

the transition to democracy. General Galtieri stepped down and called for elections. On October 30, 1983, the Radical Civic Union (UCR)'s candidate, Raúl Alfonsín, won the presidential election and opened a new democratic era in the worst imaginable economic conditions. The 1982 Mexican debt default was having a snow-ball effect on the whole continent, especially in Argentina where the financial situation was already fragile. The debt crisis would hinder any attempt to implement redistributive policies in order to offset the important drop in the working class's purchasing power that resulted from years of pro-market policies. Alfonsín had the example of Spain in mind when he thought of a kind of "Moncloa Pact"²² to moderate the Unions' claims for wages to increase and to promote a general reconciliation agreement, but he was unable to control the inflation and faced thirteen general strikes during his six year term. Furthermore, as far as human rights are concerned, Alfonsín faced a Catch 22 situation. On one hand he had to meet the demands for justice expressed by the families of the 30,000 missing persons, but on the other he had to be careful not to seek vengeance. The Armed Forces were firmly opposed to any kind of lawsuit, and when the trials did start they twice tried to seize power in 1987 and 1988.

By contrast, the Brazilian military forces that came to power in 1964 began to plan their return to the barracks as early as 1974. The Brazilian transition is a long story with no dramatic events comparable to the Falklands War. The incremental evolution toward democracy is punctuated by a series of electoral reforms designed to consolidate the military political party's control over the political system. Yet these maneuvers could not prevent the opposition from growing and gaining political space, and the Generals could only negotiate the "ticket" that would win the indirect presidential elections of January 5, 1985. As regards economic growth, the authoritarian regime's balance is quite impressive. Brazil's economy grew fast during the 1960s and 1970s, and the debt crisis only hit the country late in 1982–1983. The only element of uncertainty that plagued the process of transition was the death of elected president Tancredo Neves before he took office. Vice President José Sarney, who assumed the presidency, did not have the same credibility or the same legitimacy, as he was the politician imposed by the armed forces to balance the presidential ticket and neutralize Neves, the opposition leader.

Argentina and Brazil did not have many democratic periods during the twentieth century, and few analysts dared betting on democracy's chances of being consolidated this time around. Alfonsín was in a

very fragile position and he clearly articulated his foreign policy with domestic political preoccupations in mind. As Alfonsín's foreign minister, Dante Caputo once said, "our foreign policy is articulated so as to strengthen our democratic system."²³ For that purpose, he also had the Spanish example in mind. In December 1984 Alfonsín invited Brazilian presidential candidate Tancredo Neves for a first round of talks on how to defend democracy. According to a witness of that period, "strengthening of democracy was an issue raised in every conversation. One idea that merged from these talks was that of creating what could be called a network of protection for democracy in Latin America. What had to be done was to create a device not to resuscitate democracy after its death, but instead to make it stronger when it was being installed."²⁴ The same author recalled a lunch when Neves and Alfonsín talked about the necessity of building a network of defense for democracy.

Another Argentine witness remembers that "we always had this parallel between the EEC role and its influence upon the democratization of Southern Europe in mind." And he added, "we believed that the creation of a political and economic community between Argentina and Brazil could play the same role: a cooperative binational regime would contribute to the elimination of the risk that our respective states eventually return to the hands of the military."²⁵

In a way, these conversations can be considered the birth act of MERCOSUR. The next year, on November 29–30, 1985, Brazilian and Argentine presidents, Sarney and Alfonsín, held a historical bilateral meeting in Foz de Iguazú, on the triple border between Argentina, Brazil and Paraguay. The purpose of the meeting was threefold. The two presidents inaugurated a bridge between the two countries, symbolically called Tancredo Neves, and signed two joint declarations.

These joint declarations are by all means important founding documents, as they put the relationships between the two countries on a new track and launched an increase in the level of bilateral interaction. Until then, Argentina and Brazil had not been the best of friends, to say the least. Taking a quick look at a map is enough to realize that for Brazil, the only country a military attack could come from was Argentina. As for the latter, the giant northern neighbor had always represented a potential threat. Both countries had a long history of rivalry and even went to war during the years 1825–1828. Beginning in the 1950s, the two countries engaged in a race to develop nuclear technology, and in the 1970s, the military regimes clashed about the administration of the great Paraná River.

At the end of the 1970s, the tensions between the two countries were eased by the signing in 1979 of a Treaty establishing a framework for managing their energy and water disputes. In May 1980, the two military rulers, the Brazilian Figueredo and his Argentine counterpart Videla, signed an Agreement on Cooperation for the Development and Application of the Peaceful Uses of Nuclear Energy.

Then the new political climate at the beginning of the 1980s opened a new era of democratic solidarity. Even prior to their democratic transitions, the two countries developed a new sense of solidarity as they resented the “arrogance” of NATO countries during the Falklands War. This experience also brought out a diplomatic collaboration and indirectly intensified trade relations. The Brazilian embassy in London secured the representation of Argentina’s interests after the breaking of diplomatic relations between the two enemies of the war, and Brazil became Argentina’s destination for some exports after the EEC imposed trade sanctions.

Going back to the 1985 Declarations signed in Iguazú by Sarney and Alfonsín, the first one was a Nuclear Policy Joint Declaration. This Declaration allowed the two countries to make a giant step in the direction of fostering mutual confidence and building a “security community.” The Declaration stressed the exclusively peaceful use of nuclear energy and installed a joint working group. By the same token, this Declaration delegitimized the hypothesis of conflict so often used by the Armed forces to enforce their doctrine of national security.

The other important declaration, often called Declaration of Iguazú, was on economic development and consolidation of democracy. Interestingly enough, this Declaration inaugurated a circular type of thinking about democracy, development, and regional integration.

Point 9 of the Declaration stated that the two countries are trying “to find lasting solutions that will allow the governments to dedicate themselves to the primordial task of providing welfare and development for the people, and in doing so, contributing to the consolidation of democracy.” Then in the last point, the presidents “reaffirm with emphasis that the process of democratization the Continent is going through will allow a larger convergence and integration between the peoples of the region.” In other words, the presidents considered regional integration as an instrument of economic development, an argument typically put forth by CEPAL, and also, development as an instrument of democratic consolidation. Democracy, in turn, was supposed to strengthen regional integration.

Between 1986 and 1990, this circular logic was at work in many other joint declarations. Presidents Alfonsín and Sarney met four times between December 1986 and November 1988, and when Uruguay joined Brazil and Argentina in the discussion, it did not bring about any changes. Uruguay returned to democracy in 1985 after a period of nine years of authoritarianism and, although this country has a genuine tradition of democratic stability, it shared its neighbors' will to defend democracy in the region.

Consider the Argentine-Uruguayan Declaration issued on May 26, 1987, along with the signing of the Act of Montevideo. In its Second Point, it reads: "this process of integration... is the basic condition of our economic and social development possibilities, being closely associated with democratic institutionalization, without which it would fail, as it has so many times in the past."²⁶ The Declaration also mentioned the presidents' intention to implement a "policy of democratic solidarity" and it considered democratization as a necessary condition for regional integration, while regional integration was presented as an instrument of development that would ensure the consolidation of democracy.

The circular logic of integration, development, and democracy is in a way reminiscent of CEPAL's conception of regional integration, as it goes beyond free trade. I will discuss in more details in chapter seven the methodology of integration that characterizes the agreements signed by Argentina and Brazil between 1986 and 1990. They clearly had a CEPAL touch, as they insisted on integrated development projects, sectoral cooperation, macro-economic policy coordination, elimination of asymmetries, etc. Yet, they added a new dimension with the ultimate ambition of democratic consolidation.

At the end of the 1980s and the beginning of the 1990s, the region experienced a deep political change, as new political forces won the presidential elections simultaneously in three countries. The years 1989–1991 marked a critical juncture heralding a sweeping neoliberal turn in the region. Argentine Peronist Carlos Menem took office on December 10, 1989, followed by Uruguayan Luis Alberto Lacalle (National Party) on March 1, 1990 and Brazilian Fernando Collor on March 15, 1990.

Other countries in the region completed their transition to democracy. In Paraguay, which had recently joined the discussions to integrate a free trade agreement, a military coup on February 3, 1989, put an end to General Stroessner's firm control of power, effective since 1954. On May 1, 1989, the Colorado Party's candidate and author of

the coup, General Rodríguez won the election. In Chile, Pinochet's defeat in the October 5, 1988, referendum paved the way for the transition. On December 14, 1989, Christian Democrat candidate Patricio Aylwin won the first free elections since 1970. The environment was thus much less hostile to democracy in 1991 than it had been five or six years before, and the preoccupation for the construction of a network of democratic solidarity simply faded away.

It should be added that, as we will see in chapter nine, the United States launched on June 27, 1990, the Enterprise for the Americas Initiative (EAI), signaling a new will to put Inter-American relations on a new path, centered on free trade.

These three sets of reasons (neoliberal turn, regional diffusion of democracy, and the EAI) explain why the Asunción Treaty, signed on March 26, 1991, no longer shows any interest for the defense of democracy. The word "democracy" does not appear once in the Treaty for the Constitution of a Common Market between Argentina, Brazil, Paraguay, and Uruguay. The Treaty mentions that "the integration constitutes a fundamental condition for the acceleration of the processes of economic development with social justice" or "its political will to establish the basis for an union every time narrower between its people," but the link between regional integration and democracy has disappeared. On December 17, 1994, the Ouro Preto Protocol that gave MERCOSUR its definitive institutions did not mention democracy either.

Yet, interestingly enough, MERCOSUR's concern with democracy soon resurfaced. On April 22, 1996, a coup attempt in Paraguay seriously challenged the regional integration process. General Lino Oviedo refused to abide by President Wasmosy's decision to relieve him of his duties. The details of the April crisis have been recounted by several scholars.²⁷ Suffice it to say that this coup attempt triggered a unanimous and vigorous reaction of rejection among the MERCOSUR partners and other countries such as the United States. At one point during the crisis, President Wasmosy spent a night at the U.S. Embassy, technically as a refugee. Eventually, President Wasmosy would decide to nominate Oviedo, minister of defense, a move immediately questioned by young students in the streets of Asunción. He finally changed his mind and Oviedo was sentenced to ten years by a military court. Two years later though, recently elected president Cubas decided to commute his sentence and set him free. In March 1999, Vice President Argaña was killed and Oviedo was seriously suspected of having masterminded the operation. He and President Cubas took refuge in Brazil. On May 18,

2000 some of the militaries loyal to Oviedo tried to seize power, a move again energetically condemned by the international community.

During both crises, several actors expressed their frustration and threatened sanctions. Among them were President Cardoso from Brazil and international organizations such as the OAS, the UN, and the EU.²⁸ The April 1996 crisis occurred at a time when the MERCOSUR met success. Due to monetary stability and tariff reductions, intraregional trade increased from US\$5 billion in 1991 to US\$11.9 billion in 1994 and the ratio of intraregional export to total export jumped from 11.1% to 19.25%. Paraguay was already very dependent on its neighbors, but MERCOSUR deepened its dependency as its exports toward MERCOSUR increased from 35% of its total exports to 47% between 1991 and 1994, out of which 37% went to Brazil alone. Many observers have incautiously concluded that Paraguay had turned Brazil dependent, equating commercial ties with political leverage. This relationship has received wide attention in the literature, both theoretical and empirical. In the case of Paraguay, a fact has to be taken into account. This country's economy has always depended much more on smuggling than on regular trade, weakening the potential political influence of Paraguay's major trade partners.

In any case, as Strömberg concludes, "it is impossible to separate the influence of global actors from that of regional actors in the April crisis. The close coordination between MERCOSUR and global actors throughout the crisis suggests that it was the totality of external forces that halted the crisis."²⁹ Concerning one of the external actors, Boniface adds that "in this new democratic era, the OAS has clearly played a significant role in signaling support for democracy to domestic actors."³⁰

There was at that time a genuine convergence of preferences benefiting democracy all over the continent and a subsequent politics of tying hands through agreements.

For MERCOSUR members it was time to go back to their initial intention of consolidating democracy. Argentina had already introduced democratic conditionality in its external relations. Fournier recalled the "Alfonsín administration's insistence on reshaping Argentina's relations with Western European countries, specifically in its successful attempts to incorporate cancellation clauses in cooperation treaties concluded with Spain in 1987 and Italy in 1988 to counter the possibility of a democratic interruption."³¹

The Paraguayan April crisis allowed MERCOSUR to upgrade its level of politicization. Two months after the crisis, the MERCOSUR

presidents issued on June 25, 1996 in San Luis (Argentina) a Presidential Declaration on Democratic Commitment, and went on signing the Ushuaia Protocol on Democratic Commitment on July 24, 1998 (table 3.1).³²

This Protocol imposed a democratic clause upon the MERCOSUR members and as such represents a milestone in the history of Latin American integration. For the first time a group of Latin American countries tied their hands in the realm of political regime.³³ Following MERCOSUR's example, the end of the 1990s witnessed a diffusion of democratic clauses in the rest of the continent.

In the Andean region, differences of political regimes had been responsible for the initial depoliticization of the integration process. The 1979 Treaty establishing the Andean Parliament was the first one to introduce an obligation for its members to hold free elections, but as previously mentioned, it took a long time before it was enforced. The following year, the Andean presidents signed a "Code of Conduct," establishing the democratic nature of the region's political systems.

On May 26, 1989, celebrating the twentieth anniversary of the Cartagena Agreement's signing, and probably a bit impressed by the February 27, 1989 "Caracazo,"³⁴ the presidents issued in the same city of Cartagena a Manifesto positing in its second article that: "The democratic system constitutes the indestructible norm, the way of life and the correct instrument to preserve peace, achieve development and social justice, grant full respect of human rights and drive cooperation and integration between our peoples."³⁵

During the 1990s, the authoritarian drift of Peruvian president Fujimori made it difficult for the integration process to remain on this path. Nonetheless, on August 7, 1998, a few days after MERCOSUR's Ushuaia summit, the Andean presidents adopted a Declaration on Democracy and Integration, establishing that "the Andean Community is a community of democratic nations." They went on to convert this Declaration into a Protocol on October 17, 1998 (table 3.2).³⁶ The English translations provided in tables 3.1 and 3.2 do not allow us to perceive the similarity between the two Protocols. For instance, they both use the expression "democratic breakdown" (*ruptura del orden democrático*) and both program the same range of measures in reaction to it. There is a slight difference though. The CAN, among other measures, intends to punish a recalcitrant Member State by a "disqualification by Andean financial institutions from obtaining access to facilities or loans." MERCOSUR had not yet reached this level of integration. Two years later, during a meeting between MERCOSUR and CAN,

held in Brasilia on September 1, 2000, the presidents approved a communiqué including a South American democratic clause.

In the rest of the continent, it could be mentioned that the reactivation of Central America's integration went hand in hand with the democratization of the isthmus. It is no wonder, then, that the new treaties signed in the 1990s all stressed the importance of democratic consolidation. The Central American Integration System (SICA) created on October 28, 1991, aimed at transforming Central America into a "region of peace, freedom, democracy and development." The Treaty on Democratic Security in Central America, signed on December 15, 1995, reaffirms the "commitment to democracy, based on a government of laws and the guarantee of basic freedoms, economic freedom, social justice, and the strengthening of a community of democratic values among the countries." Nonetheless, Central America did not adopt a Protocol similar to the ones of MERCOSUR and CAN, nor did the Caribbeans.

The collective defense of democracy then turned hemispherical when the April 2001 Québec Summit of the Americas adopted a democratic clause. Prior to that, the OAS had adopted, during its twenty-first General Assembly held in Santiago, Chile, on June 4–5, 1991, a "Commitment to Democracy" and a Resolution (1080) inviting the secretary general "to call for the immediate convocation of a meeting of the Permanent Council in the event of any occurrences giving rise to the sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by the democratically elected government of any of the organization's member states, in order, within the framework of the Charter, to examine the situation, decide on and convene an ad hoc meeting of the ministers of foreign affairs, or a special session of the General Assembly, all of which must take place within a ten-day period." Two important Protocols adopted in Washington (December 14, 1992) and Managua (June 10, 1993) would follow.

For the OAS it was nothing new, as the original 1948 Charter included a democratic clause. Nevertheless, the cold war made it impossible to use for decades. A new Charter entered into force on September 25, 1997, focusing on the promotion and defense of democracy. The new 1997 Charter even includes a chapter (7) on "integral development" that can be read as a wide array of elements characterizing the quality of democracy. Then, on September 11, 2001, the OAS adopted the Inter-American Democratic Charter. This new Charter forces OAS members to defend and promote democracy and

includes a democratic clause (table 3.3).³⁷ Using these prerogatives, the OAS twice had the opportunity to flex some muscle; in 2000, with regard to the Peruvian crisis, opposing Fujimori's intention to illegally secure a third election; and later in Venezuela in 2002, when Chávez was briefly ousted. In both cases, the OAS "intervened without intervention" and contributed to a settlement.³⁸

This OAS commitment to democracy obviously strengthens the regional democratic clauses, giving them an assurance of wide support and hence stronger legitimacy.

Is it possible to assess the efficiency of the democratic clauses that have been adopted in the 1990s? Has regional integration contributed to consolidating democracy?

Enforceability obviously depends on the credibility of the retaliatory measures and on the perceived importance of belonging to the Club for each member. As we saw, a threat of ejection is bad news for Paraguay, much more than it would be for Brazil. In the Andes, as mentioned in chapter one, the degree of commercial interdependence is very low, making it doubtful that a member country would ever fear expulsion. Peruvian president Alberto Fujimori never faced any threat of expulsion when he shut down the Congress and revoked the mandates of all the judges, severely putting democracy in jeopardy. True, that happened in 1992, before the CAN adopted its democratic clause. But there are many reasons to doubt it would have been any different at the end of the 1990s. As a matter of fact, between 1991 and 1994 Fujimori decided to withdraw from the Custom Union, but for his own country's convenience. And as we saw, it was the OAS, not CAN, that vigorously reacted to confront crisis situations Peru in 2000 and Venezuela in 2002.

From the preceding developments and taking into account more recent events, two contradictory pictures emerge. On one side, it appears that belonging to a club of democracies can exert some symbolic influence on the members. Beyond commercial interdependence, what seems to be of importance is the normative influence of the rules commonly self-imposed. If this hypothesis holds true, politically relevant actors in a political regime fear the status of pariah more than possible sanctions. Or making projections, they fear reputational costs and loss of business confidence that might in the future divert investments. In that case, regional integration exerts a soft power helping consolidate democracy. In Latin America, regional integration has been successfully instrumentalized during the 1990s to consolidate democracy.

On the other side, the democratic clauses might be outdated by the new political instability that struck the region in the years 2000s, starting with Ecuadorian president Jamil Mahuad being overthrown in January 2000, followed by Fernando de la Rúa in Argentina in December 2001, Gonzalo Sánchez de Lozada in Bolivia in October 2003, Jean-Bertrand Aristide in Haiti in February 2004 and Lucio Gutiérrez again in Ecuador in May 2005. The qualification of these events is not an easy task. None of them has been considered as a case that could fall under the application of a democratic clause, a fact that has remained unnoticed. It could be that the democratic clauses are the late answers to a threat that, for now, has disappeared. Democracy at the beginning of the 2000s is not under any military threat, but is more undermined by its own poor quality. The result can be a democratic regression without breakdown. No integration process in Latin America, as we will see in chapter eight, has a distributive or even allocative dimension, preventing them from coping with the social problems that undermine democracy.

It can, for now, be concluded that regional integration processes have helped stabilize a very often poor-quality and rather unstable type of democracy. This historical task ought to be recognized, yet it raises the question of the existence of another “engine” that sustains the dynamics of integration.³⁹

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PART 3

Design and Development of Institutions

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CHAPTER FOUR

Institutional Isomorphism

What are the main characteristics of Latin American regional integration's institutional arrangements? Are they the product of an initial fully planned construction? Do they derive from successive functional adaptations? Are the operating modes of regional integration reflections of national political institutions' way of functioning? This chapter intends to answer these questions by examining a series of hypotheses concerning the process of institution building.

Most Latin American regional arrangements are usually described in the literature as inefficient, costly, and almost baroque. Although we will address in further details the issue of efficiency in chapter eight, a preliminary step must consist in understanding the way the institutions were conceived and how they evolved.

In the next section we will embark upon a theoretical reflection, followed by empirical and comparative explorations.

Integration and Institutions

Considering first the way institutions appear and develop, three different patterns are theoretically conceivable and indeed also empirically observable.

First, a group of countries or regions can agree on a clear political objective, for instance building a political union, and negotiate the best possible institutional design to achieve it. The case of the United States at the end of the eighteenth century probably best exemplifies such a strategy, and the Federalist Papers are a fascinating document revealing its complexity.

Second, a group of countries can agree on a method aimed at bridging their differences. They might have a distant political horizon, yet they are too busy trying to upgrade their level of interaction to bother thinking of a complex institutional arrangement. Or, they may believe that such an arrangement will be the end product of incremental functional adaptations. That would be the European scenario during the 1950s, masterminded by Jean Monnet and his method of “concrete solidarities.” The European sequence of interdependence—integration—institutionalization has been theorized by a majority of scholars as a benchmark, with slight differences between the neo-functionalists who envision an automatic creation of institutions and the intergovernmentalists who stress the importance of negotiations between member states.

Third and finally, a group of countries can agree on an institutional arrangement without much discussion of its relevance for the region and the type of cooperation they want to initiate. The institutional arrangement can be imported, imitated and more or less adapted, in which case there can be misfits. That would be the Latin American experience with integration, most notably during its first wave in the 1960s. The European example having overwhelmingly captured the attention of a majority of scholars, insufficient attention has been paid to this last scenario.

