts in Africa.

Another worrying dimension is the fact that it is increasingly civilians who are dying in these clashes on the African continent. At the beginning of this century, the ratio of military to civilian casualties in wars was 8:1; now the ratio is 1:8.

Small arms are the weapons of choice in these conflicts and in violent criminal activities. The proliferation of small arms does not only affect those who are subject to the brutal violence which they cause. The use of these weapons and the role which they play in preventing peace and security on our continent have much wider consequences. Without peace and security it will be extremely difficult, if not impossible, to realise the ideals of an African rebirth.

South Africa has committed itself to participation in peacekeeping operations on the continent, and we believe that our brothers and sisters in the region will also heed this call. This decision has been informed by our own recent history, which compels us to participate in peace missions to alleviate the plight of other peoples who are struggling to resolve seemingly intractable conflicts.

South Africa will participate in such missions where there is a clear need for our national contribution, and where there is a legitimate and realistic international mandate for executing the mission.

Dr Nega gives an account of a number of fascinating lessons that emerge from the literature in respect of the management of conflict. These are the following:

- The probability of civil wars at very high levels of democratisation is near zero, irrespective of the degree of ethnic diversity in that society.
- The risk of civil war declines with declining poverty. Economic development therefore has a positive effect in reducing the risk of civil war, although the reduction is not as dramatic as that coming from improvements in political freedom.
- Economic diversification and a lesser degree of reliance on natural resources reduce the risk of civil war.

A strategy for the prevention of future civil wars in Africa should therefore be based on measures for improving political freedom and on measures aimed at developing a design for political governance to accommodate Africa's social diversity and the various economic strata of its societies.

This, in a nutshell, is the world in the year 2000: a period offering immense opportunity, but also holding great challenges; a period in which humanity's fate will

be shaped, for better or for worse. Indications are that the struggle for economic equity will be for this century what political liberation was for the previous one. Apart from the rich history which we share with the subcontinent, our involvement in the region also stems from the belief that globalisation has irreversibly linked our destinies together.

Environmental degradation, transnational crime, refugees and the international drug trade know no borders. Only by co-ordinating our efforts and by acknowledging our interdependence can we effectively forge partnerships to fight these destructive tendencies. If we combine our efforts and work together, we will succeed in creating wealth in the region and in ensuring an improvement in the quality of life of all its citizens.

The African Renaissance

It is against this background that the Ministry and the Department of Foreign Affairs have heeded the clarion call by President Mbeki to make this the African century and to bring about a Renaissance on the African continent. As has been stated by the Director-General of Foreign Affairs, Siphosiso Pityana, the concept of the African Renaissance now represents the underlying vision and the guiding principle of South Africa's foreign policy.

But how will the concepts of change, development and conflict be addressed within this framework? To answer this question, it might be worthwhile to refer to the building blocks of this process of African renewal. In this regard South Africa will actively work towards realising five broad foreign policy objectives:

- contributing to rooting out violent conflict and establishing political democracy throughout Africa;
- working towards the economic recovery of Africa;
- ending neo-colonial relations between Africa and the world's economic powers;
- mobilising the people of Africa to take their destiny into their own hands; and
- ensuring the swift development of people-driven and people-centred economic growth aimed at meeting the basic needs of people.

South Africa is currently participating in Expo 2000 Hannover in Germany, an event where the South African government has joined hands with its Southern African Development Community (SADC) partners and with the private sector. The theme of South Africa's national stand will be 'Faranani —Towards the African Century'. *Faranani* in Venda means 'moving forward together', and this philosophy encapsulates the Ministry's and the Department's approach to the African Renaissance.

We will work closely with our brothers and sisters in the subcontinent, on the African continent, and in the South. We firmly believe that the drive towards an African Renaissance will only gain momentum within a broader alliance in the developing world.

Secondly, and of equal importance, is the need to involve the countries of the

developed world (as has happened at this conference). It is essential to ensure that the positions and concerns of Africa are communicated clearly to the countries of the North.

It is of critical importance that this dialogue on matters of global concern between leaders of the two groupings be sustained and expanded. Only by forging an African Renaissance partnership with the developed world, can the foundation be laid for a true African revival.

Conclusion

The great moral paradox of want amidst plenty has yet to be resolved. Our task is to ensure that a situation where the rest of the world records growth and development, and Africa communicates a message of regression and continued underdevelopment, is not allowed to continue. The South African government, and the Ministry and the Department of Foreign Affairs in particular, is committed to making a worthwhile contribution towards the realisation of this vision.

'The past', wrote historians Will and Ariel Durant, 'is the present unrolled for understanding; the present is the future rolled up for action.' Now is the time for action. We must commit ourselves to, in President Mbeki's words, 'the life and death objectives of peace, democracy, stability and development'. Africa's destiny is upon us.

SADC: The Way Forward

*Prega Ramsamy**

Introduction

In the past three decades a great deal of effort has been made by most sub-Saharan Africa countries to establish regional co-operation and integration arrangements. The appeal to some form of regional co-operation and integration is almost intuitive. The sub-Saharan Africa countries are very small in economic terms, and common sense dictates that for countries with such characteristics it is economically justified to integrate their markets.

Despite its peculiar political history, particularly over the last three decades, Southern Africa has a long tradition of economic co-operation and integration. In fact the first attempts at regional co-operation and integration in Southern Africa date from the colonial era (for example, the Southern African Customs Union—SACU—and the then Federation of Nyasaland and the Rhodesias).

Regional co-operation and integration in Southern Africa gained new dimensions early in the 1980s when a changed political atmosphere emerged with the independence of the majority of the countries in the region. The Southern African Development Co-operation Conference (SADCC) and the Preferential Trade Area (PTA)/Common Market for Eastern and Southern Africa (Comesa) were then formed with the mandate of promoting and co-ordinating closer economic and sociocultural integration. With these regional organisations, Southern African countries aimed to achieve faster growth, sustainable development, political stability and security and improved welfare for the people of the whole region.

Despite poor performance and disappointing results from the first attempts at integration among developing countries by means of regional integration schemes, Southern African regionalism has gained momentum in the last decade of the 20th century. Among other reasons, the controversies surrounding multilateral trade negotiations, and the deepening of the European Union (EU) as an economic and political bloc justify the revival of regional economic blocs. In the last two decades

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European integration has spread, with the EU accepting Portugal, Greece, Spain and Norway (that is, enlargement from both south and north) as members. The eastern enlargement is now under way, with the Czech Republic, Hungary and Poland fulfilling the last entry requirements.

The North American Free Trade Area (Nafta) grouping of the United States, Canada and Mexico was agreed a decade ago. Likewise, throughout Africa, Asia, Latin America and the Middle East old arrangements are being revived and new ones created. Besides the traditional rationale for integration, this shows clearly that in the contemporary world regional integration is one of the main characteristics of the globalisation process. In this context, Southern Africa has no choice but to follow the path of regional integration if the region is to participate meaningfully in the global economy.

The Southern African Development Community (SADC) is intrinsically linked to the rest of Africa, and is committed to establishing an African Economic Community (AEC) as laid down in the Lagos Plan and the Abuja Treaty in 1991. It is now widely acknowledged that regional economic arrangements can be used as building blocks for the continental community. It would be a costly mistake if the existing regional institutions are not taken into consideration in the building of the AEC. A bottom-up approach would greatly facilitate the establishment of the African Union.

The Southern African economy: selected statistics

To understand the critical issues and main challenges facing the SADC at the beginning of the 21st century, it is necessary to start by highlighting some basic statistics and facts on the region.

In 1998 the total population of Southern Africa was estimated to be over 190 million people, and the combined gross domestic product (GDP) amounted to \$176 billion. With the population growing at an annual rate of 3.5%, it is projected that by the year 2015 the total population will be approximately 300 million people.¹

In the last half of the 1990s real GDP growth averaged three percent annually. The highest GDP growth rate was attained in 1996 at 4.1%, but was then followed by a declining trend in 1997 (2.2%) and 1998 (1.7%) (see Annexure 1).

According to the African Development Bank, per capita income in SADC (gross national product—GNP—per capita) fell by 0.4% and 1.3% in 1997 and 1998 respectively. Average GNP per capita for the SADC region amounted to \$988 in 1997, but to only \$334 if South Africa is excluded. In fact, real income per capita today is lower than it was in 1970 for most countries in the region.

Two main factors accounted for the sluggish performance of the SADC economy. The first one is the reduction in both foreign direct investment (FDI) and in official development assistance. The second negative factor is the low level of domestic savings, which cannot support the investment expenditure needed to give fresh impetus to growth (see Annexure 2).

SADC exports are only 0.9% of world exports compared to 10.3% in East and South-east Asia, and 5.3% in Latin America. Intra-regional exports in SADC are

around 25% of total trade, compared with more than 40% in either the Association of South East Asian Nations (Asean) or *Mercado Común del Sur* (Mercosur).

The fundamental principles underpinning SADC's process towards the integration of the region

Besides the existence of common cultural and social affinities, common historical experiences, common problems and aspirations which form a firm and enduring rationale for the promotion of regional integration, this process in SADC is underpinned by fundamental principles. These principles include: the sovereign equality of all member states; solidarity, peace and security, human rights, democracy, and the rule of law; equity, balance and mutual benefit.

In taking the decision to go for regional integration, the member states committed themselves to a process in which the formulation of common policies, the development of rules and regulations and the application of such policies to the functioning of an integrated region are vested in regional collective decision making systems.

This implies that each member state recognises the need to take the regional dimension into account when formulating national policies. The countries are, therefore, prepared to accept compromises and trade-offs. This has been amply demonstrated during the negotiations on the rules of origin and market access in the framework of the trade protocol whereby the principle of asymmetry was agreed among the SADC members.

The integration process in Southern Africa is built on the twin pillars of real political commitment by governments, and the effective participation of all stakeholders in formulating as well as executing regional integration programmes. The involvement of the business community, civil society, professional organisations, non-governmental organisations, educational institutions and cultural bodies is fundamental to the integration process of SADC.

In conformity with the principles on which integration in SADC is built, the region adopted a decentralised approach in implementing regional policies, projects and programmes. Each member state co-ordinates at least one sector. Protocols have been developed for several sectors.

These protocols provide a legal policy framework within which member states are expected to align their national policies in order to develop and achieve a regional goal.

Protocols have been signed in the areas of immunities and privileges, trade, mining, energy, transport, communications and meteorology, education and training, shared watercourse systems, health, tourism, wildlife conservation, law enforcement and combating illicit drug trafficking. To date seven out of the 11 signed protocols have been ratified by member states and have entered into force. These are the Protocols on Immunities and Privileges; Shared Water Course Systems, Energy, Transport, Communications and Meteorology, Combating Illicit Drug Trafficking, Trade and Mining.

Critical issues for SADC to address

The current SADC was born out of the SADCC, which was established in 1980 as a vehicle for the reduction of economic dependence on the then-apartheid South Africa and for equitable regional integration; an appropriate sequel to the political emancipation of the region.

The first critical issue SADC needs to address is its ability in its present structure to adapt to changing circumstances and new challenges. There is a need for an institutional framework which can clearly articulate goals, policies, strategies and time frames that can guide the process of economic integration. The challenge for SADC is to develop the necessary consensus among its member states and to mobilise the technical capacity required for deeper regional integration. There is a current exercise which is designed to address this challenge.

The other critical issue is how SADC can utilise its various protocols to create a win-win situation for all its member states, given the different levels of development of each member state within SADC. In this regard, SADC needs to have a very focused approach, with targeted priorities for the next 10–15 years. With its limited resources, SADC needs to focus on the sectors catalytic to deeper regional integration as fast track movers. A regional growth rate of at least 6.8% is required in order for SADC to make a real dent in poverty, and to create gainful employment opportunities in the region. This is a tall order given that the region's growth rate, though positive, has been below population growth rate for the last three years.

However, the region has the necessary potential to achieve the 6.8% growth rate. SADC occupies an area of about 9.3 million km², of which over 50% is covered with rivers and lakes that can be jointly exploited for irrigation, hydropower, fisheries development and tourism development. The SADC region has the potential to bring more arable land under cultivation and to start using modern irrigation systems that could reduce dependence on rain-fed agriculture. At present, less than 20% of our arable land is under cultivation, and only some 10% of available water is used for irrigation purposes. The hydro-electric potential of the subregion is estimated at well over 142,000 megawatts per year, and the region is exploiting only seven percent of this potential. SADC as a region produces most of the world's gold, diamonds and copper and has large quantities of uranium, nickel and cobalt.

Therefore, there is a need for domestic cross-border and foreign direct investment (FDI) in order to exploit the huge resources for the benefit of the region's estimated 300 million people by 2015. This is the next critical issue SADC should address in earnest. Fortunately, most countries in the SADC region have undertaken a number of reform programmes which have reduced tariff and non-tariff barriers to trade, and stimulated legislation that is favourable to FDI. In fact a variety of policies have been put in place to deal not only with macro-economic reforms, but also the removal of restrictions on foreign ownership, repatriation of profits and dividends, provision of investment guarantees by law, creation of export processing zones (EPZs) and spatial development initiatives (SDIs) as well as offshore banking facilities and freeports. According to Business Map's report *SA Investment 1999—The millennium challenge*:

foreign investment into SADC shows signs of holding steady in spite of the

persistence of political uncertainty in much of the region. When recent and emerging infrastructure opportunities are taken into account, the investment environment appears more hopeful than it has in decades.

Between 1996–99 actual investments were about \$4.3 billion. During the same period total investment intentions were \$8.9 billion. The table in Annexure 3 shows selected larger FDI deals between 1996–99.

Another important issue for SADC is to continue unlocking investment potential in geographic clusters through the development of SDIs. The regional SDI approach continues the involvement of the private and public sectors in the unlocking of regional investment opportunities while at the same time rehabilitating transport and other infrastructure along the development corridors. There are about 11 proposed SDIs in neighbouring SADC countries. Most of them are located along traditional transport corridors. These include the operating Maputo Corridor, which links Gauteng with Maputo Port, and the Lumbombo SDI, which covers an area extending from Mozambique to Swaziland and South Africa. It is expected that soon the Walvis Bay Development Corridor, which already links Botswana and Namibia through the Trans Kalahari Highway, will facilitate exports from Botswana, especially the Lobatse area, to the US via Walvis Bay Harbour. The Coast-to-Coast Corridor which links Namibia, Botswana, South Africa, Swaziland and Mozambique is another regional SDI which seeks to unlock geographical investment opportunities over a wider economic space.

Another example of SDI in the tourism sector is the Okavango Upper Zambesi eco-tourism project, which foresees the establishment of a Southern African Wildlife Sanctuary in the wetlands associated with the Okavango and Zambesi river systems. The total area to be covered is 260,000 km², and involves the incorporation of game parks in Angola, Namibia, Botswana, Zambia and Zimbabwe. It is expected that this project would absorb 3.8 million visitors per year as against the current figure of 350,000 visitors. Over the next 10 years it is expected that 46,000 jobs will be created, largely as a result of an increase in tourist arrivals and additional investment in accommodation and related services.

The challenges for SADC

In spite of the positive outlook that has been described above for SADC in terms of FDI and scope for economic growth, The *Economist* recently branded Africa as a hopeless continent, plagued by natural calamities, wars, diseases, corruption and lack of respect for human rights. However, it should be noted that SADC has reached a level of political maturity as evidenced by the peaceful transitions in South Africa and Mozambique that will contribute to higher levels of development. Certainly there are still some pockets of civil strife in a few member states, particularly in Angola and the Democratic Republic of Congo, which SADC is collectively addressing in a pragmatic way.

Experience in the region has demonstrated that wars cost a lot of resources, and these are as scarce as elsewhere in the world. The success of SADC is intrinsically

related to its capacity to establish effective mechanisms to deal immediately with the conflicts. Neither those countries directly involved in conflicts nor the region can afford more wars. Nevertheless, there are peace initiatives under way to resolve these conflicts, and there are encouraging signs that soon peace and tranquillity will be achieved in all these countries so that the region can get on with the agenda of economic, political and institutional reforms and economic development.

It is also important for SADC to have the necessary ability to identify in good time its major challenges. In this regard, SADC is in the process of rethinking the *Common Agenda* reflecting the main priorities for the development of the region, as provided for in the Declaration and the Treaty.

The implementation of a regional development programme, on the other hand, requires a *capacity building* exercise to ensure that the technical expertise needed is available both at national and regional levels.

Globalisation is, undoubtedly, one of the most important challenges for humankind and therefore for SADC. The questions, here, are how can regional integration

- strengthen the regional economy and prepare it for global competition; and
- save Southern Africa from marginalisation?

There is now general consensus on how to deal with these questions. The region needs to deepen its integration as fast as possible by liberalising trade among member states and also by enhancing the capacity of industries at a regional level to enable them to compete with industries from South-east Asia, China, Europe and America.

To avoid marginalisation, the region should deepen macro-economic reforms and invest more in education, health, technology and physical infrastructures. The financial sector should be transformed and the private sector should be empowered while the state should play the role of macro-economic stabiliser.

The list of reforms, measures and actions to be executed can go on endlessly. The next question is how to prioritise the different issues. SADC's role in this process is vital. Priorities must be identified, among other things, on creating specific sectoral hyper-growth aiming at fast alleviation and eradication of poverty, trade and investment expansion, and industrial and technological take-off.

Since SADC member states are members of the World Trade Organisation (WTO), they will be expected to honour this membership by implementing the provisions regarding tariffs and other obligations.

However, WTO provisions are still very controversial, especially with regard to developing countries. It is therefore in SADC's interest to follow carefully the negotiations on contentious issues currently being conducted by the WTO.

The Human Immuno-deficiency Virus/Acquired Immune Deficiency Syndrome (HIV/Aids) pandemic is another critical challenge for SADC. The epidemic continues to escalate in our Community. Available statistics indicate that the rates of infected people in the region could be as high as one in five in some member states. At least four member states have rates higher than 400 per 100,000 population, indicating the magnitude of the problem. In order to face this epidemic, member states have adopted a multisectoral approach to deal with the issue of HIV/Aids as no longer solely a health problem, but an emergency development problem. The programme

has political support at the highest level of the SADC Summit of Heads of State. The challenge is the allocation of resources and activities in direct support of this high priority.

Conclusion

Finally it is important for SADC to continue with its bottom up approach strategy for its integration agenda to ensure participatory development.

All programmes and activities being undertaken at all the levels of the organisations should contribute towards the realisation of SADC's ultimate goal, namely the improvement of the standard and quality of life of the people of the region. The effectiveness of SADC will be judged on its track record in addressing key issues such as the eradication of extreme poverty, creation of gainful employment, elimination of conflicts, promotion of democracy, the rule of law and respect for human rights.

Notes

¹ SADC: Trade, Industry and Investment Review—2000.

Annexure 1: Real GDP growth rates (%) in SADC

	1981-90	1995	1996	1997	1998
Angola	2.1	11.2	12.1	5.9	1.7
Botswana	16.9	3.1	7.0	6.9	8.3
DRC	0.7	1.6	0.9	-6.4	-3.5
Lesotho	3.9	8.9	12.7	3.5	-5.8
Malawi	2.2	10.0	12.0	5.3	6.2
Mauritius	4.9	5.6	6.0	5.2	5.6
Mozambique	0.1	1.4	6.4	6.0	11.6
Namibia	-0.6	3.6	2.1	2.4	2.6
Seychelles	3.6	-0.6	1.5	7.9	3.0
South Africa	1.5	2.9	3.1	1.7	0.1
Swaziland	6.6	2.7	3.9	3.8	2.5
Tanzania	3.3	3.6	4.2	3.3	4.0
Zambia	1.0	-2.3	6.5	3.5	-1.8
Zimbabwe	4.2	-1.1	7.0	2.0	1.6
SADC		3.1	4.1	2.2	1.7
Sub-Saharan Africa	2.3	4.1	5.4	3.9	2.9
Africa	2.5	3.1	5.8	3.1	3.4
Advanced countries	2.4	2.5	2.5	2.9	2.9

Sources: Data for sub-Saharan Africa, Africa and Advanced Countries was derived from IMF World Economic Outlook, 1999; otherwise member states.

Annexure 2: Trends in foreign resource flows

<i>Item</i>	1975-84	1985-89	1990-98
Gross domestic investment:			
Africa	25.4%	21.6%	22.8%
Sub-Saharan Africa	22.9%	17.7%	18.1%
Foreign direct investment plus bilateral credit			
Africa	4.2%	6.3%	6.5%
Sub-Saharan Africa	5.0%	4.4%	3.5%

Source: ECA Economic Report, 1999

Annexure 3: Selected larger FDI deals (1996–99)

<i>Country</i>	<i>Target company</i>	<i>Sector</i>	<i>US\$</i>	<i>Year</i>	<i>Kind</i>
Mozambique	Mozaal (Mozambique Aluminium Smelter)	Metal products and beneficiation	1,320.0	1997	New
Zimbabwe	Hartely Platinum Mines	Mining and quarrying	500.0	1997	New
Malawi	Sugar Corporation of Malawi	Food, beverages and tobacco	363.0	1997	Privatisation
Zambia	Chambishi Cobalt treatment plant and dumps	Metal products and beneficiation	139.5	1998	Privatisation
DRC	Kolwezi Tailings Project	Mining and quarrying	13.0	1999	M&A
DRC	Gecamines (Kamoto Copper and Cobalt Plant)	Mining and quarrying	66.7	1998	Expansion
Angola	Luxury hotel, Luanda	Hotel, leisure and gaming	63.0	1998	New
Mozambique	Agritex	Agriculture, forestry and fishing	55.1	1996	New
Botswana	The Motor Company	Motor and components	50.0	1998	New
Mozambique	Maragra Acucar	Food, beverages and tobacco	50.0	1997	M&A
Zambia	ZCCM/Power division	Mining and quarrying	50.0	1997	Privatisation
Namibia	Tsumeb Corporation	Mining and quarrying	49.2	1999	M&A
Tanzania	Golden Pride Mine	Mining and quarrying	47.0	1997	New
Zambia	Mosi-Oa-Tunya	Hotel, leisure and gaming	46.6	1998	New
Angola	New plant	Food, beverage and tobacco	40.0	1998	New

M&A – mergers and acquisitions

Reviewing the Differences and Common Goals of SADC and Comesa

*Sindiso Ngwenya**

Introduction

Regional integration should be viewed in the wider context of the process of globalisation because regional integration in itself is not an end-product, but a process by which countries in the region integrate their economies into the global economy. In this respect, the Common Market for Eastern and Southern Africa (Comesa) and the Southern African Development Community (SADC) are building blocks for the African Economic Community (AEC), as agreed by the Organisation of African Unity (OAU), to create a continent-wide economic community and to provide a mechanism through which African countries can deal with the rest of the world, instead of doing so individually. Therefore, Comesa and SADC are working towards the same goal—that of creating such a community. They are not in competition with one another. This is not to say that there are no differences between the organisations, although the only fundamental difference is in the process through which regional integration is promoted, which is also reflected in the structure of the two organisations.

Differences between Comesa and SADC

As is well known, the origins of SADC lay in the provision of donor support to develop infrastructure in the region so as to allow the 'Front Line States' in the apartheid era to function economically without being dependent upon South Africa. Owing to its origins, SADC has adopted a sectoral approach to its development agenda. Members have shared out and assigned to each other economic sectors to co-ordinate. For example, Angola co-ordinates the energy sector, Zambia the mining sector; Zimbabwe has agriculture, Mozambique has telecommunications, Tanzania has commerce and industry, and so on. To generalise, SADC has emphasised supply-side interventions in its development approach, although one can detect a different

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strategy in the process of being introduced, for example with the promotion of a free trade agenda.

Comesa, on the other hand, has traditionally placed emphasis on demand-side measures. The philosophy of Comesa is that the economic development of the sub-Saharan region is largely dependent upon private sector investment into the region. If investment is to be attracted, the small countries of the region must be able to offer a large single market. There is, therefore, an *a priori* need to liberalise the trade and investment environment in the region as a whole to attract the investment needed to address the supply side of the region's economy. Hence, the Comesa agenda places emphasis on such issues as tariff reduction and elimination of non-tariff barriers, streamlining documentation and movement procedures for cargo, harmonising trade documentation and enhancing the capacity of the private sector to take advantage of opportunities arising from regional as well as global integration.

Another main difference between Comesa and SADC is that, with the establishment of the Comesa Court of Justice, Comesa has become a rules-based institution. Among other matters, the Court of Justice adjudicates and arbitrates on unfair trade practices, interprets Treaty (and protocol) provisions and ensures that member states implement and comply with agreed decisions uniformly. Decisions of the Court on the interpretation of the provisions of the Comesa Treaty take precedence over the decisions of national courts.

Main achievements of Comesa

Focusing on demand-side measures, I take this opportunity to go over what Comesa member states consider to be their main achievements to date.

The structure of Comesa is able to accommodate the fact that within a regional grouping there are some countries, or subgroups of countries, which are able to implement regional economic integration at a faster pace than others. These countries, or subgroups, do not need to wait for the slowest member of the Comesa region, and are in fact encouraged by Comesa to move at as fast a pace as possible. This 'variable speed' concept is complemented by that of 'subsidiarity', which, as it refers to regional integration, implies that the responsibility for implementing policies which further the process of integration should be kept as close to the affected group as possible. In other words, decisions should not be imposed on countries from a regional level, but should be taken at the national or subnational level. This means that the role of Comesa is one of monitoring progress made on decisions regarding policy implementation at the national level, and assisting national bodies in this process, rather than trying to impose these decisions on members and policing their implementation.

The Comesa Treaty, which sets the agenda for Comesa, covers a large number of sectors and activities. However, the fulfilment of the complete Comesa mandate is regarded as a long-term objective and, for Comesa to become more effective as an institution, it has defined its priority within its mandate, over the next three to five years, as being *Promotion of Regional Integration through Trade and Investment*.

Trade and investment go hand in hand; without one the other cannot exist. Comesa programmes are built around the concept that in order to alleviate poverty, each country needs to experience high levels of economic growth. Economic growth at the levels required cannot be achieved unless trade increases. Trade cannot increase unless higher levels of production are achieved. Higher levels of production cannot be achieved unless there is investment in the productive side of the economy. Investment will not take place unless market access is guaranteed to investors (through trade).

The role of the Comesa Secretariat is to take the lead in assisting its member states to make the adjustments necessary for them to become part of the global economy within the framework of World Trade Organisation (WTO) regulations and other international agreements. This presentation will therefore concentrate on the success we have achieved in the areas of trade liberalisation, trade facilitation, and investment promotion.

As regards trade liberalisation, the priority programme for Comesa was to establish the free trade area (FTA) on 31 October 2000. The Comesa FTA is a free trade area in that it is a duty free, fully reciprocal arrangement on all goods which conform to Comesa rules of origin. During the Comesa Policy Organ meetings of May 2000, 11 countries (Djibouti, Eritrea, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Uganda, Zambia and Zimbabwe) committed themselves to reducing intra-Comesa tariffs to zero by 31 October 2000, and in so doing identified themselves as founder members of the Comesa FTA. Two countries (Swaziland and Namibia) are members of the Southern African Customs Union (SACU) and, as such, have a derogation not to reduce intra-Comesa tariffs until 31 October 2000. It is expected that most other Comesa countries will join the FTA within the next year.

Comesa has also carried out studies on the revenue effects (on government treasuries) and competitive effects (on producers) of the FTA, and the results of these studies suggest that the effects of the FTA in both cases are likely to be minimal. The studies have, however, highlighted a number of other anomalies in national fiscal environments. Economic growth in our region cannot be addressed by trade policy alone, but requires also an integrated package of industrial and trade policies. These policies must focus on mitigating the impact of factors that inhibit producers from adjusting and improving productivity.

A number of important common economic issues governments could take into account include the need to:

- introduce a national competition policy and put appropriate legislation in place so that countervailing duties can be applied, within the WTO guidelines, to counteract dumping;
- harmonise external tariffs and move to a common external tariff as quickly as possible;
- apply zero duty on all manufacturing and agricultural inputs so that these two sectors can compete with Comesa zero duty imports on finished products;
- remove inconsistencies in value-added tax (VAT) legislation, including specific exemptions from import VAT;
- implement efficient VAT deferment, or similar schemes;

- implement an efficient duty drawback scheme;
- harmonise real effective taxation rates; and
- improve labour productivity through improved levels of education and training.

The next stage in Comesa's regional integration programme, after the establishment of the FTA, is the implementation of a Common External Tariff (CET). Comesa members have already committed themselves to the implementation of a CET by the year 2004 of 0%, 5%, 15% and 30% on capital goods, raw materials, intermediate goods and finished goods respectively. This, in turn, is a prelude to the establishment of a customs union.

Other areas in which Comesa has been active in trade liberalisation include the revision of rules of origin to include substantive transformation; the adoption of a single Comesa customs document; the use of common statistical rules; the development of a common tariff nomenclature; harmonisation of customs trade and statistics systems; development of a regional competition policy; and working with WTO on issues of representation and compliance.

In the area of trade promotion and facilitation, Comesa has introduced the following operational programmes: harmonised road transit charges; a Comesa carriers' licence; harmonised axle loads and maximum vehicle dimensions; the Comesa Yellow Card (third party motor vehicle insurance) scheme; a customs bond guarantee scheme; advanced cargo information systems (ACIS) to assist railways, ports and users to track cargo movements; improvement in the interconnectivity of national telecommunications systems through the establishment of a Comesa telecommunications company (COMTEL); the liberalisation of the air transport market; assistance to firms in quality management and the raising of regional standards; the development of a commercial cross-border payments and settlement system; the implementation of a regional political risk guarantee facility; the provision of trade and project finance through the Preferential Trade Agreement (PTA) Bank; and information dissemination through a number of channels, including Comesa's website.

Turning our attention to investment issues, Comesa has, over the last few years, placed strong emphasis on investment issues. Comesa has been declared a Common Investment Area in recognition of the fact that if our region is to develop economically there is a need to increase production within the region. In simple terms, this increased production can be financed through donor inflows, through domestic savings, through borrowing on international markets or through foreign direct investment (FDI). As is well known, donor flows are getting smaller and have never been at a sufficiently high level to meet the investment requirements of the region. Domestic savings in Africa are very low (with gross domestic savings as a share of GDP being at 11.6% in 1997 for all sub-Saharan countries), and external debt is already so high as to be of grave concern to most Comesa countries. The major source of financing needed to increase production is therefore FDI, and so the Comesa Common Investment Area must tackle the issue of how to raise the level of investment flows into the region.

The members of Comesa have taken a number of steps to make the region a more

attractive investment location. There have been consistent moves to create an enabling environment, including comprehensive investment legislation; exchange control liberalisation; adoption of export promotion measures; liberalisation and opening up to competition of the banking and insurance sectors; enactment of large-scale privatisation programmes; and development of national capital markets, to name a few areas of change.

The Comesa region consistently under-performs as an investment destination, partly because the image of Africa is often one of political instability, with a consequent high cost of doing business and a high risk factor. To alter this image, each country needs to build up a consistent track record of implementing robust and consistent reforms which result in improved political stability, good governance, macro-economic stability, free trade, a liberalised foreign exchange, and a level playing field for all entrants.

The relative lack of formal sector investment in Comesa is also related to the fact that reform of the private sector policy and regulatory environment has concentrated on high profile policies such as taxes, tariffs, and foreign exchange regulations. The importance of these reforms should not be underestimated, but the success of the major reforms has overshadowed the need to also address the second-generation regulatory and policy reforms which are less obvious and more difficult to undertake.

If we agree on the key conditions for attracting investment, we can then take practical measures to attract and facilitate investment. These practical actions, to be taken within a regional framework, could include: tax reform; legal and judicial reforms; institutional reforms; financial sector development (medium- and long-term credit, financial intermediation and over-the-counter services); human capital development; credible privatisation; investment in new or upgraded infrastructure; investment promotion; and addressing second-generation reforms. These ideas are being expanded as part of the implementation plan for the Comesa Common Investment Area.

In summary, in the last 12 months Comesa has made impressive progress in moving the process of regional integration forward. We are on the threshold of a free trade area, made stronger by a protocol on free movement of people and liberalisation of the skies. We have made significant progress in developing the common external tariff. We have brought in the private sector to launch major initiatives in the areas of telecommunications and safe skies. We have re-invigorated a number of trade facilitation measures, including the Yellow Card; the Customs Bond Guarantee; the political risk guarantee facility and the cross-border payments and settlement scheme. We have revamped our support for national customs administrations, and we have started on the road towards defining and planning a common investment area.

Areas of co-operation

The days in which there was almost open warfare between Comesa and SADC are now past. Instead the mood is one of co-operation wherever possible. The situation in which countries were called upon to belong either to SADC or Comesa and not

both has been replaced by a decision from the Authorities of both organisations that they should co-exist as complementary and autonomous entities, and that both Secretariats should have continuous consultations on programmes of common interest with a view to joint implementation. Since 1997 the officials and chief executives of both organisations have participated in each other's meetings.

Co-operation in the sectors of trade, transport and communications and industry has broadened in scope. For example, the Comesa Secretariat is a member of the SADC Border Operations Working Group (BOP) and of the SADC Regional Rolling Stock Information System (RSIS), which has an ACIS component. Conversely, the Southern African Transport Communications Commission (SATCC) is a member of the Steering Committee on the Comesa Telecommunications Network Interconnectivity and Tariff Harmonisation project. A provision has also been made for SATCC and other subregional and regional organisations to be members of the Steering Committee of the Comesa Transit Traffic Facilitation Programme, to be funded by the European Union (EU).

In early June 1998 a Comesa mission visited Gaborone to discuss and finalise with the United States Agency for International Development (USAID) the terms of reference for studies on the rules of origin and the extension of the Comesa Yellow Card to the rest of the countries in Southern Africa. The mission also took the opportunity to discuss joint collaboration with senior officials of the SADC Secretariat. Agreement was reached that the Secretariats of Comesa and SADC would co-operate in developing common rules of origin; on arriving at a common position on post-Lomé EU-Afro-Caribbean Pacific grouping (ACP) relations; on carrying out a joint study identifying existing non-tariff barriers; and on preparing joint training modules on WTO for members.

The Automated System for Customs Data and Management (ASYCUDA) project is being expanded to cover Botswana and Lesotho. The Secretariat has had fruitful discussions with the SATCC, based in Maputo, on their area of co-operation in this sector, in order to make some progress towards rationalisation.

The Comesa Yellow Card is being extended to cover other non-Comesa SADC countries, and efforts are being made to improve co-operation in the fiscal, monetary and capital markets areas.

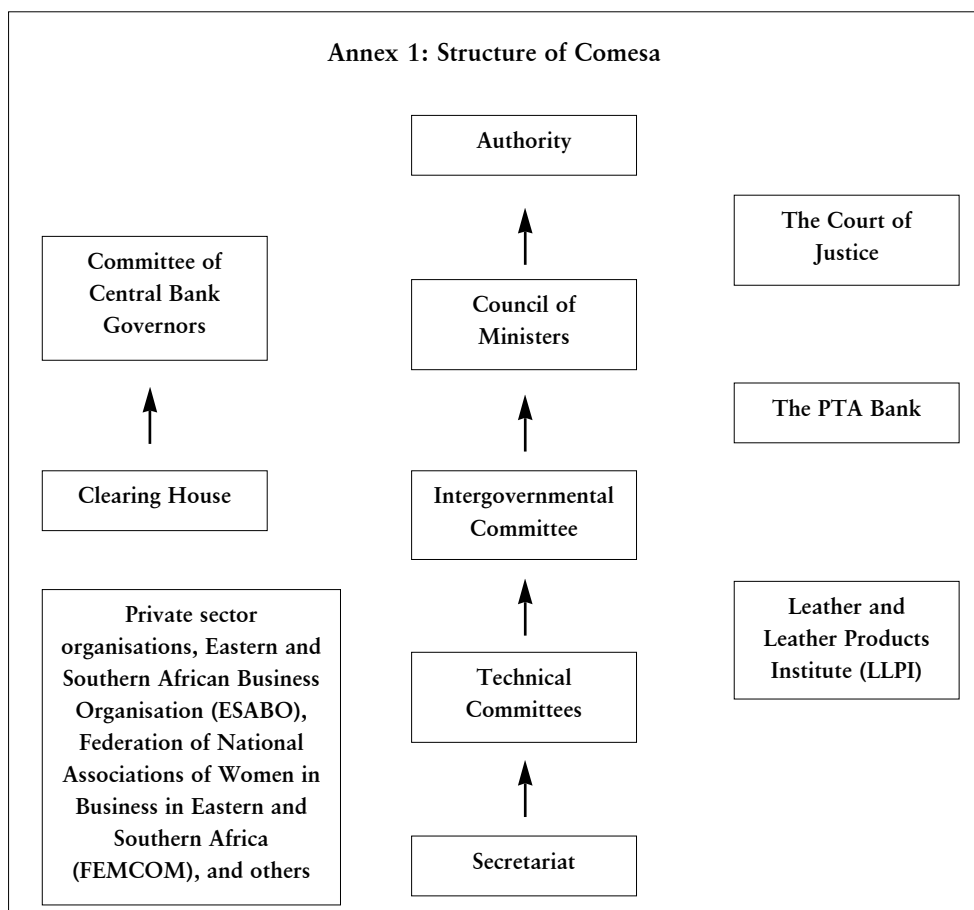
Conclusion

It is apparent that though the conceptual approaches of SADC and Comesa may not be identical, their goal is common. In recognition of this fact, the Authorities of both organisations have directed the Secretariats of Comesa and SADC to work together on programmes which further integration in the region. The Secretariats are therefore collaborating in the implementation of various activities.

It is noteworthy that of the 14 SADC members, 10 are also members of Comesa. This overlap in membership has the advantage of also co-ordinating the approaches of the two organisations. For example, the various protocols of SADC draw heavily on the Comesa Treaty and its protocols, which is neither controversial nor surprising.

The majority of SADC members have been through the process of drawing up a trade protocol (for example) under PTA/Comesa, and would presumably not want to either ‘re-invent the wheel’ nor contradict previous agreements when drawing up a protocol on trade for SADC. Therefore, Comesa is pleased to note the good progress SADC has made in developing its Free Trade Protocol and also to note that SADC is on course to signing its own Protocol in August, with a phased implementation of the Protocol scheduled to start in September. The SADC Trade Protocol is an important development for the region, as it provides a mechanism by which the largest economy, that of South Africa, is integrated, in terms of trade, into the rest of the region

In closing I would propose that the existence of both SADC and Comesa be viewed as an attempt by the common membership of both organisations to bring all the countries of the region together in a common integration agenda and in particular, a common trade agenda, even though different countries want to belong to different regional organisations.



Regional Integration

*Rob Davies**

There is no doubt in my mind that Southern Africa is poised to take a significant step forward in promoting regional integration, albeit in complex circumstances, not all of which we would ourselves have chosen. The implementation of the Comesa free trade area (FTA) described in the paper by Sindiso Ngwenya will no doubt be an important part of the process. So too would be a conclusion to the long-running renegotiations of the Southern African Customs Union (SACU) Agreement.

But the really decisive step will be that which embraces the major intra-regional trade flows not thus far subject to any integration arrangement: trade between South Africa and non-SACU member countries in the region. I would therefore concur with Dr Prega Ramsamy that the implementation of the Southern African Development Community (SADC) Trade Protocol in September 2000, which establishes an FTA between all members of SADC except the Democratic Republic of Congo (DRC), Seychelles and Angola, has the potential to be a major catalyst to regional integration. To contextualise: exports from SACU (mainly South Africa) to non-SACU SADC countries increased from R5.8 billion in 1993 to R16.2 billion in 1998. Imports over the same period rose from a much lower base of R1.3 billion to reach R2.6 billion in 1998.

Sindiso Ngwenya's paper indicates that several Comesa countries will on 31 October 2000 establish a 'free trade area in its true sense, in that it is a fully reciprocal arrangement on all goods which conform to Comesa Rules of Origin'. Without commenting on the appropriateness of this arrangement for the group of countries involved, I believe immediate literal free trade would be highly inappropriate in a trade arrangement involving South Africa and the rest of the region. A 'quick and dirty' study carried out by the South African Industrial Development Corporation in 1994 concluded that any such move would result in a 1% increase in the gross domestic product (GDP) of SACU (mainly South Africa), but have a negative impact on GDP in several other states: in other words it would exacerbate the tendency towards polarisation already evident in the figures quoted earlier. It is for that reason

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that the SADC Trade Protocol, rightly in my view, incorporates the principle of asymmetry—in which the largest and most powerful economies make more extensive tariff cuts more rapidly than the smaller and weaker. The fact that the tariff schedules were negotiated on the basis of submission of offers prepared after serious consideration of their implications also provides a firmer basis for the Protocol to be mutually beneficial.

Dr Ramsamy referred to the promotion of ‘integration with a developmental focus’. Some years ago SADC described its programme as ‘development integration’. The essence of this approach was a recognition of two related but not identical points. The first is that many of the major barriers to intra-regional trade in Southern Africa, as in other regions of developing countries, are not tariffs and non-tariff regulatory regimes, but underdeveloped production structures and inadequate infrastructure. The second is the potential for polarisation in a region like ours, with economies of very different sizes and levels of development.

The conclusion that follows from this is a point emphasised in the 1993 African Development Bank Study: what is needed in the Southern African region is not a programme of trade integration alone, but one combining trade integration, sectoral co-operation and policy co-ordination in ways that address the major challenges of developing production structures and infrastructure as well as promoting mutually beneficial trade.

One of the major challenges to SADC raised in a consultancy report completed a few years ago, is to ensure that the SADC Programme of Action as a whole is made compatible with the move towards trade integration. The asymmetry built into the Trade Protocol will be an important part of addressing the potential problem of polarisation. But this will have to be complemented by a more effective sectoral co-operation and co-ordination programme to address problems of underdeveloped production structures and inadequate infrastructure, particularly those that affect the trade capacities of the smaller and weaker economies. Dr Ramsamy referred to SADC having embraced the concept of spatial development initiatives (SDIs), which began on a bilateral basis. One of the key features of SDIs is their attempt to address infrastructural upgrading challenges in ways that crowd in investments in productive sectors and look to innovative partnerships to generate local resources rather than, as in the past, relying on foreign donor support.

Linked to this challenge is the urgent need to grasp the nettle of institutional reform to ensure that regional organisations as institutions can more effectively perform the co-ordination and implementation roles expected of them. One clear aspect of institutional reform will be to ensure more effective co-ordination between the various institutions operating in the region: SADC, the Common Market for Eastern and Southern Africa (Comesa) and SACU. I am pleased to see today signs of a willingness on the part of both SADC and Comesa to work more closely together.

The first set of challenges, then, will be internal: to ensure that all the various elements necessary to development-orientated integration are effectively operationalised. The second will be to promote a coherent regional programme in the face of powerful global and important extra-regional processes that will not necessarily reinforce this coherence. At the same time as the region will be

implementing the new trade protocols, it will have to engage with at least the following:

- World Trade Organisation (WTO) negotiations and a possible comprehensive new round;
- the implementation of the Trade, Development and Co-operation Agreement (TDCA) between South Africa and the European Union (EU);
- prospective negotiations for a new ‘post-Lomé’ trading arrangement between the EU and the African, Caribbean and Pacific (ACP) countries; and
- the United States’ (US) Africa Growth and Opportunity Act.

The outcome of the WTO negotiations will obviously have a major impact on the region, including the prospects for regional integration. As one who was present in Seattle, I want to endorse what Dr Ramsamy said about the effectiveness of the SADC group within the WTO. One point that merits some reflection is that the issue of regional integration—including a possible review of Article 24—did not feature prominently in Seattle, and has not received much attention since.

The SA–EU TDCA will introduce a trading regime between South Africa and a major trading partner from outside the region that is different from that between the EU and the rest of the region. It will also have significant implications for other members of SACU—Botswana, Lesotho, Namibia and Swaziland (BLNS).

The post-Lomé negotiations between the EU and the ACP will further differentiate between the countries of the region. South Africa and possibly the BLNS in some form, will be dealt with in terms of the TDCA. Six other SADC countries (Angola, Malawi, Mozambique, Tanzania, Zambia, and the DRC) are ‘least developed countries’ that it is proposed will receive non-reciprocal trade concessions within the framework of enhanced Generalised System of Preferences. Two others (Mauritius and Seychelles) are small island economies, which the EU is proposing to deal with separately. That could leave the intriguing prospect of Zimbabwe alone being obliged to negotiate an economic partnership agreement with the EU.

Finally, the SADC Trade Protocol will try to promote integrated textile and clothing production within the region by encouraging the use of textiles manufactured in the region in clothing products benefiting from the tariff concessions provided by the Protocol. The US’ Africa Growth and Opportunity Act, on the other hand, will offer tariff quota benefits for clothing exports to the US provided that they use textiles provided in the US.

Ensuring coherence for regional integration and giving it due priority will be no easy task in the face of such potentially countervailing pressures.

SADC and Comesa: Balancing the Benefits

*Harry Zarenda**

The presentations by Prega Ramsamy, executive-secretary of the Southern African Development Community (SADC), and Sindiso Ngwenya, assistant secretary-general of the Common Market for Eastern and Southern Africa (Comesa), offer interesting perspectives on the process of regional integration from two of the important 'building blocks' in the process. Both presentations indicate that some of the engrained barriers and tensions that have characterised the brief history of these institutions are finally being attended to, and that, for a more committed approach to integration in the region, a closer liaison between these two principal institutions represents a valid starting point.

Sub-Saharan Africa has enough problems to deal with at the moment. The overall lack of growth, exacerbated by ongoing civil wars, droughts, floods and the Acquired Immune Deficiency Syndrome (Aids) pandemic, have all contrived to generate a deepening of Afropessimism.

The one possible ray of hope lies in a genuine effort to stimulate a coherent regional economic policy and thereby generate a path of growth, capitalising on the absorption of underutilised productive facilities.

The histories of both SADC and Comesa have been characterised *inter alia* by complex issues of overlapping membership in both institutions involving several members in the region; tensions and threats generated in the playing off of one organisation against the other; and severe capacity and organisational problems. These have tended to nullify the likelihood of either institution bringing about a viable integration strategy, and placed in further jeopardy any hope of meaningful economic integration.

In this context the sentiments echoed by both presentations are to be welcomed. The beginnings of a meaningful enhancing of potential trade flows have gathered momentum with the coming-to-fruit of divergently-phased trade protocols for members of both organisations, in September and October 2000 respectively. This can be thought of as a critical component for not only the enhancement of broader

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trade liberalisation in the wider sub-Saharan Africa region, but also for an improvement in the credibility of a viable integration strategy.

Institutionalised regional integration agreements involve more than just rhetoric and the signing of trade protocols. Apart from the issue of how much agreements are 'enforced', additional problems emerge which have to be addressed. Examples of such questions are:

- how one compensates for the concerns of smaller and more vulnerable Community members, whose industries could be forced to close by the effects of increased regional competition;
- how one implements common customs procedures;
- how one ensures that the geographical focus of investment goes to areas in need; and
- how one assures that in competing for competitive advantage, countries do not sacrifice universally-accepted labour and environmental standards.

It is essentially in the addressing of these issues that I was hoping to find some direction from the SADC/Comesa presentations. A failure to confront the issue of how to ensure that regional integration yields an equitable range of benefits to all participating members, rather than only some partners in the arrangement, could jeopardise the entire integration initiative. If regional integration benefits certain members selectively, labour and capital flows will simply gravitate towards success poles and exacerbate existing factor movements. The example presently evident of the flow of labour, at all skill levels, into South Africa from other parts of the region is one that should serve as a yardstick. The continuance of this as a result of deepening integration will severely restrict any prospect of integration succeeding—despite the noble attempts of the institutions in question to advocate the need for such integration.

The Changing World of Regional Integration in Africa

*Christopher Clapham**

Changing meanings of regional integration

Regional integration is a much used, and often loosely used, phrase that can mean several different things. It has been applied especially to varying forms of economic co-operation or co-ordination between groups of neighbouring states, behind which have lain often sharply differing political agendas, ranging from mere collaboration within a world of sovereign states, to projects for complete political integration. Common to all these schemes is a sense that individual states cannot readily achieve their goals in isolation from their neighbours. Integration schemes are therefore particularly characteristic of groups of states which are aware, both of their common identities, and of their at least relatively small size and individual weakness. Since African states are, on the whole, both exceptionally small and weak, and since they have shared the strong sense of continental solidarity expressed notably through Pan-Africanism, it is unsurprising that the continent has fostered a plethora of regional integration schemes of one sort or another. What these schemes could actually be expected to do, however, has been very uncertain.

Classically, African regional integration schemes have been established in terms of a completely misconceived analogy with the European Union (EU), in terms of which a process of progressively closer economic integration was (at least rhetorically) expected to lead to the political union implicit in the Pan-African project. These schemes varied in the number of states involved, from the minimum of two (like the Senegambian Confederation or the Mano River Union) to 15 (the Economic Community of West African States—Ecowas). They were sometimes (like the East African Community or the *Union Monétaire des Etats de l'Afrique Centrale*) essentially carryovers into the independence era of former colonial arrangements, and at other times (like Ecowas, or the Southern African Development Community—SADC) intended to bridge over the divisions created by colonial partition. They likewise differed in the complexity of their institutional arrangements, the level of

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common services that they already possessed, and the ambition of their goals. None of them achieved very much.¹

In recent years, however, this economy-led approach to integration has been displaced by a very different approach, far more explicitly political, and dominated by the issue of regional security—both in the limited sense of maintaining a basic level of peace, and in the much broader and more ambitious sense of creating the structural conditions required for development within a globalised world economy. The remainder of this paper will outline the major reasons for this shift in emphasis, and then go on to examine some of the very difficult problems involved in getting the new approach to regional integration off the ground.

The failure of African regional economic integration

Put simply, the old economy-led approach to regional integration in Africa flew in the face both of global economics and of African politics. In economic terms, a regional community comprising small and poor African states had very little to offer. The modern monetary economies of these states had been formed (certainly on a highly unequal basis) through their incorporation as sources of primary products and markets for manufactured goods and services, within a global structure of north–south trade, dominated by their colonial metropolises. However understandable it was that independent African states should wish to escape from the dependency that this trading structure imposed, regional integration with very similar neighbouring states offered them no opportunity to do so. Their regional partners had economies very similar to their own, and the lumping together of a number of (in global terms) tiny African economies did not provide either a viable market for a process of internal industrialisation, or enable them to form any influential bargaining capacity to strengthen their relations with the outside world. Insofar as economic integration did produce benefits from enhanced trade between the regional partners, its advantages accrued in a highly uneven manner to the largest, richest and most centrally placed state within the community, to the relative disadvantage of its smaller, poorer and more peripheral members.

Politically, arrangements for regional integration fell foul of the intense concern of the rulers of newly independent African states for the maintenance of their own sovereignty, and indeed for the preservation of their own power within their states. It is an inherent and necessary feature of *any* regional integration arrangement that it should involve some reduction in the freedom of action of its individual member states. This reduction is still more evident and invidious in the case of the regional security communities that have gained in prominence as economic communities have declined. At the time of independence, however, the inevitable limitations on the sovereignty of African states were less evident than they have since become, and African leaders clung to the illusion of sovereignty with an intensity that they have since had to abandon. Economic integration schemes raised sensitive issues, not least of control over government revenues (which depended heavily on taxes on overseas trade), labour migration (which in every state is liable to create local resentments),

and the ability of governments to negotiate deals with international corporations, aid donors, and other sources of external capital. Personality clashes, ideological differences (notably as between states with 'socialist' as against 'capitalist' strategies of economic development), rival external alliances (either with different former colonisers, or with Cold War superpower antagonists), and domestic political instability (where a military coup could instantly affect relations between a country and its neighbours) further exacerbated the political problems of integration.

The collapse of the East African Community (EAC), as a result partly of structural economic problems (notably the centrality of Kenya), partly of ideological disputes (notably as between capitalist Kenya and socialist Tanzania), and partly of differences between the leadership of the three member states that were greatly exacerbated by the overthrow of Obote by Amin in Uganda, illustrates many of these difficulties. They followed not merely from the particular circumstances of the EAC, but from characteristic features of African states and regional integration schemes as a whole. No regional economic 'community' in Africa, based on the familiar principles of creating a single internal market, protected by a common external tariff, and geared to import-substituting industrialisation, has ever got anywhere, and none is likely to.

As time went by, these rationales for regional economic integration steadily crumbled, and new security-related considerations took their place. The progressive imposition of structural adjustment programmes on African states from the early 1980s onwards was particularly important.

