The EU's Inescapable Influence on Global Regionalism

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Thesis submitted in partial fulfilment of the requirements for the degree of DPhil in International Relations in the Department of Politics and International Relations at the University of Oxford

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ABSTRACT

This thesis examines the EU's influence on regional cooperation in the Association of Southeast Asian Nations (ASEAN), Mercosur in South America and the Southern African Development Community (SADC) by drawing on concepts from diffusion studies. It argues that conventional perspectives have tended to view different cases of regionalism as *in*dependent phenomena reflecting particular structural, institutional or ideational conditions, mainly internal to the respective region itself. I propose instead to conceive of regional organisations as asymmetrically *inter*dependent, in that the EU as the most successful regional grouping in the international system influences other regional organisations in important respects; yet in ways that are ill-captured by the conventional depiction of external influence as a form of coercion. The central question addressed in this thesis is thus: Under what conditions and in what ways does the EU affect the trajectory of formal rules in regional cooperation elsewhere?
I advance three main arguments. First, I suggest that given the EU's ideational and material power in global regionalism, it is likely to act as a focal point in debates about regional rule change around which actors' expectations converge when being confronted with an exogenous cooperation problem. This renders EU influence difficult to escape. Second, I argue that there are two dynamics by which EU influence affects outcomes in global regionalism – the EU as switchman and as driver. While the former leads policy-makers to choose EU-type rules instead of similarly viable alternatives given a particular cooperation problem, the latter affects the very incentives for regional rule change and thereby acts as an independent driver of regional cooperation. Third, I argue that, in terms of outcomes, EU influence has been highest in SADC, lower in Mercosur and lowest in ASEAN, mainly reflecting different degrees of material and ideational interdependence between the EU and other regions. Yet, policy-makers' widespread reluctance to share national sovereignty has sharply delineated the boundaries of EU influence in all three regions.
I test these arguments across three central areas of regional cooperation: market building, institution building and community building.

Contents

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Figures and Tables

Abbreviations

ACP	African, Caribbean and Pacific
AEC	ASEAN Economic Community
AFTA	ASEAN Free Trade Area
AIPA	ASEAN Inter-Parliamentary Assembly
AIPO	ASEAN Inter-Parliamentary Organisation
APEC	Asia-Pacific Economic Cooperation
APRIS	ASEAN Programme for Regional Integration Support
ASEAN	Association of Southeast Asian Nations
ASec	ASEAN Secretariat
AWEPA	Association of European Parliamentarians for Africa
CET	Common external tariff
CLMV	Cambodia, Laos, Myanmar, Vietnam
COREPER	EU Committee of Permanent Representatives
CPR	Committee of Permanent Representatives
CU	Customs union
CUFTA	Canada-US Free Trade Agreement
DSM	Dispute Settlement Mechanism
EPA	Economic Partnership Agreement
EC	European Community
ECJ	European Court of Justice
ECom	European Commission
ECSC	European Coal and Steel Community
EDF	European Development Fund
EP	European Parliament
EPA	Economic Partnership Agreement
EPG	Eminent persons group [ASEAN]
EU	European Union
FOCEM	Structural Convergence Fund [Mercosur]
FTA	Free trade area

FTAA	Free Trade Area of the Americas
GATT	General Agreement on Tariffs and Trade
HLTF	High level task force [ASEAN]
ILP	International legal personality
IO	International organisation
IR	International Relations
JPC	Joint Parliamentary Commission [Mercosur]
LAFTA	Latin American Free Trade Association
Mercosur	*Mercado Común del Sur* (Common Market of the South)
MR	Mutual recognition
NAFTA	North American Free Trade Area
NTBT	Non-tariff barriers to trade
OAU	Organisation of African Unity
Parlasur	*Parlamento del Sur* (Parliament of the South)
PICE	*Programa de Integración y Cooperación Económica* (Programme for Economic Integration and Cooperation)
QMV	Qualified majority voting
RISDP	Regional Indicative Strategic Development Plan [SADC]
SADC	Southern African Development Community
SADC-PF	SADC Parliamentary Forum
SADCC	Southern African Development Cooperation Conference
SDT	Special and differential treatment
SEA	Single European Act
SEOM	Senior Economic Officials Meeting
UN	United Nations
US	United States
WTO	World Trade Organisation

Chapter 1

Introduction

> Our European model of integration is the most developed in the world. Imperfect though it still is, it nevertheless works on a continental scale … and I believe we can make a convincing case that it would also work globally.
>
> – Romano Prodi, former President of the European Commission[1]

Regionalism – state-led cooperation between countries within a specific geographic area[2] – has evolved enormously in the post-World War II era, especially in the global South. It has developed in two broad waves. The first wave saw the emergence of cooperation among neighbouring countries in order to enhance domestic import substitution policies as a major development paradigm. It was practiced, above all, in Latin America and Africa. The second wave, which started in the late 1980s, saw an enormous rise in regional trade agreements, whose emergence is closely associated with a new economic or development paradigm based on neoliberal premises of liberalisation, deregulation and privatisation. Since then, many of the 'old' regional organisations from the first wave have undergone fundamental reform, while new ones have been created. Today, economic regionalism encompasses more than half of international commerce and covers essentially the entire world.[3] How are we to understand the emergence and evolution of this 'world of regions'[4], especially in the

1 Prodi (2000), p. 6

2 Regionalism as a state-led or political project is generally contrasted with regionalisation as a market-driven or economic development (see Lorenz 1991; Hurrell 1995c, pp. 38-45; Mansfield and Solingen 2010, pp. 146-8).

3 Among members of the World Trade Organisation, only one country – Mongolia – is not partner to a regional trade agreement.

4 Katzenstein (2005)

economic realm, which most observers agree constitutes not only one of the most important, but also one of the most "counter-intuitive features of the contemporary 'global' era"?[5]

One way to approach this question is through an analysis of the impact of the regional organisation that is widely seen as the pioneer and most successful example of the widespread trend towards regionalism in the post-World War II era: the European Community (EC)/European Union (EU).[6] The process of European integration is, in many ways, inseparable from other regional integration processes in that its creation kicked off a whole flurry of similar economic groupings around the world and has since served as an inspiration, a reference point, an example or even a model that region-builders have looked to when advancing regionalism in their own corners of the world. Moreover, driven by its own early success and a genuine belief among European policy-makers in the stability and welfare benefits of integration, the EC has since the 1960s also actively promoted similar efforts around the world through cooperation agreements, financial support and technical assistance. In addition, the academic study of modern regionalism has been closely associated with the process of European integration itself; essentially all theories of regional integration were developed solely or mainly based on the European experience.[7]

It might thus seem 'obvious' that the European integration experience matters for the process and outcomes of global regionalism. Nevertheless, so far scholars have failed to systematically theorise and rigorously test claims about the link between European

5 Beeson (2005), p. 969

6 I will use 'EC' to refer to the pre-Maastricht period and 'EU' for the post-Maastricht period and non-time bound statements.

7 For example Haas (1958); Moravcsik (1998); Mattli (1999)

integration and regional integration elsewhere.[8] In EU studies, a theoretically sophisticated and empirically exhaustive body of work has developed on the EU's external influence in the enlargement context and the Community's direct neighbourhood under the EU-centric label of 'Europeanisation'.[9] Unfortunately, this literature never extended outwards towards examining the EU's external effects further afield, that is, in contexts in which enlargement conditionality – the primary mechanism theorised in the original context – is absent. Scholars dealing with the EU's relations with other regional organisations – discussed under the label 'interregionalism' – have largely failed to examine EU influence on regionalism as such. Instead, they either focus on the impact of the emergent interregional pattern on world order and global governance; or they emphasise the reasons for EU-driven interregionalism and examine its consequences for EU actorness on the world stage.[10] On the other hand, International Relations (IR) scholars working on comparative regionalism have similarly generated few insights on external influences on regional integration processes. Instead, they largely explain the phenomenon in question as shaped primarily by factors *internal* to the respective regions such as regional interdependence, regional and domestic institutions or dominant ideas and identities. The small body of work on hegemonic influence in global regionalism is important in this respect, but remains tied primarily to coercive forms of influence based on superior material capabilities.[11]

The present study seeks to mitigate this state of affairs by offering the first systematic comparative analysis of EU influence on regional integration processes around the

8 The most important exception, which will be discussed in Chapter 2, is Mattli (1999).
9 Kelley (2004a); Schimmelfennig and Sedelmeier (2005a); Vachudova (2005)
10 Aggarwal and Fogarty (2004); Hänggi et al. (2005); Söderbaum and Langenhove (2006). A good recent overview is Rüland (2010).
11 The main exception here, further discussed in Chapter 2, is Katzenstein (2005).

world. Drawing on insights from the diffusion literature, I assert that regional organisations are best understood as ‘asymmetrically interdependent’ phenomena – that is, phenomena that influence each other, yet in often highly asymmetrical ways – rather than purely independent adaptations to a particular structural landscape. More specifically, I suggest that the EU as the most successful organisation in the field of economic regionalism has affected other, similar regional organisations by acting as a switchman and driver in processes of regional rule change. Thus, even in the absence of coercion, which has formed the major focus of the literature on EU external influence and external influences on regionalism more broadly, the EU matters because it passively suggests and actively constructs focal points around which regional policy-makers’ expectations converge when confronted with exogenous changes to their regional environment. Focusing on the evolution of broad rules of the game in regional integration, this thesis develops a coherent theoretical framework for understanding the link between European integration and other regional organisations. It theorises the conditions under which and the ways in which we can expect this causal link to become politically salient. It then tests the resulting hypotheses across three organisations in the period from the mid-1980s until today: the Association of Southeast Asian Nations (ASEAN), founded in 1967; bilateral cooperation between Argentina and Brazil, which started in the early 1980s, and directly led to the Common Market of the South (Mercosur), established in 1991; and the Southern African Development Coordination Conference (SADCC), created in 1980, which changed into the Southern African Development Community (SADC) in 1992.[12]

[12] In line with the convention for the use of abbreviations related to the EU, I will refer to Argentine-Brazilian cooperation and SADCC for the period before 1991 and 1992, respectively, and Mercosur and SADC for the time after and non-time bound statements.

Evidence is based on a host of new qualitative data such as interviews, unpublished documents and little known primary sources and secondary literature.

The question of EU influence on global regionalism is important for two main reasons. First, EU influence, as we shall see, has spurred the trend that countries in the global South invest increasing amounts of resources into economic regionalism as a strategy for development; yet, with questionable pay-offs to date and limited future *potential* for significant gains from economic integration in many of these regions. Thus, this EU-spurred trend towards increasingly formalised and 'institution-heavy' forms of economic regionalism raises important questions about its comparative desirability as a development strategy in view of the opportunity costs to such 'investments'. Resources dedicated to strengthening economic regionalism are unavailable for other plausible and potentially more rewarding such strategies – a situation that tends to be much more pronounced for these countries, many of them still comparatively poor developing countries.

Second, the study sheds light on the role of successful pioneers in spurring trends towards new forms of political organisation in world politics. The Community is not like any other international organisation (IO) from which policy-makers might take inspiration when designing cooperative institutions. European policy-makers pioneered a form of cooperation that is *unique*, to this day, in the international arena. Its institutions straddle the boundary between those of modern nation states and conventional international regimes – a hybrid character that has made the EU the only IO that is analysed as consistently through the lens of comparative politics as it is from the perspective of IR.[13] European integration has clearly affected national sovereignty. If such a unique experiment in regional integration can affect similar processes elsewhere, this has important implications for the way we think about the possibility of change in world politics. More specifically, it suggests that a new form of political organisation, which initially reflected the conditions obtaining in a particular place at a particular time, can nevertheless radiate beyond that specific context. This study examines the ways in which and the conditions under which such external 'radiation' is likely to occur. In the remainder of this introduction, I outline the puzzle and research questions in more detail, review the existing literature on the topic – both in EU studies and IR – before presenting my own argument. Subsequently, I explicate the study's research design before concluding with an outline of the chapters that follow.

1.1 Regional Integration *à la* Europe? Puzzle and Research Questions

A fundamental task for any student of regional integration is to account for the *trajectory of formal rules of the game* – the dependent variable of this study. These are "explicit arrangements, negotiated among international actors, that prescribe, proscribe and/or authorize behaviour."[14] This involves questions about both their origin – What determines the initial choice and design of formal rules? – and evolution over time – Once created, what determines how and when they change? –

[13] Risse-Kappen (1996); Hix (1998); Jachtenfuchs (2001); Pollack (2001)

[14] Koremenos et al. (2001), p. 762. Hence, the discussion largely neglects informal institutions such as behavioural norms. As shorthand, I sometimes refer to formal rules of the game as formal institutions or speak of formal institutional change. This is not to be confused with individual cooperative institutions, analysed in Chapter 5, but refers more generically to all the phenomena analysed in this thesis.

both questions, which are so far understudied in the literature on regionalism.[15] The trajectory of formal rules is one of the most remarkable features of regionalism in Southeast Asia, Southern Africa and South America. In all three cases, regional cooperation was initially only little formalised, based on a few purely coordinative fora with activism mainly in security-related fields; since then, policy-makers have started to pursue ambitious market integration objectives through solidly formalised intergovernmental organisations that, in some areas, have begun to touch upon national sovereignty. This aggregate trend is broadly similar across the three regions.

At their respective outsets, regional cooperation was 'underformalised' compared to similar efforts in the developing world and fundamentally distinct from the strong formalisation of the EC. While cooperation had a broadly similar founding 'rationale' to that in Europe – to overcome external and/or internal threats and long-standing rivalries –, formalisation was minimalist and cooperation entirely decentralised. It was confined to more or less regular meetings of foreign ministers and/or Heads of State and underpinned by a series of bureaucratic working groups, sometimes coordinated by a group of ambassadors; yet, without *any* genuine regional institutions.[16]

This initial lack of formalisation reflects two main factors, which are widely agreed upon in the literature.[17] First, these countries shared a strong insistence on protecting national sovereignty, partly because, especially in Southern Africa and Southeast

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15 Instead, most analyses focus on the causes and effects of regionalism. Even in the wider institutional literature, this aspect remains understudied (Padgett and Powell 2012).

16 For good descriptions, see Poon-Kim (1977); Hirst (1988); Mandaza and Tostensen (1994), Chapter 3.

17 These factors are covered, for example, in Herbst (2007) for Southern Africa; for Southeast Asia, see Akrasanee and Stiefel (1992), p. 31; Severino (2006), pp. 4-11; see also the rather drastic account of the considerations of the founding fathers in Rajaratnam (1992); and Campbell et al. (1999b) for South America.

Asia, they were post-colonial states that had only recently gained their independence; and partly because deep-seated mistrust due to historic rivalries cautioned against strong formalisation that was perceived as potentially enhancing mutual vulnerability. Second, they reflected lessons policy-makers had learned from previously failed integration attempts in their own regions and elsewhere – many of which had adopted an EC-type integration model, widely seen as the *Primus inter Pares* of regional cooperation, without much modification.[18] As a result, policy-makers were eager to develop a more workable approach suited to their own particular contexts. Botswana President Seretse Khama's announcement at the founding meeting of SADCC is reflective of the 'founding ethos' in all three regions: "The basis of our co-operation, built on concrete projects and specific programmes rather than grandiose schemes and massive bureaucratic institutions, must be the assured mutual advantage of all participating states."[19]

Since then, the context of regional cooperation has changed dramatically. A wave of economic liberalisation swept the world in the 1980s and led to new cooperative arrangements at the bilateral, plurilateral and multilateral levels. While this facilitated international trade integration, the broad trend was clearly towards ad hoc cooperation across different fora and based on minimalist institutionalisation. The United States' (US) turn towards regionalism in the form of Asia-Pacific Economic Cooperation (APEC), the North American Free Trade Area (NAFTA) and wider ambitions to form a Free Trade Area (FTA) in the entire Western hemisphere exemplifies this new

[18] Langhammer and Hiemenz (1990)

[19] SADCC (1980), p. 19; see also Chia (1997), pp. 276, 285; Malamud (2003), p. 54. In 1990, shortly before major transformations took place in these regions, a prominent analyst still viewed SADCC and ASEAN as "being specific to the contexts of their regions and bearing limited resemblance either to the EC or to a regional GATT" (Green 1990, p. 112; similarly Curry 1991; see also Lee 2003, p. 47).

Zeitgeist. NAFTA and other US-led arrangements for the first time offered policy-makers in the three regions a credible alternative to the EC model, which was also much more similar in spirit to their 'EC-critical' founding ethos.[20] At the same time, policy-makers and academics alike were advocating the ASEAN model with its focus on informality and minimalist institutions as a 'new' form of regional cooperation distinctive from the EU and potentially more suitable to developing countries.[21] With its deepening of economic integration through Economic and Monetary Union and its continued heavy reliance on formal rules and strong institutions, the Community thus appeared increasingly anachronistic in an emerging world of ad hoc weakly institutionalised (trade) cooperation.

Despite this changing ideational context of regionalism *away from* EC-type integration during the second wave and policy-makers' EC-sceptical founding ethos, all three regions have displayed a *consistent trend towards* increasing formalisation and indeed have developed certain similarities with the EU.[22] Table 1.1 below summarises the most important rules of the regional game across three key dimensions – market building, institution building and community building[23] – in comparison with NAFTA. The emerging pattern resembles one of 'commonality amid diversity' between the EU and the three regions, which is characteristic of diffusion processes.[24] As regards market building, all three regions, unlike NAFTA, have

[20] Guan (2004), p. 70; Hsu (2004), p. 42
[21] Blomqvist (1993, 1994); Dosch and Mols (1994)
[22] Recent large-N research has revealed a similar pattern across regional organisations more broadly. Haftel and Thompson (2006, p. 269) suggest that there is "a clear positive relationship between the life span of an institution and its independence."
[23] I will define these dimensions and justify their choice in more detail below.
[24] As Meseguer notes, diffusion dynamics depict the "spread of commonality amid diversity and the fact that countries with very different functional needs and at very different levels of economic, social and political development adopt similar policies [or institutions]" (Meseguer 2004, p. 300; see also Weyland 2004).

agreed to the formation of common markets (and in the case of SADC also a common currency) as the main objective of regional market building and are working on (Mercosur), have envisaged (SADC) or are discussing (ASEAN) the formation of a customs union (CU). Nevertheless, market building to date is not nearly as wide and as deep as in the EU.

Table 1.1 – Comparison of Regional Organisations

Realms	EU	NAFTA	ASEAN	Mercosur	SADC
Market building	Common market in goods, services, capital and labour with CET, macro-economic coordination and common currency	Free trade area in goods and services	Common market in goods, services, investment, some capital and skilled labour with macroeconomic coordination (CET under discussion)	Common market in goods, services, capital and labour with CET and macroeconomic coordination	Common market in goods, services, capital and labour with CET, macroeconomic coordination and common currency
Institution building (Intergovernmental and supranational institutions)	European Council, Council of Ministers, COREPER, Comitology European Commission, European Court of Justice, European Central Bank	Free Trade Commission, working groups and committees, Commissions for Labour and Environmental Cooperation, Secretariat (national sections) Arbitral Panels	Summit, Coordinating Council, Community Councils, sectoral ministerial bodies, CPR, National Committees, technical working groups Secretariat, Appellate Body	Summit, Common Market Council, Common Market Group, Trade Commission, CPR, technical working groups Secretariat, Permanent Review Tribunal (Mercosur Court of Justice under discussion)	Summit, Council of Ministers (Integrated Committee of Ministers), Standing Committee of Senior Officials (CPR), National Committees, technical working groups Secretariat, Tribunal
Community building (Solidarity arrangements, formalised participatory institutions and external representation in trade)	SDT, structural convergence funds, CAP European Parliament, Economic and Social Committee, Committee of the Regions Single representation by European Commission, ILP	none	SDT, Development Fund Inter-Parliamentary Assembly, Business Advisory Council (and other associated entities from business and civil society) No single representation, ILP	SDT, Structural Convergence Fund Mercosur Parliament, Social and Economic Consultative Forum; Consultative Forum of Municipalities, Federal States, Provinces and Departments No single representation, ILP	SDT, Development Fund Parliamentary Forum, Council of NGOs, Business Forum No single representation, ILP

Notes: CET is a Common External Tariff; CAP is the EU's Common Agricultural Policy; COREPER and CPR are Committees of Permanent Representatives

Source: compilation by the author based on various primary and secondary sources

Concerning institution building, all three regions operate with a three-tier institutional structure encompassing an extended set of intergovernmental bodies for decision-making, a regionally centralised dispute settlement mechanism and a regional secretariat with certain delegated powers. This core structure is broadly similar to that of the EU, even though institutions are generally much less powerful and less embedded in regional politics and in individual cases bear closer resemblance with those in NAFTA.[25]

Regarding community building, the difference to NAFTA might be most striking. Whereas NAFTA has no arrangements addressing economic asymmetries between members, providing for the formalised participation of non-governmental actors or the external representation of the organisation, all three regions have such arrangements, similar to the EU. They all feature provisions for special and differential treatment (SDT) of weaker members as well as regional development funds, they provide for the formalised participation of non-governmental actors such as parliamentarians and civil society actors, and they have institutionalised arrangements for external representation, including international legal personality (ILP). In none of the cases are these as well developed as they are in the EU and, maybe most importantly, parliamentary assemblies or the Mercosur parliament have no decision-making power to date. Overall, however, this degree of formalisation and similarity to the EU is remarkable given their very different starting point and the 'anachronistic' broader ideational context within which it took place.

[25] These differences will be discussed in detail in Chapter 5.

Thus, the central question addressed in this study can be formulated as follows: *How can we account for the increasing extent of EU-likeness in regional cooperation?* A priori there are three plausible answers to this question, each of which rests on a general and well-established theoretical argument about the sources of international cooperation. The first one is that the members have abandoned their founding ethos and are now intent, to different degrees, on following the EU model more closely.[26] This answer rests on broader constructivist arguments about the demonstration effects or potential contagion of successful ideas and institutions.[27] However, my interviews revealed that many policy-makers continue to be rather sceptical of the applicability of the EU model to their own regional context, even though few deny that the EU has some relevance. Thus, to the extent that similarities have emerged, they are far from a conscious strategy to 'copy the EU'. A second answer, drawing on broader arguments about hegemonic cooperation, might be that the EU has actively induced other regions, maybe against their will, to follow its model.[28] However, even though the EU actively supports regional integration elsewhere, it never employs conditionality linked to specific regional rules. To the extent that it 'causes' similarities through its activism, the link therefore must be more indirect. A third answer might contend that policy-makers independently adapted their regional organisations to changing structural contexts and, thus, that similarities in formal rules reflect similar structural constraints. This answer has a long pedigree in functional arguments about international cooperation.[29] There is an a priori plausibility to this argument, yet the main weakness of functional arguments is their indeterminacy regarding the *specific*

[26] Variations of this argument have been advanced, for example, to explain the institutional features of the newly created African Union (Babarinde 2007).
[27] Walt (2000); Strang and Macy (2001)
[28] Krasner (1976); Lake and Scott (1989)
[29] Krasner (1983); Keohane (1984)

reactions to structural constraints. They generally leave room for different choices within the boundaries of given constraints.

Thus, all three answers appear plausible starting points for approaching the question of increasing 'EU-likeness' in regional cooperation. Yet, none of them appears sufficient on its own, nor are they mutually exclusive. This raises two more specific questions about EU influence that form the core of this study:

- Under what conditions is EU influence likely to matter? In other words, what conditions are conducive to EU influence?
- Given such influence, how exactly does it operate? In other words, what is the underlying logic of EU influence?

1.2 Literature Review: The State of Knowledge

Before I present my own argument, I outline the current state of knowledge on EU influence on global regionalism. Specifically, I review the EU studies literature dealing with EU external relations, EU-centred interregionalism and Europeanisation before turning to the IR literature on comparative regionalism.

EU Studies: Under-Researched Field

EU influence on global regionalism constitutes a lacuna in the vast and diverse literature on the EU's external relations – despite increasing recent calls to examine the topic more closely. Broadly speaking, scholars have largely failed to examine empirically the actual external effects of the EU beyond the enlargement and direct neighbourhood contexts and, theoretically, their accounts remain closely tied to various forms of conditionality.

Much of the literature on EU external relations is ‘fragmented’ along functional and spatial lines, focusing on individual policy instruments (trade policy, development policy, Common Foreign and Security Policy, etc.), specific geographical areas or EU policy vis-à-vis particular international institutions. However, many important aspects of EU external relations require a more ‘holistic’ and systematically comparative approach that examines various policy instruments levelled in the pursuit of a particular policy objective such as good governance or democracy promotion, human rights or regional integration from a more integrated perspective. Here, the literature on the EU as an international actor offers some initial leads. Carolyn Rhodes, for example, inquires into the sources of EU influence in the world and locates them in its roles as model, mentor, bandwagon and agenda-setter[30], while Ian Manners identifies six mechanisms by which EU norms diffuse across the world (contagion, informational diffusion, procedural diffusion, transference, overt diffusion and cultural filter).[31] Yet, these concepts are not derived systematically from certain theoretical assumptions or ordering principles, and thereby lack theoretical coherence. Moreover, none of these authors actually applies them empirically. Within this broader universe of literature on the EU’s international actorness and external relations, there is an incipient literature on the EU’s support for regionalism. In this early phase of writing, however, descriptive and conceptual rather than more rigorous theoretical work still dominates. Scholars have categorised EU policy instruments to support global regionalism, analysed its content and scrutinised the EU’s underlying

[30] Rhodes (1997); for a similar typology, see Jupille and Jolliff (2010)
[31] Manners (2002), pp. 244-45

motivations.[32] However, they have neither theorised the connection between EU activism and regional integration elsewhere, nor systematically scrutinised its actual impact.[33] A similar shortcoming characterises the important and often highly normatively tainted debate about the relevance of the EU model of governance for regional and global governance elsewhere.[34]

A second broad area of interest in EU studies is the increasingly growing literature on interregionalism, which has a strong focus on the EU as the main actor in, and promoter of, this new interregional game.[35] In fact, in 2005 the EU was involved in one fourth of all regional trade agreements and another fourth involved pairs of countries with which the EU has an agreement.[36] However, most of this literature is also rather empirically oriented, charting the history, institutionalisation and negotiation processes in the respective relations.[37] The more theoretically oriented literature does not systematically scrutinise the impact these relations have on regional integration as such. Some of this literature speaks more to the impact of the emergent interregional pattern on world order and global governance;[38] another part scrutinises the reasons for, and effects of, EU-driven interregionalism for EU

32 Ruano (2005); Bechev (2006); Guerrieri and Caratelli (2006); Smith (2008), Chapter 4; Antkiewicz and Momani (2009); Farrell (2009); Lenz (2009); Kühnhardt (2010)

33 There are a few exceptions, with their own particular shortcomings. Lombaerde and Schulz (2009) covers an impressive range of empirical cases, but is underdeveloped theoretically; Farrell (2007) is theoretically developed, but without empirical application; Bicchi (2006b, 2006a) does both, but focuses mainly on EU motives for supporting regionalism rather than its actual impact.

34 Pogge (1995); Wallace (1995); Nicolaïdis and Howse (2002); Costa and Foret (2005); Farrell (2005b); Leonard (2005); Jones (2006); Malamud and Schmitter (2007); Zielonka (2008); Telò (2009)

35 A good overview is (Hänggi et al. 2005).

36 Maur (2005), p. 1566

37 Some examples of this type of literature are Grabendorff (1999); Rüland (2001); Santander (2002); Vasconcelos (2007). Maybe the most explicit (and prolific) body of work in this category is that on the EU's negotiations of Economic Partnership Agreements (Stevens 2006; Bilal 2007; South Centre 2007).

38 Langenhove and Costae (2005); Doidge (2007); Rüland (2008). A good recent overview is Rüland (2010).

actorness on the world stage,[39] or compares EU and US approaches.[40] In the Asian context, a few studies exist that mention the idea of EU interregional relations having 'feedback effects' for regionalism itself.[41] The problem is that they leave these effects conceptually and theoretically underdeveloped and that single case studies are by definition limited in the extent to which more general patterns can be discerned.

The most theoretically developed body of literature in EU studies relevant to this topic is the one on Europeanisation, especially beyond the Community's outer borders.[42] Unlike work on interregionalism and EU external relations, this literature *has* analysed the actual effects of EU influence in a systematic manner and in often-meticulous detail, finding that the EU has had a significant impact on policy and institutional evolution of enlargement countries in a variety of areas.[43] Besides identifying these effects, the debate has also developed a sophisticated body of theoretical propositions about the mechanisms through which and the conditions under which these effects are likely to occur, including material and ideational ones. The respective findings are highly relevant for this study and will be further referenced in the chapters that follow, but it is crucial to realise that the relationship between the EU and candidate states is quite different to the relationship between the EU and far away regions in two important respects.

First, the significance of conditionality and detailed incentive structures is radically different. Whereas Europeanisation processes in the enlargement context resemble a

[39] Aggarwal and Fogarty (2004); Farrell (2005a); Söderbaum and Langenhove (2006)
[40] Grugel (2004)
[41] See also Gilson (2005); Doidge (2007); Hänggi (2007)
[42] For a recent review, see Schimmelfennig (2009).
[43] Important studies in this respect are Schimmelfennig and Sedelmeier (2004); Vachudova (2005); Grabbe (2006). General overviews of Europeanisation are Featherstone and Radaelli (2003); Graziano and Vink (2007); Radaelli and Exadaktylos (2010).

"juridical logic in terms of compliance or implementation of common policies"[44] that is similar to those within the Community, this is largely absent in the context analysed in this study. Even studies considering alternative logics such as socialisation note that the associated dynamics are strongly impregnated by the potential 'shadow of conditionality.'[45] Further afield, EU influence relies on more diverse, and often less tangible, dynamics. Second, we might expect the EU's ideational influence on forms of political organisation to meet starker competition far beyond enlargement and the direct neighbourhood, that is, in contexts where the potential for accession to the Community is absent and patterns of material and cultural penetration are much less pronounced, which is especially the case in South America and East Asia. As we have seen, there a strong theoretical reasons to believe *a priori* that the NAFTA model is much more likely to be at the root of a "convergence of practices when non-members consider institutional templates of the organisation as viable responses to broader systemic challenges"[46] than the EU's. In sum, extrapolating the logics stressed in the Europeanisation literature beyond the immediate neighbourhood has to be done with care.

International Relations: Independence Assumption

In the IR literature on global regionalism, be it in its genuinely comparative or more EU-centred variants, scholars have only very recently started to address empirically the issue of external influence, despite long-standing calls to do so.[47] Theoretically, structural and domestic variables dominate accounts of regionalism, leading to the

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44 Lavenex and Uçarer (2004), p. 419
45 Hughes et al. (2004); Kelley (2004a); Schimmelfennig and Sedelmeier (2005a)
46 Schimmelfennig and Sedelmeier (2005c), p. 5
47 See Nye (1965b)

curious oft-unconscious assumption that different instances of regionalism can be understood largely independently of each other.[48] Moreover, the questions that have been asked about regionalism to date revolve mainly around the creation and effects of regional integration rather than issues of formal regional rules and rule change, which I address in this study.

A large bulk of the literature, to which economists have made important contributions, has a strongly structural focus and has sought to explain mainly the widespread move towards regionalism since the early 1990s. It interprets regionalism as a rational response by political actors to structural changes in the world economy, which pushes states towards pursuing political strategies that mitigate global competitive pressures, while trying to exploit the opportunities arising from increasing economic and financial interdependence.[49] By distinguishing between state-driven regionalism and regionalisation as a market-driven process, scholars have sought to account for the greater success of regional integration in areas with a higher degree of economic interdependence, as regionalisation creates a demand for common regional rules.[50] This view captures an important structural dynamic and is useful as far as it goes. Yet, it misses out on a lot of variation among seemingly similar regional economic groupings this is analysed in this thesis. More importantly, however, it neglects the way in which these economic groupings have *influenced each other*. Rather than forming mere similar reactions to broad structural changes in the world economy that are entirely *independent*, the demonstration effect of the EC in the Single Market Programme and the pursuit of regional strategies by the US with NAFTA was key for

[48] A more thorough discussion of various theories of regional integration is provided in Chapter 2. I therefore only give a concise overview in this section, including sparse referencing.
[49] For example Lawrence (1996); Pelagidis and Papasotiriou (2002)
[50] Lorenz (1991); Robson (1993), p. 334

these developments, as I will show in Chapter 4. The main reason for these shortcomings is that purely structural accounts lack an actor-centred grounding that allows them to stipulate how structural constraints impact upon actors' political choices.

Political economy approaches to regionalism, broadly conceived, rectify these problems to some extent, arguing that "regionalism is not simply a contingent, functional response to the 'needs' of international capital, but an essentially *political* process informed by multidimensional economic and strategic factors."[51] In the 'second image reversed' tradition of IR, these accounts focus on the impact of the international system on regional and domestic political dynamics between different groups, whose interaction and relative strength determines outcomes. While some have emphasised mainly material factors[52], others highlight the importance of domestic or regional institutions, ideas or discourses drawing on notions such as unintended consequences and path dependence or the discursive construction of structural imperatives.[53] Ernst Haas' ground-breaking neofunctional theory of European integration, which emphasises the dynamic aspects of integration through various forms of spillover, also falls into this broad category.[54] Despite their diversity, these accounts also tend to work upon the oft-implicit assumption that different processes of regionalism develop largely independently of each other.

The aforementioned shortcoming of domestic-variable accounts is addressed by a third, but comparatively small, strand of literature, which emphasises the role of

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51 Beeson (2005), p. 970, my emphasis
52 Examples are Mansfield and Milner (1997); Moravcsik (1998)
53 Examples are Pierson (1996); Rosamond (1999); Katzenstein (2000); Grant and Söderbaum (2003)
54 Haas (1958)

external hegemons and focuses primarily on the US. In the early 1990s, it was popular to attribute the spread of regionalism to the decline in US hegemony, which weakened the multilateral trading system.[55] However, this work is most strongly developed in studies of Asian regionalism – a region, which has long been a hotspot for struggles between major states. Peter Katzenstein, for example, has advanced powerful arguments about the role of the US in both European and Asian regionalism, contending that the cultural affinity between the US and Europe led it to pursue more ambitious and multilateral regional plans there than in Asia.[56] The idea that external actors affect regional integration processes is central to this study as well, but the causal influence of US hegemony even in many constructivist accounts stems more from the hegemon's material rather than ideational resources.[57] External actors exert influence on regionalism *qua* being hegemons rather than *qua* being successful pioneers of a particular form of political organisations. However, a purely material conception of the EU's external influence is insufficient. Moreover, these accounts have focused more on the broad contours of regional integration rather than the more specific aspect of rule change addressed in this thesis.

Finally, there are a few studies by area specialists, mainly in article form, that have looked at EU influence on regional integration and are not tied to conceptions of hegemony.[58] While they are important starting points to which this analysis is indebted, they have two main shortcomings. First, they focus more on how EU influence operates rather than on identifying systematically the conditions that make it more or less likely. Second, these studies have certain methodological weaknesses in

[55] Bhagwati (1994)
[56] Hemmer and Katzenstein (2002); Katzenstein (2005)
[57] It shares this focus with the Europeanisation literature.
[58] Yeo (2008); Jetschke (2009); Duina (2010); Jetschke (2010)

that they do not systematically consider alternative explanations, make strong causal inferences from under-conceptualised correlational observations (a weak notion of similarity) and/or fail to provide convincing evidence that EU influence was indeed part of the story. In sum, the existing literature in EU studies and IR has barely begun to address systematically the problem analysed in this study: EU influence on global regionalism.

1.3 The Argument: The EU's Inescapable Influence on Global Regionalism

In order to better understand EU influence on global regionalism, I argue that we need to reconceptualise the way we think about the phenomenon as such. Drawing on concepts and tools from diffusion research, I suggest that regional organisations are best understood as *inter*dependent phenomena rather than as largely independent creations reflecting particular structural, institutional or ideational conditions, mainly internal to the respective region itself – the view that tends to dominate the literature. However, this interdependence of regional organisations is neither symmetrical, nor is it reducible to the material (inter)dependence emphasised by those who stress outside influences on regionalism by processes of globalisation or hegemonic actors. Instead, this thesis seeks to advance an understanding of regions as materially *and* ideationally interdependent units, yet often in highly asymmetric ways. As the widely acknowledged successful pioneer of a particular form of regional cooperation, combining supranational and intergovernmental elements in a novel way, and as an active supporter of regionalism around the world, the EU tends to take a particular role in global regionalism. This special role as the ideationally and materially most powerful regional organisation, I suggest, renders EU influence, over time, difficult to escape for other regions, even when they explicitly reject EU-type integration initially.

My account of EU influence thus depicts regional cooperation as a process of interdependent rule choice in view of particular – internal and external – incentives and constraints, thereby departing, in important ways, from the literature's focus of external influence as a form of coercion. It is based on the assumption of bounded rationality and emphasises, in particular, the ambiguity inherent in rule choice when policy-makers seek to respond to a given cooperation problem in view of similarly viable options that are difficult to distinguish *a priori* in terms of effectiveness. Such situations of ambiguity are often solved by reference to focal points as they focus members' expectations towards a common referent that serves as the most plausible starting point for finding a solution.[59] Given the EU's ideational and material power in global regionalism, I argue that the EU is likely to serve, especially over time, as the main focal point in debates about regional rule change. Even though policy-makers in all three regions explicitly rejected EU-type integration in the beginning of their cooperation efforts, I moreover suggest that there are two dynamics – what I term the EU as 'switchman' and the EU as 'driver' – by which the EU focal point exerts effects on outcomes and tends to increase similarity in formal rules over time.

The first dynamic – EU as switchman – is confined to the supply side of regional rule change. It posits that for any given cooperation problem in regional cooperation, the

[59] Schelling (1960); Garrett and Weingast (1993). More constructivist scholarship, however, captures a similar idea that is compatible with the notion of focal points, though generally expressed in different terminology (see Parsons 2003; Abdelal et al. 2010).

EU is likely to form a *suggested* focal point in coordinating a response.[60] This has to do with the similar founding rationales, the EU's success in addressing many cooperation problems and a more genuine identification with the EU by at least some actors in a region, who are likely to promote it. Thus, I argue that actors tend to construct solutions to a given cooperation problem based on the EU focal point rather than similarly plausible alternatives. For example, when policy-makers face the problem of securing the credibility of trade liberalisation commitments, they are more likely to respond on the basis of the need for a centralised mechanism that entails the establishment of some form of Tribunal or Court rather than an equally plausible system that is more decentralised and relies heavily on enforcement by private actors in national courts, as in NAFTA. Yet, the extent to which the suggested EU focal point determines outcomes depends, I argue, on the decision-making context and the degree of fit between EU arrangements, on the one side, and the political and material conditions in the respective regions, on the other. By political conditions, I mainly refer to policy-makers general attitudes regarding trade liberalisation and the preservation of national sovereignty. By material conditions I mean the compatibility of EU rules with existing rules in the respective regions. In crisis-situations and with higher respective fit, the extent of EU influence on outcomes based upon the switchman dynamic is likely to increase.