In addition to this sketchy and very general characterization of patterns of institution building, some distinctions must be brought to light referring to the initial intentions of integration promoters and the types of institution building involved. Regional economic integration has historically led to a great variety of patterns of institutionalization.¹

The lowest degree of integration usually corresponds to an effort geared at facilitating trade among a group of countries. The only institutional requirement of free trade areas is a dispute settlement procedure. As McCall Smith has shown, there can be a great variety of legalism involved in the mechanisms for resolving disputes and enforcing compliance.² He examines five different issues where the degree of legalism is at stake: is there a third-party review of complaints? If so, are the rulings binding? How are the judges chosen? Who can file complaints? In case of violations, are the rulings directly applicable? According to him, “the basic issue is how effectively a given dispute settlement mechanism is able to produce impartial, consistent, and legally binding third-party rulings on any and all alleged treaty violations.”³

McCall Smith provides an interesting linkage politics type of theory to explain the different levels of legalism, based on the “domestic

political trade-off between treaty compliance and policy discretion.”⁴ On one hand, “the threat that legalistic trade dispute settlement poses to the discretion of political leaders is threefold. First, it may constrain their ability to manage the unforeseen cost of adjustment, making it more costly to provide relief or protection to specific groups injured by trade liberalization. Second, it may limit their general policy autonomy across a range of domestic regulations, which it judges against treaty commitments to eliminate non tariff barriers to trade. A third and final consideration is that the delegation of authority to third parties may constrain their ability to pursue trade policy bilaterally, a strategy with distinct political advantages.”⁵ On the other hand, “legalistic dispute settlement improves the value of trade agreements through two principal channels. First, by defining, monitoring, and enforcing compliance, it constrains the opportunistic behavior of foreign governments that are tempted to provide protection to their constituents. Second, as an institutional commitment to policy stability, it promotes the confidence of the private sector, inducing traders and investors to take risks that increase the aggregate benefits of liberalization.”⁶ McCall Smith hypothesizes that countries negotiating a trade pact are more likely to adopt a legalistic dispute settlement mechanism where there is great dependence on intra-pact trade, where there is no asymmetry, and where the depth of integration targeted is ambitious. Some variables are less scrutinized, as he admits, like regime type. He only asserts that “democratic governments may prize policy discretion more than relatively insulated authoritarian leaders.”⁷

Where does Latin America stand? McCall Smith finds that one regional grouping has a low level of legalism (CARICOM), while three have medium ones (MERCOSUR, NAFTA and OECS) and two have very high ones (CAN and MCCA). All in all, Latin America confirms his hypotheses: regional agreements including high levels of asymmetry are not very legalistic (MERCOSUR, NAFTA), whereas the contrary holds true for countries that in addition are ambitious in terms of their level of integration (CAN and MCCA).

The problem with McCall Smith’s analysis is that it is not concerned with implementation or policy outcomes and does not theorize the evolution of the institutions. Nevertheless, his scale of legalism is a pretty reliable predictor of levels of institutionalization.

Another way of distinguishing between the different legal systems put in place by member states of a free trade area is using Duina’s political-institutional explanation.⁸ Duina also links domestic political features and intergovernmental negotiations in order to draw a line between

minimalist trade agreements gathering countries with preexisting traditions of common law, and interventionist trade agreements with member states of civil law traditions. In addition to the preexisting legal context, he also takes into account the preferences of politically powerful actors to account for the difference between NAFTA and MERCOSUR. The former has “avoided the cognitive standardization of the world” and “have chosen to address cognitive conflicts as they arise,”⁹ while the latter relies on “complex webs of secondary laws rich with definitional and normative notions applicable to a large variety of subject matters.”¹⁰

Duina’s argument that free trade agreements are social endeavors has a great explanatory capacity. Supposedly, the more ambitious a regional integration process is, in terms of its desire to “standardize the world,” the more complex its institutions are going to be or become. Many committees or working groups can progressively be created, as new policy areas are added to the agenda. We will analyze this trend looking at the evolution of the least institutionalized, although not least ambitious Latin American regional integration process, namely MERCOSUR.

McCall Smith and Duina, each one with a specific emphasis, interestingly relate regional integration features to domestic politics. In this chapter, I intend to push a little further this “linkage politics” approach, testing the hypothesis that regional institutional arrangements are projections of domestic institutions. In other words, integration promoters tend to build regional institutions that basically do not look too unfamiliar. And if they do so, they will allow politically relevant actors in the integration process to model the institutions in such a way so that they can feel familiar with the outcome.

The theory of institutional isomorphism provides a fairly good base to start with. True, in their seminal piece of work, DiMaggio and Powell are not concerned with international organizations, even less with the way regional arrangements can mirror national institutions.¹¹

Nonetheless, the three mechanisms of isomorphic change they identify are useful tools to advance in our understanding of Latin American regional institutional arrangements (table 4.1).

Considering the two waves of regionalism in Latin America, and the institutional arrangements that we will describe in more details in the next section, we find illustrations of coercitive, mimetic, and normative isomorphisms. There is a coercitive isomorphism when the European Union tries to export its model and subordinates the signing of agreements to institutional change. The Andean Community and

Table 4.1 DiMaggio and Powell's three mechanisms of institutional isomorphic change applied to Latin American regional institutional arrangements

<i>Mechanisms of Isomorphic Change</i>	<i>Definition</i>	<i>Illustrations in Latin America</i>
Coercitive	“Formal and informal pressures exerted on organizations by other organizations upon which they are dependent and by cultural expectations in the society within which organizations function.”	Pressures by the European Union on the Andean Community and in Central America in the 1990s and 2000s
Mimetic	“When organizational technologies are poorly understood, when goals are ambiguous, or when the environment creates symbolic uncertainty, organizations may model themselves on other organizations.”	Andean Pact and Central America in the 1960s
Normative	“Stems primarily from professionalization.” “Professionalization as the collective struggle of members of an occupation... to establish a cognitive base and legitimation for their occupational autonomy.”	CEPAL's <i>técnicos</i> during the 1960s

Source: Author's elaboration of Paul DiMaggio and Walter Powell, “The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organization Fields,” *American Sociological Review* 48(2), April 1983, pp.150–152.

Central America in the 2000s fit in this category. There is mimetic isomorphism in context of uncertainty. At the origin of the Andean Pact in 1969, there is definitely a will to imitate the European institutions. And finally, there is a normative isomorphism due to the prominent role played by the CEPAL's *técnicos* during the 1960s.

There is of course considerable scope for discussion on all these points. The European Union's pressures are hard to validate on an empirical basis, although it is difficult to deny that during the 2000s the CAN owes part of its survival to a stubborn European insistence to negotiate with the group on the basis of its common external tariff, against the backdrop of Venezuela's defection and the attraction of alternative free-riding solutions (MERCOSUR, United States' offer of Free-trade agreements).¹² Likewise, it is difficult to prove that there has been imitation. The repertoire of institutional design is limited and there is a global circulation of models that blurs the distinction between exporters and importers. By contrast, the role played by the

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técnicos has been underlined by many scholars.¹³ The three mechanisms are ideal-types. In “real life,” we will be confronted with a particular mix, and subtypes will emerge.

Consider the case of MERCOSUR. At its onset at the beginning of the 1990s, there was a blend of mimetic and normative isomorphisms. Nevertheless, it is a particular type of mimetism that could be called “counter mimetism,” as MERCOSUR’s promoters voluntarily decided to prevent the over bureaucratization of such arrangements as CAN or the high costs of European institutions. Likewise, normative isomorphism does not stem from professionalization but rather rests on the role played by epistemic communities, composed of scholars, foundations, and international organizations.

There is another way to improve the notion of isomorphic change proposed by DiMaggio and Powell. As previously mentioned, regional institutional arrangements can turn out to be projections of domestic institutions, as far as field structures and political practices. The rules of the game and the way to play it at the regional level can derive from rules and practices long internalized at the domestic level by the actors. In that sense, we have to examine both formal and informal constraints.¹⁴ In other words, the features of national formal and informal institutions, or at least the ones of the dominant country, constrain the choices the actors can make when they design regional institutional arrangements. Such an isomorphism could be called domestically inspired.

In Europe, the discussed hypothesis of the federalization of the European Union¹⁵ is an illustration of this domestically inspired isomorphism. The communitarian institutions would be looking more and more like the ones of its dominant member, namely Germany. In Latin America, where there is much less variety of institutions, the intergovernmental presidentialism mirrors the type of institution all countries have adopted.

So far, we have focused on the designing and building of institutions. In addition, much could be said about institutional change. Paul Pierson has rightly invited us to pay more attention to institutional resilience, holding that “there are strong theoretical grounds for holding that institutional resilience in many settings is likely to be considerable.”¹⁶ As a matter of fact, many regional arrangements in Latin America are text-book illustrations of institutional resilience that defy common sense. Nevertheless, the four obstacles to change Pierson considers (coordination problem, veto points, asset specificity, and positive feedback) ought to be supplemented by a fifth one, in order to describe a

situation typified by Philippe Schmitter in 1970, admittedly using an “actor-centered functionalism” type of methodology Pierson criticized. Schmitter described a “zone of indifference,” with many “encapsulated functionalist organizations” surviving, where “socialization effects are confined to a small bureaucratic clique,” mostly “devoted to avoiding change in established procedures” and providing “marginal, but often important, services to their clients.”¹⁷ The cases of the Central American and Andean regions correspond to this description.

Another important feature of Latin American integration is the multiplication of agencies that have to do with the expansion of the policy issues involved in the process. We will discuss that point in the next chapter, but during the “development decade” (1950s), this tendency was also noticed by many scholars studying different countries.¹⁸

In the following sections, I will describe the regional institutional arrangements in two older cases of Latin American integration (Andean and Caribbean regions) and then focus on the case of MERCOSUR. I will then return to some theoretical explanations in terms of isomorphism.

Institutional Luxuriance: Andean and Caribbean Cases

Concerning the first wave of regionalism, I will mainly describe the overall institutional structures of the Andean and Caribbean experiences, leaving the Central American one for the next chapter. Other than Central America, the two oldest integration processes in Latin America experienced very different institutional evolutions. Nevertheless, they and the rest of the groups progressively converged.

The Andean integration process originated in a meeting held in Bogotá on August 16, 1966, between Chilean president Eduardo Frei and his colleagues Carlos Lleras Restrepo and Raúl Leoni from Colombia and Venezuela. Representatives sent by the Ecuadorian and Peruvian presidents also attended the meeting. We will examine in further detail in chapter eight the reasons that motivated the presidents to launch a subregional integration process. In any case, the next year, the Andean idea received wide support. For instance, the “Declaration of the Presidents of America,” signed on April 14, 1967 acknowledged the need to develop subregional integration processes.¹⁹

The Andean common market, established in 1969, had a modest set of institutions.²⁰ The main body was a Commission, composed of representative from the governments, charged with the political

guidance of the process. There was also a Board (Junta), composed of three persons chosen by the Commission, in charge of preparing plans and making recommendations to the Commission and implementing its decisions. The treaty gave the Junta a supranational dimension, as it instructed its members to serve the common interest and forbade them to take instructions from their governments. In addition, there were two advisory bodies, a Consultative Committee (composed of representatives of governments) and an Economic and Social Advisory Committee (composed of three representatives from the business and labor sectors).

As the scope of integration expanded, new institutions were created, but difficult times were compromising the overall project. The 1971 military coup in Bolivia (Banzer), followed by the 1973 one in Chile (Pinochet), deepened the political cleavages in the region. In 1976, Chile decided to leave the Andean Pact, as this country was opting for a different path, espousing the monetarist conceptions of the "Chicago boys." Then the debt crisis hit these already poor countries hard during the 1980s. Depending on foreign assistance, some of them, Bolivia in particular in 1985, were forced to implement very severe adjustment policies, while at the same time Peru was trying some more heterodox solutions. There was no macroeconomic convergence and no regional solidarity at that time.

In addition, the institutions were not functioning well. The supranational dimension, generating a defense of collective interests, never emerged. The turnover of national representatives in the Junta, due to chronic political instability, was simply too frequent. As Askisson puts it, "because the Andean Group had little or no supranational authority, national considerations were placed above regional considerations and many policies that had the potential to generate regional benefits were never implemented. For this reason, the initial successes of the Andean Group were followed by years of ineffectiveness and retarded progress."²¹

In 1987, the group decided to trigger a reactivation of the integration process (Quito Declaration). Two years later, celebrating in the Galapagos Islands the twentieth anniversary of the Cartagena Agreement, the presidents decided to strengthen the political dimension of the Group, institutionalizing the Presidential Council. In 1990, President Bush's Enterprise for the Americas initiative acted like a stimulus, forcing the group to speed up the pace of integration at the risk of it one day being diluted to a hemispherical free trade agreement. In 1991, they decided to shorten the phasing of trade liberalization and

in its sixth meeting (Cartagena, December 3–5, 1991), the Presidential Council asked the Andean Council of Ministers of Foreign Affairs to suggest institutional reforms. The institutional reform was approved five years later, this delay being a consequence of the Peruvian retreat from the Group.

President Fujimori's "autogolpe"²² of April 5, 1992, triggered a negative reaction from his neighbors, but hardly a collective one. Venezuela decided on its own to break its diplomatic relations, while the other countries simply agreed to issue a strong condemnation. Later the same year, Peru decided to withdraw from the Program of Trade Liberation. The rest of the group decided to go on with the opening of a Free Trade Area (effective on January 1993) and the Common External Tariff (effective February 1, 1995). In 1995, the two months war between Peru and Ecuador also had a dramatic effect on Andean integration.

During the eighth meeting of the Presidential Council in Trujillo, Peru (March 10, 1996), the so-called Trujillo Protocol was adopted introducing important changes. The group adopted a new name, the Andean Community (CAN), and its institutional architecture got more complex, with no less than thirteen institutions gathered under the umbrella of an Andean Integration System (SAI): Andean Presidential Council, Andean Council of Foreign Affairs, Commission, General Secretariat, Andean Community Court of Justice, Andean Parliament, Business Consultative Council, Labor Consultative Council, Andean Development Corporation, Latin American Reserve Fund (FLAR), Simón Rodríguez Agreement and other social agreements, Simón Bolívar Andean University, other consultative bodies established by the Commission and other bodies and institutions created in the framework of the Andean integration process.²³ The whole system looked more complex than the European one. The main functions of these bodies are summarized in table 4.2.²⁴

During the 1990s, the region experienced a period of economic growth, yet it is not clear if the institutional reform had anything to do with it.²⁵ What the 1990s have clearly demonstrated, however, is that the institutional reform has not yielded much evolution in terms of supranationality. As compared to the 1960s, there is a clear pattern of concentration of power in the hands of the presidents. Other than that, the decade is characterized by less political instability, yet the Peruvian crisis paralyzed the integration process. Also, it was the prospect of signing a free trade agreement with the United States during the 2000s

that triggered the withdrawal of Venezuela and further undermined the integration dynamics.

The Caribbean integration process followed more or less the same path, with a slight difference though. CARICOM set up a complex institutional arrangement right from its beginnings in 1973 (table 4.3).²⁶ Although, as with the other processes, the Caribbean one was relaunched during the 1990s and, in 2001, the 1973 Treaty of Chaguaramas was revised. A new more complex institutional structure was put in place, with two principal organs (Conference of Heads of Government and the Community Council of Ministers) assisted by four “organs” (Council for Finance and Planning, Council for Trade and Economic Development, Council for Foreign and Community Relations, Council for Human and Social Development), three “bodies” (Legal Affairs Committee, Budget Committee, Committee of Central Bank Governors), and a Secretariat. In addition, the Community has created or recognized a series of institutions or associate institutions, such as the Assembly of Caribbean Community Parliamentarians, the Caribbean Court of Justice, the Caribbean Development Bank, the University of the West Indies, and many agencies of functional cooperation.

MERCOSUR: The Limits of Institutional Modesty

A series of reasons explain why MERCOSUR promoters made the choice of institutional modesty when signing the Asuncion Treaty in 1991. Among them the will of avoiding the cost of European style institutional arrangement and the deadlock of Andean style regional bureaucracy dominated. ALADI also served as an example of what was desirable to prevent. The Montevideo based bureaucratized organization never managed to serve the general interest and make use of its supranational potential to advance the cause of Latin American integration. The Andean Pact and ALADI served as negative examples hence we are dealing with “counter mimetism,” as we explained in the introduction to this chapter.

It is also worth mentioning that the huge asymmetries between the Member States made it very difficult to adopt institutions with a supranational dimension. A gradualist, functionalist and strictly inter-governmental methodology better suited Brazil’s interests.

In its article 9, the Asunción Treaty only posited that: “The administration and implementation of this Treaty, and of any specific agreements or decisions adopted during the transition period within the

legal framework established thereby, shall be entrusted to the following organs: (a) The Council of the Common Market; (b) The Common Market Group.”²⁷ As indicated in table 4.4, the CMC is the highest body, it takes its decisions by consensus. The GMC is the executive one. It can only make resolutions, following the recommendations made by the working groups article 13 of the Treaty gave it the possibility of setting up.

At the end of its transitional period, MERCOSUR adopted on December 17, 1994, the Additional Protocol to the Treaty of Asunción on the Institutional Structure of MERCOSUR, also called Protocol of Ouro Preto (POP). The institutional structure got more complex, with four new bodies (Trade Commission, Joint Parliamentary Commission, Economic-Social Consultative Forum, and Administrative Secretariat) and the functions of both CMC and GMC were more precisely defined. CMC decisions and GMC resolutions are still made by consensus, but they are binding upon the Member States.

Composed of the ministers of foreign affairs and ministers of economy, the CMC is both a decision-making and a legislative body. It “supervises the implementation of the Treaty of Asuncion, its protocols, and agreements signed within its context, formulates policies and promotes the measures necessary to build the common market, assumes the legal personality of MERCOSUR, establishes the organs it considers appropriate, and modifies or abolishes them, appoints the Director of MERCOSUR’s Administrative Secretariat, and adopts financial and budgetary decisions.”²⁸

The GMC is composed of representatives of each state, usually senior officials from the ministries of foreign affairs. Its task is to “monitor, within the limits of its competence, compliance with the Treaty of Asuncion, its Protocols, and agreements signed within its framework, propose draft decisions for the Council of the Common Market, take the measures necessary to enforce the decisions adopted by the Council of the Common Market, establish, modify or abolish organs such as working groups and special meetings for the purpose of achieving its objectives, and supervise the activities of MERCOSUR’s Administrative Secretariat.”

The Trade Commission (CCM) is the third decision-making body. It “monitors the application of the common trade policy instruments both within MERCOSUR and with respect to third countries, international organizations and trade agreements, considers and rules upon the requests submitted by the States Parties in connection with the application of and compliance with the common external tariff and

other instruments of common trade policy, follows up the application of the common trade policy instruments in the States Parties, sets up the technical committees needed for it to perform its duties properly, and directs and supervises their activities." The CCM can also be considered a jurisdictional body as it deals with trade conflicts.

The Protocol of Ouro Preto also created a deliberative body. The Joint Parliamentary Commission's role was to "speed up the corresponding internal procedures in the States Parties in order to ensure the prompt entry into force of the decisions taken by the MERCOSUR organs." As we shall see in chapter six, it was replaced in 2005 by a genuine Parliament. Finally, there is a consultative body, the Economic-Social Forum (FCES) composed of representatives from business and trade unions, and a Secretariat, in charge of keeping "the official archive for MERCOSUR documentation, publishing and circulating the decisions adopted within the framework of MERCOSUR, organizing the logistical aspects of the meetings of the Council of the Common Market, the Common Market Group, and the MERCOSUR Trade Commission and, as far as possible, the other MERCOSUR organs, when those meetings are held at its headquarters"²⁹ (in Montevideo). Two problems emerged from this institutional architecture. One is the enforcement of norms,³⁰ the other is related to conflict resolution.

The Treaty of Asuncion and the Protocol of Ouro Preto lack an equivalent of the European Treaty of Rome's article 189 that clearly distinguishes between decisions that are directly binding and directives that are binding as to the result to be achieved by the Member States. The POP refers to the three different decision-making bodies in different terms. The Council of the Common Market takes decisions "which shall be binding upon the State Parties" (Article 9), the Common Market Group takes "decisions that take the form of Resolutions which shall be binding upon the State Parties" (Article 15), and the MERCOSUR Trade Commission takes "decisions that take the form of Directives and Proposals. The Directives shall be binding upon the States Parties" (Article 20). In addition to this confusion, Article 42 stipulates that "the decisions adopted by the MERCOSUR organs shall be binding and, when necessary, must be incorporated in the domestic legal systems in accordance with the procedures provided for in each country's legislation." It is obviously the case for the Protocols that have to be ratified by each country. Besides, the State Parties "undertake to take all the measures necessary to ensure, in their respective territories, compliance with the decisions adopted by the MERCOSUR organs."³¹ And

finally, Article 40 evokes an obligation of “simultaneous entry into force in the State Parties of the decisions adopted by the MERCOSUR organs,” providing for a three-step procedure: “once the decision has been adopted, the State Parties shall take the necessary measures to incorporate it in their domestic legal system,” then when it is done “the MERCOSUR Administrative Secretariat shall inform each State Party accordingly,” and “the decisions shall enter into force simultaneously in the States Parties 30 days after the date of the communication made by the Secretariat.”³² The direct applicability of the decisions is therefore questionable, when each country has to incorporate the norms in its legal system.

Moreover, as the POP did not provide for a judiciary body in charge of interpreting the norms, no jurisprudence can emerge that could secure the primacy of a communitarian law. The POP simply prolonged the life of the Brasilia Protocol, adopted on December 17, 1991, and entered into force on April 24, 1993. This Protocol did not put in place a permanent organ for the settlement of disputes, but rather a mechanism of ad hoc arbitration panels. The POP only mentions that the directives of the MERCOSUR Trade Commission must be taken into account by the panels, as well as the CMC decisions and the GMC resolutions.

This low level of legalism has, during more than ten years, entailed a politicization of the dispute settlements as the presidents were forced to get involved. As Bouzas and Soltz rightly point out, this method “led to issue-congestion and over-burdened agenda at the top” and ultimately, to an over-exposition and loss of credibility of the Heads of States.³³

As a result, there were pressures from business organizations in the 1990s for legal harmonization. Duina recalls that these pressures were especially strong for agriculture, manufacturing, health and safety standards, industrial products, mining, and other related areas. While pressure continued in these areas in the new century, attention also turned to services and investments and “business leaders and other key elements of society proved to be largely supportive of the regulatory strategies.”³⁴ In the middle of the economic crisis of 2000 and 2001, Duina adds, “the Cámara de Exportadores de la República Argentina (Argentina’s Exporters’ Chamber) declared itself interested in even deeper integration. It asked for further ‘positive integration,’ deeper regulatory cooperation, and new laws more in tune with reality on the ground.”³⁵ Without a doubt these pressures from below played an important role, along with the political will to strengthen the

integration process perceptible from above. On December 21, 2001, at MERCOSUR's summit, Cardoso strongly advocated an institutional strengthening, without dissipating ambiguities on his position regarding supranationality.³⁶ The institutional architecture evolved accordingly, with adjustments for the organs put in place by the Ouro Preto Protocol, and the creation of new ones.