On the one hand, these programmes reflected the increasingly evident failure of African economies, after the first two decades of independence. While much of this failure could be ascribed to global economic developments over which African states had no influence at all, a plausible case could also be made that the state-centred economic policies pursued by the great majority of African governments had proved to be disastrous. At its simplest, economic integration between states presupposes that governments have a level of control over their economies that can be contributed to some regional pool. When government control over the economy is removed—as happened to a significant extent under structural adjustment—then integration simply takes place as an element of market processes over which states have no control, and which have no reason to be constrained within the specific regional framework that formalised integration schemes sought to impose. Nowhere was this clearer than in the critical realm of monetary policy. African states (apart from those within the Franc Zone) had established their own currency systems, not least in order to enable them to maintain a level of control over their domestic economies that would facilitate the process of surplus extraction. Once structural adjustment had imposed currency convertibility (as one of its first and most easily implemented measures), trade across frontiers was greatly facilitated, but on a global rather than simply regional basis.

On the other hand, and more important, the ideology underlying structural adjustment rested on a conception of how 'development' could best be achieved that radically undermined the economic justification for regional integration. Its model lay in the newly industrialising countries of east and south-east Asia, which had achieved dramatic levels of economic growth, largely through the production of

manufactured goods for export to the developed world, and to some extent, also to other developing markets beyond their own region. There were certainly marked differences between the kind of policy imposed on African states by the World Bank and other international financial institutions in the name of structural adjustment, and the policies through which rapid growth had been achieved in eastern Asia. Neither had any place for the import-substitution industrialisation model that underlay African regional integration schemes. For a time, some African institutions struggled against the inexorable logic of economic globalisation. The United Nations (UN) Economic Commission for Africa (ECA) produced its *African Alternative Framework to Structural Adjustment Programmes for Socio-Economic Recovery and Transformation* in 1989—a plan as cumbersome as its name, which sought to perpetuate the failed orthodoxies of an earlier generation. The ECA, under a new director-general, has since radically changed its outlook. An African Economic Community (AEC) was instituted under the aegis of the Organisation of African Unity (OAU) as late as 1994. For all these rhetorical flourishes, integration into the global economy provides the only plausible mechanism (however problematic it remains) through which African development can be sustained.

Paradoxically, however, where regional economic organisations did have any significant impact on regional relationships, this was much more likely to be in the field of security than that of economic development. The most important case has been the role of Ecomog—the Economic Community of West African States Monitoring Group—in the civil wars in Liberia and Sierra Leone. To be sure, Ecomog had a loosely worded security protocol, the applicability of which to the circumstances under which the Ecomog force intervened in Liberia was very much open to question, but this was very far from the role that the community was ostensibly supposed to perform. The incorporation of Guinea into the Mano River Union was closely associated with the role of Guinean troops in providing personal protection to the leaders of the other two member states, Liberia and Sierra Leone. The SADC intervention in Lesotho, and still more controversially, the role of SADC in orchestrating military support for the Kabila regime in Democratic Republic of Congo (DRC), provide further striking examples.

The conversion of organisations for economic integration into providers of some kind of regional diplomatic framework for military intervention is not, however, as bizarre as it may seem. It is, rather, mirrored by changing orthodoxies in the analysis of the reasons for African economic failure. Whereas analysts once concentrated on the rival merits of capitalist as against socialist development strategies, and subsequently went on to argue over the advantages as against the defects of structural adjustment schemes, they are now virtually united in emphasising the importance of *political* developments in accounting for Africa's economic malaise. At one level, this reflects the growing worldwide impact of the 'new institutional economics', which seeks to ascribe success or failure to the institutional structures within which economic actors operate, with a particular emphasis on legal systems and the role of governments in providing conducive conditions for economic growth. In African terms, this translates very readily into the 'good governance' agenda which donor agencies have sought to impose as a major element of the 'political conditionalities'

which over the last few years have come to supplement (and to a considerable extent displace) the economic conditionalities associated with structural adjustment programmes. More crudely still, however, it has become obvious even to economists (who have long had a pronounced disciplinary bias towards dealing only with a restricted set of economic variables, which could be incorporated within the precepts of classical economic theory) that absolutely nothing destroys economies as fast and as effectively as warfare or really bad government. And as peace and good government have been recognised as the key requirements for Africa's economic transformation, so these have likewise become the objectives that any revised conception of regional integration must be designed to achieve.²

A further factor tending in the same direction is, obviously enough, the end of the Cold War. If the principles guiding the Cold War era were that security was global, whereas economic development was regional, so in the post-Cold War world security has become regional, while economic development is global. As the superpowers, and to a large extent in Africa the former colonial powers, have withdrawn the overarching structure of alliances that was such a feature of Africa's first 30 years of independence, so security has become a very largely regional preoccupation. While the global economy is there for everyone to take part in it, different regions are capable of participating only insofar as they are able to assure the security, and more broadly, the institutional conditions, that are needed for incorporation.

The underlying basis for the 'good governance' agenda is then emphatically *not* that it reflects particular Western value systems, but that it seeks to put in place the essential preconditions required for economic development, and thus for any lasting improvement in human welfare. In the new global economy, for instance, capital—once regarded as the key scarce resource required for achieving economic takeoff—has been in superabundant supply. The problem has been that capital will only go to those parts of the world in which its security and productivity can be assured as a result of the presence of stable and conducive political conditions. The fact that Africa attracts only a tiny proportion of the world's mobile capital, while at the same time capital invested in Africa achieves an astronomic rate of return of close to 30% a year, tells its own story. Almost the only kinds of economic activity in which outside companies will invest in Africa are those (chiefly in the realms of mineral extraction) that promise instant reward, with a sporting chance of paying off the initial investment and getting out before the political conditions collapse about their ears. Africans often rightly complain that they see the very worst of global capitalism—in the form notably of companies sometimes described as 'bottom-feeders', which are prepared to take big risks for rich returns under conditions that better-established corporations avoid. But the resulting level of exploitation is the consequence of the inability of African states to maintain the domestic and regional security structures that economic development requires.

Only to a very limited extent, however, can these structures be put in place on an individual state-by-state basis. For one thing, of course, international corporations look at the broad regional picture before deciding whether to invest in any particular state; and while Africa has certainly suffered from negative stereotyping in the eyes of the outside world, corporations are on the whole perfectly justified in doing so.

The impact of bad governance readily spreads across borders, most obviously in the flow of refugees, of whom Africa has easily the highest proportion in the world. African civil wars can rarely if ever be confined within their state of origin, as armed factions seek protection and base areas across state frontiers, and increasingly—as in DRC at the present—external states become directly involved. A significant ‘demonstration effect’ occurs between neighbouring states, whether in the form of a rash of military coups on the one hand, or the extension of multi-party democracy on the other. Government leaders and their opponents get a sense of what they can, and can’t, get away with by looking at their neighbours. The value of the domestic currency goes up or down in response to developments next door. New structures of regional integration have to take account of such factors as these.

Meeting the new agenda

If security in its broadest sense is to be the key goal of regional relations, however, the first requirement is some model of how this goal is to be achieved, displacing the (admittedly useless) model of economic integration that powered earlier generations of African regional organisation. As it happens, recent developments in regional security theory provide at least a basic set of precepts which are rather more helpful in suggesting the requirements for creating security in Africa than the European Union model ever was for guiding African regional economic organisations.

The first and essential requirement is that states within a given ‘security cluster’—a grouping of states whose security is, willy-nilly, bound up with one another—should share a common ‘idea of the state’, or sense of why each particular state exists in its current form.³ An idea of the state covers a number of elements essential to any state’s existence, including the basis for its foundation and identity, its territorial extent, and the nature of its domestic government. Sharp divergences in any of these respects between states within a region will inevitably fuel conflict, and make security virtually impossible to achieve. One very obvious case is, of course, that so long as South Africa remained under white minority rule, while its neighbours were ruled by African governments, each necessarily regarded the other as a threat and sought to destabilise that other, in the interests of its own political survival. Only the achievement of majority rule within South Africa could provide a basis for the achievement of regional stability within Southern Africa as a whole. Correspondingly in the Horn of Africa, for so long as the Somali Republic defined itself as a state incorporating ethnic Somalis from across the region—including those in Djibouti, Ethiopia and Kenya—it necessarily had hostile relations with other states within the region that defined themselves in terms of the territorial frontiers inherited from colonial rule. Indeed, the whole Horn of Africa is riven by conflicts of this kind, extending also to Eritrea and Sudan, which explain why it has long been the most violent region in the African continent.

Agreement over the basic elements of statehood provides at least the minimal conditions for the achievement of regional peace, conditions which Kacowicz in his discussion of West Africa characterises as ‘negative peace’.⁴ What these mean in

essence is that the states within a particular security cluster have no specific reason to fight one another. West African states basically agree (with a few minor exceptions, such as the Nigeria/Cameroon frontier) over where their borders lie, all of them accepting the basic principles of the colonial partition. Following the end of colonial rule, with the independence of Guinea-Bissau in September 1974, there were no major conflicts over the form of government in the region—the control of Liberia by the Americo-Liberian oligarchy until 1980, though anomalous, did not offend the principles of African government in the same way as the control of Guinea-Bissau by the Portuguese. At the same time, each state within the region tacitly agreed to recognise whoever held power within the other states, regardless of how this power had been achieved. The succession of *coups d'état* that occurred from 1966 onwards therefore did not upset regional stability; and even the re-emergence of multi-party democracy from 1990 onwards, though it was strongly influenced by imitative developments across the region as a whole, proceeded on a broadly state-by-state basis. That Nigeria remained under military dictatorship at a time when almost all of its neighbours had adopted at least the appearance of multi-party electoral politics, did not seriously disrupt regional peace.

This peace was nonetheless at best only a fragile affair. It rested on no stipulations at all about how politics or economic policy should be conducted within each of the regional states, most of which were governed autocratically, and several with a high level of corruption. The economic consequences of this included a high level of smuggling, which some states tacitly encouraged, but the political consequences were manageable for so long as they did not lead to a massive level of internal conflict and external refugee flows. The catalyst for this was the appalling misgovernment of Liberia under the regime of master-sergeant Samuel Doe, accompanied by the particularly high levels of corruption and popular alienation fuelled by diamonds in neighbouring Sierra Leone. Armed opposition to Doe's regime received at least a blind eye from the governments in Sierra Leone and Côte d'Ivoire, eventually culminating in the invasion of Liberia in December 1989 by Charles Taylor's National Patriotic Front of Liberia (NPFL), the Ecomog intervention, and the collapse, if not of the whole house of cards, at any rate of the security cluster encompassing Liberia and Sierra Leone, and extending in part to Côte d'Ivoire and Guinea. Regional intervention in such circumstances, though intended to restore stability, also carried the risk of extending the zone of insecurity beyond the group of states initially involved. Sierra Leone was very directly affected by the Liberian fiasco, while its ripples extended not just to Côte d'Ivoire and Guinea, but to The Gambia and even Nigeria. In short, the scope of 'negative peace' is inherently limited.

A much more ambitious agenda extends beyond this, to make much more stringent demands on the states within the regional security zone. These must not merely agree to disagree over issues that affect governance within their own individual territories, but must agree on a substantive set of measures that will ensure that major internal upheavals do not arise, that the essential prerequisites for effective economic management are in place, and that close relations can be maintained between them on the basis of shared interests and perceptions. These measures extend to the whole agenda of 'liberal peace': to the idea, which ultimately underlies the EU, that

democratic states do not make war on one another. Firstly, this is because they have, through democracy, human rights and the institutional mechanisms of a liberal political order, removed the sources both of internal political instability and of conflict between neighbouring states. Second, this is because the operations of the market, and of a wide range of civic institutions, so infiltrate and undermine the distinct realms of competence of individual states that conflicts between these states are removed from the sphere of military confrontation, and reduced to the level of bickering over relatively minor issues.

Though Western Europe has become the classic proving ground for this ambitious conception of regional integration, increasingly it has been extended to other parts of the world. The collapse of the Soviet bloc has triggered an attempt to extend it beyond the core states of the EU into Central (and perhaps eventually even Eastern) Europe, in just the same way that the collapse of the Southern European dictatorships in Spain, Portugal and Greece led to the extremely successful consolidation of democracy in those countries within the EU. Regional integration in Latin America—notably in the Southern Common Market (Mercosur) on the one hand, and the integration of Mexico into the North American Free Trade Area (Nafta) on the other—has had as its essential precondition the collapse of the military dictatorships from 1982/83 onwards, and the resolution within a democratic framework of many of the rivalries that had previously divided states in the region. In the northern part of South America, the security issues have not been resolved, so effective integration schemes cannot be built either. There are likewise clearly outstanding problems in East and South-East Asia, resulting notably from the strident territorial ambitions of an undemocratic China, and also from a crumbling North Korea and the continued instability of Indochina; but it is at least possible to discern the development of increasingly stable and effective relationships, in step with the spread of liberal democracy on the one hand, and a complex and evolving capitalism on the other.

Extending the zone of 'liberal peace' to Africa remains, however, a very challenging issue indeed. Put bluntly, neither the political arrangements nor the economic capacities of the continent look to be up to the task. At its most ambitious, the creation of a zone of liberal peace in Africa could be seen as the agenda ultimately underlying the schemes both of structural adjustment on the one hand, and of democratisation on the other. Within Southern Africa, it was given an enormous boost by the end of apartheid, and the attempted resolution at the same time—by no means entirely unsuccessful—of the complex of regional conflicts which had been enormously exacerbated by the destabilisation policies of the former South African regime. At the same time, the end of the Cold War and the emergence of the new South Africa also revealed the extent to which conflicts in the region derived from real internal problems rather than simply from external involvement, and made it clear that lasting regional stability would require the systematic construction of appropriate institutions for domestic as well as international security.

It is worth attempting to sketch out what this agenda for integration would entail. First, it would require all governments in the region to be elected in accordance with democratic arrangements that secured the assent, both of the populations within the states concerned, and of the other states within the region. Though the precise nature

of these arrangements would normally be left to the individual state, any serious internal challenge to them would be a legitimate matter for regional concern.⁵ Second, then, all states would need to accept at least a tacit level of supervision of their domestic politics by other states within the region, permitting regional mediation between governments and opposition forces, and a measure of external pressure where this was needed to induce compliance with a regional conception of good governance. Third, outstanding issues between states would have to be resolved within a framework of regional co-operation that was in turn predicated on an assumption of liberalisation—that is to say, the free flow of resources across regional boundaries. There would certainly be some issues too sensitive to allow for complete liberalisation, of which population movement is likely to be the most difficult, but even there arrangements would need to be worked out that were acceptable to all parties. Fourth, the scope for integration would be massively enhanced by the development of regional legal regimes, again predicated on the assumption of liberalisation, that locked member states into a common set of codes over issues such as foreign direct investment, monetary liberalisation, property regimes, and other elements of legal and institutional infrastructure. The essential functions of these codes would be not only to ensure compatibility between regional states, but equally (and in many ways more important) to remove from individual governments the temptation to behave in an economically counter-productive fashion in response to their immediate political priorities, and in this way to provide guarantees (perhaps backed by external institutions) that would encourage investment in the region.⁶

Finally, there is the inescapable issue of leadership. Regional security structures can only be made to work when there is either a single state, or a very close consortium of leading states, that both exemplify the principles on which the security system is based, and are capable of commanding the allegiance of at least the overwhelming preponderance of its members. No security system works ‘on its own’. It must be *made* to work, first of all by its leaders, but secondly, and equally important, by the willing acquiescence of its followers. This requires that the leading state or group of states must go out of their way to ensure that their own commitment to the region is unimpeachable. They must have the most transparently democratic domestic political systems, and have shown themselves able to resolve their own internal problems in a way that meets the standards set for regional security as a whole. They must have the most evidently liberalised economies, which offer the benefits of integration to smaller and weaker states. And they must be prepared to meet a disproportionate share of the immediate costs of maintaining the regional structure—from which, in a much less explicit and less easily quantified way, they also stand to gain the greatest benefits. Most of all, however, their leadership must engage in a constant process of coalition-building with, and ultimately be subject to veto by, the other states whose support is needed to accord legitimacy and prevent leadership from degenerating into a crude assertion of hegemonic power.

A simple setting out of these requirements is enough to indicate that they provide a very demanding agenda indeed, and one which indicates why genuine integration in Africa has been so difficult to achieve. Whereas the earlier economy-based attempts at African regional integration were simply misconceived, the new security-based

conceptions of integration do at least have something to offer, but only if the very considerable demands that they make on the behaviour of individual governments can be accepted. Though purposeful human action is needed to make any political arrangement work, however, the failure to meet these demands often cannot just be ascribed to a failure of 'leadership' (or 'will', or 'commitment') on the part of individuals or institutions, who are all too often blamed for the problems of African governance. While leaders certainly carry a heavy responsibility, and may justifiably be called to account for decisions which are mistaken or simply wrong, they also have to take account of complex constraints that are all too easily ignored by the devotees of idealised solutions. In Africa, leaders whose own domestic political structures are often unstable or ill-established have all too often been called on to engage in ambitious regional initiatives which could well distract from, and at worst exacerbate, domestic problems. Current demands on Nigeria to help stabilise the situation in Sierra Leone provide a case in point. Ultimately, regional security and regional development as a whole are intimately locked into deep-seated problems of African state formation and maintenance which continue to defy solution. The future of Africa, for better or worse, will be determined regionally.

Notes

- ¹ I have outlined some of their characteristic problems in Clapham C, 'Regional integration in Africa: Lessons and experiences', in Handley A & G Mills (eds), *South Africa and Southern Africa: Regional Integration and Emerging Markets*. Johannesburg: SAIIA, 1998, and will repeat no more than essential elements in this analysis here.
- ² The World Bank's conversion to the need for effective political institutions is most conveniently expressed in World Bank, *World Development Report 1997*. New York: Oxford University Press, 1997. The classic text on the new institutional economics is North D, *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press, 1990. For analyses of the politics of African economic performance, see Collier P & JW Gunning, 'Explaining Africa's economic performance', *Journal of Economic Literature*, 37, 1999; and Collier P & C Patillo (eds), *Investment and Risk in Africa*. Basingstoke: Macmillan, 2000.
- ³ For the original formulation of 'the idea of the state', see Buzan B, *People, States and Fear: The National Security Problem in International Relations*. Brighton: Wheatsheaf, 1983. Buzan B & O Waever have extended this analysis to regional security in a forthcoming book, *Regions Set Free*. Forthcoming 2001, which I have been able to consult in draft.
- ⁴ Kacowicz AM, "Negative" international peace and domestic conflicts, West Africa, 1957-96', *Journal of Modern African Studies*, 35, 3, 1997.
- ⁵ This was precisely the case with the 1998 elections in Lesotho. There can be little serious doubt that the conduct of the elections was democratic, in that opposition

parties were free to stand and campaign, and the votes were counted fairly. However, the nature of the electoral system (a 'first-past-the-post' arrangement like that in the United Kingdom) gave the ruling Lesotho Congress for Democracy (LCD) a level of representation in the assembly out of proportion to its share of the popular vote, and helped to prompt serious dissent that was orchestrated by the opposition, and led to the SADC intervention. See Southall R & R Fox, 'Lesotho's general election of 1998: rigged or de rigeur?', *Journal of Modern African Studies*, 37, 4, 1999.

- ⁶ For a discussion of the role of such arrangements, see Herbst J, 'Developing nations, regional integration and globalism', in Handley A & G Mills, *op. cit.*

The State of Regional Integration: The Intra- and Inter-regional Dimensions

*Richard Gibb**

The desirability of promoting regional integration amongst the states of Southern Africa is widely acknowledged. Multilateral agencies, non-governmental organisations (NGOs), national governments and academics, from within the region and beyond, are united in their calls for some form of regional integration. With a few notable exceptions,¹ there is a remarkable degree of consensus that regionalism is not only desirable but necessary.

The conclusion to the 1993 African Development Bank (ADB) study on economic integration reads:²

so serious are the challenges facing Southern Africa that governments cannot afford to ignore ... the limitations which national boundaries impose on their prospects for economic recovery and growth ... *Regional integration is not an optional extra; it is a matter of survival.*

The aim of this paper is to review the state of regional integration in Southern Africa. It does this by, first of all, examining the theoretical background to regionalism in order to identify the principal policy options available to the states of Southern Africa. Second, it evaluates those factors most likely to determine the character and evolution of Southern African regionalism at the start of the 21st century. Finally, it examines the political infrastructure of Southern African regionalism in the light of the policy options and principal factors outlined above.

The most commonly cited justifications for regional integration arise from the problems associated with the small size of individual Southern African economies. Economically, the appeal of regionalism in Southern Africa is almost intuitive. By joining together, states are in a position to exploit larger scale economies and, at the same time, to restructure the regional economy in a way that benefits the production base of the region. This economic rationale explains why the creation of trading blocs has been, and continues to be, at the very centre of intra-African co-operation.³ It is for this reason that the political economy of trade and trading blocs forms the focus of this paper.

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There is no doubt that Southern Africa, and indeed Africa as a whole, represents a small and relatively peripheral component of the world economy. According to the World Trade Organisation (WTO),⁴ the whole of Africa accounts for just 2.1% of all merchandise exports and 2.4% of merchandise imports. The region of East and Southern Africa, with a combined population of 268 million people spread over 19 countries, had a gross domestic product (GDP) in 1998 of approximately \$185 billion (of which South Africa alone accounted for 64%). This is equal to the GDP of just one middle-ranking European country. For example, East and Southern Africa's GDP is approximately equal to Belgium's (standing at \$180 billion). This comparison is even more striking because Belgium has long regarded its economy as being too small to be economically viable.

This explains why Belgium is at the very centre of attempts to deepen economic and political integration in Europe. Imagine, then, dividing Belgium's economy into 19 separate mini-economies, each with its own trade policy, macro-economic policy, national champions and associated bureaucratic infrastructures; it would be an act of economic suicide!

Clearly, individual Southern African economies are small and marginal players in global trade. However, creating a more functionally coherent Southern African trading bloc will not, overnight, transform that marginality. If the Organisation of African Unity's (OAU's) 1980 Lagos Action Plan had created an African common market by 2000, as originally scheduled, it is sobering to note that the combined African economy would be smaller than that of the Netherlands. As observed by Harvey,⁵ a united Africa would not be a major economic force.

The limited size of the Southern African economies can therefore be used to both support and undermine the arguments in favour of promoting regional integration. Jeffrey Herbst⁶ in a paper presented at the South African Institute of International Affairs (SAIIA) in 1997, asked the rather blunt question: 'Why go through the effort to try to have a relatively small number of extraordinarily poor people trade with each other when the world economy is larger, more populous, and growing faster?'

In similar vein, Christopher Clapham⁷ asserts that the potential economic benefits of regionalism in Southern Africa are often exaggerated. He contends that the lack of complementarity between integrating states is one of the principal reasons behind the limited potential for regionalism. This argument is also advanced by Radelet (1999), in a paper funded by the United States Agency for International Development, who concludes:⁸

there is little reason to expect significant gains from formal trade agreements ... such agreements are unlikely to yield appreciable benefits unless they are preceded by decisions within member countries to follow more general open trade strategies.

The reservations expressed by Herbst, Clapham and Radelet expose a fundamental division amongst those who promote the cause of regionalism in Southern Africa. On the one hand, there is a group who promote integration so long as it is 'open regionalism' based on competition, comparative advantage, 'free markets' and, perhaps most important, avoids the protectionist policies associated with the failed regional strategies of the 1960s. On the other hand, there are those who advocate a regionalism that incorporates interventionism and affirmative action designed to

reduce spatial and structural inequalities in order to assist underdeveloped countries, regions and their peoples.⁹

This division reflects a fundamental split that exists in both the academic literature and policy debates over the preferred approach to regional integration. This is not the place to provide an in-depth review of the various paradigms or approaches that can be adopted to promote regionalism.¹⁰ Briefly, the discourse is dominated by two theoretical paradigms, each containing a wide range of integrative strategies. This dichotomy arises, in part, from a fundamental ideological conflict over development strategies and the role of developing and lesser-developing countries in the world economy.

There exists a substantial body of research concentrating on the benefits to be derived from adopting what can be termed the traditional trade or market integration paradigm. This approach has its foundations in the neo-classical economic perspective that supports the free market, exploits economies of scale and promotes a more competitive environment. Balassa¹¹ interprets economic integration as an evolutionary process comprising a number of successive stages (Figure 1), with each stage involving more complex and higher levels of integration. However, traditional integration theory and its applicability to the developing world have been the subjects of a barrage of criticism, from conservative and radical factions alike. The most substantive criticisms are as follows:

- The conditions needed for this strategy to operate effectively often do not exist. Emphasis here is placed upon the disparities in the size of member-state economies, their lack of complementarity, structural inadequacies in transport, services and banking.
- The theory ignores the political and economic difficulties associated with the benefits and costs of integration being shared unevenly amongst member states.

Figure 1

	Removal of internal quotas & tariffs	Common external customs tariff	Free movements of land, labour, capital and services	Harmonization of economic policies and development of supra national institutions	Unification of and political and powerful super national institutions
Sectoral Cooperation	●				
Free Trade Association	●				
Customs Union	●	●			
Common Market	●	●	●		
Economic Union	●	●	●	●	
Political Union	●	●	●	●	●

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Theoretical and empirical evidence points to the larger and more successful states benefiting at the cost of the weaker states.

- The theory does not reflect accurately the power relations and regulation of the world economy, where the very powerful states effectively control governance.
- The traditional integration approach represents, from a neo-liberal perspective, a clear second-best alternative to the multilateral framework based on the Most Favoured Nation (MFN) principle.

In the vanguard of those advocating the traditional trade integration approach in Southern Africa is the World Bank, supported by the International Monetary Fund (IMF), the United States (US) and the European Union (EU). A formidable alliance. However, these institutions promote a modified version of the conventional model based on 'open regionalism', in terms of which regionalism results in lower external tariff barriers and less protection of the regional market. The World Bank, Cross Border Initiative and African Development Bank studies and projects are based on the premise that open regionalism is the only route that guarantees the integration of Southern Africa into the world economy. A World Bank study on intra-regional trade observed that regionalism should be 'an intermediary stage towards general liberalisation', and that the central objective of regionalism is 'a general and significant lowering of external protection'.¹²

In contrast to theories promoting open regionalism, a substantial body of research exists which concentrates on the benefits to be derived from adopting a more interventionist and developmentally orientated approach to integration. This paradigm, known as developmental integration, is founded on a critique of the neo-classical trade driven approach.¹³ This particular form of regionalism, based on market interventionism, varying levels of protectionism and export subsidies, is a radical alternative to the policies and regional consequences of neo-liberalism. Davies¹⁴ defines developmental integration as regionalism that promotes:

- efforts to co-ordinate regional industrial development;
- the establishment of regional funds or banks giving special priority to the least developed members;
- measures to give less developed members greater preferences in access to regional markets; and
- some co-ordination of macro-economic policies at a relatively early stage.

It is important to highlight the limitations associated with the models outlined above. All too often, the trade integration approach and developmental integration approach are portrayed as being mutually exclusive. In other words, it is often taken as granted that it is impossible to integrate various elements of each paradigm. However, most examples of effectively functioning regional integration do not fit neatly into one of the models. For example, the EU is the very epitome of the trade integration approach, and committed (with the exception of agriculture) to multilateral rules of governance. And yet the EU budget, amounting to approximately 100 billion euros in 2000, is committed almost entirely to redistribution causes, whether these take the form of 'structural funds' support for disadvantaged regions or the Common

Agricultural Policy's (CAP) subsidies to inefficient European farms and farmers who would, left to the free market, go out of business. The Association of South-East Asian Nations (Asean) is often held up as an example of open regionalism, because its member states are first and foremost committed to multilateral free trade. Hodder¹⁵ in an examination of regionalism in the West Pacific Rim, observed that 'the priority of multilateralism over regionalism is marked and seemingly persistent'. And yet these very same members are also notorious for maintaining a whole raft of non-tariff barriers designed to protect domestic markets from overseas competition. There is a legendary gulf between the commitment to free trade and the reality of protectionism when it comes to doing business in the West Pacific Rim.

In truth, regionalism is an extremely complex phenomenon that does not lend itself easily to simple theoretical formulations. Nevertheless, the models outlined above provide a useful ideal type that can be used to examine the structure and state of regionalism in Southern Africa.

Factors affecting the future shape of regionalism

The shape of regional integration in Southern Africa will be determined by the interweaving of a complex web of historic, economic, social and political circumstances that are both global and regional in character. However, two issues stand out as being particularly influential in determining the character and shape of Southern African regionalism; multilateral liberalisation and the unusual degree of inequality in levels of development within the Southern African region.

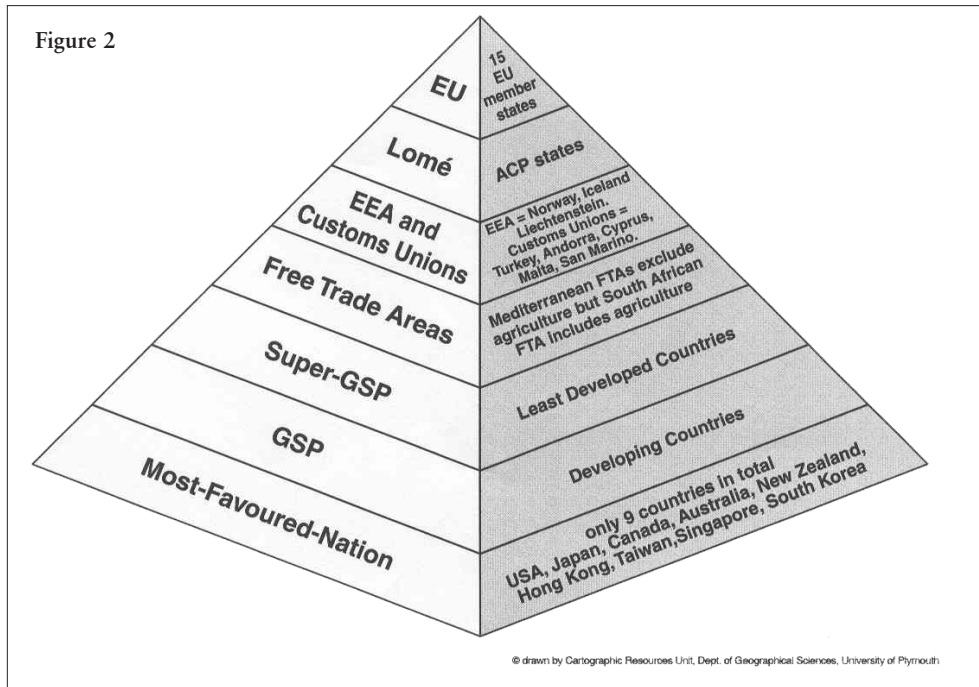
Southern Africa and the world trading system

Since the early 1990s, most analyses of the world trading system identify a trend towards a more open, integrated and liberal market system. Led by the internationalisation of the factors of production and consumption, the process of globalisation is perceived by many to be eroding the authority of states.¹⁶ The impact of globalisation on the authority of states to pursue policies at variance with a neo-liberal growth philosophy raises questions of relevance to the core theme of this paper.

Most important, does liberalisation undermine the ambition of Southern African states to pursue regionally orientated developmental policies?

The multilateral trading system is promoting the cause of liberalisation throughout Southern Africa through various mechanisms, both at the national and regional levels. South Africa is committed to a significant liberalisation programme arising from its Uruguay Round commitments. Regionally, South Africa's liberalisation agenda is being reinforced through the structural adjustment programmes (SAPs).

The liberalising agenda and open regionalism are being promoted by many of the world's most powerful institutions, including the World Bank, WTO, IMF, US and EU. To illustrate the extent to which this agenda can influence, and perhaps even



determine, the character of regionalism in Southern Africa, this paper examines the EU's post-Lomé strategy and evaluates the extent to which this policy will promote or undermine regional integration. The case study illustrates well the influence of inter-regional relations on intra-regional integration.

The post-Lomé era

The EU has a number of preferential trading arrangements that grant varying levels of access to the Union's market (Figure 2). The African Caribbean and Pacific states (ACP) enjoy the lowest tariffs and most generous quota allowances. One of the distinguishing features of Lomé is the discriminatory character of its preferential trading agreement. Thus, Lomé discriminates positively in favour of European ex-colonies, a status common to all the countries of Southern Africa, at the expense of other developing countries excluded from the Convention but at a similar level of development, such as Bangladesh, Honduras or Guatemala. For the countries of Southern Africa that have full Lomé membership (all but South Africa), the Convention's most important attribute is its non-reciprocity, allowing exports duty free access to the EU market whilst at the same time allowing the countries of the region to maintain tariff barriers against European goods (at levels no higher than MFN).

In September 1998, the ACP and EU states started negotiating a successor agreement to replace the Lomé Convention. Whilst the ACP states were keen to

preserve the non-reciprocal trading preferences accorded to them by Lomé, the EU was adamant that the existing trade regime had to be renegotiated.¹⁷ Two of the most important reasons advanced by the European Commission¹⁸ to explain why Lomé had to end emanate directly from the multilateral trading system.

First, the Commission argued that the *status quo* of continued preferences would result in a significant relative reduction in the levels of preferential access accorded to ACP states. The value of the ACP's preferences has been eroded with successive tariff rounds of the General Agreement on Tariffs and Trade (GATT), and will be reduced still further once the Uruguay Round is implemented in full and the new WTO Millennium Round of trade talks agrees on further liberalising measures. The EU's common external tariff barrier has been reduced from approximately 10% in the 1970s to somewhere between three and four percent, following the implementation of the Uruguay Round. The value of the ACP's duty-free access to the EU has therefore been eroded significantly.

Second, the European Commission favoured an end to Lomé because it believed the trade regime was no longer consistent with the values and rules of the multilateral trading system. By providing preferential access to 70 European ex-colonies (excluding South Africa), whilst at the same time excluding other developing countries at similar levels of development, Lomé was seen to violate both the WTO's MFN principle and a 1979 Enabling Clause designed to support least developed countries (LDCs). In 1994, a GATT panel found the Lomé Convention to be inconsistent with GATT due to its non-reciprocity (which excludes the Convention from being a free trade area) and its discrimination *vis-à-vis* other LDCs. For this reason the EU is adamant that any post-Lomé agreement has to be compatible with WTO principles.

Regional Economic Partnership Agreements

The EU's post-Lomé policy is based on two, potentially conflicting, differentiating criteria: developmental and regional. Most important, the EU is proposing to divide the ACP bloc according to development status, categorising states as either developing countries or LDCs. At the same time, one of the EU's principal objectives is to promote regional integration amongst groups of ACP countries. The EU's basic strategy is to offer developing countries a Regional Economic Partnership Agreement (REPA) based on a reciprocal trading arrangement, and to offer LDCs who are either unwilling or unable to enter into a REPA, the option of an enhanced super-Generalised System of Preferences (GSP) (Figure 2) that would be non-discriminatory and therefore open to all LDCs.

The Union's negotiating mandate for the development of a partnership agreement with the ACP countries, adopted by Council on 29/30 June 1998, states:¹⁹

The Community will offer a process to establish free-trade areas, starting with regional agreements with regional subgroups engaged in a regional integration process. It will state its readiness to negotiate such agreements where appropriate with individual non-LDC ACP countries.

This is the EU's favoured option: the creation of free trade areas linking Europe's developed and sophisticated economy to regional groupings of ACP countries. Any ACP developing country deciding not to follow the FTA model will be 'downgraded' to GSP.²⁰

South and Southern Africa

The potential for conflict between the EU's stated objectives of simultaneously promoting regionalism and differentiation is illustrated well in the Southern African region, where the EU envisages signing a REPA. The Southern African Development Community (SADC) currently comprises 14 member states, of which seven are LDCs (Angola, Congo, Lesotho, Malawi, Mozambique, Tanzania and Zambia), six are developing (Botswana, Mauritius, Namibia, Seychelles, Swaziland and Zambia) and one, South Africa, is categorised as developed by the WTO and 'a country in transition' by the EU.²¹ At present, all SADC states are members of Lomé and have non-reciprocal duty free access, with the exception of South Africa, to the European market.²²

In October 1999, the EU and South Africa signed a Trade, Development and Co-operation Agreement (TDCA) that includes provisions leading, after a period of transition, to a free trade area. The South Africa-European Union Free Trade Area (SEFTA), by eliminating duties on more than 90% of all trade between the EU and South Africa, will be WTO compatible. The WTO was influential in determining both the decision to adopt an FTA framework to govern the trading relationship between the EU and South Africa and the structure of the FTA itself. As observed by the director-general of development in the European Commission:²³

The EU quickly came to the conclusion that there was no Lomé option for South Africa that could be WTO compatible, and that the only way to respond to the request for improved access was through an FTA and ... the agreement had to be fully compatible with our multilateral commitments, i.e. the rules agreed within the WTO.

The EU has, therefore, already negotiated its first fully reciprocal REPA in Southern Africa. And, because South Africa is in a customs union with Botswana, Lesotho, Namibia and Swaziland (BLNS), it applies, *de facto*, to the BLNS states of the Southern African Customs Union (SACU).

Of the nine SADC members outside SACU, three (Mauritius, Seychelles and Zimbabwe) are developing and will require some form of reciprocal REPA agreement with the EU. A consultancy report undertaken for the EU-ACP negotiations suggests 'extending the EU-SA FTA to cover all SACU', which has *de facto* already happened, and establishing a similar agreement with the SADC non-LDCs. This would then leave six LDCs outside Southern African REPAs, who would be eligible for super-GSP. The Imani study argues that, because of the weak institutional set-up of SADC, in particular its lack of commitment to a common external tariff, a Southern African-wide REPA should not be implemented before 2010.

Within Southern Africa Lomé is therefore going to be replaced by a minimum of

three, and potentially four, different EU–Southern African preferential trading agreements:

1. The South Africa–European Union Free Trade Area (SEFTA), signed in October 1999.
2. An extension of SEFTA to the BLNS (perhaps with exemptions and special safeguards).
3. A separate reciprocal REPA agreement with Zimbabwe, Mauritius and the Seychelles.
4. A Lomé type non-reciprocal agreement with SADC LDCs (except for Lesotho).

The critical question arising from this multiplicity of EU–Southern African trading regimes is: What impact will differentiation have on regional integration and, in particular, trade and investment flows within the region? By fragmenting the export and tariff regimes of Southern African countries, the post-Lomé REPA model could serve to undermine attempts to promote regional integration. The post-Lomé REPA model therefore could have a fragmenting impact on regionalism in Southern Africa. At the same time, however, it could also support the implementation of a more flexible variable geometry approach to regionalism (see below).

Southern African regionalism is being exposed to unprecedented levels of economic liberalisation. The EU's post-Lomé strategy is just one example of how multilateral pressures to promote liberalisation influence directly the character and shape of regionalism in Southern Africa. Recommendations to adopt open regionalism raise the difficult question of how best to manage the political, social and economic tensions that may arise from an exacerbation of already intense regional inequalities.

Regional inequalities

The second most influential factor affecting Southern African regionalism is the unusually high degree of inequality in the levels of development amongst Southern African states. Whilst Southern Africa's economy is well integrated in terms of migrant labour, mining, water, transport and, increasingly, regional trade, it is built upon the region's single dominant economy located in South Africa. The patterns and extent of the inequality are well documented elsewhere.²⁴ Two sets of figures are useful to illustrate the severity and dynamism of the region's inequalities: gross national product (GNP) and trade. In 1999, approximately 75% of Southern Africa's GNP was produced within South Africa, which had approximately 13% of the land, 23% of the population and 85% of manufacturing output. This disparity in economic power is reflected in the region's trading patterns.

Up to 1994, the level of intra-regional trade within SADC, which at that time excluded South Africa, was very low indeed. Most studies cite a figure of five percent or less.²⁵ This lack of intra-regional trade was a direct result of limited complementarity between national economies. Notwithstanding the geopolitical division of the region up to 1994, split between apartheid South Africa and its attempts to destabilise the region and the rest of Southern Africa, which was pursuing

policies designed to isolate Pretoria, South Africa was the region's dominant trading partner. Large parts of Southern Africa, which had created the Southern African Development Co-operation Conference (SADCC) as a means of isolating South Africa, remained almost totally dependent on South Africa.

The most striking feature of South Africa-SADC trade is the high ratio of exports to imports, standing at approximately one to 4.2 in 1994. Mayer and Thomas observe:²⁶

In contrast to the poor trade potential amongst Southern African countries, there is a great deal of complementarity between the South African economy and its neighbours ... The African market is clearly very important for South Africa.

Following South Africa's first democratic election in 1994, and its subsequent joining of SADC, South African exports to the rest of the Southern Africa have grown substantially. Between 1994-95, South Africa's exports grew by 59%. In 1996, they increased by 50% again.²⁷ In 1998, South Africa exported R15.4 billion to SADC and imported just R2.1 billion.

Consequently, the high ratio of exports to imports, which stood at one to 4.2 in 1994, has widened still further, standing at one to 7.2 in 1998. This asymmetrical imbalance of economic interactions leaves South Africa with a multi-million dollar regional trading surplus.

One of the most influential factors explaining South Africa's export growth to SADC, alongside the ending of apartheid, is the impact of various tariff liberalisation programmes in SADC. The SAPs adopted by SADC member states opened up previously closed markets.

Clearly, South Africa dominates the political economy of Southern Africa and will continue to do so for the foreseeable future. This creates a number of serious obstacles that need to be addressed by any future integrative body. Most important, it raises the question of how best to integrate a country in transition, South Africa, with developing and lesser-developed countries. Traditional customs union theory supports the idea that states have to be at broadly comparable levels of development for integration to succeed.²⁸ Otherwise, polarised economic development is likely to occur that will favour the developed at the direct expense of the underdeveloped. Southern African regionalism has to address the question of how best to counter this polarisation trend.

It is useful to emphasise a number of important issues emerging from this review of key determining factors before proceeding to examine the political infrastructure of Southern African regionalism. First, whilst there is an unparalleled degree of support amongst the countries of Southern Africa to advance the cause of regionalism, there exists a fundamental divide over the preferred strategy to adopt. The discourse is dominated by two theoretical paradigms, one promoting open regionalism and the other developmental regionalism. This divide is exacerbated by the principal factors likely to determine the character of Southern African regionalism. Multilateral liberalisation and tariff reductions support open regionalism and make interventionist policies, which often depend on a level of protection to generate resources or safeguard vulnerable sectors, difficult.

However, significant regional inequalities lend support to developmental regionalism that sets out explicitly to address the structural and spatial problems

associated with free trade amongst unequal partners. Faced with these conflicting pressures emanating from the regional and global scales, and having to translate the widespread desire for collaboration into an effectively functioning regional institution, states in Southern Africa are undertaking an extremely difficult process.

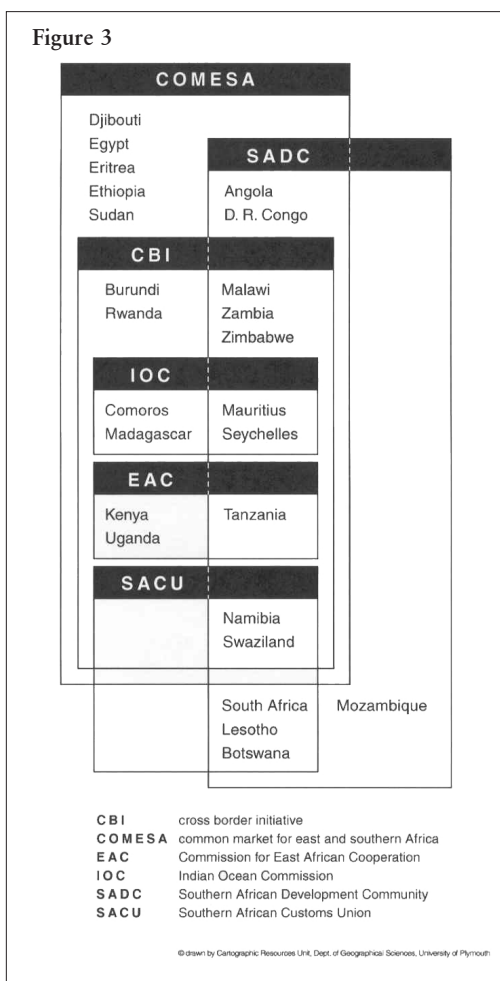
This paper will now examine the political infrastructure of Southern African regionalism and evaluate the policy strategies adopted by SACU, SADC and the Common Market for Eastern and Southern Africa (Comesa).

The political infrastructure

Southern African regionalism is characterised by a multiplicity of regional organisations with overlapping memberships. It is a confused and complicated picture, as illustrated in Figure 3. Given this multiplicity (and the dynamism of the political situation within some member states) the idea of integration has received widespread support. However, whilst phrases such as ‘multi-speed’, ‘two-speed’, ‘variable

geometry’ and ‘concentric circles’ can be used to help clarify the complexities of Southern African regionalism, they can also obscure some of the key issues at stake. These flexible ideas are, first and foremost, not a panacea for the problems facing regionalism in Southern Africa. In addition, they promote different integrative strategies. One set of ideas refers to the time dimension, raising issues related to the rate at which integration should proceed; hence the terms ‘multi-speed’ and ‘two-speed’. Most important, however, the time dimension refers to a situation where all states agree on a common objective, but progress at different speeds to that objective. The other batch of ideas refers to a spatial/geographical division (hence the terms ‘variable geometry’ or ‘concentric rings’), whereby one group of states adopts different, but not contradictory, integrative strategies and objectives.

These flexible strategies involve more than just recognising that some states will advance faster than others. The real challenge posed by flexibility is to develop a formal and recognised working and trading relationship between the different



regional institutions in order to develop a coherent strategy for Southern African regionalism. This, therefore, raises the question of what SACU, SADC and Comesa have, and do not have, in common.

Intra-regional free trade and common external tariffs

The most obvious thing that regional institutions have, or intend to have, in common is intra-regional free trade. SACU has an effectively functioning customs union built upon the free movement of the factors of production (excluding labour). SADC is committed to building a free trade area amongst member states. The SADC free trade protocol aims to create an FTA eight years after implementation, which is likely to be some time in 2000. In addition, Comesa has committed itself to a free trade area by October 2000. Thus SACU, SADC and Comesa are united in their perception that intra-regional free trade is of absolute importance to the cause of regional integration. With the exception of SACU, the extent to which this commitment to free trade results in an effectively functioning free trade area must be questioned. Many Comesa members have in the past failed to honour tariff reductions and in the case of SADC, Angola and the Congo have not effectively participated in the FTA discussions. Nonetheless, with the three regional institutions committed to intra-regional free trade, the idea of adopting a multi-speed framework is appealing. They all agree on a similar objective, and are likely to reach that objective at different times.

SACU is the only institution to have an effectively functioning common external tariff (CET). However, Comesa is committed to implementing a CET by 2004. A Comesa CET faces many significant obstacles, not least compliance, identifying alternative sources of finance, administering the CET and the uniform categorisation of goods. The SADC has no immediate plans or protocols to create a CET. The CET issue is complicated by overlapping memberships and the likelihood that Comesa will be unable to create a CET by 2004. It is extremely difficult to apply two different CETs simultaneously. Thus, the CET issue has the potential to fragment the region or act as a catalyst to rationalise overlapping memberships.

Redistributive mechanisms

As outlined above, the high levels of inequality amongst the states of Southern Africa represent one of the biggest obstacles facing regional integration. Historically, inequalities have been the most important factor behind the failure of regional free trade areas. SACU has, at present, a powerful and positive redistributive mechanism. Indeed, SACU's longevity can be attributed, in large part, to South Africa's securing markets for its internationally uncompetitive goods whilst the BLNS gained a disproportionately large share of the customs revenue pool (CRP). SACU, which is often seen to follow the traditional trade integration approach, owes its success to a significant and positive redistributive mechanism. Since 1994, the SACU Agreement has been in renegotiation in order to change its institutional and fiscal base.

There is no doubt that the existing formula used to distribute the CRP will change. However, both the BLNS and South Africa recognise the need to operate some form of redistributive mechanism. Inevitably, this will move away from positive redistribution (in other words, the direct transfer of capital) to what can be termed market redistribution. Nonetheless, a significant redistributive factor will in all likelihood be maintained.

The redistributive mechanisms in SADC are not yet known. However, the focus of SADC's redistributive attempts will be on market redistribution, with an asymmetrical opening of markets and a commitment to trade and industrial policies designed to promote economic growth throughout the region. SADC makes an explicit link between intra-regional free trade and regional development. The 1996 Maseru trade protocol calls for free trade to be accompanied by improvements in transport and communication, and the co-ordination of trade financing and banking systems.

In contrast to SACU and SADC, Comesa has no plans to adopt any redistributive policy and argues that 'there is ample evidence from the experience of other successful free trade areas that the net effect will be the expansion of industry in all member states'.

As far as redistributive mechanisms are concerned, a variable geometry approach to regional integration is more appropriate. There is no consensus on the best approach to adopt in order to reduce regional inequalities, with SACU promoting a combination of market and positive redistribution, SADC promoting market redistribution and Comesa rejecting the need for any redistributive mechanism.

Conclusion

Southern Africa can no longer afford the luxury of competing trading blocs. However, there is much evidence to suggest that an emerging variable geometry approach to regional integration is already being implemented. SACU, because it has an effectively functioning customs union with a strong redistributive mechanism, will be at the core. SADC, committed to an FTA and some form of market redistribution, is likely to form a second, less integrated, regional grouping. Overlapping SACU and SADC membership does not present insurmountable problems in the absence of a SADC CET. Comesa, because it has no redistributive mechanism, and because it excludes South Africa, is likely to form a third, more peripheral, component to Southern African regionalism. However, if Comesa is successful in implementing an FTA by October 2000 and a CET by 2004, member states of both SADC and Comesa will be under pressure to choose to which organisation they want to belong. The real challenge is to establish the working and trading relationships between the various regional organisations. Once SACU has been renegotiated and SADC has its FTA in place, would it not be opportune to hold a co-ordination conference, at ministerial level, to establish formally how these various parts of the jigsaw fit? Otherwise, external pressures may influence disproportionately the shape and functioning of the variable geometry jigsaw.

Finally, it is important to remember that regionalism in Southern Africa, or anywhere else, can only be as strong as its constituent parts, or as strong as its constituent parts allow it to be. Southern African regionalism is being constructed amongst unequal states in an era of unprecedented multilateral liberalisation. Translating the widespread desire for collaboration into an effectively functioning reality is going to be a difficult (but achievable!) process.

Notes

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Variable Geometry and Varying Speed: An Operational Paradigm for SADC

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Introduction

Is the invitation to write on this topic an engrossing challenge, or a poisoned chalice? It is surely a tricky topic in the context of African solidarity and the sincere desire to create an African Renaissance, but likewise one that must be addressed frankly, even bluntly, if success is not to escape us. Technical approaches will not do.

A review of the literature on regional organisations would offer many different approaches. A pragmatic assessment of global experience in the past 50 years would narrow the field substantially, suggesting simply that organisations comprising a large number of diverse states either fail, fragment or adopt differentiated systems¹ over time, while smaller, more homogeneous organisations² usually manage to avoid these outcomes.

Although both organisational theory and comparative analysis have their merits, the Southern African Development Community's (SADC's) current circumstances suggest that a less dispassionate approach is called for. Few would deny that the organisation is in crisis and that its transition from the Southern African Development Co-ordination Conference (SADCC) to SADC has been more marred by dispute than distinguished by consensus.

Disturbed by disagreements about the optimal pace, extent and sequencing of trade liberalisation, fractured by competitive economic interests and ideological allegiances in civil conflicts within the community, and divided by disputes about the purpose, autonomy and use of certain structures (notably the Organ for Politics, Defence and Security), SADC at the beginning of the new century is seen by many as little more than a hollow shell. Some members have suggested privately that antagonism to apartheid South Africa and the SADCC's efforts to advance the collective interests of other Southern African states at Pretoria's expense was all that united them. The elimination of apartheid and South Africa's incorporation into the region's political

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and economic structures seemed to some political leaders less an opportunity than a threat.³

The fact that South Africa's inclusion led to SADCC's transformation and that the greatest intra-regional tensions have arisen since SADC's birth, makes the findings of a recent study⁴ by global management consultants, AT Kearney, the more significant, at least from South Africa's perspective. AT Kearney found that South Africa's association with SADC is a *disincentive* to foreign direct investment into the Republic. As the South African economy constitutes three-quarters of the aggregate regional economy, and is over 15 times the size of that of the next largest SADC state, it is understandable that the rest of SADC is seen by foreign investors to add little intrinsic value, beyond a far larger market than South Africa alone provides.

It is the pervasiveness of conflict, however—in Angola, the Democratic Republic of Congo (DRC) and now Zimbabwe—and the sense that this might spread, that discourages investors. As the prominent chief executive officer (CEO) of a global group observed in response to my urgings at the World Economic Forum summit in Davos this year, 'I would invest there tomorrow if South Africa, exactly as it is today, were in south-east Asia or even Latin America.'

This paper first reviews the requirements for a shift from conflict to sustainable development⁵ in the SADC region; secondly, examines what is necessary to achieve this; and thirdly concludes that all SADC member states are unlikely to progress in unison towards a common, desirable end state.