The second dynamic – EU as driver – affects mainly the demand side of regional rule change; yet with predictable consequences for the supply side as well. When the EU acts as a driver, it affects the very incentives of policy-makers for regional rule

[60] Thus, in contrast to Garrett and Weingast's (1993) important account of focal points in international cooperation, I emphasise that focal points are not only constructed – an idea that is based again on a depiction of international cooperation as a highly coercive business –, but can also emerge through their genuine attractiveness to actors.

change on the demand side. This can be the result of the negative externalities stemming from the process of European integration itself, the EU's negotiation of interregional trade agreements or its financial assistance to other regions.[61] In other words, the EU as a driver refers to any EU-related activity that alters the regional environment within which policy-makers conduct regional cooperation, thereby affecting the need for regional rule change. These EU-related activities, I posit, are more likely to affect incentives, the higher the degree of asymmetric material interdependence in trade, investment and aid. To the extent that regional rule change is indeed EU-induced, it has predictable knock-on effects on the supply side as well. Thus, when the EU alters the regional environment within which policy-makers conduct regional cooperation, I suggest that policy-makers are likely to emulate EU rules, the extent of which again depends on the degree of fit between these rules and local conditions. In this case, we may speak of the EU forming a constructed rather than suggested focal point.

I test these theoretical arguments across three central realms of regional cooperation: market building, institution building and community building. The first one refers to the common objectives and specific rules member states adopt in order to integrate their economies. The second one concerns the establishment of regional institutions such as decision-making procedures, secretariats and dispute settlement mechanisms that serve to enhance the efficiency of the process of regional market building. The third one – regional community building – denotes those types of rules that are, at one and the same time, an expression of, and a determinant of, the legitimacy of the

[61] The externality argument is mainly associated with Mattli (1999).

cooperation process such as regional redistributive funds, regional parliamentary bodies and the question of external representation of a regional organisation.

In terms of outcomes, I argue that EU influence has been highest in SADC, lower in Mercosur and lowest in ASEAN, which is reflected in the respective degree of rule similarity with the EU. The main reason for the EU's relatively high influence in SADC is the organisation's comparatively high dependence on EU trade, investment and aid, which is considerably higher than in the other two cases. This has had an impact on outcomes significantly different from the other two regions mainly in the area of central regional institutions such as the establishment of a supranational Tribunal and Secretariat. The medium extent of EU influence in Mercosur is mainly the result of like-minded actors inside the region, supported in various ways by the EU itself, who have constantly pushed for a stronger evolution of the organisation along the lines of the EU. This has gradually led to increasing similarity mainly in dispute settlement, regional parliamentarisation and the area of regional redistribution. In ASEAN, on the other hand, EU influence has been the most limited among the three cases, mainly because both material interdependence and fit have been comparatively low, while few actors in the region have strongly pushed for EU-style rules of the game. Nevertheless, we see very subtle effects of EU influence across all three realms that are irreducible to purely functional dynamics. Across the three cases, I posit that Europe's Single Market Project has reverberated, and eventually led each of them to pursue ambitious market building objectives, while a lack of fit as regards policy-makers' political attitudes towards sovereignty has hampered EU influence everywhere. This has, in many cases, led to a curious decoupling between formally similar rules with the EU but very different practices and results of regional cooperation. Thus, I conclude that regional cooperation in any of the regions is unlikely to be as successful as in the EU.

In making an argument about the 'inescapability' of EU influence in global regionalism drawing on concepts and tools from diffusion research, I seek to advance a broader theoretical argument about a major inadequacy of classical functional theories of international cooperation: namely, they tend to be indeterminate. In order to account for actual outcomes rather than merely delineating the *range* of possible outcomes we can expect to observe, functional theories often draw on auxiliary assumptions of full rationality, which are not only questionable as a description of reality; they also lead to wrong predictions in many of the cases examined in this thesis. By drawing on assumptions of bounded rationality, I provide micro-foundations that allow us to explain why actors choose certain solutions to a given set of cooperation problems over functionally similar alternatives. Such a conceptualisation promises to bridge the somewhat artificial divide between rational and constructivist approaches to the study of international politics by pointing to the important role of inherently attractive ideas in adjudicating between different plausible pathways to cooperation.

1.4 Research Design

The research design of this study is factor-centric (also called x-centred) rather than outcome-centric (or y-centred), that is, it focuses on exploring the conditions under which and the ways in which the EU factor exerts a causal effect on regional integration rather than systematically explaining some form of variation across regions *per se*.[62] This research strategy has the advantage that it allows one to examine in detail how and when a particular factor that is assumed to be of some, yet initially unspecified, significance exerts an effect.[63] However, the obvious methodological problem is one of valid inference when "a cause [is] in search of an effect."[64] How do I aim to tackle the problem of inference? I employ three methodological strategies: disaggregation of 'cases', explicit testing of various null hypotheses, and rigorous process tracing adhering to high standards of the use and presentation of evidence. After discussing methodology, this section turns towards case selection and a description of the evidence and sources.

Methodology

The first methodological strategy is to disaggregate a highly complex process of regional cooperation into more tractable pieces. This increases the number of observations and thereby generates additional variation across a range of potentially significant 'causes' that allows us to adjudicate with more confidence between factors and within them (between the different mechanisms of EU influence).[65] I distinguish between three central realms of regional cooperation – market building, institution building and community building. Then each realm is subdivided into individual issues central to the overall area. Within each of these issues, I analyse distinct phases or periods that mark critical junctures of a broader trajectory across a range of

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[62] Sieberer (2007)

[63] The biggest disadvantage is that a factor-centric research design does not allow claims about the *relative* importance of the particular factor. It must reject alternative explanations (see also below), but does not systematically weigh them relative to other potential factors (Goetz 2000, p. 223). Nevertheless, by being specific about what EU influence has 'done to' particular regions and what would have been different in the EU's absence, we can nevertheless refute the broad critique levelled against qualitative diffusion studies that a particular factor might have been "an omnipresent but minor ingredient" in a specific process (Lee and Strang 2006, p. 889).

[64] Goetz (2000). Exadaktylos and Radaelli (2009, p. 512) therefore speak of the 'effects-of-causes' approach.

[65] King et al. (1994), Chapter 6

observable implications, including the timing of decisions, the decision-making process as such, the nature of rule choices as well as the behaviour of actors during the subsequent phase of consolidation. Such disaggregation not only increases the number of observations, but also makes causal inference more tractable by breaking up the compounded causal chains at the aggregate level. In addition, it allows us to observe more easily EU influence on micro-observations such as the behaviour of individual states, groups of state representatives or even the beliefs of individuals. Thus, we might observe EU influence even in 'non-cases' judged by the outcome of formal rules. For example, EU actors might succeed in persuading individual policy-makers of the need for specific changes, but because they are unable to assemble a majority coalition for such change, outcomes remain the same.

The second methodological strategy is to assess a functional null hypothesis for the observed outcomes in a specific issue area.[66] This step responds to the most common source of inferential error in diffusion studies – known as Galton's problem –, namely that even similar outcomes might reflect independent adaptations to specific structural conditions rather than diffusion processes.[67] A certain degree of similarity in outcomes between the EU and other regions is a first indication of EU influence.[68] This requires, of course, a transparent (and plausible) standard of what is judged as similarity – an assessment that rests primarily on the question of potential alternatives.[69] Functional need usually determines the constraints on such alternatives,

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66 When they feature prominently in the existing literature, I also assess an institutional or ideational null hypothesis.

67 Ross and Homer (1976); see also Simmons et al. (2006), pp. 787-89.

68 Of course, it is not the only form influence can take. It may also lead to a consolidation of existing achievements or to rule change in the 'opposite' direction, as it did at the beginning in all three regions.

69 In my view, one of the major methodological weaknesses of many diffusion studies is that they are not explicit (enough) about the similarity they seek to explain. Similarity, of course, is a matter of

but is often indeterminate in regard to specific outcomes. To put such an assessment on solid methodological footing, I distinguish three generic cooperative alternatives, *given* a particular set of structural or functional constraints – ad hoc cooperation, intergovernmental cooperation or supranational cooperation. In many cases, at least two of these three generic alternatives generate distinguishable observable expectations that can be matched onto alternative and actually *existing* potential sources of influence, such as the EU and NAFTA, rather than forming a mere theoretical possibility.[70] For example, in order to enhance the credibility of trade liberalisation commitments, governments can decide to create a centralised court or rely on a more decentralised 'fire alarm' system based primarily on national courts – the two different arrangements by which the EU and NAFTA solve the problem of credible commitment. In some cases, such an assessment is not as clear, either because specific regional rules form a mix between different potential alternatives and/or because there are multiple potential sources of influence for these alternatives. This is why we need an additional methodological strategy.

The third methodological strategy is process tracing, which serves to 'verify' that *EU* influence was indeed at the root of observed outcomes by reconstructing the process that led to a particular decision.[71] Here, the ambition is as much as possible to 'read history forward' and adopt an *ex ante* rather than hindsight approach to causal analysis, which Capoccia and Ziblatt have labelled 'episode analysis'.[72] The idea is to

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degree and, generally speaking, the closer we scrutinise the content of rules or even practices, the less similarity we find.

70 See Fearon (1991). For an application of a similar approach to discern the causal influence of ideas, see Parsons (2003), esp. pp. 11-15.

71 This strategy responds to the criticism that "most diffusion studies are better at rejecting the null hypothesis… than they are at actually explaining how that change occurs" (Jacoby 2006, p. 632).

72 Capoccia and Ziblatt (2010), esp. p. 943. Especially rational choice scholars who view rules as equilibrium outcomes of strategic interaction have tended to develop backward accounts of how a

reconstruct a historical episode as truthfully as possible from the perspective of the contemporaries involved, but with a view to the broader constraints on their actions. Who were the critical actors in the process? What were their preferences and positions? How did they interact and what coalitions formed? What were they actually fighting over and what alternatives of action did they perceive? And what was the structural context they operated in? Here, discerning the underlying causal logics of EU influence based on a set of observable implications stipulated *ex ante* plays a central role in theoretically guiding the individual narratives in order to make "intelligible the regularities being observed by specifying in detail how they were brought about."[73] But such causal reconstruction must also involve active citation and a careful handling of sources.[74]

Even by abiding to these high standards, there might be situations in which it is difficult to distinguish *EU* influence from other *external* influences when both are expected to lead to similar outcomes and dynamics. Other external agents may advocate and actively push EU-style rule change alongside the EU. In this case, it might be impossible to parcel out the relative influence of these two actors. Trickier even is to distinguish EU influence from wider diffusion processes of particular arrangements, especially those that are not unique to the EU.[75] In this case, we might both run the danger of over- and underestimating EU influence. We may overestimate

particular outcome represents such an equilibrium in view of the anticipated benefits actors expect to derive from cooperation. For such critiques, see Wendt (2001); Pierson (2004), Chapter 4.

73 Hedström (2008), p. 321, my emphasis. The literature on mechanisms has recently sparked renewed interest (Falleti and Lynch 2009; Gerring 2010). In scrutinising motivations, I triangulate interview data with inferences based on the structural context of the decision-making situation, asking whether reasonable prerequisites were in place. Similarly, see Simmons (2009), p. 91.

74 Moravcsik (2010)

75 This problem can be illustrated with Finnemore and Sikkink's (1998, pp. 895-905) 'norm life cycle', where norm entrepreneurs – in our case the EU – are easily identified in the first stage, i.e. when an international norm is emerging and does not yet have many adherents, while in the second stage, when the norm 'cascades' through the international system through processes of imitation and mutual socialisation, individual agents of norm change are difficult to identify.

EU influence when we attribute an outcome especially to supply-led processes, which in fact was the result of broader ideational trends in the wider region. We can run the risk of underestimating it when we attribute outcomes to more proximate causes, in both the temporal and/or geographic sense, because they are more frequently mentioned, for example, in policy-makers' discourse. Here, the EU may be the 'original' or deeper cause that we fail to consider – the problem of omitted variable bias. The only yet sometimes imperfect solution is careful process tracing with a particular view to sequencing and timing issues. Two questions are of particular importance: Does a particular decision have its roots in a longer process that started at a time when the adoption of a particular arrangement was still less widespread? And what were the main referents in domestic debates? In any case, scholarly integrity requires honestly reporting such ambiguities in inference.

Case Selection

Central to this study's research design is a structured comparison of EU influence across three regional organisations: ASEAN, Mercosur and SADC. Even though comparison, especially across three organisations, involves trade-offs regarding the depth of the analysis in any particular case, only broader comparison allows us to reveal more general patterns and dynamics – in our case, the conditions that affect EU influence – that single case studies are unable to unravel. In so doing, this study seeks to gain methodological leverage from the diversity, maybe even idiosyncrasy across regional contexts that area studies specialists often point to as an argument *against* meaningful comparison. At the basic level, this study thus employs a most different systems design, seeking to explain a pattern of 'commonality amid diversity' across regional contexts that differ enormously in their structural (e.g. development levels, degrees of economic interdependence, economic profiles), institutional-political (e.g. regime forms, economic systems), historical (e.g. colonial legacies) and ideational characteristics (e.g. culture).[76] The underlying assumption is, then, that the EU focal point is the only factor (of importance) that the regions have in common. Nevertheless, because EU influence plays out differently in different situations – depending on the degrees of interdependence and fit –, it also accounts for variation across cases, realms of cooperation and individual issues.[77]

So why have I chosen these three cases? First of all, they are 'crucial cases' for anyone positing arguments about the dynamics of global regionalism outside of Europe.[78] Not only are they generally seen to be among the most successful regional groupings on their respective continents, they are also considered the most important regional groupings in the global South encompassing some of the respective regions' major states. At the same time, they are least likely cases because they started out as explicit rejections of an EC-type integration process, as we have seen before. This starting point makes these cases particularly suited to puzzle out the interplay between structural/functional factors and EU influence over time and guard against selection bias on both the dependent and independent variables. The specific outcomes I examine cover the whole *range of cooperation problems* that member states are likely to be confronted with eventually in any economic region-building process. This width and substantive importance of issue areas avoids selection bias because it includes 'successful' and 'unsuccessful' cases of both regional rule change in general and EU

[76] For studies employing such research designs, see Finnemore (1996a); see also Finnemore and Sikkink (1998), pp. 904-05; Boli and Thomas (1999). Gerring (2008) has coined the notion of 'diverse case method' for such research designs.

[77] Thus, I refute the potential (purist) assertion that a single factor cannot account for both similarity and variation at the same time.

[78] For a discussion of this term, see Eckstein (1975); Gerring (2008).

influence in particular. Moreover, I deliberately included in my sample an analysis of those arrangements, which in their depth and competences remain *unique* to the EU to this day (Single Market, cohesion policy, European Commission, European Court of Justice and European Parliament), that is, have not been adopted in full by any other regional organisation (unsuccessful or partially successful cases of EU influence). This not only guards against selection bias on the independent variable in the abstract, it allows me, more specifically, to examine the conditions that *limit* EU influence.[79]

Evidence and Sources

The empirical narratives in this study are based on three main types of evidence and sources, many of which are original and most are un- or little known in the broader IR community because they are not easy to access in West European or North American libraries: interviews, published and unpublished primary sources as well as a wide range of secondary sources. Thus, they constitute, I believe, a significant improvement over similar theoretically oriented studies with a comparable geographic and historical sweep and, in many cases, also add fresh insights for specialists on particular regions.[80]

The main bulk of the data constitute over 130 interviews with policy-makers from each of the three regions who were involved in the respective integration processes as key players at particular moments in time. These interviews serve several functions. For one, I used interviews to fill in holes in the empirical record reconstructed through

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[79] For a good overview of the methodological issues at stake, see Geddes (2003), Chapter 3.

[80] For all its theoretical novelty and important impact, Mattli's (1999) path-breaking study, for example, is rather weak on sources: not only does he rely solely on secondary sources, his evidence is, in most cases, at best suggestive of the operation of the causal mechanisms he theorises.

other sources by asking about the timing of particular decisions or the position of particular participants to the negotiations. Further, I used them to reconstruct the decision-making context or situation policy-makers found themselves in *at the time* by asking about the information available to them and the different potential options for action they considered. Finally and most problematically in the eyes of some, they are an important source of evidence about motivations for action. I am aware of the problems associated with inquiring policy-makers' motivations or intentions through interviews – costless to conceal true intentions, lack of memory etc. – but have sought to mitigate them as much as possible by adhering to increasingly accepted standards for 'reliable' elite interviewing such as cross-checking with other sources and participants, careful wording of questions and challenging policy-makers to substantiate their claims etc.[81]

The second set of evidence stems from a range of published and unpublished primary sources, which I gathered during my fieldwork, many of which are not readily available online. They entail confidential and non-confidential EU policy documents and evaluations of particular cooperation projects; primary meeting records, especially for SADC, which are only made publicly available with a two-year time lag; confidential notes by policy-makers and oral histories conducted by scholars and other sources.

A third set of evidence are secondary sources, often from the respective regions and unavailable in Europe. Some of this material is based on original primary work, which I cite. Some of it is written by former policy-makers or politicians themselves and

[81] See Aberbach and Rockman (2002); Berry (2002)

thus comes close to primary research material. Most of the time, it is written by area studies experts from the regions themselves who are often well-connected to the policy process and thus write very well-informed articles and commentaries that constitute an indispensible form of evidence.

The quality of evidence and access to sources varies somewhat across the three cases but, fortunately, data constraints did not consistently cluster in one specific region. Whereas it is easy in Mercosur to organise interviews and access a huge body of well-informed secondary literature, access to confidential or even official meeting sources is more difficult. For SADC, there is good official documentation and relatively easy access to policy-makers, but the reliability of interviewees is a problem and solid secondary literature is limited. In ASEAN, there is a very good body of secondary literature, but because of the continued authoritarian character of some regimes, it is often difficult to get good access to the policy process. An explicit culture of secrecy sometimes surrounds governmental institutions such that both interviewing as well as archival research is difficult.[82]

1.5 Outline Plan

The study consists of five substantive chapters. Following this introduction, Chapter 2 describes the history of global regionalism since the inception of the EC in the 1950s until today and reviews the accompanying theoretical literature on the topic. I contend that empirically minded scholars and historians have amassed a significant, yet oft-unsystematic amount of evidence to suggest that EU influence matters in global regionalism and merits more systematic and theoretically guided analysis. This stands

[82] See also Johnston (2008), p. 42

in stark contrast to the theoretical literature on the topic, which I review subsequently. The literature on regionalism has regularly neglected external influences in general and EU influence in particular, working upon the oft-implicit conceptual assumption that different processes of regionalism can be well understood as developing independently of each other.

Chapter 3 presents the theoretical framework that guides the subsequent empirical analysis. It starts by developing a generic framework to understand EU influence on regional cooperation, combining the notion of focal points with a demand and supply model and distinguishing two dynamics – the EU as a 'driver' and as a 'switchman' – by which EU influence matters. Then, I explicate four mechanisms of EU influence (learning, rewards, emulation and socialisation) and discuss their respective scope conditions and observable implications. The final section pulls together the two dynamics and four mechanisms in a coherent and dynamic model of EU influence on global regionalism. The main contention of the chapter is that EU influence is best understood as an external influence on the incentives for and contraints on domestic rule change that can be usefully analysed with concepts drawn from the diffusion literature.

The following three chapters constitute the empirical core of the study, analysing EU influence in three distinct realms of regional integration. Drawing on the theoretical framework, Chapter 4 analyses EU influence on regional market building, Chapter 5 on regional institution building and Chapter 6 on regional community building. Each chapter moves from an analysis of the macro-level to various micro-level investigations and seeks to identify the obstacles that limit EU influence.

Chapter 2

The EU Factor in Global Regionalism

> A gap seems to exist between present theory of international regional integration and political reality. The theory explains … regional integration almost exclusively on the basis of processes and factors *internal* to the region under consideration. When theory considers phenomena outside the region, they usually appear as residual categories which are left insufficiently examined and about which we know little.
>
> – Karl Kaiser, political scientist[1]

Arguing for a more sustained consideration of the *interaction* between what he termed ‘regional subsystems’, Karl Kaiser offered this trenchant critique of the literature on regionalism in the late 1960s – only a few years after the phenomenon had started to spread beyond the European continent. How pertinent is this critique today? And how can we think about this ‘interaction between regional subsystems’ in view of the empirical, conceptual and theoretical progress that has occurred since then, through the work of area studies specialists and IR scholars? In addressing these questions, this chapter revisits the phenomenon of regional integration in Africa, Asia and Latin America in the post-World War Two era with a view to how scholars have described, conceptualised and theorised the role of the EU factor in global regionalism. I make three main arguments. First, I posit that there is significant anecdotal evidence for *some* role of the EU factor in global regionalism; yet scholars who mention the EU have largely failed to systematically theorise and rigorously test claims about this relationship. Second, I claim that most theoretically oriented accounts of regionalism

1 Kaiser (1968), pp. 84-85, emphasis in original

have failed to address external influences in general and EU influence in particular because they work upon the implicit conceptual assumption that different cases of regional integration can be well understood by developing *in*dependently of each other. Third, I argue that the limited extent to which outside influences on regionalism have been explicitly theorised, namely as forms of hegemonic power, is less useful to understand EU influence because the Community's material support for regionalism is not tied to explicit conditionality.

The chapter proceeds in three parts. The first part deals with the 'old' regionalism of the 1960s and 1970s, giving a brief overview of global regionalism during that period and the EC's initial support for such endeavours before considering the early literature on the topic. The second part addresses the 'new' regionalism since the late 1980s, considering the changing structural and ideational context of global regionalism and reviewing actual developments in ASEAN, Mercosur and SADC as well as sketching the EU's development of a policy to promote regional integration. It concludes by a review and critique of the current literature on regionalism based on the arguments above. The third part, based on the previous critique of the literature, sets out the basic conceptual tenets of my own approach drawing on concepts and insights from diffusion research, which is developed in detail in Chapter 3.

2.1 'Old' Regionalism: The EC as *Primus Inter Pares*

The European integration process was a novel phenomenon in international politics when it started in the early 1950s. While intergovernmental cooperation has a long history, the fact that independent nation states pooled significant aspects of their sovereignty in supranational institutions to advance the gradual integration of their economies in an attempt to ban large-scale violent conflict was unique. Given the early success of the European strategy to pursue visionary ends by pragmatic means, it soon served as an inspiration for policy-makers elsewhere. EC-style common markets began to mushroom around the world and the European Commission (ECom) started to support these efforts.[2] In many ways, not only European policy-makers themselves but also their counterparts elsewhere saw the EC as the *primus inter pares* of regional (economic) groupings.

Regionalism after World War Two

As a reaction to the scorches of World War Two, the architects of the post-War international system were eager to create *global* rather than regional institutions in order to 'civilise' world politics. The latter of which they thought to be at odds with ideas about collective security and global government, which were initially institutionalised in the form of the United Nations (UN), the Bretton Woods institutions (World Bank and International Monetary Fund), as well as the General Agreement on Tariffs and Trade (GATT).[3] Nevertheless, the states "that had already made heavy political investments" in regional arrangements secured the recognition of regional bodies in the UN Charter.[4] As regional security predicaments remained severe in many parts of the world and global institutions were unable to perform their functions effectively in view of increasing superpower rivalry, regional integration schemes blossomed in the 1960s and 1970s.

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2 This phenomenon constituted the founding rationale for the *Journal of Common Market Studies*, created in 1961, which carried much of the early academic debate on regional integration.

3 Mitrany (1965), especially pp. 126-27

4 Claude (1968), pp. 5-6

Suffering from the deep scars of two devastating world wars, sandwiched between increasingly hostile superpowers and still strongly interwoven economically, the incentives for regional (economic) integration were nowhere as pronounced as in Europe. Drawing on a rich intellectual history of sketches for European unification, exceptional political leaders, such as Robert Schumann and Jean Monnet in France or Walter Hallstein in Germany, managed to assemble a political coalition to institutionalise supranational control over crucial war resources in the Paris Treaty of 1951. The European Coal and Steel Community (ECSC) administered the heavy industry of the six participating countries – France, West Germany, Italy and the Benelux countries – and created a common market for their distribution. It provided for a strong 'High Authority' with far-reaching competences to direct market interventions, a Court and a representative assembly with executive control functions – an institutional architecture that "was, at the time, unmatched in ambition."[5]

After the failure of greater plans like the European Defence Community, the political ambitions and institutional set-up of the ECSC found their way into the European Economic Community, which was the forerunner to today's EU.[6] The Treaty of Rome formulated the objective of creating a common market with the free movement of goods, services, capital and labour through the gradual removal of tariff and non-tariff barriers to trade and the establishment of a common external tariff, accompanied by flanking measures such as common trade, transport and agricultural policies. These efforts were to be directed by "a set of quasi-constitutional institutions unique among

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5 Rittberger (2001), p. 674

6 The ECSC, the European Economic Community and the European Atomic Energy Community were merged and subjected to a common set of institutions in the 1967 Merger Treaty. From this point onwards, it was referred to as the European Communities or, simpler even, the EC, but I shall use the acronym already for the time before.

international organizations."[7] These included the Council of Ministers as the central body making decisions by qualified majority vote in the areas of trade and agriculture; the ECom with its sole right to propose legislation and conceived to act as the 'motor of integration'; a supranational European Court of Justice, which ruled over the interpretation of the treaties, and a Parliamentary Assembly with consultative rights.[8]

This emerging European experiment in regional cooperation soon "triggered regional integration in other parts of the world"[9] as policy-makers in the global South sought arrangements to stabilise their often newly independent countries and promote economic and social development. The EC induced both fears of being excluded from the European market and admiration for the Europeans' early success. In Latin America, the President of the Council of the Uruguayan government angrily noted in the late 1950s: "the formation of a Common Market in Europe […] constitutes almost a state of war against Latin American exports. We therefore have to respond to one integration with another; […] to inter-European cooperation with Latin American cooperation."[10] Most authors thus agreed that economic integration in Latin America was "precipitated by the astounding increase in economic cooperation and prosperity in Europe."[11] Only a few months after the signing of the Treaty of Rome, five Central American states started to discuss a similar proposal and soon worked on the creation of a Central American Common Market with the ultimate ambition of political

7 Moravcsik (1998), p. 86
8 Outside support, especially by the US, played a crucial yet theoretically under-acknowledged role in the EC's early development, which led to the somewhat paradoxical situation that "Washington pursued European integration with considerably more fervor than the six ECSC/EEC countries themselves" (Lundestad 1998, p. 42).
9 Etzioni (1963), p. 515
10 Balassa (1965), p. 16
11 Feder (1961), p. 433; see also Mace (1988)

unification.[12] The Latin American Free Trade Association (LAFTA), founded in 1960, similarly "[drew] upon the example of Western Europe"[13] to eventually create a common market by means of periodic and selective negotiations.[14] Prominent proposals to advance LAFTA more closely along the lines of the EC were rejected.[15] Disappointed by this lack of 'progress' in LAFTA, five Andean countries created the Andean Common Market in 1969, with many features copied from the EC: gradual and automatic across-the-board tariff reductions, a series of harmonised policies (e.g. agricultural policy, industrial policy) based on common and binding rules called resolutions; majority decision-making in an intergovernmental Commission and a supranational secretariat (called Junta), supplemented in 1979 by a powerful Andean Court of Justice and an Andean Parliament.[16]

Whereas the Andean countries thus reacted to the slow progress in LAFTA by drawing much more closely on the EC model, countries in the Southern Cone tended to go in the opposite direction. As the forerunner to today's Mercosur, Argentina and Brazil started bilateral cooperation in the late 1970s in order to overcome decades of strife and rivalry under their military dictatorships and bolster their respective democratisation processes. Cooperation was initially confined to the security field and encompassed a range of ad hoc protocols on nuclear issues and related fields, culminating in the 1985 Iguaçu Declaration.[17] When economic cooperation eventually started in the mid-1980s, it was based on the principles of gradualness and selectivity. Unlike in the Andean countries, there were no automatic tariff reductions, harmonised

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12 Castillo (1966); Dell (1966)
13 Wionczek (1970), p. 52
14 For good early assessments of LAFTA, see Dell (1966); Milensky (1973)
15 See Herrera et al. (1966)
16 Kearns (1972); Avery and Cochrane (1973); see also French-Davis (1977)
17 Hurrell (1998), p. 235; see also Oelsner (2003)

policies or even resolutions. Ad hoc intergovernmental working groups negotiated classical international treaties, called protocols. These efforts evolved cautiously, leading to the Economic Cooperation and Integration Programme in 1986 and eventually the Treaty of Integration, Cooperation and Development in 1988, which envisaged the creation of a FTA within a ten-year period.[18]

In Asia, several proposals for regional economic cooperation emerged in the years following the creation of the EC, even though sub-regional institutions were less popular than in Latin America and their institutional set-up was leaner. Shortly after the EC's inception, Malaysia proposed a Southeast Asian Friendship and Economic Treaty based on the "influence of the example of Western European regional organisations"[19], which ultimately failed to take off. A similar fate befell the Association of Southeast Asia, an alliance between the Philippines, Malaysia and Thailand in 1961, and MAPHILINDO in 1963.[20]

ASEAN's founding with the Bangkok Declaration of August 1967 between Thailand, Indonesia, Malaysia, Singapore and the Philippines constituted a renewed attempt to foster unity amidst the fear of intra-regional conflict propelled by Communist expansion in neighbouring states and domestically rather than "economic integration based on the EC model."[21] Even though *inspired* by the European experience – as a former protagonist of the process notes[22] –, its member states rejected EC-style integration based on the pooling and delegation of sovereignty. Theirs was an

18 Gardini (2005), p. 415
19 Jorgensen-Dahl (1982), p. 20. A few years later, Malaysia even proposed the formation of South-East Asian Common Market (Drummond 1982, p. 301).
20 Gordon (1966), Chapter 6; Leifer (1989), p. 19
21 Chia (1997), p. 276. Brunei Darussalam, the sixth 'old' member, joined ASEAN in 1984.
22 Khoman (1992), p. xix. Others even suggested that ASEAN had "a kind of ideological link with the EC which it saw as a model to emulate" (Drummond 1982, p. 311).

informal style of integration – the so-called 'ASEAN way' – that upheld the principles of consultation and consensus, non-interference and weak institutionalisation, many of which were codified in the 1976 Treaty of Amity and Cooperation.[23] Indeed, ASEAN adopted a minimalist and purely intergovernmental framework composed of an annual foreign ministers meeting, the ASEAN Secretaries-General, each presiding over an ASEAN National Secretariat which supervised the association's activities, and a Standing Committee of national officials. Only after the Bali Summit of Heads of State in 1976 were some genuinely regional institutions established: a small and weak secretariat in Jakarta, Indonesia, and a High Council for dispute resolution, which has never been used until today, followed by an ASEAN Interparliamentary Organisation in 1977. It was also in the late 1970s that economic cooperation began in ASEAN. In 1977, governments signed the Preferential Trading Arrangement, which was based on voluntary tariff preferences on approved imports, and in the following years implemented a series of industrial cooperation schemes – ASEAN Industrial Projects, ASEAN Industrial Complementation and ASEAN Industrial Joint Venture schemes. While the organisation certainly contributed to stabilising member state relations through their "diplomacy of accommodation"[24], initiatives for functional cooperation largely failed to bring the expected benefits.[25]

In Africa, proposals for the creation of sub-regional groupings developed with a certain time lag to the EC's inception, due to initially exclusive ambitions at pan-African integration embodied in the creation of the Organisation of African Unity

[23] Leifer (1989), pp. 8-9
[24] Antolik (1990)
[25] Good early assessments of economic cooperation in ASEAN are Arndt and Garnaut (1979); Langhammer (1991); Kurus (1993).

(OAU) in 1963.[26] Once high-flying hopes for quick pan-African integration vanished, the 1970s and 1980s saw the emergence of a flurry of sub-regional economically oriented integration projects such as the Economic Community of West African States or the East African Community. Many of them emulated the EC model in an attempt to "rekindle our flickering African flame [of regional integration] from the European torch", as former Nigerian president Olesegun Obasanjo poetically stated[27] – an assessment that many authors writing at the time shared.[28] However, few of them were successful or even active for longer than the initial years, due in part to the "poor fit between the imported [European] model of regional integration and the circumstances in which it was applied."[29]

One of the most successful African regional organisations from this period was SADCC. Formalising the common desire of the Frontline States to lessen economic dependence on South Africa under the apartheid regime, the organisation formed in 1980 with the Lusaka Declaration. The EC was the "midwife" to its creation as ECom officials advanced the idea of 'economic liberation' with regional politicians.[30] Based on a commonly agreed Programme of Action, each member state assumed responsibility for managing regional development projects in individual policy sectors. The idea was to coordinate countries' development initiatives with major financial and ideological support from outside donors, among whom the EC was the most important.[31] Due to the previous widespread failure of highly ambitious and strongly institutionalised integration efforts on the African continent, SADCC

[26] See Nye (1965a)
[27] Cited in Lister (1997), p. 160
[28] For example Asante (1982)
[29] Mayall (1995), p. 181; Langhammer and Hiemenz (1990). For broader early assessments of African regionalism, see Hazlewood (1979); Okolo (1985); Robson (1985).
[30] Anglin (1983), p. 685; Mandaza and Tostensen (1994), pp. 12, 84
[31] Schoeman (nd), pp. 4-5

officials emphasised the voluntary character of their cooperation activities and decided to opt for a lean and decentralised institutional structure, in which member states retained a firm grip on the decision-making process.[32] The creation of only a small and weak SADCC Secretariat in Gaborone, Botswana, was thus, as the first Chairman of SADCC notes, the expression of a "deliberately business-like approach, in which institutions follow achievement."[33] In this case, the EC model and that of its early African 'followers' served as the object *against* which policy-makers developed their own regional approaches.

In sum, much writing on regionalism by area studies specialists and contemporary historians during this early period regularly mentioned EU influence. Its treatment essentially revolved around three main concepts: the EC as a threat, as an inspiration and as an example/model (to be emulated). While they might have formed promising starting points for thinking about EU influence, none of them were ever conceptually developed or tested more systematically. Instead, accounts heavily relied on the impressionistic insights of the respective scholar. However, the EC not only affected regional integration elsewhere, arguably "by simple virtue of its very existence."[34] Since the early days, it has also actively promoted such endeavours by engaging countries within a region as a group rather than individually – a theme developed in the next section.

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[32] Hill (1983)
[33] Cited in Anglin (1983), p. 696
[34] Rosamond (2005), p. 472

EC's Initial Support for Regionalism

The EC's support for regionalism has its roots in relations with Africa. After decolonisation, the EC negotiated an Association Agreement with its former colonies in Africa, the Caribbean and the Pacific (ACP) *as a group* in 1963 (Yaoundé I). This constituted the official start of a specific form of interregionalism – one which subjected a group of countries with common borders to the stipulations of a jointly negotiated agreement. The main objective of these agreements, in Africa and beyond, was to "consciously support a common front by the ACP states" and to act as a "catalyst for African unification", as a former high-level official in the ECom noted.[35] Several instruments were developed in this context that continue to form the backbone of the EC's support of regionalism today. First, early interregional agreements provided for an elaborate institutional framework that was "patterned on that of the European Community"[36] and thereby familiarised region-builders with EC institutional arrangements. Second, the EC provided an early form of technical assistance by training civil servants from associate countries in EC institutions.[37] Third, the EC lent financial assistance by funding projects that involved several countries in a geographic region. The regional allocation rose from about 11 percent in the first Yaoundé Agreement to 14.5 percent in the Third Lomé Convention, which lasted until 1990.[38] Besides relations with the ACP, the EC also engaged with existing regional groupings in Africa. In 1968, it concluded a cooperation agreement with the East African Community (Arusha Convention), but because the member states

[35] Krohn (1975), pp. 70, 81, my translation

[36] Grilli (1993), p. 20. In the first Yaoundé Agreement, it consisted of an Association Council, an Association Committee, a secretariat, a Court of Arbitration and a Parliamentary Conference, each of which had functions somewhat similar to those of the respective EC institutions (Cosgrove-Twitchett 1978, p. 110).

[37] Rempe (2009)

[38] Calculations are based on European Commission (1984), p. 9; (1986b), p. 23; (1992b), p. 17.

belonged to the British Commonwealth, they were not eligible for financial support under the European Development Fund (EDF).[39] Throughout the 1980s, the EC was also a fervent supporter of SADCC, allocating more than ECU 200 million to regional programmes under the Lomé II and III Conventions.[40]

Engagement with regional groupings and support for regionalism started somewhat later, but was developed in more innovative ways in relations with the non-associated developing countries in Asia and Latin America. With the inception of the EC Generalised System of Preferences in 1971, the EC introduced a cumulation of rules of origin clause, which allowed blocs of states such as the Andean Pact and ASEAN to enjoy access to the EC market if a product originated in various countries of that region. At the institutional level, the Community also started new engagements, often in response to respective demands by the other side, that served to legitimise emerging regional organisations elsewhere and to transfer integration know-how. Regarding Latin America, the European Parliament (EP) began to hold bi-annual interparliamentary dialogues with the PARLATINO, a continental parliament in Latin America, in 1974 and a year later the ECom and the member states established regular meetings with the Council of the Latin American Economic System. In seeking closer contacts with the EC, ASEAN established its first representation abroad in Brussels in 1972.[41] This was followed by contacts with an ASEAN Study Group in 1974 to seek opportunities for future cooperation, culminating in the first ever ministerial meeting with a regional grouping in 1978 as well as the establishment of contacts between the EP and the ASEAN Interparliamentary Organisation and the signing of an EC-

[39] There was a vivid debate, however, whether and how successive Lomé Conventions would affect existing African regional groupings (see Zartman 1971, pp. 93-103; Olofin 1977; Asante 1982).
[40] European Commission (1990), p. 12
[41] European Commission (1981), p. 3

ASEAN Cooperation Agreement in 1980.[42] The EC's early repertoire for the promotion of regionalism was completed by the inception of a broad-based group-to-group dialogue with the Central American countries in 1984.[43]

Financial support for regional institutions and projects through the Community's development policy – a priority objective from the start – was extended to Latin America and Asia in 1976. The Andean Pact Junta, the organisation's executive organ, was the main benefactor of financial resources in Latin America, receiving about ECU 1.1 million in institutional support between 1980 and 1982 and ECU 14 million from 1977 to 1982 for regional projects.[44] Unlike in Africa, the EC also supported genuine regional policies (rather than just regional projects) such as the Andean Pact's industrial strategy or the ASEAN Timber Technology Centre.[45] Table 2.1 displays the EC's increasing development aid allocations to regional projects and organisations in Latin America and Southeast Asia.[46] Even though these allocations remained modest in absolute terms, they nevertheless were important contributions in specific areas and, maybe more importantly, served to grant recognition to regional organisations as legitimate partners in international politics.

42 European Commission (1981), pp. 3-4, 8; see also Drummond (1982), pp. 311-2
43 For a good overview, see Roy (1992)
44 European Commission (1983), p. 11
45 European Commission (1988a), p. 103; (1988b), p. 10
46 The differences in the allocation of funding in the two regions largely reflect the existence and strength of existing regional groupings.

Table 2.1 – EC Development Aid Allocations to Latin America (LA) and Southeast Asia (SEA) (in million ECU)

Period	*Total Commitment*		*Commitment to regional organisations*		*Share of regional/total commitments (%)*	
	LA	SEA	LA	SEA	LA	SEA
1976-80 (average)	76.3	11.5	22.1	0.2	29.0	1.8
1981-85 (average)	263.2	39.6	73.1	2.9	27.8	7.4
1986-89+ (average)	220.2	35.2	131.1	6.2	60.0	17.6

+ Because of a lack of data, this period only includes the years 1986 and 87 for Southeast Asia.