In the moving context of the 1990s, contrary to some expectations, the CMC has not played the role of integration entrepreneur. It has not embodied a clear and far reaching vision of the integration process. Moreover, being overshadowed by the meeting of the presidents, it has delegated much of the decision-making capacities to the GMC. This political low-profile has not prevented the CMC from creating new bodies.³⁷ Fourteen meetings of ministers became institutionalized (agriculture, culture, economy and Central bank presidents, education, industry, interior, justice, environment, mining and energy, science and technology, social development, health, labor, and tourism), as well as eight working groups (preparing the creation of agencies such the MERCOSUR Social Institute, or the negotiation with Cuba), two new forums (a Forum for Political consultation and concertation with three working groups, and a Forum for consultation with municipalities, federated states, provinces, and districts) and a High level meeting in the realm of human rights.

As for the GMC, it grew at a fast pace, creating many technical subgroups. Annex V of the Asuncion Treaty, "for the purposes of co-ordinating macroeconomic and sectoral policies," had provided for the creation of ten subgroups (commercial issues, customs issues, technical standards, fiscal and monetary policies related to trade, inland transport, maritime transport, industrial and technological policy, agricultural policy, energy policy, coordination of macroeconomic policies). Over the years, some subgroups disappeared and others were created. A total of fifteen were created (communications, mining, technical standards, financial issues, transports and infrastructure, environment, industry, agriculture, energy, labor, employment and social security issues, health, investments, e-business, mining). The GMC also created fourteen specialized meetings, three groups, ten ad hoc groups and two committees, one commission and one technical meeting.³⁸

As some observers point out, "this multiplicity of auxiliary organizations of a mixed technical-negotiating nature involving officials of nearly all areas of government has resulted in a widespread diffusion of the integration process within the public administration. On the

other hand, the great variety of issues, individuals, and work programs in various disciplines led to significant coordination problems and an overload of decision-making in the GMC."³⁹

In 2000, MERCOSUR's officials decided to rationalize the overall structure. Decision CMC 59/00 unified two working groups (mines and energy), converted some ad hoc groups into working groups, and settled for a list of fourteen working groups, seven specialized meetings, four ad hoc groups, three committees, and one group. However, the coordination deficit remains basically untouched and it is aggravated by the fact that many subgroups are composed of officials of higher ranks than the ones in the GMC. Consequently, these subgroups have tended to become rather autonomous and have converted themselves into entrepreneurs of integration who are impossible to control. All in all, the incapacity to bring together the growing number of auxiliary organs and to provide some kind of coherence has led to the decreasing efficiency of the GMC. As for the CCM, the same evolution is noticeable, with the creation of ten technical committees.

Finally, the Secretariat has undergone a transformation that is worth commenting on. More than any other institution, the Secretariat symbolized the institutional modesty of MERCOSUR. When the leaders of MERCOSUR decided to implement some changes and relaunch the integration process after the 2001 Argentine crisis, the Secretariat was on the frontline. In 2003, the thin Secretariat was converted into a decent Administrative Secretariat (SAM) coupled with a Technical Assistance Sector (SAT).

Decision 30/02 created SAT to "contribute to the formation of a space of common reflection on the development and consolidation of the integration process."⁴⁰ For the first time, the leaders of MERCOSUR took the decision to organize the recruitment of four experts (two lawyers and two economists). Four officials were hired on a merit basis, with a very high profile, giving them strong legitimacy in embodying the general interest of regional integration, above national interests.⁴¹ As could have been expected, the four experts soon proved to be very independent and took their jobs very seriously, shaking the diplomats' routine and opposing their strictly intergovernmental conception of regional integration.

A new entrepreneur of integration was on the rise with political support in the different countries. During its first year, the SAT got into several fights with the Director of the Secretariat. There was more than an opposition of style between the experts and the diplomats; there was

a deep chasm between two conceptions of the process of integration and two legitimacies.

This opposition materialized over two issues. One is the condition under which the SAT could provide technical support to the different consultative organs. The SAT “enemies” managed to make this support dependent on the permanent organs’ previous approval, introducing a control on their work.⁴² The other is the accessibility of the SAT’s work by the public. The SAT took the initiative to publish in July 2004 its first semester report on the state of MERCOSUR, against the SAM director’s opinion that it should remain confidential. As any academic would have done, and as the annex of decision 30/02 invited them to do,⁴³ the four experts analyzed with a critical tone the evolution of the integration process.⁴⁴ They insisted in the introduction to their report that their analysis was inspired by a quest for the common interest that is complementary to national interests. And in their conclusions, they clearly favored a scenario with the introduction of a dimension of supranationality to supplement the intergovernmental methodology of integration. They justified their position by promoting the idea that gradualism and flexibility might be enough to survive a crisis, but are certainly not enough to make progress toward deeper integration. Their “scenario 5” took a position in favor of a common commercial policy, to be put into force by an independent agency. They also expressed concern about the trade conflict resolution system, advocating a permanent court of justice.

In both instances, they were knowingly provoking the diplomats and the politically and economically relevant sectors that traditionally defend a strict intergovernmental methodology of integration. This report was put online for a while before the diplomats decided that the reports would remain confidential.

In 2004, the SAT had another opportunity to play an active role, as the MERCOSUR members were preparing the December summit of Ouro Preto. Ten years after the 1994 Ouro Preto summit and in a political climate very favorable to the deepening of integration,⁴⁵ the SAT took several initiatives. Most notably, the SAT and the German Friedrich Ebert Foundation organized an important international seminar in August 2004 to gather support for their ambitious agenda of reforms.⁴⁶ Many experts and important political personalities like Marco Aurelio García, Brazilian president Lula’s personal adviser for foreign affairs, brought their support to the integrationist views of the SAT. The seminar unequivocally called for a decisive step in the process of integration, seizing the opportunity of Ouro Preto II to

relaunch MERCOSUR on a new basis. The creation of a Parliament was much debated. As we will see in more details in chapter seven, the decisions taken fell short of what the SAT expected. And on many other topics, the SAT had many reasons to be disappointed by the reforms introduced by the December 17, 2004 summit of Ouro Preto.

The constant and stubborn obstacles put in the path of the SAT have ended up exhausting its members' energy. On January 1, 2006, Deisy Ventura resigned, leaving the others in disarray. The SAT lost its high profile and the diplomats managed to impose their conception. On January 18, 2007, through its decision 07/07, the GMC reformed the Secretariat, converting the SAT into a pale technical assistance service, diluted into a larger Secretariat.⁴⁷ Deisy Ventura was quick to accuse the diplomats and some pressure groups adverse to the integration process. Ironically, she also blamed the counterproductive effect of the meritocratic type of hiring that had, at the end of the road, deprived the SAT members of the type of political support a more clientelistic designation usually yields.

As we just mentioned, the architecture put in place by the Ouro Preto Protocol has progressively evolved and, with the SAT, almost crossed the line of supranationality. The spirit of the 2004 Ouro Preto II reform has confirmed or yielded other institutional buildings. Three new institutions remain to be mentioned.

One is MERCOSUR's Commission of Permanent Representatives (CRPM), which was installed in 2003 in order to represent the regional arrangement, by mandate of the CMC and assist the Presidency Pro Tempore of MERCOSUR.⁴⁸ Furthermore, a Permanent Review Court and an Administrative Labour Court were also created.⁴⁹ Finally, a MERCOSUR Centre for the Promotion of the Rule of Law was established by the CMC's decision 24/04.

The multiplication of organs has definitely not been accompanied by deeper coordination. Each organ tends to become very autonomous, cumulating functions of deliberation and decision. No organ pays much attention to the enforcement of the decisions made.⁵⁰

All in all, what we have in Latin America is a robust trend gearing the regional arrangements toward increasing institutional complexity, reflecting growing agendas of integration. In the next chapter I will analyze the gap between the scope and level of integration and suggest some explanations for this phenomenon. In the remainder of this chapter, I examine parallels between regional and national, and formal and informal, institutional features.

Regional Institutional Arrangements in Latin America: Convergence and Domestically inspired Mimeticism

The evolution described in the preceding section—increasing institutional complexity coexisting with a concentration of powers in the hands of the presidents—is noticeable in all the institutional arrangements. There has been a remarkable institutional convergence in the whole continent, confirming the hypothesis of mimetic isomorphism (table 4.4).

However, as mentioned in the introduction, mimeticism does not only imply that the different groupings have imitated each other, or that they all have imported and adapted the European model.⁵¹ Regional institutions are also reflections of national institutions, and the convergence of regional arrangements does not come as a surprise if we simply consider the fact that national formal and informal institutions also look much alike throughout Latin America. Every Latin American country having a presidential regime, the regional groupings have “naturally” built intergovernmental presidential political systems.

During the 1980s, some seminal texts considered presidentialism as a failure.⁵² We know that “the difficulties generated by the pure model of presidentialism have led in a number of Latin American countries to constitutional norms and political practices, to agreements among politicians or parties, that ignore or profoundly modify the principles of presidentialism.”⁵³ In some countries, in Linz’s classical analysis, presidentialism has been adapted “in ways that are more congruent with parliamentarism,” like in Uruguay or Bolivia. However, in most cases, Latin American presidentialism is characterized by a lack of accountability or what O’Donnell has termed delegative democracy. The collective or intergovernmental presidentialism is no different. Andres Malamud even suggests that “Mercosur might have engendered a ‘new regional animal’: delegative integration.”⁵⁴

But there is more to it. Since the period of democratic transitions, Latin America has been experiencing a trend toward stronger presidentialism, with an increasing marginalization of parliaments. Traditional bargaining over political choices was no longer useful in the face of the necessity, or the obligation, to implement structural adjustment programs. Chile had provided an illustration of efficient policy making in an authoritarian context. During the 1990s, many presidents would by-pass the legislative process and take important decisions using

Table 4.4 Convergence of regional institutional arrangements

<i>Institutions</i>	<i>NAFTA</i>	<i>SICA</i>	<i>CARICOM</i>	<i>CAN</i>	<i>MERCOSUR</i>
Highest-level bodies	—	Meeting of Presidents	Conference of Heads of Government	Presidential Council	<ul style="list-style-type: none"> • Periodical Presidential Summits • Commission of Permanent Representatives
Decision-making Bodies	Free Trade Commission	Council of Ministers	Council of Ministers	Council of Foreign Ministers	<ul style="list-style-type: none"> • Common Market Council • Common Market Group • Trade Commission
Executive bodies	Secretariat	Executive Committee General Secretariat	Community Secretariat	General Secretariat	Administrative Secretariat
Jurisdictional bodies	—	Court of Justice	Caribbean Court of Justice	Court of Justice	<ul style="list-style-type: none"> • Trade Commission • Permanent Council of Revision
Deliberative bodies	—	Parliament (PARLACEN)	Assembly of Caribbean Community Parliamentarians	Parliament (PARLANDINO)	Parliament (PARLASUR)
Financial institutions	—	Central American Bank of Integration	Caribbean Development Bank	<ul style="list-style-type: none"> • Andean Development Corporation • Reserve Fund 	Structural Convergence Fund
Consultative bodies	—	Consultative Committee	Joint Consultative Group	<ul style="list-style-type: none"> • Business Council • Labor Council 	Socioeconomic Consultative Forum
Educative institutions	—	Central American Superior Academic Council (CSUCA)	University of West Indies	<ul style="list-style-type: none"> • Andres Bello Agreement • Simon Bolivar University 	Montevideo Group*
Social Agreements	—	—	—	<ul style="list-style-type: none"> • Hipólito Agreement (Health) • Simón Rodríguez Agreement 	—

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Note: * Spontaneous initiative not incorporated to the MERCOSUR's institutional framework.

Source: Author's elaboration using official Web sites.

presidential decrees. There has been considerable variation between countries, according for instance to decree approval rules, the extent of the executive's partisan support in the legislature or the strength of the presidential veto.⁵⁵ Nonetheless, the trend is undeniable.

Consider the example of MERCOSUR. In Brazil, the 1988 Constitution gave the presidents the power to issue "provisional measures with the force of law" for up to thirty days in situations of "urgency and relevance." Successive presidents ever since, Sarney, Collor, Franco, Cardoso, and Lula have all issued and reissued a large number of decrees, with an impressive speed. Even President Lula, who often criticized the decrees during his campaigns, issued a record number of decrees once in office.⁵⁶ In Argentina since the 1983 democratic transition, President Alfonsín made modest use of decrees, whereas Menem issued a total of 545. Kirchner has issued a decree every five days during his term.

My aim is not to gauge the exact importance of this new capacity the presidents have seized to set the legislative agenda, and conclude whether or not they have gained legislative powers. The parliaments have probably preserved greater political influence than is usually estimated. My point is that during the 1990s, the presidents have extended this capacity of agenda-setting to the regional arena. Some national parliaments might retain a little control over the executive capacity to enact laws through decrees at the national level, but there is no equivalent at the regional level for two important reasons: one has to do with the very modest prerogatives of the regional parliaments; the other is related to the absence of any redistributive capacity of the regional institutional arrangements. We will address these two points in more detail in chapters six and eight.

A key actor in the process of projecting national institutions to the regional level has been the private sector. The interest groups in Latin America have long been used to direct political access to the highest level of the executive branch. Contrary to the United States or the European Union, there is little organized lobbying inside the legislative power. As the perspective of regional integration emerged, back in the 1960s or more recently with the second wave, they pushed to protect their special political influence by strongly advocating unanimity of rule in the regional decision-making processes.

Nevertheless, as we saw, on a day-by-day basis, the decision-making process in the regional arrangements has tended to be more and more scattered into a myriad of quasi-autonomous bureaucratic agencies.

There too, we can draw a parallel with the evolution of domestic decision-making. Gary Wynia, for instance, showed that Central America in the late 1940s and early 1950s created “numerous autonomous agencies to manage new economic and social programs.”⁵⁷ Many agencies were also created at the regional level precisely because the *técnicos* as well as CEPAL and the Alliance for Progress recommended in the 1960s developing a plan both at the national and regional level. Wynia described a complete “reshaping of policy-making style” driven by the regional Joint Planning Mission created by the Secretary of Central American Economic Integration (SIECA). He also showed how the planning of reforms was a failure in the different Central American countries, mainly for political reasons, and how the *técnicos* subsequently decided to focus their efforts on regional integration. The creation of agencies had to do with the planning of reforms, but was also a way of distributing the spoils of the political system. Clientelism has always been a major incentive for bureaucracy development in Latin America.

During the 1990s, the rationale was different. Autonomous agencies were granted important prerogatives in a context of deregulation. Instead of planning, it is the neoliberal “retreat of the state”⁵⁸ that motivated the reforms. The governments took the decision to limit the scope of their intervention and to focus on the new role of coordination. Accordingly, executive functions were discharged to independent agencies or to the private sector in the framework of private public partnerships. There is an evident parallel between this trend and the increasing institutional complexity of the regional arrangements described above. To take again the example of MERCOSUR, the reforms implemented by Luis Carlos Bresser Pereira in Brazil under Cardoso epitomized this kind of transition to modern public management.⁵⁹ MERCOSUR’s institutions, as we saw, exhibit the same subsidiary function.

A last feature of the political systems, both national and regional, has to be mentioned.

However concentrated it may be, presidentialism in many countries is often accompanied by constant efforts to build coalitions in order to secure governability. What the Brazilians call coalitional presidentialism is a widespread practice in Latin America.⁶⁰ In many cases, the alliances have been functional in consolidating democracy.⁶¹ Again, my point is not to discuss the advantages and disadvantages of this political practice. What I am pointing out is that the presidents have used the

same skill to advance regional integration. Logrolling seems to have been a recurrent technique both in domestic political negotiations and regional ones during the 1990s. This is in sharp contrast with the way negotiations were held during the 1950s and 1960s, with authoritarian regimes protecting private interests and being unfamiliar with coalition building imperatives.

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CHAPTER FIVE

Scope and Level of Integration: Explaining a Mismatch

One of the most visible contradictions of Latin American experiences with integration is the very modest level of integration achieved through the years, as compared to the inflated agenda of topics discussed by the presidents during their summits, or the great variety of norms adopted by the numerous organs. Level of integration most commonly refers to the institutions' decisional authority, their enforcement capacities, and their ability to represent the regional common interest beyond and over private national ones. The threshold of supranationality is often considered a milestone in the evolution toward deeper integration. Although there is room for discussion on the importance of supranationality, without a doubt the balance between scope and level of integration deserves closer examination. Whatever we may think of neo-functionalism, Philippe Schmitter was right to point out the importance of this balance, considering that "whether member states will expand or contract the type of issues to be resolved jointly (*scope*), or whether they will increase or decrease the authority for regional institutions to allocate values (*level*), are the two basic dimensions for the dependent variable." He correctly added that they were "by no means always covariant."¹ In another seminal piece on Central America, he described a dynamic of spill-around that Latin America still seems to perfectly embody. He defined it as a "proliferation of independent efforts at regional co-ordination in distinct functional spheres—i.e., an expansion in the *scope* of regional tasks—without, however, a concomitant devolution of authority to a single collective body—i.e., without an increase in the *level* of regional decision-making."²

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Many scholars have reached the same conclusion, and I will also validate it in this chapter with the example of Central America and some statistical evidence. However, this chapter also tries to go beyond this simple widely acknowledged conclusion and offers an explanation of the mismatch between scope and level making use of a constructivist approach. A brief theoretical discussion opens this chapter, followed by sections on Central America, the Andean Community, MERCOSUR, and NAFTA.

Theoretical Discussion

How does Philippe Schmitter explain the differential patterns of evolution in the scope and level of integration? Building upon a “basic functionalist assumption,” he considers regional integration as a process that generates a series of tensions or contradictions, forcing the actors to constantly revise their strategies. In other words, the actors may “reevaluate the level and/or scope of their commitment to regional institutions.”³

More precisely, we saw in chapter two that he describes “crisis-provoked decisional cycles,” in a “context of considerable uncertainty,” leading to many different possible outcomes (spill-around being one of them).⁴ His dependent variable being the strategies of the actors, he looks upon the conditions leading to successive reevaluations, and concludes that the most probable outcome is “encapsulation,” a stable self-maintained stage of integration, most often in a “zone of indifference.” Dorette Corbey, also already mentioned in chapter two, has more recently tried to explain this “stop and go” pattern of evolution, also using “dialectical functionalism.”⁵ Her explanation, as well as Schmitter’s one, is centered on three types of actors: governments, regional institutions, and interest groups. All of them are rational, defending interests and evaluating the costs and benefits of their commitments.

As mentioned in chapters one and two, this type of approach fails to explain why the same apparently inefficient game keeps on being played over a long period of time, although Schmitter has predicted that the level of integration could remain low, trapped in the “zone of indifference.”

Two other types of incentives ought to be considered, external and symbolic. As far as the first incentives are concerned, on that point too Schmitter rings true when he described the effects of U.S.

president Johnson's participation in a summit meeting of Central American heads of State in July 1968.⁶ Regional integration is too often analyzed as an endogenous game, capable of delivering positive outcomes for all the players. And many authors have speculated over the best type of win-win situation, putting the process on a track of Pareto improvements. Most of the time, the studies are centered on the European Union case. But even in Europe, it could be argued that external incentives have not received the attention they deserve. And it is all the more true in Latin America, where external incentives are often a powerful but rather hidden motivation to expand the scope of integration. Today, the multiple agencies of international cooperation, governmental or not, offer a world of opportunities that can be seized by the different organs of a regional institutional arrangement. We will see that these opportunities have a direct impact on the scope of integration.

The other incentives that directly contribute to shape the agenda of integration are symbolic. By symbolic incentives, I refer to a series of political benefits the presidents expect to derive from their commitment to regional integration. Three of them are of particular importance. One is the prestige associated with an important declaration adopted, or a protocol signed in a given president's capital city. Each president is looking for domestic positive political side-effects from a historic meeting held in their country, and they will push for an enlarged agenda.

Another one is an exoneration of problem-solving failures at the domestic level. Every new issue included in the regional agenda is a message sent to the voters concerning the adequate level of decision making required to address such problems. This is typically the case for social issues. In many instances it is hard to imagine how this transfer of decision-making capacity to the regional level would bring any added value, but the rationale is not efficiency driven.

Finally, related to this last strategy, in a given situation where a regional integration process is beginning to be opposed by important social sectors, and where the domestic economic situation is not too favorable, a president may use a credit-claiming/blame-shifting type of strategy. The inclusion of new issues on the agenda would eventually allow the presidents to shift the responsibility of a problem-solving failure to some sort of coordination difficulties, or to the integration's lack of progress. Conversely, a president will claim the credit for a successful regional policy, hiding the origins of the decision-making process.

I will elaborate further when revising the empirical evidence in the next sections.

Explaining the Central American Spill-Around

The evolution of Central American integration has been described in chapters one and two in broad terms. It is time now to focus on the historical evolution of its scope. Several different historical sequences can be distinguished (table 5.1).⁷ Between 1948 and 1955, a functional cooperation was opened up in the fields of education, health, and technology. During the same period, a political project was launched, with the Organization of Central American States (ODECA). A second period corresponds to the years 1960–1966. The decade opens with the signing of the 1960 General Treaty of Integration and ends with the war between Honduras and El Salvador. The next sequence started in the mid 1970s, with new initiatives of functional cooperation, again in the fields of education and technology, expanding until the first years of the Central American crisis. Finally, starting in 1987 with the Esquipulas Summit and the creation of a Central American Parliament (PARLACEN), as we saw in chapter two, the efforts deployed to solve the regional crisis relaunched the integration process. An impressive acceleration is then perceivable during the 1990s.

Each sequence of integration has added new issues to the regional agenda, contributing to an expansion of the scope of integration. The creation of new institutions (table 5.1) owes a lot to endogenous dynamics, yet the external incentives have been determinant.