Far from being deterred by this unremarkable conclusion, the paper argues that a strategy of allowing those states that share common purposes and demonstrate the will and the ability to progress more swiftly than others should not be hampered by the requirement of consensus and collective ratification of all programmes by three-quarters of the 14 member states.

'Variable geometry and varying speed' is simply the characterisation of this common sense approach, adopted by the European Union (EU) in its pursuit of macro-economic convergence and monetary union. It is an unobjectionable, if slightly mechanistic, description of a sensible policy.

Requirements for a successful transition to sustainable development

In its most recent report,⁶ the World Bank has put the situation into perspective, noting that many African countries are worse off now than in the 1960s, and that the combined income of the 48 sub-Saharan African countries is little more than that of Belgium. Major structural changes are needed if Africa is to advance.⁷ To maintain even current levels of poverty,⁸ African economies will have to grow by five percent because of the rapid increase in the continent's population. While Africa has 'enormous untapped potential and hidden growth reserves', it needs to mobilise its human resources⁹ and greatly improve its political systems.¹⁰

The requirements for sustainable development in Southern Africa are:

- intra-regional peace and domestic social tranquillity;
- limited, effective and accountable governance;

- fiscal responsibility and monetary discipline;
- accelerated investment in human capital development and improved skills training, to boost productivity and develop competitive advantage in the global economy;
- more domestic and foreign private investment to create more jobs at a living wage, and generate corporate profits and personal income bringing revenue to the fiscus, to fund physical and social infrastructure and current expenditure; and
- access to international capital markets to fund prudent infrastructure development.

All these must lead to progressive reduction of the excessive dependency of most SADC states on primary export products, and enable the development of efficient manufacturing and service sectors appropriate to the emerging global, knowledge-based economy.

The goal of sustainable development is still frustrated—despite progress in several areas—by:

- civil wars in Angola and the DRC, underpinned by serious civil strife in some neighbouring countries;¹¹
- weak (and in some cases, distorted) democratic political structures in many countries, founded on transitional systems and evolving cultures;
- destroyed, debilitated or inadequate physical and social infrastructures;
- severe shortages of competent private entrepreneurs and persons with core technical, commercial and financial skills, in both the public and private sectors;
- high levels of structural unemployment, with unduly high proportions of those employed dependent on the public sector, including the military;
- unfavourable terms of trade due to dependence on primary products for export; and
- a serious aggregate deficit on the capital account of the regional balance of payments, aggravating (in most countries) unsustainable levels of debt service obligations.¹²

These obstacles are, of course, both formidable and intertwined. Human security is a precondition for economic and social development, while the provision of security has social and economic costs.

Progress in both areas can, moreover, only be founded on the democratic legitimacy of the various governments and the success that they, and civil society, achieve in nation-building. This demands, firstly, far greater skill (both conceptual clarification and instrumental efficiency) in conflict analysis, management and resolution than we have seen displayed to date, and, secondly, a commitment to facilitating the emergence of viable economies based on market principles, with a responsible social orientation.¹³ Perhaps the greatest challenge of the present age is the need ‘to balance the achievement of global competitiveness and social equity’.¹⁴

Success thus requires democratic political cultures founded on tolerance of political and cultural diversity within an overarching national framework,¹⁵ and understanding that the state forms that emerge will reflect unique combinations of universal values—respect for fundamental human rights and the rule of law—with African principles, and the distinct political culture of each national society.

The optimal action agenda for Southern African governments in creating such an enabling environment has been clear-cut for some time.¹⁶ It involves focusing on:

- developing core techno-bureaucratic, managerial, technical and entrepreneurial skills, to ensure better use of our scarce human, financial and physical resources in achieving more efficient production and better administration;
- using more effectively the limited capital resources available for the provision of physical (water, power, transport and telecommunications) and social (health, education and skills training facilities) infrastructures, by planning their reconstruction, provision and utilisation on a regional, rather than national, basis;
- taking appropriate steps to facilitate intra-regional trade¹⁷ and investment flows;
- encouraging inward investment by establishing an attractive enabling environment for foreign direct investment;
- developing, manufacturing and processing capacity regionally, based on each country's comparative advantages,¹⁸ to add value to the primary products presently produced for export, as close as possible to the source of production;
- integrating the economies of the region progressively, including creating common financial¹⁹ and administrative frameworks,²⁰ to permit optimal use of public capital from the region and abroad, and to facilitate intra-regional trade and investment; and
- creating a regional security management framework, based on a comprehensive non-aggression pact and directed towards preventative diplomacy, conflict management and conflict resolution, peacekeeping, and co-operation between national police forces in combating serious crime, including arms and drug smuggling.²¹

Progress in implementing agreements

Measurable progress has been made in certain areas. Protocols on shared watercourse usage, the Southern African power pool, transport, communications, meteorology and illicit drug trafficking have been approved by the SADC Heads of State. A tourism charter is in force, and the Southern Africa Transport and Communications Commission includes a working group on railways and maritime matters and another on road traffic and transport and road infrastructure. Extensive co-operation also exists between the civil aviation authorities²² and the national airlines of the SADC region. South Africa has ratified protocols on education and training and mining, but these have not yet achieved three-quarter majorities, while protocols on the development of tourism, wildlife, conservation and law enforcement, health, and immunities and privileges have been signed, but not ratified.

South Africa's inclusion in a regional security framework in Southern Africa, after two decades of conflict between its forces and those of the Frontline States, was effected through the creation of the SADC Organ for Politics, Defence and Security, initially (and still)²³ chaired by Zimbabwe's President Robert Mugabe, and the Interstate Defence and Security Committee, composed of the defence, police and intelligence chiefs of the SADC member states. Naive enthusiasm for the identity of

the values and purposes presumed to exist among the member states²⁴ in the aftermath of apartheid led to serious mistakes, and later clashes, in this area.

Core concepts that the Organ needs to address are the following:

- The military component of a regional security system necessarily includes a multi-lateral non-aggression pact between the various states. This is a commitment to abstain from constituting—or permitting one's territory to be used to present—a threat to the constitutional or territorial integrity of another state.
- The commitment to regional security may, of course, extend further, if the states so agree, to include a mutual defence pact. This is a positive obligation to come to the defence of another state party if it is attacked. This has far more extensive implications.
- Intermediate steps to build effective capacity, such as joint exercises and training and sharing of intelligence and doctrine, can be implemented without the need to conclude a formal mutual defence pact.
- Joint endeavours to apply preventative diplomacy and conflict resolution (good offices, facilitation and mediation)—a diplomatic rather than a military function—and to provide resources for peacemaking and peacekeeping, are essential elements of a regional security framework in Southern Africa. (Unfortunately, almost no institutional development has taken place in this crucial sphere.)²⁵

In the case of the DRC, the SADC Organ has failed signally,²⁶ with presidents Mugabe, dos Santos and Nujoma treating SADC as though a mutual defence pact had been constituted and the president of the Organ had the authority to deploy forces in SADC's name without reference to the Summit or to the other member states. Long before the present domestic crisis in Zimbabwe, this assumption had hamstrung the Organ and introduced severe strains into SADC.

Common problems deriving from criminal activity—smuggling of, and unauthorised trading in weapons, drugs and precious metals and stones, money laundering, cross-border stock-theft, violation of the exclusive economic zones of littoral states, and unauthorised migration across borders—must, of course, be jointly addressed in an era of transnational crime.

The homogeneity (or diversity) of the political and economic values to which the member states subscribe, will determine the scope of the reciprocal commitments (including sharing of intelligence and doctrine, and joint training) that will be honoured over time. These values, and the perceived compatibility of the national interests of the member states, define the limits of appropriate mutual obligations.

Contributions by other governments and international institutions

While the governments and peoples of Southern Africa bear the primary responsibility for the transformation of the region, success in certain areas will also require assistance from other governments and institutions, including the Bretton Woods institutions and the main creditor and trading countries.

Help is necessary in four areas:

- reconciling the competing demands of structural adjustment²⁷ and democracy;
- providing generous, conditional debt relief and cancellation, in part for this purpose;²⁸
- facilitating significantly improved access for African (and other poor country) export goods to G-7 and other Organisation for Economic Co-operation and Development (OECD) markets;²⁹ and
- encouraging enhanced flows of foreign direct investment.³⁰

It is recognition of the need for this that led President Mbeki to call recently for a restructuring of the global economic architecture to facilitate African rebirth.

Variable geometry and varying speed?

The core question is whether progress in the SADC region towards the desirable condition sketched above will best be achieved by seeking to cause all 14 SADC states to progress in unison towards it, or by allowing and encouraging those states that share common purposes and demonstrate the will and the ability to progress more swiftly than others, to do so. SADC is not an end in itself: indeed, it is likely that it will only survive if it is able to advance the sensible purposes of its more enlightened members.

The concept of variable geometry and varying speed is most closely associated with the EU, where its merits and disadvantages are clearly apparent, *inter alia*, though by no means exclusively,³¹ in the context of European monetary union and what has become known as the euro zone.

Outside the European context, it is instructive to look to Southern Common Market (Mercosur), whose member states have economies and social conditions more similar to those of Southern Africa than those of the EU.

A conference on SADC–Mercosur relations held at the South African Institute of International Affairs in October 1998³² produced a series of interesting presentations enabling an assessment of the reasons, as relevant to SADC, for Mercosur's success. This can, I believe, be attributed to six important factors, five of which are intrinsic to Mercosur, while only one is external to that region:

- *Small size*: There are only four members (Argentina, Brazil, Paraguay and Uruguay, with Bolivia and Chile enjoying associate status).
- *High value congruence*: The members support highly congruent political and social values, including a common commitment to democracy, an aversion to kleptocracy and a shared Latin culture.
- *Common economic interests and perspectives*: The member states see the world and the risks and opportunities it poses, in much the same light. There is no extensive debate on the need for macro-economic stabilisation or liberalisation.
- *Good personal and political relations, and regular contact*: Heads of state are said to talk regularly (between once a day and once a fortnight by telephone) on a wide range of issues.
- *Good capacity to manage complex policy and technical issues*: Large numbers of well-trained and skilled technocrats are available.

The external factor supporting Mercosur's success is the ready availability of international capital to finance current account deficits in a period of global growth fuelled by expanding international trade.

SADC does not, regrettably, have the advantage of these six factors. It already has 14 members, whose governments practise and often profess different political and social values,³³ and whose people are divided, at least superficially, by language and cultural heritage. Several governments have divergent views about the global economic environment and its implications,³⁴ and their policies are accordingly fragmented and diverse. Personal relations at political level in SADC are variable and often tense, while both public and private sectors are characterised by poor skills and weak human capital development.

Moreover, experience elsewhere suggests that regional integration is not necessary to promote rapid economic growth. East and South-east Asia were highly successful for well over a decade, despite making no attempt to encourage regional integration, because of their dedicated commitment to prudent social investment³⁵ and their aggressive pursuit of global trade opportunities.

The conceptual distinction between closed and open regionalism may also be a red herring. Closed regionalism, driven by institutional integration in the EU, has led not only to a sharp increase in intra-regional trade,³⁶ but also to rapid growth in exports to non-EU markets. Open regionalism, driven by market forces in the Asian newly industrialised countries (NIC), produced a different trade:GDP profile³⁷—with the main impetus to growth coming from extra-regional commerce—but likewise resulted in an increase in intra-regional trade.

This reinforces the intuitive observation that the nature and characteristics of the region are more important than the character of the scheme of regionalism, if any, that the countries adopt.

Closed, trade-based regional integration, which many emphasise as the core of the rationale for SADC, depends for its success on the size and growth rates of the member states, the extent to which the national economies are complementary, and the quality of regional infrastructure, especially transport and telecommunications.³⁸ It has succeeded in unions like the EU, whose economy accounts for 20% of global output and 38% of world trade, but will not add value in sub-Saharan Africa, which produces just 2.4% of global output (about the same as Belgium), and contributes only two percent to world trade.³⁹

The benefits of establishing exclusive, preferential trade regimes with high common external tariffs (CET) among small 'Southern' economies are modest at best,⁴⁰ and the effects can be distortive and harmful to members and non-members alike.⁴¹ Closed, trade-based regional integration schemes are most likely to be harmful to members' economies when these are small, remote from major markets, with poor regional infrastructure and low trade complementarity. A high common external tariff worsens the problem. The implications for SADC policy and strategy are clear.

South Africa's Trade and Industry Minister, Alec Erwin, has repeatedly stated that South Africa does not see SADC as the means to the country's economic salvation. The 'trade butterfly', its body firmly oriented north-south to the EU and North America, along the axis of South Africa's traditional trading and investment flows,

and its wings extending laterally to Latin American markets and those of Asia, is both an evocative metaphor and a blueprint for a sensible, pragmatic approach. It should continue to serve as the paradigm—flexibly interpreted—of South Africa’s global economic relations.

SADC’s merits can be unlocked only if the region is opened, albeit asymmetrically, to global trade, with all the associated risks and opportunities. This requires a limited and focused agenda, forcefully driven by both government and civil society in all countries. Much is already conceptually in place, though often obscured by bureaucratic rhetoric.

The core insight, however, is that SADC itself cannot be permitted to be a barrier to the successful integration of individual countries, or groups of countries, into the global economy. Those that wish to advance cannot be hampered by those that demur.

In summary

To make a successful Southern African region feasible, integrated into a volatile, competitive, global economy:

- SADC countries must plan for, invest in and construct physical infrastructure (water, power, transport and communications) on a region-wide—not purely national—basis. This lies at the core of the Development Corridors and spatial development initiatives (SDIs) under discussion, and must inform all regional infrastructure planning to facilitate intra-regional and global trade, and inward investment.
- SADC countries must invest in greatly improving the technical, entrepreneurial, commercial, managerial and policy skills of the people of the SADC region. Without this, Southern Africa will be doomed to social and economic marginalisation in the knowledge economy. All of the region’s resources and those we can harness globally, must be marshalled to this end.
- SADC countries must achieve real government transparency and accountability, low budget and balance of payments deficits and sound money; we must implement policies that shift excessive consumption into productive, job-creating investment and cut out the cancer of corruption.
- The International Monetary Fund (IMF) and World Bank and the governments that set their agendas must act on the realisation that these goals will not be met unless the debt burden of the countries that commit to this renaissance is greatly lightened. Debt relief is not Africa’s political entitlement, but it is the best way to enable governments committed to reform, to stay the difficult course to success. Most African debt will never be paid, as most bankers admit.
- The Bretton Woods institutions, the G-7 and other OECD countries must make it far easier for African countries pursuing a sustainable growth path to invest in infrastructure and capacity-building. Business can help by providing resources to help governments prepare project studies for evaluation and approval by donor agencies and international lenders, and by joining actively in policy debates.

- The OECD countries must open their markets to export goods from SADC, African and other poor countries, to facilitate and incentivise production for export.

One means of accelerating our progress would be to focus on those SADC governments that demonstrate commitment to these principles. This would mean creating a tighter-knit body within SADC, and leaving the laggards to catch up at their own pace. Agreement on the core principles and commitment to their achievement matter far more than the size of the bloc; indeed a comparison between Mercosur and SADC suggests that large numbers and diverse policies are the enemies of progress.

Even this will be impossible, however, unless—to quote UN Secretary-General Kofi Annan—Africa (and thus, Southern and central Africa) ‘gets a handle on its conflicts’. As Annan has said, with reference to Angola, for example, ‘the parties there persist in fighting long past the time when either should be placing faith in a military solution’.⁴² Conflict, as the contagion effect of recent events in Zimbabwe makes clear, has deleterious effects on global investor confidence outside the narrow confines of the country in which it occurs. When conflict is widespread—as it is in Africa—those with no driving economic interest in distinguishing one polity from another, will tend, as we have seen recently, to generalise sweepingly. There is also a moral imperative to act. The scale of the death and destruction wrought in African conflicts in the past decade is intolerable!

We thus need the ability to prevent as much conflict as possible, to manage it at subcritical levels where it cannot be prevented, and to resolve it, by understanding and addressing its causes, wherever possible. This is a practical imperative, not a mantra to be chanted endlessly in articles and at conferences.⁴³

South Africa itself must display the confidence to buttress its diplomatic endeavours to these ends, with economic and military instruments. We are seen as a toothless bulldog by those in Southern and Central Africa, who rely on military means to secure their ends. We must reinforce our ability to act from strength when necessary, with technical and financial support from the North Atlantic Treaty Organisation (Nato) and other countries. This may sound like a betrayal of African solidarity, but that would only be true if one believed that those who routinely violate the conditions essential to create the renaissance deserve our loyalty more than their victims.

Although the capacity for independent action, (or action in concert with those within or outside the region who share our values and objectives), must be available where our national interest is at stake, it is not desirable (or even possible) for South Africa, already the regional economic hegemon, to become the regional fire-fighter. Such power as we have should be used sparingly, and constructively.

What then of the SADC Organ for Politics, Defence and Security?

The gridlock in the Organ and its failure to contribute meaningfully to regional peace and security is due in part to the circumstances of its creation,⁴⁴ in part to a lack of rigour in analysing the security environment,⁴⁵ in part to personality issues,⁴⁶ and in

part to the dysfunctional separation of the Chairs of the Organ and SADC Summit and the resulting dislocation of the security function from SADC's socio-economic agenda.⁴⁷ The Organ's weaknesses are thus a multiple of those of the SADC itself. This suggests that only 'variable geometry and varying speed' can provide a solution.

Breytenbach⁴⁸ suggests that the Organ (for Politics, Defence and Security) be restructured by incorporating the early warning unit into a political division, charged with preventative diplomacy and constituted by the ministers of foreign affairs of member states. The defence division, including SADC peacekeeping forces, he suggests, should be constituted as a subcommittee of the political division, thereby establishing civilian control over the military, while the security division could be 'taken out of the SADC and used as a basis for police co-operation in crime prevention'.⁴⁹ While rendering the defence division subordinate to the political division would be consistent with the principle of defence policy being a subset of foreign policy, the basis for removing the security division from SADC is unclear. Breytenbach also suggests that the Inter-State Defence and Security Committee (ISDSC) might be 'converted into the secretariat of the regional peacekeeping force—whether SADC or not'.

Structural proposals of this sort, while responsive in part to the earlier debate about the need to integrate the security, political and socio-economic dimensions of co-operation in Southern Africa,⁵⁰ do not come to grips with the underlying dilemma. All SADC member states do not share a set of common values and are not guided by the same normative principles. Their purposes are often divergent. Breytenbach implicitly admits the dilemma in observing that '... militaries... (in the regional peacekeeping force)... should participate voluntarily, *and should preferably be drawn only from democratic states*'. (emphasis added)

The dilemma and the implications are considerable. Britain, in the aftermath of its recent deployment in Sierra Leone, is pressing for⁵¹

adoption of British–Nato military doctrine on peace enforcement through the deployment of overwhelming force and the setting up of a Nato-style military headquarters ... (capable of putting combat-ready forces with state-of-the-art command and control structures into trouble spots) ... to replace the UN's peacekeeping department

Such an approach, while overdue, will only succeed if the purposes of each peacekeeping mission are clear, the intelligence and contextual appraisal realistic and sophisticated, and the guiding norms common to all participants. United Nations (UN) Secretary-General Annan is said to be in agreement with the British approach. A UN panel on peace operations will be reporting to the Secretariat within weeks, and Annan planned to ask for agreement to UN peacekeeping reforms in September 2000.

Peacekeeping forces are to be deployed in the DRC, and perhaps soon again in Angola. SADC countries will certainly contribute to these. While the commitment of forces on peacekeeping missions can certainly be done on a purely national basis, effecting their selection and deployment without reference to the Organ or the ISDSC will further weaken the authority and perceived relevance of these entities. One wonders if the need to effect deployment cannot be made to serve as a means of

reopening the dialogue about the purposes—and thus the structure, systems and requisite skills—of the Organ and its secretariat. But it is difficult to feel optimistic about the chances of success when one SADC state is the object of the exercise and is being assisted by two others, who both have internal war or unrest at home.

Assuming that we do not wish to declare (or consciously hasten) the demise of SADC, a deliberately flexible approach to formal as well as informal regional co-operation seems essential. This would involve SADC states with common interests in particular areas concluding specific agreements *inter se*, without reference to others. Several such agreements are, of course, in place. South Africa and Mozambique (as well as Swaziland) to the east, have agreed on joint transport corridors; as have Namibia, Botswana and South Africa on the west.

The countries in the Common Monetary Area might agree to proceed more rapidly than other SADC states towards a single currency, though national pride and the existence of efficient central banks might dissuade Botswana and Namibia. Other states, like Mozambique, whose economies are likely to become more closely integrated with that of South Africa, might decide to associate themselves. Some contiguous, but not necessarily all, SADC countries might agree to issuance of a single, common *carnet*, permitting the passage of goods through their territories and across their borders, greatly facilitating road and rail transport. The same, or a related group, might adopt a common visa, like the Schengen countries in Europe. These are likely to be countries that are also co-operating effectively in joint policing, to contain the risks of crime syndicates exploiting the opportunities opened by looser borders.

Efficient stock exchanges in several countries might also associate, or merge, permitting multiple or joint listings of the shares of companies active in the region, without the need for a SADC protocol.

It is probable that setting appropriate standards as close as possible to best practice levels among some SADC states will be the best way to encourage others to improve their standards as well. There is no reason to hold constructive, partial integration hostage to the requirement of unanimity. It should be made explicit to those who may not wish to join any particular arrangement immediately that they will be welcome to associate themselves when they see fit, as soon as they are willing to comply with the requisite standards. One would hope that the benefits of association in sensible schemes of logical partial integration will be evident to most, and encourage others to follow suit in due course.

The challenge of the era confronting all national entities is to achieve global competitiveness. Doing this in a manner consistent with social equity⁵² poses a still greater challenge. It is inconceivable that those countries in SADC determined to lead Africa's renaissance should deliberately hobble themselves further, by requiring that all the disparate number of their fellows should cross the line simultaneously. To do so would be perverse, and in the interests of none.

Notes

- ¹ The European Union (EU), which evolved from the six-member European Economic Community (EEC) and later the 12-member European Community, is an outstanding example of ‘variable geometry, varying speed’.
- ² Southern Common Market (Mercosur), with only four full members, might serve as an example of such a body.
- ³ Many believe that Zimbabwean President Robert Mugabe exemplifies this viewpoint.
- ⁴ Kearney AT, *FDI Confidence Audit: South Africa*. Washington: Global Business Policy Council, March 2000.
- ⁵ ‘The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa’ was the title selected by United Nations (UN) Secretary-General Kofi Annan for a report to the UN Security Council on 16 April 1998.
- ⁶ World Bank, *Can Africa Claim The Twenty-first Century?* Washington DC: World Bank, May 2000.
- ⁷ The Bank identifies ‘four key steps’ to improve Africa's economic prospects: (1) better government and fewer wars; (2) more investment in people; (3) economic diversification; and (4) more aid from rich countries. World Bank, *ibid*.
- ⁸ Average incomes per person have stagnated in Africa over the past 40 years. Africa now accounts for only one percent of the global economic output and two percent of world trade. On average, African national economies are smaller than those of a town of 60,000 people in an Organisation for Economic Co-operation and Development (OECD) country. With only 10 million telephone lines (half of them in South Africa), the continent offers little chance to most Africans of gaining Internet access. Africa has fewer roads than Poland, only 16% of which are paved, and only one in five households has access to electricity. Two-thirds of rural Africans lack adequate water supplies, while three-quarters lack adequate sanitation.
- ⁹ The average duration of schooling for African women has increased by only 1.2 years in the last 40 years, the lowest gain anywhere in the world. Instead, women typically work longer hours than men, collecting water and firewood, and lack access to credit, land, or educational resources. Africa's human resources are also being decimated by disease, with Acquired Immune Deficiency Syndrome (Aids) infection rates reaching 25% in Zimbabwe and Botswana.
- ¹⁰ Decades of civil war and conflict, which have affected at least 20 of sub-Saharan Africa's 48 countries, have increased poverty and violence. The political system, even where there are elections, is generally based on a winner-take-all system that is not sufficiently inclusive of Africa's diverse ethnic groups. ‘Political changes would do much to empower people and communities and help energise the development process ...’, the World Bank report says. World Bank, *op. cit*.
- ¹¹ Rwanda, Burundi and the Republic of the Congo (Brazzaville) have experienced civil wars—the last with outside intervention from Angola—in this decade. None of these has yet been satisfactorily resolved. Zimbabwe's intervention in the DRC and Namibia's decision to allow Angolan troops to act against *União Nacional*

para a Independência Total d'Angola (Unita) from its northern regions have disturbed the internal stability of both, contributing to Zimbabwe's domestic crisis. Zambia is at risk.

- 12 Despite sizable debt forgiveness, the average ratio of external debt to gross domestic product (GDP) of sub-Saharan African countries rose from 33% between 1980 and 1985 to 98% by 1994; the ratio of external debt to exports almost doubled to 390% over the same period. World Bank, *op. cit.*, p.103.
- 13 This concept has become known as the 'third way', now generally associated with British Prime Minister Tony Blair, although it had its origins in a speech by US President Bill Clinton. It is, however, not far removed from the notion of the 'social market economy' that underpinned the German economic revival after the Second World War.
- 14 Globally Competitive Governance, presentation by the Centre for Advanced Governance, Davos Summit 2000, World Economic Forum (WEF), January 2000. This characterisation has its origins in an earlier interview by WEF President Klaus Schwab.
- 15 Jordan ZP, 'Africa's culture is humanity's', *Business Day*, 12 May 2000.
- 16 See, for example, Cleary S, 'An integrative framework for regional co-operation in Southern Africa', *South African Journal of International Affairs*, 3, 2. Johannesburg: SAIIA, Summer 1996.
- 17 The African Development Bank (ADB) has prepared the most extensive analysis of intra-regional trade flows in southern and eastern Africa. Ninety percent of the exports of the SADC/Preferential Trade Agreement (PTA) countries are commodities; two-thirds of the import requirements are intermediate and capital goods, to the value of \$9,000 million per year. Outside South Africa, only Kenya (not a SADC member) and Zimbabwe have a significant production capacity in this product range, with a joint value of about \$200 million per year. The ADB suggested that PTA member states should restrict tariff cuts on South African imports to 50% of those extended to PTA members, to avoid 'the potential negative effects of increased Republic of South Africa (RSA) exports on regional industry.' ADB, *Economic Integration in Southern Africa*. Abidjan: ADB, p.40. The World Bank launched a cross border initiative (CBI) providing for voluntary, progressive liberalisation of trade and exchange, deregulation of cross-border investment, strengthening of financial services in the region and facilitation of movement over borders of goods and persons. Fourteen Comesa and Indian Ocean Commission countries committed their support.
- 18 A simple concept underlying international trade, that posits that economic agents are most efficiently employed in activities that they perform relatively (even if not absolutely) better than other agents. The theory suggests further that countries ought to concentrate on those activities in which they have the greatest comparative advantage, leaving other activities, in which they can add less aggregate value, to other countries.
- 19 Linked currencies, freely interchangeable and, eventually, a common currency.
- 20 Examples here would include a single tourist visa for the region and a common *carnet* for the transportation of goods across several borders.

- ²¹ See Items 19 and 29 of the communiqué of the 2nd USBSADC Forum, Maputo, 19 May 2000.
- ²² Through the African Civil Aviation Commission, affiliated to the International Civil Aviation Organisation.
- ²³ Despite provision for a rotating chairmanship.
- ²⁴ See, for example, *Defence in a Democracy: White Paper on National Defence for the Republic of South Africa*, May 1996 and the *South African Defence Review*, 1997.
- ²⁵ See also Van Aardt M, 'The SADC Organ for Politics, Defence and Security: Challenges for regional community-building', *South African Journal of International Affairs*, 4, 2. Johannesburg: SAIIA, 1997.
- ²⁶ See Breytenbach W, 'Failure of security co-operation in SADC: The suspension of the Organ for Politics, Defence and Security', *South African Journal of International Affairs*, 7, 1. Johannesburg: SAIIA, 2000.
- ²⁷ Structural Adjustment programmes (SAPs) are directed primarily at macro-economic stabilisation, reduction of balance of payments and budget deficits, and realistic exchange rates. The liberalisation of prices, wages, interest rates and exchange rates is necessary for stabilisation, while the privatisation of state-owned enterprises is necessary to reduce the government's share of economic activity, encourage competition and improve the efficiency of resource utilisation.

In many African economies, however, government withdrawal from the economy has not led to a surge of private investment. There are four reasons for this. Firstly, there has often been little domestic capital formation outside the government sector; the financial sector is undeveloped; and aspirant local entrepreneurs often lack the business skills necessary to develop internationally competitive enterprises. Secondly, poor institutional capacity in key ministries means that statistical information is inadequate, while the debilitated state of many infrastructures and factories and the poor skills and productivity do not attract foreign investor interest. Thirdly, rising prices and wage demands coincide with falling or stagnant levels of real output, fuelling social discontent and lawlessness. Fourthly, the government faces political pressure to abandon programmes with high short-term social costs, while individual ministers and senior officials are tempted to profit from their positions by engaging directly, or as sleeping partners, in privatised enterprises.

Consistency of application is the key factor determining the success or failure of Enhanced Structural Adjustment Facilities (ESAFs). (See Rodrik D, 'Credibility of trade reform, A policy maker's guide', *The World Economy*, 12, 1, March 1989; Dornbusch R, *Notes on Credibility and Stabilisation*. Mimeograph, Cambridge, MA: MIT, 1988.) The conflicting demands of structural adjustment and domestic accountability must therefore be reconciled. Stringent fiscal and monetary discipline does not, however, sit well with the need for newly-elected governments to meet the legitimate expectations of the electorate for clean water, basic housing, primary health care, education, skills training and employment.

ESAFs must be supported by measures directed at: (1) poverty reduction, (2) institutional capacity building, and (3) infrastructure rehabilitation and

development, if reduced governmental involvement in the economy is to lead to economic growth and sustainable development. Poverty reduction programmes should provide a social safety net for those most vulnerable to the shocks occasioned by stabilisation measures. Institutional capacity-building programmes must improve the technical skills of government and private sector institutions alike. Infrastructure rehabilitation and development programmes must provide decent physical and social infrastructures—power, water, transport and telecommunications, as well as health and education—necessary to provide a platform for investment, based on the factor advantages of each country.

- The Comprehensive Development Framework advanced by World Bank President James Wolfensohn now seeks to address these needs through structural programmes (good governance, financial and justice systems), human needs programmes (education and health), physical programmes (water, power, transport and telecommunications) and environmental and cultural programmes.
- ²⁸ Africa is the world's most indebted and aid-dependent region, with 17% of GDP flowing out in debt repayments, three times what the Bank believes is a sustainable level. Debt retirement or reduction is, moreover, essential to induce heavily-indebted states to stay the course in adjustment programmes. Meaningful reduction of the debt service burden of such states—a burden many will be unable to service under any foreseeable conditions—assists governments in justifying continued economic stringency to their constituencies, while improving the chances of successful adjustment at an earlier date.
- ²⁹ The failure of the Seattle round of the World Trade Organisation (WTO) talks in December 1999 reflects the divide between the view of global trade espoused by the leading industrial and post-industrial states and that of the less-developed, poorer countries. Effective facilitation of access for African (and other poor country) exports into OECD markets is an essential element of reform of the global trade system. The potential for domestic and foreign investment in African economies will be greatly increased if products in which these countries have a competitive advantage can find export markets in the world's larger economies. The obstruction of their entry through tariff barriers and frivolous anti-dumping actions, intended to protect domestic producers in 'rich countries', is an anachronism in a globalising world, where global institutions urge the elimination of barriers on developing countries, while lacking the influence to eliminate barriers imposed by powerful states.
- ³⁰ For a more extensive treatment of this, see Cleary S, 'An enabling environment for foreign direct investment into the Southern African Development Community'. Unpublished MBA dissertation, Brunel University, 1998.
- ³¹ The task of simultaneously 'widening and deepening' the EU—expanding eastwards, while pursuing closer macro-economic and monetary convergence, and adherence to common socio-economic objectives and commitments—is the largest challenge facing the Union at present. There are recipes aplenty. German Foreign Minister Joscha Fischer, in his personal capacity, has floated the idea of an eventual European inter-governmental federation. French Interior Minister Jean-Pierre Chevènement referred ominously in reply to Germany's Nazi history, and

asserted that it had a desire to restore a Germanic Holy Roman Empire. Prime Minister Lionel Jospin has called Europe both a 'union of nations' and a 'deepening of the nation'. France's minister of European affairs, Pierre Moscovici, has said that 'federalism is not the solution for Europe', but that 'elements of federalism already exist in Europe', for example the European Court of Justice and the European Central Bank. Laurent Fabius, now minister of finance, citing De Gaulle's dictum about European federation—'Why not, but in fifty years', has said that it would be appropriate for the present generation to prepare a 'federation of nation states' for 2007, the 50th anniversary of the Treaty of Rome. (See *The Economist*, 3 June 2000) Meanwhile, as Romano Prodi fails to impose coherence on the European Commission and ministers in inter-governmental committees assume more active leadership, External Affairs Commissioner Chris Patten bewails the decline of the Commission (*International Herald Tribune*, 10 June 2000), and Fischer attacks the CDU-CSU opposition for stalling EU reform. Other tensions are also apparent: Pierre Moscovici has denied a report on the meeting of French and German leaders at Rambouillet, leaked by the German Foreign Ministry, that Germany would carry more weight in the Council of Ministers than other large EU states; and German sensitivities were aroused when Alain Richard, France's Defence Minister, said that Paris works more easily with London than Berlin in defence and security issues. (See *Frankfurter Allgemeine Zeitung*, 9 June 2000). London and Paris, meanwhile, differ on the effect on their respective North Atlantic Treaty Organisation (Nato) memberships of the 'European security and defence identity' planned by the EU. Some French leaders evidently see a European defence entity as a long-term alternative to Nato; London clearly sees it as a supplement. (See *The Economist*, 3 June 2000) But still the EU continues, reconciling the reality of diversity with the objective of co-operation and progressive (though undefined) integration.

³² SADC–Mercosur conference held on 27–28 October 1998, hosted by SAIIA and the Embassies of the Mercosur countries, and sponsored by Daimler Benz AG.

³³ There is little ground for asserting that the present governments of Botswana and South Africa, to select but two examples, share the same political and social values as those of Angola, the DRC and Zimbabwe.

³⁴ Even a cursory comparison of the policy statements of the governments of, for example, Botswana, Mauritius, Mozambique and South Africa with those of Angola, the DRC and, recently, Zimbabwe, provides evidence of wide differences in perception.

³⁵ The underlying concept was 'growth with equity'; government facilitated rapid improvement of basic education and skills training, primary health care and core housing, and capital was made readily available to small entrepreneurs.

³⁶ From 58% of total EEC trade in 1958 to 70% of EC/EU trade in the early 1990s.

³⁷ Professor Tony Hawkins suggests a trade:GDP ratio of three to one for the four Asian NICs, as against 1.9:1 for the EU.

³⁸ I am indebted to Professor Hawkins for this crisp summary.

³⁹ Chile's decision to associate with Mercosur is thus understandable. Brazil, the world's ninth largest economy, has a GDP two-and-a-half times the size of the

total output of sub-Saharan Africa (including South Africa, which contributes 42% of the latter), while Argentina's GDP is approximately equal to that of sub-Saharan Africa. The additional benefits Chile stands to gain from this relationship—in the context of its existing extensive pattern of preferential trade agreements with Bolivia, Canada, Colombia, Cuba, Ecuador, Mexico, Venezuela and the Asian-Pacific Economic Co-operation (APEC) states—are apparent, especially as Santiago is expanding its relationship with Central America and the EU. Preferential arrangements within SADC will, however, not accord any remotely similar benefit to South Africa.

- ⁴⁰ De Melo J & A Panagariya, *The New Regionalism in Trade Policy*, 2. Washington: World Bank 1992, cited in Hawkins' paper, op. cit., observe that experience '... leaves little doubt that these countries cannot expect big gains by integrating themselves.'
- ⁴¹ Yeats A, *Does Mercosur's Trade Performance Raise Concerns about the Effects of Regional Trade Arrangements?*, Policy Research Working Paper 1729. Washington: World Bank, February 1997, cited by Hawkins, *ibid.*, suggests that intra-regional trade grew most strongly in Mercosur in sectors where domestic production was not globally competitive.
- ⁴² Annan K, Address to the UN Security Council Ministerial Meeting on Africa, New York, 29 September 1999, reproduced in summary in *South African Journal of International Affairs*, 7, 1. Johannesburg: SAIIA, 2000.
- ⁴³ We have failed so far, despite our protestations and impressively-named institutions, because (1) too many African governments have an interest in the conflicts of others, in part because sub-national rivalries in one state attract the support of kinsfolk in neighbouring countries, but also because economic interests intrude; (2) we have not developed appropriate capacity in institutions like the OAU or sub-regional bodies like the Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS), the Inter-Governmental Association on Development (IGAD) or SADC; and (3) we lack a common normative framework within which to evaluate, analyse and address African (and other) conflicts. The African state is a highly contested arena, as Adebayo A & C Landsberg observe in their wide-ranging essay, 'Pax Africana in the age of extremes', *South African Journal of International Affairs*, 7, 1. Johannesburg: SAIIA, 2000.
- ⁴⁴ The compromises involved in transforming the Southern African Development Co-operation Community (SADCC) and the Front Line States into SADC led inevitably to poor structures and systems. Naïve assumptions about the non-demanding nature of the regional security environment (see the South African White Paper on Defence and the *Defence Review*) led to a failure to pay proper attention.
- ⁴⁵ Undue and naïve enthusiasm for the myth of common purpose and perspective.
- ⁴⁶ Especially President Mugabe's desire for status equal to that of then-President Mandela.
- ⁴⁷ See Cleary S, 'An integrative framework for regional co-operation', *South African Journal of International Affairs*, 6, 1. Johannesburg: SAIIA, 1996; Van Aardt M,

'The SADC Organ for Politics, Defence and Security: Challenged for regional community-building', *South African Journal of International Affairs*, 4, 2. Johannesburg: SAIIA, 1997.

⁴⁸ Breytenbach W, *op. cit.*, pp.94-95.

⁴⁹ Breytenbach cites Mark Malan, *SADC and Sub-regional Security: Unde Venis et Quo Vadis*, ISS Monograph, 19, 1998, p.15.

⁵⁰ See Cleary S, *op. cit.*, 1996.

⁵¹ 'Blair seeks military teeth for the UN peacekeepers', *The Sunday Times*, 11 June 2000.

⁵² I encountered this crisp pairing for the first time in a published interview with Klaus Schwab, President of the World Economic Forum. 'Responsible Globality' in *CEO Magazine*, January 2000.

From Collective Security to Peacebuilding? The Challenges of Managing Regional Security in Southern Africa

*Rocky Williams**

Introduction

It is an oft-quoted maxim, beloved of soldiers and managers alike, that ‘structure follows strategy’. Yet, very much in the vein of Napoleon’s dictum that ‘men are powerless to secure the future; institutions alone can fix the destinies of nations’,¹ attempts to end conflict tend to focus on organisational rather than strategic resolutions. Notwithstanding the strategic origins of the Southern African Development Community (SADC) as a political entity, the current attempts at resolving the impasse within the subregion are focusing on organisational rather than strategic solutions. Unless a degree of political, policy, and strategic coherence is achieved within the currently divided SADC subregion, attempts to secure regional consensus and cohesion will be thwarted.

This paper focuses on the current divisions within SADC and maintains that an essential prerequisite to securing higher levels of regional cohesion will be the identification of those issues and common processes which SADC needs to address in order to best manage its regional security more effectively. It outlines some reasons behind the current divisions within SADC, it proposes the adoption of a new strategic architecture within which SADC can analyse both itself and its diverse conflicts, and it outlines a series of political and military confidence and security building measures through which current and future organisational mechanisms can be created.

Background: the loosening of the SADC bond

During the 1980s SADC was regarded as a model of a functioning and cohesive subregional organisation. In both public and private discussions foreign diplomats and government officials alike would tell their Southern African counterparts that

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SADC was a subregional arrangement that other regions and subregions within and without Africa could well do to study and, possibly, even emulate.

Indeed many Southern Africans themselves took pride in the level of cohesion and solidarity that they had achieved over the past two decades. They possessed a loose but profound collective identity that had been forged in common political struggles that stretched, in some cases, back to the early 20th century, and in armed struggles that had started, more or less co-terminously, in the early 1960s. This identity was strengthened by the ferocity of the onslaught which most Southern African countries were to face from the PW Botha administration between 1978–89. These experiences created bonds which were based on more than mere sentiment and which were, as a result, rooted in deep historical, political, moral and ideological affinities.

Yet, from 1997 onwards, these bonds started unravelling as intense intra-state and inter-state rivalries, many of them occasionally alluded to at SADC meetings but never fully explained, fractured the edifice of SADC unity. The trigger for these developments, the ‘moment behind which necessity lurked’, was the incorporation of the Democratic Republic of Congo (DRC) into SADC—a decision motivated, ironically, by a desire to avoid future instability in the DRC itself.

As a result of this development nascent alliances and blocs within SADC were exposed, as different groupings within the subregion responded divergently to the unfolding crisis in the DRC. SADC became, from early 1997 onwards, essentially a bipolar subregional entity, with its two subregional powers and their respective allies adopting strategies towards the resolution of the conflict within the DRC that were qualitatively and quantitatively dissimilar.

The ‘*defence treaty*’ bloc led by Zimbabwe (which is by no means lacking its own internal fissures and contradictions) included Angola, Namibia and the affected country—the DRC. (It is referred to as the ‘defence treaty’ bloc because of the collective security agreement signed between the four countries in 1998.) The common feature of the strategy adopted by this grouping to address ongoing conflict in the DRC was its overtly militaristic nature—the belief that a political settlement could be secured via the deployment of military forces against President Kabila’s internal adversaries (the disparate rebel groupings) and the DRC’s external aggressors (primarily Uganda and Rwanda, but also including a number of other countries on the continent).

The reasons for the adoption of this strategy were primarily economic and strategic. Economically, it was clear that both Zimbabwe and the DRC in particular could benefit from a mutual pact which saw the expulsion and/or neutralisation of the opponents of the Kabila government. Both countries were facing economic crises of varying magnitude, and required new business initiatives to both boost their economies and sustain their respective governments.

All four countries stood to benefit strategically (in both the political and military sense) from a well-disposed president in the DRC who was under an obligation towards them. Militarily, two of the ‘defence treaty’ countries—Angola and the DRC—required a DRC that was purged of the complex web of adversarial military groupings such as threatened their own sovereignty and political survival (*União Nacional para a Independência Total d’Angola*—Unita—in the case of Angola and the

Unita/Eastern DRC rebel groupings/Rwandan force alliance on the other). Politically all four countries stood to benefit from a more closely knit relationship capable of countering the diverse political threats to their national interests of facilitating the economic growth of their respective countries.

The *'peacemaking'* bloc led by South Africa (which suffers its own internal fissures and contradictions) included Tanzania, Mozambique and Botswana, but also relied on the implicit support of Zambia, Swaziland and Malawi. More disparate and less coherent than the *'defence treaty'* bloc, the *'peacemaking'* bloc was united by a broad normative and strategic approach towards the resolution of the conflict in general and within the DRC in particular.

The common features were their commitment to the utilisation of diplomatic and political strategies as the primary instrument for the resolution of conflict in the region. Undoubtedly countries such as South Africa, Tanzania, Botswana and Mozambique were strongly influenced by their own experiences in this regard. Tanzania had emerged as one of the key peace brokers in the ongoing Burundian crisis, and South Africa and Mozambique had brought peacemaking strategies to bear in the resolution of their own internal conflicts. All of these countries (bar Tanzania) had been extensively involved since 1994 in the attempted resolution of the Lesotho constitutional crisis, and South Africa's foreign policy was inclining in the direction of a peacebuilding agenda (as exemplified in the pronouncements of the South African *White Paper on Participation in Peace Missions*).

Causes of SADC's current situation

The reasons for the fracturing of SADC unity are too complex to analyse in detail in this paper. I venture three observations in this regard.

Firstly, the era of the Frontline States and the Southern African Development Cooperation Community (SADCC) had clearly masked more fundamental differences within and between SADC states than had hitherto been acknowledged. Post independence governments within Southern Africa had developed definite geostrategic and national interests, which became more apparent with South Africa's acceptance into SADC. Although, as stated above, these interests had much to do with the shared historical and strategic interests of certain blocs within SADC, they were also determined, to no small extent, by a complex web of ideological, personal and, in some cases, pragmatic interests. None of these blocs was absolute in nature, and many of them contained within themselves the seeds of potential conflict (the relationship between the capriciousness of the Kabila administration and the more long-term interests of the Zimbabwean government, for example).

Although, in some cases, strong historical ties had existed between different countries of the region (Angola and the South African African National Congress—ANC—for example), these relationships were to sour as governments redefined their national values and interests (the tensions between Uganda and Rwanda that began emerging from late 1999 onwards being an East African example of this trend).

Secondly, and related to the above, was the changing nature of the security threat

in Africa and the implications this carried for the conflict resolution strategies adopted by the various governments in the region. The pre-1994 period had seen SADC united against a massive and singular threat in the form of South Africa. This rendered the formulation of policies, strategies and plans within and between SADC states a relatively easy exercise. The post-apartheid and post-Cold War period, however, had ended many of the latent conflicts within the region, and the relevance of traditional threat assessments for the African continent began to be questioned.

The origin of current conflicts, almost without exception, can be found in a variety of environmental, demographic, economic, political and developmental factors—factors which, notwithstanding the role of military force in credible conflict resolution, demanded socio-economic and not military strategies and responses.

Military conflict within this new scenario translated itself mostly into either intra-state conflict between opposing political or civil groups or between the central government and secessionist or guerrilla movements; or inter-state conflicts of a qualitatively different nature to conventional inter-state warfare (the Ethiopian–Eritrean conflict being an anomaly in this regard).

The third observation, once again related to the points made above, concerns the utility of our present conceptual and strategic architecture in understanding the myriad causes of conflict within the Southern African region in particular, and the African continent in general. The Cold War period, and indeed the apartheid years, bestowed an unwarranted intellectual simplicity and a strategic reductionism on many of the key political and intellectual discourses dominant within the SADC region. Consequently, the causes of conflicts and their proposed resolution were reduced to a set of simple postulates which corresponded either to the strategic divisions of the Cold War period, the political divisions within Southern Africa (the apartheid regime *versus* ‘the rest’), or the populist discourses prevalent within the rhetoric of the governments of the region (people *versus* oppressors/colonialists *versus* dispossessed). The reality of conflict within the SADC region was, however, infinitely more nuanced than these often one-dimensional portrayals suggested.

Conflict was more often than not the product of continually shifting class, ideological, institutional and personal factors overlaid by commercial interests (particularly the commercialisation of war) than it was the product of any permanent divide between different fixed social and political interests.

The underdeveloped state of both the subregion and the international community’s strategic *nous* was vividly demonstrated in the DRC conflict. Neither intelligence agencies (whether African or international), African analysts nor diplomats could have foreseen the major fault lines which were to emerge during the DRC crisis. A rigorous re-examination of our conceptual assumptions and our current intellectual architecture is required if we are to understand and manage the plethora of existing and potential conflicts within the SADC region in future.

In light of the above, the recent attempts within SADC to forge a common approach to the subregional resolution of conflict have focused on structural re-organisation as a means to this end. The creation of the Organ on Politics, Defence and Security in 1996 was one such initiative, as are the proposals which emerged from the SADC Extraordinary Ministerial Meeting held in Swaziland in October

1999. Notwithstanding the honourable intentions behind these different initiatives, they all tend to focus on organisational solutions rather than the attainment of strategic consensus on the management of regional security within SADC. The following section attempts to focus on the processes which should underpin effective regional security management rather than the structural variants (the latter being, ideally, a product that is derived from the identification of these processes).

Process versus structure: Creating confidence and building security

To ensure that SADC proves capable of managing its security needs, it is necessary to define what the conceptual parameters of the security equation are, to assess the extent to which current SADC policy reflects this definition of security, and to describe the processes which we can institute to ensure that regional security is effectively addressed.

What is security?

It is by now a well-worn truism, used by both academics and donors, that security is more than the mere provision of military defence against external attack. Michael Renner's observation reflects this aptly:²

Unlike traditional military security, human security is much less about procuring arms and deploying troops than it is about strengthening the social and environmental fabric of societies and improving their governance. To avoid the instability and breakdown now witnessed in countless areas around the globe, a human security policy must take into account a complex web of social, economic, environmental and other factors.

The same author stresses the new definition of security equally eloquently:³

National Security is a meaningless concept if it does not encompass the preservation of liveable conditions on earth. A reasonable definition of security needs to encompass breathable air and potable water, safe from radioactive and toxic hazards, an intact climatic system, and protection against the loss of topsoil that assures us our daily bread. The well-being of nations and their individual citizens depends as much on economic vitality, social justice, and ecological stability as it does on safety from foreign attack. *Pursuing military security at the cost of these other factors is akin to dismantling a house to salvage materials to erect a fence around it.* (emphasis added)

SADC's existing policy pronouncements reflect this broadened definition of security, and very few people within SADC, be they members of government or civil society, would dispute this definition.

The principles of the SADC Treaty quite clearly commit its members to the realisation of 'peace and security; respect for human rights, democracy and the rule of law; and the peaceful settlement of disputes'.⁴

The resolutions adopted at the SADC Workshop on Democracy, Peace and Security

in Windhoek in July 1994 extended these principles further, and stated that the resolution of conflict would be predicated on the peaceful settlement of disputes through negotiation, mediation and arbitration, and that military intervention of whatever nature would only be decided upon after all other remedies had been exhausted (in accordance with the charters of the Organisation of African Unity—OAU—and the United Nations—UN).

The ministers at the meeting further proposed that conflict resolution also include a range of interrelated objectives including the co-ordination and harmonisation of all policy on international issues, the promotion and enhancement of democratic institutions and practices, and the promotion of peacemaking and peacekeeping in order to attain sustainable peace and security.⁵

Towards this end the ministers proposed, and heads of state subsequently endorsed, the creation of an Organ on Politics, Defence and Security to accomplish these objectives. However, what was not outlined in detail, beyond the affirmation of broad values and principles, was the organisational processes that would bring about this desired end-state.

A similar hiatus arose at the Extraordinary Ministerial Conference of the SADC ministers of foreign affairs, defence and state security when they met in Swaziland in October 1999 in an attempt to resolve the (by now well-known and long-standing) differences over the functioning of the SADC Organ. Apart from reaffirming the general principles underpinning the creation of the Organ, the ministers did not outline in any further detail the processes which SADC should undertake to manage its regional security. Instead the ministers proposed an organisational resolution of the Organ impasse in which the Organ would fall directly under the SADC Summit and would co-ordinate the activities of both a Politics and Diplomacy Ministerial Committee and the Inter-State Defence and Security Committee (ISDSC).

What is required, in essence, is a further development of the content of the human security agenda that already exists, in an under-developed form, in the diverse policy pronouncements of SADC.

SADC policy contains clear references to human security principles in its recognition of the importance of peace, sustainable development, peacemaking and peacekeeping in attaining conditions of sustainable peace. What is required now is full development of an overarching strategy whereby SADC can manage its regional security processes.

The encompassing strategy should be that of peacebuilding. Peacebuilding includes such activities as:⁶

the identification and support of measures and structures which will promote peace and build trust, and the facilitation of interaction among former enemies in order to prevent a relapse into conflict. In essence 'peacebuilding' is mainly a diplomatic and developmental process.

Peacebuilding, in essence, encompasses all those activities of a political, developmental, economic, social and military nature which can be harnessed to ensure ongoing peace, stability and development within a region. It is consistent with the explicit and implicit sentiments within SADC, and it constitutes a framework within which virtually every area of the human security agenda can be effectively

addressed and capably managed. Some suggestions on the management of this process are outlined below.