Sources: European Commission (1981, p. 11; 1988b, p. 11; 1989)

Early Literature on Regionalism

Early theorising on regionalism was highly ambitious, with the ultimate aim of developing an encompassing 'theory of regional integration'. After building various such theories in the European context, many theoretically minded scholars moved to the study of other integration processes to apply and refine them. In so doing, however, the suggestive evidence of EC influence that their empirically minded peers had assembled was largely ignored or at least remained untheorised and failed to be systematically tested.

Given the intellectual hegemony of behaviourism in (American) social science at the time, early theorists of integration focused primarily on the characteristics of the integration process itself.[47] Transactionalism – developed by Karl Deutsch and his

[47] Rosamond 2000, p. 54. For an early critique of the definition of the dependent variable in integration theorising, see Nye (1968a).

collaborators – examined the integrationist consequences of increasing economic, social and political transactions within a region in the emergence of security communities.[48] Neo-functionalism, the most important of these early theories, saw the process of regional integration as a series of spillovers between functionally connected policy fields, triggering an evolutionary process towards deeper regional integration and eventual political unification once the process had been started. Functional spillovers, moreover, were directed and continuously nourished by supranational institutions and further reinforced by the political mobilisation and organisation of interest groups at the regional level[49], thereby creating the inherently expansive logic that Ernst Haas himself would soon be agonising about.[50]

When the same theorists and their students started applying these theories beyond the European context, the field of 'comparative regionalism' gradually emerged.[51] They soon realised, however, that despite functional spillover and increasing social interactions integration processes did not develop in a linear or even 'inevitable' fashion as they had done in Europe until the mid-1960s. This led them to examine the context conditions necessary for successful, i.e. increasingly deep integration, which they used to account for stagnating or even retrenching integration dynamics.[52] These conditions revolved almost exclusively around states and dynamics *internal* to the respective integration processes: structural background factors such as the size and degree of symmetry between the involved countries, process conditions like decision-

48 Deutsch (1957)
49 Haas (1958); Lindberg (1963); see also Balassa (1961)
50 Haas (1970). In the meantime, early intergovernmentalists like Stanley Hoffman also criticised neo-functionalism for underestimating the continued influence of nation states in the integration process (Hoffmann 1966). This critique, however, did not amount to an alternative theory of regional integration and did not depart from neo-functionalism in its exclusive focus on *internal* dynamics.
51 Pentland (1973), Chapter 5
52 Schmitter (1970a)

making style or the adaptability of involved actors, institutional dynamics associated with the role and influence of regional institutions and/or the perceptions and ideology of regional policy-makers.[53]

Focused, as they were, on domestic and process-oriented factors, these scholars of neofunctionalism largely neglected external factors in theorising the dynamics of regional integration. To the extent that they did, they remained conceptually underdeveloped and were never systematically applied empirically. Philippe Schmitter, for example, proposed an 'externalisation hypothesis', which sought to capture the feedback effects of outside actors' reactions for the integration process itself.[54] It was certainly plausible to argue that integration also had external effects, and to posit that these effects were not confined merely to the material ones of market integration – what Schmitter termed 'envy' –, but their exact mechanisms and the conditions under which they are likely to be relevant were never clearly elaborated. Joseph Nye was probably the most prominent scholar calling for a sustained examination of "external catalysts" in regional integration processes, but he himself hardly did so systematically.[55] Nye drew some useful conceptual distinctions that continue to resonate to this day – passive vs. active external factors[56] – and emphasised the role of perceptions of the external environment and the concrete involvement of external actors.[57] These could all have been useful starting points, but Nye never moved beyond mere superficial empirical application and his model was eventually so complex that no single factor was considered in much depth.

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53 Haas (1961); Haas and Schmitter (1964); Nye (1965a, 1970); Schmitter (1970b). Early economic theories of regionalism focused primarily on its effects and conditions for success rather than its emergence and evolution (see Viner 1950; Griffin and French-Davis 1965).
54 Schmitter (1969), p. 165; (1970b), p. 840; see also Pinder (1968), p. 37; Etzioni (1965), pp. 70-71
55 Nye (1965b), pp. 882-84
56 Nye (1968b)
57 See Nye (1970), pp. 811-12, 819-20

A few scholars heeded Nye's call and indeed focused mainly on an analysis of external factors in general and the crosscutting influence between regional groupings in particular. Karl Kaiser, for example, developed a series of hypotheses about the interaction of three different types of regional sub-systems – transnational society, intergovernmental and comprehensive – focusing mainly on the effects of external threat and the role of the superpowers in initiating and consolidating or derailing regional integration efforts.[58] William Avery coined the term 'extra-regional echoing' to capture the processes of imitation of innovative integrative behaviour by other actors. He made the bold statement that "[c]onspicuous copying of the prototypical European experiences can be found wherever integration movements have emerged"[59] and started developing some propositions about when such imitation was likely to occur. Both analyses offered promising starting points for a more sustained consideration of EU influence, but progress never went beyond an initial formulation of a limited set of hypotheses. These were never empirically tested and/or subsequently refined. Before progress on this front could be made to ignite a broader research programme, scholars were overtaken by the 'decline' of regionalism in the late 1970s and lost interest.[60]

2.2 'New' Regionalism: The EU as One Among Many

The end of the Cold War marked a watershed in international politics, fundamentally changing the policy opportunities and constraints on countries' foreign (economic) policies, including the EC's. As globalisation became the new buzzword, a logic of geo-economics increasingly replaced the Cold War logic of geopolitics. This sparked

58 Kaiser (1968)
59 Avery (1973), p. 551
60 The only systematic study in this vein came much later and focused on Latin America (Zimmerling 1991).

a worldwide flurry of new cooperative initiatives at the bilateral, plurilateral and multilateral levels and the fundamental overhaul of many existing ones, including GATT.[61] The World Trade Organisation (WTO) counts an eight-fold rise of regional trade agreements between 1990 and 2010 and even if one restricts the calculation to regional organisations *strictu sensu*, that is, institutionalised arrangements between more than two geographically contiguous countries, the figure increases five-fold.[62]

However, this new wave of international economic cooperation followed a fundamentally different ‘philosophy.’ Economic cooperation was now seen as part and parcel of wider liberalisation measures and generally entailed much weaker forms of institutionalisation than in previous periods, despite the fact that agreements tended to cover a broader range of issues and more binding commitments. The US’ engagement in regional economic cooperation in the form of NAFTA, APEC and the Free Trade Area of the Americas became exemplary of this trend towards increasingly ad hoc economic cooperation.[63] NAFTA, for example, consists of a set of very detailed stipulations that were not envisaged to be evolutionary in nature (complete contract), a low degree of delegated authority in regional institutions preserved member state’s sovereignty, and common flanking policies or positive integration were not considered.[64] Thus, the EU is increasingly seen as only *one* paradigmatic example of at least two alternatives, with NAFTA having become a serious ‘competitor’. As one author notes, the “regional phenomenon is now being

[61] For good overviews of the reasons for the rise of new cooperative arrangements, see Fawcett (1995); Hurrell (1995a); Mansfield (1998)
[62] This figure includes fundamental relaunches and derives from calculations based on Santander (2007).
[63] See Hurrell (1995b); Haggard (1997)
[64] Lévy (1994); Abbott (2000)

transformed from a mainly European project and model during the first wave of regionalism towards a more global and diverse phenomenon."[65]

Regionalism in the Global South

Amidst broader structural changes in the world economy, domestic development strategies became increasingly outward-oriented and market integration with other countries became an increasingly conceivable strategy – which has since become known under the label 'open regionalism.'[66] In Latin America, the creation of Mercosur thus has been characterised as the "first regional grouping produced by globalisation."[67] When neo-liberal governments entered office in Argentina and Brazil in 1989 and 1990, they quickly decided to deepen and widen the economic integration commitments both countries had taken in the previous years. The Act of Buenos Aires, signed in 1990, moved from a gradual and sectoral approach towards a general, linear and automatic one in tariff elimination, coupled with the objective to create a 'common economic space' within four years. These ambitious objectives also formed part of a wider attempt to bolster the credibility of extensive neo-liberal economic reforms at home, which were undertaken in reaction to the debt crisis of the 1980s.[68]

The stipulations from the Act were largely maintained when Uruguay and Paraguay joined the bilateral arrangements to form Mercosur in March 1991. The Treaty of Asunción sought "to duplicate the European economic regimes"[69] with the creation of a customs union (CU) and a common market within the same time frame (until the

65 Söderbaum (2004), pp. 16-17
66 For an overview, see Bergsten (1997)
67 Vasconcelos (2001), p. 137
68 Kaltenthaler and Mora (2002), p. 86
69 Mukhametdinov (2007), p. 226

end of 1994); yet, it established a lean institutional framework of transitory character, which was very much unlike that of the EU. A Common Market Council, comprised of foreign affairs and economic ministers, is entrusted with the political guidance to achieve the objectives of Mercosur; a Common Market Group, composed of representatives from the foreign affairs and finance ministries as well as the central banks, proposes decisions based on the Council's guidelines; it receives technical and administrative support from a series of working groups (*subgrupos de trabajo*) and a secretariat in Montevideo, Uruguay (Arts. 9-16), complemented by a negotiation-based dispute settlement mechanism. This less bureaucratic, more pragmatic approach, is generally considered the result of lessons learned from the experience of earlier integration efforts in Latin America.[70] The Ouro Preto Protocol, adopted in 1994, established the permanent institutional structure of Mercosur, which confirmed the essential characteristics outlined in the founding treaty. It added a Trade Commission, which assists the Council in matters concerning the functioning of the CU, and two consultative institutions: a Joint Parliamentary Commission and a Socio-Economic Consultative Forum (Sections 3-5). Mercosur's early success was remarkable. It managed to establish an 'incomplete' CU (various products are still exempted from the common external tariff) within the envisaged time frame and intra-regional trade grew at impressive rates: intra-Mercosur exports rose five-fold between 1990 and 1998 and intra-Mercosur trade as a percentage of the group's total trade tripled between 1989 and 1997.[71]

Toward the late 1990s, serious domestic problems started to darken the hitherto successful picture. The devaluation of Brazil's currency in early 1999 plunged

[70] Campbell et al. (1999a), p. 145
[71] Kaltenthaler and Mora (2002), p. 91

Argentina into a severe economic and financial crisis, from which it is only recovering slowly still. Amidst increasingly frequent disputes over unilateral protective measures that contravened existing Mercosur agreements, integration grinded to a halt and began to be seriously questioned.[72] That the integration process did not collapse entirely during this period is due to skilled presidential diplomacy and continuing convergent strategic interests between the partners.[73] The crisis nevertheless revealed certain structural weaknesses in Mercosur such as divergent macro-economic policies or the relatively weak institutional framework, which triggered a (partial) rethinking of the neo-liberal integration paradigm that had dominated in the 1990s.[74] It was at that time that "suggestions about reforming Mercosur in the image of the EU" were proposed.[75] When new left-wing governments entered office in Brazil, Argentina and Uruguay in the early 2000s, Brazilian President Lula announced a 'relaunch' of Mercosur. After a failure to find agreement on a complete overhaul of Mercosur's institutional framework and other far-reaching proposals that would have moved Mercosur closer in the direction of the EU – including supranational elements –, reform proceeded in a more piecemeal fashion and without any attempts to pool sovereignty. Policy-makers created a Permanent Review Tribunal with the Protocol of Olivos and extended the competences of the Mercosur Secretariat to technical issues in 2002. A Committee of Permanent Representatives and a "European style structural fund"[76] were established in 2003 and 2004 respectively. In 2007, the member states set up a directly elected Mercosur Parliament for which "the influence of the European Union … was relevant"[77] and the

[72] For example Carranza (2003); Mecham (2003)
[73] Malamud (2003); Goméz-Mera (2005)
[74] Phillips (2001)
[75] Mukhametdinov (2007), p. 224
[76] Dabène (2009), p. 187
[77] Dri (2009), p. 53

creation of a Mercosur Court of Justice is currently under discussion. These institutional innovations have contributed to enhancing Mercosur integration again, but it remains fair to say that the initial enthusiasm has not returned.

In Asia – a region with a weak track record of economic integration in the post-World War Two era – much of the developments in regional economic cooperation since the early 1990s also have to be seen in the light of the global structural changes that occurred at the time.[78] Proposals for East Asian economic integration, including China and Japan, were discussed and are being discussed to this day, but have never really taken off.[79] ASEAN, on the other hand, swiftly deepened regional integration. In 1992, governments signed a 'Framework Agreement on Enhancing ASEAN Economic Co-operation', which envisaged the establishment of a FTA (AFTA) in manufactured and processed agricultural products within 15 years – an arrangement that some have questionably described as being "directly modelled on the EU."[80] This move was accompanied by a modest strengthening of the Secretariat and was later supplemented by a political dispute settlement mechanism in 1996. Similar to the EU at the same time, ASEAN countries pursued a strategy of 'widening and deepening' throughout the 1990s – a strategy that some observers have taken as an indication of EU influence.[81] Within a few years, Southeast Asia became 'one' with the accession of Vietnam (1995), Laos, Myanmar (both in 1997) and Cambodia (1999) to the Association.[82] At the same time, the member states signed a series of additional economic integration agreements including a Framework Agreement on Services

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[78] For a good overview, see Ravenhill (1995)
[79] For an analysis of the reasons for this failure, see Foot (1995); Katzenstein (1997); Calder and Ye (2004)
[80] Öjendal (2001), p. 157
[81] Jetschke (2009), p. 417
[82] Chin (1997). Cambodia's entry was delayed by two years due to domestic political tensions.

(1995), an Industrial Cooperation Scheme (1996) and the ASEAN Investment Area (1998).

The Asian financial crisis of 1997 seriously damaged ASEAN's credibility and legitimacy. As member states reacted nationally to the crisis, often with the help of international agencies such as the International Monetary Fund, the continued relevance of the Association was cast into doubt.[83] Aggravated by the problems of regional pollution caused by Indonesian forest fires and the difficult political situations in Myanmar and Cambodia, the financial crisis had two immediate effects.[84] First, it triggered a reconsideration of the non-interference principle and the 'ASEAN way' more broadly. The proposed concepts of 'flexible engagement' and later 'enhanced interaction' aimed to soften the principle by allowing the Association to address those domestic issues with direct repercussions for other members. The meagre outcome of intensive debate was the creation of an EU-inspired ASEAN Troika to address urgent concerns for regional peace and stability.[85] Second, it brought the issue of deeper economic integration back onto the political agenda. The Vision 2020, adopted in December 1997, defined a common market as the end-goal of the process. Furthermore, the member states agreed to establish the Initiative for ASEAN Integration in 2001, an EU-inspired support mechanism to narrow the enormous development gap between the members. Amidst increasing fears of investment diversion to China in the early 2000s, the Bali Concord II of 2003 foresaw the creation of an ASEAN Community consisting of three pillars, reminiscent of the pillar model in the Maastricht Treaty, which led some commentators to speak of the

[83] Rüland (2000); Webber (2001)

[84] The most important immediate *policy* responses to the crisis happened in the ASEAN Plus Three context, which includes Japan, China and South Korea: the Chiang Mai Initiative in 2000 and the Asian Bond Market Initiative in 2003 (Foong Khong and Nesadurai 2007, p. 33).

[85] Haacke (1999)

organisation's ambition to pursue "EU-style regional integration"[86]: a Security Community, an Economic Community and a Social-Cultural Community. These advances also led to a revision of the dispute settlement mechanism in 2004.

The latest chapter in ASEAN's evolution is the Charter-making and implementation process. When the ambitions for deeper economic integration called for a stronger institutional framework, the leaders decided in 2005 – amidst intense debate on a Constitution in the EU – to draft a Charter in order to make the Association more 'rules-based', which was adopted in 2007. The document was partly based on recommendations by an Eminent Persons Group, which had visited Brussels during their deliberations. The drafters of the Charter, however, rejected most of the EU-inspired proposals such as majority voting and stuck to their sovereignty-preserving style of integration, which was a disappointment for many in the region.[87] While thoroughly revising ASEAN's institutional structure, endorsing, for example, an "EU-style Committee of Permanent Representatives"[88] and anchoring democracy and human rights as official values, it keeps the process firmly in the hands of member state governments.

In Africa, regional economic integration has witnessed renewed efforts at both the continental and sub-regional levels "to ameliorate the effects of the balkanization produced by independence"[89] in the early 1990s as well. The first effort in this direction was at the continental level. The 1991 Abuja Treaty under the auspices of the OAU envisaged the creation of an EC-style African Economic Community by

86 'ASEAN pursues EU-style regional integration', International Herald Tribune, 12 January 2007
87 See Caballero-Anthony (2008); Morada (2008)
88 Jetschke and Murray (2012)
89 Herbst (2007), p. 131

2025, which was to be composed of five sub-regional ‘building blocs’ including SADCC. It became quickly apparent, however, that the coordination between continental and sub-regional economic integration efforts lacked organisational efficiency. Partly in reaction to these deficiencies, the African Union succeeded the OAU in 2002 based on more solid institutional foundations modelled along EU lines.[90] Its new agenda focuses mainly on security issues, but oversees progress in economic integration as well.

Following Namibia’s independence and, more importantly, with South Africa’s abolition of the white-majority regime imminent in the early 1990s, the structural context for regional integration changed fundamentally in Southern Africa, triggering the transformation from SADCC into SADC. The organisation’s purpose shifted from economic autarky towards regional economic integration and development which both received a more formal and binding structure.[91] It largely maintained its decentralised nature based on sectoral cooperation units directed by individual member states and initially eschewed an EU-style staged approach, but nevertheless modestly strengthened the existing secretariat and created a supranational Tribunal in Windhoek that Karen Alter describes as an ‘ECJ copy.’[92] Throughout the 1990s, ‘widening and deepening’ also characterised SADC. After South Africa’s official accession in 1994, it further enlarged its membership with Mauritius in 1995, Zaire (now the Democratic Republic of Congo), the Seychelles in 1997 and Madagascar in

90 Babarinde (2007); Sicurelli (2009)

91 Herbst (2007), p. 139. The legalisation of regional cooperation in Southern Africa did not, however, change the underlying informal and consensual decision-making style (see Sidaway 1998).

92 Alter (2012). The Tribunal, although mentioned in the Windhoek Treaty, was only formally established in 2005.

2005.[93] Furthermore, the member states adopted a trade protocol in 1996, which envisaged the creation of a FTA within eight years.[94]

By the late 1990s, however, widespread implementation failure and political tensions sobered the initial enthusiasm and led to a questioning of SADC's original set-up.[95] Amidst strong external pressures for change, in 2001 the Summit adopted a reform package entailing far-reaching changes to the institutional framework and the structure of executing SADC's original mandate. It abolished the sectoral Coordinating Units, centralised tasks in the Secretariat around four Directorates with executive functions and revamped the intergovernmental structure.[96] Besides institutional restructuring, member states agreed on a ten-year agenda for integration in 2003, termed the Regional Indicative Strategic Development Plan. It outlines *inter alia* the process of creating an EU-style common market and a common currency by 2018. Intensified efforts at regional economic integration, as well as negotiations with the EU over so-called Economic Partnership Agreements (EPAs) have brought the problem of overlapping membership in regional integration once again to the fore.[97] Except for Mozambique, every country in SADC is member to at least one other regional project, most of which also pursue CU objectives that are incompatible. This has been the main reason behind attempts to integrate sub-regional projects in Eastern and Southern Africa and harmonise integration objectives and processes. The most important of these rationalisation projects is the so-called Tripartite Agreement,

93 Madagascar's membership has been suspended since a military coup in 2009 and Mauritius declined membership between 2004 and 2008.
94 By the end of the 1990s, a total of 11 protocols had been adopted, but ratification and implementation remain a serious problem. In 1996, the member states also established the Organ for Politics, Defence and Security in an attempt to buttress SADC's security dimension.
95 Gibb (1998); Lee (1999)
96 For an overview of the restructuring exercise, see Tjønneland (2005)
97 Stevens (2006); Engel and Asche (2008)

adopted in 2008, which seeks to merge integration efforts in SADC, the Common Market for Eastern and Southern Africa and the East African Community.

In sum, authors have made manifold references to the EU factor, but most of the time these claims have neither been thoroughly elaborated nor systematically tested. Various important questions remain unanswered: What exactly is meant by the widespread reference to 'EU-type' institutions? Indeed, how deep do institutional similarities go? And might similar institutions, in fact, only be similar adaptations to comparable functional problems? In other words, does correlation indeed indicate causation? These are some of the questions addressed in this study.

EU Interregionalism and its Support for Regional Integration

The end of the Cold War also changed the opportunities and constraints for the EU as an *international* actor. On the one side, the Community quickly found itself faced with a host of demands from countries in its direct neighbourhood and further afield, which expected it to assume to a larger extent its self-declared "major responsibility to improve the international environment."[98] On the other side, the Community was hardly willing and able to meet many of them given limited resources – a situation that Hill famously termed the 'capability-expectations gap.'[99] In this context, developing its rather ad hoc support for global regionalism into an enhanced *policy* of promoting the emerging trend towards the regionalisation of world politics had various advantages for the EU.[100] It provided an uncontroversial objective within the

98 European Commission (1986a), p. 12
99 Hill (1993)
100 For excellent general treatments on regions and world order, see Katzenstein (2005); Hurrell (2007), Chapter 10

Community that did not threaten to lead to major turf wars between different EC institutions. It also promised to facilitate coherence in external relations by incorporating major policy instruments into an "integrated approach"[101] that would contribute to asserting 'its identity on the international scene', as the Treaty of Maastricht noted. Moreover, the EU enjoyed a comparative advantage in this area vis-à-vis the US and other international actors.[102] In a period that seemed to be increasingly shaped by liberal values, it offered the opportunity to project "the emerging Europe's vision of itself and the world."[103] Since then, the Community's promotion of regional integration has become an integral part of its foreign policy agenda and has reinforced the development of a new pattern of relations in international politics – so-called interregionalism. Some have even depicted the ECom as "an active crusader for regional integration" and its support for regionalism as "Europe's new *mission civilisatrice*."[104]

Even though EU interregional relations vary in intensity across different partners, there is a common core, consisting of three elements, that the EU seeks to advance with any regional partner, usually in the form of an encompassing cooperation or association agreement.[105] The first element is intense cooperation in economic matters that may eventually lead to the conclusion of an interregional FTA covering a broad range of issues. Despite official denial, such trade negotiations are based on a common template that sets out an ambitious and broad based negotiation agenda covering trade in goods, services, investment, government procurement, competition

[101] European Commission (1992a)
[102] European Commission (1994a), p. 16; see also Grugel (2004)
[103] Whitehead (1992), p. 153
[104] Doidge (2007), p. 245; Kagan (2003), p. 61, respectively
[105] For a good overview, see Alecu de Flers and Regelsberger (2005); Pietrangeli (2009). For a more extensive discussion of motivations and strategic interests, see Hardacre and Smith (2009)

policy and a range of regulatory issues. Such trade agreements also aim to hasten *intra*-regional economic integration – a strategy of so-called South-South-North integration.[106] The second element entails financial and technical assistance to enhance other regions' capacity for integration. This not only serves to help others meet the EU's demands in interregional trade deals, but also to transfer integration know-how and experience on processes of regional institution and Community building through seminars, workshops and consultancies. The third element is the political dialogue, which serves as a forum to discuss issues of mutual interest. It is not primarily about debating the state of regional integration, even though this has been an important issue on the agenda. It constitutes a means for transferring knowledge and experience in this field and forces the counterpart region to devise mechanisms to develop common positions, thereby also promoting regionalism in a more indirect way.[107] In 2008, the EU held six interregional cooperation agreements and conducted 19 political dialogues with regional groupings – a number that has increased again to date.[108]

EU interregional relations are most developed with Latin America, with Mercosur being the Community's main interlocutor in the continent. Shortly after the organisation's inception, the ECom signed an Interinstitutional Cooperation Agreement with the bloc to provide integration experience and lobbied for a strengthening of relations internally.[109] This led to the conclusion of an interregional Framework Cooperation Agreement in 1995, which institutionalises cooperation on a wide array of economic, political and social issues and gives a legal basis for the

[106] European Commission (2002b)
[107] Monar (1997)
[108] Smith (2008), pp. 101-4
[109] Interinstitutional Cooperation Agreement (1992); European Commission (1994a)

political dialogue at ministerial (Cooperation Council) and senior officials' level. A series of institutions (Cooperation Council, Joint Committee) serve to implement the agreement. It was envisaged as the first step towards a comprehensive Association Agreement, including a FTA, for which negotiations began in 1999. To date, they have not been concluded due mainly to the EU's protectionist agricultural stance, Mercosur's lack of progress in economic integration, and stasis in the WTO Doha Round.[110] The EU has nevertheless continued to support the organisation with financial and technical assistance for strengthening regional institutions, advancing economic integration as well as civil society participation in the integration process. In order to bring negotiations back on track and recognise the country's emerging power status, the EU concluded a separate Association Agreement with Brazil in 2008.

In Asia, ASEAN has continued to be the Community's main interlocutor, but interregional relations have remained "bumpy" over the years.[111] In the early 1990s, negotiations for enhancing the 1980 cooperation agreement failed due to disagreements over human rights. Such value clashes – embodied most clearly in the Asian values debate[112] – continued to hamper closer cooperation, even though several proposals were advanced on how to reflect new geopolitical realities after the Cold War and move relations forward.[113] This stalemate led to the creation of the Asia-Europe meeting in 1996 – a more inclusive and informal forum for mutual dialogue.[114] However, when ASEAN's integration process received a new impetus in

[110] For good analyses of the negotiations and its failure, see Bouzas (2004); Doctor (2007)
[111] Rüland (2001)
[112] See Koh (2000); Thompson (2001)
[113] European Commission (1994b); Eminent Persons Group (1996); European Commission (1996a). This became especially fierce after the accession of Myanmar to ASEAN in 1997 (Petersson 2006).
[114] Yeo (2003)

the early 2000s and political relations improved, the EU sought to deepen relations and scale up its support.[115] The ECom launched the ASEAN-EU Programme for Regional Integration Support – a multi-million, multi-annual support programme for economic integration – in 2003, which is to underpin EU-ASEAN dialogue in the form of the Trans-Regional EU ASEAN Trade Initiative and the Regional EU ASEAN Dialogue Instrument dealing with economic and political issues respectively. In 2007, both sides agreed on an ambitious work programme (Nuremburg Declaration), which aims to pave the way for closer cooperation in the future. And in the same year, both sides started negotiations for an interregional FTA, but negotiations ceased in 2009 amidst divergent interests on the ambitiousness of such an agreement. The EU has decided to continue negotiations on a bilateral basis with the ambition to eventually merge individual agreements into a regional one.[116]

In Africa, attempts by the EU to support regional integration through interregional relations have been the most controversial, especially as regards ongoing EPA negotiations. Throughout the 1990s, relations continued to be organised primarily at the continental level through the ACP framework. While Lomé IV retained earlier EU commitments but added political conditionality, dissatisfaction with the agreements' results and a WTO challenge to its approach triggered a rethinking of relations in the late 1990s, which resulted in the 2000 Cotonou Agreement.[117] The agreement indicated a paradigmatic change in relations by moving from a preference-based trade system towards reciprocal trade liberalisation with sub-regional groupings and by steering away from the ACP context towards an all-Africa approach tied

[115] European Commission (2001, 2003d); Vision Group (2006). It extended the Cooperation Agreement to Laos and Cambodia in 2000, but Myanmar remains excluded due to human rights violations.
[116] 'EU, ASEAN nations arranging FTA', *The Jakarta Post*, 5 May 2011.
[117] European Commission (1996b); see also Elgström (2000); Forje (2001)

institutionally to the African Union with the first EU-Africa Summit taking place in 2002.[118] Negotiations for EPAs began with six ACP sub-regions[119] in 2002 and ended in havoc in most regions by the deadline of 2007 due to problems associated with overlapping memberships and the EU's ambitious, some say overly inflexible, negotiation agenda.[120] Currently, the EU continues to negotiate full EPAs, but is re-considering its approach internally.

SADC has been among the EU's most important regional interlocutors in Africa, not least because of the dominant position of South Africa on the continent. The EU has regularly participated in SADC's annual Consultative Conferences, a forum for revenue collection from external donors, and has been the major supporter of the integration process. Financial and technical assistance have been given under subsequent EDFs and currently focus mainly on capacity building for the Secretariat as well as interventions in the transport and communication sectors.[121] Since 1994, the EU has held a regular political dialogue with SADC at various levels and in different formats (e.g. Double Troika format) to address a wide range of political, economic and social issues and to exchange best practices. Economic relations are currently dominated by negotiations for an EPA which began in 2004 and have been complicated by the fact that the EU holds a separate Trade, Development and Cooperation Agreement with South Africa since 1999 and th

[118] European Commission (2003c, 2005a)

[119] These are the CEMAC in Central Africa, the Economic Community of West African States, the Common Market for Eastern and Southern Africa, CARIFORUM in the Caribbean, SADC in Southern Africa and the Pacific countries as a group.

[120] Stevens (2006); Engel and Asche (2008). To date, only one full EPA has been signed by CARIFORUM (with the exception of Haiti).

[121] European Commission (2008a)

at the SADC negotiation group entails only seven out of SADC's 15 member states. This has created internal ruptures reflected in the fact that only four negotiating countries signed an Interim EPA in 2009, Namibia's signature is still pending and South Africa and Angola continue to reject it.

Table 2.2 summarises the major cornerstones of the EU's interregional relations with the three groupings analysed in this study.

Table 2.2 – EU Interregional Relations with Three Regional Groupings

	ASEAN	*Mercosur*	*SADC*
Agreements signed	Cooperation Agreement (1980)	Interinstitutional Cooperation Agreement (1992); Framework Cooperation Agreement (1995)	[Trade, Development and Cooperation Agreement with South Africa, 1999]
Ongoing/failed negotiations	(Renewal of) Cooperation Agreement (1991); Free Trade Agreement (2007-2009)	Association Agreement (since 1999)	Economic Partnership Agreement (since 2004)
Financial support (2002-2013)	ca. € 60 mio	€ 98 mio	€ 136 mio (9^{th} & 10^{th} EDF)
Political dialogue	Ministerial Declarations (1978, 1992), biannual ministerial meeting	Ministerial Declaration (1995), annual ministerial meeting	Berlin Declaration (1994), biannual ministerial meeting

Sources: Regional Strategy Papers, Regional Indicative Programmes

Overall, the foregoing account of the post-Cold War development of Latin American (Mercosur), African (SADC) and Asian (ASEAN) regionalism and their interregional relations with the EU is suggestive of the, as of yet unspecified, continued relevance of EU influence. As a recent overview article on the topic concluded, "the EU provides a rich laboratory to study external influences on regional strategies of states."[122] However, students of regionalism continue to largely neglect it.

Contemporary Literature on Regionalism

The amount of literature on regionalism has exploded since the early 1990s. This overview can therefore not do full justice to its diversity and nuanced arguments. Yet, it is sufficient to demonstrate a widespread tendency in the literature, namely to conceive of different cases of regionalism as phenomena that develop largely *independently* of each other. The limited amount of literature that addresses external factors is either concerned with material patterns of global interdependence (globalisation literature) or global power distribution (hegemonic literature). As I will show below, both are insufficient to understand EU influence on global regionalism.

The bulk of the literature views regionalism as the result of specific constellations of interests, institutions and/or identities *internal* to the region itself. Interest-based accounts tend to see processes of regionalism as the result of bargaining dynamics driven by the functional interests of powerful actors within a region. Intergovernmental theories of European integration, for example, have highlighted the central role of powerful member state governments that advance regionalism to protect their geopolitical interests or the economic concerns of their constituencies.[123] In other regions, scholars similarly emphasise the distribution of interests and power among member states to account for differences in regional institutionalisation.[124] More liberally minded scholars specifically emphasise the differential influence of

[122] Börzel and Risse (2009), p. 1
[123] Moravcsik (1998)
[124] Grieco (1997); Gruber (2000); Pedersen (2002); Schirm (2002); Hancock (2009)

domestic coalitions to explain the dynamics of regionalism.[125] Institution-based theories emphasise the role of national or regional institutions in constraining the pursuit of state interests at the regional level, thereby affecting outcomes. Prominent work on European integration has highlighted the role of supranational institutions in propelling regional dynamics that member states did not anticipate and subsequently find difficult to rectify.[126] Elsewhere, institutional arguments are less popular because of the relative weakness of regional institutions.[127] Instead, scholars have examined *domestic* institutions such as veto points or democracy in affecting the process of regional integration.[128] Finally, constructivist work focuses on the role of ideas, cultural traditions or identities – a literature that is most developed in the European and Asian contexts. Scholars have attributed both the EU's uniquely strong degree of regional institutionalisation as well as the informal, consensual and weakly institutionalised forms of regionalism in Asia to particular ideas about regionalism.[129] In one of the few truly comparative works in the field, Duina has emphasised the importance of national legal cultures to account for the differences in approaches to economic integration.[130]

Despite the epistemological, ontological and theoretical diversity within this group of scholars, these accounts share much in that they explain regionalism purely on the basis of factors *internal* to the respective regions. To the extent that they acknowledge external influences and wider global trends, these exert their causal influence only by

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[125] Milner (1995); Nesadurai (2000); Chase (2003); Solingen (2005)
[126] Burley and Mattli (1993); Pierson (1996); Sandholtz and Stone Sweet (1998); for counter-arguments, see Garrett (1995); Moravcsik (1999)
[127] But see Malamud (2005b); Duina and Buxbaum (2008)
[128] Mansfield et al. (2002, 2008)
[129] For Europe, see Jachtenfuchs (2002); Parsons (2003); for Asia, see Acharya (1997); Johnston (2003); Acharya (2004); Ba (2009b)
[130] Duina (2004, 2006)

being channelled through and interpreted by domestic actors and institutions. This implies a conceptual assumption to view different processes of regionalism as developing *independently* of each other[131], which in turn has led to an overly narrow conceptualisation of the respective explanatory factors. For example, functional interest-based accounts have focused on the degree of *intra*-regional interdependence as a major determinant of successful integration[132], underrating the potential importance of *extra*-regional trade dependence, especially for regions in the global South.[133] Moreover, as some constructivists have pointed out, external interactions also have an ideational dimension that can constrain action. In the Asian context in particular, various authors have shown how the legitimacy of ASEAN's long-standing norm of non-interference was increasingly questioned by outside actors, which led to its subtle transformation.[134] This points to the potentially important influence of external factors this literature has largely neglected.

Economists were also strongly involved in the debate on regionalism, especially in the 1990s. By focusing on the impact of 'globalisation', their accounts *do* address external influences of a structural nature. According to this view, (economic) regionalism is the rational response of political actors to structural changes in the world economy and the associated incentives emanating from increasing economic and financial interdependence. More specifically, regionalism helps policy-makers to mitigate global competitive pressures and to exploit the opportunities associated with

[131] Most explicit and problematic is this move in large-N statistical analyses of regionalism, which explicitly treat different instances of regionalism as independent observations of a similar phenomenon (Smith 2000; Mansfield et al. 2007). The results of such analyses are only valid to the extent that the individual observations in the models are indeed independent, that is, not affected by other units (endogeneity problem). While these models usually control for a range of material interdependencies such as trade patterns or colonial relations, they are unable to capture ideational interdependencies as well as interdependencies that result from extensive interregional relations.
[132] See Haggard (1997); Moravcsik (1998)
[133] For such an argument, see Krapohl (2008)
[134] Ba (2009a); Manea (2009)

economies of scale, efficiency improvements or increased foreign direct investment.[135] These accounts are strongly focused on the economic rationality behind processes of regional integration and have therefore been less interested in explaining variation in regional integration patterns rather than understanding the broad move towards regionalism in the 1990s and analysing whether regionalism is detrimental or conducive to multilateral trade liberalisation.[136] Political economists have therefore analysed the *political* processes that underpin structural economic changes, often highlighting the regionally diverse, even contradictory responses to global economic pressures.[137] One important strand in the literature has sought to build a new theory of the multifaceted reactions induced by these structural changes – the new regionalism theory.[138] Even though these (political) economic accounts of regionalism address outside structural influence, they nevertheless view either similar or different trajectories of regionalism as common, yet *independent* reactions to similar structural changes in the world economy.[139]

Finally, a limited amount of literature *has* addressed outside influences more systematically. It employs a top-down perspective, viewing regionalism as strongly conditioned by the behaviour of outside hegemons who shape such processes in order to further their strategic (economic) interests.[140] Arguments about US hegemonic decline were popular in the 1990s to explain the spread of regionalism around the

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[135] Lawrence (1996); Grugel and Hout (1998); Büthe and Milner (2008)
[136] For a good overview, see Bhagwati (1994)
[137] Hurrell (1995c), pp. 38-45; Gamble and Payne (1996); Coleman and Underhill (1998); Mansfield and Milner (1999), pp. 604-8
[138] Mittelmann (1996); Hettne (1999); Schulz et al. (2001); Grant and Söderbaum (2003); Hettne (2003)
[139] Two notable exceptions are Baldwin (1993); Mattli (1999).
[140] There is also an important literature on *regional* hegemons and how their behaviour affects regionalism (Hancock 2009; Spektor 2010).

world.[141] However, the US has also *actively* shaped regional integration in different parts of the world. An important argument revolves around the effects on regionalism from the choice between bilateral vs. multilateral strategies by the US, and the reasons for such choices.[142] Some authors have contrasted these US regional policies with those of the EU and analysed the effects of different strategies.[143] The EU's hegemonic influence on regionalism has been a dominant theme in the literature on enlargement and the direct neighbourhood, where it has employed conditionality to shape other countries' regional strategies (see also the introduction).[144] In Asian regionalism, the hegemonic role of China is also increasingly analysed.[145] As mentioned before, these accounts are strongly tied to conceptions of hegemony, which influence regionalism by setting tight constraints on regional policy-makers' choices based on superior material power. This conceptualisation certainly captures an important form of external influence, but it is not the only one and indeed slightly misleading in our case. As the previous section has shown, the EU's active support for regionalism is never tied to conditionality regarding specific regional rules as such (EPA negotiations are an important exception). Regional trade agreements might entail forms of conditionality, but these refer to access to the EU's market, not regional integration per se.

Thus, the foregoing discussion suggests that the comparative regionalism literature can be advanced in two ways. First, we need a better understanding of the role of external factors in processes of regionalism. Second, we need to broaden existing

141 Crone (1993); Bhagwati (1994); Haggard (1997); Mansfield (1998)
142 Hemmer and Katzenstein (2002); MacFarlane (2004); Hurrell (2005); Katzenstein (2005); Beeson (2006)
143 Grugel (2004); Dimon (2006); Hettne (2007); Fawcett and Gandois (2010), pp. 624-6
144 For example Bechev (2006)
145 Segal (1996); Beeson (2008)

conceptualisations of how external actors can affect regionalism, especially regarding the subtle and less tangible role of external ideas. The next section takes a first step in this direction.

2.3 Towards Understanding EU Influence on Global Regionalism

The main conceptual 'obstacle' to a better understanding of global regionalism, as we have seen, is the widespread and oft-implicit assumption that different instances of regionalism can be well understood as developing independently of each other. At the same time, a conceptualisation of EU influence drawn from the mainstream hegemony literature, as is prevalent in the Europeanisation literature, is not only insufficient but also often rather misleading. Take the simple example of the EU-style convergence fund, which Mercosur established in 2004. Neither an account that considers purely internal factors (even though they undoubtedly play a role) nor an account that views this change as a form of hegemonic influence, maybe due to some form of coercion from the EU, seem very plausible.