We already mentioned in chapter two the role played by CEPAL, especially in 1951 when it sponsored the creation of a Committee for Economic Cooperation. The meetings held during the 1950s paved the way for the launching of economic integration. CEPAL's Mexico office managed to provide financial assistance for the program, thanks to the United Nations Technical Assistance Administration, so that it would be practically costless for the governments. At the end of the 1950s, another external incentive would come from the United States. The Eisenhower Republican administration helped prepare the Tripartite Treaty signed in 1960 by Guatemala, El Salvador, and Nicaragua.⁸ With the inauguration of the Democrat Kennedy, regional integration in Latin America received greater support. In Central America, the United States opened a Regional Office for Central America and Panama (ROCAP) in 1962, and Kennedy visited San José, Costa Rica, in March 1963 proposing to contribute to a Central American fund.

During these initial years, external actors directly influenced the choice of issues put on the regional agenda. CEPAL insisted on the

necessity of building a “regional infrastructure” and helped create institutions in the fields of transportation, telecommunication and electric-power.⁹ As previously mentioned, CEPAL also secured decisive funding. Isaac Cohen records that “from 1950 to 1966 the financial assistance granted by the UN to the program of economic integration amounted to \$22.4 million to support regional efforts in transport, electricity, education, telecommunications, agriculture, fisheries, and the functioning of certain permanent regional institutions. The individual contributions of the member countries to match the UN regional assistance amounted to \$5,000 per annum from 1953 to 1965 and \$6,000 per annum from 1966 on, for a total contribution from 1953 to 1966 of \$335,000, or less than 2 percent of the total amount received from the UN.”¹⁰

The acceptability of the issues placed on the regional agenda was directly related to their political neutrality. The often commented on fact that the agricultural sector had been left out of the regional agenda has to do with CEPAL’s obsession with industrialization. Yet it also has to do with the political influence of traditional families dominating this economic sector. Central American countries during the 1950s were essentially rural, and an industrialization project could not endanger any vested interests.

With external support, functional cooperation in Central America never stopped progressing, even when the integration process was stalemated, like in the 1970s, following the 1973 suspension of ODECA. There are two exceptions though, two periods of interruption, 1966–1975 and 1981–1987.

During the 1980s, another external actor started to push for an agenda of its own in the region, strongly supporting regional integration. In the midst of the regional crisis, the European Union opened, in 1984, the so-called “San José Dialogue” to help put an end to the turmoil. The EU supported the Group of Contadora peace initiative and offered cooperation in addressing the social and economic causes of the crisis. As the crisis came to an end, a Framework Cooperation agreement was signed in 1993, but the European influence faded during much of the 1990s, only to bounce back with the 2002 Euro–Central American summit of Madrid. A new EU–Central American Political Dialogue and Cooperation agreement was signed on December 15, 2003, in Rome. I will comment further on the type of agenda the EU is trying to impose upon Central America. But first, I have to analyze the evolution of the scope of integration after the end of the crisis.

As we saw in chapter two, the regional crisis solving efforts were characterized by a politicization of the regional problems. Costa Rican, Guatemalan, Honduran, and Salvadoran presidents simply shifted the blame of their domestic problems to the presence of communist threat in the region. Nevertheless, during their third meeting, held in Costa Rica on January 15–16, 1987, the presidents noticed in their final declaration that the “primary causes of the conflict being economic and social, it is impossible to reach peace without development.”¹¹ After the February 1990 Sandinista electoral defeat, the Summits started to dedicate more attention to these issues.

No less than three presidential summits were held in 1990. The overall objective is to reconsider the regional situation in the aftermath of the crisis. The Montelimar (Nicaragua, April 2–3, 1990) summit states that the “consolidation of democracy, once the obstacles to peace are overcome, requires that the economic challenge must be met with determination.” Later, the summits of Antigua (Guatemala, June 15–17) and Puntarenas (Costa Rica, December 15–17), both insist on the same necessity.

The summit of Puntarenas is particularly important. The presidents made a balance of the compliance with their previous decisions in the fields of security and environment, as well as economic, cultural, social, and political cooperation. The balance sheet of implementation was not too favorable, and the whole process obviously lacked political guidance. The end of the crisis offered a unique window of opportunity for putting the integration process on a new track, and the ministers of foreign affairs, preparing the next summit, suggested creating an “integral system,” within the framework of a “reformed and refreshed ODECA.”

Forty years after its creation, thirty years after its first reform and seventeen years after its suspension, ODECA was brought back to life with a renewed ambition. The tenth summit (San Salvador, July 15–17, 1991) announced its intention to “define an institutionally adequate mechanism to effectively enable integration in the political, economic, social and cultural fields” and decided to “activate the Organization of Central American States (ODECA), as a regional institutional system, in charge of the follow-up of all decisions taken during the summits and the coordination of their enforcement.”

The following eleventh summit (Tegucigalpa, Honduras, December 12–13, 1991) opened a new era for the Central American integration process. The signing of the Protocol of Tegucigalpa gave birth to the Central American Integration System (SICA). As we saw in chapter two, the rationale of SICA’s creation is the opposite of ODECA’s. The

latter was a fleshless skeleton, an artificial political architecture, while the former formalizes a series of collective crisis-solving efforts. Starting in 1987, Central American presidential summits rapidly became an informal and later a formal institution, which provided the basis for the relaunching of the integration process. SICA is no more than the institutionalization of an existing disorganized work in progress. The fact that the Central Americans made the choice to revitalize ODECA is an illustration of their sense of historical continuity. As previously mentioned, functional cooperation never stopped progressing, despite the political ups and downs.

The Protocol of Tegucigalpa¹² considers it necessary to “revise the legal framework of the ODECA, adapting it to current realities and needs, in order to secure the effective attainments of Central American integration.” SICA’s objectives are more ambitious than the ones enumerated in the 1962 ODECA charter. SICA must contribute to the building of a region of “peace, liberty, democracy, and development” (Art. 1). The objectives are to “consolidate democracy [...] define a new regional security model [...] promote a comprehensive system of freedom [...] achieve a regional system of well-being and economic and social justice [...] achieve an economic union [...] strengthen the region as an economic bloc [...] reaffirm and consolidate Central America’s self-determination in terms of its external relations [...] promote, in a harmonious and balanced manner, the sustained economic, social, cultural and political development of the Member States and of the region as a whole [...] carry out concerted action to protect the environment” (Art. 3).

The institutional structure is said to be influenced by the objective of efficiency and is composed of four organs: Meeting of Presidents, Council of Ministers, Executive Committee, and General Secretariat. In addition, the Meeting of Vice Presidents, the Central American Parliament, the Central American Court of Justice, and the Consultative Committee are “part of the System.” (Art. 12)

SICA’s scope is quite wide, since it includes the economic, social, cultural, environmental, and political dimensions of integration. There is no doubt that fifty years of integration had contributed to an impressive accumulation of issues tentatively addressed at the regional level, raising some doubts about the overall coherence of the process. Was SICA successful in bringing together the myriad of regional programs, or did it simply put an umbrella over them?

The first approach to this question consists in appreciating that the Central Americans did not make it easy for SICA to fulfill its mission.

As table 5.1 clearly shows, the 1990s have added many more institutions to the existing ones. Between 1992 and 1997, the Central Americans signed four important new treaties that complement the Tegucigalpa Protocol. First, on December 10, 1992, they adopt the status of the Central American Court of Justice. Then on October 29, 1993, they decide to reform the 1960 General Treaty of Integration, through a Protocol of Guatemala. A new broad ambition was announced—a Central American Economic Union, and a new methodology to fulfill it—“voluntary, gradual, complementary and progressive.” In other words, the presidents upgraded their level of commitment, but introduced a variable geometry or multi-speed integration that I will comment on later. A series of more specific objectives are set: “improve the different stages of economic integration (free trade area, external trade relations, custom union, and monetary integration)”; “improve sectoral policies (tourism, agriculture, infrastructure, etc.)”; “improve the integration process’ productivity (human resources, sciences and technology, environment).”

On October 12, 1994, the Central Americans signed a comprehensive treaty called Alliance for Sustainable Development (ALIDES), covering a wide array of issue areas, indeed practically all aspects of human life. The objective was to convert the region into a zone of peace, freedom, democracy, and development, with a shopping list of forty-one items specifying the ways to achieve it. The definition of sustainable development used by ALIDES is exceptionally wide, being a “process that pursues progressive change in the quality of human life and which targets human beings as the central and primary target of development. It is achieved through economic growth with social equity and changes in production and consumption patterns, based on ecological equilibrium and the support of the region. This implies respect for regional, national, and local ethnic and cultural diversity, and the enhanced and full participation of all citizens, living together in peace and harmony with nature, not jeopardizing but rather guaranteeing the quality of life of future generations.”¹³

Finally, in 1995, two more treaties were signed. On March 30, 1995, they signed a Treaty of Social Integration; presented as a supplement to ALIDES, its objective was to design common social policies aimed at universalizing the access to social protection, using the same new “voluntary, gradual, complementary, and progressive” methodology. And on December 15, 1995, a Framework Treaty on Democratic Security in Central America was signed, positing that “the Central American Democratic Security Model is based on the supremacy and

strengthening of civil power, the reasonable balance of forces, the security of persons and of their property, the elimination of poverty and extreme poverty, the promotion of sustainable development, the protection of the environment, the elimination of violence, corruption, impunity, terrorism, drug trafficking, and arms trafficking. Also, the Central American Security Model will increasingly devote resources to social investments.”¹⁴ Interestingly, this Treaty does not limit itself to the enunciation of widely agreed principles, but also creates a Security Commission, as a subsidiary decision-making body composed of vice-ministers of foreign affairs and defense, and establishes mechanisms for the peaceful settlement of intraregional disputes and a reciprocal assistance mechanism in case of external aggression.

The signing of these new treaties cannot be comprehended only as an intra-regional spill-over effect. The international environment also ought to be taken into consideration.

Consider the example of ALIDES. As early as 1989, the Central Americans decided to unite their efforts to get ready for the 1992 Rio United Nations Conference on Environment and Development, creating a Central American Commission on Environment and Development (CCAD). The Rio Summit gave them the opportunity to realize that their commitment to environment protection would receive a warm welcome throughout the world, Central America being a small region with amazing biodiversity, hosting about 8% of the world species. When they signed the ALIDES Treaty on October 12, 1994, Vice President Gore was there and promised substantial US support. Two months later, on the margins of the Miami Summit of the Americas, a Central American-U.S. Joint Declaration Action Plan (CONCAUSA) would be signed to specify the cooperation in four major areas: conservation of biodiversity, sound use of energy, environmental legislation, and sustainable economic development. Later, in 2000, it would include climate change and disaster preparedness. Yet, as previously mentioned, the Central Americans chose a very large definition of sustainable development, with a clear intent to link several issues discussed on the international agendas. The emphasis on social issues, in particular, was a signal sent to the multilateral organizations and to the United States at a time when the Washington consensus would not incite the reform-makers to pay much attention to them. And of course, it was also a way of attracting financial assistance from many different sources.

Consider another example. The 1995 Treaty of social integration was also a signal sent both to the people of Central America and to the

international community, and an invitation for cooperation providers and donors, at a time when the liberal reforms had a severe social impact which the governments were unable to cope with. The different governments soon showed their total lack of concern for the design of a common social policy. They could not agree on the types of representatives they would send to the social council, hence there were many difficulties agreeing on an agenda for discussion.¹⁵ In addition, the Secretariat was granted an advisory committee composed of the region's First Ladies. The General Secretariat for Social Integration (SISCA) was left with the delicate mission of raising funds to fulfill its missions or launching new programs to use the donors' funds. The governments never even paid their annual contributions to the functioning of the Secretariat.

We have just seen that the first half of the 1990s witnessed an impressive expansion of the scope of integration, putting at risk the construction of a coherent SICA. Interestingly enough, the Central Americans seem to have been perfectly aware of the possible negative effect. During the same San Salvador summit where they signed the Treaty of social integration, they commissioned CEPAL and BID to make an "evaluation of the operational management of the organs and institutions of Central American integration, in order to proceed with its modernization, in the pursuit of a better efficiency and efficacy of its procedures and results."¹⁶

Classically, the CEPAL-BID report starts by commenting on the great difficulty, for SICA, of coordinating the missions of many organs, some of them working poorly. SICA's executive committee, for instance, supposedly the main support body, had met only five times in 1995 and twice in 1996. The report insisted on the different organs' inability to progress in harmony with the expansion of the scope of integration. They seemed to be constantly lagging behind presidential decisions made during the Summits. One indicator of this disastrous situation was the financial resources of the organs. All together, the burden was quite modest for the governments, representing a mere 0.3% of their public expenditures at the time of CEPAL-BID's study.¹⁷ Nevertheless, few governments cared to appropriate funds to contribute to the common budget, forcing the organs to depend on external assistance. Besides, the common budget was absorbed by few institutions, namely the Parliament (47%), SIECA (15%), the regional Court of Justice (11%), and the General Secretary (5.5%). The coordination task was also complicated by the fact that the institutions were created at different times, carrying with them

historically rooted conceptions of integration not necessarily compatible between themselves. Finally, a variable geometry and multi-speed integration had progressively been adopted. For instance, in the mid 1990s, the Custom Unions had only two members (Guatemala and Salvador) whereas the Regional International Organization of Agriculture Sanitation (OIRSA) had nine (seven Central Americans + Mexico and the Dominican Republic).

This last point deserves to be stressed. The level of integration in Central America has never been even. Depending on the issues, some countries could decide to opt out, Costa Rica typically being the free rider. This country for instance never signed the 1987 Treaty of the Central American Parliament. However, what until then was an exception became the rule with the 1993 Tegucigalpa Protocol and its gradual and voluntary methodology. This change has worked as an incentive to develop a utilitarian conception of integration, each country being free to legitimately decide its degree of commitment making a cost-benefit calculation, which contributed to undermining the building of a common regional interest. In other words, the British style opting-out strategy clearly favors the defense of national private interests and represents a regression in terms of the level of integration. It could be added that the variable geometry also introduces confusion with regard to the identity of the region, as some institutions have Mexico or the Dominican Republic among their members.

Getting back to the CEPAL-BID report, the diagnosis finally reached was that the “institutional universe put under the umbrella of SICA was already very diversified. This heterogeneity has been ‘unified’ without more than a vision of an integrated Central America and a declaration of the principle of ‘coordination’.” The report reckoned that the constitution of four sub-systems (political, economic, sociocultural, environment) of integration was a progress, but that it fell short of a much needed reform.

How can such a situation be explained?

The main factor, briefly mentioned in the report but deserving more attention, refers to presidential dynamism. Collective presidentialism has already been discussed in chapter four. What has not been discussed is the dynamics of the presidential summits. As mentioned in the introduction of this chapter, the presidents are often caught in a competition of their own. They have developed a kind of an “umbrella race” whose target is the signing of new treaties embracing the previous ones. And there is also the already mentioned temptation to shift to the regional level of policy-making some hard-to-deal-with issues.

The regional arena acts as a symbolic compensation for the domestic problem-solving deficits, supposedly bringing legitimacy gains for the presidents. In addition, the never-ending enlargement of the scope allows the presidents to keep up the momentum without paying too much attention to the delicate question of the level of integration.

Two other dimensions were mentioned by CEPAL-BID's report. The first one is the absence of consensus among the member states regarding the conception of integration. Traditionally, Guatemala pushes for deeper integration, while Costa Rica favors simple free trade. The echoes of the colonial past, when Central America was dominated by the General Captaincy of Guatemala, or of the post-independence Central American Federation also dominated by Guatemala, are no strangers to Costa Rica's reluctance to strengthen the political dimension of integration, at a time when this country has become by far the main economic power in the region. Unable to have a common vision of the future, the member countries have proceeded by aggregation without synergy, which is typically a way to avoid further discussions. The second dimension mentioned quite courageously by the report is the domestic problem of coordination faced by the member states. Just to illustrate this point, the report found that in Costa Rica there was no clear division of labor between the presidency and the ministries of economy and foreign relations, that the former had the control of the agenda, and that the latter were not contributing to the enforcement of regional norms. It also found that in Guatemala there were variable degrees of commitment between the different ministries. All the countries except possibly Costa Rica and Guatemala had human resources problems.

The report made a series of recommendations, as it was invited to do so. Inspired by CEPAL's conception of "open regionalism,"¹⁸ the report insisted first and foremost on the necessity of improving the region's position in global competition. Therefore, the report suggested making a distinction between three spheres of articulation between scope and level of integration. The first one corresponds to the highest level of integration and an agenda limited to the improvement of the regional unified market, with a common trade policy and a complementarity between other public policies, such as the macro-economic one. The second one has a lesser level of integration but an amplified scope, with a "functional cooperation" in the fields of environment, health, education, culture, transportation, infrastructure, and tourism. And the third one is even more modest as regards the level of integration and only one issue is on the agenda: Central

America is invited to keep on reinforcing its political collaboration to consolidate democracy.

The report also recommended continue to develop multiple arenas of negotiations (between governments, parliaments, and business organizations) and encouraged variable geometry, as long as the region agrees on a “meta-agenda,” that is, preserving its will to collectively solve its problems.

Finally, as far as institutions are concerned, the report defended the option of a “flexible institutionalism,” some kind of mid-way solution between minimalism (agencies offering support to private initiatives) and “institutional leadership” (with a regional bureaucracy), with a functional adaptation to problem-solving necessities.

Interestingly enough, the report included two scenarios for reform, depending on the political will of the governments. Plan A consisted in reforming the institutions within the system, whereas plan B represented a more radical change, with an invitation to rethink the different functions to be fulfilled at the regional level and rebuild the institutional structure accordingly. In any case, a preliminary step was the grouping of the six different secretariats into a single one.

The whole analysis and the recommendations were clearly influenced by an agenda of reforms that were designed to convince Central America to downgrade its commitment to integration and reduce its perimeter to free trade. During their nineteenth summit, held in Panama City on July 12, 1997, the presidents took the decision to follow CEPAL-BID’s recommendations. They adopted an important document detailing different reforms aimed at strengthening and rationalizing the institutions.¹⁹ Among them, it is worth mentioning: the adaptation and reinforcement of the Parliament and of the Court of Justice;²⁰ the creation of a link committee (to improve the communication between regional and domestic levels); the unification of the different secretaries; and the design of a regional strategy to coordinate international cooperation offers. Quite typically though, only two months later, before even starting to implement the reforms, the presidents gathered in Managua, Nicaragua, for an extraordinary meeting and announced in their joint declaration their intention to build a Central American Union.²¹ The “umbrella-race” was not over.

In the subsequent years, some modest progress has been made. The different secretariats were unified, with the exception of the economic one (SIECA). Even if only two of them (Social, and Environment and Development) did actually move to SICA’s headquarters in San Salvador, it represents a valuable step. Moreover, two organs were eliminated,

the meeting of the vice presidents and the Consultative Committee for economic integration.

Nonetheless, for a series of reasons that cannot be fully explained here, the implementation of the reforms ran into many obstacles. First, the 1990s witnessed an impressive reactivation of intra and extra regional trade (figures 2.1 and 2.2). The political reforms no longer appeared to be an urgent necessity. Second, the December 29, 1996 Guatemalan peace accord happily concluded a decade of intense regional diplomatic activities, and as a result, the coagulation effect of the crisis-solving efforts disappeared. The integration process simply ran out of steam. Third, the end of the 1990s saw several changes in the regional agenda. The years 1998–1999 are of particular interest, as they witnessed a sequence of events that diverted the Central Americans from the political reforms. On March 19, 1998, the ministers of trade representing the 34 countries involved in the Summit of the Americas' process met in San José, Costa Rica, for the IV Ministerial Meeting on Trade. The structure and organization of the negotiation for the Free Trade Area of the Americas (FTAA) were settled, with Costa Rica and Nicaragua scheduled to chair negotiating groups. The negotiations were then launched during the Second Summit of the Americas, held in Santiago, Chile, on April 18–19, 1998. Central American diplomats would from then on shift their priorities to the hemispheric arena of talks. At the end of October 1998, Hurricane Mitch devastated the region and in particular destroyed much of Honduras' infrastructure. At first, this disaster triggered a remarkable effort of solidarity. An extraordinary meeting of presidents was called on November 9, 1998. In their final Declaration,²² the presidents admitted that "the dimensions of this tragedy compromise the future of the region," and called upon multi-lateral institutions and different donors to provide much needed help. They also urged the United States and the European Union to remove their tariff barriers. The reconstruction task monopolized the regional agenda, replacing the political reforms. On December 11, 1998, U.S. president Clinton received in Washington the presidents from Costa Rica, El Salvador, Honduras, Nicaragua, and the Guatemalan vice president, to talk about the United States' contribution to the reconstruction effort. In early 1999, the Central Americans had met to prepare for the visit of President Clinton scheduled for March.²³ During his visit, Clinton promised to make an effort of debt relief for Honduras and Nicaragua and to contribute \$25 million to the Central American emergency fund. He also promised to help expanding the benefits of the Caribbean Basin Initiative (CBI).²⁴

The external agenda of talks got even more complex with the 2001 Mexican offer to discuss a Puebla Panama Plan (PPP). The idea was to foster economic cooperation, build infrastructure, reduce poverty, and enhance the response to natural disasters along the Meso American corridor.²⁵ Seven Central American States (Belize, Costa Rica, Guatemala, Honduras, Nicaragua, Panama, and Salvador) were involved along with nine Mexican States (Campeche, Chiapas, Guerrero, Oaxaca, Puebla, Quitana Roo, Tabasco, Veracruz, and Yucatan). And finally, the United States offered in 2003 to negotiate a Central American Free Trade Agreement, including the Dominican Republic (RD-CAFTA). The U.S. administration did not leave much room for negotiation, concluding the talks in less than a year and a half. The Treaty was signed on May 28, 2004.

Some domestic problems also contributed to the paralysis of the reforms' implementation. Costa Rica, for so long a model of democracy, discovered in 2005 that its politicians were as corrupted as in any other country. Its judiciary system proved to work better though, as ex-presidents Miguel Angel Rodríguez (for a short while OAS Secretary General) and Rafael Angel Calderón Fournier were sent to jail. A third ex-president, Figueres Olsen, decided not to come back from a trip to Switzerland.