Creating a SADC peacebuilding strategy

To reach agreement on what constitutes the framework of a human security agenda within SADC and the process by which consensus on appropriate strategies can be reached, it is necessary to secure agreement on the following:

- Political consensus is required on the definition of the human security agenda confronting SADC, its scope and the main challenges facing the creation of conditions of sustainable peace within SADC.
- Consensus is needed on the appropriate strategies to realise this human security agenda. SADC already possesses certain draft protocols on these issues (intolerance of *coups d'état* for example). Further suggestions follow.
 - The developmental policies and activities of SADC should be harmonised and integrated with those policies and activities within the security sphere (the peacekeeping initiatives within the ISDSC and the policing activities of the Southern African Regional Police Chiefs Conference Organisation—SARPCCO—for example).
 - As far as possible, the foreign policies of all SADC countries within the region should be harmonised—particularly policy concerning foreign engagements within other African and SADC countries.
 - As far as possible, the defence policies of all SADC countries within the region should be integrated—particularly when this has to do with defence policy engagements within other African and SADC countries. One option that could be considered is the institution of a subregional defence and security review in which a detailed assessment of the following can be made:
 - the nature of the current strategic environment in the SADC subregion;
 - the types of roles and tasks which SADC should be preparing its security agencies for;
 - the equipment requirements for these particular tasks;
 - the human resource requirements to respond to these challenges; and
 - the budgetary implications of the above.
 - Appropriate confidence and security building measures should be introduced within the SADC region. These measures typically include the following:
 - improving transparency with regard to military forces through information exchanges on policies, national strategies, budgets, force levels, major weapons systems and purchases, and existing and intended bilateral defence agreements with other African countries;
 - using credible observers approved by SADC to verify force levels, weapons systems and force dispositions;
 - negotiating agreements in the sphere of non-proliferation, intended to assist weapons procurement and doctrine standardisation; and
 - building the capacity of SADC to respond to crises. Already this is being

done in the peacebuilding arena with the ongoing activities of the ISDSC in this sphere, but more is needed in the sphere of humanitarian assistance and disaster relief (as the recent floods in Mozambique have vividly demonstrated).

To accomplish the above, I propose a few guidelines. First, the process of securing consensus on what the content and the ends of security should be will, by its very nature, be an incremental process that will require time and astute management.

Second, a conceptual and strategic architecture will need to be established within which all the concepts and subconcepts relating to the regional security agenda are outlined and fully explained.

Third, the proposed confidence and security building measures should not be seen as antithetical to the national security interests of the country concerned, but as complementary. Acceptance of this principle will not occur overnight and will require discussion and the development of trust.

Fourth, all countries within SADC and all major roleplayers must be involved in the process of determining a regional security agenda right from the beginning. The relatively recent inclusion of the DRC into SADC has demonstrated the extent to which a roleplayer unfamiliar with the rules and protocols of the organisation can divide such a body.

Fifth, once agreement has been reached on an appropriate subregional strategy, the mandates of the respective co-ordinating and executing authorities within SADC will need to be determined.

Sixth and last, the institutional capacity of the different SADC countries will need to be considered when formulating a proposed strategy. The capacity of SADC states is uneven at present (as seen in the perennial problems that arise concerning who will chair the ISDSC), and many states are unable to implement ambitious and wide-ranging proposals.

Conclusion

Once consensus has been reached on the content of a regional security agenda—preferably a human security agenda developed out of the existing SADC policies—then the appropriate organisational mechanisms required for the co-ordination and management of this strategy can be considered. They may well take a form similar to what has been proposed in this paper.

Notes

- ¹ Statement attributed to Napoleon I at an Imperial seance, June 7, 1814.
- ² Renner M, 'Transforming Security', in *State of the World*, Place: Publisher?, 1997.
- ³ Renner M, 'Environmental Dimensions of Disarmament and Conversion' in *Conversion: Opportunities for Development and Environment*. Berlin: Springer-Verlag, 1992, p.346.
- ⁴ Article 4, Declaration Treaty and Protocol of Southern African Development Community, Gaborone, Republic of Botswana, 1995.
- ⁵ Cilliers J, *Building Security in Southern Africa: An update on the evolving architecture*, Monograph 43. Pretoria: Institute for Security Studies, November 1999.
- ⁶ *White Paper on South African Participation in International Peace Missions*, Department of Foreign Affairs, Pretoria, South Africa, 1998.

Organised Crime and State Responses in Southern Africa

*Mark Shaw**

Introduction

The trend towards regional economic integration in Southern Africa has also brought with it a growth in criminal activities that span national borders. This, combined with the ongoing connections between crime and conflict in the region, and the weak capacity of states to counter the problem, means that organised crime is a significant regional threat.

The challenge of facing these issues will be to ensure that countries work together—rather than on their own—in matters of law enforcement. While some progress is being made in this regard in Southern Africa, there is still much work to be done.

Old contacts, new networks

It is possible to trace the growth of organised criminal operations in Southern Africa over the past decade. They have arisen primarily because of the porosity of borders in the region since the end of apartheid, the growing political economy of war and crime, and the weak capacity of individual states to confront the problem.

Although commentators have identified the factors which have initiated the rise of criminal activity in Southern Africa, they have not analysed these developments in detail. The conventional wisdom that organised crime is represented by structured hierarchies lorded over by black-suited godfathers, Hollywood style, is simply not the case in Southern Africa. Here illicit activity is conducted by a complex (and changing) network of criminal groups and organisations.

Key to the development of a regional organised crime network is South Africa. The country, given its comparative wealth, is both a target and a source for criminal groups. About a quarter of the 800 criminal syndicates identified by the South African

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Police Service as operating in South Africa have a regional focus. These organisations generally involve themselves in a multiplicity of activities—for example, the smuggling of guns, drugs or stolen car parts. Once the routes are in place (and where necessary the appropriate border officials bribed), almost any commodity can be transported.

The hijacking and theft of motor vehicles in South Africa, for example, cannot be controlled without an examination of regional factors. Crime bosses in South Africa (many of them from outside the country themselves) have begun to focus on the ‘export’ of stolen or hijacked cars or parts, in the same way as do legitimate business concerns. Mozambique, Zambia and Zimbabwe have become markets for small delivery vans, four-wheel-drive vehicles and trucks. This is now a highly lucrative business run by increasingly sophisticated syndicates.¹

The advantage of such syndicates, a recent study of the problem concludes, is that they are ‘segmentised, decentralised and flexible communities’.² In effect, organised crime in Southern Africa is loosely organised, and able to change its form quickly to suit the requirements of any particular task.

Often organised criminal activity operates under the pretence of, or in conjunction with, legitimate commercial activity, such as import-export companies or the taxi business. That makes the task of sorting out what is legal and what is illegal difficult for the police, and assists criminal organisations with the laundering of funds through legal business structures.

These characteristics make Southern African criminal networks difficult to police. Syndicates may rely on close ethnic and clan networks which are difficult for outsiders to penetrate, and may have close connections with individuals serving in key law enforcement posts, such as border control officers.³ Police agencies, on the other hand, are generally based on strict principles of hierarchy and are almost always plagued by high levels of bureaucratic inertia, slowing their responses to new threats.

How did such a situation develop?

The origins of organised crime in the region are complex.⁴ According to police undercover agents, most criminal syndicates had their origins in the late 1980s. These comprised both foreigners coming into the region to establish legitimate import-export type operations and local entrepreneurs. Locals had contacts through which they could acquire a range of resource products such as cobalt, ivory, diamonds or drugs. From these early relationships complex networks of crime and profit were forged.

While criminal groups (in many cases just a loose affiliation of individuals) varied in size, they tended to be small, and were based on family, community or tightly constituted ethnic links. For example, Portuguese nationals resident in South Africa used old contacts in war-torn Angola or newly peaceful Mozambique to secure their ‘business interests’. These contacts in turn used local networks to procure minerals, drugs or weapons for the external contacts. Over time, these networks themselves become sources in their own countries in a growing local market for stolen items such as cars.

Developments in Southern Africa have of course not occurred in a vacuum. An important parallel development has been the growth in transnational criminal activities during the 1990s. The last decade has seen unprecedented developments in criminal activity that spans national borders. This is result of a complex interrelationship between a number of factors. At the most basic level it is an unhealthy outcome of the ongoing process of globalisation—improved trade, communication and financial links have made the world a smaller place, not only for licit but also for illicit activities. A notable element of this has been the growth in the global drug trade.

These factors suggest that crime in Southern Africa must be seen as an integrated phenomenon. National borders are often of little importance, or, ironically, serve as a means of protection for criminals, who skip easily from one legal jurisdiction to another. However, the growth of a network of criminal activity in the region cannot be separated from political developments in the countries affected. Regional instability, including weak and unstable states and ongoing conflicts, serves as an important driver of illicit activity in Southern Africa.

Crime and conflict

Key to the development of criminal networks are the openings and opportunities made possible through those engaged in armed conflict, who seek to fund war through the exploitation of natural and other resources. In this process, links are established with external criminal groups and new networks of lawful and criminal activity forged—an important defining feature being, as suggested above, the cross-over between legal and illegal operations.

The trafficking of arms is a good example. The transfer of armaments into and between states in Africa is not only the result of the activities of legitimate arms dealers. The transfer of weapons relies on criminal groups who have identified markets and are delivering the goods. Southern Africa has developed over the past number of years an increasingly sophisticated network for arms smuggling. Most insurgency groups, and some governments, may prefer to deal with underworld contacts, because no paper trail is likely to be left.

The ongoing wars in both Angola and the Democratic Republic of Congo (DRC) have ensured that these issues play a significant role in illicit activity in Southern Africa. Resource accumulation, the desire for profit and the fragmentation of opposing warring groups have ensured that protagonists in these conflicts are vulnerable to outside influence. This occurs in many forms: some are international arms merchants wanting to profit from arms sales, or unscrupulous business organisations seeking to acquire mining or other concessions to exploit natural resources. The results are often complex payoffs and protection fees and an overlap between legal and criminal activity.⁵

Given the emerging political economy of war and crime in Africa, it is clear that many of the conflicts in Southern and Central Africa will require regional policing in the longer term. The recently released United Nations report on sanctions-busting in

favour of *União Nacional para a Independência Total d'Angola* (Unita) in Angola implicates South African nationals among others, in a range of cross-border criminal activities.⁶ Whatever the validity of the report, it suggests that ongoing attempts to curb conflict in Southern and central Africa will contain law enforcement aspects.

One important aspect of these developments is the role of some states. It is incorrect to view states and governments as powerless actors simply acting as onlookers at the development of organised crime, but with little capacity to intervene.

What is termed criminal in most societies is defined by the laws of the state. In some African states, particularly those undergoing conflict, these boundaries are often blurred, and the state has become an active participant in lawlessness.⁷

It should also be noted that states characterised by high levels of internal conflict may give rise to criminal societies once 'peace' is achieved. In the absence of immediate opportunities for formal employment, old networks used to sustain conflict turn to crime as a means of making a living.

It is no coincidence that in South Africa those areas of the country which have experienced the highest levels of political conflict—parts of KwaZulu-Natal and the townships to the east of Johannesburg—now have the highest levels of syndicated criminal activity. These places are characterised by the following:

- established networks to smuggle contraband;
- few opportunities for legitimate economic activity;
- former combatants with military training;
- control by strongmen of distinct geographical areas; and
- a disrespect for the rule of law generated through ongoing conflict and harsh state actions.

These factors are also present to a greater or lesser degree in other post-conflict societies such as Mozambique. If sustained peace is achieved in Angola and the DRC, it is likely that both countries, given weak states, will be plagued by high levels of internal criminality, which could have a significant impact on the region as a whole. What is surprising in the case of South Africa, where the state is comparatively strong, is the speed with which organised criminal activity grew after 1990, and the current difficulties experienced in eradicating the problem, as the instruments of the state slowly realign to confront the challenge.

Both the growth of organised crime in the region and the degree to which it is often related to ongoing conflicts, underline the necessity for effective intervention. Most important, in the longer term, is the requirement to reinforce regional attempts at police co-operation.

Policing the region

It should be said that regional attempts at controlling crime in Southern Africa have been surprisingly successful. The South African Regional Police Chiefs Co-operation Organisation (SARPPCO) was formed in 1995. The organisation is primarily an

operational body, with a clear focus on the running of joint operations between various regional law enforcement bodies. Operations have, for example, involved the location and destruction of weapons caches in Mozambique or joint operations between countries to counter car theft. Indeed, SARPCCO has a much more operational focus than equivalent regional policing bodies such as Europol.⁸

Given this focus, SARPCCO has largely avoided becoming involved in the political bickering so characteristic of other regional security arrangements. This has not been accidental. While its work was always ratified by a group of ministers from the participating countries (which significantly excludes the DRC at present), the police chiefs have tried from the outset to distance themselves from overt regional political processes. For example, SARPCCO was initially established as a regional association of police officers rather than as a formal organisation (which would have been required to subordinate itself to regional political structures).

This is not to say that SARPCCO has experienced no problems. Questions of capacity, resources, logistics and lack of technology have been ongoing stumbling blocks to improved co-operation. This is largely the result of the unevenly developed nature of the region's police agencies. The sharing of intelligence, as in all efforts of law enforcement co-operation, also requires improvement. Over the longer term, however, SARPCCO, now officially part of SADC although retaining its operational nature, is likely to be an important (albeit slow-moving) vehicle for more a integrated approach to regional law enforcement.

There are strong arguments for speeding up regional policing functions. It will become increasingly difficult to police organised crime from the isolation of any single state. More than most countries, South Africa has a real interest in improving regional policing initiatives, although regional sensitivities as to South Africa's role are a potential stumbling block in the way of a more concerted effort by South Africa.

Given recent developments, such initiatives seem far off. However, some thought should be given to how regional police agencies can assist with the establishment of effective and professional policing in the region's post-conflict structures. Already in Mozambique important lessons have been learnt which may be transferable to other jurisdictions.

While regional policing arrangements in Southern Africa have played an important part in improving policing, few would deny that more can and should be done. A number of key initiatives would assist in this process:

- A joint study of organised crime in the region should be undertaken, identifying areas of investigation which are likely to yield maximum impact. This initiative should be enhanced with an ongoing mechanism to monitor developments in regional criminal organisations.
- A joint law enforcement unit should be staffed and resourced by regional states. The unit should be tasked to investigate specific and jointly agreed-upon cases of organised criminal activity which crosses over regional borders.
- A joint capacity in the area of logistics should be built, facilitating joint operations and ensuring that when such operations are carried out, South African technical and logistical support is not a necessity.
- A process of planning how regional police agencies can assist the rebuilding of

police capacity in states emerging from conflict should be initiated. This might well entail the establishment of joint assistance teams.

- An increase in the number of joint training exercises should be motivated. While the establishment of an American-backed regional law enforcement academy in Gaborone is important, training should be operationally focused (including the establishment of mentoring programmes between police agencies), and should as far as possible draw on regional expertise.

Co-operation between police agencies is a central component of improving police performance in the region. While police officers should be accountable to the politicians they serve, improved professionalism and cross-regional solidarity with their counterparts in neighbouring countries may limit opportunities for the political misuse of the police.

The scale of the challenge should not be underestimated. Over the long term the growth of criminal networks in the region may have the capacity to undermine both democratic governance and economic prosperity. The threat is diffuse and its boundaries difficult to identify, but the impact of such activities will be detrimental to all Southern Africa's citizens. Now is a critical time to act. Some progress has been made with respect to regional policing co-operation; now it must be deepened and then institutionalised.

Notes

- ¹ For a useful overview, see *Financial Mail*, 11 August 2000.
- ² UN, *The Drug Nexus in Africa*. New York: United Nations Office for Drug Control and Crime Prevention, 1999.
- ³ Shaw M, 'State responses to organised crime in South Africa' in *Transnational Organised Crime*, 3, 2, Summer 1997.
- ⁴ See Gastrow P, *Organised Crime in South Africa: An assessment of its nature and origins*, Monograph. Pretoria: Institute for Security Studies, August 1998.
- ⁵ See Shaw M, 'The Cost of War and the Price of Peace: The political economy of crime and conflict in sub-Saharan Africa', unpublished paper written for the South African Institute of International Affairs.
- ⁶ UN, *Report of the panel of Experts on Violations of the Security Council sanctions against UNITA*, New York: United Nations, March 2000.
- ⁷ Bayart J-F, Ellis S & B Hibou, *The Criminalisation of the State in Africa*. Oxford: James Currey, 1999.
- ⁸ For a more detailed overview of SARPCCO see Shaw M, 'The Foreign Policy of Crime Control', in *South African Yearbook of International Affairs 2000/2001*. Johannesburg: SAIIA, 2000.

A Review of Regional Integration in Southern Africa: Comparative International Perspectives on the Legal Dimensions of Cross-Border Trade

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Introduction

One of the most important recent developments in the global trade system is the spread of regional integration.¹ Almost every country in the world is taking part in, or is considering, a regional integration arrangement with neighbouring countries that share a common or similar language, culture or history. The purpose of these arrangements is usually to facilitate cross-border economic activity by eliminating barriers to the flow of goods.

The process of regional integration has been promoted throughout Southern Africa. The question is, What is required to take the process of integration forward? This question is of vital importance, as an integrated region with a free trade zone is usually regarded as more attractive to external investors. Furthermore, opening markets brings economic growth.

A crucial factor for an investor, a creditor or a seller or buyer of goods is the identification of the various risks involved in a commercial transaction. In order to assess the risks properly, there is a need for a legal framework to regulate the transaction. The risks that must be assessed include financial risks, transport risks, currency risks and, most important, insolvency risks. A fully-functioning legal infrastructure regarding security interests and insolvency law both on a national as well as on a regional level is especially essential, as insolvency law has been recognised as an important component of economic development and stability.²

If one uses the European Union (EU) as a comparative standard, harmonisation of the laws³ regarding security interests and insolvency has not come far among the member states. However, the globalisation of the financial markets and the increasingly intensive international trade have given rise to a need to harmonise security interests regarding movables, which would offer practical value to traders, bankers and corporations engaged in commercial trade, and enhance legal certainty. When the content and effect of legal rights and obligations are more predictable, the

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legal risks and thus the transaction costs are reduced. Therefore, recently the focus when discussing the future of European Law has been the need for approximation of substantive law.⁴ This must also be the focus when discussing the future of law in the region of Southern Africa. If legal regulation does not keep pace with the increasing economic demands for security in movable assets as well with the global trends in these areas of the law, it will be difficult to attract investors to the region and keep the cost of capital low.

Towards more harmonised rules?

In the common market of the EU it has been said that Article 28⁵ in the Treaty is being restrained on one hand by the international private law rules⁶ and on the other hand by the different rules regarding security interests. At the international level the absence of legislation concerning security interests is said to threaten the predictability required by creditors if they are to finance certain types of transactions willingly. The absence of unified international rules in the area of international private law and security interests has led to economic consequences in the form of high risk for the market actors, which in their turn give rise to high transaction costs. Therefore, the demand to create harmonised rules has increased.⁷

Proposals for harmonised rules regarding one or two security interests as well as harmonised international private law rules have been presented and discussed on one hand by the European Community (EC) and on the other hand by several international organisations to facilitate international trade.⁸ What will all the proposals mean for the development of security interests in our respective countries? Can we maintain our own national system, or are we moving towards more harmonised rules regarding security interests that are common to a number of countries? In view of regional integration and development in Europe and in Southern Africa, but also globally, and the obvious connection between security interests and insolvency law, can we even expect international common security interests and a common or harmonised insolvency law?⁹

Suggestions for a new regulation in the area of international private law

As mentioned before, it is essential for the region of Southern Africa that the legal infrastructure keep pace with the global trends regarding security interests and insolvency law in order to attract investors to the region and keep the cost of capital low. What are the global trends? The globalisation of financial markets and more intensive international trade have given rise to a need to harmonise security interests regarding movables. The question is how. It has been suggested that there are two alternative ways. One is to harmonise international private law rules so that regardless of the state in which a judicial procedure regarding the validity of the security interests is started, the applicable law will be the same. Such a reform is probably to be expected in the near future in the EU, as Article 28 in the EU Treaty—

according to legal comments—is being restrained by the international private law rules concerning security interests.¹⁰ To summarise, in many countries the rules concerning security interests in private international law dictate that the validity of a particular security interest depends on the applicable law of the contract, and whether the security interest is valid under that law.

In the absence of an expressed choice-of-law clause, the validity of the security interest between the parties will be decided by applying the law of the legal system which has the closest connection with the contract. However, in case of the debtor's insolvency, the choice-of-law clause cannot alter the proprietary effects towards the debtor's creditors. In most legal systems the validity and the effect of the security interests will therefore be governed by the *lex rei sitae*, that is the law of the place where the secured assets are situated. This rule is not easy to apply, because it may be difficult to ascribe a particular location to mobile goods. Movables may also be moved from one country to another. In that situation, one has to deal with an old and a new *lex rei sitae*.

According to legal opinion, a property right acquired under the law of the country where the chattels were situated at the time of its creation remains valid in principle, even after the chattels have been moved to another country. However, there are exceptions to this rule, especially if the person in possession of the chattel goes bankrupt.

As property rights are limited to a number of different types, a foreign property right may also not be recognised in the country to which the object has been moved. If a conflict arises between the old and the new *lex rei sitae*, usually the latter prevails. If a creditor in an international transaction does not thoroughly investigate the substantive law concerning particular security interests in the country of the secured asset's destination, together with other rules on bankruptcy and procedure, he may end up losing his security interest. During the whole period of transportation the status of the security interest relating to the creditors of the buyer could also be in danger because of the change in *lex rei sitae*. Because of the complex situation in this area of law, demands have grown for a harmonised European international private law.¹¹ New and harmonised international private law rules are also viewed as a softer way to reform than harmonisation of the substantive rules in order to achieve similar and predictable results in cross-border transactions.¹²

Suggestions for a new regulation through a change of the substantive rules

Proposals from the Council of Europe

The other way to create universally applicable rules is through harmonisation of the substantive rules regarding security interests.¹³ This is a significantly more difficult way than to harmonise the rules in the area of international private law. However, the latter is not as effective as a harmonisation of the substantive rules. Why is it so difficult to harmonise the substantive rules? The reason depends on several factors.

Firstly, different countries have different views on what is a security interest.¹⁴ One view is that a security interest is only created when the security is given by the debtor in an asset which he owns or has an interest in. Retention of title, that is a clause that stipulates that the ownership is not to pass to the buyer before he has paid the purchase price, is considered to be only a quasi-security interest. This is an obstacle to harmonisation even between civil law countries that belong to the same legal family. However, the obstacle becomes even larger if countries which belong to common law or another legal family are embraced.¹⁵

Secondly, security interests can appear in a number of different types of contracts like sale of goods, financial leasing and so on. Should security interests be harmonised in a coherent body of rules, or should they be harmonised according to which contract they usually appear in?

Thirdly, the rules regarding security interests usually have a mandate to protect third-party rights. The rules are also closely connected with insolvency law, which in turn differs depending on whether the country has a creditor-friendly or a debtor-friendly insolvency law.

Fourthly, private law, to which the security interests belong, has often been seen 'as a kind of symbol of national legal identity and a strong expression of national legal culture'.¹⁶ For this reason, many states tend to resist the harmonisation of private law. The fact that it is difficult to find a universally accepted system for one or a few security interests is testified to by the many attempts that have been made. As early as 1973 a project was started inside the EC to create a directive regarding retention of title. When the draft directive was presented, it met tremendous criticism, and work on it stopped.¹⁷ In 1980, when the next draft proposal was presented, it met the same fate.¹⁸ After these two setbacks, attempts to create a directive regarding retention of title stopped completely.

Instead, efforts were directed towards the project that had been launched under the auspices of the Council of Europe. In 1978 they appointed a committee, whose aim was to present a convention regarding retention of title. A draft convention was presented in 1982.¹⁹ Because the contents of the draft convention were very similar to the proposals presented in the draft directives, the convention was not warmly accepted. Critics thought that the convention that the Council of Europe had created was useless because it did not in any way improve the situation for the sellers in cross-border trade,²⁰ and it dealt only with so-called simple retention of title clauses.²¹ Sellers in Germany, the Netherlands and later also England tend to use expanded or extended versions of retention of title clauses.²² On these types of clauses, the convention had no effect. To summarise, when the final version of the convention was presented it met with no success and therefore disappeared from the legal scene.

Proposals from the United Nations Commission on International Trade Law (Uncitral)

Another attempt worth mentioning, even though it did not succeed, is the convention or law model for international security interests that Uncitral tried to create over a number of years.²³ The purpose of the model law was to create an instrument that

could be used by different countries in order to reform their national laws concerning security interests. Another aim was to create a common point of departure in order to solve international insolvency problems. However, in 1980 it was decided that the time was not ripe to present a proposal or draft for such a convention.²⁴ A factor contributing to the failure of the project was the absence of uniform rules concerning international insolvency law. It was therefore argued that one could not regulate the area of the security interests alone, especially when the security interests are so strongly connected with insolvency. One could therefore not regulate one area without influencing others.²⁵

Conventions and model laws drawn up by the International Institute for the Unification of Private Law (Unidroit)

In spite of a number of unsuccessful attempts to harmonise security interests, additional efforts are being made. One worth mentioning, although it has not so far been successful, is the Unidroit Convention on International Factoring and the Unidroit Convention on International Financial Leasing presented in 1988. The first of these conventions has been ratified by only four states, that is France, Italy, Nigeria and Germany.²⁶ Regarding the Convention of Financial Leasing, only four states have ratified the convention, that is France, Italy, Nigeria and Panama. Obviously these conventions have not had the intended effect. However, it has been said that the 1988 Convention on Financial Leasing should be viewed as only the first step towards a completely harmonised regulation of security interests in movables.²⁷

Unidroit has started a number of new projects to achieve that aim.²⁸ One of these is a project to create a model law regarding financial leasing. It will be based on the 1988 Convention and is intended to be used particularly in countries in economic transition, that is Central and Eastern Europe.²⁹ Furthermore, Unidroit has started a project regarding security interests in mobile equipment. A draft convention has been presented,³⁰ whose aim is to facilitate different international aspects of financing such objects as aircraft, satellites, ships, railway rolling stock and other mobile equipment which, as a consequence of their mobility, create problems in an insolvency situation. Expectations of the convention are high: it has been said that the convention has the 'potential to be one of the most important international trade conventions in the history of international law-making'.³¹ It is planned that the convention could be ready for signing and ratification at a diplomatic conference as early as practicable in 2001.³²

The model law drawn up by the European Bank for Reconstruction and Development

A fourth interesting proposal in the direction of harmonised security interests is the model law for secured transactions created by the European Bank for Reconstruction and Development. The model law has been created for Central and Eastern Europe. The need for new rules is great, as a number of countries in this area lack or have only antiquated rules from the communist era, which do not fit into the new market economy. The motive for creating a model law was to accelerate development in a

practical way.³³ Work on the model law started in 1992, shortly after the European Bank for Reconstruction and Development began its activities. The first draft was presented in London in 1993. The final version of the model law was presented at the third annual meeting in St. Petersburg in April 1994. An interesting point is that the law has been created so as to be compatible with law in the European civil law countries, but at the same time uses common law elements. The reason for this is that the drafters wanted to use the many practical solutions offered by modern law to the problems raised by security interests—for example using models from Article 9 in the American Uniform Commercial Code—and at the same time to preserve certain concepts and traditions based on civil law.

There are three ways to create a valid security interest. Firstly, the creditor can register his security interest (a so-called registered charge). Secondly, the creditor can take possession of the goods (a possessory pledge). Thirdly, the creditor can stipulate in the contract a so-called unpaid vendor's charge, which in practice is a retention of title clause or a clause with similar content. The model law has been very well received and has been used as a blueprint for a number of new laws regarding security interest in Central and Eastern Europe.³⁴

To summarise, it can be said that all of the proposals or model laws that have gained acceptance are ones that are built on a system of registration. That is a very important factor to consider when one is trying to predict what the legal field regarding security interest will be like in the future.

The European Parliament and the Council draft directive on late payments

Late payments are estimated as the cause of every fourth case of insolvency. Late payments can be a very serious threat to a company, because its cash flow, its profit, and its capability to compete are weakened. Inside the EU, late payments are said to be an obstacle to the Community's success. According to some reports, 20% of the European companies would be able to increase their exports if they could make their customers pay their invoices on time.³⁵ The EC has therefore presented a proposal which contains a number of measures to fight late payments inside the EU.

In April 1999, the Council reached a political agreement on a common position regarding the directive. The text was then considered by the European Parliament during the autumn of 1999. At the end of June 2000, the directive was adopted.³⁶

As late payments have such a crucial impact on the number of insolvency cases, it is likely that other countries taking part in other regional integration arrangements will follow the path of the EU and adopt measures to prevent late payment. Is that going to be the path that the region of Southern Africa will follow?

Developments regarding international insolvency law

In recent years, efforts to develop an international insolvency law at a regional level as well as an international level have really expanded.³⁷ One reason has already been

mentioned—that insolvency law has been recognised as an important component of economic development and stability.³⁸ The expansion of insolvency law is particularly interesting because one factor in the failure of the 1980 Uncitral project aimed at creating a common international law for security interest was the absence of uniform rules concerning international insolvency law. However, with the development of an international insolvency law in hand, perhaps a reform of security interests is also in sight.

The work on a convention relating to insolvency started within the EU at the beginning of the 1980s. In 1982 a draft was presented, which was withdrawn for further work. In 1982 the Council of Europe presented an interim proposal for an Insolvency Convention, which was signed in 1990 by Belgium, France, Germany, Greece, Italy, Luxembourg and Turkey.³⁹ Because this convention, the so-called Istanbul Convention, was warmly accepted—even though it never will come into force,⁴⁰ the EU was encouraged by its success to resume work on the more detailed convention (started in 1980) on international insolvency. In November 1995 all member states with the exception of the United Kingdom (UK) signed the EU Convention on Insolvency Proceedings.⁴¹

Because the UK failed to sign the convention before the deadline of 23 May 1996, the convention could not enter into force. However, through a joint initiative by Germany and Finland,⁴² the project was saved and the convention has now been transformed into a regulation, which will come into force on 1 May 2002. The new regulation is a more powerful instrument than the convention. When the regulation comes into effect it automatically binds the member states of the EU without any legislative process under national law. It is interesting that several countries have already started to apply it even though it has not yet come into force. A judgement from the Supreme Court in the Netherlands refers to the ‘convention/ regulation’.⁴³ Furthermore, the Explanatory Report to the convention/regulation has already gained support, which has been expressed in changes to court practice in several countries.⁴⁴

The harmonisation of insolvency law is also taking place on an international level. Firstly, the work produced by Uncitral can be mentioned in this regard. During 1995–96 they published a number of drafts concerning legislative provisions for judicial co-operation and access and recognition in cases of cross-border insolvency.⁴⁵ Using these drafts as a starting-point, Uncitral created a model law on Cross-border Insolvency⁴⁶ which was presented in the spring of 1997. The model law aims, among other things, to facilitate both the legal co-operation between the courts and other competent authorities involved in cases of cross-border insolvency and also ease the access of foreign representatives⁴⁷ to the courts. Finally, the model law aims to recognise foreign insolvency proceedings.⁴⁸

Other interesting projects that are being conducted by international organisations and which can have an impact on the legal development of international insolvency law are being conducted by the International Monetary Fund, the World Bank, the International Bar Association, The Working Group on International Financial Crises (G-22) and others.⁴⁹ All of these projects aim to develop standards, principles, model laws and so on in different fields of insolvency law.⁵⁰ Although, the final results of all

of these projects are difficult to predict, they are likely to have a significant impact on the development of insolvency law in our respective countries.

Conclusion

From the international point of view it would be desirable if a contractual security interest were subject to uniform rules. For a long time the actors playing in the arena of international trade have been increasing their demands for new and effective security rights in cross-border transactions. Several attempts have been made by Uncitral, Unidroit, the Council of Europe, and the EU to harmonise the security interests for movable goods, either at the international level or among the EU member states. Some of the proposals submitted by these organisations have been accepted by member states and have since come into force. The developments in many countries with respect to the problems of insolvency and the acceptance of new, yet similar, laws by many European states have paved the way for more intensified projects to harmonise the law. One very interesting project concerns the proposal to create a new European Civil Code.⁵¹ At a conference in March 1997, for example, it was pointed out that one of the first areas that should be regulated by a European Civil Code is the area of property rights in movable goods. A study group has been formed, which is working to create 'principles and rules of a Common European Law of obligations and of securities in movable goods'.⁵² The impact of all these projects may be of critical importance to our national legal systems.

Developments have so far been very slow. When the different countries encounter more and more difficulties in estimating the value of each other's security interests in international insolvency cases, perhaps the need for a common security interest may be more strongly felt. It is said that the national laws in many countries concerning security interests are 'totally outdated ... as to the nature of modern international business activity'.⁵³ The national laws do not provide the security, predictability or fairness which is absolutely necessary for a creditor in international transactions.⁵⁴ The absence of a uniform regulation of the security interest is a threat to legal stability and foreseeability, which is absolutely vital to enable the creditors to agree to grant large credits.⁵⁵ The creation of uniform rules, either on the European level or at the international level, will be very difficult and laborious, and consequently it will take time. For the region of Southern Africa, the question now is how the legal field concerning security interests and insolvency law is going to develop. Legal regulations must move at the same pace, or preferably faster than those of other countries at the same economic level. If the legal infrastructure does not move in such a direction, investors will not feel confident of receiving returns, and will therefore invest their capital in other parts of the world. This is bound to have a negative effect on the region.

Notes

- ¹ See http://www1.worldbank.org/wbiep/trade/RI_map.html. 2000-06-11
- ² See Harmer RW, 'Uncitral Projects'. Paper presented at INSOL International and CCLS Schmitthoff Symposium 2000 on 'Law and Trade in the 21st Century', 2 June 2000. Held in London, UK.
- ³ The objectives of the European Community (EC) Treaty (Article 3) are, among other things, to create an internal market, characterised by the abolition, as between the member states, of obstacles to the free movement of goods, persons, services and capital. Article 3(1)(h) of the EC Treaty provides for harmonisation of law as one of the instruments to achieve the objectives of the Treaty. According to this provision harmonisation will take place to the extent that is required for the functioning of the common market. With harmonisation one means the approximation of national laws so that differences between different legal systems decrease. See Publica, EU, *Kommentar till EG-rätten*, nr. 23, De allmänna principerna för harmonisering, 1996, p.3. Compare the concept of unification, which means that a complete similarity is achieved between the national legal systems. See Bernitz U & Kjellgren A, *Europarättens grunder*. Stockholm: Norstedts Juridik, 1999, p.273.
- ⁴ See Rissanen K, Address to Conference on 'Function and Future of European Law', 1999, Institute of International Economic Law, Helsinki, p.5.
- ⁵ In Article 28 it states that 'Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States'.
- ⁶ See Schmidtchen D, 'Territorialitet des Rechts, Internationales Privatrecht und die privatautonomie regelung internationaler Sachverhalte' in *Rabels Zeitschrift für Ausländisches und Internationales Privatrecht (RabelsZ)*, 1995, pp.111-112.
- ⁷ See Schmid CU, "'Bottom-Up" Harmonisation of European Private Law: Ius Commune and Restatement', paper at conference 'Function and Future of European Law', 1999, Institute of International Economic Law, Helsinki, p.76.
- ⁸ Schmid CU, *op. cit.*, 1999, p.4.
- ⁹ Compare Hartweg O, 'Die Publizität von Mobiliarsicherheiten im deutschen, US-amerikanischen und japanischen Recht' in *Zeitschrift für Wirtschaftsrecht (ZIP)*, 1994, p.98.
- ¹⁰ Compare Basedow J, 'Der Kollisionrechtliche Gehalt der Produktfreiheiten im europäischen Binnenmarkt: favor offerentis' in *RabelsZ*, 1995, p.55. Compare Roth W-H, 'Die Freiheiten des EG-Vertrages und das nationale Privatrecht. Zur Entwicklung Internationaler Sachnormen für europäische Sachverhalte' in *Zeitschrift für Europäisches Privatrecht (ZEuP)*, 1994, p.23.
- ¹¹ See for example Von Flessner A, 'Zwischen Kollisionsrecht und Gemeinrecht-Gedanken zu F.K.Juengers "Choice of Law and Multistate Justice"', *RabelsZ*, 1995, p.713; Hartweg O, 'Die Publizität von Mobiliarsicherheiten im Deutschen, US-Amerikanischen und Japanischen Recht' in *ZIP*, 1994, p.98.
- ¹² See Koch H, 'Private International Law: A "Soft" Alternative to the Harmonisation of Private Law' in *European Review of Private Law (ERPL)*, 1995, p.329; De Boer TM, 'The relation between Uniform Substantive Law and Private

- International Law, Towards a European Civil Code' in *ERPL*, 1994, p.64.
- ¹³ Compare Schmid, CU, *op. cit.*, 1999, pp.78-79, which suggests three different ways of harmonisation of the substantive rules, namely 'a European Sonderrecht ... ; a core of common European principles ... ; the elaboration of a European Civil Code.'
- ¹⁴ See Von Siehr K, 'Vereinheitlichung des Mobiliarsachenrechts in Europa, insbesondere im Hinblick auf Kulturgüter' in *RabelsZ*, 1995, p.467. See also *International Encyclopedia of Comparative Law*, 6, 2. 1973, p.3.
- ¹⁵ Compare Hjerner L, 'Om trust receipt och trust i svensk internationell privaträtt' in *Nordisk Tidskrift for International Ret (NTIR)*, 1952, p.221.
- ¹⁶ See Paasilehto S, 'Legal Cultural Obstacles to the Harmonisation of European Private Law', paper at conference 'Function and Future of European Law', 1999, Institute of International Economic Law, Helsinki, p.104.
- ¹⁷ See Mc Cormack G, *Reservation of title*. London: Sweet and Maxwell, 1995, p.226.
- ¹⁸ *Ibid.*, p.226.
- ¹⁹ See 'Europarådets konvention från 1982 om ägarförbehållets internationella rättsverkningar', *Handlingar från Justitiedepartementet*, ärende 1085-82. See also Remissyttrande av Sveriges Industriförbund 1983-02-09 till Justitiedepartementet SI Dnr. 218/ 1982 Ägarförbehålls internationella verkningar, utkast till konvention.
- ²⁰ See Mc Cormack G, 1995, *op. cit.*, p.226.
- ²¹ With a simple retention of title clause one usually means a clause which stipulates that the property in the goods delivered to the buyer shall not pass to him until he has paid the purchase price in full. This type of retention of title clause has a limited value, as it only gives the creditor security for the price of the goods. That is, the clause is limited to a particular object.
- ²² An extended retention of title clause can stipulate that when the goods become mixed with other material, the seller shall be the owner of the resulting product until the price of the goods has been paid in full. The clause can also stipulate that the buyer may resell the goods before he has paid for them, but in that case he must assign to the seller all debts or claims arising from such a resale. An expanded retention of title clause secures not only the price of the particular goods sold, but also other kinds of both existing and future debts of the buyer, arising from the dealings between the parties and sometimes their affiliate companies.
- ²³ Compare the Work of Uncitral on the preparation of a Uniform Draft Law on Assignment in Receivables Financing. The Draft Convention was finalised in Vienna on 11-12 October 1999. See [http:// www. Uncitral.org](http://www.Uncitral.org). The Draft Convention will be submitted to Uncitral for final consideration and adoption at its 33rd Session in New York, 12 June to 7 July 2000.
- ²⁴ Compare Drobnič U, Report of the Secretary General. Study on Security Interests. *Uncitral Yearbook*, 1977, p.171, Drobnič U, Report of the Secretary-General. Study on Security Interests. *Uncitral Yearbook*, 1980, p.89.
- ²⁵ See Cuming RC, National and International harmonisation, Personal Property Security Law, Papers from the Conference of the International Academy of Commercial and Consumer Law, 1986, p.479. However, Uncitral is once more

- considering work in the field of security interests. See 'An inside look at global trade law', Uncitral Business Forum, 6-7 July 2000.
- ²⁶ See homepage of Unidroit, <http://www.Unidroit.org>. See also von Siehr K, Vereinheitlichung des Mobiliarsachenrechts in Europa, insbesondere im Hinblick auf Kulturgüter, *RabelsZ*, 1995, p.457.
- ²⁷ See Mc Donnell JB, A new transitional period? (Article 9 reaches out to the world: The evolving international law of secured transactions) Article from the American Bar Association, spring meeting, 7-10 April 1994, p.3. Washington D.C, US.
- ²⁸ Compare also the work of other organisations like The Hague Conference on Private International Law. They are currently starting a project on the Law of Collateral Security.
- ²⁹ See Unidroit Work Programme for the 1999-2001 Triennium. See <http://www.Unidroit.org/english/workprogramme/main.htm> 2000-05-02.
- ³⁰ See Unidroit 1997. Revised draft articles of a future Unidroit Convention on international interests in mobile equipment. Study LXXII doc.2, 3, 30,31,32, add 1-3, doc33, doc35. See also *UNIFORM Law Review* 1999-2. See also Goode, RM, The draft Unidroit Convention on Interests in Mobile Equipment, *Festschrift till Jan Ramberg*, 1996, p.151.
- ³¹ See Goode RM, *ibid.*, p.162.
- ³² See Unidroit News 2000-2.
- ³³ See Simpson, J L & J-HM Röver, Model law on secured transactions, Explanatory version, 1994. London: EBRD.
- ³⁴ See http://www.ebrd.com/english/region/legtran/secured_trans_list_laws.htm, 2000-05-02
- ³⁵ See Proposal for a European Parliament and Council Directive combating late payments in commercial transactions, Kom./2000/0133/Celexnr 52000PC0133, 2000-03-08 and (1998) 126 slutlig 98/0099 (COD). Late Payment Directive (98/0099 COD) Revised Possible Final Compromise SN 2344/00).
- ³⁶ See Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payments in commercial transactions.
- ³⁷ See for example Mellqvist M, Den internationella insolvensrätten under utveckling. Från Istanbulkonventionen till konvention och samarbete inom EU. *Insolvensrättsligt forum*, 1995, p.117; Bogdan M, Svensk internationell privat- och processrätt, 5 uppl., 1999, p.314; Göranson U, Internationell insolvensrätt, sakrättsliga jämförelser. Luganokonventionen, lagval m.m., *Insolvensrättsligt forum*, 1995, p.122; Publica EU, Kommentar till EG-rätten, nr. 52, Internationell privat- och processrätt, 1996, p.9; Woodland P, The proposed Community Insolvency Convention, Current issues in cross-border insolvency and reorganization, 1994, p.1; Koppenol-Laforce, M and others, International Contracts, Aspects of Jurisdiction, Arbitration and Private International Law, 1996, p.186.
- ³⁸ See Harmer RW, Uncitral projects. INSOL International. CCLS Schmitthoff Symposium 2000 Law and Trade in the 21st century. 2000-06-02. London, UK.
- ³⁹ See SOU 1992:78 med annex 1. See also Council of Europe. International aspects of bankruptcy. Explanatory report on the Istanbul Convention (5 June 1990). See

- also Trautman and others, 'Four models for international bankruptcy', *American Journal of Comparative Law*, 41, 41, 1993, p.573.
- ⁴⁰ See SOU 1992:78 p.59.
- ⁴¹ See EC Convention on insolvency proceedings. A consultative document, 1996; Rapport angående konventionen om insolvensförfaranden, 1996; Lasok D, & PA Stone, Conflicts of laws in the European Community, 1987, p.397; Bogdan M, Lagkonflikter i utrikeshandeln, Om jurisdiktion och lagval, 1996, p.65; Mellqvist M, Den internationella insolvensrätten under utveckling. Från Istanbulkonventionen till konvention och samarbete inom EU; Insolvensrättsligt Svensk forum 1995, p.117; Bogdan M, Internationell privat- och processrätt, 5 uppl., 1999, p.321; Balz M, 'The European Convention on insolvency proceedings', *American Bankruptcy Law Journal* 70, 1996, p.485; Westbrook JL, 'Creating international insolvency law', *American Bankruptcy Law Journal*, 70, 1996, p.563.
- ⁴² Initiative of the Federal Republic of Germany and the Republic of Finland with a view to the adoption of a Council Regulation on insolvency proceedings. See *Official Journal* C221, 03.08.1999.
- ⁴³ See Gustafsen (receiver for BBB Dredging GmbH, Germany) v. Gerrit Mosk trading as Mosk Kraanverhuur, *RvdW* 1997, 208C.
- ⁴⁴ See for example *Netherlands International Law Review*, 1998 p.269.
- ⁴⁵ See for example the Working group on insolvency law. 19th Session. New York, 1-12 April 1996. Draft legislative provisions on judicial co-operation and access and recognition in cases of cross-border insolvency (Draft 1), and also Working group on insolvency law, 21st Session. New York, 20-31 January 1997; Newly revised articles of the draft Uncitral Model legislative provisions on cross-border Insolvency (Draft 2); Draft guide to enactment of the Uncitral Model legislative provisions on cross-border Insolvency, 30th Session Vienna, 12-20 May 1997. (Guide).
- ⁴⁶ See report of the Uncitral on the work of its 30th session. 12-30 May 1997, General Assembly. Official record. 52nd Session. Suppl. NO 17 (A/52/17) See also Friman H, Modellag om gränsöverskridande insolvensförfaranden, *Svensk Juristtidning* 1997, p.736.
- ⁴⁷ A foreign representative means a person or body, including one appointed on an interim basis, authorised in a foreign proceeding to administer the reorganisation or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding.
- ⁴⁸ It has also been proposed that Uncitral should develop a model law on corporate insolvency. See An inside look at global trade law. Uncitral Business forum 6-7 July 2000.
- ⁴⁹ See for example the Transnational Insolvency project, which is designed to promote closer regional co-operation between courts and administrators in the insolvency of multinational companies within the territory governed by the North American Free Trade Agreement (Nafta).
- ⁵⁰ United Nations, General Assembly, A/CN.9/WG.V/WP 50, 20th September 1999.
- ⁵¹ See Hartkamp A and others, *Towards a European Civil Code*, 1st ed. 1994, and

2nd ed. 1998. See also Mattei U & M Bussoni, 'In search of the Common Core of the European Private Law' in *ERPL*, 1994, p.485; Legrand P, Against a European civil code, *The Modern Law Review*, 1997, p.44; Sisula-Tulokas L, 'Mot en europeisk civilrätt' in *Tidskrift utgiven av Juridiska Föreningen i Finland (JFT)*, 1999, p.372.

⁵² See Sisula-Tulokas L, 'Mot en europeisk civilrätt' in *JFT* 1999, p.376.

⁵³ See Cuming RC, 'International Regulation of Aspects of Security Interests in Mobile Equipment', *Uniform Law Review*, 1990, p.121.

⁵⁴ See Goode RM, 'The Draft Unidroit Convention on Interests in Mobile Equipment' in *Festskrift till Jan Ramberg*, 1996, p.151.

⁵⁵ See Cuming RC, 'International Regulation of Aspects of Security Interests in Mobile Equipment' in *Uniform Law Review*, 1990, p.121.

Comparative International Experiences: Latin America

*Claudia Mutschler**

Introduction

The development of regional blocs and groupings has become a permanent feature of post-1945 world politics, starting with the creation of the European Coal and Steel Community in 1951 and the European Economic Community in 1957. These sparked the so-called first wave of regionalism, as other regions embraced the idea of creating free trade associations and other co-operative groupings among geographically proximate states.

Latin America has a particularly rich and complex history of regional integration undertakings. It is beyond the scope of this paper to review the myriad integration schemes. It will instead focus on the integration experiences of the Andean countries and the Southern Cone.

The first wave of regional integration

The first step towards regional co-operation in Latin America was the creation of the Latin American Free Trade Association (Lafta) by the Treaty of Montevideo (1960). Comprising Argentina, Brazil, Chile, Paraguay, Peru and Uruguay, and later Colombia, Ecuador, Venezuela and Bolivia, Lafta provided for the creation of a free trade area (FTA) by means of periodic and selective negotiations between member states. This was in fact the first example of the European free trade model being applied elsewhere.

With the proliferation of regional groupings and institutions, the literature on regionalism flourished as analysts tried to describe, explain and predict the consequences of the new trend. Given the dominance of the European model, most academic attention was initially focused on this particular variant of regionalism. By

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the mid-1960s, though, intellectuals and policy-makers in Latin America had started to take a different look at regionalism

Through the writings of structuralists such as Raúl Prebisch, Hans Singer and others, the ideas and policies of import-substitution industrialisation (ISI) had taken hold in Latin America from the 1950s onwards. Analysing the economic relationship between Latin America and the developed world, they argued that the only way the region would escape its peripheral global economic status and catch up with the developed centre would be by strengthening its industrial capacity, using whatever degree of government support was necessary. This economic development programme—essentially a mix of classic economic thinking on world trade *à la* Ricardo and Adam Smith with the postulates of John Maynard Keynes—was embraced by most of Latin America.

The early years of ISI laid the basis for domestic industrialisation, particularly in the larger countries—Argentina, Brazil and Mexico. But it soon became apparent that advancement behind protectionist barriers is not viable in small economies. Also, ISI is not an open-ended process. As ISI enthusiasm ran into exhaustion in the mid-1960s, structuralist thinkers took another look at regional integration. In addition to advocating market protection, government subsidies, infrastructure investment and easy access to loans to aid industrialisation, policy makers now began to support the idea of bonding small populations together into common markets to help one another industrialise. The work of the United Nations Economic Commission of Latin America,¹ of which Prebisch was the first executive director, became synonymous with the move away from regional integration in the form of mere free trade arrangements towards state-directed regionalism to achieve development objectives.

The signing of the Cartagena Agreement by Bolivia, Colombia, Chile,² Ecuador, Peru and Venezuela³ in 1969 was a direct result of this new thinking. The Andean Pact, as it came to be known, was prompted not only by the desire to end the dependent relationship between the developing South and the industrialised North, but also by the *de facto* North–South divide within Lafta. The smaller nations within Lafta were becoming increasingly disillusioned with the FTA process, and felt that all the benefits accrued to Argentina, Brazil and Mexico, who had far larger and more industrialised economies. Thus, the Andean Pact, formed within the Lafta, marked a distinct shift in thinking towards development through state planning on a regional basis, as opposed to freer trade. The founders of the Andean Pact also drew on the arguments of the *dependencia* school, of which Fernando Henrique Cardoso was a key member. The Marxist-inspired *dependencias* had argued that dependency or underdevelopment was not merely a phase of global capitalism but an intrinsic part of it. Pointing to the fact that European, Japanese and United States (US) capital increasingly controlled most industries that had developed thus far in the region, they argued that no national industrial capacity was in fact being built. To address this concern, the Andean Pact included, as part of its founding principles, such conditions as Decision 24, which set strict terms for foreign investors in the region.

Yet, regardless of whether regions followed the first or the second model of regional integration, the wave of regionalism sparked in the 1960s fell far short of expectations throughout the world. Trapped by now exhausted economic nationalist

policies which were directly at odds with opening the regional commercial space, Andean Pact members could do little more than repeatedly revise the deadlines for the liberalisation programme and the application of the common external tariff (CET).

Even in Europe neo-functionalists were virtually abandoning their theories. Ernst Haas went as far as saying that regional integration theory was 'obsolete in Western Europe and obsolescent in the rest of the world'. The 1980s saw some efforts at regional integration. For example, the Latin American Integration Association (LAIA), with a flexible mandate to establish a common market, replaced the Lafta in 1980. Yet, given the tense security context, it is not surprising that most regional arrangements made at this time were largely informed by a consciousness of the geopolitical environment. This third type of regionalism was driven by strategic interests, and largely devoid of concern for real economic integration. The example we are most familiar with in our region is the Southern African Development Coordinating Conference (SADCC), established in 1980 according to the Lusaka Declaration. SADCC, rooted in the Front Line States, consisted of Angola, Botswana, Lesotho, Namibia, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe, and was a response to the threat posed by apartheid South Africa.

Regionalism in the 1990s

Though regionalism remained on the international agenda throughout the Cold War, its scope and progress was limited. By contrast, the late 1980s and early 1990s marked a turning point in the fortunes of regionalism. The past decade has seen a striking reappearance of regionalist rhetoric as well as evidence of concrete progress in various parts of the world, with the proliferation of new regional groupings as well as the re-orientation and revival of older arrangements. This new wave of regionalism is clearly seen in Latin America. In 1991, it led to the establishment of the Southern Common Market (Mercosur) comprising Brazil, Argentina, Paraguay and Uruguay, with the signing of the Treaty of Asunción. Bolivia and Chile joined the grouping in 1996 as associate members. The new wave of regionalism is also seen in the revival of the Andean integration project, which evolved into the Andean Community (CAN) in 1997. Similarly, in 1992 SADCC was transformed by the Windhoek Declaration into the Southern African Development Community (SADC). Post-apartheid South Africa joined the grouping in 1994, Mauritius in 1995, and the Democratic Republic of Congo (DRC) and Seychelles in 1997.

A number of factors set this new wave of regionalism distinctly apart from the previous ones.

Firstly, the end of the Cold War brought new attitudes towards international co-operation into being. Though many regional projects predate the end of the Cold War, the new international climate, where the overlays of patterns of power had been largely removed, greatly improved the prospects for regional and global co-operative efforts.

Secondly, the re-emergence of regionalism has to be seen in terms of the changes in the global economic system. The rapid transnationalisation of trade, capital,

information and technology is dramatically reshaping the contours of economy, geography, governance and community. These changes are perceived most dramatically in the economic sphere where the *diktat* of international economic integration dominates. States' economic policies are now more than ever shaped by the structure and dynamics of an increasingly globalised world economy. External constraints on the exercise of fiscal, monetary, trade and industrial policies have become much tighter. International capital markets are quick to punish countries that pursue policies that are perceived to be incompatible with macro-economic sustainability.