Thus, the main theoretical claim of this thesis is that the toolbox developed in the literature on diffusion can be fruitfully applied to the study of comparative regionalism.[146] Diffusion has classically been defined as the "adoption of innovative activities and structures across populations."[147] In the context of diffusion among regional organisations – the relevant 'population' in this case – this definition contains three main elements, which indicate why the diffusion concept is particularly useful to

[146] There are other emerging attempts to use the tools of diffusion to analyse EU influence in global regionalism, especially associated with the Research College on the 'Transformative Power of Europe' at the Free University in Berlin (Börzel and Risse 2009, 2012; see also Jetschke and Lenz, 2011). However, these scholars have yet to produce a coherent statement of EU influence based on diffusion concepts, which this thesis seeks to do.

[147] Aldrich (1979), p. 44

frame an analysis of EU influence on global regionalism. First, it highlights the *interdependencies* between different units in a broader structure – in our case, those between specific regional organisations in global regionalism. IR studies on diffusion have made this idea the centre of their analysis, which has a long and illustrious tradition in the discipline.[148] Elkins and Simmons, for example, view diffusion as characterised primarily by "a certain uncoordinated interdependence"[149] and define 'interdependent decision-making' accordingly as indicating that "government policy decisions in a country are systematically conditioned by prior policy choices made in other countries."[150] When we substitute regions for countries and decisions regarding regional rules of the game for policy decisions, we have a useful starting point for analysis. Such a conceptualisation suggests that policy-makers taking specific decisions concerning regionalism in one place increase the likelihood of (similar) decisions being taken elsewhere. It is thus predicated on the simple and plausible assumption that they observe each other's behaviour and that such observation affects their own behaviour; yet, it does not *presuppose* a direct interaction between them. Consequently, this conceptualisation explicitly rejects the view, so widespread in the literature on regionalism, that changes in regional rules of the game can be adequately understood as independent adaptations to specific structural conditions inside (or beyond) the region.

Second, the above definition of diffusion emphasises the special role of particularly innovative units in the structure. This points to the particular nature of many diffusion

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148 In the late 1970s, various scholars turned away from the realist focus on hegemony towards an analysis of the effects of increasing interdependence. Concepts such as 'asymmetric interdependence' (Keohane and Nye 1977), Gourevitch's (1978) 'second image reversed' or Rosenau's (1980) 'linkage politics' all form part of this turn.

149 Elkins and Simmons (2005), abstract

150 Simmons et al. (2006), p. 787

processes, namely that they are *highly asymmetric*. Innovative practices radiate outwards from a specific source, such that the process does *not* resemble a genuine network without an identifiable centre. In our context, the EU sits at the heart of a hub-and-spoke pattern of diffusion processes in global regionalism encompassing both material and ideational elements. It is not only the dominant trade and investment partner in any of these relationships and an active supporter of regionalism that has no equivalent on the other side. European ideas of regionalism also mainly flow outwards towards other regions, rather than the other way around, due to the Community being a successful pioneer in regional economic integration. We might thus speak of asymmetric diffusion in our case.[151]

Third, the definition centres on the *adopters* of innovative activities rather than the populations in which they emanate, i.e. their source. This is particularly useful in our context because it turns analytical attention away from the dominant actor and his material capacity for coercion, as in hegemony, towards the *choices* of others in a world of incentives and constraints.[152] This suggests that despite the often highly asymmetric nature of diffusion, the process is far from 'smooth.' Indeed, most diffusion theorists recognise that "diffusion mechanisms … have only *conditional* effects on policy change."[153] In other words, the specific outcomes of diffusion processes are contingent. European ideas of regionalism are not the 'only game in

[151] This asymmetry in many global diffusion processes has so far received little analytical attention in the literature. This is probably a result of the fact that many studies are heavily influenced by sociological conceptions, which view diffusion primarily as a process of adopting legitimate organisational templates that have assumed a taken-for-granted nature in the 'world polity', and therefore tend to have little explicit theorising on the role of particular units, i.e. actors, in the broader structure (Meyer 1980; DiMaggio and Powell 1991; see also Meyer et al. 1997; Boli and Thomas 1999; but see Meyer 2010). Studies in this vein in IR are Finnemore (1996b); Hafner-Burton and Tsutsui (2005). And in global regionalism, Jetschke (2009); Jupille and Jolliff (2011)

[152] In IR, Robert Keohane pioneered this type of analysis in his work on international regimes, which he called 'constraint-choice analysis' (Keohane 1982, p. 327; 1984, pp. 70-73).

[153] Braun et al. (2007), p. 50, my emphasis

town.' As we have seen, the less formalised and largely decentralised NAFTA model presents an equally plausible and maybe even more suitable template for regional trade cooperation in the developing world than the highly formalised and sovereignty-encroaching EU one. Moreover, in times of economic globalisation, regionalism as a whole 'competes' with other forums at the plurilateral and multilateral levels over forming the best route towards international economic cooperation. Thus, understanding the conditions under which, and the ways in which, the EU affects these incentives and constraints of regional actors' choices about regional rules of the game becomes the key analytical challenge for an analysis of diffusion processes centred on the EU.

2.4 Conclusion

This chapter has reviewed the global phenomenon of regionalism in the post-World War II era and the accompanying theoretical literature on the topic as a first step towards conceptualising EU influence on global regionalism. It has advanced three main arguments. First, I posited that there is significant anecdotal evidence that the EU factor plays some, as yet unspecified, role in affecting the process and outcomes of global regionalism; yet scholars who mention the EU have largely failed to systematically theorise and rigorously test arguments about it. Second, I claimed that most theoretically oriented accounts of regionalism have failed to address external influences in general and EU influence in particular because they work upon the implicit conceptual assumption that different cases of regional integration can be well understood by developing *in*dependently of each other. Third, I argued that the limited extent to which outside influences on regionalism have been explicitly theorised, namely as forms of hegemonic power, is less useful to understand EU influence because the Community's material support for regionalism is not tied to conditionality. In the final section of this chapter, I therefore proposed a different conceptualisation of regional cooperation processes based on insights from the diffusion literature. I argued that regional organisations are usefully conceived as interdependent units, in both ideational and material terms, which form part of a broader structure of global regionalism. This points to processes of diffusion between them, which, I suggested, tend to be highly asymmetric and their outcomes contingent. I closed by positing that, thus framed, the fundamental analytical challenge for the analyst is to understand how the EU, in the absence of overt coercion, affects the incentives and constraints which determine policy-makers' choices between similarly plausible alternatives regarding regional rules of the game. It is to developing this theme theoretically that we now turn.

Chapter 3

Theorising EU Influence on Global Regionalism

Regionalism may be a European invention, but it is not protected by copyright law!
– Pascal Lamy, former European Commissioner for Trade[1]

The main theoretical claim of this thesis is that EU influence on global regionalism can be usefully analysed with concepts and analytical tools drawn from the diffusion literature. They help us to conceive of regional organisations as interdependent phenomena that influence each other, rejecting the view that they can be adequately understood as independent adaptations to specific material or ideational conditions. While such interdependence tends to be asymmetric, in that material and ideational resources flow mainly from the EU outwards, it is misleading to conceptualise the relationship as a form of hegemony based on coercion by a materially superior actor. Instead, the central premise of the theoretical framework of this thesis is that regional rule change is best understood as rule choice under uncertainty. The incentives for and constraints of this rule choice are, under a variety of specifiable conditions, affected externally by the EU.

[1] Lamy (2001)

Based on this premise, this chapter develops a theoretical framework to understand EU influence on global regionalism. It addresses two main questions: Under what conditions does EU influence affect policy-makers' choices about regional rule change elsewhere? And what are the mechanisms by which it does so? I begin by framing the problem as an ongoing process of rule choice under uncertainty, in which focal points play a crucial role. Thus, I assume boundedly rational actors that rely on cognitive shortcuts in selecting between a range of similarly viable options.[2] I argue that, under a wide range of circumstances, the EU serves as the main focal point in regional cooperation processes due to its ideational and material power in global regionalism, despite the fact that policy-makers in all three regions explicitly rejected EU-type integration in the beginning of their cooperation efforts. There are two dynamics – what I call the EU as switchman and the EU as driver – by which the EU focal point exerts effects on outcomes and thereby tends to increase similarity in formal rules over time. Regarding the first, I suggest that for a given set of incentives for rule change, the EU is likely to form a suggested focal point in coordinating a response. The specific outcome, then, depends on the decision-making context and the degree of fit between EU arrangements, on the one side, and the political and material conditions in the respective regions on the other. Regarding the second, I posit that the EU affects the very incentives for rule change, and thus acts as an independent driver of regional cooperation processes, in cases of high material interdependence. In this case, EU-related incentive change constructs an EU focal point thereby enhancing the likelihood of EU-type outcomes. Below, I develop these arguments by linking the two conceptions of EU influence as a switchman and as a driver to four mechanisms by which they lead to various degrees of EU-likeness in outcomes over time.

[2] Simon (1957)

The chapter proceeds in three parts. Part 3.1 explicates a generic model of rule choice under uncertainty based on a demand and supply framework and introduces the EU as a potential switchman and a driver in processes of regional cooperation. Part 3.2 distinguishes four mechanisms through which they operate and discusses their respective scope conditions and observable implications. Part 3.3 pulls together the dynamics of the EU as switchman and as driver by connecting scope conditions and outcomes across the four mechanisms to develop a coherent and dynamic model of EU influence on global regionalism. It also outlines the functional null hypothesis against which this model will be assessed in the empirical chapters.

3.1 Regional Integration and EU Influence

Any argument about EU influence on global regionalism requires, first of all, a generic framework for analysing the dynamics of regional rule change as such. Here, I draw on the economics metaphor of demand and supply.[3] The former refers to the emergence of a new cooperation problem. It asks: Why did a particular issue appear or a long-standing issue become salient at a particular moment in time?[4] The supply side, then, denotes the process by which potential solutions to that problem are identified, selected and adapted to the specific regional context. The relevant question here is: Why did policy-makers choose the solution they chose and why does it have the concrete features it has? In the general IR literature, these two tasks are discussed under the labels of institutional choice and design.[5] In the absence of coercive rule

[3] Robert Keohane (1982, p. 327), who introduced this framework to the analysis of international institutions, already noted that it should be seen "as a metaphor rather than an attempt artificially to separate, or to reify, different aspects of an interrelated process." For applications of this generic framework to regional integration, see Mattli (1999); Nicolaïdis and Egan (2001)

[4] For a similar definition of the demand side of international cooperation, see Jupille and Snidal (2006), pp. 7-8

[5] Spruyt (1994); Koremenos et al. (2001); Jupille and Snidal (2006)

change, demand is necessary but not sufficient for change to happen. The reason is that various solutions are generally compatible with a given set of incentives and cannot be easily distinguished in terms of the effectiveness or efficiency with which they respond to them – the 'problem' of multiple equilibria in the language of game theory.[6] In other words, incentives themselves do not automatically lead to a stable equilibrium for cooperation in view of various functionally equivalent arrangements. Indeterminacy or ambiguity can prevent cooperation.[7] For example, when policy-makers are confronted with challenges to the legitimacy of regional cooperation, there are many ways in which they can deal with this challenge: they can seek to enhance the effectiveness of the organisation, enhance the transparency of its procedures or create participatory arrangements at the regional level. There is no obvious answer as to which of these options ought to be chosen.

Both (rationalist) students of bargaining and constructivist-oriented scholars of ideas have demonstrated that such situations of ambiguity about the selection between a range of different viable options are often solved by reference to (ideational) focal points.[8] They facilitate rule change by focusing members' expectations towards a common referent that serves as the most plausible starting point for finding a solution, given a set of incentives for change. Such focal points are not the result of conscious strategising in a particular situation, but reflect the common and often tacit knowledge about desirable means and ends in the wider context of a particular 'founding

6 See Martin (1992), p. 783; Krasner (1991); Garrett (1992)

7 For a game theoretic demonstration of this point, see Garrett and Weingast (1993), pp. 178-81

8 Garrett and Weingast (1993); Goldstein and Keohane (1993), pp. 17-18; Weingast (1995); Parsons (2003); Abdelal et al. (2010). It seems to me that this idea forms a major point of overlap between the two approaches. The original sharp divide between rationalist and constructivist conceptions of ideas has narrowed substantively with the increasing incorporation of uncertainty assumptions into rationalist accounts and to the extent that constructivist scholars endorse a causal rather than constitutive understanding of them. Indeed, Schelling's original game theoretic formulation of a focal point as a "perceptual and suggestive element in the formation of mutually consistent expectations" resonates well with modern constructivist scholarship (Schelling 1960, pp. 83-84).

rationale' of integration. As Schelling writes in his seminal work – they have an "intrinsic magnetism" based on their "prominence, uniqueness, simplicity, precedent, or some rationale that makes them qualitatively differentiable from the continuum of possible alternatives."[9] Reasoning about focal points thus assumes that policy-makers are boundedly rational. It means that actors have a limited cognitive (and emotional) capacity to process all the information relevant to a particular decision and therefore tend to rely on certain heuristics that reduce the complexity of a problem or situation and the process of decision-making itself.[10] This results in outcomes that are not necessarily optimal from a global perspective – an assumption that long dominated rational choice scholarship –, but "satisfy a threshold requirement for institutional acceptability, defined either in cost-benefit (consequential) or cultural (appropriateness) terms."[11] In its consequentialist variant, actors rely disproportionately on the experience of good performers (representativeness heuristic) and those from which information is easily available (availability heuristic) in assessing the material costs and benefits of alternative courses of action.[12] In its normative version, actors rely disproportionally on the behaviour of culturally similar actors by adopting, in an often taken-for-granted manner, their cultural scripts.[13] The assumption of bounded rationality offers not only a more realistic depiction of political decision-making in general; it also provides a novel understanding of focal points as the non-strategic elements in decision-making regarding international cooperation. From this perspective, they can themselves be seen as heuristics that

9 Schelling (1960), p. 70
10 The classical discussion is Simon (1957). Today, this assumption has been reinforced by advances in psychological and neuroscience research (see Jones 1999).
11 Jupille and Snidal (2006), p. 19
12 Kahnemann and Tversky (2000); McDermott (2001)
13 Strang and Meyer (1993); DiMaggio (1997)

reduce complexity by excluding a range of potential other cooperative solutions *a priori* from consideration.

How does EU influence enter this picture? EU influence can matter on both the demand and supply sides of regional rule change. Regarding the latter, I argue that the EU is likely to form the focal point in coordinating a response to an exogenous cooperation problem, thereby acting as a *switchman* between various potential and similarly viable options.[14] In other words, the EU exerts an independent effect on outcomes by pre-configuring the types of solutions that are being considered by actors in a regional decision-making situation.[15] In this case, the analytical status of EU influence is that of an intervening variable between exogenous change in the environment and outcomes.[16] This captures a subtle, and thereby often overlooked, facet of EU influence that operates even in situations in which the incentives for change are completely unrelated to the EU, as most mainstream scholars of regionalism suggest.

Why should we expect the EU to serve as the respective focal point? The reason is that it is the most prominent and successful instance of regional economic cooperation in the world today and has, in many respects, become the "yardstick to measure regionalism."[17] Over the course of six decades, European policy-makers have successfully addressed a range of cooperation problems that other regions are likely to

[14] This characterisation draws on Max Weber's famous metaphor, which he used to explain the role of ideas in the social world.

[15] Note that this is neither to suggest that the EU focal point is uncontested among members nor that an understanding of focal points is sufficient to comprehend outcomes – issues I will come back to later in this chapter.

[16] To paraphrase Craig Parsons (2003, p. 9), the EU exercises an influence *of its own* but not completely *by itself*.

[17] Reiterer (2006), p. 224

encounter sooner or later in their own integration process and have, in the process, redefined the range of issues that were considered legitimate concerns of international cooperation in the first place. For example, democratic legitimacy or economic inequalities between units for the first time became subject to relatively elaborate arrangements at the international level through the creation of the EP and the European Structural Funds. There is considerable empirical evidence to suggest that policy-makers elsewhere indeed view the EU as a model or at least important referent. Several recent empirical studies have systematically shown that the EU is almost uniformly "praised" as an example of successful regional integration or even "a model of integration to be imitated", especially among elites in South America, Southern Africa and Southern Asia.[18] Especially in the African context, various scholars have shown how such perceptions of the EU have deeply affected their actions as regards regional integration, apparently even among policy-makers that initially rejected EU-style integration.[19] More anecdotal evidence points in a similar direction. Former Thai Foreign Minister Thanat Khoman, one of ASEAN's founding fathers, notes, for example:

> for many of us and for me in particular, our model has been and still is, the European Community, not because I was trained there, but because it is the most suitable form for us living in this part of the world – in spite of our parallel economies which are quite different from the European ones.[20]

However, in order to make a convincing argument about the EU as the most likely focal point in situations of regional rule change, we need to identify *a priori* the range of potential alternatives around which players' expectations could plausibly converge in regional economic cooperation. Given a set of incentives for cooperation that cannot be achieved by acting unilaterally, I argue that there are three broad

[18] Fioramonti and Poletti (2008), abstract; Lucarelli (2007), p. 263, respectively; see also Chaban et al. (2009)

[19] See Gibb (1995); Gibb (2009)

[20] Khoman (1992), p. xiv

possibilities: ad hoc cooperation, intergovernmental cooperation or supranational cooperation.[21] Each offers a specific view of how market building, institution building and community building – the three central realms of region building outlined in the introduction – ought to be organised. Ad hoc cooperation is guided by pure material gain based on interests and convenience. It is characterised by shallow forms of market building in the most beneficial context, including outside the region, minimalist institutionalisation and the absence of regional community building based on the conviction that the nation state is the main harbinger of issues involving legitimate forms of political organisation. Intergovernmental cooperation endorses institutionalisation to regularise cooperation, thereby eschewing mere convenience as its basis, but insists on preserving member state sovereignty. It thus features comparatively shallow forms of regional trade integration based on classical intergovernmental bargaining; solid yet largely decentralised institutions and engages in community building only to the extent that it smoothes the process of cooperation and does not encroach upon national sovereignty. NAFTA is the most prominent example of this type of cooperation. Supranational cooperation does not eschew the delegation and pooling of sovereignty as a matter of principle. It tends to feature deep regional integration revolving around the creation of common markets, relies on more independent, centralised and potentially sovereignty-impinging regional institutions and tends to be more open to addressing legitimacy issues at the regional level. Thus, community building activities are potentially extensive. The most prominent exponent

[21] Various accounts distinguish (a subset of) roughly similar options. Parsons speaks of traditional, confederal or community ideas that actors pursued in Europe (Parsons 2003, pp. 43-44). In the cooperation literature, scholars tend to distinguish ad hoc from institutionalised cooperation (Hawkins et al. 2006, p. 11; Jupille and Snidal 2006, p. 4). In EU studies and comparative regionalism more broadly, the distinction between intergovernmental and supranational forms of cooperation is commonplace (see Stone Sweet and Sandholtz 1998, pp. 8-9). Note that I outline them here as ideal types in their broad contours. In the empirical chapters, then, I explicate how they play out in concrete instances, sometimes shading in practice.

of this type of cooperation is the EU.[22] These three options – summarised in Table 3.1 below – form *a priori* plausible and internally consistent alternative 'guides' to regional rule choice on the supply side.

Table 3.1 – Focal Points in Regional Economic Cooperation

Realm	Ad hoc co-operation	Intergovernmental cooperation	Supranational cooperation
Market building	Shallow FTA (most expedient context)	Shallow FTA (regional context)	'Deep' common market
Institution building	Minimalist	Decentralised; sovereignty-preserving	Centralised; potentially sovereignty-encroaching
Community building	None	Minimalist	Potentially extensive

On the other hand, the EU can also affect the demand side of regional rule change, thus acting as an independent (but certainly not necessarily the sole) *driver* of regional economic cooperation. In this case, the EU 'deserves' the analytical status of independent variable as it affects the very incentives for rule change.[23] Here, the analysis is fairly conventional. I draw on well-established arguments about the external material effects of European integration that drive cooperation elsewhere. Mattli has probably advanced the most prominent theoretical argument in this vein,

[22] This is not to suggest, of course, that the EU is a purely supranational organisation. It is undoubtable that it also features a range of intergovernmental arrangements. The actual character of the EU is complex and has sparked much debate in the literature (Risse-Kappen 1996; Schmitter 1996). Nevertheless, I would argue that we can plausibly maintain that, in comparison to other IOs, the Community's central features esepcially as regards economic integration are supranational.

[23] Hence, we might say that, in the short run, EU influence on the demand side is more fundamental than on the supply side. In the long run, however, the initially small differences in outcomes due to the switchman dynamic can have very important effects also, as we will see in the empirical chapters.

suggesting that many regional groupings around the world can be understood as counter-reactions to the negative externalities stemming from the creation and increasing integration of Europe's common market.[24] The EU can be said to drive integration elsewhere to the extent that policy-makers take certain decisions as a direct consequence of developments in the EU itself. Other scholars have similarly pointed to EU actors actively harnessing the economic leverage that stems from its large market, and the unified institutional arrangements accompanying it, in international trade negotiations[25] – a phenomenon that has been termed a "quasi-mechanical consequence of internal market rules."[26]

However, because the EU does not coerce others into adopting its own arrangements on the supply side, I contend that these externalities from European integration tend to be indeterminate as to the exact outcomes they trigger. Thus, I extend these conventional arguments in two important ways discussed in more detail in the next sections. First, I explicitly theorise the way in which such EU-related change on the demand side has predictable, but conditional effects on the supply side. In particular, I argue that EU-related incentive change constructs the EU as a focal point thereby enhancing the likelihood of EU-type outcomes. Second, I demonstrate that such dynamics can affect not only regional market building but also institution and community building processes. Having laid the groundwork for understanding EU influence in global regionalism, we can now turn to its mechanisms. Thus, the next section links the previous reasoning about the EU as a switchman and as a driver with actual outcomes.

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[24] Mattli (1999), pp. 59-64
[25] Hanson (1998); Meunier (2005)
[26] Nicolaïdis and Egan (2001), p. 464

3.2 Mechanisms of EU Influence

EU influence operates through four theoretically distinct and empirically distinguishable mechanisms, each of which revolves around a particular 'commodity' at the heart of EU influence: information in the case of learning, money in the case of rewards, legitimacy in the case of emulation and 'shared knowledge' in the case of socialisation. These mechanisms are well-established in the literature on diffusion and, as I will acknowledge below, taxonomies similar to the one developed here already exist. I go beyond the common knowledge, however, in systematically developing hypotheses about the conditions for EU influence based on a set of observable implications that allow for the rigorous application of these mechanisms in qualitative research. Moreover, I systematically discuss them based on assumptions of bounded rationality.

The taxonomy rests on two fundamental analytical distinctions. The first one refers to the source of EU influence, that is, to the question where we can allocate analytically the main impetus of EU influence. Here, I distinguish between demand- and supply-led processes. In the former case, EU influence is the result of the success and attractiveness of the European integration process; the EU itself does not play an active role. In supply-led processes, regional integration is affected by the activism of a range of EU actors. Here, EU influence is the result of consciously designed activities aimed at actively shaping region-building processes elsewhere.

The second distinction refers to the logic of social action that underlies the process of EU influence. Here, I draw on March and Olsen's classical distinction – going back to

Max Weber – between a logic of consequence and a logic of appropriateness.[27] The two logics are useful heuristic devices to distinguish different types of underlying motivations for action. The logic of consequence, most closely associated with the field of economics, is based on methodological individualism and views actors as motivated mainly by their own self-interest. In this view, actors choose between behavioural options (strategies) based on an evaluation of their *material* consequences for the achievement of individual (or collective) objectives.[28] This is what is generally dubbed 'goal-oriented' or 'utility-maximising' behaviour, measured against a set of exogenous preferences. The 'logic of appropriateness', on the other hand, is role- or identity- rather than preference-based and forms the mainstream action theory in the field of sociology. Actors do not ask 'what is the *best* available option?', but 'what is the most *appropriate* option?' This type of action theory assumes that actors are embedded in a social environment and that they seek to conform to the expectations that this environment has of them. Action then involves "evoking an identity or role and matching the obligations of that identity or role to a specific situation."[29] Actors thus assess alternative behavioural options mainly in terms of their anticipated ideational consequences such as legitimacy and social recognition.

The two core distinctions – demand-led vs. supply-led processes of EU influence and logic of consequence vs. logic of appropriateness – constitute a fourfold taxonomy as

[27] March and Olsen (1989). In this context, I consciously draw on different logics of action rather than engage with the more fundamental debate about different conceptions of social actors as either *Homo economici* or *Homo sociologici* (Elster 1989). The latter addresses deep ontological issues where the two conceptions are mutually exclusive (human beings are regarded *either* as one *or* the other), whereas the former allows for the possibility that individuals act according to both logics, depending on the situational context. For a critique of the distinction between the two types of action logics, see Goldmann (2005); Kornprobst (2011).

[28] March and Olsen (1998), p. 949

[29] *Ibid.*, p. 951

illustrated in Table 3.2.[30] Below, I outline each mechanism in turn and derive a set of hypotheses across four observable implications. Two concern the demand side of rule change: timing and the decision-making process; one concerns the supply side: rule choice and design; and one concerns actor behaviour after the decision.

Table 3.2 – Taxonomy of Mechanisms of EU Influence

		Source of EU influence	
		Demand-led	Supply-led
Logic of social action	Logic of consequence	Learning	Rewards
	Logic of appropriateness	Emulation	Socialisation

Learning

The learning mechanism encompasses a class of processes that share a focus on information, assuming that policy-makers are mainly concerned with effective problem-solving and that the major constraint to this goal is a lack of relevant information about cause-effect relationships.[31] Learning can be defined as a "change of beliefs … or the development of new beliefs, skills, or procedures as a result of the observation and interpretation of experience."[32] In this case, beliefs refer to causal

[30] The literature on Europeanisation and diffusion has generated a range of somewhat similar taxonomies (see Schimmelfennig and Sedelmeier 2005b, p. 8; Simmons et al. 2006; Börzel and Risse 2012). The one presented here is closest to Schimmelfennig and Sedelmeier's, but I distinguish between learning and emulation on the demand side, which they do not do. Moreover, they theorise these mechanisms in the context of enlargement where, as we saw in Chapter 2, they are likely to operate quite differently from the current context.

[31] See Meseguer (2006, 2009)

[32] Levy (1994), p. 283. Of course, such a definition raises formidable methodological challenges due to our inability to 'get into people's heads'. However, rather than seeking to discern whether relevant policy-makers indeed changed their causal beliefs by being exposed to information from

ones about underlying cause-effect relationships rather than principled ones about how the world *ought* to be.[33] As a mechanism of EU influence, learning refers to a process in which policy-makers seek information from the Community in order to solve specific functional problems (demand-led).[34]

These functional problems are unrelated to the EU, forming exogenous changes to the regional environment, which reveal a major misfit between existing arrangements and policy-makers' functional needs. However, there is one important exception. The learning mechanism connects structural change emanating from the EU and subsequent changes in regional integration elsewhere, as theorised by Mattli and others.[35] In this case, policy-makers are expected to perceive a need for the adjustment of existing rules when they learn that rule changes in Europe are likely to impact the likelihood of reaching their desired objectives. The extent to which this process plays out depends on the degree of asymmetric interdependence, that is, the dependence of other regions on EU resources such as trade and investment.[36] Only when other regions heavily rely on European trade and investment and thus perceive EU-related changes to strongly affect their own structural context, are we likely to see

the EU – a claim that is essentially impossible to verify empirically –, I suggest that there are a variety of observable implications, discussed at the end of this section, which allow us to make reasonable inferences about the underlying mechanism of EU influence (see also Parsons 2007, pp. 63-64).

33 Goldstein and Keohane (1993), pp. 9-10; see also Schmidt (2008), pp. 306-7. Many researchers distinguish various forms of learning depending on the cognitive and affective depth of the process, reaching from changes in beliefs about policy instruments to changes of underlying values and goals (for example May 1992, p. 336; Hall 1993, p. 284; Sabatier 1993, p. 19). The latter falls outside my definition of learning.

34 Various other concepts such as lesson-drawing (Robertson 1991; Rose 1993) and certain versions of policy transfer (Stone 1999; Dolowitz and Marsh 2000; Dolowitz 2009) are compatible with this mechanism.

35 This process has often been discussed under the label 'competition' according to which countries compete over scarce investment and trade resources in the international economy (e.g. Simmons and Elkins 2004; Drezner 2005). However, in order for competition to operate, policy-makers require information on what competitors do and how this might affect their own country or region. Thus, learning can be seen as the agentic basis of competition mechanisms, which tend to operate at the structural level.

36 The classical discussion on this issue is Keohane and Nye (1977).

changes in rules as a result. However, the exact content of these changes is not determined by the changing structural context as such.

On the supply side, then, I expect policy-makers to learn primarily from the EU because boundedly rational actors rely disproportionately on the experience of good performers and those from whom information is easily available. The EU is not only widely seen as a successful instance of regional integration, as we have seen; detailed and technical information about the EU tends to be more easily available than about other organisations due to the pervasiveness of the EU in academic and policy writings about regional integration as well as the density of academic networks centred on the EU.[37] However, learning suggests that policy-makers also draw information from other sources, to the extent feasible, in order to have a more reliable basis for inferences about cause-effect relationships. The extent to which this leads to EU-likeness in outcomes depends primarily on the degree of fit between local conditions and the respective EU rules.[38] Such fit is a function of their relative compatibility with existing domestic and regional rules and resource endowments, but also entails their suitability to particular ideational concerns about trade liberalisation as well as the delegation and pooling of sovereignty.[39] The higher the compatibility between EU and domestic rules and with existing ideological attitudes, the more likely learning from the EU will lead to EU-likeness in formal rules.

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[37] Many former and current officials in the Mercosur Secretariat, for example, have written academic disserations comparing EU and local integration processes. An example is Perotti (2004).

[38] Freeman (2006), p. 384; Dolowitz and Marsh (2000), p. 17; see also Nicolaïdis and Egan (2001), p. 458. This variable has also been central to the literature on Europeanisation both as conditioning the pressure for adaptations (demand side) and the feasibility of rule change (supply side) (see Börzel 1999; Risse et al. 2001) as well as in legal scholarship on legal transplants (for an overview, see Berkowitz et al. 2003).

[39] See also Bardach (2004); Koenig-Archibugi (2004)

In terms of observable implications, demonstrating a learning mechanism requires evidence of materially rational decision-making based on new information from the EU and other sources. On the demand side, then, rule change ought to systematically follow concrete functional problems, which are perceived to require attention at the regional level (timing). Attention to the exact sequencing of decisions and analysis of the respective policy debates ought to reveal when this is related mainly to the EU. EU-related change on the demand side is expected to reflect a high degree of asymmetric interdependence on EU trade and investment and ought to concern mainly the realm of regional market building. In response to a new functional problem, policy-makers are expected to engage in costly searches for relevant information on how to address them (decision-making). This should be observable, for example, through the commissioning of scientific studies that consider and assess the costs and benefits of alternative solutions to these problems or at least serious expert consultations.[40] Epistemic communities might also play a central role in the decision-making process. On the supply side, we expect to see 'rational' adaptations of EU rules reflecting differences in political and structural conditions (rule choice and design). Given the general diversity in these conditions between the EU and regional organisations elsewhere, we would expect EU rules not merely to be thoroughly adapted, but to be regularly mixed with elements from other organisations' rules that are crafted onto a basic EU-type arrangement. We would expect these new rules to be well defined and highly circumscribed in view of dominant member states' preferences. This might entail, for example, a range of *ex ante* and *ex post* control mechanisms. In short, functional equivalents rather than wholesale copies of EU rules are expected to dominate when learning is the underlying mechanism of EU

[40] May (1992), p. 337; Mossberger and Wolman (2003). Otherwise, we might suspect an attempt to rationalise *post hoc* a decision taken for other reasons (see Zorn et al. 2006).

influence.[41] Subsequently, policy-makers are expected to put the new rules into operation in an effective way (post-decision actor behaviour). In sum, a new arrangement should reflect, by any reasonable standard, a clear attempt to effectively solve the particular functional problem it is designed to address.

Rewards

The rewards mechanism encompasses a class of processes that share a focus on aid and other material resources being directly exchanged between the EU and other regional organisations based on the assumption that policy-makers' decisions can be powerfully affected by the material incentives attached to different courses of action. It is generally depicted as a form of conditionality, according to which a powerful organisation attaches the provision or withdrawal of rewards to particular objectives. The aim is to intentionally manipulate the utility calculations of targeted actors in order to reap certain benefits (e.g. market access) or avoid negative externalities (e.g. migration control).[42] Rewards thus affect outcomes not by providing new information about the effectiveness of different choices (learning), but by changing "the relative size of payoffs associated with alternatives."[43] As a mechanism of EU influence, rewards refer to a process in which the Community shifts policy-makers incentives for rule change as a result of the provision of material resources (supply-led). In contrast to the mainstream perspective of conditionality, however, EU rewards are never tied to regional rule change *directly*.[44] It is thus a truly incentive based mechanism rather

41 Abbott and Snidal (2000); Kahler and Lake (2009)
42 Simmons et al. (2006), pp. 790-1; Börzel and Risse (2012); Gilardi (2012), pp. 13-14
43 Braun and Gilardi (2006), p. 310
44 There is a somewhat grey area with recent moves towards the introduction of 'performance indicators' in the EU's integration support, but it seems that these are barely enforced (see European Commission 2007a).

than straddling the boundary between incentives and coercion, as in mainstream conditionality accounts.[45]

There are three main ways in which EU rewards can affect the demand for rule change in other regions: one revolving around trade and investment, one around aid and one around the functional effects of cooperation with the EU more broadly. Regarding the first, the negotiation of interregional trade agreements with the EU shifts market incentives that are likely to affect regional integration itself.[46] The material benefits of an agreement with the EU are likely to increase in the presence of *common* internal rules in areas subject to the agreement. This might be the case because common rules lower transaction costs for external operators and enhance the credibility of domestic reform with foreign traders and investors.[47] While it is not strictly necessary to have, say, a common competition policy to negotiate binding commitments on the matter with the EU (and the EU does not demand that), it is only a short step towards codifying commitments in competition within the region when all member states have similar commitments towards the EU. Given the EU's ambition to negotiate trade agreements on a wide range of issues such as investment, government procurement, competition policy and intellectual property rights (WTO+), we would expect this dynamic to be potentially wide-ranging. Second, EU financial assistance (aid) can shift incentives on the demand side when policy-makers elsewhere anticipate financial support for particular actions or when the EU threatens to withdraw funding in general because of changing priorities in EU development policy. Third, the EU is not only itself a special actor in the international system, it

45 It is thus similar to 'positive inducement' (Nincic 2010).
46 For a general discussion of this logic, see Lake and Scott (1989)
47 Collier and Gunning (1995); Büthe and Milner (2008)

also holds particular conceptions of the way in which interregional cooperation and integration ought to be pursued. Engagement with the EU thus creates identifiable demands on regional organisations, especially their external representation. The EU prefers to deal with a single cooperation partner that serves to coordinate cooperation centrally. This refers, first of all, to the regional organisation as a whole, for example in the signing of interregional cooperation or trade agreements, and shifts incentives towards enhancing the role of regional secretariats in representing the organisation. Given that individual actors in the EU often sign their own cooperation agreements with their counterparts, it might also catalyse the creation or strengthening of central institutions within individual institutions.

The extent to which EU rewards catalyse rule change elsewhere depends on the degree of asymmetric interdependence, that is, the dependence of other regions on the continued flow of EU material resources and/or engagement as such.[48] If dependence is low or other sources of material support are readily available as substitutes, the rewards mechanism is unlikely to exert effects on outcomes. Trade and investment are expected to affect mainly the realm of regional market building, whereas aid and functional engagement ought to be related more broadly to institution and community building.

These EU-related shifts in incentives on the demand side have direct knock-on effects for rule choice on the supply side. To the extent that regions undertake joined commitments in trade liberalisation vis-à-vis the EU, they are likely to adopt similar rules internally. This logic is explicitly mentioned in the draft mandate for FTA

[48] Schimmelfennig and Sedelmeier (2005b), p. 13; Simmons et al. (2006), p. 791

negotiations with ASEAN, which argues that the establishment of a FTA "provides an additional incentive for ASEAN countries both to profit from EU experience and identify solutions and approaches which are more compatible with those of the EU."[49] Moreover, EU aid provision or its anticipation can positively affect some of the constraints on rule choice, in particular the financial resources available to set up and support a particular set of rules.[50] As we saw in Chapter 2, the EU is willing to bear some of the costs of their operation as part of its mission to support regional integration processes more broadly. For a given degree of fit between EU institutional arrangements and local conditions, (the anticipation of) EU rewards ease the resource constraints on a new arrangement and therefore increase the likelihood that it will be established. Thus, in a situation in which two alternative sets of rules are similarly compatible with local conditions, the fact that policy-makers anticipate one to be less resource-intensive is likely to tip the balance in its favour.

Thus, demonstrating the rewards mechanism empirically requires evidence of cost-benefit calculations regarding a move from the status quo to a new set of rules triggered by the EU's provision of material incentives. In terms of observable implications, it entails a clear temporal linkage between EU rewards and regional rule change, that is, EU rewards need to *precede* (considerations of) change, conditional upon a high degree of material dependence on the EU (timing). Process-tracing evidence should then confirm that EU rewards were indeed at the root of this diachronic variation (decision-making). This might entail, for example, that debate

[49] See http://www.bilaterals.org/spip.php?article8211 (last access: 3.5.2011). Given that the EU has not been able to successfully conclude an interregional trade agreement, we cannot fully test this hypothesis yet. However, there have been effects of *ongoing* negotiations, as we will see in the empirical chapters.

[50] This is similar in logic to Mattli's (1999, p. 56) description of regional hegemons serving as paymasters.

about a new arrangement revolves mainly around its benefits stemming from EU rewards rather than its effectiveness, as in the case of the learning mechanism. On the supply side, we would expect to see rule adaptations that are just sufficient to reap the promised rewards in order to minimise implementation costs (rule choice and design). As regards post-decision behaviour, we would expect actors to claim the anticipated rewards that affected their decision and, at the same time, 'localise' the new rule to their own context. This might entail a process somewhat similar to the decoupling characteristic of emulation, discussed below, as the formal rule has little behavioural effects.[51]

Emulation

The emulation mechanism revolves around a class of processes that share a focus on legitimacy, assuming that one of policy-makers' major concerns is with social recognition and that one of the main constraints on 'good' policy-making is the lack of legitimacy of new rules. While learning promises increasing effectiveness and rewards offer concrete material benefits, emulation is motivated by an aspiration to behave in ways widely seen as legitimate, credible and appropriate. Rule adoption, in this case, is largely independent of measurable evidence that it will enhance the effectiveness or efficiency of an institutional decision.[52] Meyer and Rowan famously pioneered this type of reasoning when arguing that organisations often "reflect the myths of their institutional environments instead of the demands of their work

[51] Schimmelfennig and Sedelmeier (2005b), p. 17

[52] However, emulation still requires "a modicum of perceived success" (Meseguer 2004, p. 312). Sets of rules that have dismally failed are unlikely to become legitimate or credible ways of political organisation. However, once they have achieved that status, policy-makers do not assess the reasons for their success but simply emulate them because of their status.

activities."[53] As a mechanism of EU influence, emulation refers to a process in which policy-makers' emulate EU rules in response to radical changes in their environment (demand-led).[54]

Such changes tend to be major exogenous shocks, such as a large-scale economic or political crisis, that threaten the very viability of an organisation. In such situations, emulation helps policy-makers, as Ian Johnston puts it, to secure "survival under uncertainty."[55] It can lead to major changes in rules that are impossible in 'normal' times because the extraordinary context of decision-making can induce radical changes in member states' preferences as well as their willingness to invest a certain amount of resources into the process.[56] Thus, it opens a window of opportunity for the adoption of rules that, prior to the crisis, might have seemed entirely impossible.[57] Such radical change in the environment of regional organisations is normally unrelated to the EU. However, in the rather rare circumstance that a regional organisation *as a whole* (rather than individual member states or projects) is highly dependent on access to the EU market or its continued financial support, the EU itself might trigger a major exogenous shock that leads to emulation. If at all, we would expect this to be only the case in SADC, which is the most EU resource dependent organisation among the three cases considered in this thesis. Yet, given that the EU

[53] Meyer and Rowan (1977), p. 341

[54] There is considerable variation on this theme in terms of specific mechanisms. Mimicking or mimicry (Haveman 1993; Johnston 2008, Chapter 2), certain forms of social learning (Ikenberry and Kupchan 1990, p. 289; Checkel 2001; Weyland 2004) and (normative) isomorphism (DiMaggio and Powell 1991; Deephouse 1996; Radaelli 2000) all entail processes of rule change that are primarily driven by concerns about social recognition rather than material cost-benefit calculations. In my view, Johnston (2008, pp. 45-46) gets it wrong when he depicts 'emulation' as a rational mechanism of carefully scrutinising potential exemplars and internalising the respective cause-effect relationships; instead, this is learning.