If the overall political reform was pretty much stalemated during much of the 2000s, external incentives kept on playing a determinant role in the scope of evolution of integration. Let's consider just one example, the Social integration secretariat (SISCA). Between 2004 and 2007, SISCA had managed to launch a series of new projects, in most cases accepting different offers from foreign donors. While the contributions of the member states amounted to \$25,000 a year for the Social Integration Council and \$13,000 for the Council of Ministers of Health, representing a total amount of \$798,000, the eleven project of SISCA in September 2007 amounted \$28.4 million.²⁶ In addition to social issues, some other issues made their way up to the regional agenda and contributed to the evolution of the scope of integration, like HIV/AIDS,²⁷ energy,²⁸ or security.²⁹

After a decade of paralysis, the presidents decided to reactivate the reforms and give the integration process a new impetus. The reasons for this change of mood are many, but the external incentives once again played an important role. On one side, the Central Americans' international agenda has been cleared, with the signing of the Free Trade agreement with the United States (DR-CAFTA) and the failure of the FTAA, the burden for the diplomats was alleviated. On

the other side, the opening of new rounds of talks with the European Union in 2007 forced the Central Americans to get back to work. For the European Commission, “the overall objective of the 2007–2013 strategy for Central America will be to support the process of political, economic and social integration in the context of preparation of the future Association Agreement with the EU.”³⁰

During their extraordinary meeting held in Guatemala City on February 26, 2004, the Central American presidents created an ad-hoc Commission for the integral reform of Central American institutions. The Commission was instructed to suggest a plan of reforms during the twenty-fourth summit in June 2004. It did it, but it took four more years for the reforms to take shape. And on February 20, 2008, the presidents met for an extraordinary meeting centered on the issue of institutional reform. They adopted a Protocol of reforms for the Parliament³¹ and proceeded to the installation of a SICA Executive Committee. In Parallel, Guatemala officially joined the Central American Court of Justice.

I will comment later in chapter six on the reform of the Central American Parliament. What can be concluded for now is that this reform fell short of a sweeping reorganization. However, it remains to be seen if SICA’s Executive Committee will offset the centripetal dynamics of integration.

CAN and MERCOSUR: Quantitative Analysis of the Agenda

Much of what has been said about Central America would apply to the other Latin American regional integration processes. There is a widespread tendency to expand the scope that is not matched by an increase in the level of integration.³²

In this section, I analyze the evolution of the agendas, making a quantitative analysis of CAN and MERCOSUR’s decisions.

The Andean Group and the Andean Community have progressively made the integration process a much diversified one. Nevertheless, the Andean Community’s agenda has been overwhelmingly dominated by issues related to trade and politics, reflecting recurrent efforts to liberalize trade and the complex process of institution building described in chapter four (table 5.2 and figure 5.1).³³

The way the agenda has evolved over the years is interesting (figure 5.2).³⁴ Not only has the process undergone a series of crises and

Table 5.2 CAN's decisions, 1969–2008

<i>Issue Area</i>	<i>Detail</i>	<i>Number of Decisions</i>	<i>%</i>
Politics	Institutions, External Relations, Human Rights, Security	238	34
Trade	Customs, Custom Union, Norms of Origin, Free Competition, Technical Norms, Export Promotion, Intellectual Property, Services, Sanitary Rules	311	45
Economy	Development, Statistics, Economic Policy, Fiscal Policy, Industrial Policy	102	14
Social	Social Agenda, Anti-Drug Policy, Migrations, Health, Labor	37	5
Environment	Environment	9	1
Culture	Science, Technology, Education	10	1
TOTAL		707	100

Source: Author's elaboration using data from CAN's official Web site (<http://www.comunidadandina.org/normativa.htm>), accessed on March 21, 2008.

reactivation but some issues virtually disappeared while others made their way to the agenda. Consider the example of economic issues (figure 5.3).³⁵ Quite typically, during the 1970s, the Andeans tried to implement industrial policies, an ambition that has been abandoned since the 1990s, as the import–substitution strategy was no longer popular in the region. Economic policies took the lead during the 2000s, with a tentative harmonization of fiscal policies and an effort to put in place a regional system of statistics.

The example of the social area is also illustrative. Some decisions were taken during the early stages of the integration process, such as Decision 39 creating an Andean Council of Social Issues (1971), Decision 68 creating a Health Council (1972), or Decisions 113 and 116 creating Andean instruments of respectively social security and labor migration (1977). In 1979, Decision 148 just sets the rules for the Instrument of social security, and then the social issue disappears from the agenda for ten years. In 1989, drug trafficking in the region calls for collective action and Decision 250 launches an Action plan for substitution and alternative development in coca production zones. During the 1990s, a series of decisions are made related to migration (Decision 397 creating a common migratory document in 1996) and health (to confront Cholera or to organize the Andean Social

Accord). Nevertheless, it is during the first half of the 2000s that the issue is tackled more vigorously, with many important decisions, among them the 2004 Decision 601 adopting an Integrated Plan of Social Development. Other than that, alternatives to drug production and migration (Andean passport) dominate the agenda. Yet this new Andean Community's concern with social issues should not be overestimated, sometimes older decisions are simply refreshed. Consider the example of labor issues. Decisions 113 (Andean instrument of social security) and 148 have already been mentioned. In 2003 and 2004, Decisions 546 and 583 further reformed Decisions 113. The same happened with Decision 116 (Andean Instrument of labor migration), replaced in 2003 by Decision 545.

In some issue areas, the Andean Community has been very innovative. Traditional knowledge and biodiversity is a good example because the Andean community is composed of megadiversity countries, concentrating about 25% of all biological diversity in the world.³⁶

Following the 1992 Rio Summit's Convention on Biological Diversity (CBD), CAN adopted, in 1996, its Decision 391 called the "Common regime for access to genetic resources," where it clearly acknowledges that its amazing natural wealth ought to remain under the sovereign control of its indigenous people. At that time, it was the first international regulation of that sort in the world, so CAN clearly took the lead in that respect. Then in 2000, through its Decision 486,³⁷ CAN adopted a series of dispositions that are compatible with the 1994 WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. In its Article 3, Decision 486 stipulates that "member countries ensure that the protection granted to industrial property elements will be safeguarded and respecting their biological and genetic patrimony as well as their Indian, Afro-American or local communities' traditional knowledge. In that sense, patent concessions referring to inventions developed from material coming from this patrimony or knowledge will be subordinated to this material having been acquired in conformity with international, national, and communitarian legal order. Member countries recognize the Indian, Afro-American and local communities' right and faculty to decide over their collective knowledge."³⁸ Finally, in 2002 CAN adopted Decision 523 putting forth a comprehensive "Regional biodiversity strategy."

CAN's conception of patents is compatible with Article 27 of the TRIPS Agreement that posits criteria defining a patent: "Patents shall be available for any inventions, whether products or processes, in all

fields of technology, provided that they are new, involve an inventive step and are capable of industrial application.”³⁹ The same article provides exceptions that are worth mentioning: “Members may exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect *ordre public* or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by law.” And finally, the same article adds,

members may also exclude from patentability: a) diagnostic, therapeutic and surgical methods for the treatment of humans or animals; b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, members shall provide for the protection of plant varieties either by patents or by an effective *sui generis* system or by a combination thereof. The provisions of this subparagraph shall be reviewed four years after the date of entry into force of the WTO Agreement.

Throughout the 1990s, the United States has progressively introduced standards of patentability to new subject matters, such as living organisms, and has introduced new criteria like utility, novelty, and non-obviousness. As Gómez Lee stated, “the Andean norms could be affected by a FTA with the United States, as this country has not ratified the CBD and its rules concerning intellectual property allow taking control of genetic resources and traditional knowledge without any consideration of their country of origin’s sovereignty.”⁴⁰

In MERCOSUR, the agenda of integration has also evolved over the years. What started in 1991 as a limited project to open a custom union in three years, progressively turned out to be a complex process mixing different types of issue areas (table 5.3, figures 5.4 and 5.5).⁴¹

Even if the trade issue understandably dominated the agenda during the first years of transition (1991–1994), some other issues were introduced very soon. In 1992 for instance, the Common market council (CMC) adopted its Decision 7-92 on education. Its objective was to promote the formation of a citizen’s consciousness favorable to integration, as well as to harmonizing the educational programs between the member countries. Two years later, the first protocol on education was adopted (Decision 4-94), regarding mutual recognition of elementary

Table 5.3 MERCOSUR's decisions, 1991–2007

Issue Area	Detail	Number of decisions	%
Politics	Institutions, External Relations, Human Rights, Security	264	50
Trade	Customs, Custom Union, Norms of Origin, Free Competition, Technical Norms, Export Promotion, Intellectual Property, Services, Sanitary Rules	171	33
Economy	Energy, Tourism, Small Business, Economic Policy	42	8
Social	Social Security, Health, Labor, Environment	21	4
Culture	Culture, Education	28	5
TOTAL		526	100

Source: Author's elaboration using data from MERCOSUR's official Web site (<http://www.mercosur.int/msweb/>), accessed on April 15, 2008.

school formation. Others would follow, and ten years later a common funding for education was created through Decision 32–04.

In a similar vein, despite the dominant neoliberal mood of the early 1990s, a certain social sensitivity is perceptible with Decision 8–92 on informal jobs. In 1997, a multilateral agreement on social security was adopted (Decision 19–97), following a recommendation of working group 10 on labor.

Other issue areas can be mentioned such as security, introduced for the first time in 1998 and subsequently very important in 2000 (with 16 decisions related to that topic), infrastructure and energy integration (electricity in 1998, gas in 1999), coordination of macroeconomic policies in 1999, environment in 2001 or election monitoring (for Bolivia in 2005). In many instances, the evolution of the scope of integration owes a great deal to pressure group activism. In the case of MERCOSUR's preoccupations with labor the role of the Southern Cone Coordination of Unions (CCSCS), in particular, has been well documented.⁴² We will get back to this dimension in chapter seven.

Despite this progressive diversification, the main issue area dominating the agenda has been politics, and that reflects several features of this integration process.

First, it reflects the incremental method chosen by the member countries right from the beginning. As mentioned in chapter four, MERCOSUR promoters made the choice of institutional modesty,

and did not provide for a complex institutional arrangement. However, as the integration process unfolded, many new organs were created. Each year a great number of decisions consisted in creating new common ministerial meetings or ad hoc working groups.

Second, it reflects the instability of the integration process. Figure 5.4 has two peaks of political decisions, in 2000 and 2004, following two periods of stalemate. The first peak corresponds to a relaunching of the integration process, with the backdrop of economic turmoil in the region (1999 Brazilian devaluation and beginning of the Argentine crisis). No less than eleven decisions are titled “relaunching” (*relanzamiento*), applied to access to market, norms compliance, strengthening of the secretariat, and so on. The other group of decisions, as noted above, is related to security issues. The second peak corresponds to a second effort at relaunching in the aftermath of the Argentine crisis. Celebrating the tenth anniversary of the Ouro Preto Protocol, a series of important decisions were adopted, among them Decisions 45-04 and 49-04 creating respectively a Fund for structural convergence and a regional Parliament. Both decisions will be studied in part 4 of this book.

Third, the numerical importance of political decisions reflects the fact that MERCOSUR is very attractive for its neighbors and to the rest of the world. Many decisions are related to MERCOSUR’s external relations. Starting in 1995 with its negotiations with the European Union, and in 1996–1997 with the association of Chile and Bolivia, MERCOSUR has had a busy international agenda. The rest of the Andean countries became associate members in 2004, and Venezuela a full member in 2007, and different types of agreements have been signed with other countries like South Africa (2000), México (2002), India (2003), Egypt (2004), Pakistan and Cuba (2006), and Israel (2007).

In short, CAN and MERCOSUR have been opening up their agendas to new issue areas, as a consequence of its overall ambition and complex institutional arrangement in the former case, and of its dynamics of crisis, relaunching and deepening in the latter.

NAFTA as an “External Constitution”

The scope and level of integration have so far been apprehended as dependent variables. The example of NAFTA allows us to introduce a final series of remarks concerning the consequences of a certain configuration of scope and level.

NAFTA can be characterized as relatively modest in terms of scope and level of integration. The institutional architecture is rickety, with only a Free Trade Commission, composed of Ministers of Trade and Secretariats in each country. Admittedly, NAFTA has also, like the MERCOSUR, dozens of working groups, subgroups, ad hoc groups, committees, and subcommittees. NAFTA also has two special organizations, one for labor (Commission for Labor Cooperation, CLC), and the other for environment (Commission for Environment Cooperation, CEC).

NAFTA is also limited in scope, with an agenda centered on free trade. Although the agreement, building on the Canadian-U.S. Free Trade Agreement (CUSTA), has been innovative, it did not include an evolution clause,⁴³ nor did it aim for the integration process spilling over into adjacent issue areas. Nevertheless, NAFTA offers a curious mixture of apparent modesty in its institutional arrangements and agenda, and yet its outcomes have a deep impact, to the point that some authors have qualified it as having an external, secret or supra constitution.⁴⁴

The argument goes as follows. CUSTA and later NAFTA have introduced an innovation as they included services and investments in the realm of trade liberalization. This has entailed a series of consequences not foreseen by the Canadians, although some tend to think it was actually planned by the Americans.⁴⁵ For Stephen Clarkson, "NAFTA established several government-inhibiting principles to be applied to all policies, regulations, and actions of member states."⁴⁶ By so doing, according to Clarkson, NAFTA constitutionalized a pro-market neoconservative ideological orientation that would constrain any future policy-making in the region. Under NAFTA rule (its famous Chapter 11), any decision taken to protect the environment, health or food quality or safety is susceptible to being opposed by any investor on the grounds of being trade-restricting. In addition to limiting governments' capacities, NAFTA also grants specific rights to corporations, and sets up a process for settling disputes favoring investors over States. As far as enforcement is concerned, NAFTA cannot prevent the most powerful of its member from selecting the judgments it is going to abide by, making it very uneven. Clarkson concludes quite convincingly that "with most of its new rules exporting the U.S. norms and with its lack of supranational institutional structure that could give Canada and Mexico voice at the continental level, it barely affected U.S. constitutional reality. For the two peripheral countries, NAFTA entered their constitutional makeup as external components, reconstitutionalizing

both.”⁴⁷ The post 9/11 evolution of NAFTA toward “deeper integration,” with the inclusion of new issues on its agenda, like borders, security, energy, water, or dollarization has aggravated the unbalance, as the United States has used the “home security” excuse to impose its own standards.

We will analyze in further details the type of governance that is under construction in the Americas in chapter nine. What can be said for now is that supplementing the study of agendas by an examination of outcomes leads us to conclude that the scope of integration is relative. Depending on their origin and their degree of compliance, the norms adopted can have very different impacts in the member countries. And that differential impact is not only a consequence of a multi-speed, or variable geometry methodology of integration, it is also a product of power-politics.

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PART 4

Democratizing Regional Integration

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CHAPTER SIX

The Parliamentary Option

Surely because the dominant and most legitimate model of democracy in the world is the representative one, there is a widespread belief that the best way to democratize a regional integration process is to create a regional parliament and grant it important prerogatives. This parliamentary option, needless to say, raises many questions. Does it make sense to create a parliament when the regional institutional arrangements are deprived of the other traditional components of a democratic polity, such as governments or political parties? Does it make sense to do it in Latin America where there is no tradition of parliamentarianism, and where parliaments are traditionally considered weak?

Some analysts have simply answered no to these questions and considered regional parliaments in Latin America as just decorative and costly device imported from Europe without much caution. This is also a common belief in Latin America, especially in Central America.

Yet arguably there is more to it than a mismanaged transplant. No integration process in Latin America has included in its initial institutional architecture a parliament. Therefore it is interesting to explore the motives of the reforms that have led to the creation of the parliaments, in particular in MERCOSUR, since right from the beginning this integration process made the choice of institutional modesty, refusing to copy the European model. As we saw in chapter four, MERCOSUR has not been able to stick to its initial intentions for very long.

For all the three Latin American parliaments that are part of regional integration processes (in Central America, in the Andes and in MERCOSUR), the European Parliament represents a model of what should be achieved. However, most of the time the Latin Americans

want to copy the end-product, without considering the long evolution that led to it.

In order to assess the particularities of the Latin American parliaments, this chapter will start with a brief reflection on the European case. Then the Latin American experiences will be studied, first with a brief examination of the forums of deliberation and the three different older experiences (CAN, SICA, and CARICOM) and then with a longer analysis of MERCOSUR's rationale to create a parliament.

How Did the European Parliament Become What It Is?

After World War II, the creation of almost every international organization was inspired by an ideal of representative and liberal democracy. The Council of Europe, the Western European Union, and the North Atlantic Treaty Organization (NATO) all had Parliamentary Assemblies composed of parliamentarians from member countries. As far as the European construction is concerned, Paul Magnette states that "it would have been abnormal and unacceptable for the Parliamentarians who were supposed to ratify the Treaty if, in the context of post-war restoration of democracy, the European Community, even with a limited agenda, did not have an Assembly."¹ The 1951 European Coal and Steel Community (ECSC) had an Assembly that was supposed to control its High authority. At that time, again following Paul Magnette, these Assemblies were inspired by the dominant conception of parliamentarianism. Assemblies were to be controlling bodies and take no part in the decision-making process.

Preparing the Treaty of Rome that gave birth to the European Economic Community (EEC), the promoters of integration did not dare to push the logic of parliamentarism to its ultimate conclusions. The defenders of the parliamentary option had to face the resistance of powerful sectors favorable to a technocratic depoliticized conception of an integration process. The European Commission would not be a traditional government with a Parliament comparable to the German upper house (Bundesrat) representing the states, hence the institutional arrangement would become an "unidentified political object," as Jacques Delors used to call it.

This strange polity became the object of criticism right from its beginnings in the 1960s. The supranational powers of the Commission infuriated French president De Gaulle, and many Parliaments had the bitter impression of being deprived of their traditional law-making

capacities. The complicated policymaking process was soon attacked on the ground of its democratic deficit.

I agree with Follesdal and Hix when they define the European democratic deficit as including five claims: "First and foremost, European integration has meant an increase in executive power and a decrease in parliamentary control;" "Second, and related to the first element, most analysts of the democratic deficit argue that the European Parliament is too weak;" "Third, despite the growing power of the European Parliament, there are no 'European' elections;" "Fourth, even if the European Parliament's power were increased and genuine European elections were able to be held, another problem is that the EU is simply 'too distant' from voters;" and "Fifth, European integration produces 'policy drift' from voters' ideal policy preferences."²

The transformation of the European Assembly into a genuine elected Parliament in 1979 was the first step in the direction of the integration process' democratization. And the subsequent Treaties have progressively strengthened it. It is interesting to observe that the evolution of the European Parliament has been the exact opposite of the national ones. While the latter have progressively given up their legislative capacities and concentrated on monitoring governments' decisions, the former has managed to take part in the policymaking process to the point that a co-decision procedure has been institutionalized.³

How did the European Parliament gain influence and conquer prerogatives? This is an interesting story.⁴ There has never been a consensus among integration promoters on the necessity of democratizing the process. As previously mentioned, the technocratic emphasis has long been dominant. The so-called founding fathers were anxious to preserve the integration process from any political interference. Jean Monnet, for instance, has had a very rich experience of planning economic activities during the two World Wars and had been the founder and first boss of the French planning agency before he masterminded the Franco-German reconciliation and the first steps of European integration. As president of ECSC between 1952 and 1955 Jean Monnet tried his best to run it as a neutral depoliticized agency. Yet the French refusal to ratify the European Defense Community (EDC) project in 1954 proved him wrong.

In this context of tentative depoliticization, the Assembly did not receive much attention during its first twenty years. However, two silent evolutions changed the panorama.

First, the European parliamentarians secured the right to elaborate their own rules of procedure, and managed to import many of the

rules they were familiar with in their own parliaments. Since all the parliamentarians came from parliamentary regimes,⁵ they imported the rules that made it possible to control the executive power. Such rules as the right to form an investigating committee, or the right to present a petition, or even the right to hold hearings of members of the Commission, and later the vote of investiture or the recall procedure, were all procedures the European parliamentarians progressively introduced or tried to introduce. Without a doubt, this allowed them to gain influence in the overall institutional framework. More than anything, this enabled them to be well informed and acquire an expertise that was almost comparable to the Commission's, making it easier for the parliamentarians to discuss the Commission's proposals and suggest amendments. The important point in understanding the parliament's evolution is that these rules of procedures and practices, progressively and empirically introduced by the actors, were later constitutionalized through the 1986 Single Act, the 1992 Maastricht Treaty, and the 1997 Amsterdam Treaty that introduced the co-decision procedure.

Second, in addition to these incremental institutional evolutions, there have been two important political moments that contributed to converting the Parliament into a heavy political actor. The first occurred in 1979. The first popular direct election of the Parliament gave the parliamentarians an unquestionable democratic legitimacy, and allowed them to claim more political space in European institutions. The second one occurred twenty years later, when the Parliament flexed some muscle during the "mad cows" crisis, forcing the Santer Commission to resign. In the midst of the crisis, the Parliament decided, in 1997, to create a Committee of Independent Experts to investigate the mismanagement of the crisis by the Commission. Its conclusions were devastating for the Commission, accused of incompetence and irresponsibility. Another report, unearthing fraud and nepotism, convinced the Commission to collectively resign in March 1999.

Thanks to this political-institutional evolution, the European parliament, according to Olivier Costa, has ended up fulfilling five very important functions: (1) Forum of expression; (2) Nomination and hearings of commissioners; (3) Vote of no-confidence and control over the Commission; (4) Co-decision; and (5) Budget appropriation.

However, Costa rightly points out that the influence of the Parliament depends on its capacity to make strategic use of its prerogatives. This capacity however is very much subordinate to the political debates inside the Parliament, where three different types of cleavages can overlap or

crosscut: partisans and opponents of politicization (the former being the Latin European counties with parliamentary regimes, the latter the Anglo-Saxon ones); the two dominant political parties (rightist European Popular Party and leftist Party of European Socialists) against the small parties who feel excluded from the deliberation and debates; and parliamentarians from large versus small countries.

Recalling the domestically inspired mimetism evoked in chapter four, the European Parliament is a synthesis of the different institutional and political practices that characterize the member countries, as well as the product of daily political debates inside its arena. This synthesis is the product of a long evolution, where the actors managed to have their practices institutionalized in the Treaties.