The conditionalities imposed by the World Bank and the International Monetary Fund (IMF), and widespread domestic dissatisfaction with the previous set of ISI policies have led to an outward orientation becoming the norm rather than the exception among developing nations.⁴ There is a remarkable convergence of views among academics and policy makers on the virtues of what has been variously termed the Washington Consensus, the market-oriented model or the neo-liberal approach. In fact, various previous advocates of delinkage from the world economy—nationalists, socialists and *dependencias*—have now turned into ardent advocates of liberalisation. This radical transformation is probably most clearly seen in Cardoso, who, first as finance minister and now as president, has overseen Brazil's dramatic opening.

Global integration has gone hand in hand with moves to secure preferential access to the markets of others. Even the US complemented its traditional multilateral commercial policy with a regional integration focus by concluding an FTA with Canada in 1988, which, with the incorporation of Mexico, became the North American Free Trade Agreement (Nafta) in 1994.

Besides the fear of marginalisation, countries in the developing world are turning to regional integration as a stepping stone to global integration. There are clearly many benefits to be derived from linking into the global economy. Countries gain access to investment and intermediate goods not available domestically at comparative costs, and new ideas and technology are transferred. But openness also brings with it significant development vulnerabilities and challenges, that, unchecked, will only further increase inequality both within and between states. Regional arrangements supply a methodology for opening economies without making countries face the unbearable social and economic costs that can accrue due to a sudden restructuring of production.

Thus policy makers in the developing world are resorting to regional bonds to enhance their ability to manage the exigencies of globalisation. In contrast to the regionalism of 1960, which sheltered behind protectionist barriers, the new regionalism is termed 'open regionalism'. A concept coined by ECLAC, 'open regionalism' is defined as:⁵

a process of growing economic interdependence at the regional level, prompted both by preferential integration agreements and by other policies in a context of liberalisation and deregulation, geared towards enhancing the competitiveness of the countries in the region and, in so far possible, contributing the building blocks for a more open and transparent international economy.

In short, open regionalism is world market-oriented regional economic co-operation that is functional to unilateral liberalisation, and aims to help countries cope with the pressures and complexities of global insertion. Inasmuch as globalisation is taken as a given, regional integration becomes not an option, but an imperative to empower more vulnerable economies to meet the exigencies of global integration. In this way regional integration becomes consistent with a more open and transparent world economic order. But it has also become a mechanism for diversifying risk in an international economy fraught with uncertainty. Thinking regionally at the economic level is thus no less important than thinking regionally at the strategic level.

A third aspect of the current processes of regional integration is that it is becoming harder to distinguish between economic and political regionalism. A distinct feature of the new regionalism is its multidimensional character. Many initially functionally-specific groups have broadened into more multi-purpose arrangements in terms of scope. While SADCC's founding motivations were largely geopolitical and strategic, SADC has infused the integration process in Southern Africa with more direct economic and development objectives. Conversely, the Andean Pact started out with a decided trade focus, and has, as the CAN, taken on a more political dimension. Recognising the interrelated nature of political, economic and security issues arguably provides a sounder basis than past attempts, which largely divorced issue areas from one another.

Fourth, the old divisions between patterns of regionalist organisation among industrialised countries on the one hand, and developing economies on the other, are becoming increasingly blurred. Instead of the broad, largely ideological coalitions of the past, there is now a move towards smaller and arguably more viable subregional as well as inter-regional groupings of like-minded members. Nafta was the first example of regional integration spanning the classic divide between developed and developing countries at the subregional level. A number of other, though less consolidated, examples of the inter-regional level come to mind, such as the European Union's (EU's) free trade agreements with South Africa (1999) and Mexico (2000). Furthermore, in line with the thinking of open regionalism, groupings are talking to one another, as is the case with discussions between the EU and Mercosur.

Fifth, the current wave of regionalism has to be seen against the background of increasingly democratic governance, however haphazard in spread, at both the national and the global level. More countries than at any previous point profess to be democratic. Moreover, as the end of the Cold War has brought with it a decentralisation of the international system, states and other actors have become more and more conscious of the democratic deficit in multilateral institutions too. These changing attitudes are providing a more hospitable environment for interdependence and thus co-operative efforts at both the regional and global levels.

New regionalism in Latin America

How has this new wave of regionalism played itself out in Latin America?

The Andean experience

In its thirty-odd years of existence, Andean integration has passed through a series of different stages, which can be broadly described as foundation and establishment in the 1970s, stagnation, crisis and abandonment in the 1980s, and re-orientation and revitalisation in the past decade.

Grinding to a halt

In spite of clearly defined goals and a strong institutional framework modelled on the then European Community (EC), the Andean Pact did not make much progress during its first two decades. By the 1980s it had become clear that little had actually been achieved in terms of trade integration. Region-wide recession, hyperinflation, declining investment and rising unemployment plunged the Andean integration project into deep crisis.

Repeated non-compliance had forced member countries to revise the deadlines for tariff liberalisation—the Lima Protocol in 1976 and the Arequipa Protocol in 1978—for fear of derailing the whole project. Similarly, the CET proved too difficult to apply, as too many product and country exceptions existed. By this time it had long been clear that the ambitious industrial development policy according to which products were assigned to different member states in terms of the metal engineering, petrochemical, automotive, and iron and steel programmes, had become defunct. Decision 24, the controversial common regime for the treatment of foreign investment, establishing compulsory minimum restrictions for foreign capital and on trademarks, patents, licences and royalties, had only served to stave off fresh capital and technology input.

Stagnation in the 1980s reversed the trade increases of the 1970s, as countries sought protection behind trade restrictions. The entire Andean integration effort and its constituent countries were close to collapse.

Bolivia was the first to embrace liberalisation when in 1985 it adopted a simplified tariff structure in the form of a flat rate of 10% for most tariff items, and complete elimination of non-tariff barriers.

Next followed Colombia and Venezuela, each implementing trade liberalisation strategies by which tariffs were reduced to a few tariff levels and non-tariff measures. Ecuador followed a similar trajectory in 1992. Peru applied similar economic reforms to the other Andean countries, but followed the Chilean and Bolivian example and applied a two-level approach, with most tariff items at 15% and the remaining few at 25%.

Towards open regionalism in the Andes

The strategies encouraging economic opening adopted by the member countries within the framework of their national adjustment policies following the disastrous

1980s debt crisis gave a new and decisive impetus to the Andean integration process. Recognising the basic contradiction between national protectionist policies and regional integration aims, the member countries resolved to move away from the closed conception of inward-looking integration based on ISI, towards open regionalism. This realisation was captured in the Quito Protocol of 1987, which marked a distinct turning point in Andean integration and set the 'new' Andean Group, as members started calling it, on a new trajectory. Following a meeting in Galapagos in 1989, the member countries approved the Strategic Design for the Orientation of the Andean Group to chart the new course to be followed by the grouping in the 1990s.

A major difference was the change from trade-focused integration directed by the Andean Commission (made up of the respective ministers of trade and industry), to a more political process driven by regular presidential meetings. The direct intervention of the presidents in the leadership of the Andean Group certainly revitalised the process by infusing it with high-level political commitment. Subsequently, 1990 saw a flurry of activity in the Andean Group as the newly formed Andean Presidential Council met four times to consider various issues. Two further presidential meetings in 1991 accelerated economic integration efforts. The Barahona Accord was approved, committing member countries to dismantling all lists of exceptions to the liberalisation programme, and moving towards the adoption of a four-level CET. The only exception was Bolivia, which was allowed to keep its flat tariff level. Significant progress was made on both counts. The Andean FTA came into effect in 1993, and the customs union in 1995.

It was not an easy task to arrive at this point. According to the Barahona Accord, the FTA should have been completed by early 1992. But the schedule proved to be too optimistic. Ecuador wanted a higher degree of flexibility in the implementation of the CET, and a postponement of its commitments due to a forthcoming election. Peru's difficulties were more fundamental. Though the economic reform programme implemented in 1991 succeeded in reducing hyperinflation, inflation still exceeded 400%. Growth was stagnant, the trade deficit continued to grow and the exchange rate was vastly overvalued. To participate in a FTA under these conditions would have been too risky.

The differences between Peru's trade policy and those of Colombia and Venezuela were more difficult to resolve. Peru's insistence on a revised CET as a condition for its participation in the Andean FTA, and Ecuador's general lack of enthusiasm for the Barahona Accord as a whole, led Colombia and Venezuela to move ahead independently of the other Andean countries. They succeeded in dismantling all tariff and non-tariff barriers to bilateral trade, and completed an FTA by early 1992. Since then bilateral trade has expanded fivefold.

The advent of a new government in Ecuador in August 1992 set the stage for a further round of discussions among Andean countries, and it was decided that Bolivia would join the FTA by September 1992 and Ecuador by January 1993. Peru was granted a temporary waiver regarding its obligations to the FTA and the CET. Peru is now being gradually incorporated into the FTA, and should have completed tariff convergence by 2005.

The implementation of the CET proved to be even trickier. While Colombia and Venezuela implemented a CET in early 1992, it was not until March 1995 that Colombia, Ecuador and Venezuela implemented the four-level CET system with an average of 13.6%. The tariff rates are based on the degree of processing of the products. A tariff rate of five percent is applied to raw materials and industrial inputs, 10% and 15% to intermediate products, and 20% on final consumption goods. Provision is made for differential treatment for certain products. A zero tariff level applies to health and educational products, while a maximum of 40% and a minimum of five percent is applied to assembled and unassembled automobiles respectively. Some product-related exceptions exist. Colombia and Venezuela may except 230 products from the CET, while Ecuador is allowed to maintain a five-point difference for a group of 930 tariff items, and temporarily exclude 400 items. These exceptions should converge by the end of 2000. Bolivia is authorised to maintain its national tariffs of five and 10%, while the same applies *de facto* to Peru, which has stayed outside the CET arrangements.

Establishment of the Andean Community (CAN)

After an almost four-year break, the Andean Presidential Council met again in 1995 for the seventh time. Approving the New Strategic Design for the Orientation of the CAN, member countries recognised the need for both institutional and policy changes to the Andean process to manage increasing integration and the emergence of new challenges stemming from the global economy.

The institutional reforms as laid out in the Trujillo Protocol were approved at the 1996 presidential meeting. The provisions of the protocol, with those of previous amending protocols to the Cartagena Agreement, were codified in 1997 and the Andean Community, composed of the five member states plus the bodies and institutions constituting the so-called Andean Integration System (AIS), officially came into existence (Table 1). Policy reforms were decided upon at the ninth presidential meeting in 1997, as member states laid down guidelines for moving towards the establishment of a common market by 2005. One of the chapters added to the Cartagena Agreement according to the Sucre Protocol sets out steps towards liberalising trade in services. Member states also agreed to form the Andean Community Advisory Council of Ministers of Economy and Finance, Central Banks and Officials Responsible for Economic Planning to facilitate deeper integration through macro-economic harmonisation. Member states further committed themselves to open regionalism by adding a chapter on associate membership of the CAN. Moreover, the protocol extends the scope of Andean integration beyond the purely trade and economic arena, with the inclusion of a chapter on co-ordinating foreign relations between the grouping and third parties.

Andean achievements

The creation of a free trade zone and the adoption of a CET system bringing the

Table 1

Bodies of the AIS	Composition	Responsibilities
Andean Presidential Council	Presidents	Highest level body
Andean Council of Foreign Ministers	Ministers and vice-ministers of foreign affairs	Political leadership and decision-making body
Commission of the Andean Community	Ministers and vice-ministers of trade and industry	Main policy-making and decision-making body
Andean Parliament	Currently members are drawn from each national congress. Delegates will soon be elected by direct and universal vote.	Deliberative body
Court of Justice of the Andean Community	One judge from each member state	Judicial body
General Secretariat of the Andean Community		Administrative body under the direction of the secretary-general
Institutions of the AIS	Composition	Responsibilities
Andean Business Advisory Council	Delegates from business organisations of each member state	Consultative forum
Andean Labour Advisory Council	Delegates from the labour organisations of each member state	Consultative forum
Andean Development Corporation		Financial institution to support sustainable development
Latin American Reserve Fund		Financial institution
Simón Bolívar Andean University		
Social Conventions		
1. Hipólito Unanue convention (health)		
2. Simón Rodríguez convention (labour)		
<i>Source: www.comunidadandina.org</i>		

average tariff level down from 33% in 1990 to 13.6% ten years later, are the most noteworthy accomplishments of the Andean process.

Tariff elimination spurred the growth of trade within the region, from \$1.3 billion in 1990 (shortly before the Barahona Accord was concluded), to \$2.8 billion in 1993 (when the FTA came into effect), and further to \$4.7 billion in 1995 (when the customs union came into being). Intra-regional trade stood at \$5.3 billion in 1998, marking a fourfold increase since the Andean process was revitalised in 1990. Colombia and Venezuela, the two largest Andean economies, are responsible for the bulk of intra-regional trade.

Exports to the rest of the world have increased steadily too, though increases here were markedly less dynamic than in terms of intra-CAN trade.

Annual foreign investment has burgeoned nearly ninefold during the past decade, from \$1.2 billion in 1990, to \$10.6 billion in 1998, boosted by trade flows and legal backing for the application of Andean provisions. Transnational companies from Europe and Asia in particular have entered the region. The bulk of the investment went to Venezuela, followed by Colombia and Peru. Peru's good performance in terms of investment flows is due to its aggressive privatisation programme.

Latin American enterprises, particularly Chilean firms, have entered the CAN market as investors. During the 1990s Chilean investment in Bolivia, Colombia and Peru reached sizeable figures at times exceeding investments from developed economies. The progressive growth of intra-regional investment can also be noted. Peru is the largest Andean investor in Bolivia. Colombia receives investment from Venezuela and Ecuador, while Colombia itself is a large investor in Venezuela, Peru and Ecuador. The CAN has also made considerable progress in the area of harmonisation of economic and social policies. This was facilitated by the law-making powers of the Commission. In the early years of the grouping, much time was spent in establishing a legal framework. To a certain extent the policy harmonisation in recent years has focused on undoing or reversing measures adopted under the import-oriented period. The notorious Decision 24 was radically revised, with new regulations granting foreign investors national treatment and eliminating most restrictions on capital and profit remittance. Also, previously reserved sectors were opened to foreign participation.

Other revisions included a common regime for the protection of intellectual property rights. Concerted efforts towards liberalisation also took place in transportation, particularly in air traffic among Andean countries, as well as between Andean and other countries. However, limited progress has thus far been made in co-ordinating macro-economic policies such as exchange rate policies. But the formation of the Andean Community Advisory Council of Ministers of Economy and Finance, Central Banks and Officials Responsible for Economic Planning bodes well for concerted dialogue in this direction.

The Mercosur experience

Improved diplomatic relations between Argentina and Brazil in the mid-1980s paved

the way for closer relations between the two largest economies of South America. This new reality was officially recognised in 1985 when, under LAIA, Argentina and Brazil signed the Declaration of Iguazú. A year later they created the Programme for Integration and Economic Co-operation. This programme was structured around the negotiation of sectoral agreements, which would allow the signatories to continue the idea of planning and consolidating the industrial process, as well as to achieve balanced trade between the two countries. This greatly helped lessen the fears of both Argentine and Brazilian business regarding potential losses. In 1988, Brazil and Argentina signed the Treaty on Integration, Co-operation and Development to set up a common market within 10 years. In late 1990, the presidents of Argentina and Brazil signed the Act of Buenos Aires, which anticipated that the common market would come into effect in 1995. Finally, bringing on board Paraguay and Uruguay too, Mercosur was formed under LAIA with the signing of the Treaty of Asunción in 1991.

It is important to note that the format of the proposed integration process in the Southern Cone had changed from sectoral agreements in 1986 to wide-ranging liberalisation in 1991. There had not been many significant increases in trade between Argentina and Brazil in this time that would have suggested the emergence of a 'natural' free trade agreement. This change, which incidentally is similar to the change in Andean integration, can be largely explained by national objectives in this case also. In 1989 Argentina, and from 1991 onwards Brazil, adopted liberal economic policies to deal with stagnation. The liberalisation of intra-regional trade reinforced these national commitments by locking the governments into reform programmes. In this way, Mercosur can be seen as a political initiative by the two core member governments, in part to consolidate their economic direction, as well as to respond to the trend towards regionalisation in the global economy.

The beginnings of Mercosur were greeted half-heartedly, given the lethargic history of integration efforts in Latin America. At this stage even the revitalised Andean process had not yet borne fruit. Most observers underestimated the determination of the member states to take advantage of the favourable national and international policy conditions to integrate.

The main provision of the Treaty of Asunción listed four instruments to form the common market: the liberalisation programme, the CET, the co-ordination of macro-economic policy and the adoption of sectoral agreements.

The tariff liberalisation programme set out quantitative goals to be met in six-month periods until full free trade between the member states was reached. The date set for completion of the FTA was 31 December 1994 for Argentina and Brazil, and a year later for Paraguay and Uruguay. Each country was allowed a small number of products that were temporarily not subject to the general tariff reduction process. These exceptions fell away for Argentina and Brazil on 1 January 1999, and will fall away for Paraguay and Uruguay at the end of 2000. The different convergence timetables recognised the different strengths of the economies of member states, while the list of exceptions for each member state allowed sensitive sectors more time to adjust. Yet, regardless of the exceptions, by the beginning of 1995, 85% of trade between the four countries was tariff free.

The Ouro Preto Protocol, concluded in December 1994, marked the end of Mercosur's transition period. It also formalised the implementation of the results negotiated by the member countries since 1991. The protocol thus gave Mercosur the juridical personality to enable it to participate as a single entity internationally. In the institutional realm, the protocol finalised the grouping's organisational structures.

On 1 January 1995, Mercosur embarked on the second phase of its integration programme by adopting CETs ranging from zero to 20%, with an average of 13%. Also since January 1995, each country has set different external tariffs between zero and 35% on the remaining 15% of goods, which will converge by 1 January 2001 for Argentina and Brazil, and 1 January 2006 for Paraguay and Uruguay. Temporary exceptions were allowed in the capital goods, computer and telecommunications sectors in accordance with their development in the Argentina and Brazil. An average

Table 2

Mercosur bodies	Composition	Responsibilities
Common Market Council	Ministers of foreign affairs and the economy	Governing body
Common Market Group	Representatives of the Ministries of Foreign Affairs and Economy, and Central Banks	Executive body
Trade Commission	Government officials	Policy-making body
Subgroups	Government officials	
1. agriculture		
2. communications		
3. energy		
4. environment		
5. financial matters		
6. health		
7. industry		
8. labour and social security		
9. mining		
10. technical rules		
11. transport & infrastructure		
Socio-Economic Advisory Forum	Representatives from the business community and labour	Consultative body
Joint Parliamentary Committee	Members of parliament	Deliberative body
Secretariat		Administrative body

Source: www.comunidadandina.org

CET of 14% on capital goods will be introduced only in 2001 through gradual linear convergence of Argentine and Brazilian national tariff levels. Uruguay and Paraguay will be given until 2006 to adjust their external tariffs on capital goods. A common levy of 16% will be implemented on computer technology and telecommunication goods by 2006.

Besides the adjustment list of products that fall temporarily outside the free trade regime and customs union, the automotive and sugar sectors are also subject to special arrangements. Member states are currently engaged in negotiating an automotive regime to bring this sector fully into Mercosur.

In December 1995, Mercosur member states reaffirmed their commitment to forge ahead towards the common market through the Programme of Action to the Year 2000 or Agenda 2000. Implementation of the mechanism needed to consolidate and improve the customs union was prioritised in the programme, as were negotiations regarding the deepening of integration and co-ordination of external relations. The need for studies on greater convergence of tax policies and more substantive negotiations in the area of services was also identified.

Mercosur's external agenda has definitely received special emphasis since 1995. An economic co-operation agreement was concluded with the EU in 1995, while associate membership agreements were negotiated with Chile and Bolivia in 1996. Mercosur also presented a common position in its discussions with other countries of the Americas towards establishing a Free Trade Area of the Americas (FTAA) by 2005.

Mercosur's achievements

Though Mercosur is still only an incipient customs union and, despite its name, still far from consolidating a common market, the progress achieved thus far is remarkable.

With tariff levels dramatically reduced, trade has flourished among Mercosur members. By 1998, trade between the four members had jumped to \$20.4 billion, up from just \$4.1 billion in 1990. Argentina and Brazil account for the bulk of intra-Mercosur trade.

Mercosur has seen a steady increase in exports to the world. Therefore, it does not seem as if significant trade diversion occurred.

Foreign direct investment in Mercosur grew from \$2.8 billion in 1990, to \$32.5 billion in 1998. Almost all sectors gained from the investment flows. The most popular investment sectors were telecommunications (23%), oil and gas (14%) and electric energy (12%).

As the second largest foreign investment recipient in the developing world after China, Brazil in particular gained enormously from the integration process and the corresponding improvement of the region's international image. The bulk of investment came from the US and Europe. Mercosur has also seen a number of intra-regional investment projects and joint ventures, particularly between partners from Argentina, Brazil and Chile.

What can be learnt from these Latin American integration experiences?

Before embarking on a listing spree of ‘lessons from the Latins’ for Southern African integration, it is essential to make some preliminary remarks.

Firstly, it is imperative to recognise that each regional integration project is unique. Analysts have to be wary of blindly comparing one regional integration initiative with another, without taking distinct differences into account. It is seldom possible to transpose the experiences and ‘lessons to be learnt’ directly from one region on to another. Each integration process brings together a different constellation of geographically proximate states with varying physical, economic, political, security, social and environmental characteristics.

Table 3: Profile of the Andean Community member countries

<i>Country</i>	<i>Surface area thousand km² 1998</i>	<i>Population millions 1998</i>	<i>GNP US\$ billions 1998</i>	<i>GNP per capita US\$ 1998</i>	<i>HDI rank 1997</i>	<i>GDI rank 1997</i>
Bolivia	1,099	8	8.0	1,010	112	94
Colombia	1,139	41	100.7	2,470	57	51
Ecuador	284	12	18.4	1,520	72	70
Peru	1,285	25	60.5	2,440	80	71
Venezuela	912	23	82.1	3,530	48	46
Total	4719	109	269.7	-	-	-

Source: Human Development Report, 1999. World Development Indicators, 2000.

Table 4: Profile of Mercosur Member and Associate Member Countries

<i>Country</i>	<i>Surface area thousand km² 1998</i>	<i>Population millions 1998</i>	<i>GNP US\$ billions 1998</i>	<i>GNP per capita US\$ 1998</i>	<i>HDI rank 1997</i>	<i>GDI rank 1997</i>
Argentina	2,780	36	290.3	8,030	39	37
Brazil	8,547	166	767.6	4,630	79	67
Paraguay	407	5	9.2	1,760	84	74
Uruguay	177	3	20	6,070	40	36
Mercosur total	11,911	210	1,087.1	-	-	-
Bolivia	1,099	8	8.0	1,010	112	94
Chile	757	15	73.9	4,990	34	33
Mercosur plus total	13,767	233	1,169	-	-	-

Source: Human Development Report, 1999. World Development Indicators, 2000.

Mercosur and SADC are almost comparable in population size and even surface area, while the CAN's population is basically half the size of SADC and a third that of Mercosur.

The differences between the three groupings are however most pronounced and significant in terms of economic strength. The Mercosur market is almost six times the size of SADC, and four times the size of the CAN. Even though the CAN is much smaller than SADC in population size and surface area, it is one and a half times larger in gross national product (GNP) terms. Moreover, besides marked differences between the groupings, it is sobering to note that Mercosur's core members, Argentina and Brazil, tower over the CAN and SADC as a whole. While the Argentine economy is more than two and a half times smaller than Brazil's, it is still larger than the economies of either the CAN or SADC. This in turn means that the Brazilian economy on its own is almost three times the size of all five CAN economies combined, and more than four times the size of all 14 SADC economies combined. Little wonder investors are so keen to gain a foothold in Mercosur, and Brazil in particular. Brazil is the magnetic pole demanding international business attention. Though South Africa accounts for over 70% of SADC's GNP, its economy is still five and a half times smaller than Brazil's.

The varying economic strengths of the three groupings' constituent members are best summed up in the World Bank's income classifications according to GNP per capita figures of 1998 (Table 6).

Table 5: Profile of the member countries of SADC

<i>Country</i>	<i>Surface Area thousand km² 1998</i>	<i>Population millions 1998</i>	<i>GNP US\$ billions 1998</i>	<i>GNP per capita US\$ 1998</i>	<i>HDI rank 1997</i>	<i>GDI rank 1997</i>
Angola	1,247	12	4.6	380	160	n/a
Botswana	582	2	4.8	3,070	112	102
DRC	2,345	48	5.4	110	141	n/a
Lesotho	30	2	1.2	570	127	105
Malawi	118	11	2.2	210	159	132
Mauritius	2	1	4.3	3,730	59	57
Mozambique	802	17	3.5	210	169	138
Namibia	824	2	3.2	1,940	115	97
Seychelles	0.5	0.07	0.5	7,142	66	n/a
South Africa	1,221	41	136.9	3,310	101	84
Swaziland	17	0.9	1.1	1,210	113	96
Tanzania	945	32	7.2	220	156	126
Zambia	753	10	3.2	330	151	125
Zimbabwe	391	12	7.2	620	130	108
Total	9,277.5	190.97	185.3	-	-	-

Source: Europa Yearbook, 1999. Human Development Report, 1999. World Development Indicators, 2000.

Table 6

Income classifications	Upper middle-income US\$3,031-9,360	Lower middle-income US\$761-3,030	Low income US\$760 or less
CAN	Venezuela	Bolivia Colombia Ecuador Peru	
Mercosur	Argentina Brazil Chile Uruguay	Bolivia Paraguay	
SADC	Botswana Mauritius Seychelles	Namibia Swaziland	Angola DRC South Africa Lesotho Malawi Mozambique Tanzania Zambia Zimbabwe

Source: World Economic Indicators, 2000.

Apart from these classifications, a short review of the Human Development Index (HDI) and Gender-related Development Index (GDI) rankings of the different countries shows marked differences in levels of development (Table 7).

Secondly, it is not only quantifiable attributes that differ among regional integration schemes, but intangible variables too. In this regard it is important to bear in mind the variable ideological, historical, economic, security contexts that shaped the beginnings of each integration grouping. These can be either favourable or debilitating to the realisation of long-term integration objectives. Moreover, throughout their evolution each grouping has been subjected to different national and global influences and pressures.

Implicit in the last remark is the fact that integration has to be viewed as an ongoing multi-layered evolutionary process, with different phases and junctures. It is often difficult to pinpoint the exact beginning or end of integration attempts, except by linking them to the signing of treaties or the establishment of institutions. Yet, these conscious decisions are only part of the greater integration process. Informal integration through commercial, information and social and cultural flows across borders often provide much more tangible integrative ties than high-level politics. No study of a regional integration scheme is complete without considering the 'integrative legacy', whether formal or informal, that preceded it. Though the CAN is a distinctly different type of regional integration endeavour today compared with the Andean co-operation efforts of the original Cartagena Agreement of 1969, the

Table 7

HDI Rankings	High human development	Medium human development	Low human development
CAN		Bolivia Colombia Ecuador Peru Venezuela	
Mercosur	Argentina Chile Uruguay	Bolivia Brazil Paraguay	
SADC		Botswana Lesotho Mauritius Namibia Seychelles South Africa Swaziland Zimbabwe	Angola DRC Malawi Mozambique Tanzania Zambia

Source: Human Development Report, 1999.

accumulated structures, values, links and even conflicts of the past 30 years are an inherent part of the current integration project. Similarly, Mercosur is fundamentally anchored in integrative steps taken between Argentina and Brazil which started in the mid-1980s, although its beginnings are generally dated to the signing of the Treaty of Asunción in 1991. SADC's integration efforts are rooted in those of SADCC, and the geopolitical strategies of the Frontline States.

Thirdly, following from the understanding that regionalism is an ongoing process with different phases, it is clear that different variables are important at different junctures or stages. It is possible to differentiate between *prerequisites* essential to allow regionalism to emerge and flourish; *supportive conditions* necessary to sustain and nurture the process; and *catalytic events*, which halt regional integration abruptly, spur it on, or change the course of regionalism dramatically. These variables are not specific to one particular stage of integration only, nor do they only refer to one level of analysis, but could also apply to the national, regional and global spheres.

For example, the absence of war between member states is regarded as a precondition for the initiation or meaningful integration. The absence of a hypothesis of conflict is also an important supporting condition for continued integration, just as the sudden outbreak of outright hostility between two or more member countries could be a catalyst derailing the entire scheme. Events at the global level could also be catalytic, both in stunting regional integration (as in Latin America's 1980s debt crisis) or in serving to revitalise the process (for example, the increased international investor interest in emerging markets shown in the early 1990s due to low interest

rates in industrialised countries). Brazil's sudden devaluation at the beginning of 1999 can be considered as equally catalytic, because the initial dramatic trade balance reversal with Argentina almost unravelling the gains made by Mercosur.

With these remarks in mind, what do the Andean and Mercosur experiences show us about regional integration efforts among developing countries?

1. Economic context

Economic policy convergence around free market principles among the member states of a regional grouping clearly helps integration efforts.

The fact that all the signatories of the Cartagena Agreement followed variants of the ISI approach provided a certain degree of congruence among Andean countries in the 1960s and 1970s, which helped the region to foster a common approach and identity. However, the Andean Pact showed that co-operative efforts between like-minded entities in themselves are not enough, as the inward-looking approach applied by the grouping was actually in direct contradiction to the requirements of meaningful regional commercial integration. It was only in the context of the market-oriented reform programmes adopted by Andean countries since the late 1980s and the concerted efforts of regional liberalisation by Colombia and Venezuela that integration efforts in the region gained momentum.

Similarly, the experiences of Mercosur show that economic policy convergence between its core countries, Argentina and Brazil, around the principles of the Washington Consensus greatly facilitated regional co-operation. Driven by the shared belief that insertion into the global economy would help end the cycles of hyperinflation and economic mismanagement that had plagued the Southern Cone, the countries embarked on liberalising economic reform projects. Though each country applied its own mix of policies, the fact that they implemented largely complementary macro-economic policies laid the foundation for substantial integration. Unilateral opening had thus started the process of creating a 'natural market' between the Southern Cone countries, even before the Treaty of Asunción was concluded.

Furthermore, a growing external deficit in the early 1990s forced the Argentine government to slow its process of unilateral opening, while a loss of competitiveness forced the Brazilian government to commit to a more flexible trade policy. This convergence was the basis for the August 1994 agreement in which both countries, along with Paraguay and Uruguay, forged ahead to adopt the CET and create the customs union.

Although Chile was invited to join Mercosur from the beginning, it decided against full membership in 1991 due to differences in economic policy approach. Chilean tariff levels were far lower than those proposed for Mercosur, since the country had embarked on a dramatic liberalisation programme long before the Mercosur countries. Besides, Chile's emphasis on insertion into the global economy rather than engagement in regional preferential schemes kept the country outside Mercosur's drive towards a customs union.

Peru's temporary withdrawal from the Andean process in 1992 was in part due to the fact that while economic reforms had been implemented, the national economic context at the time did not yet permit full participation in the FTA. In addition, since Peru followed Chile's example of flat tariff rates to link directly into the global economy, major differences existed between the trade policy adopted by Peru and the policy of the Andean Group's core countries, Colombia and Venezuela.

Both Chile and Peru, however, returned to the idea of regional co-operation in time, in an effort to secure preferential access to neighbouring markets. Chile became an associate member of Mercosur in 1996. Peru too signalled its intention of 'returning' to the Andean stable, and since 1997 has been in the process of being fully incorporated into the CAN.

Besides laying a sound foundation for integration, convergent macro-economic policies and complementary economic conditions are also important supportive conditions for progress in regional integration. A formal political commitment to regional integration requires countries to adhere to their set of macro-economic targets and other reforms. Thus, membership of the CAN and Mercosur locked member countries into their reform programmes. As the reforms brought about more stable economic conditions, integration was able to progress. In particular, the resumption of growth in Brazil from 1994 onwards to absorb Argentine exports was a critically important supportive condition to help consolidate Mercosur at a time when the Mexican financial crisis spill-over effects were pounding the Argentine economy.

On the other hand, catalytic shocks such as the one sparked by Brazil's 1999 devaluation almost derailed Mercosur, and certainly wounded the CAN too. The Brazil crisis showed that as countries become more integrated they also become more exposed to each other, and thus need to make regulatory provisions to deal with such events. Within Mercosur it has led to calls for more concerted and focused macro-economic harmonisation efforts among member states. Similarly, macro-economic policy has been on the Andean agenda for a while. The severe problems that have faced Ecuador in past months have underlined the importance of the Andean Community Council of Ministers of Economy and Finance, Central Banks and Officials Responsible for Economic Planning for the grouping's future.

2. Return to democracy

The conventionally held view by many political analysts and economists has long been that democracy complicates and even hinders painful economic reform programmes. The Chilean experience of economic opening under General Augusto Pinochet, followed much later by political liberalisation, appeared to reinforce this assumption. However, the sweeping market reforms that the other Latin American countries undertook during the past decade were products of democratic governments. This has prompted scholars to re-evaluate the relationship between democracy and economic management.

It now seems that democratisation is actually a complement to speedy stabilisation

and economic reform. Democracy allows for more highly institutionalised modes of participation in decision-making, to enable discredited policies and politicians to be removed.⁶ In this way democracy contributes to a government's 'social capital' — the capacity to undertake projects for the collective good by establishing connections among individuals and binding them into civil society. Democracy sensitises citizens to others, and makes them more willing to see others' points of view, to compromise and to co-operate. Democratisation certainly increases overall transparency, and thus can pressurise non-co-operative sectors of society by making it harder for them to shift disproportionate burdens of adjustment to others. Generally countries with higher levels of political participation and competition have been able to adopt and maintain more comprehensive economic reform programmes.

The complementary effects of democratisation and economic reform are not only applicable to politics at the national level, but at the regional level too. Though democratisation is not a necessary condition for regional co-operation, it appears that regional integration and democratisation reinforce each other.

Regionalism has so far enjoyed the greatest success among liberal, like-minded states. Leaders who are unwilling to compromise with domestic constituencies appear similarly unwilling to make compromises with neighbouring states. It is no coincidence that limited progress was made in the first 20 years of Andean integration, as at any one time in this period some of the member countries were under military or authoritarian rule. The Andean process was only really revitalised once democratic processes had been started in the region.

Mercosur too was negotiated in the wake of the return to power of civilian governments in Argentina and Brazil. For the political leadership of both countries the decision to seek new levels of regional integration was fundamental to securing their fragile democracies. Although technically the transition to democracy had occurred in 1983 in Argentina and 1985 in Brazil, the successor governments were weak and unable to undertake fundamental structural reforms. Only with the second, and in the case of Brazil, the third transition regime, did it become feasible to use the political legitimacy bestowed by a popular electoral mandate to begin a radically different economic future. Both Argentina and Brazil quickly identified regional economic co-operation as a major component of the process of internal economic and financial reform.

Moreover, regional integration can lock countries into continuing along the democratic path, as regional partners press for democratic governance as a basic condition for membership. The fact that diplomatic relations between Peru and Venezuela had cooled off markedly following President Alberto Fujimori's closure of the Peruvian Congress led to Peru's temporary withdrawal from the grouping's activities. On at least two occasions since 1996 Mercosur countries have pressurised Paraguay to prevent a return of military forces into politics. After the attempted coup in 1996, Mercosur went as far as adopting a provision to the Treaty of Asunción making membership of the grouping conditional on member states being under democratic governance.

Broad democratic governance in the Southern Cone has greatly increased outside confidence in the region, as enhanced political transparency and the rule of law also

imply greater legal security. Though major democratic advances have been made in the Southern Cone, democracy still has some way to go and will not be fully consolidated until deepening reforms to political institutions, bureaucracies, judiciaries and social safety nets are completed too.

While the intrusion of military forces into the political sphere in Mercosur is restricted to Paraguay, in the five CAN countries questions persist around civil–military relations and authoritarian leadership. Colombia’s ongoing cycle of low-key civil war is rendering democratic governance meaningless in large parts of the country. Ecuador’s tempestuous democracy has seen the military intervene—directly or indirectly—on a number of occasions in the recent past. At the beginning of 2000 junior military officers supported a coalition of Indian groups to remove President Jamil Mahuad from office. Venezuela saw two coup attempts in the 1990s. In addition, Peru under Fujimori and Venezuela under President Hugo Chávez (who was, incidentally, the leader of one of the failed coup attempts, but later was democratically elected), are increasingly criticised as opaque democracies where pluralist governance is undermined by populist authoritarian styles of leadership. The fact that all Andean countries face a democratic deficit problem of some sort implies that regional integration is not really able to contribute much to nurture democracy in member countries; nor is regionalism reinforced from below. If anything, certain developments in the Andean region are hindering meaningful integration as strong presidents use the pretext of sovereignty to shun outside criticism, and clashes between Colombia’s government forces, paramilitaries and rebels spill over into neighbouring border areas. The negative perception the region generates by such events only deters investors.

3. Hypothesis concerning absence of conflict

Given that progress in regional integration is dependent on building trust between member states, the hypothesis that a prerequisite is absence of conflict must be taken seriously. Stability both inside a member state, as well as between member states, is essential to create a viable environment for co-operation.

Conflict at both the national and regional level has basically been resolved in Mercosur. The dramatic turnabout in relations between Argentina and Brazil is the cornerstone of Mercosur’s progress thus far. After 150 years of suspicion and rivalry between them, a fundamental shift occurred in the mid-1980s with the end of military dictatorships and the installation of elected civilian regimes. In the past Argentina and Brazil had been uneasy neighbours distrustful of the other and locked into a zero-sum game to determine which country would be the dominant player in the region. Today these old antagonisms have receded with the decisive steps taken to build mutual regional confidence.

The strained Peruvian–Venezuelan relations at the time, plus the armed confrontation between Ecuador and Peru in 1995, impacted negatively on Andean integration efforts. Although the border dispute between Peru and Ecuador was finally resolved with the signing of a peace agreement in 1998, numerous other

potential conflicts are still present in the CAN. This is most notable in Colombia, where the spiralling internal turmoil deflects the country's attention and resources away from the regional project. Moreover, as fighting is spilling over Colombia's borders it is creating much unease in neighbouring countries. The contagion effect of instability also plays itself out in organised crime activity throughout the region, the proliferation of narcotics and small arms, as well as refugee streams across borders. Cumulatively this adds to a negative perception of the viability of trade and investment in the region.

4. Institutional backing

The dominant view in the 1950s and 1960s held that an extensive multi-faceted institutional framework was necessary to regulate the process of regional integration. Strongly influenced by the European model of integration, the original Andean integration initiative placed too much emphasis on strong and broad institutional backing for the various levels of integration. During the next 30 years, these structures were amended and added to, culminating in what today is referred to as the 'bodies and institutions' of the AIS.

One of the most conspicuous differences between the CAN and Mercosur is the fact the Andean process is so much more institutionalised. Besides the scope of issues subsumed under institutional structures, the Andean process has also progressed much further down the road of deep integration than Mercosur. The law-making capabilities of the Commission meant that in the early years of the Andean process a significant legal framework was established. The Andean countries even took decisive steps toward supra-nationality in the legal sphere with the establishment of the Andean Court of Justice in 1979. This court's decisions are directly applicable and of a binding nature on all member states. The jurisprudence established by this court has given the Andean process another distinctive integrative layer, which is absent from most other integrative schemes. An important step towards consolidating Andean integration has been the approval of CAN provisions on intellectual property, investments, customs procedures, human, plant and animal health measures, technical standards and rules of origin and competition.

Also, since 1997, the general secretary of the CAN and the General Secretariat in Lima have been given more directive and executive responsibilities to lead the integration process. Furthermore, recognising that progress towards a common market requires major advances in harmonising economic instruments and policies, the CAN established the Andean Community Advisory Council of Ministers of Economy and Finance, Central Banks and Officials Responsible for Economic Planning in 1998. The CAN also uses financial and educational structures such as the Andean Development Corporation, the Latin American Reserve Fund and the Simón Bolívar Andean University.

In contrast, Mercosur is characterised by inter-governmentalism. Mercosur was established at a time when broad institutional structures were considered more a hindrance than a help to real integration. The fact that Mercosur has steered clear of

a costly and cumbersome 'Mercosuraucracy' à la Brussels is seen as setting Mercosur distinctively apart from previous unsuccessful Latin American initiatives.

The Mercosur system has far fewer bodies and institutions than the Andean process. Moreover, Brazil's reluctance to cede sovereignty to smaller countries means that Mercosur has been little more than an association of member states with minimal supra-nationality. Moreover, as decisions are taken by consensus, Brazil effectively has veto power. One of the clearest indications of lack of faith in supra-nationality is the fact that no tribunal to mediate disputes between member states has been established. Also, the Mercosur Secretariat in Montevideo does not have the same powers as its Andean counterpart, nor does a secretary-general or equivalent head it.

Instead of moving towards supra-nationality Mercosur has relied on *ad hoc* arrangements, and particularly presidential diplomacy. This has allowed the process to remain more flexible than a traditional process driven by bureaucratic structures. The grouping's progress thus far without an elaborate institutional structure is clearly an indication of the political will invested by its core member states. In addition, minimal institutionalisation has made the Mercosur process more cost-effective than the Andean scheme. But reliance on high politics to drive regional integration does have its limits.

Presidential diplomacy is only effective if the respective presidents are strong. Mercosur has clearly been hamstrung in the past 18 months by the fact that Cardoso's room to manoeuvre has seriously diminished in the wake of the devaluation of the *real*, while then Argentine president Carlos Menem was concentrating on securing his political future in the run-up to the October 1999 presidential elections. The lack of institutional capacity meant that there were no non-political parallel structures to circumvent the jammed political process. In this way even technical issues that could have been resolved at a bureaucratic level were stalled. In fact, in the absence of the 'presidential ear' or dedicated regional mediation structures, interest groups in Argentina and Brazil went as far as having recourse to World Trade Organisation (WTO) dispute settlement procedures and mechanisms to deal with intra-regional trade issues.

The structures established in the Andean region, by contrast, have prevented such issues creating political heat between member countries. The General Secretariat is equipped to deal with many legal, technical and bureaucratic matters. Also, recourse can be had to the Court of Justice in matters that are beyond the Secretariat's mandate. This has resulted in reiterated calls for Mercosur, and particularly Brazil, to finally take steps to establish the appropriate structures. In early 2000, member states officially recognised that a 'relaunched' Mercosur is meaningless without structures that will regulate the more complicated issues, as the grouping progresses with integration.

Presidential diplomacy is also only possible if good interpersonal relations exist between the heads of state so that issues can be resolved. The fact that icy diplomatic relations existed between Peru and Venezuela in the early 1990s, plus the armed conflict between Peru and Ecuador, meant that presidents could not and would not meet regularly to consider the 'softer' issues of trade integration.

No organisation functions effectively without basic deliberative, administrative and

regulatory agencies. But, as the Andean example shows, strong institutional backing is no guarantee of rapid progress in regional integration either. The experiences of both the CAN and Mercosur attest that the integration of sovereign states is dependent on the directives of the respective political leaders. The formal process of regional integration remains a political endeavour directed by political actors.

For this reason it is imperative that a regional integration process is infused at the beginning with strong political will. In fact, committed leadership remains crucial throughout the process, to navigate a country through the different stages of integration. Institutional backing is an important supportive condition in times when the political process is hamstrung, but it is not a substitute for member countries' commitment to the overall process. In fact, the institutions and particularly the secretariats and their functional heads are only as effective in fulfilling their roles as member countries allow and empower them to be.

5. Citizen participation

While the more formal process of regional integration remains a governmental endeavour directed by the political actors of member states, citizen participation in the process cannot be ignored in the long term. Insertion, whether into a regional scheme or the global economy, does bring costs. To effectively mediate the negative effects of integration, political participatory mechanisms become important. The lessons learnt at a national level in terms of democratisation and economic management are no less important at the regional level.

The CAN has various relatively extensive bodies and institutions to channel citizen participation—for instance the Andean Parliament and the Business and Labour Advisory Councils—yet the process has remained largely removed from 'the people'. Despite the Socio-Economic Advisory Forum and the Joint Parliamentary Committee, Mercosur too is dominated by regional integration's inherent governmentalism.

Business in both regions generally does not regard the respective business advisory structures as important fora in which to discuss issues of concern. Instead issues are considered at national government level. Besides, establishing advisory structures is only half the battle won. Governments need to take regional business on board as full partners in integration. Regional economic growth and development requires focused partnership between the private and public sectors.

Interestingly, while similarly wary of detached advisory bodies, labour in both regions appears to place more importance on their respective structures than on business. This can probably be attributed to the fact that labour finds it increasingly difficult to have its views accommodated in national settings dominated by liberal economic policies. Regional transnational civil society in general is embryonic in both the CAN and Mercosur. Though the CAN is now adjusting election procedures to allow for direct election of representatives to the Andean Parliament, Mercosur citizens find themselves still very far removed from the process.

Regional integration schemes have to move beyond their inherent

governmentalism. Bringing the citizen on board and democratising the process from the bottom up is particularly important as regional integration schemes progress towards common markets, with complicated economic and social adjustments that affect the citizenry more directly than previous integrative steps did. The 'social capital' acquired from regional citizen endorsement is a very important supportive condition of the integration process. If this 'citizen deficit' is not bridged to some extent, the whole project may be endangered by serious citizen backlash. The distinct anti-Mercosur feeling that built up in Argentina after the crash of the *real*, fuelled by very critical and arguably slanted media coverage, is a case in point. Though very difficult to quantify or test, the long-term importance of building a regional identity cannot be underestimated in substantive integration efforts.

6. Membership and extra-regional linkages

A great deal of academic attention was given to defining region (and regionalism) in the 1960s and early 1970s. But attempts to delineate regions, even 'scientifically', produced few clear answers. The reason for this is that there are simply no natural regions. All regions are socially constructed entities. Definitions of 'region' and indicators of 'regionness' vary according to political⁷ and economic definitions and imperatives.

In short, determining what constitutes a region is not a mere academic or even geographic exercise, but holds important implications for the membership of a grouping and its modes of integration. The 'right' combination of countries increases the chances of success. The variables to consider include geographic proximity, complementary economic contexts and converging political values and policies, to allow the flourishing of natural associations across national borders. It is also obvious that the inclusion of a country regarded as an 'investment magnet' is to a grouping's advantage.

In large part Mercosur's progress can be attributed to the fact that it is a small new grouping of countries on a similar economic and political trajectory established around the Argentine–Brazilian axis. Other members were added to this core axis in stages.

But not all integration projects start with a clean slate, as Mercosur was able to do. The CAN of today had to emerge out of 20 years of 'integration legacy'. Though the Andean process had built up a sound body of jurisprudence with regard to a host of issues, it had not made significant progress on the economic front. To re-orient the integration scheme towards open regionalism, the grouping had to go through laborious re-evaluations and negotiations among member countries.

The Andean example showed that not all countries that were part of an older process are equally ready to participate fully in the new economic course. To prevent the entire integration process from being held up by lagging economies, member countries could decide to move ahead at different speeds.

Integration at different speeds can be understood in two ways. Firstly, it can refer to 'asymmetry', where all countries participate, but many of the initial adjustment

costs of integration are deflected to the larger economies. Both the Andean system and Mercosur made special provisions to allow their smaller economies more time to adjust to trade opening. In the Andean system, Colombia and Venezuela progressed far quicker in liberalising trade than the other countries. In Mercosur, more allowances were made for Uruguay and particularly Paraguay.

Secondly, integration in different stages can also refer to what academics have termed 'variable geometry', where member countries only 'opt into' the process when they are ready to participate as full members. In the CAN this largely implies that some member states advance more quickly than others do in meeting integration objectives. Similarly, in Mercosur it has also meant that some countries opt for deeper levels of integration. For example, while Argentina and Brazil are currently negotiating a common automotive regime, Paraguay and Uruguay will follow a year later.

Moreover, since proponents of freer trade in line with open regionalism must not only think about deepening regional agreements but also about permanently enlarging and interrelating them, variable geometry can also refer to incorporating new countries into the process at given stages. Both the sequence of enlargement and the timing of each step are crucial.

What sets Mercosur apart from the original Andean Pact is that it started small, but with the express understanding that other LAIA members could join the process in time. Thus Mercosur could, within reason, widen the grouping through accords and agreements with ready strategic neighbours and partners. Mercosur's membership body was not 'historically given'.

Mercosur's incorporation of Chile and Bolivia into the FTA in 1996 can be regarded as variable geometry in this sense. Including Chile at this stage was strategic and advantageous to both. Chile's association with Mercosur is as much about Santiago seeking preferential access to the Mercosur market as it is about Mercosur countries securing Chilean investment and capitalising on the country's positive image among investors internationally. Binding Bolivia closer into the Mercosur fold in the same year strengthened the grouping's claim to defend South American interests in international fora such as the WTO.

Mercosur subsequently started discussions with the CAN, and later with individual member states, to draw them into a consolidated South American market space. At the same time Mercosur's efforts to link into CAN countries are also based on the political considerations of wanting to create a stronger negotiating counterbalance to the US in the mooted Free Trade Agreement of the Americas. Open regionalism in this sense further strengthens Mercosur's position internationally.

Conversely, the CAN experience shows that a coherent approach to open regionalism is not easy to achieve, and can also lead to a weakening in a grouping's international image. Attempts to strengthen its own regional integration mechanisms simultaneously with progress towards free trade in the Americas and globally might seem contradictory at times. The fact that Bolivia decided to join Mercosur as an associate member in 1996 was interpreted by some as defection from the CAN. Similarly, the fact that Colombia and Venezuela negotiated the Group of Three with Mexico, as well as bilateral agreements with Chile and various Caribbean countries,

has arguably diluted the impact of the CAN as a collective. Bolivia has also concluded similar agreements with Mexico and Chile. Venezuelan and Peruvian moves to forge closer relations with Mercosur on a bilateral basis have further reinforced this perception.

The importance of self-definition of a region is also seen in the CAN in terms of the grouping's stated objectives. The member countries' divergent extra-regional strategies as well as the different intra-regional levels are actually creating different regions within and beyond the CAN. A customs union actually only exists between three CAN members, and it does not look at the moment as if this grouping will be fully consolidated in the future. Bolivia is not expected to change its tariff structures, and the CAN's decisions on Peru's participation in the FTA have recognised the country's intention to keep its own tariff schedule. It also does not seem as if Colombia, Ecuador and Venezuela will amend their tariff approach towards the Bolivian and Peruvian model of flat rate tariffs. The vexing question therefore is: Should CAN recognise these different regions, or should it try (possibly in vain) to press ahead to achieve greater internal cohesion?

In other words, questions concerning what constitutes 'the region' and who its members are and what its objectives should be, are not only important at the start of a regional integration project. Criteria for extra-regional linkages in general and conditionalities for incorporating new members in particular are important considerations throughout any integration based on 'open regionalism'.

7. Image and perception

The internationalisation of production and investment means that national economic policy makers are forced to become more and more accountable to foreign investors, country-fund managers and international rating agencies. In the globalised economy, these are the groups that determine whether an economy is judged a success or not. Their verdict, whether delivered in terms of investment behaviour or through endorsements in articles appearing in *The Economist* and the like, determines whether a country, or by implication a regional scheme, will prosper, as foreign investors follow the whims of global market sentiment.

A brief survey of international news journal and magazine articles will show that considerable international press attention has been invested in following Mercosur's evolution since the mid-1990s. In stark contrast, the CAN hardly, if ever, receives media attention. Mercosur thus has a much higher profile internationally. In addition, the fact that such articles generally refer to Mercosur as the 'most successful integration experience of Latin America' and the 'second largest customs union in the world' gives the impression that Mercosur is a more dynamic project and thus more attractive than the CAN. Similarly, academic attention is increasingly focused on assessing the integration experiences of the Southern Cone. The attention bestowed on Mercosur has not only made it an arguably more recognised regional integration brand name than the South Asian Association for Regional Co-operation (SAARC), but has also attracted investors. Success, or even perceived success, attracts attention.

But is Mercosur indeed more successful than the CAN? How can success be quantified?

A comparison of the CAN and Mercosur clearly shows the power of the politics of image and perception. Mercosur's perceived dynamism is in large part due to the fact that it is a much newer organisation which has progressed very quickly to help reverse the fortunes of its member countries. In contrast, the foundations of the CAN were laid over 30 years ago, and for the first 20 years limited progress was made in terms of economic integration. It is useful to recall, though, that Mercosur actually predates the remodelled CAN, and CAN's rapid progress in intra-regional trade and the adoption of trade-related disciplines since 1992 is actually no less impressive.