[55] Johnston (2008), p. 52

[56] The current 'Euro-crisis' in the EU provides a formidable example.

[57] Ikenberry and Kupchan (1990), p. 284; Scharpf (1991); Capoccia and Kelemen (2007); Widmaier et al. (2007)

generally does not tie its support to particular rule change, EU influence on the demand side does not determine outcomes on the supply side.

Nevertheless, I expect policy-makers, under crisis-conditions, to emulate EU rules because (boundedly rational) actors tend to emulate from those organisations with which they share cultural similarities and that are well-theorised, which allows policy-makers to justify their choice in 'rational' terms and thereby lends credibility.[58] The EU and the other regional groupings under study belong to "a common social category"[59] in terms of their founding rationale and ultimate objective, namely to overcome long-standing rivalries between countries and build increasing trust. Social science research has also systematically theorised EU governance in terms of general and seemingly universally applicable cause-effect relationships, for example of the kind 'a supranational court leads to successful enforcement and therefore implementation.' The fit condition, which affects the outcome of learning processes, is also relevant for emulation. Yet, given the high degree of uncertainty about cause-effect relationships and states of the world in the wake of crises, the exact compatibility of rules is often difficult to determine as member states' preferences as well as their willingness to invest resources into the process can change dramatically, as we have seen. Nevertheless, I expect policy-makers to undertake adaptations of emulated EU rules. However, these adaptations are likely to be more coarse-grained than in learning processes and to refer to the need for arrangements to be broadly compatible with existing political conditions, especially regarding member states' attitudes towards trade liberalisation and national sovereignty.[60] Rule adoption for

58 Strang and Meyer (1993)
59 Strang and Meyer (1993), p. 490; see also DiMaggio and Powell (1991); Burt (1987)
60 Checkel and Moravcsik (2001), p. 222; Johnston (2008), pp. 156-8; see also Warkotsch (2007), p. 839; Adler (2008), p. 216; Hawkins (2004), pp. 484-5

mainly ideational reasons may impose considerable costs in terms of effectiveness, as they do not suit specific local contexts. The result thus tends to be a process of 'decoupling', that is, policy-makers emulate formal rules while important divergences remain in less visible informal arrangements and actual practices.[61]

Emulation is not easy to distinguish empirically from learning; yet, it does suggest distinct implications that are, at least potentially, observable. In principle, it requires two kinds of evidence: the absence of 'means-ends-oriented' decision-making and awareness among policy-makers of the legitimacy constraints on their actions. In terms of observable implications, we would expect rule change to occur in situations when the survival of the integration process is in question rather than as a consequence of a concrete functional problem (timing). Regarding the decision-making process, then, we might expect policy-makers, besides emphasising the need for survival and the problem of uncertainty, to debate the general desirability of specific types of rules – for example, whether supranationality is a 'good thing' – rather than their concrete usefulness to address a particular cooperation problem. Unlike learning, we should not see systematic prospective evaluation of various alternatives in the form of expert consultations or scientific studies. Instead, an EU-type arrangement should be adopted without much debate seeking to unravel underlying cause-effect relationships and/or explicitly weighing costs and benefits (decision-making).[62] On the supply side, we should see little adaptation of EU rules to fit specific local conditions but merely reflect broad differences in ideological beliefs such as attitudes regarding national sovereignty, which is likely to result in 'empty' copies rather than functional equivalents or carefully crafted adaptations (rule choice

[61] Meyer and Rowan (1977), p. 357; Meyer (2010), pp. 13-14; Hafner-Burton and Tsutsui (2005)
[62] Hopf (2010), p. 13

and design).[63] Thus, in contrast to learning, policy-makers might adopt very open-ended and little circumscribed rules. Control procedures, consequently, are very crude rather than tailor-made to sanction *specific* undesirable forms of behaviour, thus potentially leading the respective rule change *ad absurdum*. Moreover, outcomes might reflect long-standing demands for EU-type rule change by advocacy coalitions, for which the crisis opened a window of opportunity to realise their demands. As regards post-decision behaviour, we would expect states to do little to operationalise new rules effectively or even prevent them from operating effectively by exercising informal means of control (curtailing their resources etc.).[64] This decouples practices and behavioural outcomes from formal competences and the design of rules.[65] On the other side, we would expect policy-makers to seek recognition from the EU, expressed for example in state visits or the statements of political dialogues.

Socialisation

The socialisation mechanism encompasses a class of processes that share a focus on 'commonly constructed knowledge' as the central 'commodity' being exchanged between the EU and other regional organisations, assuming that actors' understanding of effective and appropriate behaviour can be affected by social interaction.[66] It involves "changing minds, opinions, and attitudes about causality and affect (identity) in the absence of overtly material or mental coercion."[67] Socialisers might both

63 Strang and Meyer (1993), p. 500

64 Such informal 'controls', then, are not the result of actual agency slack, as the functionalist literature on delegation might suggest, but happens independently of the actual actions of an institution (see McCubbins et al. 1987; Hawkins et al. 2006).

65 Finnemore (1996b), p. 342

66 A classical discussion on the role of knowledge in international cooperation is the special issue of *International Organization* on epistemic communities 46:1 (Winter 1992). For a more recent contribution, see Dimitrov (2003).

67 Johnston (2008), p. 155; similarly, Checkel (2001), p. 562

employ 'positive' strategies of persuasion and teaching as well as 'negative' ones such as naming, shaming and the discursive demolition of inappropriate practices to change other actors' basic principled or causal understandings.[68] According to this mechanism, altered behaviour is the result of social and cognitive appeal rather than short-term adaptations to a changing structural landscape as the rewards mechanism suggests. While it shares some traits with the learning mechanism, which also involves changes in causal beliefs based on new information, it is both wider and narrower.[69] It is wider in that it also encompasses changes in principled beliefs; successful socialisation thus sets actors on a path towards a potential redefinition of both their interests and identities.[70] It is narrower, however, in that changes in behaviour are due to the active involvement of EU actors. This is important not only substantively – Were EU actors directly involved? –, but also theoretically: they may frame the information they provide in such a way that it is more likely to resonate with their counterparts' own understanding of a situation.[71] As a mechanism of EU influence, socialisation refers to a process in which EU actors seek to convince their counterparts of the need for certain rule changes by active appeals to their counterparts' understanding of effective and appropriate behaviour (supply-led).

[68] A variety of 'micro-processes' are compatible with the socioalisation mechanism as outlined here. These include social influence (Johnston 2001), persuasion (Risse 2000), normative suasion (Checkel 2005) or 'norm teaching' (Finnemore 1993). Empirical studies that employ such concepts are Risse and Sikkink (1999); Hall (2003); Gheciu (2005); Grobe (2010).

[69] Ikenberry and Kupchan, for example, define socialisation as a "process of *learning* in which norms and ideals are transmitted from one party to another" (Ikenberry and Kupchan 1990, p. 289, my emphasis).

[70] Much of the debate about socialisation revolves around the *internalisation* of new norms and identities. In the widely cited IO special issue, Checkel's distinction between Type I and Type II socialisation is based on whether actors internalise new norms or not (Checkel 2005). I explicitly make internalisation neither part of my definition of socialisation nor do I hold it to be particularly likely (and important) in regional integration. I am interested in whether active EU policy can change the course of regional integration in the absence of material rewards; whether policy-makers in fact internalise EU arguments is of secondary importance.

[71] Keohane (2011), pp. 28-29

EU representatives pursue a variety of activities aimed at socialisation in terms of what – as an European Commission document stipulates – "realistic and workable integration schemes"[72] ought to look like and how they are best achieved. The construction of 'common knowledge' may take place in the context of cooperation agreements between both sides, which provide for regular meetings also at the technical levels[73], official technical assistance that the EU lends its counterparts on specific issues or political dialogue, which goes "clearly beyond occasional meetings and normal diplomatic business."[74] Beyond this, EU actors hold ad hoc visits, issue reports[75] and give press conferences and speeches – all forms of interaction that may serve to construct common knowledge. In many cases, such interaction involves EU actors seeking to convince their counterparts of the need for stronger regional rules, especially given all regions' 'low' starting point. This involves both arguments that specific cooperation problems require attention at the regional level in the first place and that certain rules need to be strengthened in order to address particular cooperation problems effectively. All terms of reference for EU-funded technical assistance programmes, for example, encourage recipients to consider EU arrangements in their respective contexts and EU-funded consultancy studies often involve European (or EU-socialised) local consultants, who tend to be particularly favourable towards EU-type solutions.[76]

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72 European Commission (1995a), p. iii

73 This also entails specific cooperation agreements between individual EU institutions, such as the European Commission or the European Parliament, and their counterparts.

74 Monar (1997), p. 264

75 The EU's regional strategy papers, for instance, that lay out a detailed strategy on the support for regional integration start out with a fairly detailed analysis of the respective integration process, including its major weaknesses.

76 These insights emerged from several of the interviews I conducted. In the Andean Community, for example, about 30 to 50 percent of all the decisions and resolutions are based upon EU-funded analyses and studies (Fleschenberg 2004, p. 51, fn. 140).

Under what conditions are such socialisation efforts likely to be successful? I agree with many empirical studies that find rewards to be more 'powerful' than socialisation in terms of its overall impact. The simple reason is that more actors can normally be enticed materially into particular forms of behaviour than can be persuaded in the absence of any material gain.[77] This might even be truer for the cases analysed in this study as policy-makers show significant resistance to EU socialisation efforts given their initial rejection of EU-type integration.[78] Moreover, it is plausible to suggest that the fundamental rules of the game of a regional organisation are generally less susceptible to socialisation efforts than more specific technical or procedural issues because their overall importance makes structural factors that are outside the realm of socialisation efforts more salient and tends to enhance the degree of politicisation.[79]

Thus, in the absence of favourable domestic conditions, EU socialisation efforts are unlikely to be successful in triggering rule change. However, we might expect it to make a difference in *conjunction with* existing minority coalitions such as local norm entrepreneurs or epistemic communities, who share objectives similar to those of the EU.[80] In parallel to the asymmetric interdependence condition for rewards defined in material terms, we might call this ideational and informational interdependence. I expect EU socialisation efforts to be likely to be successful only in cases in which a minimal degree of such interdependence already exists. Thus, to the extent that the EU can latch onto existing like-minded actors and support their efforts to press for EU-style rule change, EU socialisation activities are likely to increase EU influence

[77] Kelley (2004b), pp. 432-3

[78] Kelley (2004a) has most explicitly theorised domestic resistance as a central factor hampering socialisation.

[79] Checkel (2005); Johnston (2008)

[80] Jacoby (2006) discusses such coalition dynamics between outsiders and insiders in the democratic transitions of post-communist countries.

on both the demand and supply sides. On the demand side, the EU can provide informational, material (without strings attached) and ideational resources and thereby increase the likelihood that the lobbying efforts of existing minority groups are successful. On the other hand, EU socialisation efforts, especially its technical assistance, is likely to ease the informational constraints on 'successful' rule change and thereby increase the salience of the EU focal point in domestic debates, for any given level of fit. EU-type rule change thus becomes more likely.

Socialisation processes may be the most difficult to demonstrate empirically, not least because the link between the socialisation of individuals and their effects on rule change is complex and often stretches over long periods of time. Broadly speaking, observable implications are similar to those for learning and emulation, depending on whether a cognitive informational logic or an affective legitimacy logic dominates, but involve EU *activism* in the absence of material incentives.[81] In general, we need to be able to identify the critical interaction between EU and other actors where socialisation might have occurred and ascertain that no material rewards were involved in changing peoples' causal or principled beliefs. We also need to ensure that these understandings did not exist prior to the interaction, i.e. that the interaction was indeed the crucial 'turning point'. Ideally, we would then be able to trace how EU-socialised individuals played an important role in subsequent processes of rule change and were central in determining their outcome. More concretely, then, on the demand side interaction between the EU and other actors precedes changes in causal and principled beliefs, which did not exist prior to interaction (timing). Moreover, a

[81] This indicates the difficulty to 'discover' socialisation compared to other mechanisms because it generates few *distinct* observable implications. Any socialisation account must therefore rely heavily on careful process tracing. Consequently, it is more likely to be merely plausible rather than 'conclusive.' For a good discussion of the empirical difficulties in demonstrating socialisation processes, see Johnston (2008)

gap between socializees' rhetorical demands and actual behaviour might be a sign of successful external socialisation. Actors might already promote EU-induced principled or causal understandings discursively, while actual behaviour in line with these demands lags temporally behind because these understandings have not yet been internalised. Then, we would expect these socialised actors to introduce EU-promoted solutions into the decision-making process or, at least, that policy-makers would interact closely with them prior to the respective decision. As regards rule choice and design, these solutions are adopted in the absence of, or independent of, EU material rewards. To the extent that EU-socialised actors are relatively weak in terms of their potential impact on bargaining outcomes, a concrete observable implication might be that the final result of a negotiation reflects a 'reasoned consensus' rather than a lowest common denominator decision.[82] Thus, when the outcome appears 'surprising' from the perspective of the prior distribution of preferences and power, we might infer that the preferences of the nominally weaker actors have carried a disproportionate weight. In terms of post-decision actor behaviour, we would expect EU-socialised actors to maintain contacts with the EU in order to benefit from the EU's experience in running the respective set of rules that emerged from the interaction. Moreover, we would expect the new rule to operate effectively to the extent that policy-makers gradually internalise the respective principled or causal understandings.

In sum, EU influence operates through four theoretically distinct and empirically distinguishable mechanisms: learning, rewards, emulation and socialisation. The preceding section derived a set of hypotheses across four sets of observable implications, which are summarised in Table 3.3 below.

[82] Johnston (2008), p. 40; Risse and Kleine (2010), p. 712

Table 3.3 – Mechanisms of EU Influence: Hypotheses and Observable Implications

Dimensions	Learning	Emulation	Rewards	Socialisation
Timing	Emergence of exogenous cooperation problem; EU-related only in case of major externalities from integration and high degree of asymmetric interdependence; concerns mainly regional market building	Major crisis situation, i.e. absence of clearly identifiable functional problem (window of opportunity); EU-related only in case of major change in relations with EU and high degree of dependence on EU resources	Granting of EU rewards (or their anticipation) reflecting high material dependence: trade/investment affects market building; aid and functional engagement affect institution and community building	Window of opportunity (crisis situation); interaction with EU precedes rule change reflecting existence of like-minded actors; gap between socializees' rhetoric demands and actual behaviour
Decision-making process	Costly search to address functional problem: expert consultations/consultancy studies; variety of solutions is considered; involvement of epistemic communities	EU solution is exclusively considered; little debate about concrete benefits and drawbacks, but about general desirability of a particular rule	Qualitative evidence of EU-related change in cost-benefit calculations; debate revolves about material benefits of a new rule rather than its effectiveness	Socializee introduces EU-promoted rule into policy-making process; close interaction between EU-socialised actors and actual decision-makers
Rule choice and design	Adaptation of EU rule reflecting differences in political and structural conditions (functional equivalents); elements from other organisations' rules crafted on; well-defined and circumscribed rules in view of dominant preferences; elaborate formal control mechanisms	Little adaptation of EU rule reflecting mainly differences in political conditions ('empty' copies); open-ended and little circumscribed rules with 'crude' control procedures; outcome reflects long-standing EU-type demands by advocacy coalitions	Adaptation reflects attempts to minimise implementation costs associated with reaping EU rewards	Adoption of EU-promoted rule independent of rewards; outcome reflects 'reasoned consensus' rather than lowest common denominator decision
Post-decision actor behaviour	New rules are effectively put into operation	New rules are not implemented effectively or even actively prevented from operating (decoupling); seeking EU recognition	Claiming anticipated EU rewards; localisation of new rule (similar to decoupling)	EU-socialised actors maintain contacts with EU; new rule operates effectively to the extent that policy-makers internalise associated principled or causal understandings

3.3 Dynamics of EU Influence

This final part pulls together into a coherent model the two types of EU influence – the EU as switchman and as driver – across the four mechanisms to emphasise their particular dynamics over time. It discusses them for each of the three realms of region building analysed in this thesis: regional market building, institution building and community building. I start by outlining the functional baseline, which forms the 'null hypothesis' of no EU influence, before moving towards the EU as switchman and, then, to the EU as driver.

Functional Baseline

The baseline model, against which I assess my account of EU influence, is a functional one that views rule change in regional market, institution and community building as a series of rational reactions to exogenous material changes in the regional environment. Given the founding ethos of the three regions under study, the bounded rationality assumption would lead us to expect that policy-makers in the three regions continue to address exogenous changes in their environment based on ad hoc cooperative arrangements or shallow intergovernmental ones. Any functional account of economic cooperation posits market, institution and community building as a largely sequential process with an inherent dynamic logic.[83]

The process starts with exogenous economic changes, such as changing trade or investment patterns, which contain functional incentives for changes to the process of

[83] Moravcsik (1998); Pollack (2003); Yoshimatsu (2010)

regional market building. Assuming that policy-makers seek, in response, some kind of cooperative arrangement rather than mere unilateral adjustments, they are expected to opt for economic cooperation that would generate the highest expected material payoffs. This should include some form of variable geometry, within and across the boundaries of existing regional institutions given that the founding treaties of ASEAN and SADC as well as the initial cooperative arrangements between Argentina and Brazil did not legally commit them to market building within these regional boundaries. Rather than formulating grand market building objectives, we would also expect policy-makers to set short-term targets that are extended and widened in an expedient fashion once previous smaller targets have been achieved.

As a consequence of new commitments in market building activities, incentives regarding regional institution building tend to change as well. Thus, the functional dynamism lies in the fact that regional institutions evolve in direct response to, and in accordance with, changes in regional market building efforts. In the functional view, (regional) institutions provide a set of functions related to enhancing information about the cooperative behaviour of others, and they thereby ensure the credibility of market building commitments. Given the likely incompleteness of contracts, member states have to put in place procedures to coordinate decision-making between governments across various levels of the bureaucracy.[84] This might, eventually, entail demands for deviation from the unanimity principle in decision-making in order to be able to find agreement on the oft-difficult technical issues involved in the process of economic cooperation. Moreover, it entails an effective procedure for dispute settlement that allows private operators to have confidence in the fact that newly

[84] Cooley and Spruyt (2009), esp. Chapter 5

assumed commitments will be enforceable and actually enforced.[85] Given policy-makers initial starting point, we would expect these arrangements to be as minimalist and decentralised as possible to fulfil the required functions.

Finally, a process of economic cooperation, based on a set of core institutions to facilitate credible commitments, might eventually require certain flanking measures to ensure its continued effectiveness. Thus, rather than reflecting any *genuine* concerns about solidarity, participation or external actorness, functional accounts might argue that minimalist arrangements in these areas are necessary to enhance the efficiency of economic cooperation. Thus, more powerful members might agree to some form of special and differential treatment for their weaker counterparts, as has become common practice in FTAs around the world, in order to secure their continued commitment to the process. Participation by non-governmental actors, especially of the business sector, might also be required to ensure efficient market building rules. Moreover, to the extent that trade cooperation commitments within the group are subject to negotiations with outsiders, they require some form of internal coordination.[86] Again, given policy-makers initial focal point, we would expect these functional demands to be met in a largely ad hoc fashion, as expediency dictates.

Overall, the choice and exact shape of regional rules in these three areas might be based on some form of learning from other available models – an activity that is

[85] Smith (2000)

[86] It is still not obvious to what extent a functional account would expect any form of 'community building' at all. As we will see in more detail in the empirical chapters, even scholars that have sought to construct functional accounts of European integration have admitted that elements such as the role of the EP or the redistributive policies associated with the Common Agricultural Policy or the European structural funds are difficult to account for in purely functional terms (Moravcsik 1998; Pollack 2003, Chapter 4).

perfectly compatible with a functional account.[87] Yet, we would expect policy-makers to turn in particular to those existing models that are in line with their pragmatic founding ethos, that is, to models that appear to reflect a similar type of cooperative understanding. More specifically, when policy-makers design a regional secretariat to coordinate activities, we would expect them to take as a starting point the respective institutions in the WTO or the Organisation for European Economic Cooperation rather than the European Commission. The result would be a pick-and-choose arrangement that combines useful elements from different 'suitable' objects of learning and adapts them to the particular political and material conditions present in the respective region.

How does EU influence now lead to 'deviation' from this functional baseline? More specifically, why and how would we expect policy-makers to change their initial focus on pragmatic ad hoc cooperation and inevitably 'drift' towards increasingly EU-like arrangements?

EU as Switchman

The EU serves as a switchman when other actors choose EU-type rules instead of viable alternatives in regional market, institution and community building as a reaction to exogenous changes in their environment. In contrast to the functional baseline, the switchman dynamic suggests that despite the initial rejection of EU-type integration in all three regions, the EU is nevertheless likely to serve as the focal point

87 See Pierson (2004), pp. 124-6; James and Lodge (2003)

when policy-makers seek to coordinate regional rules, as we have seen.[88] In this case, we can think of the EU as a *suggested* focal point as opposed to an actively constructed one, which I discuss below. Thus, in contrast to Garrett and Weingast's notion of focal points as actively constructed – a process that is strongly implicated by material power dynamics[89] –, I argue that focal points can also emerge suggestively because of their genuine *ideational* attractiveness. We have already seen that policy-makers in many regions 'identify' with and admire the EU, which means that when they are being confronted with a particular cooperation problem, the EU is likely to serve as a 'natural' focal point that is oft-unconsciously taken for granted.[90] As the integration process develops and new cooperation problems appear or older ones recur, the suggested nature of the EU focal also evolves. More specifically, due to the long-standing dominance of neofunctionalism in thinking about European integration, among both academics and policy-makers, regional integration is widely understood as 'naturally' following an inherently expansive dynamic that involves increasing market, institution and community building over time. Some scholars have aptly termed this thinking a 'neofunctional mythology'[91]; yet with potentially powerful implications even beyond Europe's own borders.[92] Some empirical evidence already exists that this 'progressive' conception of regional integration is also prevalent among policy-makers in accession states, even though their exposure to the underlying integration discourse has been much shorter and less pronounced.[93] My interviews also suggested that many policy-makers are very sensitive to the temporal

[88] In fact, we might say that even when it is explicitly rejected, it is still the primary referent around which policy-makers' expectations converge, yet in a negative way.
[89] Garrett and Weingast (1993)
[90] On the more unconscious elements of decision-making, see (Hopf 2010); for the application of such reasoning to African regionalism, see (Gibb 2009). Of course, the emergence of focal points is not only unconscious and might also be the result of their active promotion by actors who expect to benefit from it.
[91] Della Sala (2010), p. 12; see also Gilbert 2008; Hansen and Williams (1999); Goetz (2009)
[92] See Nicolaïdis and Howse (2002), p. 768; Kühnhardt (2010), pp. 45-46
[93] Drulák and Königová (2007)

dimension of their integration process vis-à-vis the EU. Many of them stressed that their process was still a lot more recent, so any ‘fair’ comparison between processes ought to take this into account. A Brazilian policy-maker noted, for example: “You mentioned the EU. The main difference is that we are 17 years old and they are 60 years old. The objectives are very much the same: to integrate, to have a customs union.”[94] When speaking about the future of their integration process, they often formulated expectations that reflected this unconscious understanding of regional integration as a naturally expansive progress. When I asked policy-makers about potential plans or discussions to create EU-type rules, a common response referred to the fact that these changes are *yet* to be considered or that the region is not *yet* ready for them. In the absence of an internalised understanding of regional integration as an expansive process towards increasingly strong regional rules, it is difficult to understand why policy-makers would expect such rules to be relevant *at all*.

The overall dynamic of rule change, in this case, is not reducible to, or even necessarily related to, the functional and therefore tight ‘coupling’ between the three realms of regional cooperation. Instead, the switchman dynamic suggests that the three realms might not only develop independently of each other, but also evolve only in vague relation to functional pressures, especially under crisis-conditions. To start with market building, the EU is itself part of the international system and reacts to other exogenous changes in global economic conditions.[95] Thus, when the EU engages in major rule change in this realm, boundedly rational policy-makers elsewhere reasonably assume that this is not merely a peculiar reaction to some

[94] Interview with Regis Arslanian, June 2009

[95] This phenomenon is at the heart of a controversy in EU studies about how to distinguish between domestic change due to Europeanisation as opposed to wider globalisation pressures (Wallace 2000; Lynggaard 2011).

genuine European concern, but reflects broader structural change in the world economy that is likely to also affects them. Note that this reasoning is potentially independent of the potential for negative welfare effects of such a move itself, which might ‘compel’ others to react. I thus expect that other regions are likely to engage in changes to regional market building that a functional account would not expect. The switchman dynamic also leads us to expect a continued push towards EU-type market building by those actors in other regions, who most strongly identify with the EU, independent of the respective structural context. Nevertheless, the extent to which the EU focal point then leads to outcomes similar to the EU depends on the conditions theorised in the previous section. When decisions are taken in a broader crisis-context, we would expect policy-makers to emulate, rather than learn from, the EU’s reaction. This is expected to lead to more similarity in *formal* rules compared to learning. Yet, in both cases policy-makers are expected to adapt EU rules to their own political and material contexts depending on the degree of fit.

As mentioned before, I expect the coupling between market and institution building to be looser than a functional dynamic suggests. Thus, changes in market building might create incentives for change in institution building, but changes in institutional rules can still happen in the absence of, or independently of, such exogenous change in economic cooperation. Nevertheless, to the extent that we observe EU-type outcomes in market building, there is likely to be functional *and* ideational pressure to create accompanying EU-type institutions. Even though a deep regional integration scheme does not necessarily functionally require centralised and maybe even supranational institutions, an ambition to pursue EU-type market building objectives at least suggests it. The same holds for regional community building. In both cases, weaker actors may actively push for it, plausibly legitimating their claims by reference to the EU and its success in market integration due to strong institutions and other community-related measures.[96] Nevertheless, the extent to which these dynamics lead to EU-type outcomes depends, as before, on the crisis-context and fit conditions.

EU as Driver

The EU acts as a driver in regional integration processes when it changes the incentives policy-makers face for engaging in regional rule change. In contrast to the functional baseline, these changes in incentives are EU-related with predictable knock-on effects on the supply side, which many functional accounts that exogenise such changes in structural context tend to miss. As we have seen, the EU as a driver is mainly the result of the material dynamics associated with learning and rewards and depends on the degree of asymmetric interdependence. When such interdependence is high and EU-related rule change occurs, I expect the EU to serve as a constructed focal point in elaborating a response, thereby increasing the likelihood of EU-type outcomes.[97] Moreover, I expect the dominant mechanism of EU influence in this case to be emulation. The reason is that EU-related exogenous change is likely to usher in a crisis-context, which is the factor underpinning a change in mechanism from learning to emulation. Even though the EU can barely trigger a crisis of the scale comparable to the economic or political crises we generally associate with the crisis-context condition, it can nevertheless significantly increase decision-making uncertainty. This is essentially the dynamic spelled out in organisational theory as

[96] See Finnemore and Sikkink (1998), p. 893. This is a dynamic similar to the one explicated by Schimmelfennig's notion of 'rhetorical action' (Schimmelfennig 2001; 2010, pp. 221-2). I differ from Schimmelfennig in arguing that these dynamics also have an external dimension.

[97] In contrast to Garrett and Weingast's (1993, pp. 183-4) discussion, I thereby highlight the external sources of constructed focal points.

underpinning processes of isomorphism. In this view, organisations that depend on each other for resources, often in highly asymmetric ways, tend to become alike through processes of isomorphism.[98] As a driver, EU influence loosens the coupling between realms of region building even further. EU-related exogenous change in institution building, for example, may be unrelated to market building dynamics and may thereby vary independently. As we will see in Chapter 5, for example, EU threats to withdraw funding for SADC due to poor disbursement rates triggered a reform of the SADC Secretariat that was unrelated to functional requirements stemming from market building commitments per se.

In market building, then, the negative externalities from European integration and the EU's negotiation of interregional trade agreements can shift market building incentives. This is further reinforced by financial and technical assistance, which the EU provides to prepare other regional organisations for such negotiations. Besides trade negotiation capacity itself, this usually includes support for the creation or enhancement of a customs union, the elimination of a wide range of non-tariff barriers to trade and even the formulation of a regional policy in specific areas subject to the agreement. This dynamic is partly endogenous to the process of market building itself in that the EU is more likely to provide such support, the more ambitious regional market building processes are.[99] For reasons mentioned before, I expect such closer engagement with the EU to reinforce the constructed nature of the EU focal point as the EU increasingly monopolises ideational and informational resources serving as the basis for constructing regional responses to exogenous changes in the environment.

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98 DiMaggio and Powell (1991), pp. 74-75; see also Ikenberry and Kupchan (1990); Goodliffe and Hawkins (2009)

99 In this sense, these processes are rather different from the cases in which the EU seeks to induce regionalism from the outside, as in the Western Balkans or the Mediterranean.

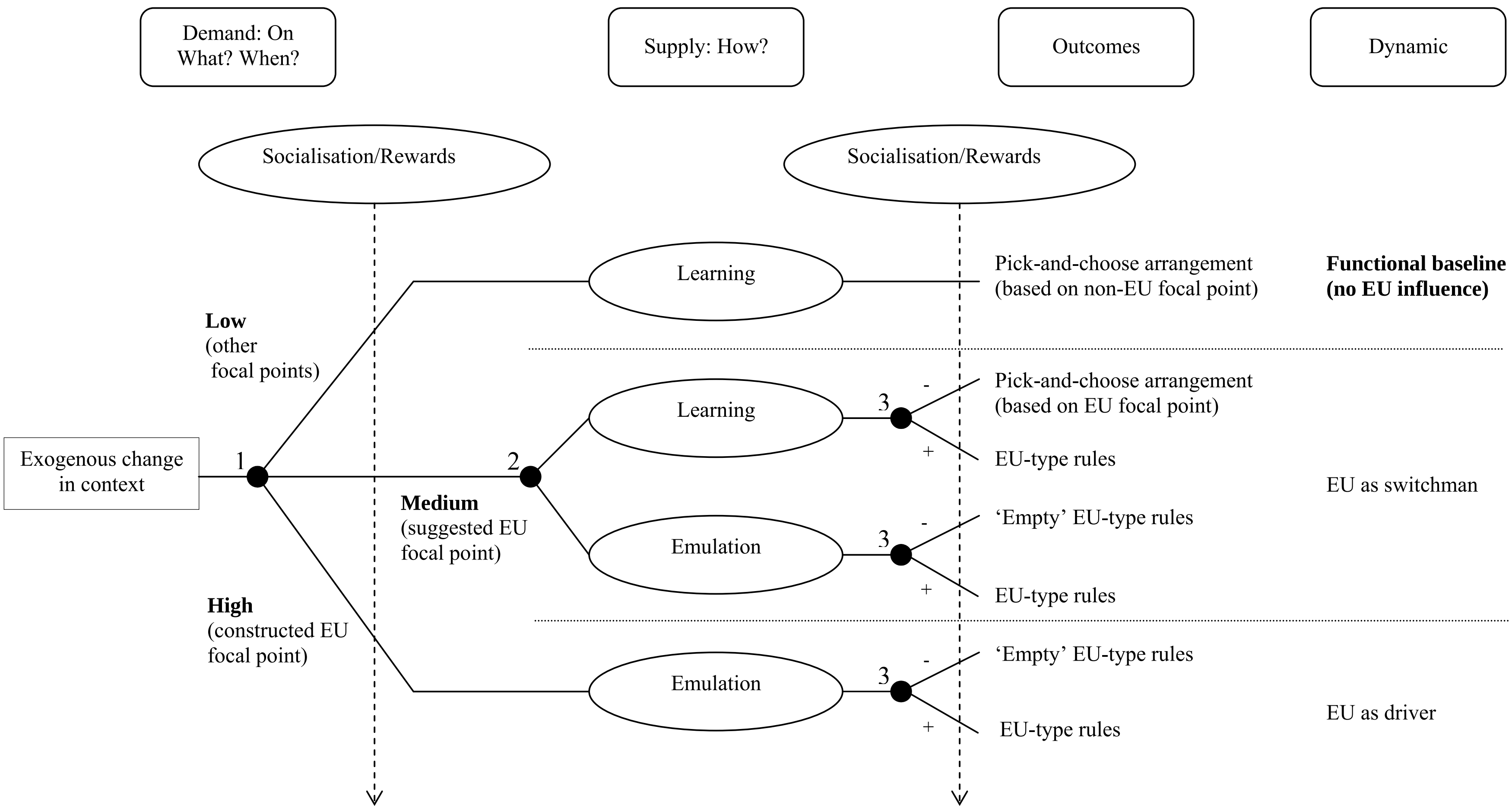
However, the EU's role as a driver of regional integration is not confined to market building processes; it also assists in supporting regional institution and community building. This support can further strengthen endogenous dynamics towards stronger institutionalisation and increasing community building, once again by providing additional financial, informational and ideational resources to actors. For example, the EU provided parliamentarians from Mercosur, who were advocating the creation of an EU-type Mercosur parliament, with information on what such an institution could look like in practice, as well as ideational support through meetings and public backing of these demands. At the same time, an important part of the EU's support focuses on capacity building for regional institutions, which might then themselves have more resources available to pursue the strengthening of their own or other regional institutions. In addition, a significant share of EU financial assistance flows into the elaboration of consultancy reports on specific aspects of regional cooperation. In fact, many institutional or policy changes, especially in SADC and ASEAN, start with recommendations elaborated by external consultants rather than being developed by national or regional bureaucracies. Over time, this large flow of funding dedicated to external consultancy studies drives the creation of a whole 'consultancy industry', as one African consultant mentioned. These networks of consultants, especially prevalent in Africa, are often composed almost entirely either of Europeans themselves or local consultants with extensive knowledge of Europe and the EU. Consequently, their recommendations tend to provide pride of place to EU-style rules. Given the organisation's high degree of aid dependence on the EU and fewer alternative sources of funding compared, for example, to ASEAN, I expect this dynamic to be most salient in SADC.[100]

[100] One of the main reasons is that South Africa, unlike Brazil, is very reluctant to carry a greater

The preceding discussion can be summarised in a coherent dynamic model of EU influence depicted in Figure 3.1 below. It should be noted that even though it is presented as a sequential process, the degree of interdependence and fit often shape policy-makers' reactions to EU influence simultaneously. Moreover, it is important to realise that the distribution of EU-related outcomes in the model is unrelated to the *relative* importance of EU influence more broadly. In other words, the functional baseline might in fact be the most frequent dynamic in many instances (on this point, see also Part 1.4 of the introduction).

financial burden for the integration process *at all* compared to the smaller member states. Even though a comparable situation exists in ASEAN, the organisation is much less reliant on the EU *only* as there are other important supporters of the integration process such as Japan, the US and Australia.

Figure 3.1 – Model of EU Influence on Regional Integration (1 = Degree of interdependence with EU 2 = Crisis-context 3 = Degree of fit)



3.4 Conclusion

This chapter has explicated a theoretical framework to understand EU influence on global regionalism drawing on concepts and tools from diffusion studies and based on the assumption of bounded rationality. It emphasises the idea of the EU as a focal point around which policy-makers' expectations converge when they seek to coordinate a cooperative solution to exogenous changes in their external environment. I outlined two dynamics by which the EU focal point exerts an effect on outcomes, both of which tend to increase similarity with the EU over time. I argued that the EU serves as a switchman when, based on the EU as a suggested focal point, policy-makers learn from or emulate EU rules given a particular set of incentives for regional rule change. It acts as a driver when the Community affects the very incentives for rule change through rewards and socialisation and thereby constructs the EU as a focal point, which further enhances EU-likeness in outcomes. I outlined a series of hypotheses about the conditions under which we can expect these dynamics to operate successfully, and I developed a set of observable implications that make them testable in qualitative empirical research.

This theoretical framework structures all the narratives of the episodes of regional rule change examined in the following empirical chapters, which deal with regional market building, institution building and community building respectively. I start with regional market building in the next chapter.

Chapter 4

Regional Market Building

Regional market building – the integration of national economies within a geographic region by removing barriers to intra-group trade – forms the core of any economic cooperation project. Its rationale is to enlarge the (limited) size of national markets by allowing operators to capture efficiency gains associated with economies of scale and the reduction of transaction costs.[1] As we saw in the introduction, all three regions started out by explicitly rejecting any type of market integration and were also reluctant to *cooperate*, even in a very cautious manner, in the economic realm. In fact, initial cooperation efforts were mainly confined to political cooperation and, in the case of SADCC, some trade-related matters to lessen economic dependence on South Africa. Today, all three regions pursue ambitious common market objectives along the lines of the EU and have made some, albeit limited, progress towards achieving them. While Mercosur has probably gone furthest, establishing an (incomplete) customs union (CU) and starting to integrate a range of economic policies such as services, investment, labour, competition and government procurement, both SADC and ASEAN have barely moved beyond a reduction of tariffs and quotas. Non-tariff barriers to trade (NTBTs) remain a big problem in all three regions. How can this formally dramatic, yet in practice only partial, evolution towards constructing common markets be understood?

[1] For a good overview, see Baldwin and Venables (1995)

In this chapter, I analyse this development from the perspective of EU influence drawing on the theoretical framework outlined in the previous chapter. The EU is the most successful instance of regional market building in the contemporary era having, over the course of six decades, gone a long way towards creating a Single Market among 27 European countries. This process has reached deep into territory that formerly formed the exclusive realm of national governments: member states have pooled their power and resources by erecting a CU, 'Europeanising' a wide range of market rules including in the areas of services, capital, labour, competition and monetary policy, and managing NTBTs through basic harmonisation and the "managed mutual recognition" of national rules.[2] In market building, the EU thus represents a form of supranational cooperation. Born out of this positive experience with market building, the European Commission (ECom) in particular has also actively supported similar processes around the world, including the three regions under study.