These features are important to bear in mind as we turn to Latin American experiences.

Latin American Forums of Deliberation

Latin America has a rich experience with regional forums. Nevertheless, despite the fact that they all share the name of Parliaments, some distinctions ought to be introduced (table 6.1).⁶

Some Parliaments are just forums of discussion and deliberation and some are linked, one way or another, to regional integration processes. In this section, I will discuss the former, leaving the latter for the next section. The first forum, the Latin American Parliament (PARLATINO) was created on December 7, 1964 in Lima, Peru. Some 160 parliamentarians from fourteen countries gathered in Peru's capital city to honor the invitation of Peruvian deputy Andrés Townsend Ezcurra, from the American Popular Revolutionary Alliance (APRA), who wanted to bolster regional integration at a time when the Latin American Free Trade Association (ALALC) was having great difficulties. In the subsequent years, the PARLATINO would also become a permanent democratic more or less informal institution, at a time when democracy was jeopardized in the region. No authoritarian regime paid attention to PARLATINO, even less thought of endowing it with a legal personality, but during twenty-eight years, it held meetings in different countries, making it an itinerant assembly. In 1974 it received strong support from Europe, as the European Assembly, keen to secure international recognition, organized a first common meeting. The EU-Latin America Interparliamentary Conference would from then on meet every two years.

On November 16, 1987, in the context of the wave of democratizations, a Treaty institutionalizing PARLATINO was signed in Lima, Peru. Five years later, PARLATINO was installed in Sao Paulo, Brazil, in an impressive building especially designed by famous Brazilian architect Oscar Niemeyer to symbolize the union between the peoples of Latin America.

In 1991, PARLATINO decided to relaunch its activities, trying to jump on the bandwagon of integration. As many processes were reactivated or new agreements were signed, 227 parliamentarians adopted during the Thirteenth PARLATINO assembly, held in Cartagena, Colombia, in August 1991, an ambitious project of Latin American Community of Nations. The project was presented to the Rio Group during its December 1991 summit, and a year later, the same Group expressed its supports of the idea during its Buenos Aires summit of December 1–2, 1992. The first concrete step was taken at the beginning of 1993, with the creation of the Latin American University (ULAC) in Brasilia. This though did not prove enough to trigger a mobilization in favor of PARLATINO's projects and the Parliament did not manage to become an important promoter of integration during the 1990s and 2000s. In their Cusco Declaration (December 8, 2004), when the Latin American presidents created the South American Community of Nations, it did not cross their mind to mention PARLATINO's previous idea.

However, as with the rest of Latin American parliaments, it would be unfair to evaluate PARLATINO with strict utilitarian arguments. The representatives from twenty two countries⁷ have indeed gathered for many years and contributed to feed the integrationist spirit all over the continent even during the harshest times. Some parliamentarians kept on participating in the Assemblies even when their own Parliament had been shut down by military regimes. Without a doubt they kept alive some modest form of democratic deliberation in times of authoritarianism. And finally, PARLATINO got to discuss many important topics that would later make their way up to the official agendas of the Summits during the 1990s. Though, it is true, many other arenas of discussion and deliberation emerged from the 1990s, and it could be that PARLATINO only owes its continued existence to classic institutional stickiness.

The second Latin American forum is the Indigenous Parliament of America (PIA), officially created on August 31, 1988, in Panama. PIA is a different type of forum, less preoccupied with promoting regional integration and much more with defending the rights of a

certain category of people. Chapter 1, Article 2, of its status posits that the “Indigenous Parliament of America constitutes in essence a socio-political space where the Indigenous parliamentarians from America will discuss and unveil the problems that are affecting the Indigenous peoples, and will suggest ways to address them.”⁸ Composed of parliamentarians of Indigenous origin from North, Central, and South America, its main vocation is to design pieces of legislation favorable to the Indigenous minorities and support all sorts of mobilization defending their rights.

The third forum, the Amazon Parliament (PARLAMAZ), belongs to another category, as it focuses on a limited number of issues that are crucial for a whole transnational region. The only thing it has in common with PARLATINO is its Peruvian origin. In 1989, a group of Peruvian parliamentarians took the initiative to suggest the creation of a Parliament to call attention to the environmental problems of the region. The eight countries sharing the Amazon Basin, namely Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname, and Venezuela decided to go along with the idea. Several Assemblies were organized where the representatives of the member countries Parliaments discussed the need to better protect the biological diversity of the region and to promote sustainable development.

Previously, the same eight countries had signed, in 1978, an Amazon Cooperation Treaty. The relation between the Amazon Cooperation Treaty Organization (OTCA) and PARLAMAZ were never clear. OTCA does not even include PARLAMAZ in its institutional architecture.⁹ Moreover, Brazil has always been an active participant in OTCA, an organization created by the Brazilian authoritarian regime. Yet the Brazilians never got much involved in PARLAMAZ, which of course seriously weakened the Parliament.

Without a clear mission, PARLAMAZ interrupted its activities in 2001, but in 2006 a political will to relaunch it emerged during a meeting in Bolivia with representatives from Brazil, Ecuador, and Venezuela. The “Declaration of Pando” (December 13, 2006) called for a reactivation of PARLAMAZ, highlighting the necessity to design policy projects in the realm of sustainable and social development. It was clearly a political initiative, and the fact that President Chávez supports PARLAMAZ could further contribute to Colombia and Peru’s reluctance to reactivate it.

Finally, a fourth forum was created in 2005, gathering black parliamentarians from the continent. A first Meeting of Afro-Descendant Legislators of the Americas and the Caribbean took place in Brasilia on

November 21–23, 2003 with parliamentarians from Brazil, Colombia, Costa Rica, Ecuador, Panama, Peru, and Uruguay. The Charter of Brasilia called for the creation of a Black Parliament of the Americas, in order to discuss the progress made regarding the fight against racism and the enforcement of recommendations made during the 2001 Durban World Conference against racism. This first meeting received strong support from recently sworn in Brazilian president Lula, who proudly heralded a fierce fight to eradicate any form of racism in Brazil. During its second meeting in May 2004 in Bogotá, Colombia, the group decided to create the Black Parliament, and insisted in convincing other Parliaments, such as the PARLATINO or COPA (see the following section), to include the black issue on their agenda of work. The third meeting was organized in San José, Costa Rica. The closing of the event took place in the city of Limón, on the Caribbean coast of this Central American country, where on August 30, 2005 the Black Parliament was officially inaugurated. In its inaugural statement, the Parliament presented itself as a forum dedicated to making proposals defending Afro-descendants' rights. Epsy Campbell, a Costa Rican black deputy, became the first president of this parliament.

Since then, the Black Parliament has become a network of parliamentarians committed to the defense of civil rights and social inclusion of a population of 150 million. The fourth session, on March 14–16, 2008 in Cali, Colombia, brought together 45 representatives from all over the continent, including the United States.

In addition to these four Parliaments, there are two hemispheric interparliamentary organizations. The first one to be created was the Parliamentary Confederation of the Americas (COPA). COPA gathers congresses and parliamentary assemblies of the unitary, federal, federated, and associated states of the continent, but also the regional parliaments and the interparliamentary organizations of the Americas, representing a total of three hundred assemblies. COPA was created by the National Assembly of Québec, Canada, on a very political basis. The idea was to discuss the hemispheric regionalization project, with a critical stance, and organize a follow-up of the Summit of the Americas' decisions. On September 18–22, 1997, the Québec Assembly called for a hemispheric parliamentary conference titled "The Americas in 2005: Democracy, Development and Prosperity." More than 400 parliamentarians from twenty-eight countries attended the conference and shared ideas about regional integration. Since 2000, COPA holds annual general assemblies.

COPA's intention was clearly to force the democratization of the Summit of the Americas' process in general, and of the Free Trade Area of the Americas (FTAA) talks in particular. The 2001 Quebec III Summit of the Americas proved to be a very frustrating experience. In the same city that conceived the project, COPA was excluded from the negotiations, triggering bitter comments from COPA's president Jean-Pierre Charbonneau.¹⁰

The second one, the Inter-Parliamentary Forum of the Americas (FIPA), was also born in Canada, but in Ottawa, when the Federal Parliament invited on March 7-9, 2001, delegates of the Assemblies of twenty-six American countries. The objectives were to "contribute to the development of inter-parliamentary dialogue in dealing with issues of the hemispheric agenda... help strengthen the role of legislative branch in democracy and in the promotion and defense of democracy and human rights... contribute to the process of integration as one of the most appropriate instruments for sustainable and harmonious development in the hemisphere."¹¹ FIPA was more politically correct than COPA and managed to have some recommendations passed on to the Quebec Summit.

And finally, in the framework of the projected South American Union of Nations (UNASUR), a new South American Parliament is under discussion.¹²

Latin American Parliaments and Regional Integration Processes

All Latin American regional integration processes have, at one moment or another, created regional parliaments. We will briefly revise the Andean, Central American and Caribbean experiences in this section, before turning to MERCOSUR's in the next section. The curious circumstances that presided over the signature of the 1979 Treaty creating the Andean Parliament have already been commented on in chapter three. The Treaty entered into force in 1984 and for years PARLANDINO was not very active, as its ordinary sessions only lasted two days, twice a year, in March and November. In the wake of the 1996 relaunching of the Andean integration,¹³ a new treaty was signed on April 23, 1997. This additional Protocol to the 1979 Treaty creating PARLANDINO introduced the direct popular election of five Andean parliamentarians for each member country. Until this election, they were just chosen by their pairs. At the time of the signing, CAN

had five members. Venezuela, which was the first country to elect its Andean parliamentarians, decided to withdraw in 2006. Ecuador and Peru proceeded to organize elections, respectively in 2002 and 2006. Colombia is scheduled to do so in 2010 and Bolivia will also, once its process of constitutional reform is over. In 2006, the rules of procedure were changed, extending the sessions to four months, twice a year.¹⁴

Despite the reactivation of PARLANDINO and the remodeling of its installations in Bogotá, its role remains modest.¹⁵ PARLANDINO is supposed to be a deliberative body entitled to make recommendations, yet no organ of CAN has an obligation to consult it. PARLANDINO is in no position to offset the concentration of powers in the hands of the executive organs and the presidentialism already commented on in chapter four.

Much the same could be said regarding the Central American Parliament (PARLACEN), although the rationale of its foundation has been different. As noticed in chapter two, PARLACEN was very much a by-product of the Central American crisis-resolution efforts. When Guatemalan president Cerezo suggested in 1986 the creation of a regional Parliament, he had in mind a forum of deliberation to accompany the peace talks in the region. It was a way to associate the political parties with the effort of imagining alternatives to war.

The Constituent Treaty of PARLACEN was signed on October 2, 1987, and entered into force on May 1, 1990, with three countries having ratified it (El Salvador, Guatemala, and Nicaragua). On October 28, 1991, the Parliament was inaugurated in its new installations in Guatemala with twenty parliamentarians elected from each of the three countries.

The 1987 Treaty gave PARLACEN ambitious prerogatives. True, PARLACEN was deprived of any legislative functions, but its role was to be a consultative forum and to promote and drive the integration process. It even had the capacity to designate and revoke the different organs' executives, and make proposals of treaties. PARLACEN could have developed a political capacity to monitor the process of integration, yet its prerogatives were undermined by a first protocol in 1989 that allowed the Parliament to be installed with only three countries having ratified the Treaty and more importantly that suspended the capacity to designate the integration authorities. Then the December 13, 1991, Protocol of Tegucigalpa that created the System of Central American Integration (SICA) confirmed this downgrading.

As a matter of fact, SICA has awarded a very modest role to PARLACEN, limiting it to a deliberative assembly. Between 1987 and

1991, the crisis-resolution efforts proved to be successful and a regional Parliament did not seem to be an absolute necessity. The integration process was put on a new track, with the presidents in firm and exclusive control of its orientation.

However, over the years, PARLACEN has taken advantage of its democratic legitimacy to make its voice heard in many important debates concerning regional issues. Its enlargement to include Nicaragua and Panama gave it a larger regional audience, its major limitation being the stubborn refusal of Costa Rica to even think about signing the Treaty.

Finally, in the Caribbean region a Parliament has also been created. It is also in 1987 that the idea was introduced by Barbados' prime minister. The idea was to democratize the integration process and the CARICOM decided to go along with it and signed an agreement in 1990 that entered into force in 1994. The Assembly of Caribbean Community parliamentarian (ACCP) is a deliberative body, whose members are elected or chosen by their assemblies. Its objective is "to involve the people of the Community, through their representatives, in the process of consolidating and strengthening the Community."¹⁶

The ACCP has not been as active as PARLACEN. Its inaugural meeting was held on May 27–29, 1996 and since then it has only met twice, in 1999 and 2000.

The Parliament of MERCOSUR: Timing, Sequence, and Content of the Reform

The promoters of MERCOSUR, as explained in chapter four, did not want to imitate the European Union, and made the choice of institutional modesty in 1991 and 1994. However, they rapidly realized that institutional modesty had its limits, and during much of the 1990s, the Common Market Council took many political decisions resulting in new institutional arrangements.

At the end of the 1990s, the economic turmoil in Brazil and Argentina triggered a reflection on the MERCOSUR's institutional weaknesses. The 2001 Argentine crisis can be considered as a founding or refounding trauma. In the same way Brazilian and Argentine presidents decided in the mid 1980s to build a collective defense device for democracy, both countries and their partners, started thinking at the beginning of the 2000s of a way to prevent future economic crises. It soon became apparent that this could not be done without a deeper institutionalization of the integration process.

In 2002, Brazilian president Cardoso and his Argentine counterpart Duhalde met several times and expressed their common will to strengthen MERCOSUR. That year, the election of Lula in Brazil's presidential election confirmed a "turn to the left" perceptible in the whole continent. The elections of Nestor Kirchner in Argentina (May 2003) and Tabaré Vázquez in Uruguay (October 2004) further contributed to this surprising move toward the left. For MERCOSUR, these elections, together with the celebration of the Protocol of Ouro Preto's tenth anniversary, opened a window of opportunity for changes. The timing was unique.

Some of the reforms in the framework of Ouro Preto II have been described in chapter four. It is time now to try to understand why the project of a Parliament was included in the package of reforms. The idea of a Parliament was not exactly new in MERCOSUR. Article 24 of the 1991 Treaty of Asunción stipulated that "in order to facilitate progress towards the formation of the common market, a Joint Parliamentary Commission of MERCOSUR shall be established."¹⁷

During the year 1991, three meetings of parliamentarians from the four countries were held, in May in Asunción (Paraguay), in July in Buenos Aires (Argentina) and in December in Montevideo (Uruguay). During the Buenos Aires meeting, the Joint Parliamentary Commission (CPC) was designed and granted prerogatives more important than the ones the promoters of the Asunción Treaty had in mind. The creation of a Parliament was evoked, as a means to speed up the integration of peoples. In December in Montevideo (Uruguay), the CPC was installed and its rules of procedure were approved. The CPC was composed of 64 parliamentarians, with four national sections of sixteen members each. Article 3 of the rules of procedure mentioned the fact that the CPC would have a "consultative and deliberative character and will formulate declarations, dispositions and recommendations." And among its activities, it was mentioned that the CPC would "facilitate the future installation of the parliament of MERCOSUR."

Interestingly enough, the CPC was in place with its attributes well before the 1994 Protocol of Ouro Preto (POP) that gave the MERCOSUR its definitive institutional setting. But when POP was prepared, the CPC was lowered to a subaltern position. It was not included in the group of organs that had decision capacities and even if POP mentioned that the CPC would make recommendations to the Common market council (CMC), it would only do it through the Common market group (GMC), and no MERCOSUR organ

was entitled to “consult” the CPC. The self-attributed “consultative character” of the CPC actually never materialized.

If during its first plenary session, in May 1992 in Cordoba, Argentina, the president of the Brazilian section, Nestor Proença, underlined the necessity to “improve the institutional model until the creation of a Parliament granted with supranational functions,”¹⁸ the idea of transforming the CPC into a Parliament was about to be buried for several years. It eventually resurfaced in December 1999, during the fourteenth CPC plenary session in Montevideo, Uruguay. Finally, the fifteenth session decided to create a technical specialized group for the institutionalization of the Parliament.¹⁹

The political changes previously mentioned gave the project a new impetus. The new leftist political leaders were very much committed to strengthening MERCOSUR and that meant for them an improvement of its efficiency and legitimacy. A Parliament appeared to be a perfect device to address both issues. On one side, a Parliament could help address the deficit of norm compliance by involving the political parties, and on the other, it could give the integration process a missing democratic dimension.

In a series of evaluations, an expert explained that the CPC was not adequately complying with POP’s Article 25 that stipulated that the CPC’s role was to “accelerate the internal procedures of MERCOSUR’s norms incorporation.” He assessed that the CPC could not play its role because it was not associated with the decision-making process. Hence, he recommended granting the CPC a co-decision power, prior to any creation of a Parliament.²⁰

He was partly heard, and the first step taken was the signature of an interinstitutional agreement between the CMC and the CPC on October 6, 2003. This so-called Alonso Amendment stipulated that the CPC would stimulate the participation of national Parliaments into the “conformation of MERCOSUR’s legal order,” and would constitute a “real and effective laboratory to help design the role of the future Parliament.” The CMC committed itself to proceed with consultations on all “topics that require legislative approbation for their incorporation in the legal orders of the member states” (Article 1). In exchange, the CPC was supposed to “encourage, through its national sections, a responsible process of internalization of MERCOSUR’s norms” (Article 2).²¹

This agreement soon fell short of what was expected. Old habits dying hard, the CMC kept on ignoring the CPC, and the CPC was in no position to capture the attention of the four member countries’

parliamentarians for whom MERCOSUR's norms had never been a priority in agenda setting. At this point, it became clear that during its ten years of existence, the CPC had never managed to gain much space in MERCOSUR's institutional arrangements, and that no further institutional modifications would make any difference. The CPC had not taken advantage of its capacity to write its own rules of procedure to develop monitoring capacities or contribute to the CMC's accountability. Unlike the European parliamentarians, they did not have the skill to do the job, in part because of the absence of parliamentary traditions in the region, but also because they did not see clearly what was at stake. On December 15, 2003, the CMC approved its new program for the period 2004–2006 and included in it the creation of a Parliament. Then in July 2004, the CPC presented a project of Parliament building that received widespread criticism.²²

During their July 2004 Summit, MERCOSUR's presidents announced their intention to reform the Protocol of Ouro Preto, and asked the Secretariat's Technical Assistance Sector (SAT) to prepare a study proposal on the conditions of democratic governability.²³ The SAT, with its fierce independence already commented on in chapter four, seized this opportunity to push its own conception of a Parliament, much closer to the European model.²⁴ In the CPC's project, the Parliament was granted very modest prerogatives and the parliamentarians, sixteen for each country, were not elected by universal suffrage. As a matter of fact, the reform almost limited itself to a change of name.

The SAT, hiding behind the Friedrich Ebert Foundation (FESUR), suggested a much more ambitious reform, with a number of innovations: compulsory information clause (to improve the expertise of the Parliament), participation in the decision-making process, budget appropriation, or obligation for the CMC to be accountable on a yearly basis, right to organize hearings of MERCOSUR's authorities. Much of these rules, as we saw, had been introduced pragmatically by the European parliamentarian over the years.

On December 15–17, 2004, the Summit celebrating the tenth anniversary of the POP could not deliver the much awaited reforms. The political will was not absent, but a series of commercial conflicts during the fall sparked off a climate of mutual recriminations. The Argentine's persistent trade deficit with Brazil was the cause of President Kirchner's very bad mood. And any decisions capable of addressing the problem, like the adoption of a safeguard clause, were carefully avoided, postponing the tough choices for better times.

Regarding the Parliament, Decision CMC/49/04 curiously posed “giving continuity to the creation of the Parliament,” and entitled the CPC to elaborate a new Protocol. The deadline for the installation of the Parliament was December 31, 2006.

The road to the final Protocol was still a bumpy one. Some issues were thoroughly debated, like the composition of the Parliament. Due to the huge asymmetries of population inside MERCOSUR, a strict proportional system was difficult to put in place. Nevertheless, Brazil insisted on adopting a softened proportionality where it would have had thirty six seats, Argentina thirty and Paraguay and Uruguay sixteen each.

Interestingly enough, the composition of the Parliament was debated before its prerogatives, and the debate was held on an intergovernmental basis. The members of the CPC did not want to reach a conclusion that supposedly would not have been acceptable for the diplomats. Hence they respected the national cleavages, without imagining that a Parliament could function with a more partisan logic. In any case, Paraguay, with the support of Uruguay, managed to convince the bigger players to adopt equal representation of the member countries, with sixteen seats for each, at least during the preliminary phase. They also managed to impose a consensus-based decision-making process, giving a veto to the smaller countries. Regarding competences, the partisans of a modest deliberative assembly, pushed by the diplomats, clearly won the battle.

At the end, CMC Decision 23/05 (December 8, 2005), called Constituent Protocol of MERCOSUR's Parliament, has included in its Article 4 on competencies several interesting features, like the right to ask for information and the obligation to respond or the hearing of MERCOSUR's Presidency report at the end of each semester. The Parliament also has the right to issue a non-binding opinion on the candidates to occupy important positions such as the director of the Secretariat and the president of the Commission of Permanent Representatives (CRPM). Furthermore, the Parliament will vote on MERCOSUR's budget. The bases are definitively set for the Parliament to fulfill a function of political control over MERCOSUR's authorities. However, it remains to be seen if the parliamentarians will make sound use of them.

As far as the Parliament's contribution to the decision-making process, the Protocol includes the Alonso Amendment and adds a sort of a fast-track procedure (figure 6.1).²⁵ Any organ entitled to take decisions will have to send their project to the Parliament. Yet, it has no

obligation to take its final decision in conformity with the Parliament's ruling. If it does, the decision will be put on a fast-track toward its entry into force. This fast-track procedure could prove useful, as many norms adopted in the MERCOSUR never reached the final stage of incorporation into the national legal orders (figure 6.1). The parliamentarians from the member countries, especially from Brazil, have never paid much attention to issues related to MERCOSUR or to international agreements in general.