Mercosur is also more positively perceived by these outsiders because of its enormous market size. Containing two of the most important South American economies—Argentina and Brazil—as its core members, Mercosur is the largest consolidated economic space after the EU, Japan and the US. Mercosur simply cannot be disregarded. As noted earlier, Mercosur is almost six times the size of SADC, and four times the size of the CAN. Little wonder investors are keen to gain a foothold in Mercosur, even though the CAN has progressed much further in terms of multi-faceted integration. In addition, the fact that Mercosur comprises countries with medium levels of development with significant human resources and an expressed undertaking to become a global trader naturally receives investor attention.

Brazil is the magnetic pole demanding international business attention, which in turn spills over to its neighbours and Mercosur as a whole. Moreover, the fact that Mercosur is drawing neighbours in as associate partners, with more still knocking for admission, is seen as a firm endorsement of the process. The CAN simply has no Brazil. Instead CAN member states are trying to forge closer links with Brazil as a grouping and individually.

Conclusion

Regional integration is about much more than can be captured in economic models or bilateral trade statistics. Regionalism is not a matter of economics only, but of politics, security concerns and intangibles such as perceptions. The experiences in Latin America thus far show that while it is imperative that regions offer conditions of democratic stability along with sustained macro-economic reform, little is achieved without concerted political leadership, vision and a strong international *persona*.

Notes

- ¹ The United Nations Economic Commission for Latin America (ECLA) later became the United Nations Commission for Latin America and the Caribbean (ECLAC).
- ² Chile withdrew from the Cartagena Agreement in 1976.

- ³ Though taking part in the preparatory negotiations, Venezuela acceded to the Cartagena Agreement only in 1973.
- ⁴ Rodrik D, *The New Global Economy and Developing Countries: Making Openness Work*. Washington: Overseas Development Council, 1999, p.9.
- ⁵ ECLAC, *Open Regionalism in Latin America and the Caribbean: Economic Integration as a Contribution to Changing Product Patterns with Social Equity*. Santiago: ECLAC, 1994, p.8.
- ⁶ Rodrik D, *op. cit.*, 1999, p.84.
- ⁷ How else can the inclusion of the Democratic Republic of Congo, Mauritius and Seychelles, but not Madagascar, into SADC, be explained, for example?

Regional Integration: The Case of Asean

*Mya Than & Daljit Singh**

Introduction

The Association of South East Asian Nations (Asean) credited by many outsiders with being one of the most successful regional co-operation efforts,¹ was created in 1967. The founding member nations were Indonesia, Malaysia, the Philippines, Singapore and Thailand. As in the case of European Union, the primary motivation for the establishment of Asean was political rather than economic. The formation of Asean should be seen in the context of the politico-security situation during the formation period, because it becomes clear that Asean was seen as a means of maintaining peace and stability by providing a forum for the discussion and resolution of regional issues relating to security.

It has been 33 years since Asean was established, and co-operation has widened and deepened. The number of members has increased from the original five to 10; Brunei joined the grouping in 1984, Vietnam in 1995, Laos and Myanmar in 1997, and Cambodia in 1999. Moreover, Asean countries are advocates of open regionalism, simply because the region is too small for inward-looking regionalism. In fact, Asean is the largest free trade area (FTA) grouping in the world in terms of population, but the smallest in terms of gross domestic product (GDP). Therefore, it is building external linkages with Asia-Pacific Economic Co-operation (APEC), Closer Economic Relations (CER) in Australia and New Zealand, the European Union (EU), the North American Free Trade Area (Nafta) and so on. Apart from this country-related widening, an issue-related widening is under way, covering investment, cross-border environmental protection, cross-border crime control, meteorological research, natural disaster prevention and emergency relief.

Asean has also deepened its economic, political, social and security co-operation. It has moved forward from the Asean Preferential Trading Arrangement (PTA), which was mainly to promote intra-regional trade, to a free trade area scheme. The Asean Regional Forum (ARF), which provides the region with an institution for multilateral

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dialogues on security and for developing the concepts of confidence building, preventive diplomacy and conflict resolution in the region, was introduced in 1994.

Throughout the development of Asean, the grouping has experienced successes as well as failures. Thus, it is useful to look back and evaluate its achievements, weaknesses, challenges and prospects.

The objective of this paper is to examine the experiences of Asean in the process of regional integration. For the purpose of this study, the terms 'co-operation' and 'integration' will be used interchangeably, as co-operation is considered here as the lowest form of integration and integration as the highest form of co-operation.

This paper is divided into four sections. To give some idea of the background of the member countries, a brief overview of Asean economies is provided in section one. Section two will examine economic and political co-operation in Asean since its formation. The security integration at the inter-state level and the relationship between regional bodies will be analysed in section three. In the concluding section, achievements, weaknesses, issues, challenges and prospects for Asean's regional integration will be addressed.

Asean economies: A brief overview

The economies that make up Asean are summarised in Table 1. They reveal a wide range of land area, population and income among member countries. With a population of about 200 million and land area of 1.9 million km², Indonesia is the largest country in the region. Singapore is the smallest country, with 3.5 million in population and a land area of 648 km². However, where national wealth is concerned, Singapore has the highest per capita gross national product (GNP) of \$30,060, followed by Brunei with \$17,377 and Malaysia with \$3,600. Cambodia has the lowest per capita GNP of about \$280, and Laos has only \$330. In terms of the size of GDP, Thailand is the largest economy with \$153.9 billion, while the smallest economy belongs to Laos with \$1.8 billion. GDP growth rates also differ from each other. In 1999, the fastest growing economies were Singapore and Malaysia with a rate of 5.4%, closely followed by Cambodia with five percent. Indonesia performed worst; it grew at the rate of only 0.2%, since it had not only been hit by the financial crisis of July 1997 but also by political instability.

In fact, most of the older Asean member countries have an outstanding record of achievement in economic and social progress over the past quarter of a century. Between 1971 and 1980, the economies grew between six to eight percent, and in the period 1981–90 the growth rates of the countries, with the exception of the Philippines, rose impressively from 5.5% (Indonesia) to 7.9% (Thailand).

In general, in terms of development level, the members can be divided into two groups; the original Asean-6, which enjoy a higher degree of development, and the new member countries such as Cambodia, Laos, Myanmar and Vietnam, which have a lesser degree of development. Because of this difference in development level between the two groups, many critics argued that the Asean enlargement would produce a two-tier relationship. It should also be noted that the old members are

capitalist countries, whereas the new members, specifically Vietnam and Laos, are under communist regimes. Myanmar is ruled by military junta and Cambodia has a democratically elected government.

With the exception of Singapore, Asean economies are generally competitive rather than complementary. ‘They were mainly commodity exporters until the 1970s, after which they began to switch into import-substitution industrialisation and labour-intensive, export-oriented industrialisation.’² However, there exist some

Table 1: Selected Asean Indicators, 1998

<i>Countries</i>	<i>Land area (’000)(sq. km)</i>	<i>Population (’000)</i>	<i>Population growth</i>	<i>Labour force (’000)</i>	<i>GDP (\$ billions)</i>
Brunei	5,765	305	3.1%	138	5.3
Cambodia	181,036	11,430	3.4%	344	3.1
Indonesia	1,919,317	204,390	1.6%	92,735	96.3
Laos	236,800	4,830	2.4%	2,030	1.8
Malaysia	329,758	21,700	2.3%	9,006	71.3
Myanmar	676,577	46,400	1.8%	22,520	^a 12.4
Philippines	300,000	73,500	2.3%	31,278	65.1
Singapore	648	3,100	4.2%	1,932	85.4
Thailand	514,000	60600	1.1%	33,353	153.9
Vietnam	330,955	76,700	2.1%	37,000	24.8
Total	4,494,855	502,955	2.43	230,336	519.4

	<i>Real GDP growth (%) ’99</i>	<i>GNP/capita (\$)</i>	<i>Exports (\$ million)</i>	<i>Imports (\$ million)</i>	<i>Exchange rates (\$1)</i>
Brunei	3.5	17,377	1,426	1,202	1.41
Cambodia	5.0	280	436	217	3744.4
Indonesia	0.2	680	54,341	29,185	10014
Laos	4.0	330	651	590	3298.33
Malaysia	5.4	3,600	73,470	58,319	3.92
Myanmar	4.5	^b 765	1,210	2,686	^a 6.34
Philippines	3.2	1,050	29,496	31,393	40.89
Singapore	5.4	30,060	109,886	101,606	1.67
Thailand	4.1	2,200	54,489	43,108	41.35
Vietnam	4.4	330	5,686	3,484	13297
Total	4.0 as in last column		33,1091	271,790	-

Source: ADB, Key Indicators of Developing Asian and Pacific Countries, 1998; Manila, World Development Report 1999/2000. World Bank: Oxford University Press; IMF, Direction of Trade Statistics, 1999.

^aEstimates

^bAsiaweek, 12 May 2000.

complementarities among them. Brunei, Indonesia and Malaysia are energy rich, whereas the rest are more or less energy importing countries. As the resource-rich countries industrialised, each country has found different niches and products based on competitive advantage.

Moreover, complementarity was also enhanced when the four new members, which are at different levels of development, joined the grouping. The old members are relocating most labour-intensive industries to the new member nations. Thailand and Malaysia are complementary in food, since Malaysia imports food products from Thailand. Thailand, Indonesia and Philippines are the main exporters of labour to Singapore and Malaysia.

As Asean industrialisation continues at a rapid pace, trade within the region will increasingly become intra- rather than inter-industry in nature, as it is in the more industrialised groupings such as the EU, Nafta, and CER of Australia and New Zealand.³

The evolution of Asean: An overview of political and economic co-operation⁴

Regional co-operation among South-east Asian countries has gone through three tumultuous stages since 1945. The first phase, which lasted from the end of World War II till the mid-1950s, was mainly dominated by the ideology then prevailing in both the United States (US) and Britain on the nature and type of regional association for South-east Asia. Within the region, post-war ideology and colonial ties constrained the organisation of regional integration in South-east Asia. In that period, Singapore, Brunei and Malaysia were still British colonies, while Laos, Cambodia and Vietnam were French in the late 1940s and early 1950s. Thailand and the Philippines were leaning towards the US rather than their own region. Burma (now Myanmar) and Indonesia were ideologically neutral and non-aligned. These two survived in isolation until the mid-1960s.⁵

Not surprisingly, this was the setting that saw the formation of the Economic Commission for Asia and the Far East (ECAFE) and the Colombo Plan, which were both largely dependent upon the two super powers.

During the second phase, there were several attempts to organise regional co-operation in various forms. In September 1954, under the influence of the US, the South-east Asia Treaty Organisation (SEATO) was formed and the South-east Asia Collective Defense Treaty (the Manila Treaty), in which 'the general South-east Asia' was designated as the 'treaty area', was signed. At the same time, a separate protocol, which extended the provisions to include Indochina, was also signed. Only Thailand and the Philippines from the South-east Asian countries were included in SEATO. Other member countries included Britain, France, Australia, New Zealand, and Pakistan. In the event, SEATO proved to be more of an anti-communist military alliance than a true regional organisation. Due to lack of commitment on the part of members and increasing criticisms by the East Bloc and by many other South-east Asian countries, it eventually lost its effectiveness and credibility.

SEATO was followed by other regional organisations such as the Association of

South-east Asia (ASA), launched in 1961, which could be said to mark the second phase of regional co-operation. It had a short life due to the dispute between the Philippines and the newly formed Federation of Malaysia over Sabah. Two years later, Malaya, the Philippines and Indonesia formed another association in the region called 'Maphilindo', which was also dissolved due to the formation of the Federation of Malaysia, which neither the Philippines nor Indonesia recognised. The most important impediment to regional co-operation was the guerrilla war started shortly afterwards by President Soekarno of Indonesia against Malaysia. This war ended in 1967.⁶

In 1966, the Asia and Pacific Council (ASPAC) was organised by South Korean President Park Chong Hee with non-communist countries 'to form a "second front" for US military action in Vietnam', to assist member countries in dealing with external aggression, and to provide a framework for future co-operation efforts. Members of ASPAC included Malaysia, New Zealand, Japan, Australia, Taiwan, the Philippines, South Korea, Thailand and South Vietnam.

Pro-West South-east Asian countries such as Malaysia, the Philippines and Thailand were preoccupied with the communist threat outside as well as inside their territories in the late 1960s. This led them to maintain themselves as members of ASA and ASPAC. On the other hand, Singapore and Indonesia proclaimed a non-aligned foreign policy. Because the end of the Vietnam war was in sight, Japan, the US and other non-communist countries in the region began to normalise ties with the People's Republic of China (PRC). As a result, ASPAC was dissolved.

This led to the third phase of institutional co-operation among the South-east Asian countries. Push factors for the formation of Asean in 1967 were the communist threat, the Vietnam war and the US involvement in it, and the Cultural Revolution in the PRC. Although the objective of Asean, as mentioned in the Bangkok Declaration, was to⁷

accelerate the economic growth, social progress and cultural development in the region through joint endeavour and partnership to strengthen the foundation for the prosperous and equal community of South-east Asian nations,

the prime motive was political.

At that time, political stability in the region was the driving force behind Asean, and it has been argued that much of the attraction of regional economic integration was merely its use as a 'cover' for political co-operation, in particular, *vis-à-vis* instability in Indochina.

A year after it came into existence, Asean was well on its way to instituting regional integration efforts. Several committees were formed in areas such as food production and supply, civil air transport, air traffic services, shipping, meteorology, and commerce and industry. Moreover, a seven-day visa-free scheme for Asean nationals travelling between member countries was introduced.

During the first decade of Asean's establishment, political co-operation among member countries remained low.⁸ Serious disputes and feelings of distrust between member nations hindered any meaningful multilateral efforts. Mutual mistrust existed between Indonesia and Singapore, Singapore and Malaysia, and Malaysia and the Philippines. For example, in October 1968, Singapore-Indonesia relations hit

their lowest level when two Indonesian marines were executed by the Singapore authorities for exploding bombs that caused deaths in Singapore. (These marines had been captured during the *Konfrontasi*—Confrontation—between Malaysia and Indonesia when Singapore was still part of Malaysia.) The Malaysia–Philippines dispute over territory eight months after the creation of Asean added new complications to the grouping’s internal politics.

However, by the early 1970s the political atmosphere in Asean had improved. At the conference of foreign ministers in 1971, an Asean common market and a payment union for economic co-operation were proposed, though they did not materialise. However, an agreement was made in principle to include the promotion of peace and security within the region.

In November 1971, the Malaysian proposal for creating a Zone of Peace, Freedom, and Neutrality (ZOFAN), with the objective of declaring a neutral South-east Asia, was formally endorsed by Asean. Informal ministerial meetings held in July 1972 and February 1973 discussed the possible settlement of the Indochinese conflict and then the implications of the Paris Peace Treaty for South-east Asia. These activities suggested the readiness of Asean as a regional organisation to tackle peace and security issues.

During this period, progress in intra-Asean trade and industrial co-operation⁹ was also slow, and disrupted by political tensions among member nations. According to Naya and Plummer,¹⁰ the first attempts at co-operation in trade—the PTA—were piecemeal and voluntary. They began with a product-by-product approach to integration which allowed for the exclusion of almost all items that would be important in stimulating trade. Even improvements in PTA to embrace an across-the-board approach and deepen margins of preferences were not sufficient to increase intra-regional trade.¹¹ From 1970 to 1975, intra-Asean trade as a percentage of total Asean trade actually declined from 15.5% to 12.6%.¹²

Industrial co-operation was even less successful than PTA. The first programme was called Asean Industrial Projects (AIPs). These were designed as government-owned entities based on the premise of an ‘import substitution’ approach to economic development. They were slow to start, and several still in existence today originated as national projects. The Asean Industrial Complementation (AIC) scheme was developed to support vertical integration of the grouping, but it was stagnant until the ‘Brand-to-Brand Complementation’ (BBC) scheme was established. It is devoted to the automobile industry and has had some success with Japanese joint ventures. Another project, the Asean Industrial Joint Ventures (AIJVs), was more flexible and attractive, but not as successful as expected.

The year 1976, which saw the first Asean summit held in Bali, opened a new chapter in Asean’s history. During the Bali Summit, three important documents, namely the Treaty of Amity and Co-operation in South-east Asia (TAC), the Declaration of Asean Concord, and the Agreement for the Establishment of the Asean Secretariat, were signed. These documents provided the framework for Asean co-operation and inter-state relations. Also, section B of the Concord contained an action programme to implement regional co-operation in trade. Based on this programme, Asean’s foreign ministers’ meeting in Manila in 1977 signed the PTA.

The aim was to encourage closer regional co-operation through an expansion of intra-Asean trade.

Moreover, for the first time in Asean documents, political co-operation was expressly recognised as an Asean objective. Member nations were urged 'to maintain regular contacts and consultations with one another on international and regional matters to co-ordinate views, actions and policies'. TAC also provides for a dispute settlement mechanism through regional processes, with the High Council as a 'continuing body' comprising a representative at ministerial level from each of the member nations. In being signatories to the TAC, members also undertake to refrain from threat or use of force. In the meantime the Declaration of Asean Concord lent further support to Asean as a political organisation by exhorting member states to improve the Asean machinery and use it to 'promote the harmonisation of views, co-ordinate positions and whenever possible, take common actions'. These documents indicate the member states' growing political maturity, in terms of their firmer commitment to respect each other's sovereignty and territorial integrity instead of creating a supranational community. As far as security is concerned, the Concord deals with it in one line, 'advocating the continuation of co-operation on a non Asean basis between the member states in accordance with their mutual needs and interests'.¹³

During the second decade (1977–86) one more summit was held, only to review the progress related to the implementation of the Bali programme of action. This took place in Kuala Lumpur in 1977. There was not much improvement in political or economic co-operation in the region. It should be noted that it took 10 years for Asean to decide to hold the third summit in 1987, because Malaysia refused to meet in the Philippines since it was the turn of Manila to host the next summit on a rotational basis.

However, at the beginning of the third decade of Asean's existence, there was progress in political co-operation. The Manila Declaration of the Third Summit in 1987 indicates that the Asean member nations sought to further their political co-operation at the intra- and extra-regional levels. The goal was political stability and security within the region.¹⁴

Asean's regional political and economic co-operation significantly improved when the heads of states met at the Fourth Asean Summit in 1992 in Singapore. In contrast to the pre-1992 period, the Singapore Summit decided that summits would take place every three years with informal meetings in between. In that sense Asean has become more institutionalised. The heads of states also decided to restructure and strengthen the Asean Secretariat. However, the Singapore Declaration says nothing about the members surrendering political sovereignty to the Asean Secretariat, stating instead that¹⁵

Asean shall move towards a higher plane of political and economic co-operation to secure regional peace and stability [and] Asean shall constantly seek to safeguard its collective interests in response to the formation of large and powerful economic groupings among the developed countries.

On the economic front, there was a breakthrough in 1992 during the Fourth Asean Summit. The Asean Free Trade Area (Afta) was to be established in the face of stronger integrated trading blocs, such as the EU and Nafta. A few months earlier,

Asean economic ministers laid down the groundwork for the free trade area concept by putting the Common Effective Preferential Tariff (CEPT) scheme in place. CEPT provides a means for harmonising internal tariff rates. According to the CEPT scheme, the tariff lines of products in the inclusion list had schedules divided into normal track and fast track.

According to the original plan, Asean agreed to reduce tariff rates in the normal track under CEPT from nothing to five percent within 15 years, starting in 1993. For products on the fast track list, the tariff reduction was to be completed by the year 2003. However, after the Hanoi Summit in 1998, the six original members agreed to accelerate the CEPT schedule for normal track by one year, from 2003 to 2002, and to set the target for achieving a minimum of 90% tariff lines from nothing to five percent by 2000.¹⁶

For Vietnam the target date was accelerated from 2006 to 2003, for Laos and Myanmar, 2008 to 2005, and for Cambodia to 2010. However, countries like Malaysia have asked for exemption for some products.

After 30 years of economic co-operation, Asean's intra-regional export share is around 21% of its total trade, compared with the EU's 62% and Nafta's 51% as of 1998 (see Table 2). The Organisation of Economic Co-operation and Development (1993) observed that the reason for low intra-regional trade was that it was not as important as extra-regional trade. However, Asean's intra-regional trade has increased substantially, by larger margins than those of any other developing country groupings—from 15% in 1992 to 23% in 1997 within five years of Afta's coming into existence (see Table 2).

As far as its extra-regional trade is concerned, the Asia-Pacific Economic Co-operation countries remain the most significant trading partners of Asean. Nafta comes second, followed by the EU and CER. This is because the US, Japan and CER countries, which include Australia and New Zealand, are key countries in APEC, and intra-APEC trade represents 72% of the member countries' total trade.¹⁷

Since 1976, Asean has established a system called 'Dialogue Partnership' with its trading partners. There are three types of partners: a regional grouping (EU); individual countries (Australia, Canada, China, India, South Korea, Japan, Russia, and the US); and an international development agency (United Nations Development Programme—UNDP). Asean discusses with its dialogue partners not only economic relations but also political and security issues. Pakistan has joined Asean as a Sectoral Dialogue Partner to discuss sectoral issues.

Table 2: Intra-Regional Export Shares, 1990–98

<i>Grouping</i>	1990	1992	1995	1996	1997	1998
NAFTA	41.4	43.7	46.2	47.6	49.1	51
EU	59	59.5	63.5	62.8	62.1	62.5
MERCOSUR	18.7	14.0	20.3	22.7	24.8	24.8

Source: World Economic Outlook, October 1999.

Regarding the inflow of foreign direct investment (FDI) to Asean, it grew from \$12 billion in 1992 to \$26 billion in 1997—an increase of more than double within the five years that followed the creation of Afta. Most FDI inflow is from Japan, the EU and the US. However, it should be noted that it was most often bilateral or subregional, with a number of subregional growth areas within Asean.

In sum, Asean is more successful in political co-operation than in economic co-operation. Since the creation of Asean in 1967, there have been no armed conflicts between its members. There is peace and stability in the region, Asean's credibility is firmly established, and its role in international co-operation continually progresses. In addition, as the association has matured, the number of members has increased: Brunei joined Asean in 1984, Vietnam in 1995, Laos and Myanmar in 1997 and finally, Cambodia in 1999. Now Asean represents all 10 South-east Asian nations. However, Asean is far behind the EU in both political and economic integration.

Regional integration in security: the Asean experience

Asean was formed to bring about regional reconciliation after the end of the Indonesian Confrontation. The idea was for regional states to put aside their quarrels, improve the atmosphere and substance of regional relations, and focus on economic development. This intention was given an added impetus by the sense of a growing communist threat in the region. Indonesia had just had a narrow escape from communism; the Communist Party of Malaya was showing signs of revival; war was raging in Vietnam; and China, entering the Cultural Revolution, was calling upon the pro-Beijing communist parties of South-east Asia to overthrow the established governments of the region.

Although the organisation was dubbed the Association of South-east Asian Nations (Asean), membership of the grouping was confined to the five essentially non-communist and pro-Western states of Indonesia, Malaysia, Philippines, Singapore and Thailand. Burma and Cambodia were approached, but did not want to join, while Vietnam and Laos were embroiled in conflict and were not approached.

Apart from Thailand, the other members of the new organisation had had a relatively brief history as independent states and jealously guarded their sovereignty. Indeed the willingness of all members to adhere strictly to the principle of non-intervention in the internal affairs of members was central to the successful establishment of Asean in view of their past history of suspicion and conflict, as was the principle of making decisions by consensus.

Avoidance of interstate conflict

Arguably, Asean's biggest achievement has been avoidance of conflict and improvement of political relations between member states. This is no mean accomplishment because in the past interstate conflicts in South-east Asia had earned it the description of the Balkans of Asia. Peace between member states allowed them

to concentrate their energies and resources on the economic and social development of their countries. Economic growth and higher standards of living in turn helped to dissolve communist insurgencies and subversion by reducing exploitable issues.

How was avoidance of conflict between members achieved? The simple answer is through the 'Asean Way'. Since a primary purpose of setting up Asean was to keep the peace between members, it was not too difficult, over the years, for members to be socialised into the habit of not using force or threat of force to deal with bilateral problems.

The Asean Way places a premium on informal approaches and on personal relationships between political and governmental elites. It assumes that relations between members should not be held hostage to any inability to resolve bilateral disputes, whether territorial or other, for indeed the disputes may be complex and not easy to resolve. Rather, problems which cannot be resolved should be put aside until such time as they become more amenable to resolution because of changed circumstances, which may be many years. The maintenance and development of good and co-operative relations in other areas is just too important to be held up by a few intractable problems.

This informal commitment to peaceful settlement of disputes was reinforced by the formal commitment to do so in two of the key documents issued at the first Asean summit meeting held in Bali in 1976. The Declaration of Asean Concord states: 'Member states, in the spirit of Asean solidarity, shall rely exclusively on peaceful processes in the settlement of intra-regional disputes.' And Article II of the Treaty of Amity and Co-operation in South-east Asia (TAC) says that relations among members should be guided, among other things, by 'renunciation of the threat or use of force', while Article 13 states that members

shall have the determination and good faith to prevent disputes from arising. In case of disputes on matters directly affecting them they shall refrain from the threat or the use of force and shall at all times settle such disputes among themselves through friendly negotiations.

The TAC also provides for a dispute settlement mechanism through a ministerial level High Council. However, this mechanism has never been used by Asean countries, because of their reluctance to be seen to be taking sides in a dispute between fellow members. Rather there have been two instances in recent years of disputes being referred to the International Court of Justice: the dispute between Singapore and Malaysia over the ownership of the island of Pedra Branca; and the dispute between Malaysia and Indonesia over the Sipidan and Litigan islands off the coast of Sabah. The Court has yet to decide on the two cases.

How is the principle of non-use of force or threat of force faring since Asean was expanded from six to 10 members between 1995 and 1999? The new members from the mainland of South-east Asia (Vietnam, Laos, Myanmar and Cambodia) have different political cultures and histories from the older six members. Although so far there have been no real problems, it would be fair to say that because of their different backgrounds it will take them time to become fully socialised into the habits of avoidance of threat or use of force.

There have also recently been signs that Asean's own dispute settlement

mechanism, which has so far existed only on paper, may be given some life. The Hanoi Action Plan, issued at the Asean summit in Hanoi in December 1998, calls for the formulation of draft rules of procedure for the operation of the High Council as envisaged in the TAC, and draws attention to the importance of resolving border disputes between members. And at the 1999 Manila Informal Summit, an agreement in principle was reached to set up a permanent ministerial troika to address issues of peace and stability. These are among the steps being considered to improve Asean's image, following the setbacks suffered by the organisation in the past few years.¹⁸ However, it remains to be seen whether they will be meaningfully implemented.

The principle of non-interference in internal affairs

The principle of non-interference is of course not unique to Asean. Indeed it has been the governing principle in relations between states since the Treaty of Westphalia in the 1648. However, it has been under review internationally so that it can be made relevant to changes in international society.

In Asean the matter came to a head in 1998 when the Thai Foreign Minister, Surin Pitsuwan, said in a speech that Asean countries should be prepared to 'intervene' in the domestic affairs of member countries 'in the form of peer pressure or friendly advice, when a matter of domestic concern poses a threat to regional stability'. Starkly put, what Surin was asking was, 'If domestic developments in a member country threaten the stability of neighbouring countries or the credibility of Asean, should everyone keep quiet, in keeping with the principle of non-interference in the internal affairs of a sovereign state?'

The commonsense answer would obviously be 'No', but the success of any 'intervention' would depend on how it is carried out. In Asean's 33 years of history, intervention has in fact taken place in the form of quiet representations or even attempts to mediate or mitigate strained bilateral relations between members.¹⁹ Such interventions, made in the Asean Way, have sometimes been successful. But there is no way of compelling a country to change its behaviour if it does not want to. There are no political or economic sanctions for unacceptable behaviour.

Surin was not advocating any radical departure from the principle of non-intervention, but addressing an image problem that Asean has, which is an impression held in the West and among civil society groups in Asia that it is prepared to condone abuses, especially human rights abuses, among its members. While Asean has quietly intervened where there have been large-scale violations of human rights, this is generally not known to the international community, since the intervention takes place outside the gaze of the media. Surin was arguing that more open discussion of such problems would help Asean's international image. It would also show civil society groups within Asean that the grouping was genuinely concerned about these issues and was not an organisation dedicated to the protection of repressive regimes. He made it clear that Asean must adhere to the principle of non-intervention in internal affairs, but at the same time find a way to address new problems and challenges which could damage Asean's credibility if left unaddressed.

Sensitive issues, especially those involving domestic affairs, are usually not discussed at the formal Asean meetings. If discussed, they are addressed in a circumspect manner, behind closed doors, and without the presence of the media. One outcome of Surin's call was the institution of a 'retreat' at the Asean Ministerial Meeting in Singapore in July 1999, independent of the formal meeting. At the retreat ministers could talk frankly on all manner of subjects, outside the gaze of the media. Such retreats are likely to become a regular feature of the Annual Asean Ministerial Meeting (AMM).

Intra-Asean military co-operation

While Asean has been much preoccupied with regional security issues in the broad sense of the term, it has never sought to become a military alliance. A collective defence alliance would have entailed some surrender of sovereignty as well as a level of trust which members were not prepared to offer. In any case, even during the Cold War, a collective defence alliance was not seen as relevant to the principal threat, namely communist subversion and insurgency.²⁰

Thus there is no multilateral military co-operation involving all 10 Asean members or even the older five members. However, there is bilateral co-operation in the form of military exercises, exchanges between military staff colleges and intelligence exchanges, relating not only to issues like crime and narcotics but also to perceptions of broader issues of regional security. This criss-crossing web of bilateral security relations has been well established, in particular between the older members of Asean, and has contributed significantly to confidence building between their militaries.

Asean and the major powers

South-east Asia has traditionally been a magnet to the great powers, attracted by its resources and its strategic location between the Indian and Pacific oceans. It was a region of rivalry between the British and the Dutch, and the British and the French, at various times during the colonial period.²¹ The region remained a cockpit of great power rivalry during the Cold War, even though most of the colonial empires had been dismantled in the 1940s and 1950s. During Indonesia's confrontation with Malaysia, China backed Indonesia, while Britain supported Malaysia. The long Vietnam War saw France and then the US pitted against communist forces supported by China and Russia, while the Cambodian conflict (1978–91) was in a sense a proxy war between China and the Soviet Union.

One of the goals of Asean from the beginning has been to prevent South-east Asia, as far as possible, from being a pawn of conflict and rivalry between great powers. It is felt that a collective stand in relation to the major powers would give Asean a much better bargaining position and more clout than if the members were to deal with the outside powers individually.

The declaration of South-east Asia as a zone of neutrality in 1971 was an expression

of the wish that South-east Asian countries wanted, as far as possible, to determine their own destiny without the interference of outside powers. Yet the reality is that the great powers cannot be wished away. They are part of the regional landscape—China is on South-east Asian borders; the US has security alliances with two South-east Asian countries and the Seventh Fleet has sailed the Western Pacific since the end of the Second World War; and Japan has extensive economic interests in the region. As the settlement of the Cambodian conflict in 1991 showed, the great powers will continue to play an important role. What Asean do is to try to influence this role in a direction beneficial to regional peace and stability.

Indeed from the 1970s Asean has sought to engage the major powers for this purpose. One institution for doing so was the Post-Ministerial Conference (PMC) established with 'dialogue partners' in the late 1970s in order to shore up confidence in the region after the fall of the Indochina countries to communism. The dialogue partners then were Asean's main trade and security partners, namely Japan, the US, the European Community (EC), Australia, New Zealand and Canada. In the 1980s South Korea became the seventh dialogue partner. The dialogue partners were happy to lend their support to Asean because of the anti-communist orientation of the Asean countries.

After the Cold War, the number and character of dialogue partners changed. China, Russia, and India were added to the list although, in contrast to Asean's previous partners, all three were not Western or pro-West countries. This illustrates Asean's flexibility and ability to adjust to new circumstances. China was of growing importance, both economically and strategically, and a worthwhile candidate for Asean's engagement. Russia was a traditional great power even if weakened for the time being, while India too had growing economic and geopolitical links with South-east Asia.

The Asean Regional Forum (ARF)

After the end of the Cold War, there was growing interest among Asia-Pacific countries in establishing a multilateral Asia-Pacific wide forum to discuss security issues. It was felt that such a forum was urgently needed to help build confidence in a region marked by a dearth of common institutions and a history of rivalries and animosities.

Through a mixture of design and accident, Asean came to assume a central role in this body, the Asean Regional Forum. A major security forum is not easy to establish from scratch. Asean's advantage was that it already had the PMCs, which included all Asean members and observers as well as the dialogue partners, a total of 15 Asia-Pacific countries plus the EC. Only China and Russia needed to be added to create a grouping that included all the main players in the region. Another advantage of Asean was that China, a key player, was willing to join a grouping led by an organisation of smaller countries, but not by a military ally of the US, like Japan or Australia.

The fact that the Forum was called the Asean Regional Forum rather than the Asian or Asia-Pacific Regional Forum attests to Asean's pivotal role. The meetings, chaired

by an Asean foreign minister, are held at foreign minister level in an Asean capital after the AMMs. And Asean plays a critical role in setting the agenda, though in consultation with other members.

The ARF had 18 members at its inception, and now has 22. They are the 10 Asean countries plus Australia, Canada, China, the EU, India, Japan, Korea (South), Mongolia, New Zealand, Papua New Guinea, Russia and the US. Thus all the world's major powers are in it. It is possible that North Korea may become the twenty-third member in the near future.

The attempt to manage Asia-Pacific security well beyond Asean's borders is indeed an ambitious undertaking. Critics have questioned the ability of a group of relatively weak countries to occupy the 'driver's seat' of an organisation which also includes the world's great powers. And some Western countries are irked by the slow progress of the ARF. However, Asean can be expected to remain in the driver's seat, at least as long as China opposes any change in the status quo.

The ARF is a co-operative security endeavour. It has so far been engaged only in security dialogues and has undertaken limited confidence-building measures. It is in no position, and never may be, to resolve or even prevent conflict, given the fact that decisions have to be made by consensus and certain countries, in particular China, believe that security problems in the region should be resolved bilaterally by the parties involved, and not by the ARF. The Asia-Pacific will continue to depend on balance of power, in particular American military power, for its security, but the ARF will remain a useful supplement to it.

Asean and other regional organisations

Asean has close links with three other regional organisations or forums. The first is the APEC forum, which was set up in 1989 for trade liberalisation and economic co-operation in the Asia-Pacific. Asean does not have the sort of pivotal role in APEC that it has in the ARF. Indeed not all members of Asean are members of APEC (Laos and Myanmar are not), and there have been differences between Asean members on the value to be attached to APEC. However Asean members still constitute an important constituency in APEC and, in deference to this, the annual APEC ministerial meeting, together with the informal APEC summit, alternates between an Asean and a non-Asean venue.

Another major forum initiated by some Asean countries is the Asia-Europe Meeting (ASEM). This is the summit meeting between European and East Asian leaders which first took place in Bangkok, Thailand, in March 1996. The summits have become biannual affairs: the second summit was held in London in 1998, while the third is due to be held in Seoul, South Korea, in October 2000. In between there are foreign and economic ministers' meetings as well as various issue-related meetings on topics such as trade, investments, the environment and technology. The purpose of the ASEM process is to foster closer relations between Europe and Asia, especially in the economic field. On the Asean side, only those countries that were members of Asean in March 1999 when the first ASEM took place have continued to be part of the

ASEM process—Myanmar, Laos and Cambodia, which joined later, are not members. Thus the Asian half of ASEM comprises seven Asean countries plus China, Japan and South Korea. The Asean group continues to play a key role in the ASEM process.

Finally, over the last few years, Asean has been playing a central role in the development of an Asean Plus Three process, involving the 10 Asean countries plus China, Japan and South Korea. They met for the first time after the second Informal Asean Summit in Kuala Lumpur in 1997, soon after the regional financial crisis hit the region. That crisis showed that by itself Asean did not have the critical mass to safeguard its financial and economic wellbeing in a world of huge daily transcontinental flows of speculative funds. It was therefore desirable to team up with the larger economies of North-east Asia.

Ambitious goals have been articulated for East Asian regionalism, including an eventual free trade area to be established by a building block approach and the promotion of lasting peace and stability. These will not be easy to realise in view of the diversity of the region and the historical suspicions between some countries, especially China and Japan. The immediate objective seems to be to establish mechanisms for co-operation in the event of massive speculative attacks on currencies.

Conclusion: Achievements, problems, issues and challenges

As mentioned in previous sections, Asean has had more success in political co-operation than in economic co-operation. There has been inter-state peace among members since Asean was founded in 1967. Its credibility was firmly established in international forums. Its economic co-operation in terms of intra-Asean total trade, as a percentage of its total trade with the world, increased from 17% in 1990 to 21.2% in 1997 (Table 3). As far as Asean's inward stock of FDI is concerned, in the period between 1992 and 1997, it more than doubled—from \$12 billion to \$26 billion. However, Asean is far behind the EU in both political and economic co-operation. It is also important to note that it took Asean 25 years to agree to establish an FTA.

As far as extra-Asean trade is concerned, it has been more successful than intra-Asean trade, since the APEC countries continue to be the most significant trading partners of Asean. Externally, 'building on its economic and political achievements, Asean had considerable success in engaging major powers through sub-groupings such as the Asia Pacific Co-operation (APEC), the Asean Regional Forum (ARF) and the Asia—Europe Meeting (ASEM).'²²

Many analysts attributed this success and that of Asean enlargement to the pursuit of an 'Asean Way'. This 'Asean Way' emphasised, among other things, the norm of non-interference in other states' affairs, preferred consensus and non-binding plans to treaties and legalistic rules, and relied on national institutions and actions, rather than creating a strong central bureaucracy.²³

Institutionally, because of this Asean Way, especially in its adoption of the norm of non-interference and aversion to a strong bureaucracy, Asean was more an association than an institution. It was only after 1992, with the Singapore Declaration

Table 3: Intra-ASEAN trade: trade share (1975–1997)

	1975	1980	1985	1990	1991	
Exports	15.5	16.2	18.4	18.6	19.5	
Imports	10.1	14	17.8	15.2	17.1	
Total trade	12.7	15.1	18.1	16.8	18.2	
	1992	1993	1994	1995	1996	1997
Exports	19.1	19.9	22.7	23.1	26.1	23.2
Imports	16.2	16.9	17.4	16.8	18.7	19.5
Total trade	17.6	18.3	20	19.8	22.3	21.2

Source: Direction of Trade Statistics, 1998 & Menon et al, 1997, Table 5.

Note: 1997 data includes Cambodia, Laos, Myanmar & Vietnam

and the establishment of Afta, that Asean introduced greater co-ordination and institutionalisation. It still remains a weak institution compared with the EU.

Some critics suggest one of the reasons why Asean/Afta is not as successful as Nafta or the EU is that, with the exception of Singapore, the Asean members are developing and least developed countries. In other words, the greater the number of members from developing countries in the regional grouping, the less chance there is of success.

The recent economic crisis has affected the politics, society, security and economics of the region. Regimes have changed, social and political unrest has occurred, unemployment and poverty have increased, exports have fallen, and investors' confidence has declined. Even though the regional crisis has ended for most Asean member countries, Asean co-operation in politics, security, economics, and the environment may depend to some extent on political and economic development in Indonesia, Asean's largest member country.

Although Asean was able to bring in new members, there are still problems such as differences in development level, ideology, legal system and historical baggage. Moreover, due to the inclusion of Myanmar, the relationship between Asean and the EU has been affected.²⁴

Many scholars have criticised the gradualism (or slow pace) of economic co-operation in Asean. One important reason was the Asean Way, which emphasises consensus, and the grouping was able to move forward only when all member countries were ready.

There are also successes and weaknesses in security matters. The reasons for Asean's success include a determination to maintain peace and good neighbourliness between member states; and pragmatic leaders who pursued economic development and relatively open economies. One other factor must be mentioned: the behaviour of the largest member, Indonesia. Indonesia was clearly the biggest country in Asean, but it was very careful not to give the impression that it wanted to dominate the

organisation. That would have destroyed Asean. Rather, decisions were taken by consensus, and Indonesia behaved like a gentle giant, always listened to because of its importance, but never acting like an overlord.

Asean's main political achievement is that it has maintained peace and stability in inter-state relations among its members. Second, it enables members to deal with outside countries, especially the major powers, as a collective, in the process giving them considerably more weight than if they were to act individually. Third, Asean has sought, though with limited success, to manage the role of the outside powers in South-east Asia, and with the establishment of the Asean Regional Forum, in East Asia as a whole. On the other hand, the expansion to 10 members with different political outlooks could render unity of action on certain matters more difficult. This could affect Asean's ability to deal collectively with outside powers, because Asean can use its collective weight in this way only on issues and problems in which member countries have a common interest.

What are the prospects of Asean?

In the economic arena, the authors are cautiously optimistic, for the following reasons. First, Afta has accelerated its tariff cutting measures, with the aim of becoming a zero tariff area in 2015 for old members, and 2018 for new members. Second, policy makers in Asean realise that unless Asean moves rapidly to create a single market, it will be less attractive to foreign investors than the EU and Nafta areas. Third, complementarity, which is the main driving force for intra-regional trade, has increased significantly among Asean member countries, especially since resource-rich countries such as Vietnam, Laos, Myanmar and Cambodia joined the grouping. Fourth,²⁵

the process of liberalisation and deregulation of their economies over recent years has led to a consensus in Asean that while the reduction in tariff barriers could lead to short-term dislocations, long-term efficiency gains are in their favour.

More important, there is a sense that the worst of the crisis is over.

Also, in the case of investment, the Fourth Asean Summit in Hanoi approved the framework agreement, including measures to establish an Asean Investment Area (AIA) to further enhance the region's competitiveness and conduciveness for attracting higher and more sustainable levels of FDI inflows.

Even before AIA was approved, Asean has been implementing various investment co-operation and facilitation activities. For example, Malaysia led a team of Asean members to Japan, and Singapore led a similar team to the US to promote joint investment. These suggest an optimistic view regarding economic co-operation in the region.

The political and security prospects can also be described as cautiously promising. Inter-state peace between members will be maintained, but Asean countries have to work on this continually because of the existence of many disputes and the incomplete socialisation of some of the newer members to the idea of non-use of force or threat of force.

In the past few years, Asean's credibility has been questioned because of its perceived inability to deal with the regional economic, environmental and human rights issues, though such criticism is not entirely fair. Asean is very much aware of the problem and is seeking to overcome it through the implementation of the Hanoi Action Plan and the development of closer links with China, Japan and Korea in the Asean Plus Three process. The regional economic recovery should also help.

Asean will continue to play a pivotal role in the ARF. However, its capacity to influence the policies of the major powers will remain limited. If US–China rivalry intensifies, Asean members will need to act in unison to safeguard the association's interests. However, the expansion of membership to all 10 countries of South-east Asia has introduced a greater political diversity in the association, leading to questioning among some analysts as to whether Asean will be able to act as a group.

On the whole Asean will remain a political force because it is the only organisation which gives South-east Asian countries a collective voice and some clout in dealing with outside powers.

Notes

- ¹ See Beuter R, 'The Association of South-east Asian Nations towards closer economic co-operation' in Hosli MO & A Soether (eds), *Free Trade Agreements and Customs Union: Experiences, Challenges and Constraints*. Maastricht, Tacis: European Institute of Public Administration, 1997.
- ² Hill H, 'Towards a political economy explanation of rapid growth in Asean: A survey and analysis' in *Asean Economic Bulletin*, 14, 2. Singapore: ISEAS, November 1997, p.19.
- ³ *Ibid.*, p.20.
- ⁴ Most of this section draws heavily on a document produced by the Asean Secretariat, *Asean Economic Co-operation: Transition and Transformation*. Singapore: ISEAS, 1998.
- ⁵ *Ibid.*, p.15.
- ⁶ *Ibid.*, p.16.
- ⁷ Naya SF & MG Plummer, 'Economic co-operation after 30 years of Asean' in *Asean Economic Bulletin*, 14, 2. Singapore: ISEAS, November 1997, p.119.
- ⁸ For more detailed information, see Peou S & TMM Than, 'Asean's political co-operation'. Unpublished paper. Singapore: ISEAS, 1998.
- ⁹ There are at least six stages from economic co-operation to economic integration. They are: preferential trading arrangement (PTA); free trade area (FTA); customs union; common market; economic union; and total economic integration.
- ¹⁰ Naya SF & MG Plummer, *op. cit.*
- ¹¹ *Ibid.*, p.119.
- ¹² Asean Secretariat, *op. cit.*, p.18.
- ¹³ Peou S & TMM Than, *op. cit.*, p.12.
- ¹⁴ *Ibid.*

- ¹⁵ Asean Secretariat, *op. cit.*, p.68.
- ¹⁶ As an interim measure, Asean will reduce tariffs on 60% of products to nothing by 2003. But at Malaysia's request Asean economic ministers agreed to extend the deadline for car tariff cuts to 2005.
- ¹⁷ Young S, 'APEC region—economic performance and trends'. Paper presented at the APEC Roundtable 1997, Singapore, 6 August, 1997.
- ¹⁸ Singh D, 'South-east Asia in 1999: A false dawn?' in *South-east Asian Affairs 2000*. Singapore: ISEAS, 2000.
- ¹⁹ Funston J, 'Asean and the principle of non-intervention—Practice and prospects', in *Trends in South-east Asia*. Singapore: ISEAS, 1999.
- ²⁰ A conventional military threat from China or Vietnam was not considered very likely; if such a threat had ever become real, a military alliance of five weak military states would have made little difference.
- ²¹ All the countries of South-east Asia, except Thailand, had been colonised by one or more of Britain, France, the Netherlands, Spain and the US during the 18th and 19th centuries.
- ²² Tay SCS, 'Asean co-operation and the environment'. Paper presented at the Asean Roundtable 1999, ISEAS, Singapore, 1999.
- ²³ *Ibid.*, p.5.
- ²⁴ Mya Than, 'Recent developments in South-east Asia: From the perspective of the transitional economies'. Paper presented at the 'First Young Journalist Forum in South-east Asia', Hua Hin, Thailand, 19–21 January 2000.
- ²⁵ Chia SY, 'The Asean Free Trade Area'. Paper presented at the International Conference on Thirty Years of Asean, University of Mainz, 10–12 July, 1997.

European Integration on the Threshold of a New Era: Challenges and Dilemmas Raised by EU Enlargement

*Ron Ton**

Almost half a century has elapsed since the establishment of the European Community (EC) and the question is still being asked: ‘What is Europe?’

In January 2000 Jacques Delors, former President of the European Commission, warned, ‘The project of Europe’s founding fathers risks being watered down’. In April, two statesmen who had done much for the cause of integration—France’s Valerie Giscard d’Estaing and Germany’s Helmut Schmidt—also issued an admonishment. The time had come, they said, for Europe to slow down and consolidate around a core group of countries. Amid such dire warnings, I cannot help feeling some diffidence in talking about the European Union (EU) as a success story.

Some might ask, What greater proof of success is there than the fact that many countries are trying hard to get into the Union? Brussels is actively negotiating membership with 12 candidates mainly from Central and Eastern Europe. First admissions are expected in three years’ time.

However, it is this very prospect of growth that is raising widespread alarm, for it confronts Europe with one of the major challenges in the history of its unification.

The most obvious test Europe faces is maintaining the manageability of a Union that has almost doubled in size. Then there is serious concern in many quarters that enlargement is likely to have a profound effect on the *nature* of the Union. Clearly, a Union of 28 is bound to be a different creature from a Union of 15 that has been integrating for almost half a century.

Europe’s politicians are, therefore, plunged in a debate that goes way beyond the search for bureaucratic solutions to problems raised by the admission of new members. Indeed, its leaders are being admonished to give careful thought to the goals and ultimate form of European integration. Such soul-searching questions are being raised as: What is Europe really about, and what does it mean to its own citizens and the rest of the world?

This paper will confine itself to three points:

- a brief sketch of the evolution of European integration;

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- a report on its current agenda of concerns; and
- an assessment of the impact of the latest developments on Europe's role in the world.

Oddly enough, we hear little reference to the original goal of integration among all the alternative scenarios being touted for the future development of Europe.

It was in the wake of the Second World War that enlightened French and German leaders sought ways of ensuring that there would never be a recurrence of the wars that had hit Europe twice in less than half a century. As Robert Schumann, then French Foreign Minister, put it, 'To bring European nations together there must be a final ending to the eternal hostility between France and Germany.'

As a start, the main industrial sectors on which military capability depended, coal and steel, were placed under a supra-national authority in 1951, to be known as the European Coal and Steel Community. It was made up of six countries: France, Germany, Italy, the Netherlands, Belgium and Luxembourg.

That is how the process of European unification started. The main purpose was to prevent war, but Schumann also saw the new Coal and Steel Community as a first step towards a federal Europe. Intense European co-operation was soon to be directed towards political and military integration. Its initial purpose was ambitious, no less than the establishment of a common European army. However, just when the European Defence Community seemed to be well on its way in 1954, the French parliament refused to ratify the treaty. The surrender of national sovereignty in military matters was still a bridge too far.

In retrospect, the success of the Coal and Steel Community and the failure of the Defence Community can be seen as a foreboding of the pattern that European integration was to take during the subsequent 50 years. One can say that Europe unified by fits and starts. In fact, a Dutch commissioner has asserted, 'The European Union has advanced only when it had its back to the wall.'

When political integration seemed impossible, Europe took another route towards unification, namely economic integration. In this, Europe proved to be very successful. A customs union was established in 1968 and a single market completed in 1992, ensuring the free movement of labour, goods, services and capital throughout the Union.

It was the Treaty of Maastricht in 1991 that marked a breakthrough in the European integration process. For one, it brought the Economic and Monetary Union into existence and, by the year 2002, the euro will be the currency of most countries of the EU. Member states have already transferred substantial parts of their national (monetary) sovereignty to an independent European Central Bank. For another, Maastricht gave the EU the institutional structure we know today. However, a truly supra-national structure was not attainable, in the sense of giving common European institutions a say in all EU policies.

Maastricht, however, created a *political* union, an idea that had been rejected in the 1950s. The EU was given a function in both internal and external security, but only to be exercised in an inter-governmental manner.

The London weekly, *The Economist*, last year characterised the EU as 'the club that

ate a continent'. The original six founding members have been joined by nine other countries. Twelve countries, including the Baltic States, are in the process of joining. Indeed, the geographical notion of Europe is becoming more and more synonymous with that of a multilateral organisation—and those still on the outside are understandably infuriated when 'Europe' is used as shorthand for EU.

Enlargement is, by now, a foregone conclusion. But its implications for the functioning of the EU and its future development are not yet fully discernible.

Let us first pause and look at the prospective members. All their economies lag behind the average per capita GDP in the EU states by about 60%. Among current members, four percent of the working population are farmers: among the candidates the average is 20%, that is, five times higher. Major obstacles in economic structure and working conditions will have to be overcome before the new members can be fully integrated.

It is not only a matter of economic disparities. New members will have great difficulty in satisfying the stringent formal criteria for admission adopted by the 1993 European summit in Copenhagen. They demand of applicant states:

- a stable democracy and a respect for human rights;
- the establishment of a viable market economy; and
- compliance with all of the EU's existing rules and regulations, the so-called *acquis communautaire*, which consists of over 80,000 pages of laws, rules, and standards.

If the criteria are strictly enforced, none of the candidates will enter the EU in the near future. It is likely to take some candidates 20 years to conform to the environmental standards alone.

Consequently, the countries of Central and Eastern Europe are engaged in a very drastic transformation, involving painful social consequences. One cannot help wondering how long the peoples of the candidate states are prepared to undergo the transitional process.

In fact, the enlargement discussion is just a framework for several political issues which would have been on the EU's agenda anyway, issues which give us a good insight into the concerns that further deepening raises. I would like to refer to three of them:

- the urgent need for institutional reform;
- the prospect of differentiated forms of membership or different speeds of adherence; and
- the EU's further development as a community of shared democratic values and norms.

An association of 30 members or more cannot function with regulations originally designed for a club of six. While everyone recognises the urgent need for institutional reform, the Union members differ on what solutions are acceptable. Compromises will have to be devised by the ongoing inter-governmental conference on institutional reforms before December 2000. That is when a treaty is planned to be concluded in Nice, paving the way for the admission of new members.

But there is still a long way to go to solve problems which have daunted previous

negotiators for years. Some of them are, in fact, facetiously known as the ‘leftovers’ of the 1997 Treaty of Amsterdam. Problems that have hitherto proved intractable are:

- the need to reduce the size of the European Commission, the Union’s executive body;
- the redesigning of the current system of voting power in the Council of Ministers, the body that passes all EU legislation; and
- the limitation of unanimity voting.

For example, even if the larger states relinquish their right to two commissioners each, that would leave a Commission of over 25, making decision-making even more cumbersome than today. Also, enlargement is bound to make consensus more difficult to reach than it is today. Most countries are very reluctant to relinquish their control over vital national concerns such as taxes and defence to majority voting.