In this chapter, I seek to show that these EU achievements have had a discernable, yet sometimes subtle, impact on regional market building in ASEAN, Mercosur and SADC by serving as a constant focal point in regional debates about economic cooperation. I argue that the EU constructed a focal point for debate with its 1992 project, which has gradually led policy-makers to emulate the EU's common market model; yet, limited economic incentives and a continued scepticism in many member states regarding ambitious trade liberalisation mean that they remain far from the achievements of the European Single Market in practice. Even though the global environment was favourable towards trade liberalisation during most of this period, I

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[2] Nicolaïdis (1996)

posit that it was largely indeterminate as to the main context and ambitiousness of trade liberalisation commitments. Thus, close attention to the sequencing of decisions and scrutiny of actual policy debates reveals that the EU acted as a switchman between similarly or even more plausible alternatives of an ad hoc or intergovernmental type. In practice, however, the realisation of these EU-type market building objectives has encountered problems in all three regions, partly due to a lack of economic fundamentals. Nevertheless, I contend that EU technical assistance as well as the negotiation of interregional trade agreements has spurred further EU-inspired effects in this regard.

I develop these arguments in three parts. The first part presents data to suggest that the broader structural context of market integration has been largely indeterminate if not outright unfavourable towards ambitious *regional* market building efforts in all three regions. Thus, from the perspective of standard political economy models, the evolution of regional market building processes constitutes a puzzle. The next two parts address two dimensions of regional market building, which tend to form sequential steps in the long-term process of market building. The second part, then, deals with the politically determined objectives of the integration endeavour, which we can think of as aspirational commitments on the ambitiousness of the market building activities policy-makers aim to develop. The third part scrutinises the practical pursuit of these objectives through the creation, adoption and implementation of common rules. It focuses on the CU issue as well as core market policies and NTBTs – three central areas in any market building process.

4.1 Persistent Puzzles in Regional Market Building

When confronted with exogenous incentives for increasing market building, policy-makers face a generic choice between three broad alternatives, conforming to the three potential focal points outlined in Chapter 3. First, member states can choose to cooperate in the most expedient context as suggested by the flow of trade and investment patterns (ad hoc cooperation). Given member states' initial reluctance to go beyond gradual and very selective forms of economic cooperation, we would expect such cooperation to be confined, mainly, to tariffs and quotas in trade in goods. Second, member states can choose a narrow and largely sovereignty-preserving FTA represented, in its 'modern' form, in NAFTA (intergovernmental cooperation). It seeks to eliminate barriers to trade in goods and services, generally accompanied by shallow forms of mutual recognition (MR) to overcome differences in NTBTs and explicitly rejects any coordination of public policies such as social agendas or macroeconomic policies. The third, supranational alternative is a common market model, as embodied by the EC. It entails the free circulation of all factors of production – goods, services, capital and labour –, usually coupled with the establishment of a CU and a common external tariff (CET), the harmonisation of technical rules and regulations, more ambitious and often highly intrusive forms of MR and the coordination of economic, financial and other public policies.[3]

Table 4.1 below gives an overview of the main characteristics of regional market building activities in the three regions and compares them to the EC and NAFTA. It is obvious that they are more similar to the EC supranational theme rather than the US-

[3] It should be noted that these three alternatives are not necessarily mutually exclusive. Member states may pursue especially ad hoc cooperation externally and, at the same time, an intergovernmental or supranational form of cooperation inside the region – a theme I come back to throughout this chapter.

favoured intergovernmental FTA arrangement or even ad hoc cooperation. Is this pattern best explained as purely independent adjustments to certain structural conditions, following a functional logic, or is it unintelligible without an understanding of EU influence?

Table 4.1 – Main Characteristics of Regional Market Building Processes

Main treaty basis (Date)	(Abstract) Goal	Objective	CU/CET	Approach to NTBTs	Flanking policies*
EC, Treaty of Rome (1957), Maastricht Treaty (1993)	Economic Community → Economic Union	CM in goods, services, capital and labour	Yes	Intrusive: harmonisation, MR	Macroeconomic coordination; monetary integration
ASEAN, Bali Concord II (2003)	Economic Community	CM in goods, services, investment, some capital and skilled labour	Under discussion	Rather intrusive (envisaged): basic harmonisation and sectoral MR agreements	Macroeconomic coordination envisaged; monetary integration (ASEAN+3)
Mercosur, Treaty of Asunción (1991)	Common Market	CM in goods, services, capital and labour	Yes, but imperfect	Intrusive (imperfect): harmonisation and some MR	(Partial) macroeconomic coordination; monetary integration under discussion
SADC, Treaty of Windhoek (1992), RISDP (2003)	Economic Community	CM in goods, services, capital and labour	Envisaged	Intrusive (envisaged): harmonisation and some MR	Macroeconomic coordination envisaged; monetary integration envisaged
NAFTA, NAFTA Treaty (1992)	FTA	Free circulation of goods, some services and capital	No	'Minimalist': abolition of tariffs/quotas and mainly MR	None[1]

Notes: * Flanking policies are essentially all policies not related to the core of market liberalisation in the respective areas, but I restrict the list to strictly market enhancing measures. Additional policies are discussed in the section on community building. CM stands for common market.
[1] The environmental and labour protocols are not flanking policies in that they restrict rather than enhance the functioning of the FTA.

Source: compilation by author

Standard economic and political economy explanations view (regional) market building as a series of *independent* decisions in view of regional or global structural conditions facing governments. These accounts point to global interdependence in trade and finance, which had risen significantly since the 1970s and offered substantial incentives for international trade and monetary cooperation.[4] This was made possible by a worldwide shift in domestic economic policies that were more outward-oriented and aimed at privatisation and deregulation, sometimes heavily influenced by the conditionality attached to structural adjustment programmes of international financial institutions.[5] Moreover, many scholars have suggested that regional integration was the 'logical' alternative to stalemate in the Uruguay Round of GATT multilateral trade talks in the late 1980s, either to guard against its failure or as a means towards gaining increasing bargaining leverage.[6] These factors certainly form important, maybe even necessary conditions to account for the – clearly overdetermined – *general* move towards increasing economic cooperation from the late 1980s onwards; yet, they are insufficient, and in some cases quite misleading, to account for the pattern identified in Table 4.1.

From a structural perspective, the incentives for trade liberalisation in the *regional* context are far from strong. Table 4.2 presents the development of intra-regional economic interdependence from 1990 to 2009. It shows that interdependence was and, despite considerable (unilateral and regional) liberalisation, continues to be much lower than in the EU and North America, suggesting that the potential gains from

4 Sandholtz and Zysman (1989), pp. 103-6; Moravcsik (1998), p. 3
5 Haggard and Kaufman (1992); Kahler (1992); Mailafia (1997); Teichman (2001); Simmons and Elkins (2004)
6 Bhagwati (1994); Hurrell (1995c), pp. 63-64; Haggard (1997), pp. 26-27; Mansfield (1998); Mansfield and Reinhardt (2003). Some have also stressed the third wave of democratisation as a driver of regionalism in the late 1980s (Mansfield et al. 2002; Milner and Kubota 2005).

regional trade integration are limited. The comparatively higher numbers for ASEAN are mainly due to bilateral trade between Singapore and other member states, which already has a very open economy with little additional gains through intra-regional liberalisation. The 'jump' in intra-regional trade in SADC between 1990 and 2000 is mainly due to the accession of South Africa to the grouping, but regional trade liberalisation based primarily on the SADC Trade Protocol, which entered into force in 2000, seems to have had little effect on intra-regional trade patterns.[7]

Table 4.2 – Patterns of Regional Economic Interdependence
(intra-regional trade/all external trade, in %)

	1990	1995	2000	2005	2009
EU	63.9	64.6	61.4	65.7	65.6
NAFTA	38.2	41.5	46.4	42.9	39.3
ASEAN	18.0	22.0	23.7	24.6	24.8
Mercosur	11.1	19.2	20.4	15.7	16.0
SADC	1.0	[28.1]	15.6	13.8	11.8

Notes**:** Data for ASEAN is only available for ASEAN-10 throughout, despite the fact that enlargements took place only in 95 and 98/99; the 1995 figure for SADC appears questionable.

Source: WTO; for SADC, UNCTAD and COMTRADE

In fact, in the late 1980s when moves in that direction began, intra-regional trade interdependence was generally lower than it had been a decade earlier due to the debt crisis, which badly affected many countries in Latin America, Africa and Asia.[8] Especially in Latin America and Africa, it tended to question, rather than reinforce,

7 For evaluations of the reasons, see Chauvin and Gaulier (2002)

8 For a good general overview, see Eichengreen and Lindert (1992); for exact numbers on South America, see Manzetti (1990), pp. 113-4

belief in the continued viability and desirability of regional (economic) cooperation efforts.[9]

This explains why accounts of trade integration in these regions have found no significant involvement of sectoral interest groups regarding the broad contours of economic cooperation, which could be compared to the influence of private actors in the EU and North America at critical junctures.[10] They have either been conspicuously absent altogether, rendering these decisions entirely political ones taken in small elite circles, or protectionist rather than offensive interests seem to have dominated, reinforcing the current puzzle. To the extent that involvement did exist, it focused on particular technical aspects of integration.[11] This finding in the literature was confirmed by my interviews. Policy-makers themselves as well as representatives from the private sector agreed that there was little interaction at the time the decisions about new market building objectives were taken. To a limited extent, however, they did get involved in the implementation of concrete measures and trade liberalisation commitments.

On the other hand, external trade interdependence is much higher than internal trade interdependence. Table 4.3 below displays the numbers for each region's external trade interdependence with the EU and the US from 1990 to 2009. Even though it

9 Manzetti 1993, p. 104; Bouzas (1990)

10 See Streeck and Schmitter (1991), esp. pp. 148-50; Green Cowles (1995); Milner (1997); Moravcsik (1998). Given the limited potential gains from regional trade liberalisation, this might not actually be that surprising. But it does raise the question, of course, why policy-makers have engaged in such ambitious endeavours in the first place.

11 For Mercosur, see Gardini (2006); Botto (2007), esp. p. 264; Grandi and Bizzóero (1997), p. 36; Cason 2000, p. 24; for SADC, see Davies (1996); Lee (2003); for ASEAN, see Lim (1994), esp. p. 132; Yoshimatsu (2007); Ravenhill (2008), p. 482. Supposedly, Japanese multinationals voiced some demands on ASEAN policy-makers, but these also referred to specific issues in several ASEAN programmes such as rules of origin and regional content requirements (Yoshimatsu 2001).

varies across regions and between the two big players, the main point is that the degree of interdependence is consistently higher externally than internally.[12] Rather than investing most of their energy in intra-regional trade liberalisation, we would thus expect policy-makers to invest primarily in seeking integration with the EU and US (or multilateral or unilateral liberalisation).[13] However, member states have regularly been very reluctant to sign, or have entirely resisted attempts at, plurilateral or interregional trade deals with the EU and the US. The EU has not been successful in signing interregional trade deals with any of the regions, as we saw in Chapter 2. Regarding the US, this holds for APEC, partly for the Free Trade Area of the Americas (FTAA) (see below) and also for the (limited) commercial agreement with the Southern African Customs Union.[14]

Table 4.3 – Trade Dependence on External Partners (EU and US)
(trade with EU and US/all external trade, in %)

	1990	1995	2000	2005	2009
ASEAN	14.0/15.8	14.5/16.3	12.7/16.7	11.6/12.5	11.3/9.8
Mercosur	26.9/20.2	26.6/18.9	23.8/20.5	21.3/16.9	20.7/11.6
SADC	20.3/10.0	30.2/10.8	34.4/12.1	32.4/12.3	26.3/11.3

Note: For SADC, no respective trade data was available for Botswana, Lesotho, Swaziland and Namibia.

Source: UNCTAD and COMTRADE

[12] In ASEAN, trade dependence on the EU and US has lessened considerably over time due to the rise of China.

[13] Therefore, some observers have cautioned against using "too much resources on liberalization within a mini scheme" – a comment made in relation to ASEAN, but which holds for other groupings as well (Langhammer 2001, p. 287).

[14] See Haggard (1997); Stoneman and Thompson (2007). While the reasons for this reluctance and failure are manifold and complex, the relatively larger importance of trade access to those markets would lead us to expect, *ceteris paribus*, that negotiations are comparatively easier there than in the intra-regional context, which is not the case.

The lack of strong commercial incentives for *intra*-regional trade liberalisation make it even more puzzling that policy-makers in all three regions have opted for very ambitious and potentially more intrusive EC-type common market arrangements rather than sovereignty-preserving NAFTA-type FTAs. Given that the two alternatives are not readily distinguishable in terms of effectiveness or efficiency, we would expect the latter to be more compatible with almost all member states' intense preferences for protecting national sovereignty, and to be potentially more 'appropriate' to the limited economic incentives for intra-trade liberalisation. This is why so many area experts have themselves been puzzled by these seemingly overambitious market building efforts and have regularly suggested different approaches to regional economic cooperation, such as mere trade *facilitation* or 'simple' FTAs.[15] Functional theories are unable to account for such gaps between ambitions and actual achievements. To the extent policy-makers deem it substantively important to engage economically within their own regions, they should create the conditions that allow them to do so. To take just one concrete example, if member states were indeed convinced that stalemate in the Uruguay Round constituted a threat to their prosperity and saw regional integration as offering an adequate solution in response, there is no reason why progress towards that goal was as elusive as it has been in many cases. Potential collective action problems should have been anticipated and dealt with accordingly.

In sum, standard political economy explanations based on the commercial incentives governments encounter suggest that ad hoc cooperation outside the regional context

[15] For ASEAN, see Ravenhill 1995, p. 866; Akrasanee and Stiefel 1992, p. 32; Pelkmans (2009); for SADC, see Chauvin and Gaulier (2002), pp. 50-52; Mistry (200l); Draper (2010); for Mercosur, see Burges (2005); Tulchin and Espach (2002), p. 7; Pang (2003)

or, at the most, some form of 'shallow' regional FTA arrangement could have been expected. Instead, governments chose 'deep' common market ambitions. Why? In the remainder of this chapter, I lay out in some detail how EC influence has affected these regional market building decisions.

4.2 Market Building Objectives

In the post-World War II era, international trade liberalisation, for the most part, consisted in the gradual removal of tariffs and quotas and took place mainly in the context of the GATT. The EC's common market process was thus a novelty, which had traditionally been associated with nation state building (the US being a prime example).[16] Even though the distinction between the EU market building model and international trade cooperation more broadly has become increasingly blurred over time as the multilateral trade agenda has encompassed ever more issues, we can nevertheless say that the EC has often been the pioneer in addressing 'new' trade issues in novel ways, which later found their way onto the multilateral agenda.[17] Maybe the most important pioneering initiative in the history of European integration was the so-called '1992 project', i.e. the process that started in the early 1980s and aimed to complete Europe's Single Market by 1992.

In this part, I make two main claims regarding the influence of the EU's 1992 project. First, I argue that it was the announcement of this initiative that catalysed discussion on enhanced economic cooperation in all three regions and suggested the EC as a focal point for subsequent debate on how to proceed. However, during this early

[16] See Parsons and Richardson (2004)
[17] Debate about the so-called 'Singapore issues' in the WTO is a case in point (see Jones 2006).

period the EC only served as a 'rough' guide to cooperation, with policy-makers adapting the EC agenda to their respective political and structural circumstances. Second, I suggest that the EC subsequently became the main driver of the process towards increasing trade liberalisation at the regional level as the deadline for the 1992 project was approaching, thereby constructing a focal point around which policy-makers' expectations converged on how to react to broader changes in their environment. As a result, policy-makers emulated EC-style market building objectives, the exact shape of which depended mainly on policy-makers' political attitudes towards trade liberalisation. While SADC and Mercosur moved towards an EC-style common market in the early 1990s, ASEAN only did so in the early 2000s, after another major crisis in the region.

Early Market Building and Europe's 1992 Project

Before the EC embarked upon its 1992 project in the early 1980s, regional economic cooperation played a negligible role in any of the three regions. SADCC and the Argentina-Brazil dyad had barely started to discuss the possibility, while ASEAN had begun experimenting – yet clearly without much vigour (and success) – with economic cooperation projects since the late 1970s. The 'relaunch' of Europe to overcome a decade of economic crisis and address fears of industrial decline changed this picture fundamentally.

Widely publicised by the European and international media, European policy-makers adopted a decidedly regional response to address these competitiveness problems through a series of novel approaches that went far beyond a mere 'completion' of the

Community's original objective with the Single European Act (SEA).[18] Laid down in the ECom White Paper on the Internal Market of June 1985, Europe's response encompassed the decisive removal of remaining barriers to intra-group trade through MR (and only minimal harmonisation) based on a clear timetable, tackled extensive liberalisation of trade in services and highlighted the role of supporting and flanking policies primarily concerning increasing investment in industries, infrastructure as well as research and technology.[19] This initiative would quickly resonate around the world. It strengthened policy-makers' belief in the desirability and feasibility of closer regional economic cooperation and thereby triggered more decisive moves in a similar direction. Rather than 'jumping' straight towards an EC-style common market objective along SEA lines, however, learning from the EC experience suggested a more cautious approach that took into account regional structural constraints as well as policy-makers' reluctance to integrate their economies across-the-board. The result was a cooperation agenda in all three regions in the late 1980s and early 1990s that took bits and pieces from the EC's old and new economic integration agenda.

Amidst intense debate about the Single Market, European business actors, thrilled by the dynamics in Europe, as it were, also conveyed to SADCC policy-makers that "business-men clearly need an approach which is specifically tailored to them if SADCC is to make any impact on the attitudes and practices of the business community."[20] The SADCC Council of Ministers thus commissioned a study in 1984

[18] Authors have noted that this response was only one among several conceivable alternatives (Sandholtz and Zysman 1989, esp. pp. 106-7; Fligstein and Mara-Drita 1996, p. 12; Moravcsik 1998, pp. 315-6; Parsons 2010)

[19] European Commission (1985)

[20] SADCC Council, January 1985, p. 82

to make recommendations on enhancing intra-SADCC trade cooperation.[21] It was conducted by the Norwegian research centre *Christian Michelsen Institute* during the height of debates about the SEA and studied the European experience in some detail. Based on its assessment, it showed little enthusiasm for the idea of market liberalisation measures in Southern Africa arguing that "tariff reductions… are likely to have little or no effect on the volume of intra-regional trade."[22] Instead, it proposed more investment and trade facilitation in the region's productive sectors – a major theme also of the EC's 1992 project.[23] At that time, policy-makers in the region understood well that the 1992 project was indicative of a wider shift in global economic policy that would not leave Southern Africa untouched. Botswana's President noted, for example: "We understand that the single European Act of 1987 will come into effect soon… If the Europeans need this kind of economic cooperation, we must need it even more."[24] As a result of the trade study, they established a new Trade and Industry sector, launched an investment programme in SADCC's productive sectors to enhance investors' confidence and established a Regional Business Council, which had made headlines in the SEA context.[25] The new investment policy aimed to "establish effective regionally coordinated production structures" and a "regional market in order to assure the viability and competitiveness of the region's firms"[26] – thereby copying literally some of the formulations from the SEA.

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21 This was initially a reaction to the creation of the Preferential Trade Area for Eastern and Southern African States, which overlapped in membership and pursued somewhat similar objectives (see Anglin 1983, pp. 702-5).
22 SADCC Secretariat (1986), p. 109
23 *Ibid.*
24 SADCC Summit, July 1988, p. 33
25 See SADCC Secretariat (1986); SADCC Council, July 1987 (Vol. 2), pp. 65, 117
26 SADCC Council, July 1988 (Vol. 1), p. 175

In South America, Argentinean and Brazilian technical experts had begun discussions on closer economic cooperation in the early 1980s entirely independent of developments in Europe. These eventually concluded, however, that "Argentina and Brazil were not ready for economic integration", as two experts involved in the discussions noted.[27] While political ambition for cooperation remained and progress was made in the security field, at least until March 1985 no "specific or structured proposals about the forms needed to reach these objectives [economic cooperation]" had been developed.[28] This situation only changed once integration in Europe gathered pace. In March 1985, the European Council had set a concrete date for the completion of the Internal Market and in June, it endorsed the ECom White Paper with concrete proposals on the completion of the Single Market. It seems hardly coincidental that only one month after that, the two governments commissioned a study on a "practical, direct, flexible and effective mechanism of economic integration." as Argentina's then foreign minister Dante Caputo later recalled.[29] This culminated in the November 1985 Iguaçu Declaration, which declared the ambition to liberalise bilateral trade and established a commission to make proposals – clearly before the Canada-US Free Trade Agreement (CUFTA) was on anybody's cards. According to existing scholarly accounts, the commission had studied the EC's early experience of market integration in the ECSC and had sought to learn lessons from the failure of earlier integration attempts in Latin America.[30] To the surprise of many observers given the absence of any broad debate in either country[31], this led to the Economic Cooperation and Integration Programme (PICE) in July 1986, which

[27] Cited in Gardini (2005), p. 408
[28] Gardini (2005), p. 412
[29] Caputo and Sábato (1991), p. 202, my translation
[30] Botto and Quiliconi (2007), p. 215; see also Vasconcelos (2007), p. 167; Manzetti (1990)
[31] Chudnovsky and Porta (1989), p. 115

adopted the sector-to-sector approach of the ECSC.[32] The PICE thus sought cooperative market opening in a gradual fashion steering clear of the alternative development paradigm of radical unilateral economic liberalisation pioneered by Chile in the 1970s. At the same time, however, high-level policy-makers already referred to an EC-style common market as the ultimate "dream for both countries."[33] In many respects, the EC integration experience formed the primary focal point for policy-makers in the Southern Cone from the beginning of economic cooperation efforts.

As the PICE protocol system turned out to be cumbersome, both countries soon began looking for a more general and comprehensive approach to regional economic integration.[34] This time around, policy-makers studied both the EC and CUFTA, which was being negotiated at the time. Realising the less favourable economic conditions and trade patterns for regional economic integration in the Southern Cone compared to North America, they concluded that it was sensible to deepen the process gradually and start with a FTA rather than jump towards an EC-style common market objective right away.[35] Thus, mention of a CET – which remained the ultimate objective – was eliminated again from draft treaty texts.[36] This learning process ultimately resulted in a comprehensive Treaty of Integration, Cooperation and Development in November 1988, which codified the creation of a 'common market' as a long-term ambition (Art. 5). While it laid out concrete steps only for the establishment of an FTA, it bore clear resemblance to the SEA. It envisaged the

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32 Botto (2009)
33 Interview with the Head of the Brazilian negotiating team, Francisco Thompson Flores (cited in Gardini 2010, pp. 81, 82)
34 For an evaluation and its difficulties, see Manzetti (1990)
35 Gardini (2010), p. 82
36 Interview with Beatriz Nofal, Undersecretary in the Argentinean Ministry of Foreign Affairs (cited in Gardini 2010, p. 82)

removal of all tariff and NTBTs, the harmonisation of a series of flanking policies such as agriculture and transport as well as the coordination of monetary, fiscal and exchange rate policies (Arts. 3, 4) and the gradual harmonisation of policies 'related to human resources' (Art. 5).

In ASEAN, discussions about the SEA as well as the Community's enlargement towards Spain and Portugal also reverberated, elevating enhanced regional trade cooperation to the top of the agenda in the latter half of the 1980s. Countries feared the potential impact of trade and investment diversion to the new EC members – an issue they raised directly with the EC. Only three months after the accession treaties had been signed, both sides agreed to set up a joint working party on investment, which was tasked to make recommendations on how to improve European investment in ASEAN.[37] On the other side, member states considered enhanced regional economic cooperation among themselves: in August 1986, at the first meeting of economic ministers after the signing of the SEA, the ministers discussed "a comprehensive range of new initiatives to further enhance ASEAN economic cooperation", including proposals not only on most of the issues covered by the SEA, but also entailing similar approaches (sectoral or across-the-board tariff liberalisation, rollback of NTBTs, harmonisation of investment laws, services cooperation, etc.).[38] At the meeting, the Philippines even proposed the establishment of a CU.[39] But which of these initiatives should be adopted?

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[37] ASEAN-EC Ministerial Meeting (1985), para 16. One of the results was the establishment of Joint Investment Committees in all ASEAN states (ASEAN-EC Ministerial Meeting 1986, para 21).
[38] ASEAN Economic Ministers (1986), para 8
[39] Chandra (2008), p. 126

The ASEAN-EC working party on investment delivered its recommendations in the summer of 1986, advocating tackling the fragmentation of the ASEAN market by addressing tariff and non-tariff barriers to trade between member states – a proposal with clear similarities to the ultimate objective of the 1992 project in Europe.[40] At the economic ministers meeting in August, the Senior Economic Officials were tasked to study the various initiatives.[41] The officials eventually concluded – with clear allusion to the EC – that "a 'textbook model of economic integration' was not feasible" in the region due to member states' continued reluctance to open their economies decisively.[42] The Manila Summit in December 1987 adopted many of the proposals of the ASEAN-EC working party on investment in order "to intensify efforts toward a significant expansion of *intra*-ASEAN trade", but did not embark upon decisive trade liberalisation.[43] Thus, the EC served as a rough guide to cooperation in ASEAN, but measures were adapted to suit local contexts and policy-makers sought to avoid overt associations with an EC-style integration project.[44] The core of this effort was the improvement of the earlier Preferential Trading Arrangements, which, like the EC's 1992 programme, put in place a definitive timetable (the end of 1992), annual reviews to monitor progress and spoke for the first time in an ASEAN agreement about the need to address NTBTs. Moreover, member states started a whole flurry of new activities in all of the major areas of the SEA such as investment, finance and

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40 ASEAN-EC Ministerial Meeting (1986), paras 17-21; Robles (2004), p. 103
41 ASEAN Economic Ministers (1986), para 9
42 Jetschke (2009), p. 416; see also Akrasanee and Stiefel (1992), p. 29; Ariff (1992), p. 212
43 ASEAN Summit (1987), my emphasis
44 Even a mere FTA recommendation by some policy advisor a the time was fiercely rejected because it evoked fears of a fledging EC (Naya and Plummer 1997, p. 118).

banking, services, research and development as well as transportation and communication.[45] Within less than two years, they had signed 11 new agreements.

In sum, in all three regions the main impetus for and broad contours of renewed efforts at economic cooperation in the late 1980s were closely associated with Europe's fledging 1992 project. Table 4.4 summarises the sequencing of decisions in early market building across the three regions, indicating that the EC indeed formed a major "pace-setting effort"[46] that spurred an enhancement of regional economic cooperation efforts everywhere. It also served as a guide to cooperation in terms of content constituting a focal point around which policy-makers' expectations could converge in response to an international context that appeared to be gradually changing. As a result, they enacted new regional measures to expand intra-regional trade entailing cooperation on investment and NTBTs. Nevertheless, policy-makers adapted EC integration 'themes' to their own circumstances depending on the respective structural and political conditions. In a way, until the late 1980s, economic cooperation in all three regions had reached an equilibrium of what appeared sensible and feasible to do *intra*-regionally.

[45] Most of these matters had never been on ASEAN's agenda before (see Cooperation in Finance and Banking (COFAB); available at: http://www.asean.org/9701.htm [last access: 30.9.2011]).

[46] Bressand (1990), p. 47

Table 4.4 – Sequence of Important Decisions in Regional Market Building Efforts

Year	EC		ASEAN		Argentina-Brazil		SADCC		US-led Efforts	
1984	12	Completion of Internal Market is agreed in principle					7	Study on intra-regional trade commissioned		
1985	3 6	European Council sets date to 1992 European Council adopts ECom White Paper; signing of Spanish and Portuguese Accession Treaty	10	Establishment of ASEAN-EC Working Party on Investment	7 11	Study on economic integration mechanism commissioned Iguaçu Declaration adopted				
1986	1 2	Official accession of Spain and Portugal Single European Act signed	6 8	ASEAN-EC Working Party on Investment delivers proposals Study on economic cooperation commissioned	7	Economic Cooperation and Integration Programme adopted	3 9	Trade Ministers recommend intra-SADCC trade cooperation programme CC theme paper approved: Investment in Production	5	Negotiations on CUFTA begin
1987	1	SEA enters into force	12	Manila Declaration adopted			2	CC: investment programme launched	10	CUFTA finalised
1988					11	Treaty of Integration, Cooperation and Development signed	8	SADCC Trade and Industry Sector established	10	CUFTA signed after controversial debate in Canada

<u>Note</u>**:** The numbers indicate the respective months, ranging from 1 (January) to 12 (December). CC stands for Consultative Conference.

Approaching 1992 and the Spread of EC-style Market Building in the Early 1990s

In the late 1980s, there was thus little social demand to enhance again the new market building initiatives that had just been adopted. Moreover, there was no 'functional' reason to go further, as none of the earlier projects had been successfully 'completed.' Instead, the issue of reform was catapulted back onto policy-makers' agenda through exogenous changes in the environment. These changes, I argue, led policy-makers to further tread the path towards EC-style common markets, sometimes actively catalysed by the EC.

In the case of Southern Africa, the EC played the most direct role in helping to catalyse the move towards the emulation of an EC-style common market objective with the Windhoek Treaty in 1992. In the early 1990s, a general fear of marginalisation encompassed the continent in view of increasing tendencies towards regionalisation elsewhere in the world. Many expert groups at the time asserted that "stronger emphasis should be given on [*sic*] the objective of achieving economic integration" in SADC.[47] The Director of the SADC Secretariat expressed the widespread sentiment that, despite questionable economic incentives, "Southern Africa has *no choice* but to follow the path of regional integration."[48] This overwhelming perception essentially excluded mere ad hoc cooperation outside the regional context from policy-makers menu of feasible alternatives; yet, this still left them with two options, as a Secretariat document noted: "In the face of … the current

47 Malima et al. (1991), p. 375; more generally, see Herbst (2007)
48 Ramsamy (2001), p. 34, my emphasis

international tendencies toward the establishment of economic blocks, the region must accept to transform itself into an economic block similar to the proposed North American free trade zone or the European Economic Community."[49]

At this critical juncture, the EU was directly involved in generating important incentives for *EU*-type rule change. It occurred against the background of the foreign debt crisis, which had made many countries in the region subject to the austerity programmes of international financial institutions.[50] These programmes questioned the continued viability of the regional cooperation process as the SADCC Programme of Action consumed significant resources and therefore threatened to deepen countries' difficulties in servicing their debt obligations. A Secretariat note to the Council in 1987 warned, for example, that "the mounting difficulties for SADCC member states to meet their debt-service obligations" would make it very difficult to "contract new debt for implementation of the Organisation's Programme of Action". It noted, at the same time, that given these conditions "most of the financing for the Programme [would] have to come from … SADCC's cooperation partners."[51] Towards the end of the 1980s, however, considerable uncertainty emerged as to the continued willingness of donors to provide much-needed funds. Many countries of the quickly dissolving Soviet Bloc withdrew their contributions and the EC, the most important remaining donor, voiced increasing dissatisfaction with SADCC's poor

[49] SADCC Secretariat (1991b), p. 361. An FTA was also seen as compatible with wider African ambitions to form Regional Economic Communities (SADCC Council, 1991, pp. 33-35).
[50] For a good general overview on the topic, see Eichengreen and Lindert (1992).
[51] SADCC Secretariat (1987), pp. 70, 67, respectively

disbursement rates of EC funds.[52] This led the Community in the early 1990s to consider redistributing financial support away from SADC.

This situation clearly affected policy-makers' incentives to take action that would restore credibility with the Community. Given SADCC's high dependence on external funds – around 90 percent of its budget was made up of external contributions – the EC's consideration loomed large. Thus, a Secretariat document noted worryingly: "On all accounts, if [this] EEC position is sustained, the SADCC Programme will suffer enormously from a reduced regional allocation."[53] In this situation, a mere NAFTA-type FTA was never seriously considered as a viable alternative to an EC-style common market objective. No debate seems to have taken place considering the effectiveness of these two options.[54] Without any serious assessment, the 1991 Council concluded that the new framework for regional integration must provide "for crossborder investment, trade and labour and capital flow across national boundaries"[55] and Zimbabwean President Robert Mugabe spoke at the Summit of the "facilitation of movement of peoples, goods and services" and "greater cooperation in fiscal and monetary affairs."[56]

However, what ought the details of this broad ambition look like? Here, EU consultants provided important support in elaborating what was until then just a generic political ambition. They assisted in the elaboration of the theme document for the 1992 Consultative Conference, which officially 'justified' the ambition to create a

52 Council Records, July 1988 (Vol. 1), p. 95
53 SADCC Secretariat (1991c), p. 51; Holland (1995), p. 269; see also Adelmann (2008), p. 7
54 The SADCC records mention no single study, expert hearing or any other activity that would indicate some form of information gathering and analysis.
55 SADCC Council, August 1991, p. 16
56 SADCC Summit, August 1991, p. 53

'single regional market' and even mentioned 'ways to achieve a greater coordination of external tariff policy.'[57] Yet the theme document concluded, similar to the 1984 trade study, that "[p]romoting trade integration as a simple linear process in which all the elements of a preferential trade area, free trade area, customs union, common market, etc, are put in place before moving to the next stage, is inappropriate for the SADCC region at this stage or [*sic*] its development."[58] The Windhoek Treaty, which codified the new objective, thus remained deliberately vague, in contrast to Mercosur for example (see below). However, probably as a result of an EC-paid European lawyer who assisted in its drafting, the Windhoek Treaty emulated EC terminology from the Treaty of Rome in vaguely outlining its contours – 'the progressive elimination of obstacles of the free movement of capital and labour, goods and services, and of the peoples of the region generally' and harmonising 'political and socio-economic policies' (Art. 5[2]) – and identified a list of policies to be coordinated, which was almost identical with that of the Treaty of Rome.[59] A few months after its adoption at the Summit in August 1992, a high-level SADC delegation visited the ECom and member states in December 1992.[60] Moreover, the first Consultative Conference after that discussed with its international partners what the new objective actually meant and how it ought to be implemented.[61]

Nevertheless, little progress was made in regional economic cooperation throughout the 1990s; instead, member states continued with the previous practice of

57 SADCC Secretariat (1992), p. 29
58 SADCC (1992), p. 27; similarly, Green (1990), p. 107
59 Interview with Stephen Kokerai, November 2009
60 Holland (1995), p. 269
61 SADC Secretariat (1993b)

coordinating sectoral policies through the negotiation of protocols,[62] as an emulation account would expect. The reason was that – as the Council noted in 2000 – member states were still "unclear about the socio-economic costs and benefits of regional integration."[63] Nevertheless, external cooperation partners, which had continued to support the organisation in major ways throughout the 1990s, became increasingly dissatisfied with SADC's bad record in economic integration. As early as 1993, the Secretariat therefore expressed its fear that "SADC is losing credibility and risks losing the support of cooperation partners."[64] This externally induced legitimacy crisis of the organisation continued as progress remained slow. The Dutch entirely abandoned their support in 1998 and the Consultative Conference, hitherto "the most important event in the SADC's calendar of activities"[65], did not take place for the first time that year. At the same time, the organisation was confronted with rumours that the EU, its most important benefactor, would restructure its cooperation with Africa and possibly abandon its Regional Indicative Programme for SADC[66] – just as consultations on the new programme were about to start. Given that external donors still provided almost 60 percent of SADC's budget at the time[67], this legitimacy crisis by then commanded decisive action to improve SADC's performance.

In response, policy-makers engaged in a fundamental restructuring of SADC institutions (see next chapter), which also entailed a more precise and detailed plan on how to achieve the common market objective. An extra-ordinary Summit mandated the Secretariat in March 2001 to draw up a five-year Regional Indicative Strategic

62 Until the end of the 1990s, 11 sectoral protocols had been signed reaching from Energy to Wildlife Conservation.
63 SADC Council, August 2000b, p. 488
64 SADC Council, September 1993, p. 39
65 Sidaway (1998), p. 564
66 SADC Council, September 2000b, p. 82
67 SADC Executive Secretary (2006)

Development Plan (RISDP) including strategies for the "[d]evelopment of a common market through a step by step approach while restructuring and integrating the economies."[68] The RISDP was officially prepared by a team of EU-oriented experts from the region, many of whom had studied in Europe, based on extensive consultation with member states and other stakeholders and funded largely by European donor agencies. It is clear, however, that the EU also financed a series of consultants who were directly involved in the process.[69] The exact role these consultants played is difficult to reconstruct, but one of my interview partners – a former SADC consultant deeply involved with regional affairs – recalled "a senior SADC official once telling me that the RISDP was written by European consultants and they basically just took the Maastricht Treaty and adapted it and put it in the language of the region."[70] Since then, the ECom has again provided major financial and technical resources to support the implementation of this plan, but economic integration continues to face major obstacles, further discussed in the next part.

It might therefore not come as a surprise that the plan, adopted in 2003, reads as if it is taken from an EU integration manual condensing Europe's long integration experience into a 15-year period. It details the move from an FTA via a CU towards a common market, a monetary union and the adoption of a common currency *inter alia* through the "[h]armonization of policies, legal and regulatory frameworks that address the business environment and the free movement of all factors of production" and macroeconomic convergence based on inflation, budget deficit and overall debt

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68 SADC Summit, March 2001, p. 35. This occurred at the same time as negotiations for EPAs, whose explicit goal it was to enhance regional economic integration in Africa, were being prepared (see below).

69 Interview with Ian Rossiter, November 2009

70 Interview with the author, November 2009

indicators.[71] It also contains targets and time limits similar to the EU's Lisbon Strategy, adopted a few years earlier. When asked about the striking EC terminology in the plan, the 'father' of the program simply described it as the "classic model" of economic integration, rejecting the suggestion that it directly emulated the EC.[72]

In the Southern Cone, outside dependence on financial resources did not play a role in policy-makers' decision to emulate the EC's common market model in the early 1990s. Yet, there was a similar context of crisis surrounding the continued viability of regional cooperation during that period. Countries in Latin America, similar to their peers in Africa, suffered heavily from the foreign debt crisis in the 1980s, which depressed trade interdependence and thereby questioned the continued viability and desirability of the process of bilateral economic cooperation.[73] This crisis led to the election of two new Presidents in 1989, Carlos Menem in Argentina and Fernando Collor in Brazil, who set on track an ambitious unilateral liberalisation programme. It emptied the previous integration principles of selectiveness and gradualness of much of their meaning and thereby raised even more doubt that the continued preferential treatment of individual trade partners was still viable and desired.[74] In the late 1980s, therefore, the likelihood of continued and even deeper economic integration between Brazil and Argentina appeared questionable.