MERCOSUR's Parliament also has the possibility of suggesting pieces of legislation, as any Parliament would do. Nevertheless it has no guarantee that its proposals will be taken into account. Article 4.13 simply stipulates that a parliamentary proposal has to be sent to the Common Market Council (CMC) that will "inform every semester about the way it is processing it." Finally the Parliament has implicit competencies. Article 4.22 grants it with the power to "endeavor any activity corresponding to the exercise of its competencies."²⁶

Regarding its composition, the Protocol, that entered into force on February 24, 2007, sets up a three-step procedure. For its first three years (2007–2010), the national Parliaments each designate nine deputies and nine senators, and Venezuela only a combined sixteen.²⁷ During this preliminary phase, the Parliament adopts its rules of procedure and budget and tries to agree on a proportional representation principle for the future direct elections of its members. As we saw, this issue is complex due to the huge asymmetries in MERCOSUR. Sometimes during this first transitory phase, the member countries have to hold direct elections to designate their regional parliamentarians. Then during a second phase (2011–2014), the Parliament will have a proportional representation of the peoples of MERCOSUR. And after 2015, there will be a "MERCOSUR day" where all the member countries will hold regional elections together.

This complex system has a curious consequence. During the first two phases, there will be no coherent legislature, as the parliamentarian may have different terms. They are all elected for a four year term, but possibly starting at different dates.²⁸

For many activists of the integration cause, and many officials involved in the process, this Protocol was a disappointment. They had hoped for the adoption of a genuine European style co-decision procedure. The fact that the European Union provided substantial financial assistance for the creation of the Parliament further convinced many that there was going to be an import of its model. It is probably fair to say that they placed the stakes too high ignoring the fact that the

CPC never managed to consolidate its position and that the member countries, as already pointed out, lack any tradition of parliamentarism. However, for MERCOSUR, the introduction of a Parliament could embody, and at the same time entail, a change of institutional culture.

On December 15, 2006, MERCOSUR's Parliament was officially inaugurated in Brazil's Senate, as this country was holding the presidency of the group. And then, the first session opened on May 7, 2007, in Montevideo, where the Parliament has its siege. During its third ordinary session, on June 25, 2007, the Parliament received the Paraguayan minister of foreign affairs to listen to his report on his country's presidency, and adopted its first declarations.²⁹ The first one, proposed by Brazilian parliamentarian Aloizio Mercadente, supported the positions defended by MERCOSUR's negotiators at the WTO Doha round of talks; the second, proposed by Argentine parliamentarian Alfredo Atanasof, supported Argentina's claim that talks with Great Britain over the Falkland Islands issue should resume. A third resolution on freedom of the press was a direct attack against Venezuela and was rejected.

On September 3–4, 2007, during its fifth session, the Parliament received the Uruguay minister of foreign affairs, who came to present his country's priorities as it was assuming the presidency of the block. Among them, he evoked the long-paralyzed negotiation with the European Union, the implementation of the first projects of the new Fund for structural convergence,³⁰ and the completion of the customs code.

In its seventh ordinary session, on November 19, 2007, the Parliament adopted a very political posture in two interesting declarations. The first one was aimed at supporting the role of Venezuelan president Chávez as mediator to facilitate the release of hostages in Colombia, and the second one was a strong condemnation of the Armenian Genocide of 1915–1923. In its first extraordinary session, on December 18, 2007, the Parliament also made a firm political declaration in favor of the defense of the institutional order in Bolivia. With it, the Parliament was closing a busy first year of existence, with nine ordinary sessions, the creation of eight Commissions,³¹ and many important debates.

Some functions of the Parliament seem to be difficult to fulfill though. In April 2008, Geraldo Mesquita, the leader of the Brazilian parliamentary group, resigned in a display of protest against a lack of respect shown by four Brazilian ministers. The Ministers of education, science

and technology, sports and culture never even bothered to answer the parliamentarians' invitation to come and discuss their policies.

Only the future will tell if MERCOSUR's Parliament succeeds where PARLACEN and PARLANDINO have so far failed. To conquer political space, MERCOSUR's Parliament does not go unarmed. The Protocol might not have granted it co-decision prerogatives, yet, it could politically control MERCOSUR's authorities, and it is up to its members to prove they can both propose intelligent pieces of legislation and suggest sound alterations to the ones they are entitled to evaluate.

Much depends, in the final analysis, on the political capacity of the parliamentarians to make use of their prerogatives. As mentioned repeatedly, the absence of parliamentary traditions in the member countries could prove a handicap, although not an insuperable one. Contrary to widespread belief, the absence of parliamentarianism in Latin America does not mean that the Parliaments are necessarily weak. Especially in the Federal systems, and MERCOSUR now has three of them among its five members, the upper houses are very powerful.³² For different reasons, Argentina and Brazil both have very strong Senates, and typically in both countries, a Senator from a poor province (Argentina) or state (Brazil) is a very influential political figure. In both countries, it has a lot to do with political clientelism, and the way those Senators know how to exchange political support with the channeling of economic resources toward their constituency.

True, this political game is an allocative and redistributive one that has not been transferred so far to MERCOSUR, simply because there were no common redistributive policies. Nevertheless, since 2007, MERCOSUR has adopted two redistributive policies that could bring about some changes.³³ I am not suggesting that a clientelistic game could be initiated at the regional level, but at the very least a redistributive game could raise the stakes and therefore the interest of the parliamentarians, even if the Parliament does not intervene in the decision-making process. It is also likely that this interest will be higher for the parliamentarians who come from regions that feel more concerned with MERCOSUR, like the south and south-east of Brazil and the north of Argentina.

Accordingly, the Parliament of MERCOSUR's future influence will much depend on the origins and the skills of the parliamentarians, especially the ones who are important veto-players in their respective countries.

Do the first "Mercodeputies" have a profile of that sort? In a way, it seems that they do. The vast majority of the parliamentarians come

from Northern Argentine Provinces or Southern Brazilian states (figure 6.2).³⁴ The Brazilian state of Rio Grande do Sul sent four deputies and two senators. The Argentine provinces of Misiones and Corrientes sent two representatives each. Those are regions that are very much concerned with the MERCOSUR, to a point where they took many spontaneous initiatives to activate regional integration from below.³⁵

What the map (figure 6.2) does not show is the political weight of some of MERCOSUR's new parliamentarians. The Argentine delegation, for instance, includes Adolfo Rodríguez Saá, a member of a powerful political family³⁶ from the province of San Luis. Saá was governor of his province, San Luis, from 1983 to 2001, winning five consecutive elections. During the week December 23–30, 2001, he was appointed transitional president in the midst of dramatic political turmoil following the overthrow of President De la Rúa. A deputy in 2003 and then senator in 2005, this powerful Peronist political boss could contribute to strengthen MERCOSUR's Parliament. The Brazilian delegation also includes major league players. Cristovam Buarque, for instance, was governor of the Capital District of Brasilia between 1995 and 1999, where he became famous for designing a redistributive social policy of conditional cash transfer (*bolsa escola*) that would later be implemented by President Lula throughout the whole country. He was also minister of education in Lula's first government until 2004, and in 2006 he was a candidate in the presidential election. Also among the Brazilian members of MERCOSUR's Parliament is Aloisio Mercadante, an important leader of the Workers' Party (PT), several times deputy in the state of Sao Paulo, and a close collaborator of President Lula's.

It remains to be seen if these parliamentarians are indeed attending the sessions, if they will try to be elected, and if they will be keen to offset the potential weaknesses of MERCOSUR's Parliament. It is true that the leaders of MERCOSUR have made the choice of a functionalist logic, putting the emphasis on the norms' implementation deficit. Only the parliamentarians may eventually make the Parliament go beyond the limited fast-track procedure and convert it into a genuine contributor to the decision-making process and hence to the democratization of MERCOSUR.

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CHAPTER SEVEN

Integration from Below

The Parliamentary option does not seem to have silenced the critics of the democratic deficits.

In Europe, the Parliament has progressively gained new prerogatives with every new treaty signed since the 1960s. Nonetheless, the interest of European voters has declined since 1979, as their turnout fell from 63% in 1979 to 45.6% in 2004.¹ Surprisingly, the new member states' citizens seem to be even less interested by European elections than the ones from the core members. The European Parliament has fallen in the same category as the national ones and suffers from the same lack of credibility that undermines any political institution. In Latin America, the regional Parliaments are mocked (PARLANDINO), criticized (PARLACEN), or ignored (PARLASUR). Whatever their fate may be in the future, they will probably not meet the claim for more democracy at the regional level.

Meanwhile, civil society all over the continent has been very active on a transnational basis. Of course, there is nothing really new about this. If the dream of a united Latin America has been alive for so long, it is precisely because the Latin Americans have always been in close contact, with tight societal bonds and having the advantage of sharing the same language (except for Brazil), religion and cultural traditions. The weakness of mutual trade is often considered as an indicator of mutual exclusion, but this is wrong.

What is true, however, is that during certain periods in history, there has been an intensification of interactions between actors in Latin American civil societies. And there is definitely a link that deserves to be further explored between transnational civil society activism and the regional integration processes.²

This chapter opens with a brief introductory reflection about the reasons why civil societies interact and the link with regional integration processes. The following sections will distinguish between spontaneous and framed civil society participation in regional integration processes. The chapter closes by questioning the existence of a regional civil society.

Why Do Civil Societies Get Involved in a Regional Integration Process?

Before raising this question, a preliminary clarification is necessary. The reader will recall that I have defined regional integration as a historical process of increased interaction between political units at different levels. It is true that I have mainly been concerned with intergovernmental institutional arrangements in the previous chapters, although mentioning from time to time non-governmental actors. In this chapter, I am interested in nongovernmental initiatives that, one way or another, foster regional formal or informal integration. Therefore I am interested in non-state actors³ in general, including for instance market forces or business sectors, and not only in civil society.

Going back to the initial question, there is an obvious answer for all the organized interests that are or can be affected by free trade. When a free trade agreement is being negotiated, the national preferences defended are a synthesis of private interests. In some situations, the negotiators know how to make the national interest prevail over private ones, in others they are mere ambassadors of the most powerful lobbies. It is much more complicated for labor organizations or social movements, than it is for the business sector, because they have a lot at stake but their voices are hardly heard, as they are not often invited to the negotiation table.

When an integration process deepens, with new issue areas on the agenda and higher levels of decision-making capacities in the hands of international agencies, a wider range of interests can be affected, forcing a reaction from the groups involved. As a matter of fact, this is how the classical neo-functional literature used to explain the cycles of crisis and reactivation of integration.

In short, there can be a reactive, interest-driven, often negative, type of participation.

The question becomes more intriguing when civil society groups' involvement is not interest driven. Two motives can be identified.

On one side there can be a political motive, related to the feeling that the domestic political arena is becoming meaningless. The whole democratic game may appear to some as no longer adequate, since lots of important decisions affecting their way of life are taken in international organizations where they do not have a voice. True, there is room for discussion on that point. People do not just realize one day what globalization is all about and decide to do something about it. They do not notice spontaneously that a threshold has been crossed drastically limiting the sovereignty of their country. Most of the time, they can hardly identify where a decision comes from, let alone relate a policy outcome with a decision-making process.

There is a very interesting literature showing how people are actually mobilized by advocacy coalitions, activists, entrepreneurs or “rooted cosmopolitans” and don’t just react spontaneously.⁴ Regarding Latin America, it is important to recall that the second wave of regional integration took place during a decade when the movement against globalization was born. Starting in 1995 with the mobilization against the OECD’s Multilateral Agreement on Investments (MAI), the Alter-Globalization movement successfully tested the “Dracula method,” consisting of putting a secret negotiation under the spotlight in order to kill it. Then they systematically denounced the international organizations’ lack of transparency and organized massive protests during all major international meetings of the multilateral agencies such as the World Trade Organization (WTO). As a result, a decade later all major international organizations have opened space for civil society’s participation.⁵ Again, there is room to cast doubt about the genuine democratizing effects of such openings to civil society’s participation. In the 2000s, the issue of participation has been further popularized by the World Social Forums, first organized in the Brazilian southern city of Porto Alegre in 2001. Latin America’s regional institutional arrangements, especially the MERCOSUR, could not remain untouched by this debate.

But the 1990s were also the decade of the Washington consensus. A second motive for civil society’s involvement regarding regional integration has to do with values. Regional integration processes during the 1990s, as explained in chapter one, were trade-centered, and were seen as complementary strategies to the structural adjustment programs implemented under the scrutiny of the International Monetary Fund (IMF). The World Social Forum’s slogan, “Another World is Possible,” has inspired many civil society groups all over the world, keen to invent new relationships between societies and countries. Venezuelan

president Chávez has built on this idea, suggesting a new kind of integration between peoples within the framework of his Bolivarian Alternative for the Americas (ALBA).⁶

In any case, interest, politics, or value-driven motives for involvement are all reactive, in the sense that they incite people to try to influence the agenda of integration and frame the issues. But there can also be some proactive involvement, actors can build transnational networks and make regional integration from below advance, in the absence of any “contact” with the integration from above. And they can do it without any intention of giving life to a regional institutionalized project, even if they share common ideas and contribute to building a common representation in a region.

In the next two sections, I will examine some examples of different types of spontaneous civil society participation, and then analyze other types of framed participation.

Spontaneous Participation

As previously mentioned, spontaneous participation can be diversely motivated. I will start by giving an example of Central American organized groups having a direct interest in regional integration.

The reactivation of Central American integration during the second half of the 1980s and beginning of the 1990s has essentially been presented in chapter one as a by-product of collective crisis-solving efforts. To supplement this analysis, it is interesting to point out that a great variety of actors joined this effort of imagining a future for the region: Particularly so in the case of private sector organizations. In a way, the governments were too busy designing political plans to put an end to the Central American crisis to think about regional integration. However, if no political will was perceptible in 1986–1987, there was a “social will” to use José Caballero’s distinction.⁷

As early as 1986, in the midst of the regional crisis, the first organization to take an initiative was the Salvadoran Foundation for Economic and Social Development (FUSADES). As Caballero noticed, what FUSADES suggested to the governments was to endorse their export-led project for economic development.⁸ According to this private sector organization created in 1983 with the support of the U.S. Agency for International Development (USAID), this strategy called for a reactivation of the Central American Common Market (MCCA). It is remarkable that during the crisis, intraregional exports, after having

fallen to a record low in 1985, started to recuperate during the second half of the eighties well before the crisis came to an end.⁹ The Central American private sector managed to keep afloat the regional integration process in the worst conditions and claimed credit for it. Without a doubt, that gave it a legitimacy to voice its concern and make suggestions about the best way to solve the crisis, reactivate the economies, and reinsert them in the global economy.

After FUSADES, other organizations made similar propositions, like the Guatemalan Chamber of Industry for instance. And then different umbrella organizations started to coordinate their positions and build a regional platform. The Central American Federation of Chambers of Industry (FECAICA)¹⁰ managed to be invited to the first presidential summit in 1986, where it had the opportunity to make proposals regarding the reactivation of the MCCA. In 1989–1990, another regional organization, the Federation of Private Entities from Central America and Panama (FEDEPRICAP) went a step further and prepared a project, the Central American Economic Community, that would be discussed during the eighth regional presidential summit (Antigua, June 15–17, 1990). FEDEPRICAP offered a deal to the presidents: They would take responsibility for reactivating the commercial exchanges in the region, if the presidents took a series of incentives, which included deregulation, administrative rationalization, harmonization of tariffs, etc.¹¹ As Roberto Murray Meza, a Salvadoran entrepreneur, said, “The interesting point about FEDEPRICAP is that it emerges at a time when the entrepreneur understands that the problems of each country are substantially interrelated.”¹²

For Central America, this coordination of private sectors organizations was new. During much of the 1960s, CEPAL’s inspired project of industrial complementarity had sharpened rivalries between the five countries’ chambers of industry, each one keen to secure the monopoly of an industry on its territory. FECAICA was much more in favor of the free-trade centered conception of integration pushed by USAID’s Regional Office for Central America and Panama (ROCAP). As explained in chapter two, a crisis situation enables the actors to realize that they have common interests, and incites them to put this common interest above their private ones and start working together to defend it. During much of the 1990s, FEDEPRICAP was very active in promoting liberalization.

Other than the business sector, some social organizations have created umbrella organizations during the first half of the 1990s in Central America, like the Civil Initiative for Central American

Integration (ICIC) in 1994. Also worth mentioning, in 1993 a wide range of organizations gathered to create the Central American Intersectoral Co-ordination Committee (CACI). All together, these two organizations provided a fairly good representation of economic activities in the region, and based on that made a claim for direct participation to the consultative councils that SICA organized, as we shall see later in this chapter (table 7.1).¹³ Because Central America is considered by many a “divided Nation,”¹⁴ it comes as no surprise that the civil societies have always been in contact. Nevertheless, during the 1970s and 1980s, the social movements were fighting against the states, in order to secure political changes. During the 1990s, with the end of the crises and the democratizations, civil society actors got enmeshed in the states. In the process, they receive the support of many transnational actors, NGOs, or international cooperation agencies.¹⁵

There is an amazingly complex web of regional associations in Central America that makes the region very much integrated from below. Some particular historical circumstances have, from time to time, energized or politicized these regional networks, but there is definitively favorable bedrock.

However, it is not the case in MERCOSUR. Argentina and Brazil, in addition to having different languages, have traditionally been rivals or enemies and it is not an exaggeration to say that except for the border regions, they knew very little about each other until the beginning of MERCOSUR. And that’s what makes the boosting of civil societies’ relationships in the 1990s all the more interesting. I will examine some examples of civil societies’ activism later in this section, but to illustrate the spontaneity of some important political actors, I will start with the initiatives taken by states, provinces, and cities in the realm of what is often referred to as para-diplomacy.

Some Brazilian governors were always keen to take international initiatives. The example of Rio Grande do Sul’s Governor Leonel Brizola denouncing during the 1960s the potential negative effects of Latin American Free Trade Association (ALALC) has often been mentioned. Later, in 1982, when the authoritarian regime organized free elections in the federated states, the newly elected governors embarked upon diplomatic activities. Leonel Brizola, again, governor of Rio de Janeiro at that moment, was ahead of the curve when he opened an office of foreign relations.

In 1984, six Argentine provinces took the initiative to form a North East and Costal Region Commission for External Trade (CRECENEA Litoral), with the intention of getting in touch with the Brazilians and

fostering mutual trade relationships. On the Brazilian side of the border, three Southern states had formed a Council for the Development and Integration of the South (CODESUL) in 1961, in order to offset the relative asymmetry of development that penalized the South of the country¹⁶ (figure 7.1).¹⁷

For all these governors, the 1985 Iguazú summit between Brazilian president José Sarney and his Argentine colleague Raúl Alfonsín was important as both presidents showed concern about infrastructure. The inauguration of a bridge between the two countries epitomized the spirit of reconciliation, but also signaled a weakness. The bridge was the first piece of common infrastructure built in decades. Argentine Northern provinces and Brazilian Southern states felt encouraged to secure tighter relationships.

A first meeting was organized in December 1986, between CRECENA and the state of Rio Grande do Sul. Pedro Simon, governor of this Brazilian state, nominated a Secretary of foreign affairs, University professor Ricardo Seitenfus, who became actively involved in the discussions that were held in 1987 and eventually produced a Regional Protocol draft, submitted to President Alfonsín in August 1987. Then on March 18, 1988, a first meeting of governors from CRECENEA and CODESUL was organized that again insisted on the importance of a Regional Protocol.

On November 29, 1988, Argentina and Brazil signed Protocol 23 on border integration. Protocol 23 insisted on the importance of a “balanced and integral border development” and created a working group, with the participation of northern Argentine provinces and southern Brazilian states, and their respective representative organs, CRECENEA Litoral and CODESUL. The working group was assigned a wide agenda, including culture, education, science, tourism, transport, and business. The Protocol also created two Border Committees, in the twin cities of Puerto Iguazú/Foz de Iguazú and Paso de los Libres/Uruguayana, to develop common activities.

For the governors, Protocol 23 raised their expectations, as they anxiously awaited the realization of such important projects as the construction of a pipeline, the constitution of binational factories, the connection of electric systems, etc. However, this Protocol was signed during the politicized initial period of MERCOSUR’s gestation described in chapter three. Other important documents were signed during this period, such as the November 28, 1989, Agreement for Economic Complementation, regional and border integration between Argentina and Paraguay. We saw that after the 1990 neoliberal turn

in the region, the common interest for development, or any common policy other than liberalization of trade, decreased sharply. Brazil was also opposed to a subregional type of integration that would have resulted in enhanced autonomy of the states and hence an erosion of Brasilia's monopoly on diplomacy. As a consequence, Protocol 23 was never fully implemented, and the border development issue remained untackled, leaving the actors involved feel very much deceived.

On February 18, 1995, the Argentine and Brazilian governments, again holding a summit in Foz de Iguazú, officially recognized the importance of CRECENEA and CODESUL as actors for the development of border projects, but nothing much happened. On June 30, 1995, CRECENEA and CODESUL decided to go along with border integration on their own. The governors created a permanent Forum of Governors to lobby the presidents and prompt them to address the border problems, and created several Groups for Thematic Integration (tourism, security, health, culture, etc.). The Forum put the emphasis on a "different MERCOSUR" constituted by a transborder population of more than 32 million.¹⁸

The Forum met on an annual basis, with relatively few achievements. In 1998, the governors could congratulate themselves for the construction of the Santo Tomé Sao Borja bridge, the first concrete binational realization of CRECENEA and CODESUL's efforts to promote infrastructure. For the rest, this subregional integration process has undergone the same institutional evolution as the rest of the regional integration processes in Latin America, with an impressive multiplication of its organs and technical groups. But it never managed to capture the attention of MERCOSUR's leaders or create a common agenda with them.

On March 3, 2008, the Forum of Governors met in Porto Alegre for their tenth summit, after eight years of interruption, the governors confessed that their main challenge was still to find common ground with the presidents.¹⁹ This reactivation had much to do with the formal acknowledgement from MERCOSUR's authorities of the importance of states and cities, as we shall see later on.