This paper has referred to problems resulting from a *change of scale*. Reform, however, will need to address challenges to the very *nature* of European integration.

Enlargement will ineluctably bring about an intensification of the degree of political, economical, and cultural diversity among its membership. The process of assimilating the new applicants will, therefore, have to permit different rates of transition to common norms, or even exemptions in individual cases.

At the same time, a fierce debate is raging about *deepening* the EU—as distinct from enlarging it; in other words, about how the very process of European integration should continue. A new structure is needed which permits the integration of a highly diverse community; a community that can still advance without, so to speak, the slowest ship determining the speed of the whole convoy.

Many structural models have been discussed to permit different paces of development. One model is called the ‘Europe à la carte’ model, where each member state can pick those areas in which it wishes to co-operate. There is a danger, however, that individual countries would pick the ‘goodies’ and reject the sacrifices that integration demands. Another is called a ‘two-tier Europe’, but this would create an inferior class of members.

Discussion is now centring on the identification of areas where integration can advance at variable speeds. A structure is being discussed which would facilitate what is now called areas of ‘enhanced co-operation’. As a matter of fact, the EU already works in specialised groups with different memberships: for example, the 15 member states do not all belong to the Economic and Monetary Union and the Schengen agreement on the free movement of travellers. They are core groups of members co-operating more closely in one policy area, which other states can join at a later stage.

However, the EU cannot afford to allow such groups to multiply without risking institutional fragmentation. Nor can flexibility be allowed to interfere with the Union’s present rules, especially those governing the internal market. Different levels of integration could, for example, easily lead to a distortion of competition.

New arrangements are, therefore, needed to allow members to indicate their co-operation on new projects which have not been adopted for integrated action by the Union as a whole.

A common defence policy could be seen as a suitable subject for flexibility. On the principle of 'enhanced co-operation', 10 EU members, who are also members of the West, EU and the North Atlantic Treaty Organisation (Nato), could form a core group, without obliging the neutral countries to undertake joint military action activities.

The debate on whether the Union should be more than a free trade zone lies far behind us. The Union engages in a growing number of *political* areas, and claims to be a community based on shared values and norms. It asserts that countries that do not respect the principles of democracy, legal order and human rights have no place in its midst. The Treaty of Amsterdam includes provisions to suspend members from participation in the decision-making process if they violate these principles.

The nearest the EU has come to acting on these provisions was in the case of Austria, when the extreme right-wing party, the xenophobic Austrian Freedom Party—known as the FPÖ—joined a government coalition. The 14 other EU members avoided adopting a Union response, but instead froze their own *bilateral* relations with Austria. In retaliation, Austrian leaders have threatened to block all Union action by using their country's right of veto. Indeed, Austria could even bar enlargement.

The Union members have agreed on the basic political principles it expects its members to share, but they clearly still need to develop working procedures to discipline a member's failing to do so, without risking all forms of co-operation. The risk of such dilemmas can only become more common once the Union is joined by the new democracies that have emerged from the former Soviet bloc.

In 50 years, European integration has come a long way. No other international organisation has achieved the same degree of supra-nationality. In fact, the content of approximately 40% of national legislation is now decided in Brussels—and in the transport sector, the proportion is as high as 70%.

But what of the prospects of further European integration? In fact, dare one make any predictions about the EU's future?

Enlargement and its effects will, no doubt, continue to preoccupy the EU for the foreseeable future. With internal economic integration almost completed—at least among its current membership—the Union's next agenda is bound to be focused on Europe's position in the global economy.

The main challenge will be the consolidation of its members' ability to compete against the United States (US) for markets in the new information economy. Most Europeans insist that this must be done without sacrificing the social security systems that their peoples have achieved over more than a century.

A remarkable development is the blurring of the distinction between internal and external policies. The EU is influencing a growing range of internal policies in member states, such as drug control, the suppression of crime and the regulation of migration.

Political co-operation is likely to continue growing, but the EU still has a long way to go before it can claim to have achieved the ideals of political integration.

The EU is still, in many ways, a Union of contradictions. It lumps together small states and world powers, Nordic and Mediterranean societies, neutral states and

military allies, protectionists and free traders—as well as nationalists and federalists.

EU policies are often the result of the complex interplay of conflicting interests and, consequently, can be unclear if not ambiguous; that is in the nature of compromises. The development of the European integration process itself can appear opaque. These are realities that have to be taken into account by third countries in dealing with the EU.

No policy reflects the EU's internal contradictions more blatantly than its aid to developing countries, frequently condemned for its lack of consistency, if not wastefulness. Take, for example, the European Common Agricultural Policy: it directly contradicts the avowed aim of aiding sustainable development in other continents. Few national leaders can afford to ignore their powerful farming lobbies in serving the cause of universal economic development.

Despite such shortcomings, the EU's influence is growing on the world stage, especially in international trade, where the European Commission has exclusive competence to negotiate on behalf of its members. The Union plays a powerful role in the World Trade Organisation and other global forums. The Commission speaks for all its 15 member states whenever it negotiates with potential new members. The appointment of Javier Solana as High Representative for foreign and security policies gives the EU a focal point for transactions with the rest of the world.

The EU has also established working arrangements with bodies in other continents. Examples are the Transatlantic Agenda with the US, the Asia–Europe meetings and the holding of regular summit meetings with leaders of the Southern Common Market (Mercosur) of South America and the Organisation of African Unity. These surely reflect the EU's transition from regional to global power.

However, in performing its international role, the Union is still handicapped by the absence of internal political unity. The introduction of a common currency, in the absence of a common political commitment to monetary integration, was seen by many as a hazardous undertaking. The 20% drop in the value of the euro with respect to the American dollar seems to have borne out their scepticism.

Indeed, despite the achievements of the last 50 years, the 'Europe of the Fifteen' is still searching for answers to some pretty fundamental questions. How much of its national sovereignty is each member state prepared to give up? How far will states go in establishing a common defence capability? And, finally, where lie the boundaries of Europe? All are issues which seldom get straightforward answers. They are too disturbing.

Nevertheless, Europe is not devoid of international ambition, if we are to believe Germany's Chancellor Gerhard Schröder. In November 1999 he asserted in a speech to the French Parliament that, internationally, Europe can no longer remain an observer, but will have to be a decisive actor in world politics in the 21st century.

To do that, it will have to be able to speak with one voice. The awkward questions will have to be squarely faced and dealt with. It may well be the European need for a powerful voice in international politics that will ultimately compel a review of the Union's fundamental objectives—and force agreement on what Europe really wants to be in an increasingly interdependent world. The EU has changed over half a century. So has the rest of the world.

Variable Geometry and Setting Membership Conditionalities: A Viable Strategy?

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Introduction

Whereas the concept of ‘conditionality’ has long been a familiar aspect of policy for the international financial institutions, it is only within the last decade that conditionality, in the sense of the setting of preconditions for relations with the European Union (EU) and participation in EU policies and programmes, has become an overt and relatively transparent part of EU policy.

Variable geometry, too, is a term developed within the last decade: it is one among a number of phrases used to denote the possibility of differential participation in EU policies, or the variable application of the full *acquis communautaire*, either voluntarily or involuntarily.¹

Both conditionality and variable geometry are at the heart of current debate as to the future shape of European integration and the development of EU external policy. Conditionality, in particular, can be seen as a key tool in the development of the EU’s role as a regional leader. Although it is not limited to the EU’s relations with its near neighbours, it has played a key part in the setting of membership conditions, and in relations within the ‘wider Europe’.

This paper will outline the ways in which the EU has developed—and currently uses—conditionality in its relations with Member and non-Member States, and the interaction between conditionality and variable geometry. It does not seek to prescribe a model for the use of either concept, still less an assessment of whether either might be a fruitful way forward for the development of regional integration in Southern Africa.

However, against the background of an active debate as to the need for membership conditionality and the possibilities offered by differentiated membership, or variable geometry, in the Southern African context, it will set out the framework in which EU policy has developed, with the aim of clarifying some of the issues and policy options.

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Conditionality

Forms of conditionality

Conditionality takes a variety of forms in EU policy. It may set conditions which are either positive or negative, and in this sense may operate either as an incentive or as a threat. By 'positive' conditionality I mean the setting of conditions for achieving progress in relations with the EU: accession to the EU, participation in the third stage of Economic and Monetary Union, the conclusion of trade agreements, or the incentive clauses in the Generalised System of Preferences (GSP), examined below. 'Negative' conditionality, on the other hand, operates as a threat to withdraw benefits, or good relations, in case of a failure to comply with conditions or standards set by the EU. It thus includes the insertion of a human rights clause as an 'essential element' in a bilateral agreement carrying the threat of possible suspension for breach, as well as the temporary withdrawal clauses in the GSP Regulation. As these examples show, conditionality also operates at different stages in a country's relationship with the EU: as part of the accession process, in the initiation, maintenance and development of trade association and other autonomous and contractual relations with the EU, and within internal policy participation.

The conditions themselves also vary. We can identify at least three types of condition: political, legal and economic; and within these groups there are variations of content. Political conditionality emphasises democracy, respect for human rights and fundamental freedoms and the rule of law. It is exemplified by Article 6(1) of the Treaty on European Union (TEU):

The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.

The precise content of political conditionality will vary according to the context. The same is true of economic conditionality; the economic policies of the EU and its Members are based on 'the principle of an open market economy with free competition' (Article 4(1) European Community—EC—Treaty). New Members are required to demonstrate that they possess a functioning market economy, and the development of a market economy can even be included as an essential element in a co-operation agreement.² Membership of the World Trade Organisation (WTO) is not a precondition for a trade agreement with the EU, although the EU will encourage its trading partners to accede to the WTO. However, WTO compliance—in particular the requirements of Article XXIV of the General Agreement on Tariffs and Trade (GATT) 1994—mean that the EU will now almost always negotiate an agreement on the basis of the objective of reciprocal free trade, and the ability to sustain free trade economically within a reasonable period is thus a *de facto* condition for the conclusion of a trade agreement with the EU, in the absence of a negotiated WTO waiver.³

For countries wishing to accede to the EU, legal conditionality essentially means pre-accession adoption of extensive elements of the *acquis communautaire*, and

association agreements with States that are potential Members will characteristically contain provision for the approximation of laws in a number of different areas (technical standards and certification, procurement, consumer protection and labour law, among others). This is true of the Europe Agreements with the countries of Central and Eastern Europe, and of the Stabilisation and Association Agreements (SAAs) to be concluded with the countries of South-east Europe. Legal conditionality is however also a feature of agreements with countries that have no prospect of becoming, or desire to become, EU members: the Central Asian Republics, South Africa, Mexico, and the African, Caribbean and Pacific (ACP) States. In these contexts the most important fields for minimum legal standards are competition policy and intellectual property rights, and the reference standard will not necessarily be the EU standard, but may instead be expressed in terms of WTO norms or other international agreements.⁴

In all these cases, the EU will stress the need, not just for the adoption of an adequate legal framework, but for effective enforcement mechanisms and institutional structures—an obvious connection to the rule of law dimension within political conditionality.

One further aspect of conditionality is worth mentioning in this context. Increasingly, the EU expects its partners to share its own commitment to regional integration. This has both a political and a security dimension (especially in the context of South-east Europe⁵), as well as an economic dimension, as one aspect of the process of opening up the economies of the southern rim of the Mediterranean in the Euro–Mediterranean Partnership, for example, or within the new EU–ACP Cotonou Convention. Regional integration is seen as facilitating integration into the global economy, and more specifically, integration with the EU.⁶ While a commitment to regional integration will not always form one of the ‘essential elements’ of an agreement, it will be given a prominent role as a policy objective and a subject of dialogue.

Conditionality and accession

The Treaty of Amsterdam of 1997 amended the Treaty on European Union (TEU) so that for the first time accession formally depends on the fulfilment of qualitative political criteria and not merely being a ‘European State’. Under Article 49(1) TEU, ‘Any European State which respects the principles set out in Article 6(1) may apply to become a Member of the Union.’ Article 6(1), as we have already seen, refers to ‘the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law’.

Although this formal amendment of the Treaty took place in 1997, the Community has imposed *de facto* conditions upon membership since 1993. At the historic meeting of the European Council in Copenhagen in June 1993, the Members declared that:

the associated countries in Central and Eastern Europe that so desire shall become Members of the European Union. Accession will take place as soon as an associated

country is able to assume the obligations of membership by satisfying the economic and political conditions required.

These conditions for the associated States were set out:

- stability of institutions guaranteeing democracy, the rule of law, human rights and respect for, and protection of, minorities;
- the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union; and
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

In addition, the European Council refers to the EU's capacity to absorb new Members while maintaining the momentum of European integration. Membership conditionality is thus shown to concern not only the ability of a prospective new Member to cope with the demands of membership, but also the destabilising effect of the presence of Members who do not (yet) share the political, economic and legal capacity of existing Members.

These conditions are of course linked to accession negotiations and may be said to form a hard core of commitments which are non-negotiable. As one EU commissioner has expressed it in the context of Turkey's candidature:⁷

All our decisions are debated and negotiated within the framework of our shared values and common policies. So, the policies and actions we develop are negotiated and mediated by the democratic process.

It is the common values, which underlie them, that are not negotiable. The values of democracy, respect for human rights and respect for minorities, are not negotiable. Our respect for, and commitment to, a market economy are not negotiable either.

Our common policies are, of course, negotiable because they do not constitute universal values. They are, however, very important for us because they represent the instruments we have developed, and continue to develop, to enable the integration process to achieve the mutual political, economic and social benefits that the EU is all about.

The Copenhagen criteria were drawn up with respect to the Central and Eastern European States, but have since been applied to other candidates, including Turkey, Malta and Cyprus,⁸ and there is no doubt that they would be applied to applicants from South-east Europe. In fact, as far as these latter potential applicants are concerned, the Commission has given the opinion that further conditions, notably functioning regional integration and mutual recognition of borders, may be added for South-east Europe applicants.⁹

The accession conditions have the purpose of ensuring a degree of pre-accession political, economic and legal convergence. Post-accession convergence (although inevitable to some extent) is more difficult where applicants are starting from widely diverse positions; and as the Union grows bigger and the applicants are numbered in fives and tens rather than ones and twos, complex transitional arrangements are more problematic.

The application of conditionality in the accession context also has the result of

creating a medium-term pre-accession stage of relationship with the EU, which creates an opportunity for the familiarisation of candidate-State officials, civil servants, and civil society with the demands and implications of membership.

Conditionality and suspension for breach

Just as compliance with Article 6(1) TEU is now an explicit condition for accession to the EU, so serious breaches of this provision may result in suspension of membership rights (but not obligations). The Treaty of Amsterdam amended the TEU and the EC Treaty to provide for a suspension of voting rights in case of ‘a serious and persistent breach by a Member State of principles mentioned in Article 6(1)’.¹⁰ The decision that such a breach has occurred is taken by the Council of Ministers, meeting as Heads of State or Government and acting by unanimity on a proposal by one-third of the Members or by the Commission, and with the assent of the European Parliament. Following this determination, a decision to suspend voting and other rights under both the TEU and the EC Treaty may be taken by qualified majority.¹¹

These new provisions have not yet been used but it seems clear, especially following the political debate surrounding the entrance of the Freedom Party into the Austrian Government in spring 2000, that specific actions in breach of Article 6(1) would be required before action was taken and that the provision will not be deployed lightly.¹² It should also be pointed out that the EC Treaty has always contained the possibility of enforcement via action before the European Court of Justice with (since 1993) the possibility of the imposition of monetary penalties on recalcitrant Members.¹³ Nevertheless, it is the first time that either Treaty has contained provisions on the suspension of membership rights and its existence is an important counterpart to Article 49 TEU.

Conditionality and trade and economic relations

(a) The human rights ‘essential elements’ clause

Over the last decade, the EU has developed a distinctive policy in relation to the negotiation of agreements with non-Members: development co-operation, association and trade agreements include, as a matter of routine, a clause stating that the protection of human rights is an ‘essential element’ of the agreement.¹⁴ These clauses, as a form of political conditionality, have gone through a number of variations over the years, and will also differ as to their substantive elements according to the partner country in question.¹⁵ Agreements with the Central and Eastern European States, or the States of South-east Europe, contain references to the principles of the Organisation for Security and Cooperation in Europe (OSCE); agreements with countries outside Europe contain references to the Universal Declaration of Human Rights. The following two examples illustrate this point. The

first is Article 2 of the Trade, Development and Co-operation Agreement (TDCA) between the EU and South Africa:

Respect for democratic principles and fundamental human rights as laid down in the Universal Declaration on Human Rights, as well as for the principles of the rule of law underpins the internal and international policies of the Community and of South Africa and constitutes an essential element of this Agreement.

The Parties also reaffirm their attachment to the principles of good governance. The second is Article 6 of the Europe Association Agreement between the EU and Bulgaria:

Respect for the democratic principles and human rights established by the Helsinki Final Act and the Charter of Paris for a New Europe inspires the domestic and external policies of the Parties and constitutes an essential element of the present association.

The precise terminology of these clauses may be a sensitive issue within the negotiation of the agreement, as the complexity of Article 9 of the new EU-ACP Cotonou Convention (and the previous fourth EU-ACP Lomé Convention) illustrates.

In *Portugal v Council*¹⁶ the European Court of Justice held that the development co-operation provisions of the EC Treaty provide an adequate legal basis for such a clause (when contained within a development agreement), since Community development policy includes the objective of developing and consolidating democracy and the rule of law, and respect for human rights and fundamental freedoms. As the Court also points out, the declaration that such a clause constitutes an ‘essential element’ of the agreement is significant in legal terms, as it may justify the suspension or termination of an agreement in case of a serious violation of human rights.¹⁷ In many current agreements there is explicit provision for cases of breach: typically, the TDCA between the EU and South Africa defines a ‘material breach’ of the Agreement, justifying the taking of ‘appropriate measures’ without prior consultation, in terms *inter alia* of a violation of an essential element of the Agreement.¹⁸

The effectiveness of these clauses may be questioned. On the one hand they are applied somewhat selectively, in spite of stated Commission policy that they should be included in all new agreements. On the other hand, they have never yet been actively used.¹⁹ There is no doubt that it is easier for the EU to use conditionality in the positive sense, as a condition for progression in contractual relations, and also in the context of autonomous trade preferences and financial assistance where withdrawal of benefits operates outside contractual commitments.

Nevertheless, the essential elements clauses have had a high profile politically, and form an important part of the external dimension to the EU’s developing human rights policy. The policy has in fact prevented the negotiation of new or revised agreements with some States, as in the case of the abortive attempt to negotiate a trade and co-operation agreement with Australia.²⁰ They are also the logical counterpart in contractual relations to the commitment to human rights and democracy found in Article 6(1) and applicable to EU Members.

(b) Conditionality and South-east Europe

It is in the context of South-east Europe that conditionality has been most fully worked out and applied.²¹ On 30 October 1995 the Council adopted a set of guidelines for future negotiations with and between the parties to the conflict in former Yugoslavia, which declared that assistance from the EU and relations with the EU would be conditional upon compliance with the peace agreements, co-operation with the international war crimes tribunal, respect for human rights, minority rights, and the right to return of all the refugees and displaced persons; and respect for the principles of a market economy. Current relations are based on Council Conclusions adopted in April 1997, which set out the general and specific conditions applicable to each of the five States of the region: Albania, Bosnia-Herzegovina, Croatia, Federal Republic of Yugoslavia (FRY) and Former Yugoslav Republic of Macedonia (FYROM). These conditions are notable both for their specificity and for their progressive nature: the Council (for the first time) links the development of relations to specific conditions, from the granting of autonomous trade preferences, through financial assistance to contractual relations including full association. Thus, autonomous trade preferences will depend on 'respect for fundamental principles of democracy and human rights and the readiness of the countries concerned to allow the development of economic relations between themselves'. Financial assistance would require a 'credible commitment to democratic reform' as well as compliance with peace agreements. Contractual relations would require, in addition, 'visible implementation' of refugee return policy, absence of discrimination or harassment of minorities, free and fair elections, first steps towards economic reform and 'readiness to enter into good neighbourly and co-operative relations with neighbours'. In addition, country-specific conditions were mapped out: for example, Bosnia-Herzegovina needed to establish functioning institutions under its new constitution and to formulate a foreign trade and customs policy before treaty negotiations could be opened. The conditions for FRY included 'a real dialogue with the Kosovo Albanians on the status of Kosovo', and 'credible pressure' on the Bosnian Serbs to co-operate in institution building and the implementation of the constitution.

Conditionality in relation to South-east Europe is also notable for the way it has been applied. Unlike the human rights clause, here conditionality has had a measurable impact on relations with the five countries, as a result of regular six-monthly reports by the Commission, followed by Council Conclusions on the Western Balkans.²² Ultimately these regular reports are likely to develop into an assessment of compliance with the Copenhagen criteria for accession, as and when the countries of the Western Balkans apply for membership. Decisions taken (to renew—or not to renew—trade preferences, to initiate negotiations for an association agreement, to grant technical and financial assistance) have been explicitly linked to compliance with the 1997 conditions. Further, the most recent events in Kosovo have demonstrated that these conditions are not only aimed at promoting economic and democratic development in the individual countries. Progress in relations with the EU may also result from conforming to Western European political priorities, such as the EU position on Serbia, in the sense that this—according to the EU—will contribute to promoting greater stability in the region. Thus, in recognition of their support during the Kosovo crisis of 1999, FYROM is the first State of the region to be

negotiating a Stabilisation and Association Agreement with the EU (negotiations started in March 2000), Albania's trade preferences were upgraded in July 1999,²³ and during the period when economic sanctions were imposed on FRY, the Commission explored ways of offering trade preferences to the Republic of Montenegro within FRY.²⁴

(c) The Generalised System of Preferences

The Generalised System of Preferences (GSP) is an autonomous (that is, non-contractual) trade preference regime offered by the EU to developing countries and operating within the framework of the GATT waiver.²⁵ This is not the place for a full account and appraisal of the GSP system;²⁶ here we will look briefly at the element of conditionality found in the GSP Regulation. The current Regulation²⁷ includes both positive and negative conditionality in the form of incentive and withdrawal clauses.

The possibility of incentives in the form of added preferences for those countries conforming to certain labour and environmental standards was first introduced in 1994 and implemented in 1998.²⁸ In both cases, the scope of the standards applied is highly specific, tied to particularised international agreements and standards, as compared with the generalised statements found (for example) in the essential elements clause considered above. The provisions on labour rights are limited to trade union rights and child labour, linked to International Labour Organisation (ILO) Conventions 87 and 98 on the right to organise and bargain collectively, and ILO Convention 138 on the minimum age for employment. The environmental standards are formulated in terms of the standards of the International Tropical Timber Organisation. In both cases, countries must apply for the additional preferences and provide proof not only of adoption of the relevant standards in domestic law but also of effective enforcement. The labour standards provisions also require certification of product conformity. The decision to grant the additional preference is taken by the Commission after a publication, investigation and consultation procedure.

A further specific incentive arrangement has been introduced into the GSP Regulation, rather controversially. This is the additional preference (duty-free access) for countries undertaking effective programmes to combat drug production and drug trafficking, currently applicable to a number of countries in Latin America (those belonging to the Andean Group and the Central American Common Market).²⁹ Unlike the labour and environmental incentive clauses, however, this scheme is not open to any GSP State, but only to those countries identified by the EU on the adoption of the Regulation.

Conditionality also operates in a negative sense within the GSP system. Preferences may be withdrawn, following an investigation, from countries found to be engaged in the practice of slavery or forced labour (as defined in the 1926 and 1956 Geneva Conventions and ILO Conventions 29 and 105); export of goods made by prison labour; shortcomings in customs controls on the export or transit of illicit drugs; failure to comply with international conventions on money laundering; fraud or administrative failures in relation to certificates of origin; manifest cases of unfair

trading practices (as judged in terms of compliance with WTO rules); or failure to comply with international conventions on conservation and management of fisheries resources.³⁰ It is noticeable that the reasonably specific list includes not only political conditionality (slavery and forced labour) but also economic conditionality (fraud in customs procedures, unfair trading practices), and withdrawal is not limited to exports which themselves infringe one of these standards. These provisions have been used to withdraw the GSP preferences from Myanmar (Burma) on grounds of forced labour practices.³¹

(d) Financial and technical assistance

The EU's financial and technical assistance programmes have increasingly developed an element of conditionality since 1990, and some form of explicit conditionality is now found in the legal instruments that provide the basis for assistance to Asia, Latin America, the Mediterranean, the former Soviet Union, and the Central and Eastern European candidate States. In November 1991 the EC Council of Ministers, together with the Members, adopted an influential Resolution on Democracy and Development which stated that the Community and Member States would in their development policies give a high priority to a 'positive approach that stimulates respect for human rights and encourages democracy'.³² The positive approach would include the possibility of increased assistance to countries in which positive changes had taken place; however the Resolution also envisaged 'appropriate responses' in cases of 'grave and persistent' violations of human rights or 'serious interruption of democratic processes'.

These graduated responses would include confidential or public *démarches*, changes in content of co-operation programmes, deferment of decisions, through to suspension of co-operation.

Since 1992 this approach has been underpinned by the express provision in the EC Treaty on development co-operation:³³

Community policy in this area [development co-operation] shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms.

In this context, then, conditionality is not simply a matter of withdrawing assistance in the case of breaches of pre-established conditions or standards. The standards of political conditionality will inform the objectives and purposes of financial assistance programmes, bearing in mind that breaches of political conditionality may stimulate positive measures such as the targeting of assistance to support democratic initiatives, the work of non-governmental organisations (NGOs), or the independent media. This is preferable to complete withdrawal. The November 1991 Resolution on Democracy and Development also makes it clear that humanitarian assistance and emergency aid will not be subject to conditionality.

The 1992 Regulation on Financial and Technical Assistance to Asia and Latin America illustrates these characteristics of Community development policy, as well as echoing the essential elements clauses in Community trade agreements:³⁴

The aim of Community development and co-operation policies shall be human development.

Aware that respect for, and the exercise of, human rights and fundamental freedoms and democratic principles are preconditions for real and lasting economic and social development, the Community shall give increased support to the countries most committed to those principles, particularly for positive initiatives to put them into practice.

In the case of fundamental and persistent violations of human rights and democratic principles, the Community could amend or even suspend the implementation of co-operation with the States concerned by confining co-operation to activities of direct benefit to those sections of the population in need.

The current TACIS (EU technical assistance programme to countries of Eastern Europe and Central Asia) Regulation providing for assistance to the newly independent States of the former Soviet Union (the so-called NIS States) contains similar provisions, although it is notable that this more recent Regulation (adopted in late 1999) includes economic as well as political conditionality, with references to market reform.³⁵ The preamble states that 'assistance will be fully effective only in the context of progress towards free and open democratic societies that respect human rights, minority rights and the rights of the indigenous people, and towards market-oriented economic systems'. The TACIS programme is to take into account 'the evolving and differing needs and priorities of partner States', including their 'progress towards democratic and market-oriented reform', and areas of co-operation will include support for institutional, legal and administrative reform, support to the private sector and assistance for economic development.³⁶ There is also an 'essential element' clause equivalent to those found in Community agreements:

When an essential element for the continuation of co-operation through assistance is missing, in particular in cases of violation of democratic principles and human rights, the Council may, on a proposal from the Commission, acting by a qualified majority, decide upon appropriate measures concerning assistance to a partner State.

The same procedure may apply as a last resort in cases of a serious violation of the obligations of the partner States as set out in the Partnership and Co-operation Agreements. (Article 16)

In 1997, for example, the EU Council of Ministers reacted to the constitutional situation in Belarus by

- (i) delaying the ratification of the Partnership and Co-operation Agreement;
- (ii) suspending implementation of Community technical assistance programmes under TACIS, 'except in the case of humanitarian or regional projects or those which directly support the democratization process'; and
- (iii) the adoption of a TACIS programme for the development of civil society in Belarus.³⁷

The Phare programme for technical assistance to the countries of Central and Eastern Europe, founded in 1989, does not contain the explicit provisions on conditionality such as are found in the Asia/Latin America Regulation, the MEDA Regulation or the TACIS Regulation.³⁸ Nevertheless, conditionality has been applied in practice. In

1990 the Phare programme was extended to Yugoslavia, but was then suspended in 1991 at the same time as the suspension of the Co-operation Agreement with Yugoslavia. Autonomous trade preferences were then applied to those States of former Yugoslavia who were 'contributing to the peace process', and eligibility for Phare assistance was also linked to conditionality. Phare was extended to Bosnia-Herzegovina and FYROM in 1996; Croatia was included in Phare in June 1995, but then in August 1995 Phare assistance was suspended (as were the negotiations for an economic and trade agreement which had started earlier that year) as a result of military operations in the Krajina United Nations (UN) Protected Area. From 1995–2000 regular conditionality reports resulted in the refusal of the EU to reinstate Croatia into the Phare programme, and assistance was limited to humanitarian projects, such as de-mining, and support for the independent media and refugee return programmes. However, in early 2000 the climate changed: an improvement in meeting the conditionality criteria led to the establishment of a Consultative Task Force to assist with legal and economic reform and foreign trade policy as part of the Stabilisation and Association Process.³⁹

Croatia is also included, with the other States of former Yugoslavia, within the Community Association and Reconstruction Assistance (CARDS) financial assistance programme designed for the Western Balkans.⁴⁰ The CARDS Regulation also contains a substantial element of conditionality, as one might expect, given the approach to conditionality developed in relation to South-east Europe in general. In its initial communication on the new scheme, the Commission indicates that there will be three aspects to the conditionality under the CARDS programme, covering initial eligibility for the programme, the level of assistance and project-specific conditions:

A partnership can be established and a country may be eligible to benefit from the new programme of Community assistance only if it respects the basic principles of democracy, the rule of law and human rights. ...

The nature and scale of the assistance will depend on the level of commitment to reform by the authorities concerned. ...

Specific conditions might be adopted for projects to ensure that beneficiary countries participate actively and constructively in carrying them out.

The Regulation contains a conditionality clause which includes not only the general formula referring to human rights and democracy, but also a specific reference to the April 1997 Council Conclusions on conditionality in relation to South-east Europe, 'in particular as regards the recipients' undertaking to carry out democratic, economic and institutional reforms'.⁴¹ And the Commission emphasises that where a State does not fulfil the conditionality criteria, 'assistance may be granted direct to local or regional authorities or federal or other entities', as was the case until October 2000 with respect to the Federal Republic of Yugoslavia.

Phare covers the 10 candidate States from Central and Eastern Europe⁴² and is the channel for pre-accession financial and technical assistance. Although, as we have seen, the original Phare Regulation itself does not contain any explicit conditionality criteria, the Regulation of 1998 which sets out the framework for pre-accession assistance and the new Accession Partnerships, does. Interestingly, this Regulation

refers not only to obligations under the Europe (Association) Agreements (just as the TACIS Regulation refers to obligations under the Partnership and Co-operation Agreements), but also to the Copenhagen criteria:⁴³

Where an element that is essential for continuing to grant pre-accession assistance is lacking, in particular when the commitments contained in the Europe Agreement are not respected and/or progress towards fulfillment of the Copenhagen criteria is insufficient, the Council, acting by a qualified majority on a proposal from the Commission, may take appropriate steps with regard to any pre-accession assistance granted to an applicant State.

The reference to the Copenhagen criteria in this context of pre-accession assistance reminds us of an essential difference in objective between membership conditionality on the one hand and trade and financial assistance conditionality on the other. Membership conditionalities are imposed primarily for the benefit of the EU itself: it is critical that those States wishing to join the EU come to full membership with at least a basic convergence of economic, political and legal systems. Where conditionality is used in the context of trade agreements, autonomous trade preferences such as the GSP, or financial assistance programmes, it is serving a different purpose that may be characterised as one of leverage. The EU is using its economic (and growing political) weight to encourage adherence to a particular system of values, reflecting its own adherence to ‘the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law’ (Article 6(1) TEU), and its belief that these values and the development of market-oriented economies offer the best opportunity for development for its trading partners.

Conditionality and assessment issues

This overview, while not comprehensive, illustrates the prevalence of conditionality in the EU’s external policies. However, perhaps the most difficult and contentious issues arising out of this policy development relate not to the application of conditionality *per se*, but to the criteria and assessment procedures used to determine compliance. A number of questions are immediately raised: By whom are standards set? What criteria are applied? Are they objective? By whom is conditionality compliance judged? What procedures are used, and do they allow for dialogue and representation from all sides? Is there the possibility of judicial challenge? How universal is conditionality? We cannot here examine all these questions in detail in relation to all the examples of conditionality set out above. We can only point to certain trends and characteristics.

We have seen that the ‘essential elements’ clauses in Community agreements will normally refer to standards found in international Conventions such as the Universal Declaration of Human Rights, the European Convention of Human Rights, the Helsinki Final Act, and the Charter of Paris. Ratification of the European Convention of Human Rights has become a *de facto* precondition of EU membership as a way of demonstrating adherence to the principles of Article 6(1) TEU and the first of the Copenhagen criteria. In other contexts, ILO Conventions, OSCE principles, and

environmental standards accepted by international organisations have been used as internationally accepted standards. In more general terms, political conditionality has been defined in unilateral policy statements, although the 1991 Resolution on Democracy and Development states that the Community will be 'guided by objective and equitable criteria'. For example, the Council Common Position on human rights, democratic principles, the rule of law and good governance in Africa seeks to provide a benchmark for the co-ordination of EU, EC and Member State policy.⁴⁴ The Union

fully recognises the right of sovereign States to establish their own constitutional arrangements and to institute their own administrative structures according to their history, culture, tradition and social and ethnic composition.

However, within this framework, the EU will support 'the on-going democratisation process in Africa' on the basis of respect for the following principles:

- (a) protection of human rights (civil and political, and social, economic and cultural);
- (b) respect of basic democratic principles, including:
 - the right to choose and change leaders in free and fair elections,
 - separation of legislative, executive and judicial powers,
 - guarantees of freedom of expression, information, association and political organisation;
- (c) the rule of law, which permits citizens to defend their rights and which implies a legislative and judicial power giving full effect to human rights and fundamental freedoms and a fair, accessible and independent judicial system;
- (d) good governance, including the transparent and accountable management of all a country's resources for the purposes of equitable and sustainable development.

The Council Conclusions of April 1997 on Conditionality in relation to South-east Europe also set out the different elements that will be taken into account in assessing compliance with the main conditions of democratic principles, human rights and the rule of law, respect for minorities and market economy reform. For example, democratic principles include representative government, an accountable executive, separation of powers and free and fair elections. Human rights and the rule of law include freedom of expression, independent media, access to courts and the right to a fair trial, equality before the law and equal protection by the law. Market economy reform includes demonopolisation, comprehensive liberalisation of prices and trade, and the setting up of a transparent and stable legal and regulatory framework.

The procedures for determining possible breaches of conditionality criteria, or assessing compliance with specific standards and demands, are very varied, but in most cases they rely heavily on the assessment made by the Community's own institutions, especially the European Commission. As a generalisation one may say that the Commission will provide a factual assessment, report and recommendation, and the Council of Ministers will take the specific decision. The Copenhagen accession criteria are assessed by the Commission in its original opinion or *avis*, and then in subsequent reports on progress.⁴⁵ These are based initially on lengthy questionnaires sent to each candidate State, as well as reports from Commission delegations and other NGOs. The formal decision, to open negotiations for example, is then taken by the Council of Ministers.

Community agreements differ considerably as to the existence and extent of procedural provisions with respect to the implementation of the 'essential elements' clause. The Europe Agreement with Bulgaria, for example, whose essential elements clause is cited above, does not refer explicitly to that clause in its provision on breach of obligation. Under Article 118,

If either Party considers that the other Party has failed to fulfil an obligation under the Agreement, it may take appropriate measures. Before so doing, except in cases of special urgency, it shall supply the Association Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties.

Other agreements, while containing a similar provision, also provide that 'cases of special urgency' (where action can be taken before consultation) shall include a material breach of the agreement, a material breach being defined in terms of, *inter alia*, violation of an 'essential element'. We may say that this is becoming the standard formulation.⁴⁶

The result is that a serious violation of an essential element may justify suspension of one or more aspects of the Agreement, without the (normal) six-month notice period required for denunciation, but with provision for prior and/or post consultation within the institutional structures set up by the Agreement.

In general the conditionality provisions in the financial and technical assistance Regulations do not include any procedural requirements, such as prior consultation, although the Commission may well engage in consultation as a matter of good practice. In its explanatory memorandum on the new assistance programme for South-east Europe, for example, the Commission says:⁴⁷

The level of compliance will be discussed with the authorities concerned and this dialogue will allow the EU to state its expectations, assess the authorities' commitment and encourage them to develop the measures intended to comply with the conditions. The fulfilment of the conditions will be evaluated and this evaluation will influence the assistance provided under the Regulation.

In contrast, the GSP Regulation contains very extensive procedural requirements for both the incentive and the withdrawal clauses. Temporary withdrawal of trade preferences requires a series of steps: first, the initiation of the procedure by means of notification to the Commission by a Member State, a natural or legal person or association with an interest in withdrawal (for example a European trade association or trade union body); second, consultation between the Members and the Commission within the Committee set up by the Regulation; third, an investigation initiated by the Commission, which may last for up to one year and which will give interested parties a right to put their case to the Commission and may include a fact-finding mission by the Commission to the State concerned; fourth, a report by the Commission to the GSP Committee; and finally a decision by the Council on a proposal from the Commission.⁴⁸

The special incentive arrangements require a request in writing from the trade partner; the provision of copies of domestic legislation implementing the relevant international standards, together with a translation; details of the application and monitoring measures taken by the country concerned and any sectoral restrictions;

followed by an examination and checking procedure by the Commission. The decision to grant the incentive arrangements is taken by the Commission, and a decision not to do so must be accompanied by reasons and discussed with the country concerned 'in close coordination' with the GSP Committee.⁴⁹

In some of these cases, judicial review of the executive decision will be possible. Formal Council or Commission decisions adopted under the EC Treaty (such as under the GSP Regulation, or the financial assistance Regulations) may be challenged before the European Court of Justice directly by a Member State, the Council, the Commission, (in some cases) the European Parliament and even under certain circumstances by individuals, such as traders or importers who are directly and individually concerned.⁵⁰ Cases may also get to the European Court of Justice via national courts of the Members.⁵¹ However, there are significant restrictions on the possibility of judicial review.

First, non-Members themselves have no right of action before the European Court of Justice and they will therefore have to rely on indirect action by traders, or the dispute settlement procedures in any agreement they may have with the EU, or on WTO dispute settlement if they are WTO Members.

Second, the European Court of Justice has no jurisdiction over decisions taken in the framework of the Common Foreign and Security Policy under the TEU (which would cover, for example, the institution or interruption of political dialogue or the underlying decision to impose economic and other sanctions).

Third, general directions of policy applying conditionality, such as the deferment of conclusion of a trade agreement, or a policy decision not to extend a financial assistance programme to a particular country, could not be challenged as formal legal acts.

Fourth, the European Court of Justice will examine the legality of a Community decision on the basis of breach of procedural requirements and infringement of the Treaty rules and general principles (such as proportionality and non-discrimination), but will not generally question the exercise of executive discretion, particularly in the external policy field. It is not even a straightforward matter for the Court to judge the legality of a Community act by reference to compliance with the provisions of an international agreement such as the WTO.⁵²

Finally, in this context, we may ask: how universal is conditionality in EU external policy? We have already noticed the variations in the 'essential elements' clause, and the fact that the negotiation of an agreement with Australia broke down as a result of Australia's refusal to agree to such a clause. Other developed countries, such as the United States, Canada and Japan, do not have general trade agreements with the EU; their trade relations are governed by multilateral (WTO) commitments (political conditionality does not operate openly with respect to WTO membership), and the 'essential elements' clause does not find its way into sectoral or mutual recognition agreements.

There is no doubt that it is easier for the EU to insist on conditionality where it is offering membership, trade preferences or financial assistance. We have even had a hint from the Commission that the widely-accepted Copenhagen accession criteria may be added to when it comes to applications from the countries of South-east Europe as a result of their recent history.

The application of conditionality has become deeply embedded in both accession and external policy over the last 10 years, but—unsurprisingly—it is not possible to identify one set of conditions, one standard set of criteria or even a standard procedure for negotiation or application of the conditionality principle. The balance in each case will depend on the type of legal (and political) relationship of the State concerned with the EU.

Variable geometry

(a) Internal application of variable geometry

There is no doubt that variable geometry⁵³ has become a recognised feature of the EU system and is likely, with future enlargements, to become even more entrenched. Discussions over the possibilities of variable geometry go back for some time, but the concept became a reality with the Treaty on European Union of 1992. It was during the negotiations for this Treaty, with its creation of the European Union itself and the extension of Union policies into foreign and security policy, defence, justice and home affairs (including immigration and external border controls) and economic and monetary union, that the idea of the voluntary ‘opt-out’ was born. For the first time it was accepted that some Members might be able to opt out of policy developments while remaining full Members of the EU. The United Kingdom (UK) negotiated its opt-out from the final stage of economic and monetary union (EMU),⁵⁴ and Denmark its opt-out from EMU and defence.⁵⁵

In 1997, when the negotiations leading to the Treaty of Amsterdam encompassed the transfer of immigration and asylum policy and external border controls from the TEU to the EC Treaty, the UK, Ireland and Denmark all negotiated special provisions.⁵⁶ This transfer also involved incorporating the substance of the Schengen Convention (the ‘Schengen *acquis*’) into the EC Treaty and TEU. The original Schengen Convention itself could be regarded as a form of variable geometry in the sense that it was a form of closer co-operation by a subset of the EC Members (and some non-Members), and the process was further complicated by the fact that some non-EU States, Norway and Iceland, have special relations on border controls with some EU Members and the Schengen parties, so that special provision had to be made for them.⁵⁷

These arrangements were all *ad hoc*, and some of them are extremely complex. They reflect, as well as the specific concerns of individual Members, the gradual extension of the EU’s activity into areas such as foreign policy, monetary policy and immigration, that go far beyond traditional regional economic integration. Their implications for the unity of the Union, and more particularly the internal market, have still not been fully worked out (or indeed experienced, for it is still too early to judge what the effects will be). In 1997 an attempt was made to institutionalise (or to constitutionalise) the possibility of variable geometry by including provision for ‘closer co-operation’ in both the TEU and EC Treaty.⁵⁸ However, the preconditions

for the application of closer co-operation are so stringent that it is doubtful that the procedure as it stands will ever be used.⁵⁹

These preconditions for closer co-operation evidence the concern felt by some Members that acceptance of the principle that a Member State could maintain full membership rights, while not participating in the full range of EU policies, sets a dangerous precedent for the future development of the Union. Such a concern is also evident in the Copenhagen criteria of 1993, adopted just after the conclusion of the Treaty on European Union (with its first opt-outs) and directed at the potential new Members from Central and Eastern Europe. The third of these criteria states that ‘Membership presupposes the candidate’s ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.’ The clear message being transmitted, a message which has been reiterated within the context of subsequent accession negotiations, is that although limited transitional periods may be a matter for negotiation, each new candidate State must be prepared in principle to accept the full *acquis communautaire* as it stands at the time of accession, and derogations from the *acquis* will not be negotiated.

As in the past, the basis for accession will be the *acquis* of the Union as it exists at the time of enlargement. While transition periods of definite and reasonable duration may be necessary in certain justified cases, the objective of the Union should be that the new Members apply the *acquis* on accession.

This will ensure a balance of rights and obligations. The new Members should accept the basic obligations on accession, otherwise their right to participate fully in the decision-making process may be put in question. The Union should not envisage any kind of second-class membership or opt-outs.⁶⁰

The difference in bargaining power between a candidate State and a full Member is clear; and it is in part this difference which has led to the need for threshold membership criteria (that is, Article 49 TEU and the Copenhagen criteria).

One aspect of the procedure for closer co-operation carries particular implications for the application of conditionality: this is its openness to the possibility of ‘accession’ or opting in by non-included Members at a later stage. Article 43 TEU sets out as one of the conditions for closer co-operation, that the co-operation

is open to all Member States and allows them to become parties to the co-operation at any time, provided that they comply with the basic decision and with the decisions taken within that framework.

The Treaties, in Article 40 TEU and Article 11 EC Treaty, include a procedure for acceding to closer co-operation decisions. Under Article 40(3) TEU, a ‘notification’ (not an ‘application’) of the intention to join is given by the State concerned to the Council and the Commission; the Commission gives an opinion to the Council within three months, with if necessary ‘a recommendation for such specific arrangements as it may deem necessary’; the Council then decides on the question, and after four months is deemed to have decided positively unless a positive decision is taken ‘to hold it in abeyance’. Article 11(3) EC contains a similar procedure. The implication here is that the door is open, provided that the ‘acceding’ State is prepared to accept what has already been done (much as a new EU Member State must accept the whole *acquis communautaire*).

The draft Treaty of Nice will extend closer co-operation under the TEU to the sphere of the common foreign and security policy and make some alterations to the procedures, but the principle that co-operation will be open to all Member States, and the procedures for 'accession', will be substantively unchanged (Articles 27e, 40b, 43(j) and 43b TEU and Article 11a EC Treaty as amended by the Treaty of Nice).

Presumably, however, the 'basic decision' referred to in Article 43(1)(g) could include economic or legal conditions for participation, if only in the form of the necessary conditions for the effective implementation of the decision as well as its formal acceptance.

These questions surrounding opt-outs and closer co-operation, which have only been touched on very briefly here, already raise the link between variable geometry and conditionality. However, variable geometry covers more than voluntary opt-outs and opt-ins; it also covers the non-participation of one or more Members in a particular policy not because they do not want to, but because they do not meet the criteria for participation. The relationship between conditionality and variable geometry is here somewhat paradoxical.

In the context of accession criteria, conditionality is designed to avoid the need for variable geometry as countries will accede to the Union without the need for extensive temporary derogations. However, conditionality applied to existing Members may actually lead to variable geometry. It is this type of variable geometry that is sometimes referred to as 'two-speed' or 'multi-speed', in the sense that in such cases there is agreement on a general objective, but some Members may take longer than others to reach the stage of full participation. In this sense, variable geometry (or flexibility) may be used to describe temporary derogations from Community directives,⁶¹ but its most obvious example is the operation of EMU.

The provisions on EMU inserted into the EC Treaty by the Treaty on European Union contain a number of transitional provisions designed to lead from the second to the third stage of economic and monetary union. Under Article 121 EC, the Commission and the European Monetary Institute (EMI) (precursor to the European Central Bank) report to the Council on 'progress made in the fulfilment by the Members of their obligations regarding the achievement of economic and monetary union'. Progress is to be monitored regarding the compatibility of national legislation with Treaty requirements as regards the national central bank, and also the achievement of a high degree of sustainable convergence by reference to the fulfilment of the 'convergence criteria' established in Article 121 EC and amplified in a Protocol:

- the achievement of a high degree of price stability; this will be apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability;
- the sustainability of the government financial position; this will be apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article 104(6);
- the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European Monetary System, for at least two years, without devaluing against the currency of any other Member State;

- the durability of convergence achieved by the Member State and of its participation in the exchange-rate mechanism of the European Monetary System being reflected in the long-term interest-rate levels.

As is well-known, much discussion took place over the degree of flexibility that could be allowed in the application of these criteria, and in particular the interpretation of 'normal fluctuation margins' within the European Monetary System following the currency crises of 1992–93.

The European Council at Essen in December 1994 stated, 'A strict interpretation of the convergence criteria on the basis of the Maastricht Treaty is essential if reliable foundations for trouble-free economic and monetary union are to be laid.' This encapsulates the argument for conditionality in this area: on this view convergence is a necessary precondition for the successful implementation of the policy. On the other hand, the European Council at Cannes six months later put an alternative perspective:

if the recent currency turmoil continues, it might affect the proper operation of the single market and put a brake on the process of harmonious and balanced growth ... the introduction of the single currency will be the lasting solution to these difficulties.

In practice, a balance had to be struck. In March 1998 the Commission adopted a Report on progress towards convergence, and recommended that 11 Members should proceed towards the third stage, and on 2 May 1998 the Council adopted the formal decision under Article 121(4) EC, on which Members would participate in the third stage of EMU, which started on 1 January 1999.⁶² Of the four non-participant Members, two were the States with opt-outs (Denmark and UK) and two had not fulfilled the criteria for participation (Greece and Sweden). Since then, on the basis of a further report by the Commission, the decision was taken by the Council in June 2000 that Greece now fulfils the convergence criteria and Greece has participated in EMU from 1 January 2001.

Over the last 18 months, there has been much discussion over the impact that the variable geometry represented by EMU may have on the 'core' of the EU, and especially on the internal market. One aspect of this is procedural but nonetheless important: How are decisions taken within the framework of EMU by the 'euro-11' in such a way that the interests of the non-participants are protected (remembering that at least some non-participants are involuntary)?

In December 1997 the European Council at Luxembourg adopted a resolution on economic policy co-ordination in stage three, which stresses the key role of Ecofin (the Council of Financial Ministers) as the 'only body empowered to formulate and adopt the broad policy guidelines which constitute the main instrument of economic coordination'.

There was to be no formal separate committee of euro-States to take over this role, although some Members argued that the economic policy issues for participating and non-participating States would be different. Formally speaking, therefore, euro-11 meetings are referred to as 'informal', and all decisions are to be taken by Ecofin.⁶³ From a slightly different perspective, discussion within and surrounding the inter-governmental conference (IGC) in 2000 indicates that closer co-operation between

the euro-zone States may well lead to demands for closer co-operation in other areas, such as fiscal policy. This is one thing if non-participation is voluntary, another if the application of conditionality leads to a progressive widening of the gap between the 'two speeds', an issue of great concern in the perspective of enlargement.

The open door principle is established in the context of closer co-operation, but its relationship to conditionality is far from clear. Proceeding at the speed of the slowest in the convoy may cause credibility and other problems, but if the distance between the fastest and slowest widens too much or too fast, doubt may be cast on the viability of the whole integration project.

(b) external application of variable geometry

Although the term is most often used in the context of the Members of the EU, variable geometry can also be used to describe the differing relations between the EU and its non-Member partners. Even if we confine ourselves to the wider Europe, the variations are striking. Among the 26 non-EU Members of the Council of Europe, only one does not at present have an agreement of some kind with the EU.⁶⁴ Of the 25 who do, 13 are 'candidate States', including 10 Central and Eastern European States with 'Europe Agreements', and three Associated States (Cyprus, Malta, Turkey) who form part of the Euro-Mediterranean Partnership. Four States belong to the European Union Free Trade Area (EFTA), and of these three (Norway, Iceland, Liechtenstein) belong to the European Economic Area (EEA) Agreement with the EC, and one (Switzerland) has a simpler free trade agreement.⁶⁵ Four States have Partnership and Co-operation Agreements (Russia, Ukraine, Moldova, Georgia), two have customs union agreements (Andorra and San Marino), one has a preferential trade and co-operation agreement (FYROM) and one has a non-preferential trade agreement (Albania).

We cannot here examine all of these variations (and if we broaden the scope to include non-European States, of course the variations are much more complex), but even the above summary should give an idea of the range of relations. In addition, many of the EU's partners are also party to other economic integration agreements (such as free trade agreements) among themselves (the EFTA and the Central European Free Trade Area—CEFTA—for example). This is one reason why regional integration is playing a more prominent role in the EU's external policies: in its negotiations with an individual State the EU will need to take account of that State's existing network of trade agreements and commitments. A pre-existing customs union, such as the Southern African Customs Union (SACU), poses particular problems, but overlapping free trade areas also give rise to complex arrangements, particularly in the light of the need for compatibility with Article XXIV of GATT.

Among the European States, perhaps the most striking distinction is between those agreements which are seen as a step on the way to full membership of the EU (such as the Europe Agreements,⁶⁶ or the new Stabilisation and Association Agreements) and those that are not (the Partnership and Co-operation Agreements, the EEA, and simple free trade agreements such as the agreement with Switzerland). This

distinction is not between free trade (or customs union) agreements and others: although a pre-accession agreement is likely to set free trade as an objective, not all free trade agreements, or even customs union agreements, are seen as precursors of accession. Nor does it coincide with the distinction between Association Agreements and other forms of trade and co-operation agreements. Association presupposes a relatively high degree of integration but not necessarily the ultimate objective of membership. Rather, agreements which function in a pre-accession framework will contain elements which facilitate progress towards compliance with the Copenhagen criteria: extensive provision for approximation of laws; gradual progress towards free movement of goods, persons, services and capital; provision for political dialogue which will assist in integration into the Common Foreign and Security Policy; and co-operation over wide areas of economic activity.⁶⁷ Here again, we can see a link between variable geometry and conditionality: these are States which are not yet Members of the EU. Their relationship is one which encompasses, to a more or less limited extent, some of the aspects of membership (but without the privileges of membership, such as participation in the decision-making processes), and which is (more or less explicitly) designed to lead to fulfilment of the conditionality criteria for full membership.