Nevertheless, the move towards the Single Market in Europe also resonated strongly with policy-makers in the Southern Cone and formed the main external incentive for closer integration. On the one hand, early studies warned of the potential for trade and

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71 SADC Summit, August 2003, pp. 66-67. For a critical assessment of the economic desirability and feasibility of monetary integration in the region, see Khamfula and Huizinga (2004); Keith (2007).
72 Interview with Angelo Mandlane, November 2009
73 Bouzas (1990); Manzetti (1993), p. 104
74 See Birch (2000), p. 1398

investment diversion from Europe.[75] On the other hand, however, the EC with its 1992 project appeared – as a high level representative announced in a speech in 1990 – as "stronger and more radiant than ever, and much less dependent on the outside world."[76] When the two new Presidents began discussing enhanced integration shortly after entering office in January 1990, they quickly agreed to concretise and speed up movement towards an EC-style common market, thereby seeking to put into practice what had still appeared like a 'distant dream' only a few years earlier.[77] There was no debate about potential alternative choices or the benefits and drawbacks of a common market as such. As one of the two protagonists later noted, the two Presidents fundamentally saw the regional "Community-building process" as an important end in itself given the countries' historic rivalries, and were eager to preserve it amidst adverse conditions.[78] Political will rather than careful economic assessment thus drove the decision to establish an EC-style common market between the two countries in the Act of Buenos Aires in July 1990, which developed into Mercosur in March 1991. One policy-maker recalled, for example: "If we go to the documents or to the minutes of the discussions between Brazil and Argentina, nowhere can you find a very detailed study concerning the technicalities of a customs union or a common market. You just have political enthusiasm."[79] Another one similarly mentioned: "We wanted to set the four countries on a path of regional integration, but we had little

75 Hufbauer (1990); CEPAL (1991)
76 Cited in Vasconcelos (2007), p. 167
77 This is why the decision has been described as "surprising and unexpected" (Botto 2009, p. 176) and was even mocked as the "'great leap forward' approach to integration" (Manzetti 1993, p. 102). Gardini (2005) gives a detailed historical account of the negotiations leading up to the common market decision. At that time, NAFTA was not yet on anybody's cards and is therefore unlikely to have formed a similarly important external incentive for regional rule chang Later, the US' invitation to all Latin American countries to join NAFTA offered a plausible route to avoid trade or investment diversion from the US and therefore can be expected to be much less salient in having triggered a counter-reaction (Weintraub 1991) (see also below).
78 Menem (1996)
79 Interview with Paulo Roberto de Almeida, June 2009; see also Botto (2009), p. 176. This means there was also no participation by the private sector in this decision (Hurrell 2001, p. 196; Gardini 2006).

experience in how to do that. … We had good intentions, but lacked the knowledge on many specific issues."[80]

Thus, policy-makers simply emulated many stipulations from the Treaty of Rome. The Treaty of Asunción speaks of the ambition to ensure the "free circulation of goods, services and factors of production" by pursuing the "elimination of customs rights and non-tariff barriers", the establishment of a CET and the "adoption of a common commercial policy" as well as the "coordination of macroeconomic and sectoral policies" (Art. 1). More specifically even, it outlines a replication of the 'classical' European integration experience of economic integration as a step-wise process evolving from an FTA through the establishment of a CET (CU) towards a common market – to be achieved within four years – and elaborates on the ways to do so along the lines of the SEA. The list of policies to be coordinated under the Treaty does not contain any policies not also coordinated in the EC. Policy-makers directly involved in the negotiations for Mercosur, such as former Brazilian Foreign Minister Luiz Felipe Lampreia, clearly recall that "reference to the EU was constant."[81] Other interview partners similarly suggested that there was a general ambition to create something similar to the process of European integration in South America. A few days after the adoption of the Treaty of Asunción, Mercosur's foreign ministers travelled to Brussels to present their new project to the ECom and to seek closer contacts with the EU, which were quickly forthcoming.[82]

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80 Interview with Jorge Campbell, July 2009. An Argentina Central Bank Official similarly noted: "The decision to integrate the MERCOSUR countries [within four years] was crazy. But the *técnicos* had to figure out how to make the political decision work" (cited in Cason 2000, p. 24).

81 Interview with the author, May 2009

82 Diedrichs (2003), p. 117

In ASEAN, it was also the EC's 1992 project that formed the main external impetus for renewed changes in the organisation's economic cooperation framework. As early as 1989, important voices in the region warned of an emerging 'Fortress Europe.'[83] Long before negotiations on NAFTA even started, and with a promising route through APEC to access the market of the US, its most important trade partner at the time, the ASEAN Ministerial Meeting in July 1990 announced an urgent need to take concrete steps towards more effective intra-ASEAN economic cooperation "cognizant of the urgent need … to cope with the rapid and dramatic developments taking place … in Europe."[84] This assessment was shared by the Economic Ministers meeting a few months later, which discussed the challenges stemming from the Single Market and stalemate in the Uruguay Round.[85] But what should such a reaction look like?

When policy-makers started to consider the issue, proposals for EC-type integration quickly emerged. The Philippines, for example, proposed an ambitious and legally binding ASEAN Treaty on Economic Cooperation to form part of a wider "cohesive and juridical regional group similar to the European Community", while the Secretariat spoke for the first time of an 'ASEAN Economic Community' in 1991.[86] Well-informed local observers agree that a thorough assessment of different potential options never took place in the region, and that even governments' eventual decision to form an 'advanced' FTA with ASEAN Free Trade Area (AFTA) in 1992 was not based on a thorough assessment of the respective costs and benefits. As in the other

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83 The *Asian Business* magazine, for example, featured a cover story in 1989 entitled 'United Europe: The Threat to Asia' (Vol. 25, pp. 34-41).

84 ASEAN Ministerial Meeting (1990)

85 ASEAN Economic Ministers (1990). Stalemate in the Uruguay Round was also an important external impetus for renewed debate about regional economic cooperation, but it was threatening to ASEAN states mainly because it rendered elusive continued access to the EC market through multilateral negotiations. Access to the US market, the other important trade partner, could be ensured through APEC.

86 Severino (2006), pp. 15-16; Chirathivat (1997), p. 223, respectively

regions, it "was largely hammered out by government officials, without prior studies on feasibilities and impacts."[87] Member states eventually did commission an expert study on the topic, but the mandate revolved merely around *how* to deepen economic cooperation in the region, not to study whether it was economically sensible and feasible in the first place. The experts themselves, as one of them later noted, were cognizant that the EC experience "showed what might be gained from closer economic integration,"[88] but at the same time they knew about member states' continued reluctance for ambitious trade liberalisation plans. Thus, the group proposed a compromise suggesting the immediate creation of a FTA-Plus and the adoption of a Framework Agreement to create an ASEAN Economic Community as a longer-term goal – a choice somewhat similar to that of Argentina and Brazil in their 1988 Treaty of Integration, Cooperation and Development.[89] Even though the former was focused mainly on the elimination of tariffs and quotas, the report also mentioned the need to remove NTBTs and coordinate a range of flanking policies such as services, capital, labour and macroeconomic cooperation as well as transport and infrastructural policies – a proposal that appears clearly inspired by the EC's experience.

When member states adopted this proposal in the form of the AFTA agreement at the Singapore Summit in January 1992, Malaysian Prime Minister Mahathir Mohamad *defended* the new treaty with direct reference to the EC Single Market: the "movement towards a free trade arrangement is not as big a change as a single

[87] Chia (1997); see also Ravenhill (1995), pp. 859, 864. A thorough academic assessment of the various options for trade policy of ASEAN members was only undertaken several years after the decision had already been taken (Means 1995).
[88] Naya and Plummer (1997), p. 120
[89] Naya et al. (1992)

European Market, but for us, it is significant."[90] The agreement outlined a detailed plan for across-the-board tariff reductions, but also contained – without further elaborating – elements of deep integration along EC lines such as the elimination of NTBTs, the "harmonisation of standards" and the "reciprocal recognition of tests and certification of products." Thus, member states had emulated important elements from Europe's integration agenda, but were reluctant to go for a full-out EC-style common market due to their continued concerns about ambitious market building projects.

This was to change a decade later. Once again, there was little endogenous demand for further integration and the AFTA targets had not been reached. Indeed, after ASEAN's enlargement in the 1990s to Vietnam, Cambodia, Laos and Myanmar, whether they could be achieved at all appeared less certain than before because of the much lower development levels of these states. However, the Asian financial crisis of 1997/98 had thrown ASEAN's continued viability into question. Both policy-makers themselves and outside observers shared the perception that ASEAN had lost credibility as an economic organisation as it was unable to orchestrate a coordinated response.[91] In this situation, decisive steps in deepening economic integration were perceived to be required to ensure "its continuing relevance", as an Eminent Persons Group argued in 2000.[92] Once again, policy-makers quickly set their sight on the EC. At the opening of the Economic Minister's meeting in October 1997, Mahathir called for a "long-term vision" and suggested to set "our sights to be a single market and an

[90] Cited in Kurus (1995), p. 414

[91] See the many quotes by politicians cited in Funston (1999), pp. 205-6.

[92] Eminent Persons Group (2000), p. 7. At the same time, most 'functional' proposals in reaction to the crisis emphasised the need for reforms of financial systems, transparency reforms and the creation of regional institutions for financial supervision – some of which was pursued – rather than deeper trade integration (see Woo Wing Thye 2001).

economic union *à la* the EU."[93] Two months later, the Heads of State adopted such a vision – the ASEAN Vision 2020. The document for the first time mentioned the idea of a common market in an official ASEAN document.[94] Amidst the 'rise of China' and the EU's attempts to become 'the most competitive and dynamic knowledge-based economy in the world' through its Lisbon Strategy, the ASEAN Economic Ministers in 2001 commissioned a study to identify ways to regain the organisation's competitiveness, which recommended a 'step-change' in integration.[95]

This finally triggered reform. At the Summit in 2002, Singapore re-introduced the long-standing idea of an ASEAN Economic Community, which "would be similar to the European Economic Community of the 1950s."[96] The Bali Concord II, adopted in October 2003, formulated the ambition to establish an ASEAN Economic Community (AEC) as "the realisation of the end-goal of economic integration" aimed at establishing ASEAN as a "single market and production base."[97] A few years later, at the Cebu Summit in 2007, policy-makers even changed the specific formulation of the objective from the ambition to facilitate the 'free flow' of production factors to their 'free movement', thereby evoking an even closer resemblance with the EC.

In sum, this part has sought to demonstrate that the EC's 1992 project has significantly affected policy-makers' incentives regarding deeper forms of regional

93 'Mahathir strikes again, bats for common market among SE Asian nations', *Manila Standard*, 16 October 1997

94 Shortly thereafter, Mahathir went a step further and even suggested the adoption of a common ASEAN currency along EU lines ('Mahathir hopes an 'ASEAN currency' will eventuate', *The Nation*, 7 February 1998). As before, these proposals "were ill-prepared and not backed up by in-depth studies", as a seasoned observer of ASEAN remarks (Rüland 2000, p. 429).

95 ASEAN Economic Ministers (2001, section 12; 2002, section 8, respectively). A fairly comprehensive summary of the ASEAN Competitiveness Study can be found in Schwarz and Villinger (2004).

96 Hew (2008), p. 15

97 ASEAN Summit (2003), section B1. It was established together with a Security Community and a Socio-Cultural Community.

economic integration – comparatively more so than US moves towards regionalism in the late 1980s and early 1990s. During this period, EU influence was a result of both the negative externalities of its own integration efforts as well as the inspiration associated with Europe's 'relaunch' in the early 1980s; and high dependence on EU funding in the case of SADC. In this sense, the EC was a major driver of regional market building in ASEAN, Mercosur and SADC. The extent to which policy-makers learned from, and eventually emulated, the EC market building model depended largely on the respective degree of fit with the material and political conditions prevalent in the respective regions. But what have these EC-type market building objectives meant in practice? How consequential have these political choices – to adopt an EC-style common market objective rather than a (NAFTA-type) FTA arrangement or a more ad hoc arrangement – been? The next part deals with these questions.

4.3 Realising Market Building Objectives

After adopting a particular market building objective, these aspirational commitments have to be translated into practical rules of the game in particular policy fields. Given the argument of the previous part that the adoption of such ambitious market building objectives was largely based on emulation from the EU, a lack of effective implementation of these objectives is the theoretical expectation – that is, a largely 'empty' EU-type rule. I thus ask a further question: To what extent have policy-makers created and implemented additional rules to give substantive meaning to their common market commitment? In this part, I first review these actual achievements in regional market building. I conclude that only in a few cases, especially in Mercosur, has EU influence had an impact on the *substance* of economic cooperation that goes beyond these countries' multilateral commitments. Then, I move on to examine supply-led EU influence on the respective pattern in each case, considering the CU issue before turning towards wider common market policies and NTBTs. I argue that the preparation for, and subsequent start of, interregional trade negotiations accounts for some of these additional effects, especially in SADC and to some extent in Mercosur. Yet, the failure to date to conclude any interregional trade agreement has seriously undermined EU influence on the substance of market building.

Pattern of Actual Rule Change

The core of a common market is the free circulation of the four production factors: goods, services, capital and labour, which involves a reduction of tariffs and the elimination of NTBTs. Liberalisation in these core areas is usually accompanied by the establishment of a CU and the creation of a set of flanking policies that involve competition, government procurement and macroeconomic coordination. Table 4.5 shows the formal rules of the game in these various areas. It indicates that progress has been uneven across regions, with Mercosur having gone somewhat further than ASEAN, and significantly further than SADC, in tackling the critical policy areas required for the creation of a common market.[98]

[98] Compared to ASEAN, however, this is, of course, partly a function of the longer time period that Mercour has been working towards this ambition.

Table 4.5 – Rules of the Game in Regional Economic Cooperation (date of adoption)

	ASEAN	Mercosur	SADC
Goods	• AFTA, Common Effective Preferential Tariff arrangement (1992) • Informally: CU under discussion	• Treaty of Asunción (1991) • Establishment of CU (1995)	• Trade Protocol (1996) • RISDP (2003) envisages CU
Services	• Framework Agreement on Services (1995) • Framework Agreement for the Integration of Priority Sectors (2004)	• Montevideo Protocol on Services (1997)	• Protocol on Trade in Services (under negotiation)
Capital and investment	• Framework Agreement on the ASEAN Investment Area (1998) • Comprehensive Investment Agreement (2009)	• Protocol for the Promotion and Mutual Protection of Investments (1993) • Protocol for the Promotion and Mutual Protection of Investments from non-Mercosur member states (1994)	• Finance and Investment Protocol (2006)
Labour	• Agreement on Movement of Natural Persons (under negotiation)	• Agreement of Residency for Nationals from Mercosur member states, Chile and Bolivia (2002)	• Protocol on the Facilitation of Movement of Persons (2005)
Other policy areas	• Chiang Mai Initiative on financial cooperation (2000, ASEAN+3 context); Multilateralisation Agreement (2010) • ASEAN Plus Three Macro Economic Regional Surveillance Office (in operation since 2011)	• Macroeconomic coordination (several decisions; latest: CMC/03/11) • Protocol on Competition Policy (1996); Agreement on Competition Policy (2010) • Protocol on Government Procurement (2004; modified in 2006)	• Memorandum of Understanding on Macroeconomic Convergence (2008)

Source: compilation by author

Mercosur's Treaty of Asunción contained a linear, automatic and across-the-board tariff elimination schedule, which successfully reduced most import tariffs by the envisaged deadline in December 1994 – with a few exceptions. Fuelled by the resulting massive expansion of intra-regional trade,[99] the establishment of the regulatory framework for integration also made remarkable progress. Policy-makers realised from the start that "there is no need to reinvent the wheel of how to establish a common market. The EU has shown how to do it."[100] Member states signed two investment protocols, a protocol on competition policy and the Montevideo Protocol on services within the first six years. At the presidential summit in 1998, the countries even started considering the possibility of a single currency.[101] Since the regional financial crisis in the late 1990s, however, progress in economic integration has been slowed and in some areas even reversed.[102] At the same time, none of the earlier agreements was actually in force and policy-makers realised that key areas of integration had not been addressed.[103]

Thus, since the early 2000s, they have undertaken renewed attempts to relaunch economic integration by seeking to tackle many of these outstanding issues. The Montevideo Summit in December 2003 adopted the ambitious Work Programme 2004-2006, which aimed to "consolidate the customs union and launch the common market" – a programme that not only uses similar language, but is also similar in spirit to the EC's SEA. The Montevideo Protocol on Services entered into force in 2005 and

[99] For a good discussion of the factors that underpinned this trade expansion besides Mercosur's tariff liberalisation programme, see Bouzas (1997)

[100] Interview with Reinaldo Salgado, June 2009. This sentiment has been widespread since then. A member of the Federal Council of Brazilian Lawyers similarly mentioned in the mid-1990s: "with a common market … everything indicates that the model to imitate will be the European one" (cited in Sanchez-Bajo 1999, p. 937).

[101] Academic assessments of this idea have been mixed (Eichengreen 1998; Ferrari-Filho 2001).

[102] Goméz-Mera (2009)

[103] See Bouzas (1997), pp. 70-71

seven rounds of negotiations, which have gone beyond member states' WTO commitments, have been concluded.[104] The protocol on competition policy was ratified in 2003 and revised in 2010 (Decision CMC/43/10). It has assumed commitments that are more stringent than those applicable in NAFTA and subject to negotiations in the FTAA context and "followed rather closely the language of the Articles 85 and 86 of the European Union's Treaty of Rome", yet without the creation of a supranational agency to supervise it.[105] In the area of free movement of labour, member states adopted a protocol that gives Mercosur citizens and those of the associated countries Chile and Bolivia the right to free establishment inside the bloc. Since the early 2000s, Mercosur has also started to tackle the issue of macroeconomic cooperation with the inception of a process of macroeconomic monitoring and convergence.[106] Moreover, the discussions on regional rules for public procurement culminated in a protocol in 2004, which was modified again two years later.

Besides continued problems with the implementation of agreed commitments, NTBTs still constitute a major obstacle to freer trade in the region.[107] Initially, countries sought to tackle them through harmonisation, which also dominated in the EU during the early period.[108] However, after progress turned out to be slow and cumbersome – as it had been in Europe – they have endorsed MR in some areas, which remains limited mainly to the recognition of testing certificates rather than national regulations per se, as in the EU.

[104] Quijano (2009), pp. 6-8
[105] Rowat et al. (1997), p. 94; De Araujo and Tineo (1998)
[106] Albrieu (2009); Lorenzo (2006)
[107] In the period 2000 to 2004, only 40 percent of Council decisions, 26 percent of resolutions by the Group and 43 percent of Directives by the Trade Committee were incporporated into national law (see Bouzas 2005b, p. 8). Only recently have member states started to seek to establish a systematic informational basis for the elimination of NTBTs (see Decision CMC/27/07).
[108] For a detailed analysis of this process in three policy areas, see Duina (2006)

AFTA contained a tariff elimination schedule – the Common Effective Preferential Tariff –, which has successfully reduced intra-ASEAN tariffs to a minimum – with some exceptions in 'sensitive products'. In the mid-1990s, member states also started to address regulatory issues. They signed an agreement on services in 1995 and on investment in 1998. Yet, both of these agreements were not only limited in scope, but also constituted mere framework agreements that translated ASEAN's multilateral (WTO) and plurilateral (APEC) commitments into the regional context without entailing concrete liberalisation commitments.[109] It was with the relaunch of ASEAN after the financial crisis that policy-makers undertook more rigorous steps towards regional economic integration. As a direct result of the crisis, member states put in place various mechanisms for macroeconomic coordination, partly in ASEAN itself and partly in the ASEAN+3 context.[110] They even started to discuss a single currency, inspired by the Euro, and commissioned a feasibility study as part of their 1998 Action Plan.[111]

It is too early to judge progress on the common market, which was adopted in 2003, even though it is to be completed by 2015, which seems highly unlikely. What can be said, however, is that the EU has served as the main focal points for debate to date. At a recent seminar, ASEAN's Secretary General Surin Pitsuan noted: "It is no accident that ASEAN has been looking at the European Union's rich experience as we map out our own plans for becoming a Community by 2015."[112] This has become most

[109] Nattapong (2001); Freeman (2001); Severino (2006), pp. 232-3, 244-5
[110] For an overview, see Rajan (2001); Hamilton-Hart (2003)
[111] 'Mahathir for single ASEAN currency', *Economic Review*, August 2002
[112] Pitsuan (2007). A recent study among policy-makers in the region found that 99 percent believe the EU is relevant for their own integration efforts, even among those 45 percent who states that they were "not familiar with the EU model of integration" (see Final Report 2008, p. 17).

tangible in the Blueprint on the AEC, which was adopted in 2007.[113] It is a binding "master plan" of commitments based on delivering well-specified outcomes within a scheduled timeframe. Similar to the SEA, it contains 17 core elements and 176 priority actions to be undertaken within several implementation periods based on a strategic schedule. As its main architect explains, this focus on EU methods and approaches to building a common market appears 'natural' because NAFTA, the other potential referent, "is a narrow […] integration project and is also not about 'community building.'"[114]

Since that period, ASEAN has conducted six rounds of negotiations with binding commitments in a variety of service sectors.[115] On investment and capital liberalisation, member states concluded a Comprehensive Investment Agreement in 2009.[116] While work on these issues is being conducted, ASEAN does not, as of yet, have any common policies regarding competition, government procurement or the movement of labour.[117] Besides the comparatively shallow nature of ASEAN trade liberalisation commitments to date, NTBTs continue to constitute a major obstacle to trade within the region, yet with major differences between countries.[118] Even though countries have started to address the issue through a variety of work programmes, commitments do not go much beyond the WTO and are badly enforced.[119]

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[113] Available at: http://www.aseansec.org/21083.pdf (last access: 16.10.2011).
[114] Soesastro (2008), p. 49
[115] These do not, however, go much beyond GATS commitments (Corbett 2008, p. 115).
[116] For an overview, see Pupphavesa (2008)
[117] For overviews, see Ariff (2008)
[118] Layton (2008); see also Kumar (1992)
[119] de Dios (2007)

SADC's Trade Protocol has removed tariffs on about 85 percent of all trade in goods in 12 out of 14 SADC countries.[120] Nevertheless, trade liberalisation beyond tariffs remains scarce as obstacles to trade continue to be enormous, especially in the area of NTBTs.[121] Even though the Trade Protocol mentions a range of areas that policy-makers intend to address, such as NTBTs, services, investment and competition, little progress has been made on this front. A services agreement is currently under negotiation, but is unlikely to move much beyond existing multilateral agreements.[122] The Finance and Investment Protocol, which only entered into force in 2010, seeks to liberalise capital and investment flows both intra- and extra-regionally; yet it is too early to judge progress.[123] The agreement on free movement is yet to enter into force and implementation has not made much progress.[124] Regarding macroeconomic convergence, the member states have agreed to cooperate on the issue; yet progress has also been slow and faces many structural problems.[125]

This brief summary of actual rule change in all three regions indicates that Mercosur has gone furthest in tackling the regulatory issues involved in the creation of a common market (and a CU), with most of the critical issues being tackled in principle. SADC, on the other hand, has not yet moved much beyond a reduction of tariffs and it remains fair to say that the common market commitment, existing since the 1991 Treaty of Windhoek, has indeed been largely an empty promise. ASEAN is somewhere in between, with ambitious targets and a detailed roadmap for economic

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120 This information is taken from the SADC website: http://www.sadc.int/index/browse/page/39. Angola and the DR Congo have not yet joined the FTA.
121 Osterkamp (2008); Fundira (2010)
122 Cronjé (2010); Stern et al. (2011)
123 For a useful overview, see the TRALAC note by Hannah van Roessel 'The SADC Protocol on Finance and Investment: Summary of a Comparison with Bilateral Investment Treaties'
124 Gathii (2011), p. 222. For a broader overview of the issues involved, see Oucho and Crush (2001)
125 Kumo (2011)

integration, but still many areas to be addressed in a more substantive way. Yet, it is still too early for a definitive assessment. The reduction of NTBTs in particular, as well as the effective implementation of assumed commitments, remains a problem in all three regions. Thus, the EU's influence on market building objectives has only translated to a limited extent into influence on the actual substance of cooperation that goes beyond what member states would be required to do under their multilateral obligations anyways. Nevertheless, supply-led EU influence has had some effect on this pattern, as the next section will show.

Establishing a Customs Union

A CU is an economic cooperation arrangement in which members "suppress discrimination among each other in product markets."[126] This generally entails the adoption of a CET, the unification of tariff classifications, the harmonisation of customs rules and the management of the distribution of tariff revenue with the objective to create a unified customs territory.[127] It thereby eschews the often difficult issue of rules of origin, which determine the eligibility for tariff preferences in a FTA, and border posts to control them. Externally, a CU entails a common trade policy (see Chapter 6). In this section, I argue that through the negotiation of interregional trade agreements and technical assistance, the EU has bolstered and enhanced the commitment to a CU in Mercosur, triggered its adoption in SADC and catalysed its debate in ASEAN.

[126] Balassa (1961)

[127] Pelkmans (1997), pp. 7-8. Most treatments to date are by economists and analyse CU formation and evolution in terms of their overall welfare effects (Viner 1950). For a crisp overview of the literature in the current context, see Mattli (1999), pp. 31-34; an economic overview offers Pelkmans (1997), pp. 83-99

Mercosur

As we have seen, the Treaty of Asunción's ambition to establish a CU in Mercosur by 1 January 1995 was not based on a thorough assessment of its implications, taken among a small circle of negotiators without participation by the private sector. This 'ad hocery' started to backfire as the deadline for its establishment approached.

While the smaller member states and Brazil were strongly in favour of retaining the arrangement, not least in order to retain closed ranks vis-à-vis the US in the emerging FTAA process,[128] opinions in Argentina were split up to the highest governmental level. The country's Minister of the Economy, Domingo Cavallo, backed by important sections of the private sector, in particular the powerful Argentinian Industrial Union, started to seriously question the CU commitment in late 1993.[129] He was convinced that Argentina ought to pursue closer integration with the US, a more important trading partner than any of its Mercosur partners at the time, and even started negotiations on a Trade and Investment Cooperation Agreement.[130] In the run-up to the Miami Summit in December 1994, FTAA plans started to take shape and made the potential costs of a CU more visible as the private sector overwhelmingly supported Argentina's bid for early accession to NAFTA. Towards the end of 1994, there was thus real uncertainty in the region as to whether the CU would be established as envisaged.[131]

[128] Abreu (2000), p. 56. There were some dissenting voices in Itamaraty, the Brazilian foreign ministry, and among the more outward-oriented sections of the private sector (Interview with Sandra Ríos, May 2009; Nogueira Batista 1994).
[129] Boragni (1994); Medina (1994)
[130] Botto (2009), p. 182. In a recent interview, Cavallo even maintains that President Cardoso was also against the CET but was convinced by Brazil's Itamaraty to stick to its commitments (see Ife 2011).
[131] Bouzas (1997), p. 62

In this situation, the EU played a two-fold role that concerned both the demand and supply sides of the CU. It was pivotal in upholding the initial commitment to a CU by changing (especially Argentinean) policy-makers' incentives regarding its international economic policy and assisted in laying the technical groundwork for its envisaged establishment at the end of 1994.

After the establishment of Mercosur and incipient demands for closer relations, debate quickly emerged in the EU about how to develop relations with the new organisation. European policy-makers were aware that, in view of the incipient FTAA process and Argentina's bid to join NAFTA, substantive incentives were required to strengthen Mercosur's cohesion and to retain the CU commitment in view of an emerging rivalry with the US over market access in Latin America.[132] Thus, a central aim of its policy vis-à-vis Mercosur was to ensure "the irreversibility of the undertakings given and uncontested international recognition" for Mercosur.[133] In April 1994, EU foreign ministers for the first time mentioned the idea of an interregional FTA to their Mercosur counterparts and, in the following months, they made it clear that an interregional agreement with the EU would be incompatible with bilateral deals with the US.[134] The EU was only willing to engage further with a more institutionalised Mercosur that entailed a CU.[135] This was officially confirmed by the European Council of Corfu in June 1994.

132 Patten (2000); Santander (2002)
133 European Commission (1994a), p. 5
134 Sanchez-Bajo (1999), p. 933
135 One of the protagonists noted, for example: "It was always clear that the EU would only negotiate an interregional agreement with Mercosur if it was a Customs Union – and not only as a kind of doctrinal affirmation but for a good number of practical reasons" (private email correspondence with Jorio Dauster, 26 August 2011). This stance was officially codified in the mandate for the

Given that Europe formed a significantly more important market and source of investment for Argentina than NAFTA countries did, the perspective of an interregional trade agreement with the EU changed the incentives associated with Argentina's policy options and thereby weakened the critics of a Mercosur CU.[136] Guido di Tella, Argentina's foreign minister at the time, expressed this reasoning clearly: "Until the Corfu Council, Argentina had Mercosur as its first priority and NAFTA as the second one. Now, the prospect of a free trade area with the EU is more important than NAFTA… because Argentina has a much larger volume of trade with Western Europe than with the US."[137] Thus, Mercosur's presidential summit in August 1994 took the political decision to implement the CU as envisaged.[138] After the EU decided to start negotiations on an interregional framework agreement "as quickly as possible" at the European Council on 10 December,[139] Mercosur member states legally reaffirmed their commitment to creating a CU by signing the Ouro Preto Protocol on 17 December.

At the same time, the EU was lending technical and financial assistance to Mercosur's working group 2 on 'customs matters', which had been tasked with putting in place the technical groundwork for the establishment of a CU. Between 1991 and 1995, the ECom provided almost 1 million Euros in financial support *inter alia* for training Mercosur customs officials and, more importantly, providing technical information on

negotiation of a Framework Agreement (European Commission 1995b; see also Bouzas 2002, p. 144).

[136] In the period 1992-94, the EU held an average share of 27.7 percent of Argentina's total external trade as compared to 13.7 percent for the US (Numbers are calculated on the basis of data from Bartholomew 2001). Similar figures can be seen for the respective shares of foreign direct investment.

[137] Cited in Campbell et al. (1999a), p. 198, my translation. This is not to suggest that the EU was the only crucial factor tipping the balance in favour of retaining the CU commitment. Especially Brazil's macroeconomic stabilisation throughout 1994 and Mexico's financial crisis in late 1994 were other ones (Hirst 1999, pp. 39-40).

[138] Sanchez-Bajo (1999), p. 934

[139] European Council (1994), 'External Relations', Section 7

the regulatory issues involved that was unavailable in the region itself.[140] It helped policy-makers to define the work areas that needed to be addressed to this end and allowed them to take necessary regulatory decisions fairly smoothly throughout 1993 and 1994 (see Decision CMC/13/93, for example). However, policy-makers found it difficult to agree on a common customs code, indispensable to the establishment of a CU. As time-pressure mounted towards the end of 1994, the technical experts simply copied the EU customs code, which was adopted at the last meeting of the Common Market Group before the CET was to enter into force.[141] Various interview partners agreed that without the EU's technical assistance, it is unlikely that the regulatory underpinnings for the CU would have been in place by the envisaged deadline.[142] An 'incomplete' CU, which excluded sugar and cars, was thus established on 1 January 1995.[143]

When both sides eventually started negotiations for an interregional trade deal in the late 1990s, the Mercosur CU became subject to renewed active EU influence. Once again, EU demands formulated in the context of interregional trade negotiations were coupled with assistance to meet those demands on the supply side. Even though perfecting the CU was one of the major objects of Mercosur's internal agenda throughout the 1990s,[144] progress remained cumbersome due to divergent member state interests and domestic approaches. What is more, existing achievements even

140 The EU-funded Training Centre for Regional Integration in Montevideo held two training seminars specifically dedicated to the issue of customs integration (see www.cefir.org.uy).
141 Interviews with Alvaro Hansen, July 2009, and Bruno de Risios Bath, August 2009; see also Sanchez-Bajo (1999), p. 935
142 See also Botto (2009), p. 183
143 The main aspect of a CU, of course, is the CET. The EU supported the negotiation process financially and technically, but the eventual outcome has little to do with EU influence. Rather than taking the arithmetic average of ex ante national tariffs, as the EU did, it reflects the political economy of domestic tariff policy, mainly in Brazil (see Olarreaga et al. 1999; Botto and Quiliconi 2007).
144 See, in particular, Mercosur's 'Agenda 2000' (Decision CMC/9/95, esp. section 2.1).

started eroding in the wake of the Brazil-Argentina financial crisis as temporary exceptions to the CET continued to be extended and new tariffs and NTBTs were introduced.[145] As a result, member states increasingly enforced rules of origin at their borders for *all* traded goods, not just those exempted from the CET – a problem that became known as the issue of 'double taxation' (*doble cobro* in Spanish).

The EU decided to target this problem directly in the context of trade negotiations. It demanded that its own products must be able to circulate freely within Mercosur's customs territory just like Mercosur products do in the Single Market. In several speeches, EU policy-makers voiced this demand publicly and an internal document on the negotiations mentioned free circulation as a 'minimal customs requirements' of the negotiations, which, unless met, would not make an agreement worthwhile.[146] As interviews revealed, Mercosur officials knew that double taxation constituted a problem, but only negotiations with the EU pushed the issue towards the top of the political agenda and induced the political will to tackle and resolve it.[147] This required further harmonisation of customs legislation, a new customs code as the old one had turned out to be unworkable, and a resolution of the issue of how to distribute customs revenues – an issue that was particularly important to Paraguay because of its heavy reliance on customs duties.

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145 For a good overview of these measures, see European Commission (2002a), pp. 36-37

146 Draft EU non-paper, cited in Bilal (2004), p. 12; see Lamy (2002); Patten (2002). The Mercosur-European Union Business Forum, established with the beginning of the negotiations in 1999, formulated similar demands, which were incorporated into a Business Facilitation Action Plan, negotiated between the two parties in 2002 (see European Commission 2002c).

147 Interview with Alvaro Ons, July 2009; Interview with Evandro Didonet, June 2009; see also Decision CMC/27/00.

Once again, the EU funded a € 5.3 million project on customs in the period 2004-2007, in the context of which many of these issues were addressed.[148] More specifically, Decisions CMC/54/04 and CMC/10/10 on eliminating double taxation as well as later decisions on the Single Customs Document (Decision CMC/17/10) and the new Mercosur Customs Code (Decision CMC/27/10) were prepared in this context. According to the leader of the project, EU customs experts participated in many of the meetings and made concrete proposals for legislative texts. However, the atmosphere was very much characterised by a mutual learning process in which Mercosur experts learned from the EU experience, while EU experts sought to develop solutions to Mercosur problems that did not simply transfer EU models. The result was thus an adaptation of EU models in some areas and a mere transfer of underlying cause-effect relationships in others.[149] Only two months after the decision on the customs code had been taken, Mercosur's new customs legislation became subject to, and allowed for progress in, further negotiation rounds on the road towards an interregional trade agreement.[150] In sum, EU influence through rewards has been crucial in retaining initial commitments for a Mercosur CU and subsequently enhancing the arrangement. At the same time, financial and technical assistance has facilitated the elaboration of the crucial regulatory infrastructure. Despite some complaints by Mercosur policy-makers about the EU's assertiveness on the customs issue, Community influence has had an overall positive impact on the development of Mercosur's CU and the organisation's cohesion more broadly – a result that is potentially quite different from that in SADC, discussed next.

[148] See European Commission (2002a), pp. 28-29
[149] Interview with Alvaro Hansen, June 2009
[150] See Mercosur-EU Negotiations Committee (2010), pp. 8-9

SADC

The Windhoek Treaty made no mention of a CU. Throughout the 1990s, customs issues never made it onto the SADC agenda; in fact, there is no single mention in the official SADC meeting records that a CU was considered until the early 2000s. It was clear that policy-makers widely shared a "lack of commitment to a common external tariff", as a consultancy report on EU-ACP negotiations ascertained in the late 1990s.[151] Three interrelated reasons account for this fact. First, SADC member states had, and continue to have, widely divergent domestic tariff and industrial policies. While some countries, such as Mozambique, slashed most of their tariffs unilaterally in the 1980s, others continue to strongly protect certain industries behind high tariff walls. Second, countries are often members of overlapping regional economic organisations with partly incompatible CU objectives.[152] Thus, the establishment of a CU in SADC, to the extent that it is to be credible, would entail difficult political decisions associated with a prioritisation of multiple memberships.[153] Third and partly due to the previous two reasons, initial experience with regional trade liberalisation in negotiating the Trade Protocol discouraged the setting of more ambitious goals. The negotiation and ratification process took five years and revealed major political differences over the general desirability and specifics of trade liberalisation, especially in view of fears of overwhelming South African dominance.[154]

Similar to Mercosur, however, the EU's negotiation of an interregional agreement with SADC (EPA) has propelled the formation of a CU onto the SADC agenda and indeed ushered in the ambition to establish a CU, formalised in the RISDP discussed

151 Cited in Gibb (2001), p. 78
152 Peter et al. (2007); Tavares and Tang (2011), pp. 223-2
153 For an overview of the overlapping membership situation in Southern Africa, see Tavares and Tang (2011)
154 Lee (2003, pp. 112-38) gives a comprehensive overview of the negotiations.

above. Once again, the EU has also lent major financial and technical assistance to facilitate this process. Given that these EU activities take place in a much less favourable structural and political context, however, its efforts are likely to be more politically contested and less 'successful.'

As we have seen in Chapter 2, EPAs seek to promote regional economic integration among African sub-regions, mainly by enhancing the (historically questionable) credibility of liberalisation commitments through external commitments vis-à-vis the EU.[155] Since the start of the negotiations, the EU has made clear that it views the establishment of CUs among African countries as an integral part not only of successful regional integration in Africa itself but also of a sustainable trade relationship with the EU.[156] Shortly before EPA negotiations were to formally start in September 2002, a discussion paper by the SADC Secretariat assessed its implications for the organisation and noted that EPA negotiations "could actually be an opportunity to oblige SADC Member States to decide on moving towards [*sic*] customs union in a very short time."[157] Hence, engagement with the EU and the need to define a common strategy vis-à-vis its most important external trade partner quickly propelled the idea onto SADC's internal agenda. In his outgoing report as Council Chairperson, Malawi's foreign minister emphasised a few months later the imminent need "to start examining the possibility of a harmonized external tariff, which may eventually lead to a customs union."[158] At the same time, EU-financed

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155 The EU outlines its objectives of EPA negotiations in European Commission (2003a) and justifies its general approach of South-South-North integration in European Commission (2002b). For the rationale of putting in place external commitments for African trade policy from an academic perspective, see Collier and Gunning (1995)

156 See European Commission (2003b). These were reiterated and further elaborated in European Commission (2008b).

157 SADC Secretariat (2002), p. 231

158 Council of Ministers, September 2002, p. 152

consultancy studies on regional policy compatibility and an EPA impact assessment found – not surprisingly – that much would be gained from a quick implementation of the FTA and a move towards a CU.[159] The foreign ministers thus instructed the SADC Secretariat to start preparatory work for the establishment of a CU at their meeting in August 2003 and the objective was officially adopted with the RISDP one month later. Therefore, even before negotiations with the EU started officially on 8 July 2004, the region had decided to establish a CU by the year 2010, after the completion of the FTA in 2008.

Since then, the EU's ambition to bring to fruition the establishment of a SADC CU has been confronted with the difficult structural realities in the region, which has caused major tension between both sides for several reasons.[160] For one, even though the EU had declared from the start that it wanted to support "the objectives and priorities which the ACP states *have set themselves*" in regional integration,[161] it was ultimately unwilling to accept Africans' own choices of negotiation groupings in Southern Africa. In an attempt to use EPAs to rationalise Southern African economic groupings, the Community expected their counterparts to align envisaged commitments vis-à-vis the EU with regional commitments towards each other, that is, systematically negotiate in those configurations which they deemed most promising for their own *economic* integration endeavours.[162] This demand entailed the expectation that an economic logic of regional integration would trump the political reasoning that had dominated African regionalism for decades and that had been at the root of SADCC's founding. The most high-profile case in this context is that of

[159] SADC Secretariat (2004a), p. 295
[160] There is a burgeoning literature on the difficulties of EPAs to support regional integration initiatives in Africa, most of them very critical (for example Stevens, 2006; Meyn, 2008).
[161] Art. 28, Cotonou Agreement, my emphasis
[162] For example Nielson (2004)

Tanzania. The country initially chose to negotiate with the SADC EPA group, to which it felt politically and historically committed,[163] even though it belonged also to the East African Community, an emerging CU. Even the Head of the EU Delegation to Botswana and SADC, Paul Malin, admitted frankly that the EU pressured Tanzania to change negotiation groups: "It always seemed completely illogical the way Tanzania was negotiating."[164]

Another problem has surfaced in the context of the EU's financial and technical support for the establishment of a SADC CU.[165] The biggest project under the 9th EDF (€16 million) seeks to support the "transformation and modernisation of [SADC] customs systems and to set the legal and institutional framework for the establishment of a SADC Customs Union."[166] It has managed to design a Single SADC Customs Code and Transit System, based upon an EC Blueprint for Customs Integration.[167] However, the main problem has been that member states have not shown the political will to move forward with the negotiation of a CET. Policy -makers in South Africa in particular do not see the establishment of a CU as a priority; as trade facilitation and a proper implementation of the FTA enjoy higher priority.[168] Until this has been done, the project cannot move forward.[169] Similar to Mercosur, then, EU rewards have significantly spurred the move towards a CU – a situation quite different from ASEAN, discussed next.