The blame for the failure of CRECENEA and CODESUL's subregional integration efforts has to be put on the governments, but also on the governors. Without a doubt, the governments tried to firmly control any "para-diplomatic" initiatives. Yet there was no political homogeneity in the Forum of Governors (table 7.2).²⁰ On the Brazilian side, during the years 1999–2003, CODESUL gathered two governors from the leftist Workers Party (PT) and two governors from rightist

parties. The situation got better in 2007 with four governors from centrist parties.²¹ CRECENEA offered an even more complex panorama. Even if Argentina has a quasi bipartisan system, on some issues, governors from the same party can have different views. In 2006 for instance, Busti fiercely criticized his colleagues Rovira and Colombi for their attitude in the Papelera conflict with Uruguay.²² Yet, the three of them belonged to the same Peronist party (PJ). In 2007, the four governors from PJ were not all supporters of presidential candidate Cristina Kirchner, while both governors from the opposition party (UCR) rallied behind her.

The second example of political entities building a network and advancing integration spontaneously did not have to face this problem of political discrepancies. Quite the contrary, as it was a mutual political attraction that brought together the cities of Porto Alegre (Brazil) and Montevideo (Uruguay). At a time when the left had difficulties winning national elections, both cities were in the hands of leftist governments. Both cities decided to play the card of international projection, with the idea that international recognition would yield some domestic political benefits. In March 1995, the idea of a network popped up during a meeting of the Ibero-American Capital City Union's South American Section, held in Asunción, Paraguay. In their final declaration, the participants mentioned the idea of an association of MERCOSUR's cities, called Mercociudades. Then in November the same year, a total of twelve cities gathered in Asunción for the first Summit of Mayors, and signed the Foundational Act of Mercociudades.²³ Mercociudades rapidly met with amazing success, as many cities got into the network. A total of 181 cities are currently members in 2008, with a total population of around 80 million.²⁴ Right from the beginning, the objective of Mercociudades was to have a voice inside MERCOSUR's institutional arrangements. Its first objective mentioned in its Statutes is to "promote the cities' participation in the structure of MERCOSUR, to achieve co-decision in all its areas of competence."²⁵ Therefore, it can not be said that Mercociudades' aim was to initiate a regional integration process of its own.

However, over the years, it proved very difficult for Mercociudades to reach its goal of being accepted as a formal institution of MERCOSUR. It is quite ironic that the same leftist parties that initiated the project in the mid 1990s were very reluctant to support it once they finally won national elections and gained control over MERCOSUR.

Mercociudades' pressures have yielded a modest result, with the creation by the Common Market Group (GMC) in 2000 of a specialized meeting of local authorities (REMI). Between 2001 and 2004, REMI held seven meetings and then was dissolved. Daniel Chaquetti explained that REMI was a failure, mainly because of its very low hierarchical position in MERCOSUR's institutional arrangement, and because its agenda tended to replicate Mercociudades' one, therefore undermining the interest of the municipalities in attending the meetings.²⁶

As with the states and provinces, the blame is to be put on governments, always disinclined to lose their grip on any policy area. Yet, again as with the states and provinces, local politics has its own logic, and at some time election results may have ended up weakening the lobbying power of the network.

Due to its persistent marginalization inside MERCOSUR, Mercociudades worked on its other main objective, namely to build a network in order to exchange information and share experiences of urban governance regarding a wide range of issues such as urban violence, transportation, environment, tourism, and so on.²⁷ By doing so, it definitely fostered integration from below, with a strong social and cultural content. Many "local politics of integration" initiatives have been taken, such as student mobility, defense of women's citizenship (participation in politics, access to the job market, etc), close collaboration to promote tourism (the Rio de la Plata label for instance), creation of an Association of MERCOSUR integrated border cities (AMFIM), and the like.²⁸

What the new leftist MERCOSUR did, in its already commented on move in 2004 to reinvigorate the integration process, was to create a Consultative Forum of Cities, Federated States, Provinces, and Departments (FCCR). The Decision CMC 41/04 taken during the Ouro Preto Summit is quite brief, providing for a consultative role for the FCCR and calling for dialogue and cooperation between MERCOSUR and local authorities. It grants FCCR with the modest faculty to make proposals regarding the coordination of policies designed to upgrade the welfare of people living in the cities, federated states, provinces and departments, which is very distant from Mercociudades' ambition to be part of a co-decision process.

It took more than two years before the FCCR could actually meet for the first time, in Rio de Janeiro, on January 18, 2007. And it took almost another year, before the FCCR adopted its rules of procedure. Conceived as a representative body of local authorities

after the European Regions' Committee model, it ignores both Mercociudades and CRECENEA and CODESUL. Significantly, the FCCR's rules of procedure provide for the creation of two committees, one for the cities (COMUN), and the other for federated states, provinces and departments, that apparently overlay existing organizations. Both CRECENEA and CODESUL and Mercociudades warmly welcomed the initiative of creating a FCCR, underlining the importance of local politics in considering integration, yet it clearly demonstrated that MERCOSUR's authorities do not really want to build upon initiatives "from below." We will return to the way MERCOSUR prefers to offer civil society channels of participation "from above."

However, we shall first examine some examples of other actors that have a direct interest in the regional integration process and were very active trying to take advantage of it.

Consider first the business associations. Any negotiation of a free trade agreement is a window of opportunity for many interest groups to push their demands onto the agenda. Nevertheless, the complexity of the negotiation is such that the end-product is not necessarily a faithful projection of even the most powerful groups' interests. Therefore, the final agreement offers opportunities of gains and losses that may or may not be seized by the actors. Once the "structure of economic opportunities" is in place, much of an economic integration's success depends on the business reaction.

In MERCOSUR's case, the private sector has been overwhelmingly enthusiastic right from the beginning. According to a testimony, "there has been a mental revolution. When this MERCOSUR adventure started, the industrial sectors in the two countries despised the project. It was mainly supported by the politicians. But rapidly things changed. The industrial sectors realized that it worked and started to act. Argentines started to travel to Brazil to look for partners. And Brazilians traveled to look for clients."²⁹

During the first year of MERCOSUR's existence, several surveys showed that there was a trend creating numerous binational enterprises, especially between Argentina and Brazil.³⁰ Others found evidence of the way big companies started to orientate their strategic plans toward the goal of penetrating MERCOSUR's markets before any other market in the world.³¹ This was all the more true for multinational companies operating in the region that rapidly adjusted to the opening of a huge market.³² By many accounts, they were the prime beneficiaries of this development.

Opinion surveys conducted among key economic and political actors confirm this initial enthusiasm. The BID-INTAL work shows that 85% of the Argentines and 93% of the Brazilians had in 1993 a positive opinion of MERCOSUR.³³ Other surveys mentioned by Wolfram Klein³⁴ back up this result. Guillermo Ondarts found that 43% of a group of 157 prominent Latin American entrepreneurs, 47 of who were from MERCOSUR, found “irrelevant” previous experiences of regional integration, but none of them held that opinion regarding MERCOSUR.³⁵ Other studies showed that no less than 80% of the private sector in the region had a positive opinion about MERCOSUR.³⁶

Not only did entrepreneurs have a good opinion of the integration process, but they also built a regional coalition to defend their interests. At the end of 1991, there were contacts between the Argentine Industrial Union (UIA) and the Brazilian National Confederation of Industries (CNI), soon joined by the Uruguayan Chamber of Industry (CIU) and the Paraguayan Industrial Union (UIP). Together they formed the MERCOSUR Industrial Council (CIM) to lobby the governments. In 1994, CIM claimed that as a representative body it should officially have a seat at the negotiations tables, but MERCOSUR refused. However, as we will see later, they were invited to participate in different working groups.

Compared to the private sector, the labor organizations were much better prepared. As early as 1986, different trade unions created the Coordination of Trade Unions from the Southern Cone (CCSCS), in the midst of the transitions to democracy and the debt crisis. What was an instrument to defend the workers’ interests in a very socially devastating “lost decade,” organized after 1990 the resistance against neoliberal policies, and made proposals to the integration process’s promoters to include social issues on the agenda of negotiation. The CCSCS’ lobbying was successful, as MERCOSUR created a working group on labor issues. As for business sectors, we will come back later to the Unions’ experience with MERCOSUR’s working groups.

To draw an accurate picture of civil society’s role in activating regional integration in the MERCOSUR zone, it is interesting to mention some examples of actors who did not have a direct interest in the negotiations. Such is the case in the realm of higher education. As early as 1990, probably influenced by the European experience of the Erasmus Program inaugurated in 1987, the Uruguayan Republic University’s rector suggested the creation of a regional association of public universities. The idea received a warm welcome and on

August 9, 1991, eight public Universities embarked upon a project of building a common academic space to advance regional integration.³⁷ Among the objectives enumerated in the “foundational act” of the so-called Association of Universities Group of Montevideo (AUGM), the first one was the “contribution to the integration processes at a regional or sub-regional level.”³⁸

The Statutes were approved in 1997 and eventually reformed in 2006. Article 1 of the Statutes mentions that the AUGM’s prime objective is to “promote the integration process through the creation of an enlarged common academic space, based on scientific, technological, educative and cultural cooperation between its members.”³⁹ It is interesting to notice that MERCOSUR is nowhere mentioned in the 1991 Act or in the AUGM’s status. The Universities involved clearly intended to launch an integration process of their own. AUGM started to organize meetings and academic exchanges in order to build a “virtual University.” The Group subsequently welcomed new members, reaching twenty-one in 2008.⁴⁰ In 1993, AUGM launched its first program of visiting professors and in 2000 a student mobility program was introduced. As far as the actors involved are concerned, the Universities are mainly located in the South of Brazil and the North of Argentina, a zone that constitutes the core of MERCOSUR, with a civil society actively involved in regional integration initiatives, like Mercociudades.

AUGM’s activities have contributed to calling MERCOSUR authorities’ attention to higher education issues. Education was absent from the March 1991 Montevideo Treaty, yet the issue rapidly made its way up the agenda. Decision CMC 7/91 (December 17, 1991) created the Meeting of ministers of education. Then in 1992, a three year plan for MERCOSUR’s education sector was adopted (Decisions CMC 7/92), in the following years several important decisions were made in the framework of what was going to be called the “MERCOSUR of education.” Three protocols of recognition and validation of diplomas were adopted for primary and medium school (CMC 4/94), higher education (CMC 4/95), and technical training (7/95). Then three other protocols were adopted to facilitate graduate studies in other member countries (CMC 8-9/96) and to allow professors to work in other member countries (CMC 3/97). In 2004, the first MERCOSUR fund would be granted to education (Decision CMC 33/04), as we shall see in chapter eight.

If we move a step further from the official MERCOSUR, the example set by artists deserves a special mention. In 1994 a group of

artists talked about the necessity of having a major artistic event in Latin America, especially for visual arts. The idea of a MERCOSUR Biennial was born out of discussions between artists, Rio Grande do Sul's authorities and a businessman, Jorge Gerdau. Eventually Gerdau would become the first president of the MERCOSUR Biennial Foundation in 1996. The private sector from the southern Brazilian state got very much involved in the project, taking advantage of a state law granting fiscal incentives to support cultural projects especially passed for the occasion. The accent put on the social responsibility of the project was very attractive to them. The same mood would incite some of them to support the organization of the World Social Forum, also in Porto Alegre, in 2001.

As for local authorities, for once in Brazil they put aside their political differences and the PT governed city of Porto Alegre collaborated with the PMDB run state of Rio Grande do Sul. In September 1997, the first Biennial opened its doors. Interestingly, the first curator, Frederico Moraes, had no intention of contributing to the development of MERCOSUR or adding a new dimension to the regional integration process. He nevertheless clearly considered that this geographical zone⁴¹ had a cultural and artistic identity that deserved to be exposed and therefore consolidated. In a way, the whole project was designed to counterbalance the older and richer Sao Paulo Biennial that never committed itself to the valorization of Latin American art.

The fact that an artistic movement chose to use MERCOSUR's name as a brand or a label to launch its project says something about the relevance of this integration process in the region at that time. True, due to its geographical position, the city of Porto Alegre and the state of Rio Grande do Sul could consider themselves almost as MERCOSUR's center. But their appropriation of the name epitomizes the way civil society's actors can give a content of their own choice to an ongoing process. And MERCOSUR's Biennial has decisively contributed to bridge-building and mutual understanding between artists, and hence to the social construction of a region.

As with education, culture was no initial preoccupation in MERCOSUR. In March 1995 a first meeting of ministers of culture was organized, the same year MERCOSUR's Biennial's Foundation was created, a protocol of cultural integration was adopted (Decision CMC 11/96). This protocol is very modest in its ambitions though. Considering that "culture constitutes a primordial element of integration processes, and that cultural cooperation engenders new phenomenon and realities," it simply invites the member countries to collaborate

on a wide range of topics, without setting the bases of a common policy. Ten years later, the so-called Cultural MERCOSUR was given permanent headquarters, in a very brief Decision (CMC 11/06) formalizing UNESCO's donation to MERCOSUR of a building in Buenos Aires. Obviously, culture is no priority in the MERCOSUR. The artists are much more efficient on their own.

A final mention can be made of the way some actors used the name MERCOSUR to advance regional projects. Between 1998 and 2001, the South American Confederation of Football (CONMEBOL) organized a new competition between football clubs from Argentina, Brazil, Chile, Paraguay, and Uruguay and called it the MERCOSUR Cup. The rights to show the matches on television were sold at such a high price that the competition soon became very rich, to a point that some Latin American countries less prosperous thought of creating a "MERCONORTE" Cup. Again, it would be foolish to even consider the hypothesis that CONMEBOL's intentions were to contribute to a regional integration process. Yet, the appropriation of the brand or label MERCOSUR is meaningful. Perhaps even more so is its transformation into MERCONORTE to evoke the poor regions of Latin America.

What can be concluded from these examples is that there are two levels of social construction of MERCOSUR. On one side there is a symbolic appropriation of the name, and a different content given to it, that necessarily has an impact on public opinion. For many in the region, MERCOSUR is not just about trade, it is also about arts and football, even if the "real" MERCOSUR ignores both. On the other side, these initiatives are not merely the symbolic appropriation of a name, they have actually contributed to an increase in the level of interaction between actors in different countries, hence they have pushed integration from below even if that was not the initial intention.

We could add some arguments showing that there has been an increased interpenetration of societies, in the vein of the 1970s literature on interdependence. Some works back then were concerned with different types of transaction in the realm of economy (trade, investments), movements of population (migrations, students exchange, tourism), and communication (mail, telegrams, telephone calls).⁴² In the MERCOSUR area, the 1990s have witnessed an increase in tourism in the region and in teaching foreign languages (Spanish in Brazil and Portuguese in Argentina or Uruguay). Even though we can consider this type of evolution as an intervenient variable, the definition of

regional integration mentioned in chapter one limits the scope of the study to collective action.

As we have seen, MERCOSUR officials have not been very receptive to spontaneous initiatives of integration. However, they have tried from the beginning to offer some channels of participation to civil society.

Framed Participation

As previously mentioned trade unions got organized on a regional basis at the end of the 1980s and started to push some demands. Social issues were absent from the March 1991 Montevideo Treaty, except for a brief mention in its Preamble as to MERCOSUR's objective of "economic development with social justice" that would often be referred to. However, on May 9, 1991, the four ministers of labor met in Montevideo and issued a declaration insisting on the need to create a working group that would help craft a social charter. And on December 17, 1991, CCSCS's proposals bore their fruits as the GMC decided to create a Working group on "labor affairs" (SGT 11) composed of representatives from governments, unions and employers' organizations.⁴³ The Unions' participation in the deliberations was formalized. Despite this initial encouraging step, CCSCS consistently criticized MERCOSUR's disregard for the social consequences of free trade.

The regional trade unions, especially the richest Brazilian ones like the Unitary Central of Workers (CUT), started to invest human resources to prepare for regional negotiations in the framework of SGT 11. CUT had more than a dozen of its officials working full time on MERCOSUR issues.

The Trade Unions' strategy consisted in trying to have MERCOSUR adopt a social charter, imitating the European social charter adopted in 1961 and revised in 1996. Their proposal was rejected in 1994 and so was their idea of a civil society forum. Yet they were invited to join the Economic and Social Consultative Forum (FCES) created by the Ouro Preto Protocol in 1994. Other trade unions' proposals got a better reception, entailing the creation of a Labor Market Observatory in 1998.

The experience of SGT 11 has been a disappointing one for the unionist participants involved.⁴⁴ SGT 11 had four topics on its agenda, labor cost, formal and informal labor market, migrations and social

policy. Klein is right when he points out that during the first years, the decisions were quite sterile, whether because the negotiators had trouble agreeing on proposals or because the SGT 11's proposals were not taken into consideration by the GMC. He also has a point when he mentions that "even if Cardoso claimed its support for a Social MERCOSUR in 1994, he also insisted that social policy was a domestic policy issue, except for migrant workers. The trade unions were disappointed with the abandonment of social issues in the MERCOSUR."⁴⁵ Things got a little better after 1995, when SGT 11 became SGT 10 ("Labor affairs, employment and social security") and the Observatory was created, yet the general complaint was that the discussions in the SGT never got to the core issues of integration. In other words, the trade unions never got the opportunity to voice their concern about the general trade-centered orientation of the regional integration process and were limited to a very narrow scope of discussion.

The experience of the private sector has not been much more satisfactory for the actors, with the appreciable difference that they did not have to fight to have a seat at some negotiating tables. Article 26 of the GMC's rules of procedure provided for the participation of the private sector in the elaboration phase of the decision-making process.⁴⁶

Nevertheless, as we saw, their problem was a lack of organization. CIM only managed to organize meetings on a regular basis starting in 1994. That year, CIM's protests regarding the schedule of phased trade barrier removals were not heard. Nor did the CMC satisfy CIM's request to become an official representative body.

The private sector got involved in working group 7 (SGT 7) on industrial and technological policy. Its participation did not meet with much success, and some organizations like the Federation of Industries from the State of Sao Paulo (FIESP) soon realized that they would be better off sticking to traditional lobbying activities in their own country. Since MERCOSUR was so intergovernmental, it was more rational to influence the shaping of national preferences.⁴⁷

In explaining SGT 11 and SGT 7's disappointing results, the negotiators are also to be blamed as they were not always capable of articulating serious and consistent proposals. But in general, MERCOSUR's authorities did not show evidence of interests in their discussions. Proof of this is the lack of financial resources appropriated for the working groups. In his analysis, Klein found that SGT 11 had to rely on European funds and SGT 7 on the IDB. When these funds were interrupted, the working groups simply had to suspend their meetings. However, he also points out that these working groups have played

two decisive roles. On the one hand, they have allowed the sectors involved to become informed about MERCOSUR. And on the other, they have tightened relationships between them.⁴⁸ This double function of learning and socialization cannot be underestimated. Many trade unionists and entrepreneurs are now very much aware of regional integration issues, and beyond MERCOSUR they understand what is at stake in global talks.

Other than the working groups, we saw that the Protocol of Ouro Preto (POP) introduced an Economic and Social Consultative Forum (FCES), as a “body for representing the economic and social sectors.” The FCES was granted the liberty to adopt its own rules of procedure and surprisingly it did it following a very intergovernmental line. FCES is composed of thirty-six members, with four national sections of nine members, each one free to choose the sectors it includes in it with four representatives of the labor sector, four of the private sector and one of the third sector (table 7.3).⁴⁹ POP also stipulated that the FCES would send recommendations to the GMC in the FCES issued its first recommendations in 1997 and adopted a rather slow pace, with little more than twenty-six recommendations until 2006.⁵⁰ FCES’s first recommendation, dated April 22, 1997, is emblematic of the external agenda’s importance, as it focuses on the projected Free Trade Area of the Americas (FTAA). FCES suggests to collectively defending MERCOSUR’s interests, regarding agriculture in particular.

MERCOSUR is not the only regional integration process that tried to provide a framework for civil society’s participation. In Central America, during the years 1972–1976 a High Committee for the restructuring and improvement of the common market prepared a project for the Central American Economic and Social Community (CESCA). During four years, based on a comprehensive evaluation done by SIECA,⁵¹ the Committee worked in close collaboration with a wide range of civil society’s sectors. The final draft developed a conception of integration that included social and cultural dimensions. However, it was rejected by the presidents in 1976. Then in the aftermath of the crisis, the 1991 Protocol of Tegucigalpa provided in its article 12 that the Central American System of Integration (SICA) would include a Central American Consultative Committee, composed of “private sector, trade unions, educative sectors and other lively forces of the Central American region representatives of social, economic and cultural sectors involved in the regional integration process.” Its role was to “advise the General Secretariat regarding the organization of its projects.” This rather restrictive mission was immediately criticized

and a total independence granted to the Committee. When it was definitively installed in 1996, its mission became “to formalize the participation of economic and social actors to the decision-making process.”

Concerning its composition, two already cited umbrella organizations, CACI and ICIC, tried to gain influence. As a matter of fact, most of their members were included in SICA’s Consultative Committee as it appears in table 7.4 compared to table 7.1.⁵² And finally, the Andean Community has two consultative bodies, one for the Private sector⁵³ and the other for labor,⁵⁴ both created in 1983.

Conclusion: Are There Regional Civil Societies?

The reactivation of social movements during the 1990s, often on a transnational basis, has led some analysts to claim that a regional, or even a global, civil society was emerging. Without discussing the validity of such a claim on the ground of the absence of a regional state, it is worth noting that a social construction is underway.

More often than not, the analysts heralding the surge of a regional civil society were at the same time integration entrepreneurs and hence their analyses sounded like tentative self-fulfilling prophecies. Take one example. The Caribbean region, following the tradition of the Commonwealth, has always had a very active civil society. CARICOM was the first integration process in the Americas providing an advisory role to civil society organizations, such as the Assembly of the Caribbean Youth, the Caribbean Consumers’ Association, the Trade and Industry Caribbean Association, or the Labor Congress.⁵⁵ Several important networks were created in the 1980s and 1990s, such as the Caribbean Peoples Development Agency (CARIPEDA), the Caribbean Network for Integrated Rural Development (CNIRD), or the Caribbean Policy Development Center (CPDC). CPDC was officially recognized as a regional consultative organ by CARICOM. CARICOM even adopted a comprehensive Charter of civil society in 1997.⁵⁶ Yet, despite this framed activism, some analysts organized the first regional civil society forum, also in 1997, to trigger the surging of a Caribbean civil society.⁵⁷

There are many other umbrella organizations operating at the hemispherical level, like the Latin American Association of Promotion Organizations (ALOP), organizing events to promote the idea of civil society participation in regional integration.⁵⁸