On the other hand, the EEA between the EC and its Members and the EFTA States (except Switzerland) is an example of variable geometry which is explicitly divorced from membership ambitions, and thus from membership conditionality.⁶⁸ The preamble to the EEA refers to the objective of establishing 'a dynamic and homogeneous European Economic Area, based on common rules and equal conditions of competition' and

the fullest possible realization of the free movement of goods, persons, services and capital within the whole European Economic Area, as well as for strengthened and broadened co-operation in flanking and horizontal policies.

However, it also states that 'the conclusion of this Agreement shall not prejudice in any way the possibility of any EFTA State to accede to the European Communities'. The EEA Agreement was envisaged as a way of achieving a high level of integration with a number of developed Western European States without encompassing all the elements and obligations of full EU membership.

Seen against this background, the scope of the EEA Agreement is significant in both its inclusions and its exclusions. For example, the European Community was keen to include strong provisions on competition policy and State aids; if the EFTA States were to gain access to the benefits of the internal market, 'equal conditions of competition' required something considerably more effective than the weak and largely unenforced provisions in the free trade agreements concluded during the 1970s with the EFTA States. This can be seen, and was presented, as essentially a matter of reciprocity.⁶⁹ A further aspect of this reciprocal balance is the way in which the EEA, to an unprecedented extent, seeks to 'mirror' the *acquis communautaire* in the areas which it covers, both by including secondary legislation in separate annexes (which can be amended by agreement to reflect legislative developments within the EU) and by reference to Court decisions. On the other hand, the EFTA States were keen to exclude common policies which the EC was (at the time) prepared to agree

were not inextricably linked to the internal market, and which represented a step further into integrative structures than they were then prepared to go. This applied particularly to economic and monetary union, the common agricultural policy, the harmonisation of taxation and the common commercial policy. The EEA could then be seen as a kind of ‘partial’ membership which allowed for a certain level of *à la carte* choice. However, we have to be very cautious in saying this; for crucially, the EFTA States accepted the limitations of such an approach. Whereas ‘internal’ variable geometry—such as the EMU opt-outs and closer co-operation—attempts to reconcile variable geometry with full EU membership, the EEA Agreement (by definition) is an alternative to membership and the EFTA partners do not participate in the institutions or decision-making processes as members. Thus, various ways to include the EFTA partners in a single legislative and judicial structure for the EEA as a whole were inevitably rejected in favour of a ‘two pillar’ approach whereby new EFTA institutions were created, together with provision for their relation to the EC institutions and Members.⁷⁰ The result was a somewhat awkward compromise which illustrates the difficulty for the EU of pursuing an external policy which is ‘neither one of absorption through accession nor one of dominance through satellite forming’,⁷¹ and of course three of the original EEA parties have since joined the EU (Austria, Finland and Sweden). It is significant that the EEA has not been seriously considered as a model for a form of staged membership by the countries of Central and Eastern Europe.

Conclusion

The EEA experience suggests that, in spite of reservations which centre around the viability of the EU’s constitutional structures and their ability to cope with too much flexibility, an extended form of ‘internal’ variable geometry may be not only inevitable, but able to provide a framework within which to address these issues of participation and the balance between rights and obligations. Faced with large numbers of candidate States, with the need to safeguard the homogeneity of the Union’s legal order (to the limited extent that it exists) by imposing membership conditionality, but also with the need to progress the candidate States into membership within a reasonable timeframe for the sake of a wider stability within Europe, and with differing views as to the speed and depth of integration, a degree of flexibility is inevitable. Such flexibility, together with an awareness of its dangers, was demonstrated by the Commission in its Report to the Council in October 1999 on progress towards accession by each of the candidate countries (the so-called composite report). In this report, the Commission proposed a change of strategy in relation to the opening of accession negotiations, a change which distinguishes between the Copenhagen criteria. Whereas the previous approach adopted had been to open negotiations only with those countries which had made sufficient progress to be in a position to satisfy the conditions for membership (Copenhagen criteria) in the medium term, the Commission now proposed to open negotiations with all candidate countries which fulfilled the *political* Copenhagen criteria and which ‘have proved to

be ready to take the necessary measures to comply with the economic criteria'. This was to be coupled with the principle of differentiation, whereby the number of different negotiating chapters to be opened with each candidate would depend on its level of preparedness. This approach was adopted by the European Council at Helsinki in December 1999, with the result that negotiations were opened with all remaining candidate countries except Turkey (which did not fulfil the political criteria) in spring 2000. In its report the Commission also attempted to offer flexibility in terms of negotiation of transitional periods, while recognising the difficulty of a less than full application of the *acquis* in an area without internal frontiers.⁷²

For the areas linked to the extension of the Single Market regulatory measures could be implemented quickly. Any transition periods should therefore be few and short. For those areas of the *acquis* where considerable adaptations are necessary and which require substantial effort, including important financial outlays (in areas such as environment, energy, infrastructure), transition arrangements could be spread over a definite period of time provided candidates can demonstrate that alignment is underway and that they are committed to detailed and realistic plans for alignment, including the necessary investments.

Membership conditionality (the Copenhagen criteria) is thus being applied in a flexible way: compliance with the political criteria is essential before negotiations will begin (in recognition of Articles 6(1) and 49 TEU). Compliance with economic criteria is not a precondition for the start of negotiations, but will be required before accession itself. Transitional periods will be acceptable, but these must be seen as 'multi-speed' approaches to the common goal of complete acceptance of the full *acquis communautaire*, and not as opt-outs.

We have seen conditionality being used, not only as a threshold for membership, and as a threshold for the start of accession negotiations, but also to set conditions for participation in certain internal policies where homogeneity is perceived as crucial to the success of the project. Conditionality is also a central feature of the EU's external policy, not only towards prospective Members, but also towards those countries looking to the EU for trade preferences and financial assistance and varying levels of economic integration. Variable geometry is becoming an accepted (if not enthused-over) feature of the EU's constitutional and legal order. Widening and deepening—the extension of the EU's field of activity into new areas such as immigration and defence policies, as well as the extension of the membership of the EU—are likely in combination to lead to greater use of flexibility, or variable geometry, in its various forms. However, as far as candidate States are concerned, the EU's institutions are wary of accommodating opt-outs or derogations from the *acquis communautaire*, and are likely to be very careful in their application of membership conditionality.

Notes

- ¹ Other phrases, with varying shades of meaning, include closer co-operation, flexibility, differentiation, multi-speed Europe and Europe *à la carte*. For a thorough and illuminating appraisal, see Edwards G & E Philippart, *Flexibility and the Treaty of Amsterdam: Europe's New Byzantium*, CELS Occasional Paper, 3. Cambridge: University of Cambridge Centre for European Legal Studies, 1997.
- ² See for example the Co-operation Agreement with the Former Yugoslav Republic of Macedonia (FYROM) OJ 1997 L 348/2, Art.1.
- ³ See for example the Commission's report of 24 November 1999 on the feasibility of negotiating a Stabilisation and Association Agreement with Albania, in which the Commission highlights as 'basic problems' the general weakness of the Albanian economy, its dependence on foreign aid, and its dependence on customs duties and lack of alternative sources of revenue: COM 599 final (1999) at sect.4.2.1. A WTO waiver is being sought by the Parties to the new EU-Afro-Caribbean Pacific (ACP) Convention signed in Cotonou, Benin, in June 2000, as this does not commit all the parties to free trade within a 10-year period.
- ⁴ See for example Art. 46 of the EC's Trade, Development and Co-operation Agreement with South Africa, which concerns intellectual property and which makes reference to a number of relevant international conventions, including the Trade-related Aspects of Intellectual Property Rights (Trips) Agreement.
- ⁵ For a fuller discussion of regional integration as an aspect of conditionality, and conditionality in general in relation to South-east Europe, see Cremona, 'Creating the New Europe: The Stability Pact for South-eastern Europe in the Context of EU-SEE Relations' in *Cambridge Yearbook of European Legal Studies*. Cambridge: Hart Publishing, July 2000. See also the intervention by Javier Solana, High Representative of the EU for the CFSP in the UN Security Council debate on the Balkans, New York, Friday 23 June 2000, in which he stresses the importance of regional integration as an objective of the EU and the EU as a model for regional integration as a guarantee for peace.
- ⁶ European Commissioner for Trade, Pascal Lamy, has referred to regional integration in Southern Africa as a 'stepping stone' for integration into the world economy as well as 'providing economies of scale, a more powerful voice in the international arena, and playing an important role in the prevention of armed conflicts' in a speech entitled: 'The challenge of integrating Africa into the world economy'. Speech to the South African Institute for International Affairs, Johannesburg, 21 June 2000.
- ⁷ Anna Diamantopoulou, European Commissioner responsible for employment and social affairs, 'The European Social Model and Enlargement', Seminar on the harmonisation of Turkey's social policy and legislation with EU standards (IKV), *SPEECH/00/235*. Istanbul, Turkey, 23 June 2000.
- ⁸ For a discussion of membership conditionality as regards Cyprus and Turkey, see Van Westering J, 'Conditionality and EU Membership: The Cases of Turkey and Cyprus' in *European Foreign Affairs Review*, 5, 2000, p.95.
- ⁹ Commission's 'Second Report on Progress towards Accession' by each of the

- candidate countries, *Composite Paper Part V.2*. 13 October 1999.
- ¹⁰ Article 7, Treaty on the European Union (TEU).
- ¹¹ Article 7, TEU and Art.309 EC.
- ¹² In the draft Treaty of Nice, agreed in December 2000 but not yet in force, Article 7 has been amended to provide for action at an earlier stage; under a new paragraph, the Council ‘may determine that there is a clear risk of a serious breach by a Member State of the principles mentioned in Article 6(1), and address appropriate recommendations to that State.’ The Council is to act, after hearing the Member State concerned, with a majority of four-fifths of the Member States and with the assent of the European Parliament. The Council may also ‘call on independent persons to submit within a reasonable time limit a report on the situation in the Member State in question’.
- ¹³ Arts 226-228 EC. The first judgment on the use of Art.228 to fine a Member State for breach of EU law was recently delivered by the Court of Justice: *Case C-387/97 Commission v. Greece*, judgement of 4 July 2000; the case arose out of a failure on the part of Greece to implement two directives on the disposal of toxic and dangerous waste. The Court imposed a penalty payment of 20 000 euros for each day of delay in implementation following the date of the judgement.
- ¹⁴ Commission Communication on the inclusion of respect for democratic principles and human rights in agreements between the Community and third countries, 23 May 1995, COM(95)216 *final*; approved by Council 29 May 1995.
- ¹⁵ For a discussion of their evolution, see Cremona, ‘Human Rights and Democracy Clauses in the EC’s Trade Agreements’ in Emiliou N & D O’Keeffe (eds), *The European Union and World Trade Law after the GATT Uruguay Round*. London: Wiley, 1996. See also Reidel E & M Will, ‘Human Rights Clauses in External Agreements of the EC’ in Alston P (ed), *The EU and Human Rights*. Oxford: OUP, 1999.
- ¹⁶ *Case C-268/94 Portugal v. Council* [1996] ECR I-6177. For a discussion, see Cremona, ‘The EU and the External Dimension of Human Rights Policy’ in Konstadinidis (ed.), *EC—International Law Forum III*. Dartmouth: Dartmouth Press, 1998.
- ¹⁷ See also *Case C-162/96 A. Racke GmbH & Co. v. Hauptzollamt Mainz* [1998] ECR I-3655, where the Court of Justice held that suspension by the EC of the Co-operation Agreement with Yugoslavia was in conformity with international law under the principle of *rebus sic stantibus*, in spite of the absence of an ‘essential element’ clause, on the grounds that ‘the maintenance of a situation of peace in Yugoslavia, indispensable for neighbourly relations, and the existence of institutions capable of ensuring implementation of the co-operation envisaged by the Agreement throughout the territory of Yugoslavia constituted an essential condition for initiating and pursuing that co-operation.’ (para. 55).
- ¹⁸ Art.3 of the TDCA; notification of the other Party is required and consultations if requested must take place within 30 days; failure to resolve the matter through consultation may result in use of the dispute settlement procedures. See further p. 204 of this volume.
- ¹⁹ Smith K, ‘The Use of Political Conditionality in the EU’s Relations with Third

- Countries: How Effective?’ in *European Foreign Affairs Review*, 3, 1998, p.253.
- ²⁰ Ward A, ‘Frameworks for Cooperation between the European Union and Third States: a Viable Matrix for Uniform Human Rights Standards?’ in *European Foreign Affairs Review*, 3, 1998, p.505.
- ²¹ For a detailed analysis, see Cremona, ‘Creating the New Europe: The Stability Pact for South-eastern Europe in the Context of EU-SEE Relations’ in *Cambridge Yearbook of European Legal Studies*, 2. Cambridge: Hart Publishing, 2000.
- ²² For compliance with the conditions in the Council Conclusions of 29 April 1997, see Operational Conclusions COM(98)237 of 15 April 1998; and COM(98)618 of 10 October 1998; country specific assessments attached to the Commission Communication of 26 May 1999 on the Stabilisation and Association Process for SEE COM(99) 235; Operational Conclusions COM(2000) 49 final of 2 February 2000.
- ²³ Reg. 1763/99/EC OJ 1999 L 211/1.
- ²⁴ See IP/00/586, 7 June 2000. Assistance in the form of trade preferences to Montenegro was difficult as it forms a part of the FRY, against which the EU had maintained an economic sanctions regime directed at Serbia, and has no separate customs border; however the EC granted preferences to exports from FRY of certain industrial products produced only by plants situated in Montenegro: Reg 2007/2000/EC OJ 2000 L 240/1. Following the change of government in FRY at the end of 2000, the EU repealed many of the sanctions against FRY: Council Common Position 2000/599/CFSP of 9 October 2000 on support to a democratic FRY and the immediate lifting of certain restrictive measures.
- ²⁵ Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries, Decision of the GATT Contracting Parties of 28 November 1979; this is known as the ‘Enabling Clause’ for the GSP system.
- ²⁶ See for example Waer P & B Driesson, ‘The New EU GSP—a workable compromise in the EU but a better deal for developing countries?’ in *Journal of World Trade*, 29, 1995, p.97.
- ²⁷ Council Regulation 2820/98 (on GSP for 1999-2001) OJ 1998 L 357/1.
- ²⁸ See now Reg.2820/98, Arts 8-21.
- ²⁹ Colombia, Venezuela, Ecuador, Peru, Bolivia (Andean Group); Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama (Central American Common Market): Reg.2820/98, Art.7 and Annex V.
- ³⁰ Reg.2820/98, Arts 22-26.
- ³¹ Commission notice of investigation of forced labour practices being carried out in Myanmar in view of withdrawal of benefits under GSP OJ 1995 C15/3; Council Regulation 552/97 temporarily withdrawing access to generalised tariff preferences for industrial and agricultural goods from Myanmar OJ 1997 L 85/8.
- ³² Resolution of the Council and of the Members meeting in Council on human rights, democracy and development, Bull. EC 11-1991 p.122.
- ³³ Art.177(2) EC Treaty.
- ³⁴ Council Regulation 443/92 of 25 February 1992 on financial and technical assistance to, and economic co-operation with, the developing countries in Asia and Latin America OJ 1992 L 52/1, Art.2.

- ³⁵ Council Regulation 99/2000 of 29 December 1999 concerning the provision of assistance to the partner States in Eastern Europe and Central Asia OJ 2000 L12/1 (TACIS Regulation).
- ³⁶ See Art.2(6) and Annex II. Support for institutional, legal and administrative reform includes development of the rule of law, support for effective policy making, reform of public administration, support for executive and legislative bodies, reinforcement of the legal and regulatory framework, support for the implementation of international commitments, and support for civil society.
- ³⁷ General Affairs Council 15 Sept 1997, Council Conclusions on Belarus; Council Decision 98/1/EC of 18 Dec 1997 on a TACIS Civil Society Development Programme for Belarus for 1997 OJ 1998 L 1/6.
- ³⁸ Regulation 3906/89 of 18 December 1989, OJ 1989 L 375/11.
- ³⁹ Conclusions of General Affairs Council, 14 February 2000.
- ⁴⁰ Communication from the Commission to the Council and the European Parliament on Community Assistance for the Stabilisation and Association Process for certain countries of South-east Europe: CARDS Programme (Community Association and Reconstruction Assistance); Guidelines and detailed arrangements for assistance to Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia and the Federal Republic of Yugoslavia under the future CARDS programme, 2000-2006, COM(1999)661, 8 December 1999.
- ⁴¹ Council Regulation 2666/2000/EC of 5 December 2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia, OJ 2000 L 306/1, Article 5. For the April 1997 Conclusions, see text at note 21.
- ⁴² Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.
- ⁴³ Council Regulation 622/98 of 16 March 1998 on assistance to the applicant States in the framework of the pre-accession strategy, and in particular on the establishment of Accession Partnerships OJ 1998 L 85/1, Art.4.
- ⁴⁴ Council Decision on a Common Position 98/350/CFSP OJ 1998 L 158/1.
- ⁴⁵ The original *avis* of 16 July 1997 for the 10 central and eastern European State applicants can be found in COM(97) 2001-2010; see also the Commission's 'Second Progress Report for each of the candidate countries of Central and Eastern Europe', plus Cyprus, Malta and Turkey, 13 October 1999. This report formed the basis for the decision taken by the Council at Helsinki in December 1999 to open negotiations with the remaining five central and eastern European States and Malta, and to include Turkey as a 'candidate country'. The Commission reported on progress against each element of the Copenhagen criteria.
- ⁴⁶ See for example, Art.40 of the Co-operation Agreement between the European Community and the former Yugoslav Republic of Macedonia, together with the Joint Interpretative Declaration on Art.40, OJ 1997 L 348/2. See also the Agreement on Trade, Development and Co-operation between the EC and South Africa, Arts 2 and 3. Art.96 of the Cotonou Convention between the EC and the ACP States (the successor to Art 366a of the fourth Lomé Convention) contains particularly extensive provisions on prior consultation.

- ⁴⁷ Proposal for a Council Regulation on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia and amending Regulation (EEC) No 3906/89, COM(2000)281 final.
- ⁴⁸ Council Regulation 2820/98 (on GSP for 1999-2001) OJ 1998 L 357/1, Arts 22-26. See note 31 for the application of this procedure to Myanmar (Burma).
- ⁴⁹ Council Regulation 2820/98, Arts 8-21.
- ⁵⁰ Art.230 EC Treaty. See, for example, *Case C-268/94 Portugal v Council* [1996] ECR I-6177 (see note 16), in which Portugal challenged the legal basis for the inclusion of an essential elements clause in a development co-operation agreement concluded by the Council.
- ⁵¹ See for example *Case C-162/96 A. Racke GmbH & Co. v. Hauptzollamt Mainz* [1998] ECR I-3655 (see note 17).
- ⁵² The legal status of the WTO in the EC legal order is a highly complex issue which cannot be discussed further here; see for example *cases C-280/93 Germany v Council* (bananas) [1994] ECR I-4737 and *Case C-149/96 Portugal v Council*, judgement of 23 November 1999; Eeckhout P, 'The Domestic Legal Status of the WTO Agreements: Interconnecting Legal Systems' (1997) 34 *Common Market Law Rev.* 11.
- ⁵³ See note 1 for the variety of concepts that may be covered by the term 'variable geometry'; I am here using the term to cover the general concept of variable application of the *acquis communautaire*. See generally, De Búrca G & J Scott, *Constitutional Change in the EU: From Uniformity to Flexibility?* Cambridge: Hart Publishing, 2000.
- ⁵⁴ Art.121 EC Treaty.
- ⁵⁵ Art.6 TEU and Protocol on Denmark.
- ⁵⁶ Art.69 EC Treaty and Protocols 2, 3, 4 & 5 annexed to the TEU and EC Treaty. Council Decisions 99/436/EC of 20 May 1999 determining the legal basis for each of the provisions or decisions which constitute the Schengen *acquis* OJ 1999 L 176/17, and 99/345/EC on the definition of the Schengen *acquis* OJ 1999 L 176/1. See Hedemann-Robinson M, 'The Area of Freedom, Security and Justice with Regard to the UK, Ireland and Denmark: The Opt-in Opt-outs under the Treaty of Amsterdam' in O'Keefe D & P Twomey, *Legal Issues of the Amsterdam Treaty*. Cambridge: Hart Publishing, 1999.
- ⁵⁷ Protocol 2 on integrating the Schengen *acquis* into the framework of the EU, Art.6. A separate agreement was concluded between the Council and Norway and Iceland in order to preserve these special relationships, OJ 1999 L 176/36; the case provides a good example of the need to deal with prior Treaty commitments when some, but not all, parties are proposing to proceed with further integration.
- ⁵⁸ Arts 40 and 43-44 TEU, Art.11 EC Treaty.
- ⁵⁹ See Weatherill S, "If I'd Wanted You to Understand I Would Have Explained it Better": What is the Purpose of the Provisions on Closer Co-operation Introduced by the Treaty of Amsterdam?' in O'Keefe D & P Twomey, *op.cit.* note 56.
- ⁶⁰ Communication of the Commission, Strasbourg, 15 July 1997, 'For a Stronger

and Wider Union' *Agenda 2000*, I, part II 'The Challenge of Enlargement', section III, 'A strategy for enlargement'.

- ⁶¹ See further De Búrca G, 'Differentiation within the 'Core'? The Case of the Internal Market' in De Búrca G & J Scott, *op. cit.* at note 53. Such derogations are not uncommon; for an example see the derogations for Spain, Portugal, Ireland and Greece in Directive 88/361 OJ 1988 L178/5 on the liberalisation of capital movements.
- ⁶² Commission Report of 25 March 1998 on progress towards convergence and recommendation with a view to transition to 3rd stage of EMU COM(98) 1999. Council Decision 98/317/EC in accordance with Art 121(4) EC OJ 1998 L 139/30.
- ⁶³ Art.99 EC on economic policy co-ordination applies to all EU Members whether or not within the euro-zone. In June 1997 at Amsterdam, the European Council adopted a Resolution on the Stability and Growth Pact OJ 1997 C 236/1, and Council Regulation 1466/97/EC on the strengthening of surveillance of budgetary positions and surveillance and co-ordination of economic policies OJ 1997 L 209/1, which provide for both participating and non-participating Members.
- ⁶⁴ This is Croatia; negotiations for an association agreement started in November 2000.
- ⁶⁵ Switzerland and the EU have recently negotiated a series of seven bilateral agreements, covering *inter alia* the free movement of persons, agriculture and transport.
- ⁶⁶ The 'Europe' Association Agreements with the 10 countries of Central and Eastern Europe do not contain any commitment to membership on either side, although their Preambles recognise that accession is an aim of the associated State and the Agreements are designed to facilitate their participation in the process of European integration and to provide a framework for their gradual integration into the Community (see for example Preamble and Art.1 of the Agreement with Romania, OJ 1994 L 357/2). Since Copenhagen in 1993 and more particularly since the adoption of the new 'pre-accession strategy' by the EU in 1997, the 'Europe' Agreements have been recognised as an integral part of the pre-accession process.
- ⁶⁷ For further detail on the Europe Agreements, see Maresceau and Montaguti, 'The Relations Between the EU and Central and Eastern Europe: A Legal Appraisal' in *Common Market Law Review*, 32, 1995, p.1327; Cremona M, 'The New Associations' in Konstadinidis S (ed), *The Legal Regulation of the European Community's External Relations after the Completion of the Internal Market*. Dartmouth: Dartmouth Publishers, 1996.
- ⁶⁸ OJ 1994 L 001/3; for comment, see Norberg, 'The Agreement on an EEA' in *Common Market Law Review*, 29, 1992, p.1171.
- ⁶⁹ According to the Preamble, the EEA was to be 'achieved on the basis of equality and reciprocity and of an overall balance of benefits, rights and obligations for the Contracting Parties'. Reciprocity is of course a way of setting conditions to market access.
- ⁷⁰ For a critique of the EEA in this respect, see Cremona M, 'The "Dynamic and

Homogeneous” EEA: Byzantine Structures and Variable Geometry’, in *European Law Review*, 19, 1994, p.508.

⁷¹ Spinner B, in Robinson M & J Findlater (eds), *Creating a European Economic Space: Legal Aspects of EC-EFTA Relations*. Dublin: Irish Centre for European Law, 1990, cited in Cremona, *op.cit.* at note 70, at p.525.

⁷² Commission Second Report to the Council on progress towards accession by each of the candidate countries, 13 October 1999, Composite Report sect. IV.3.4.

Nordic Co-operation

*Svend Erik Hovmand**

Introduction

This paper will focus on the following: What is Nordic co-operation? Why do we have it? What results have we achieved? And how do we assess the future for Nordic co-operation?

What is Nordic co-operation?

Nordic co-operation takes place within the formal institutions of the Nordic Council and the Nordic Council of Ministers. But Nordic co-operation as such unfolds itself informally in many more areas, both at the grassroots level between non-governmental organisations (NGOs), schools, universities, the business community, trade unions and so on, and at a political level outside the institutionalised co-operation framework. At a political level Nordic co-operation takes place in nearly all areas of foreign relations, with the exception of defence and security policy. The Nordic foreign ministers meet three to five times a year to discuss issues of common interest, which range from Nordic affairs to European and international affairs in general. Nearly all diplomats take part in some form or another of Nordic co-operation within their area.

The Nordic Council is a parliamentary assembly which meets on a regular basis once or twice a year and debates the issues of the day, passes resolutions directed towards the member governments and also exercises some degree of control over the budget for joint Nordic activities. Between sessions several committees are active, preparing resolutions and studying different issues.

It is one of the few international bodies, if not the only one, where government ministers, including the prime ministers and the foreign ministers, can and do participate in all sessions and debates. It therefore provides a highly unusual and useful

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forum for an enlightened exchange of views between parliamentarians and government representatives across national borders.

Intergovernmental co-operation is headed by the prime ministers of the Nordic countries, who meet twice a year. In addition, the Nordic Council of Ministers consists of the Ministers for Nordic Co-operation, who have the daily responsibility for co-ordination and for the budget and 17 sector ministerial councils, which address such areas of concern as the environment, industry, culture and education.

In the 20th century Scandinavian *rapprochement* became Nordic co-operation—a co-operation founded by the people in the region which gradually developed into an institutionalised framework. Nordic co-operation in its institutionalised form is a reflection of the political situation of the Nordic countries in the 20th century. It is also a result of the history and the geographical position of the participating countries and the dependent territories.

Why Nordic co-operation?

The mixed historical experiences of the Nordic countries do not necessarily make close co-operation an obvious choice.

History apart, there is a geographic divide between the Nordic countries, which has consequences for the way in which the different countries perceive their security interests. If you look at a map, it is obvious that the geopolitical interests of Denmark, Sweden, Finland and the Åland Islands on the one side, would differ from those of Norway, Iceland, the Faeroe Islands and Greenland on the other. The latter are much more oriented towards the transatlantic, whereas the former are oriented towards the Continent, the Baltic Sea region and Russia.

In recent times the Nordic region has become an area of low tension, a status which was maintained during the Cold War period. However, geography and great power interests dictated that the Nordic countries chose differing roads to security. The collapse of the Soviet Union once more changed this picture. And security and defence policy, which used to be an extremely sensitive issue for Nordic co-operation, is now being discussed in the sessions and conferences of the Nordic Council, for instance in relation to participation in joint peacekeeping operations. In 1997 the ministers of defence took part for the first time in the annual session of the Nordic Council.

The five Nordic countries' different roads to security also determined their options when it came to developments in Europe at large, and in particular their relations with the European Community. All five countries clearly recognised that even if they are located in Northern Europe, they cannot confine their attention to their own region because they are dependent on what happens in the rest of Europe.

This twofold consideration, that of security and the attraction of European integration, has to a high degree determined Nordic co-operation throughout the post-war period. The Nordic countries have had to subordinate their aims of Nordic regional integration to the necessity of striking a balance between the great powers and their interest in the West European integration schemes.

Another interesting feature of Nordic co-operation is that the participating group of countries has different constitutional foundations. Nordic co-operation takes place between five sovereign nations and three autonomous territories, of which two are part of one country, one of another. Nevertheless, the autonomous areas have a large measure of self-determination. All three are fully independent members of the Nordic Council and the Nordic Council of Ministers. They have their own flags and delegations, but no voting rights.

A cornerstone of Nordic co-operation is that we speak our own languages and are still able to make ourselves understood. The truth is, however, that Finnish, Icelandic, Faeroese and Greenlandic are only accessible to a small minority with special language skills. As a consequence Danish, Swedish and Norwegian have become the working languages.

So what is it then that makes these countries, which fairly recently were at war with one another, which seem only superficially to resemble each other, which are not all fully independent, which have different security and integration interests with regard to Europe, and which do not speak the same language—what makes them want to have this kind of close co-operation with each other?

Maybe I should not exaggerate the differences between the Nordic countries. We share a common cultural background, and there is a strong feeling of common identity and interconnectedness. Even if all of us do not speak a language which is commonly understood, we still communicate in one or other of the exotic Nordic languages. We share a common set of values: democracy, human rights, the welfare system and so on. Seen from outside, we are very much alike.

We consider ourselves to be informal and pragmatic people. And in contrast to the people south of our borders in Europe, we don't like systems! This may be why Nordic co-operation has remained a state-to-state co-operation, and why the great political projects of a defence alliance, an internal market (NORDEK), and a monetary union have all failed. In recent times the Nordic countries have avoided all political abstractions and all speculations regarding overall political goals. Rather, they aim at solving concrete, practical problems, advancing step by step and accepting gladly every conquest, no matter how small. Ideas of federalism or political union are not the order of the day on the Nordic agenda.

The informality of the relationship between the Nordic countries and the bottom-up approach has led to a slow institutionalisation of co-operation. The Nordic Council of Ministers was established nearly 20 years after the Nordic Council, reflecting the fact that Nordic co-operation has started—and still is very strong—at the grassroots level. In accordance with this line of thought it is only natural that the first institution to be created should be the body of the people's representatives.

Are these factors a reason for, or a consequence of, Nordic co-operation? Perhaps both. There is no doubt that it is easy and natural to co-operate with countries which you look upon as friends. It seems natural as well to co-operate with your neighbours. And it is easier to develop friendships among small nations with no great power ambitions.

It is equally true that co-operation fosters trust, which also applies to greater nations who may be perceived as a threat. This is a well-known fact of European

integration. Therefore, the answer to the question, why do we co-operate on a Nordic basis, is that it felt like the natural thing to do and does not need much reflection. Because of our different affiliations to the EU, there are areas where we cannot co-operate and organisations like the United Nations (UN) where we may be less visible. But the Nordic countries hold the view that Nordic co-operation can make a difference in our countries as well as in our international relations.

What are the results of Nordic co-operation?

With three out of five Nordic countries now members of the European Union (EU), the question is being asked whether it will be possible to maintain a meaningful co-operation between the Nordic countries.

Already in the 1950s, when the boundaries of Europe were closed, we had managed to establish a kind of citizens' union. After 40 years a Nordic citizen has the right to travel without a passport, to settle where he or she wants with the same social rights as the local inhabitants, and to get a job where he or she wants anywhere in the Nordic countries—without asking the authorities. The Nordic countries were the first ones in the world to establish a treaty giving the right to accuse and punish environmental cross-boundary crimes. Concerning the environment, today the Nordic countries have a shared platform internationally. We enjoy a close co-operation in the field of culture, and in major areas in the EU such as labour market politics, employment and openness. And for a very long period, more than 100 years, we have had close co-operation in the drafting of laws, which means that today Denmark, Norway and Sweden to a large extent have civil laws of great similarity. It is a co-operation for citizens rather than for the states concerned.

What lies in the future for Nordic co-operation?

It is still too early to say what will happen to Nordic co-operation in the long term. However, the reforms which took place within the institutionalised structure of Nordic co-operation a few years ago have shown a political will not to let Nordic co-operation wither away. For example, many resources have been channelled towards co-operation in the adjacent areas. When the Baltic countries Estonia, Latvia and Lithuania were attempting to detach themselves from the Soviet Union, the Nordic Council was the only formal international institution which kept their problems on the political agenda. We have opened Nordic information centres in each of the Baltic countries, as well as in St Petersburg.

We started the Baltic Sea Parliamentary Conferences in 1990 and have succeeded in building up a relationship of trust among parliamentarians from all the countries around the Baltic Sea, including Russia. We have done it in a very simple way. The delegations meet once a year for two days of formal negotiations on themes of common interest. During the period between, the work is done by a board of only five representatives, one from Russia, one from Germany, one from Poland, one

representing all three Baltic countries, and one representing all the Nordic countries. I am one of these representatives. Ten years ago we started in an atmosphere of suspicion and tension; today we are able to have an open and trustful debate. I have good reason to hope for the development for peace and prosperity in the Baltic Sea region.

Within the EU, the Nordic countries have co-operated most successfully in areas of shared interest. We succeeded in putting Nordic fingerprints on the Amsterdam Treaty with regard to employment, environment and openness. In the process of EU enlargement, Denmark and Sweden co-operated, whereas Finland at first went in another direction, but later on joined Denmark and Sweden. However, all three countries now seem determined to build upon the results in a co-ordinated way. It may be argued that with an EU consisting of 26 countries, Nordic co-operation, which has already existed for 50 years, will be suited to further Nordic values in the 21st century. Our shared cultural background—or national identity—makes us see eye to eye on many issues. And this is what we are now trying to build upon in a more strategic way.

In the commercial sector there is a growing interest in the Northern region. The Nordic countries are increasingly regarded as the ‘home market’ for Nordic exports. Politically and commercially the view is held that internationalism starts with our neighbours in the other Nordic countries. Our common cultural background eliminates any fear of borders or ‘foreigners’; there may be rivalry and competition between us, but no fear. And for exporters, the other Nordic countries are easy to use as practice fields before member states take steps to engage themselves elsewhere on the European continent or overseas. We are also at present seeing quite a few strategic mergers between Nordic banks and industries, helping them to become competitive elsewhere.

Within the EU, Finland has launched the idea of a ‘Northern Dimension’. The North is on the map of Europe, but we may have to make further changes in order to be fully prepared for the challenges ahead. In the future we may see an increase in regional co-operation, complementing the institutionalised forms of international co-operation.

Nordic co-operation is based upon a mixture of shared values and shared interests. There are, however, built-in conflicts. We should not forget that basically each country will act according to its own interest, even though Nordic solidarity sets certain limits as to what one country can do in competition with another. It would, no doubt, be hard to imagine anyone taking the responsibility for openly arguing for a dismantling of Nordic co-operation.

In conclusion, there is not much evidence that Nordic co-operation is about to wither away. On the contrary, we seem to be on track for its revitalisation or perhaps transformation. The coming years will show in which direction it is going to go. I believe that the most important part of Nordic official co-operation is that it provides a framework for members of government, parliamentarians and civil servants from the Nordic countries to meet and discuss any matter that is causing them concern. In this way contacts are made that can be used for concrete co-operation in daily life. There is an agenda, of course, but the relaxed atmosphere, and the opportunity to

meet in a social setting, provide ample opportunity to discuss matters in a friendly, informal way. Furthermore, it facilitates spontaneous contacts on the phone in between meetings, as necessary.

We may not agree or reach big solutions—but the mere fact that we can meet, talk, and in this way become aware of our different and potential conflicts, is a means to dismantle what might otherwise become an unpleasant surprise. Maybe a lesson can be learnt from this.

Nordic Co-operation on the Environment

*Harald Rensvik**

Introduction

Nordic environmental co-operation was introduced in 1974 through the Nordic Convention on Environmental Protection. Through the years, Nordic co-operation has undergone changes according to the political changes within the European Union (EU) and in the Nordic countries' affiliation with it. Environmental protection is a prioritised area under the Nordic Council of Ministers, and a large array of forums and working groups have been established. The ministers of environment meet three times a year, while a Senior Officials Committee for the Environment meets with similar frequency. The ministers of environment have established five permanent working groups and an increasing number of cross-sectoral initiatives. Both the work in the permanent working groups and the work in cross-sectoral joint-working groups responds to the strategy developed in a process between the different groups and through a dialogue between officials and politicians. The total budget for the environment sector is around 40 million Danish krone (equivalent to \$6.2 million). There are in addition the Nefco and NIB, two Nordic institutions for financing environmental protection investments in the areas adjacent to the Nordic countries.

The permanent working groups

The Nordic Working Groups cover a wide spectrum of themes and activities, from the more 'apparent' and traditionally Nordic, to the more outward-looking related to developments within the EU and to the areas adjacent to the Nordic countries.

The working groups cover the following issues:

- nature conservation and outdoor recreation;
- environmental monitoring and data;
- marine environment and air pollution;

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- cleaner technology; and
- chemicals.

Nordic strategy for the environment

The overriding strategy focuses on:

- environmental issues of common concern to the Nordic countries;
- the gradual incorporation of environmental considerations in other policy areas;
- regional environmental challenges;
- the Arctic region;
- the EU's environment policy, including the European Economic Area (EEA) agreement; and
- Nordic co-ordination and co-operation in relation to other international and global processes.

Nordic co-operation aims at the highest possible level of achievement. This means that the country with the highest level of achievement in a given matter becomes the parameter by which the other countries assess themselves. The successes of one country can thereby act as a lever for stronger action in adjacent and other countries. Nordic co-operation is founded on the generally accepted principles of environmental protection as embodied in the terms 'sustainable development', 'the precautionary principle', the 'polluter pays' principle, the 'cradle to grave' principle, sector responsibility, and the environmentally adapted development of society.

Current issues in the permanent working groups

As indicated above, the permanent working groups under the Nordic Strategy for the Environment cover a wide spectrum of themes and activities. The working groups' activities and focus can be summarised by the key themes given below.

The Working Group for Nature and Outdoor Recreation

The group's mandate and priority projects include biological diversity, landscape protection, conservation of cultural sites and the Arctic.

The Working Group for Environmental Monitoring and Data

Areas of work include developing methods and principles for monitoring and using environmental data, the development and use of environmental indicators, and state of the environment reporting. The work is largely long term, and will result in the development of strategic instruments to be applied in the different countries.

The Marine Environment and Air Pollution Group

The Marine Environment and Air Pollution Group focuses on contributing to an optimal state of the atmospheric and marine environment through the ongoing processes in the EU, regional conventions and action plans. Through projects and other activities, the working group assembles background material to help strengthen Nordic interests in various international forums.

The Working Group for Products and Waste

In 1999 the group gave priority to the further development of sustainable production and consumption, cleaner technology, environmental management, waste and recycling. The focus is primarily on product-oriented life-cycle measures to reduce the environmental impact of production by decreasing and/or eliminating the presence of dangerous substances in products and waste. This area was also given a high priority in the group's co-operation with the economic and consumer sectors.

The Working Group for Chemicals

The Working Group for Chemicals focuses on international co-operation, in particular the work of the European Commission. The group concentrates on activities in areas where new policies or regulations are under development. The group's work is mainly focused on raising the standards in the ongoing work on chemicals within the EU.

Environmental impact descriptions

The main purpose of this work is to contribute to the development of environmental impact assessment as an instrument for analysis, planning and decision-making in a Nordic and international context.

Cross-sectoral environmental efforts

The Nordic Strategy for the Environment 1996–2000 puts emphasis on cross-sectoral co-operation, based on the recognition that the promotion of sector integration and increased environmental awareness in all sectors is essential to sustainable development.

The Strategy for Sustainable Development in the Nordic Region

The Nordic prime ministers initiated the preparation of this cross-sectional

strategy at the 50th session of the Nordic Council in November 1998. In a declaration from this session, the prime ministers set out 11 objectives to provide guidance for the sustainable development of the Nordic countries and the adjacent areas in the next 20 years. The strategy is based on areas of common interest to the Nordic countries, and where Nordic co-operation creates added value in relation to other national and international processes. The EU's Amsterdam Treaty of 1997 and the conclusions from the meetings of the European Council in Cardiff in 1998 and in Helsinki in 1999 regarding the integration of environmental concerns into sectoral policy are important elements in the strategy. Emphasis will be placed on further development of co-operation with the areas adjacent to the Nordic countries, based upon the ongoing environmental co-operation in the Barents region, the Arctic and the Baltic region.

The Joint Steering Group on Energy and Environment

The group, which consists of representatives from the energy and environment sectors, co-operates on issues relevant to the climate change negotiations and the promotion of sustainable production and consumption of energy.

The Joint Working Group on Economy and the Environment

This group consists of representatives of the environment and financial sectors respectively. The purpose of the group is to provide a network of environmental-economic expertise in the Nordic countries, with emphasis upon the exchange of ideas and experience related to the use of financial instruments.

The Joint Working Group on Consumption and Environment

The group's main areas of activity include consumer aspects of sustainable consumption, the development of functional thinking and positive eco-labelling. In 1999/2000 the group undertook an evaluation of the Nordic eco-labelling system, *Svanemerket*. Based on this evaluation, measures to strengthen and improve the eco-labelling system will be undertaken.

Co-operation between the environment and culture sectors

The Steering Group for the Follow-up of the Nordic Strategy for Environment and Fisheries

The Nordic Strategy for Environment and Fisheries has been developed in

collaboration with the fisheries authorities to better integrate environmental concerns into the fisheries sector, and to safeguard the biological diversity of the maritime environment through sustainable harvesting practices.

Steering Group for the Follow-up of the Nordic Environment Strategy for Agriculture and Forestry

A Nordic Environment Strategy for Agriculture and Forestry 2001–04 is under preparation, based upon the experience gained from, and evaluation of, the previous strategy for 1996–99. The scope of the strategy is to strengthen the integration of environmental concerns in agriculture, forestry and reindeer husbandry, and to lay the foundation for further co-operation between the sectors.

Financing facilities

Due to difficulties associated with environmental projects in adjacent areas, the Nordic Ministers of Environment have increased their focus on how the environmental challenges in these areas may be met. The main Nordic institutions to operate in this area are Nefco and NIB, which offer grants and loans respectively. Nefco is a multilateral financial institution, which participates as a risk capital financier in environmental investment projects. The purpose of Nefco is to improve the environmental situation in Central and Eastern Europe, with positive effects also for the Nordic region. Projects should be both ecologically and economically sound. The ministers of environment have doubled Nefco's capital stock, from 40 to 80 million ecu. A new soft financing facility under Nefco for environment projects was established in 1996. Based upon an evaluation of Nefco's soft-loan facility, a decision to continue until the end of 2003 has been made.

Concluding remarks

Nordic co-operation is well established on a variety of issues, and provides an opportunity for Nordic countries to develop new policies and 'calibrate' views with others. The institutional set-up provides an infrastructure that allows for broad and regular communication at all levels.

Within the environmental sector the Nordic countries together have achieved much more than they could have achieved on their own. The tangible results on for example acidification, which has been a major threat, were only achievable through joint and concerted efforts.

To arrive at practical and sometimes regional solutions this kind of co-operation has proven to be very adequate. Future environmental challenges, where we will need to integrate environment, trade and economic development much more consistently, will require this kind of close co-operation. Without such detailed co-operation we

would be less well-off with regard to keeping a grip on the connection between the fine words spoken in international conventions and the practical solutions that need to be made on the ground.

The Role of the Media: More Courageous Editors and Media Owners Needed

*Christina Jutterström**

Introduction

The reason I have been asked to talk in this workshop, I believe, is that I have been a political reporter on Swedish radio and TV for many years, covering, among other things, political life in the Nordic region. I was the editor-in-chief for the biggest Swedish morning paper, *Dagens Nyheter*, for many years, followed by a short period trying unsuccessfully to save an evening paper. Having been a permanent Africa-correspondent during the seventies (although not allowed to enter South Africa) I remained interested in this continent. Now—at the age of 60—I am working on my dissertation at the University of Gothenburg on the subject of editorial leadership. This I am doing after a period spent as a visiting professor in journalism, during which for some years I had the privilege of meeting the next generation of journalists. Sometimes they make me very hopeful for the future of journalism; sometimes they make me worried.

I would like to stress the importance of education and training in journalism. Being a journalist these days is a demanding and responsible profession. Even if we are living in a global world, education and further training for journalism should be provided on a national basis. Journalists mainly work for a local public: we should use our best journalists as teachers, and pay them well. African countries could ask for financial resources for this purpose abroad.

I am not here trying to be a new colonialist who wants to impose a Swedish approach to journalism on Africa. I can only tell you my views and my reflections on the journalism of today and for the future, seen from a regional (Nordic) perspective.

The Nordic countries have, since 1950, enjoyed a regional collaboration on a political level, the Nordic Council. It is a council consisting of Nordic parliamentarians, but without the right to make decisions. They can only make recommendations to their governments. This institution and the national political institutions have achieved common Nordic legislation on a free labour market, free

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movement within the Nordic states (no passports needed), and free admission to higher education. This Nordic Council meets once a year in a general assembly, where ministers and parliamentarians discuss and decide on recommendations. The assemblies are useful not only for the parliamentarians but also for journalists, who have the opportunity to meet ministers and parliamentarians on a more informal basis to garner news and backgrounds. But journalists can also undertake investigative reporting in connection with the assemblies. During the 1970s, when I was a very active TV news reporter commenting on these assemblies, the news desk staff and I once decided to find out how much the extravagant dinners held in the evenings for the assembly cost the taxpayers. We reported that they cost a great deal of money, and added pictures from those dinners, populated by not quite sober ministers and members of parliament. Those luxurious dinners disappeared from the assemblies. Why? Because the media made them visible to a large proportion of the citizens. Parliamentarians did not want to defend that kind of behaviour. I think I would be prepared to write the same report in a similar situation today.

Criteria for news reporting

In the Nordic countries serious journalists agree on three special tasks for news reporters: to inform the public on what is important and relevant to it; to analyse and comment on these events in such a way as to assist people in evaluating the content of the news; and to investigate those in power, whether they are politicians, businessmen or civil servants with special power, and report the findings.

Democracy in crisis

The Nordic countries have comparatively new democracies. What we have in common with other countries in the world are different degrees of crisis in our democratic systems. I am not trying to describe these crises in detail, but there are worldwide surveys being done that give us some figures to describe the situation. Many of them are published in a useful book called *Critical citizens*, edited by Pippa Norris. Questions asked in these surveys mainly deal with citizens' confidence in different political institutions. When questions are asked concerning willingness to fight for one's country and national pride, the support from citizens is high. The same applies to people's support for democracy as an ideal form of government. But when it comes to confidence in parliament and government, support expressed today is low. The lowest confidence in political institutions is expressed by the Americans. South Africans still have comparatively high confidence; Swedes are in the middle. The figures go from the lowest 25% in the United States to 54% for South Africans.

I wonder what the answer would be if the survey was done today in Zimbabwe.

If we accept that democracy is in a crisis, what does this crisis consist of? Do we have anything in common in the northern and southern parts of the globe? I think so. Democracy has been described theoretically in different ways. I choose this

definition: democracy is a way of governing a nation where power goes from citizens via elections to parliament and government. This means that citizens (voters) have the right to be informed about subjects important for the development of society. The base for democracy emanates from the citizens, a fact which politicians as well as journalists tend to forget. As a result, many politicians have developed into an elite with little direct contact with voters. (Voting turnout is in decline almost all over the world.)

Media and democracy

The reason why I am paying such attention to democracy is that media and journalists and what they do play an increasingly important role in the development of democracies. In my opinion active journalists and their editors seldom think of this or discuss it.

Originally a journalist was an ordinary citizen, standing down on the floor watching, listening to the man in power on the stage and listening to the audience. Today things have changed. Most of the journalists are sitting on the same stage, so to speak, as those in power, living in the same areas, eating the same kind of food, participating in the same parties. They are part of the elite. Very few journalists react against this phenomenon; most of them want to stay in this safe and pleasant area.

What does this mean for the content of journalism and news reporting? First of all: what is reported is too often seen from the stage of power and from an elite point of view. Instead of moving around in housing areas, and in the countryside, talking and listening to citizens, and looking at their living conditions, journalists are more and more inclined to stay in their offices, using their computers and the Internet as their source of information. Many journalists and their editors think that there is enough information in there and forget about any reality outside the computers.

This situation, of course with its exceptions, is approximately the same in all countries where the media are independent and free. This means that in this region (Africa) many journalists don't work under those conditions, which of course makes it difficult to give independent information, to investigate, to comment on what is going on in your societies. I regret this and I do respect those who try to report as freely and independently as possible under difficult conditions. However, this very lack of freedom inculcates journalistic values which should be encouraged in countries where the press is more independent nominally.

More independent media are needed, free of governmental steering. All parts of society will gain from that. But there is one, very important, condition: editors and reporters have to realise that independence also entails a great deal of knowledge and responsibility, in the sense of being a solid part of a functioning society. Part of the Western type of journalism is definitely not of that kind. Personalities are more important than facts, urgent commentaries from politicians are more highly rated than backgrounds and contexts, not to mention the enormous amount of reporting on crimes, coming from one source—the police. Using a Northern European perspective on media, I believe that the role and responsibility of media should be

built on what a citizen needs to know to take an active part in society, during and between elections. It does not matter whether these citizens live in Sweden or Zimbabwe.

Who decides what the news is?

Who decides what people need to know? Who decides what kind of information and knowledge media should deal with? There is no simple reply because it is a complex question whose answer also depends on whether you have a free press or not. I can only talk from a free press point of view.

Basically, if the press is really free, then it decides what will be published, in a paper, on radio, or on television. No one from the outside should have the power to censor that beforehand. In Sweden this is one of the rules that has been written into the constitution since 1776. No outside power can decide what should or should not be published.

Public journalism

Let us return to public journalism. In this field, who decides what news should be reported? There are of course decisions made from time to time, mainly by political institutions, as to what *they* think is worth being reported in the media. But it is more important than ever before for a news desk to question whether this is of interest to the broader public. If it is, report on it! And do it with background and a context which make people understand why it has been reported. This daily careful consideration is needed, because the volume of information today is immense and public relations-people are working everywhere—for governments, for companies, for associations and institutions. Their role is to sell a message or a product to media, while the role of journalists is to find out what is of importance and relevance to the broader public among all this information.

Investigative reporting, and dealing with politicians and other people in power is of course an important part of journalism in this region. In Sweden this is, by the way, more easy to do than in most other countries. We have our *principle of public access to official records*, which means that almost all municipal and governmental documentation concerning legislation is available to all of us. The same goes for all mail coming in. This is a law I recommend that every parliamentarian implement.

A good investigative reporter can find out a lot even without the assistance of such laws. Investigative reports on how the Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (Comesa) use their time, money and people would provide excellent regional examples for this type of journalism. Sometimes media could undertake investigative reporting in co-operation between two or more papers or television and radio channels from the same or different countries in the region. Subjects of interest I can think of are comparing education, unemployment, child labour practices, working environments and land

redistribution in different SADC member countries. What I would like to see the media do today is to send out reporters to organise meetings with people close to their places of work or in their housing areas, and to talk to them about what is of importance and interest to them instead of for example ordering and publishing polls. Discuss what has been heard and learnt, and write articles on it. This is what is called public or civic journalism. It is an active and constructive form of journalism, and could be looked upon as one way of promoting democracy. Furthermore, it gives citizens the opportunity to take part in political agenda setting.

Access to the media

The question of how to be a well-informed citizen is of course not a problem for highly educated people in the Southern African region. They always find ways to inform themselves. It is rather a question of how to offer the broad, less educated part of the population improved opportunities to get high quality news and commentaries upon which to build their own opinions. One problem is of course the distribution of news. Radio, we all know, is the easiest, cheapest and most commonly used way, but if there was a way of getting more people to read the newspapers, it could even mean a way to practise reading skills.

It is commonplace that independent papers with a reasonable level of news reporting are proliferating in developed countries like mine and many other countries in Europe. I would like to see one of these successful European media companies attempting to sell a quality newspaper in one of the South African townships in collaboration with a South African entrepreneur, who could combine this enterprise with establishing cybercafés, mainly for young people. They would probably lose money in the beginning but in the longer run they, together with readers, may turn out to be winners.

In summary, I would like to tie these sprawling strings together. What I would like to see is: national education and further training for journalists; public journalism; information emanating from those in power; and independent editorial commentaries and investigative reporting that can make the role of the media useful to the democratic process in a regional political collaboration. This can occur provided that powerful media people also demonstrate responsibility and knowledge, and provided media owners—states or private companies—give the editorial departments the necessary freedom and resources. I doubt the private owners will do that today, when profit and not public journalism seems to head their list of priorities.

In the end I feel a bit pessimistic about the chances of our having high quality journalism in the future—in Sweden as well as in Africa. The orientation of owners towards high profits and against press independence militates against responsible journalism. More critical and knowledgeable journalists are definitely needed, as are courageous media investors who are prepared to risk a mite of their capital in Southern Africa.