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163 Interview with SADC official, November 2009
164 Interview with the author, November 2009
165 To what extent the establishment of a CU makes economic sense is discussed in Development Network Africa (2007).
166 European Commission (2008a), p. 43
167 Interview with Penina Simba, November 2009
168 Interview with Neil Cole, October 2009
169 Interview with David Walker, November 2009

ASEAN

The Bali Concord II does not mention a CU; nor do any official policy documents on how to interpret and implement this objective, such as the 2003 Vientiane Action Programme, the ASEAN Competitiveness study or the 2007 AEC Blueprint. Similar to the situation in SADC, different development levels, divergent external trade policies among the member states – Singapore and Brunei have almost zero tariffs, whereas countries like Indonesia still retain high tariff levels in certain industries – as well as the strong extra-regional trade dependence indicated that a CU was economically undesirable and therefore politically unlikely.[170] Up to the present, there is still no demand even for merely considering a CU at the highest political level.[171] Nevertheless, the EU has sought to introduce the idea with lower level technical experts, which has led to incipient discussions on the issue.

In reaction to the revival of ASEAN economic integration in the early 2000s, the EU sought to revitalise trade and investment relations with the region. The 2003 Communication on ASEAN proposed to enhance cooperation by supporting regional integration, amongst others, in order to prepare for the potential negotiation of a future FTA.[172] One instrument was the ASEAN-EU Programme for Regional Integration Support (APRIS), which has dispensed more than four million Euros in two project periods between 2003 and 2009. Trade facilitation in customs has been one of the major components of the programme. Similar to Mercosur and SADC, EU technical and financial assistance has contributed to laying the regulatory and

[170] Hew and Soesastro (2003), p. 293; Plummer (2006)
[171] See, for example, the newspaper article by the Secretary General in Malaysia's Ministry of International Trade and Industry (Sta Maria 2011)
[172] European Commission (2003d), pp. 18-19

technical infrastructure for a closer integration of ASEAN customs and thereby has sped up the process in a way that would not have been possible otherwise.[173]

However, the interaction between EU customs experts and their ASEAN counterparts in the context of these projects have inevitably brought up the issue of establishing a CU in the region. In fact, EU representatives often used these occasions to explain to their counterparts the advantages of a CU compared to a more "loosely-knit 'free' trade organisation", in particular the strength that comes from having a CET and a common trade policy in negotiations with extra-regional partners as well as the advantage of avoiding trade and investment diversion stemming from bilateral FTAs that individual ASEAN members were negotiating with extra-regional partners.[174] In January 2006, the ASEAN Directors General of Customs officially requested APRIS to conduct a scoping study on the issue – a request that was endorsed by the Senior Economic Officials Meeting (SEOM) the same month. The study, presented in the latter half of 2006, outlined several ways in which national external tariffs could be aligned and presented an economic rationale for doing so.[175]

These 'theoretical explanations' became more practical when both sides agreed to launch negotiations on an FTA in 2006. Unlike in the cases of Mercosur and SADC, the EU was willing to consider different potential configurations for such an undertaking. While it favoured an all-ASEAN region-to-region FTA based on differentiated commitments for weaker member states, it was also open to considering

[173] The EU has assisted, for example, in the development and implementation of an ASEAN Single Window for customs, the design of a common ASEAN customs form as well as has supported customs reform and modernisation in the member states (for an overview, see http://www.aseansec.org/apris2/index.htm).
[174] Martin (2009), p. 90; Interview with David Martin, September 2009; Interview with Nina Laraswati, September 2009
[175] Martin (2009), p. 85

a range of bilaterals.[176] Parties eventually decided to negotiate on a region-to-region basis with negotiations officially launched in May 2007. Only two months after the start of the negotiations, the SEOM started to discuss the issue of a CU as a future option for ASEAN and brought it to the attention of the Economic Ministers at their meeting in August 2007.[177] The SEOM in November 2007 then put the possibility of establishing a CET squarely onto ASEAN's political agenda and asked the Secretariat to study the issue further. Several studies have been conducted since then, underlining the general feasibility and potential desirability of such an endeavour, but usually concluding that the establishment of a CU should not be a priority at this stage of the integration process.[178] Political will to consider the issue further at this point has thus diminished and the EU has shifted its support activities mainly towards establishing a robust regional transit system and further customs modernisation.[179] At this point, it is thus too early to judge the ultimate fate of an ASEAN CU. However, it is unquestionable that the EU has played an important role in laying the regulatory infrastructure for such a move and in introducing the issue into regional policy debates. Once the political will to negotiate a CET appears, its establishment does not have to start from scratch.

Common Market Policies and Non-Tariff Barriers to Trade

Not only in the establishment of a CU, but also in the areas of common market policies and NTBTs, can the EU's direct involvement change material incentives and

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[176] See Vision Group (2006). From the start, it has been unwilling though to sign any agreement with Myanmar, which it had sanctioned due to human rights violations.

[177] 'ASEAN to explore possibility of Customs Union beyond 2015', *Associated Press*, 10 August 2007.

[178] The German Development Organisation InWent has conducted a similar study (see http://gc21.inwent.org/ibt/GC21/area=gc21/main/en/modules/gc21/ws-FLEXasec/info/ibt/activities.sxhtml#a4).

[179] Martin (2009), p. 90

information regarding the construction of a regional market. Largely depending on the degree of material interdependence, this can have important knock-on effects for regional integration in the counterpart region, especially regarding the areas in which common policies are established. Since the late 1990s, the EU has attempted to negotiate interregional trade agreements with all three regions and, to date, none of them has been successfully concluded. Thus, it is too early to judge their exact consequences. Nevertheless, there are several cases in which these negotiating efforts have shifted policy-makers' incentives towards deepening market building that are unlikely to have occurred in the EU's absence.

It is a basic rationale of the EU's interregional trade negotiations that they aim to further progress in intra-regional economic integration, not merely to strike a trade deal as such. Because the EU is generally insistent on a genuinely inter*regional* agreement, functionally they require a minimum degree of homogeneity among its partners in the central areas of the negotiations. In the words of former Trade Commissioner Pascal Lamy (uttered in the context of negotiations with Mercosur): "a certain parallelism between progress in Mercosur integration and the negotiation process is necessary."[180] And the EU's negotiation agenda is ambitious. After the failure to address many of the 'new' trade issues in the WTO context, it has chosen the regional route to push them. Despite official denial, the EU operates on the basis of a trade negotiation template that encompasses not only a liberalisation of trade in goods and services, but also entails binding commitments on a range of other areas such as competition, investment, government procurement and intellectual property

[180] Lamy (2002)

rights.[181] Thus, the starting point in terms of EU expectations is similar across regions. The extent to which the EU is able to act as a driver of regional integration processes through interregional trade negotiations depends, however, on the degree of asymmetric interdependence.

Across the three cases, the highest degree of asymmetric interdependence exists with SADC countries. When negotiations started in the early 2000s, the EU was the region's most important trade partner (about one third of total trade, see Table 4.3) and source of investment. Consequently, the EU has acted as a driver of regional market building to the greatest extent there.[182] This is illustrated by the fact that two out of SADC's four major market building policies are closely associated with EPA negotiations, namely those on services and investment. It is unlikely that SADC would negotiate on a services protocol and would have the finance and investment protocol in the absence of EPA negotiations.

Mercosur is also relatively dependent on the EU for trade and investment, even though less than in SADC, and when negotiations with the EU started in the late 1990s, Mercosur had already achieved a higher level of intra-regional integration. The driving effects of EU influence are therefore less visible in Mercosur and often refer to more specific technical aspects rather than broader rules of the game. The issue of double taxation, discussed in the previous section, is a good example of the former. Nevertheless, Mercosur's government procurement policy, adopted in 2003, is

[181] European policy-makers are willing to admit this informally, as several of my interview partners did. Regarding Mercosur, Bilal cites extensively from an internal non-paper that outlines detailed 'minimal requirements' for a EU agreement with Mercosur to work effectively (Bilal 2004, pp. 12-13).

[182] A large literature has emerged on the EU's negotiation style and ambition, which has been very critical (for example Stevens 2006).

unlikely to have occurred, at least at that time, in the absence of these negotiations. The member states had attempted to tackle the issue several times throughout the 1990s, without much success.[183] And in the early 2000s, the relaunch was mainly focused on perfecting the CU and various aspects of the internal market rather than creating new policies. It was the negotiations with the EU, and especially the EU's offer to open up procurement markets on a large scale, that shifted incentives to an extent that made a breakthrough on that front possible.

Negotiations with ASEAN were abandoned in 2009. Even though, according to interviews in the ECom, the EU was advancing its usually ambitious interregional trade agenda, little common ground could be found. The reason that most policy-makers mentioned for the failure was that ASEAN had simply not achieved a level of integration that would make such an agenda feasible. However, a similar argument can be made about SADC. The deeper structural reason is that ASEAN is less dependent on the EU than the other regions are, and is successfully negotiating FTAs with other important trade partners, including China, India and Australia based on a much more modest agenda. An interregional trade agreement with the EU would have only promised substantive gains, according to a variety of simulations, if sensitive NTBTs and services trade had been tackled in a comprehensive manner. Given ASEAN's insistence on advancing these issues internally in a cautious manner, member states were not willing to assume a range of binding commitments that did

[183] Interview with Brazilian policy-maker, June 2009

not necessarily appear to justify the rather large-scale rule changes that an agreement with the EU would have potentially entailed.[184]

However, the EU does not merely demand a certain degree of intra-regional integration but is also willing to support that process with financial and technical assistance. The prospect of an FTA, then, provides – as the draft negotiation mandate for ASEAN stipulates – "an additional incentive for ASEAN countries both to profit from our experience and identify solutions and approaches which are more compatible with those of the EU."[185] Thus, the EU has also acted, at levels below that of the broader rules of the game, as a switchman between different potential options. Two notable examples shall suffice.[186] As we have seen, Mercosur relies heavily on harmonisation to eliminate NTBTs – an approach that, similar to the EC experience, eventually proved cumbersome and slow. One interviewee mentioned that a change in the basic approach to the integration of agricultural markets towards increasing application of a system of MR that goes beyond the shallow NAFTA-type MR of testing certificates had its roots in a visit to the EU. In the context of its technical assistance, the EU had invited the coordinator of the working group on agriculture for a study visit to Europe. According to her own account, it was as a consequence of this visit that she was convinced that MR would also constitute a suitable approach in Mercosur, which led her to introduce the idea to the working group 'back home'. This eventually led to the adoption of a Mercosur resolution, which seeks to eliminate NTBTs in this area through the recognition of equivalents – that is, agricultural

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[184] Geest (2004); ASEAN-EU Vision Group (2006), pp. 6-9

[185] 'EU Draft Mandate for ASEAN', available at: http://www.bilaterals.org/spip.php?article8211 (last access: 29.4.2011).

[186] Other scholars have also mentioned several such examples (see Sanchez-Bajo 1999, p. 935; Duina 2010).

products that are legally produced in one country ('legalmente producido') can be sold in other countries of the bloc as well.[187]

Another notable example is the so-called ASEAN Cosmetics Directive, which was adopted by member states in 2009. It regulates the trade in cosmetics products in the region based on a harmonised trading system. The Directive *inter alia* shifts the approach to product safety from a governmental pre-approval system to a post-market surveillance system, harmonises the process of content testing and stipulates a common set of labelling requirements. In fact, according to different accounts, the Directive is an almost complete copy of the respective directive in the EU, constituting a form of 'deep integration' based on a mixture of basic harmonisation between national laws and managed MR. It originated in the APRIS Programme written by European technical experts and was passed on to officials from the Secretariat who then introduced it into the regular decision-making process.[188]

4.4 Conclusion

In this chapter, I have sought to show that EU influence has had a discernable and significant influence on regional market building processes in ASEAN, Mercosur and SADC. Especially the EU's Single Market Programme, which started in the mid-1980s, constructed a focal point regarding regional economic integration around which policy-makers' expectations in other countries converged. As a result, policy-makers in all three regions have more or less gradually moved towards the ambition to create a common market along EU lines. The speed of this move has been, I posited, a

[187] Interview with Roxana Blasetti, July 2009

[188] Interview with David Martin, September 2009; see also: http://www.cen.eu/cen/Services/Visibility/ASEAN/Pages/default.aspx.

function of the respective decision-making situation and the degree of fit with policy-makers' attitudes towards trade liberalisation. SADC has gone furthest in its ambition, while ASEAN has been the most modest. I went on to suggest that these ambitions have had an impact on the actual substance of trade integration that would not have occurred in its absence. Yet, the extent of actual trade liberalisation varies considerably across regions and is not comparable to the EU. It is most developed in Mercosur, which has started to tackle many of the critical issues of common market building, while both ASEAN and SADC have barely gone beyond the removal of tariffs.

Thus, the EU has acted as both a switchman and driver in regional market building. Successive crises have led policy-makers in all three regions to increasingly emulate EU market building objectives. In other words, at various critical junctures of these regions' development, the EU has, at the least, acted as a switchman between various plausible alternatives. This is, in short, where the inevitability of EU influence in regional market building lies. However, due to the trade interdependence of all three regions with the EU, and the added financial dependence of SADC, the Community has also driven this development to some extent. In terms of substance, EU influence has been much less tangible, partly because it has been unable to conclude any interregional trade agreement to date. Its most tangible effects have been in the establishment of CUs, where the EU has contributed to securing earlier commitments in Mercosur and has formally induced the establishment of a CU in SADC. Thus, many areas of regional economic cooperation have not only been untouched by EU influence, they have also remained largely dormant overall. In this respect, the EU's influence on regional market building has been limited.

Chapter 5

Regional Institution Building

Regional institutions stabilise and facilitate the process of regional economic cooperation, which formed the subject of the previous chapter, and thus form its backbone. They assist in facilitating the process of decision-making, coordinating policies, providing information on member state compliance and adjudicating disputes. As we saw in the introduction, all three regions started out as endeavours in ad hoc cooperation: a high degree of informality, intergovernmental decision-making by unanimity at the highest political level (foreign ministers and/or Heads of State), complete decentralisation of the process and no genuinely regional institutions. Since then, they have become much more institutionalised. Formalised and centralised regional institutions have been created, some of which start to touch upon national sovereignty. While a formal pooling of sovereignty has not taken place in any of the regions, member states have started to delegate, to different degrees across them and within, decision-making power to common regional institutions.[1] How can this evolution towards increasing regional institutionalisation be understood?

In this chapter, I analyse this development from the perspective of EU influence. I ask: Under what conditions and how has the EU affected this process as regards three

[1] Pooling refers to decision-making procedures other than unanimity; delegation means granting power to independent regional institutions without member state vetoes (see Moravcsik 1998, p. 67).

central institutions: decision-making procedures, regional secretariats and regional dispute settlement mechanisms (DSMs)? These institutions fulfil not only the three most important functions any regional organisation needs to address – decision-making, coordination and monitoring as well as the adjudication of disputes[2] –, they are also the ones, which give the EU its unique character and have sparked the debate about the EU as a state-like entity rather than an IO.[3] The pooling and delegation of sovereignty in supranational institutions has gone further in Europe than anywhere else in the world – some observers have therefore spoken of an "extreme form of delegation."[4] In contrast to almost any other IO, EU member states have decided to endorse formally majoritarian rather than unanimity decision-making in most core areas of economic integration and to delegate certain sovereign powers to semi-autonomous regional institutions such as the European Commission (ECom) and the European Court of Justice (ECJ).[5]

These unique institutional arrangements, I argue, have left their imprint on the institutional development of all three regions, even though no region comes close to adopting any of them in a 'wholesale' fashion. More specifically, I suggest that a continuous push towards EU-type supranational institution building by some actors in the regions and the EU, on the one side, yet a widespread scepticism towards supranationality (low fit), especially among powerful member states, on the other side, is the main dynamic that underpins the development of regional institutions in all three regions. The extent to which this political tension has resulted in the creation of

2 Hawkins et al. (2006), pp. 15-18
3 Important contributions to this debate are Risse-Kappen (1996); Schmitter (1996); Pollack (2001).
4 Guzman and Landsidle (2008), p. 1696. This is not to deny that intergovernmental institutions still play an important, if not the central (decision-making) role in the Community.
5 Of course, the informal workings of the EU are also somewhat different, as we will see below (for example, Heisenberg 2005).

EU-type institutions depended, I posit, on the degree of material dependence on EU financial assistance and the respective decision-making context at critical junctures. Where material dependence is high, as in SADC, the EU has regularly acted as a driver of emulation processes that have resulted in the creation of EU-type institutions. Where it is low, as in the two other cases, there is some, albeit subtle, evidence that the EU has served as a switchman between plausible alternatives strengthening regional institutionalisation beyond ad hoc arrangements, especially in crisis-contexts. Yet, the relative scepticism towards supranationalism, I argue, has resulted in a certain degree of decoupling in all three regions: an increase in delegating formal, sometimes even supranational, powers to regional institutions, but without the accompanying responsibilities and resources to fulfil these powers effectively. Thus, unlike in Europe, their actual impact has remained small.

The chapter proceeds in three parts. The first part deals with the regional decision-making processes and procedures, the second one with regional secretariats and the third one with regional DSMs.

5.1 Regional Decision-Making

Any IO needs a core decision-making structure to fill in incomplete contracts.[6] They form the backbone of any regional grouping, as they provide the leadership structure and decision-making fora within which cooperation is mainly conducted. As Table 1.1 in the introduction indicates, all three regions have developed a fairly elaborate central decision-making structure akin to that of the EU, which differs strongly from

[6] This is quite different from NAFTA, which does not need elaborate decision-making institutions because the founding contract is complete and therefore does not require ongoing negotiations.

the initial minimalism of all three regions' institutional set-up, as we have seen. Thus, it seems fair to say that all three regions have transformed from mere instances in minimalist ad hoc cooperation in terms of institutions towards solid intergovernmental organisations. To analyse EU influence on any of these core institutions is well beyond the scope of this thesis. I therefore restrict myself to examining it on the most recent institution in the decision-making structure – the Committees of Permanent Representatives (CPRs)[7] – and the question of decision-making procedures. Both are, in many ways, unlikely cases of EU influence. The former because it reflects the particular need of EU intergovernmental decision-making in Brussels, as a high workload and the need to subject ECom activity to member state control was the initial impetus for its creation – a situation that is not necessarily present in other regions, as we will see below. And the second because *pooling* sovereignty by taking technical, day-to-day decisions in many policy areas by qualified majority voting (QMV), the EU is still unique in the international arena.[8]

All of the other regions have, in the meantime, created a CPR of their own, while none of them has adopted the formal possibility of QMV. In this part, I argue that the existence of CPRs in all three regions reflects EU influence based on the switchman dynamic rather than an independent adaptation to similar functional needs endogenous to the regions themselves. More specifically, I suggest that member states created CPRs as a result of learning from or emulating the EU's COREPER as integration progressed, even though a deviation from the more decentralised *status quo antes* was far from functionally 'imperative.' Regarding decision-making

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[7] The respective institution is called the Standing Committee of Senior Officials in SADC.

[8] Pooling sovereignty implies that member states cede their right to veto decisions about international cooperation, and thereby may be 'forced' to implement rules that they did not agree to.

procedures, I contend that the non-adoption of QMV is not puzzling given member states' reluctance to pool sovereignty. Yet, what is puzzling is that closer scrutiny of the process leading up to institutional changes in all regions in the early 2000s indicates that policy-makers were officially considering it. Thus, I suggest an interpretation of its absence that revolves around a lack of fit with EU arrangements based on the presence of the EU focal point in regional political debate. I consider CPRs first, before turning to decision-making procedures.

Committees of Permanent Representatives

As the name indicates, CPRs are permanent institutions of member state representatives, usually at ambassadorial level, that prepare decisions for higher decision-making bodies. Europe's CPR, called COREPER by its French acronym, is an 'auxiliary body' to the Council of Ministers that is not officially recognised by the Treaties but coordinates the work of the Council and prepares its decisions. It ensures the coherence of the Council's work through its permanence and technical expertise.[9] Its competences and concrete working procedures have evolved enormously over time. Today, it holds important *de facto* decision-making power and cultivates a particular working style that reflects a form of socialisation among members.[10] However, its initial (informal) creation with the Treaty of Rome responded to two straightforward functional needs. On the one side, as integration in the ECSC was progressing, the need emerged for a body to prepare the ministerial meetings. Originally, its members were based in the national capitals rather than Brussels as influential politicians were "determined to avoid the creation of any permanent

9 For an overview, see Westlake (1995), pp. 285-301
10 See Lewis (2005)

Luxembourg-based [*sic*] body."[11] The reason why it became a permanent institution in Brussels with the Treaty of Rome was mainly because countries were seeking a "direct, state-led rival to the new Commission", which carried the powerful right to initiative, as we will see in the next part.[12] Thus, its centralisation and permanence in Brussels were initially primarily a reaction to the need for a member state counterweight to a powerful supranational body.

As mentioned before, all three regions created similar CPRs in their organisations in the early 2000s. Like COREPER, the CPRs are permanent 'advisory bodies' to Ministerial Councils, composed of member state representatives of ambassadorial rank and centralised at the location of the respective Secretariats.[13] Their creation had, to varying degrees, functional roots. As all three regions were entering new phases in their integration processes – Mercosur governments sought to 'relaunch' the integration process following the regional financial crisis; ASEAN embarked upon the drafting of the ASEAN Charter to serve as the basis for a gradual process of (economic) community building; and SADC started a process of institutional restructuring to facilitate deeper economic integration (see Chapter 2 for the broader context) –, countries were plausibly anticipating a higher workload that required enhanced capacity.

Yet, from a purely functional perspective, it is unclear why member states created COREPER-type bodies instead of enhancing the capacity of existing, more decentralised arrangements that had served the organisations fairly well until then. In

[11] Westlake (1995), p. 285
[12] *Ibid.*, p. 286
[13] See Decision CMC/11/03 for Mercosur; Art. 13, Consolidated SADC Treaty; and Art. 12, ASEAN Charter.

fact, we might expect the latter to have been more suitable because it would have been the cheaper option and because member states would have faced less uncertainty regarding their future roles. Regarding the former, an ASEAN official noted, for example, that even a year after the CPR's operation had started, three of the new member states had still not nominated their permanent representative in Jakarta because it entailed a heavy financial burden and they wanted to "wait and see whether the CPR is doing a lot of work."[14] Regarding the latter, member states have indeed been reluctant to transfer significant decisions for discussion to the CPR. More salient political issues continue to be prepared and discussed without recourse to the CPR – very much unlike in COREPER.[15] Finally, the need to create a permanent intergovernmental 'counterweight' to control a supranational Secretariat appears to have been a salient consideration only in SADC, where it is plausible given its significant strengthening at the time.[16] In sum, it seems reasonable to argue that, maybe with the partial exception of SADC, a more decentralised arrangement that continued to rely heavily on functioning national coordination mechanisms constituted an equally if not more suitable alternative arrangement to the creation of COREPER-style CPRs in the early 2000s. However, this is not what happened. Below, I argue that EU influence was present in all three cases and the EU acted as a switchman between similarly plausible alternatives at least in the cases of Mercosur and ASEAN.

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14 Phone interview with Termsak Chalermpalanupap, February 2010

15 An ASEAN official, who participated in the drafting of the Charter himself, lamented: "Frankly, several members were not particularly convinced about how the potential of this Committee [CPR] would be realised unless the capitals are ready to empower and entrust full responsibilities to their PRs in Jakarta" (Paduka Osman Patra 2009, pp. 13-14).

16 SADC Council, August 2004, p. 105; SADC Secretariat (2005), p. 94

Maybe the most clear-cut case of the switchman dynamic is Mercosur, where policy-makers emulated Europe's COREPER in 2003. There is little doubt that "the CPR draws its inspiration from Europe", as one of my interview partners noted.[17] At the same time, it is highly unclear that its creation responded to a clear functional problem. Brazil's representative justified its creation very vaguely as follows: "It was created exactly to have a permanent organ of Mercosur here because Mercosur cannot rely on meetings every 2 months and half only… Mercosur is increasing; before, there was no FOCEM [Structural Convergence Fund], there was no Mercosur Parliament; Mercosur is increasing, has more tasks."[18] Even though the decision occurred at a time when policy-makers were trying to perfect the CU and move more decisively towards a common market, even the decision creating the body speaks very generally of the necessity "to advance in the strengthening of the institutional structure of Mercosur, responding to the will of the Member States to adapt this structure to the different phases through which the process of regional integration passes" (Decision CMC/11/03). Thus, its creation seems to be more of an attempt to give 'credibility' to Mercosur's relaunch following the regional financial crisis. Its open-ended and little circumscribed mandate – to assist the Council, to present initiatives to the Council and to consolidate relations with other Mercosur institutions – also casts doubt on an interpretation of Mercosur's CPR as the result of a learning process from the EU. A seasoned observer of Mercosur notes in a similar vein: "the composition and attributes of the CPRM suggest that its creation was a cyclical response to a political demand, more than an attempt to rationalize and strengthen the deficient institutions of regional governance in Mercosur."[19] Since its creation, the CPR has indeed been in search of a proper role in the institutional structure of Mercosur. One of its main tasks has been

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[17] Interview with Mercosur policy-maker, July 2009

[18] Interview with Regis Arslanian, June 2009

[19] Bouzas (2005b), p. 7

the administration of a newly created Structural Convergence Fund (see Chapter 6) – barely an important task and part of its founding rationale.

In ASEAN, the creation of the CPR in 2007 followed a similar switchman dynamic; yet, responding to a somewhat more defined functional need. As the organisation was preparing for major institutional reform with the ASEAN Charter, proposals proliferated as to how member states ought to cope with the increasing workload that was expected to result from the new ambitious (economic) community building objective. Initially, there appears to have been little mention of a CPR, even though most institutional proposals entailed the need to create some permanent structure in Jakarta. Yet, they recommended enhancing the status of the *existing* ASEAN Standing Committee in the decision-making process and staffing it with high-level Permanent Representatives rather than creating a new institution.[20] It was only after their study visit to Brussels that the Eminent Persons Group (EPG) formally recommended a CPR as a new institution for ASEAN. As one of the participants recalls: "We didn't go to COREPER, but we saw the need to do something similar in Jakarta because we are getting into community building."[21] The task force that drafted the Charter based on the EPG's recommendations adopted this proposal. Policy-makers are readily willing to admit, unlike with other EU-inspired institutions in ASEAN, that the CPR was explicitly modelled on the EU's COREPER.[22] However, its institutional structure and direct functions were adapted to suit the specific needs of the ASEAN context.[23] This might be an indication that learning rather than emulation, as in the case of Mercosur, played a more important role.

[20] Wanandi (2006), p. 86; Hernandez (2007), p. 37
[21] Phone interview with Termsak Chalermpalanupap, February 2010
[22] Interviews with Djauhari Oratmangun, September 2009, and with Ong Keng Yong, August 2009
[23] For an overview, see Jetschke and Murray (2012)

In SADC, the creation of a CPR comes closest to a learning process proper. In the context of the restructuring exercise of SADC institutions in the early 2000s, there was both the expectation that more decisive moves towards economic integration required a more permanent structure as well as the need for a 'counterweight body' to a strengthened Secretariat, as we have seen before. Thus, the functional context was somewhat similar to the one surrounding COREPER's creation in Europe in the 1950s. In 2004, the Council tasked the Secretariat to elaborate the design features of the new CPR "[taking] into account the experiences of other Ambassadorial Committees that are already operational."[24] As we can see, the Secretariat's mandate was open as regards the concrete objects of learning it would draw upon. There were, in fact, a multitude of options, including the UN, the WTO, the EU and many African regional organisations. Nevertheless, the Secretariat's draft proposal closely followed the EU (and African Union) models[25], containing an ambitious mandate that foresaw the CPR facilitating interaction and consultation between member states and the Secretariat, preparing the Council agenda, advising the Council on issues related to the implementation of SADC activities and following-up the implementation of Council decisions.

When the SADC Troika revised this proposal, it harshly criticised it for being overly ambitious. It pointed out that the proposal neglected SADC's capacity constraints, would increase bureaucracy and would lead to overlapping structures. Thus, it suggested instead limiting the mandate to facilitating consultation between the Secretariat and member state capitals and recommended that the learning process be redirected so that "comparison be made with other relevant Regional Economic

[24] SADC Council, August 2004, p. 106
[25] SADC Secretariat (2005). The latter is largely a replica of COREPER.

Communities, ASEAN and the Commonwealth, *as opposed to* the AU [African Union] and EU."[26] Unfortunately, I have been unable to track specifically how this Troika recommendation was received internally and whether it ever led to a reconsideration of the Secretariat's original proposal. However, it is clear that the new institution's mandate largely reflects this proposal.[27] Hence, even in a situation in which the functional context clearly 'mandated' the creation of a permanent and centralised CPR-type institution, EU influence led policy-makers to adopt an EU-inspired mandate for the new institution that is rather different from what a purely functional account would predict.

Decision-Making Procedures

An account of EU influence on regional decision-making procedures quickly raises the question about the pooling of sovereignty, that is, a deviation from the principles of consensus or unanimity. As I mentioned before, all three organisations continue to take decisions by unanimity, thereby preserving the full sovereignty of member states. From any theoretical perspective and even by mere common sense, given member states insistence to preserve national sovereignty, this outcome is not puzzling at all. Nevertheless, what is puzzling, then, is that such a move was officially considered in both ASEAN and Mercosur in the context of the same institutional reform debates in the early 2000s that also led to the creation of the CPRs. In ASEAN, this was directly related to socialisation processes by EU officials.[28]

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[26] SADC Troika (2005), p. 85, my emphasis. The reference to ASEAN must be a mistake because the organisation did not have a CPR before 2007.

[27] This body is officially called 'Committee of Ambassadors/High Commissioners'.

[28] I have been unable to find evidence of official discussions on a departure from the unanimity principle in SADC. According to a former SADC official, the issue of QMV was "never seriously

In ASEAN, decision-making has traditionally been characterised by two key procedural norms: consultation (mushawarah) and consensus (mufakat). Member states take decisions by deliberating until all of them can agree on a certain position. Instead of voting, they try to resolve deadlocks by reverting to informal bilateral negotiations and if these are unsuccessful, the issue is "swept under the carpet."[29] This decision-making style has formed an integral part of the 'ASEAN way' and continues to inform much of ASEAN's informal practices to this day. Even after the Asian financial crisis triggered sharp criticism of the organisation's informal decision-making process[30], high-level representatives still stood firm:

> There is no alternative to decision making by consensus in ASEAN. Forcing a majority decision upon a dissenting minority just would not work, not in ASEAN and not in any other association of sovereign states other than the European Union.[31]

The issue of decision-making procedures, however, entered the ASEAN agenda squarely after the Bali Concord II and the organisation's quest to prepare institutionally for the creation of a common market. As we have seen, the EPG visited Brussels in July 2006 *inter alia* to learn about the EU's decision-making procedure. As my interviews revealed, participants were originally reluctant to suggest QMV for ASEAN because the group was aware that moving away from the consensus principle was hardly politically feasible.[32] Nevertheless, the EPG learned important lessons when talking to EU policy-makers and experts that made them reconsider their own

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considered" (Interview with Stephen Kockerai, November 2009). Interviews with consultants involved in the restructuring exercise mentioned that they were reluctant to suggest such a move to member states because they thought it was politically unfeasible anyways (but see Gibb 1995, p. 227).

29 Zakaria (2008), p. 31. On ASEAN decision-making by an insider, see also Chalermpalanupap (2007)

30 The Asian Wall Street Journal argued, for example, that "a formalised habit of conflict avoidance, of endless striving for consensus, meant that ASEAN's exhaustive decision-making procedures were just too slow for a rapidly unfolding situation" (Jayakumar 1998). Enlargement in the latter half of the 1990s also raised questions about ASEAN's decision-making style (Chin 1995, p. 436; Anh Tuan 1996).

31 Severino (1999)

32 Interview with Termsak Chalermpalanupap, August 2009, and with other ASEAN Secretariat official, September 2009

conceptions about cause-effect relationships and even its potential feasibility in ASEAN itself. They were told that QMV is an important element of an effective regional organisation in view of ambitious economic integration objectives in order to avoid that single states can block small, highly technical decisions. Nevertheless, EU representatives gave their counterparts a realistic picture of EU decision-making that mitigated fears of being constantly outvoted, thereby rendering EU-style decision-making also potentially applicable to ASEAN. One participant recalls:

> We learned from the Europeans that [QMV] doesn't mean that member states are outvoted all the time. In fact, most decisions are taken by consensus; voting is only a fall-back option. […] They also told us that they use QMV only for technical issues of the internal market and that highly political issues are still taken unanimously.[33]

Reflecting these lessons learned in Europe, the EPG decided to recommend QMV to member states. The relevant passage in the EPG report states: "while decision-making by consultation and consensus should be kept for all important decisions, majority voting can be used in less sensitive and non-controversial areas."[34]

When drafting the final Charter, the issue of decision-making procedures turned out to be highly controversial. The Myanmar representative in the High Level Task Force (HLTF) on the ASEAN Charter called the EPG's QMV recommendation "bold and sensitive."[35] During the meetings, the members that had been participants in the study trips to Europe explained the rationale behind the EPG's recommendation and the lessons they had learned. Even though the member state representatives eventually understood the need to enhance the flexibility of decision-making procedures in the face of new ambitions, they nevertheless rejected the recommendation. As one insider

[33] Phone interview with Termsak Chalermpalanupap, February 2009
[34] Eminent Persons Group (2006), p. 17
[35] Bwa (2009), p. 29

recalls, “we didn’t manage to define what is non-controversial.”[36] Thus, member states eventually agreed that the transition from the long-cherished norms of *mushawarah* and *mufaka* towards majority voting was premature. The HLTF formalised decision-making in the Charter, defining its basic principle as ‘consultation and consensus’ (Art. 20/1), but inserted a stipulation providing explicitly that ‘where consensus cannot be achieved, the ASEAN Summit may decide how a specific decision can be made’ (Art. 20/2). Hence, it appears that it was mainly due to the EPG’s bold recommendation that member states explicitly provided for a potential departure from the consensus principle.

In Mercosur, decision-making has been more formalised than in ASEAN from the beginning. The Ouro Preto Protocol, signed in 1994, codifies decision-making by consensus (Art. 37). As long as the integration process was going fairly smoothly throughout the 1990s in view of increasing intra-regional trade levels and a generally favourable climate for cooperation, few demands were being voiced about a reconsideration of the unanimity principle. However, towards the end of the decade and spurred by the incipient financial crisis in the region, the smaller member states started to voice increasing dissatisfaction with what they viewed as the overwhelming dominance of the ‘big Two’ in the integration process. Many of the proposals by the smaller member states aiming to advance the integration process failed due to the larger member states’ veto. In the early 2000s, there were thus open calls by the smaller members to circumvent the potential for individual member state vetoes by introducing QMV, at least for technical issues. The smaller member states saw such a move as a way to overcome the large asymmetry in the block, regularly citing the

[36] Phone interview with Termsak Chalermpanalupap, February 2010

EU's success as a justification for such a decision.[37] According to several of my interview partners, this possibility was indeed formally considered during discussions for a revision of the original Ouro Preto Protocol in the context of Mercosur's relaunch in 2004.[38] However, the negotiations eventually ended without conclusion and decision-making was the only issue that was not again considered in the context of subsequent more piecemeal reform.

In sum, EU influence has had a significant impact on the establishment of CPRs in all three regions by acting as a switchman between similarly plausible alternatives when governments were confronted with the problem of decision-making in the context of a deepening of economic cooperation. Regional decision-making procedures have become more formalised over time, but retain individual member state vetoes due to member states' reluctance to pool sovereignty. Nevertheless, I demonstrated that socialisation by EU actors led policy-makers in ASEAN to seriously consider the introduction of QMV during the Charter-making process, against all odds. It was also considered in the case of Mercosur during policy-makers' attempt to relaunch the integration process; yet in this case, the role of EU influence is less clear.

5.2 Regional Secretariats

Centralised regional secretariats can serve a number of important functions, chiefly revolving around the coordination of common rules as the basis for interstate cooperation and the monitoring of compliance with agreed upon commitments. The

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37 Interview with Elbio Rosselli, July 2009
38 Interviews with Elbio Rosselli, July 2009, and with Argentinean government official, July 2009

ECom is the most prominent and powerful among international secretariats.[39] In contrast to the many purely administrative units that exist in many IOs, the ECom has played a central role in the process of European integration from the beginning – a role that is often described in the metaphor of the ECom as the 'engine of integration.'[40] Its influence has been based on a range of important formal competences, even though these are somewhat more impressive than the actual practice of decision-making suggests.[41] It holds the exclusive right to propose and amend secondary legislation, it can initiate policy proposals and acts as the 'guardian of the treaties' by being the main body responsible for monitoring compliance with treaty provisions, which entails its right to bring non-compliance suits to the ECJ (this is further discussed in the next part).[42]

In all the other regions, regional secretariats are far from being as central to the integration process as the ECom is. In fact, a systematic comparison in terms of actual competences and outcomes would bring up little similarity. Nevertheless, what is most striking about all of them is their evolution over time. While member states initially relied entirely on their own national bureaucracies to coordinate cooperation and monitor implementation – regional secretariats did simply not exist –, they have, since the early 1990s, created increasingly developed regional secretariats to adopt *some* of these functions. With some variation across cases, that I will detail below, member states have endowed regional secretariats with increasing competences,

[39] Tallberg (2002), p. 41

[40] Even though this is a widely accepted casual statement, there has been a fierce debate about the ECom's *actual* influence on the process of European integration, which some scholars have defended (Sandholtz and Zysman 1989; Fligstein and Mara-Drita 1996; Jabko 1999), while others have contested it (Moravcsik 1998, 1999).

[41] An excellent overview of the ECom's role in EU decision-making is Nugent (1999).

[42] The ECom also fulfils minor legislative functions, manages the Community finances and carries out a series of external functions, addressed in Chapter 6.

sometimes at direct account of national bodies. This gradual empowerment has rendered all three regional secretariats, to different degrees, independent bureaucracies that collect, provide and interpret information as an agent of member states.[43] This has moved them beyond mere administrative units that have traditionally organised the practical workings of many IOs.[44] In terms of the focal points outlined in Chapter 3, we might thus say that regions have moved, to some extent, from a firmly intergovernmental form of cooperation towards elements of a supranational one in this area.[45] How can we understand this movement from the initial *status quo*?

In this part, this evolution of regional secretariats is analysed from the perspective of EU influence. I argue that structural and functional approaches based on assumptions of independent decision-making are insufficient to account for their development. Against the background of member states' initial preferences and the respective 'functional context', they are most likely to predict a continuation of an intergovernmental arrangement to fulfil coordinating and monitoring functions as regional integration has deepened. Instead, I suggest that the EU has served as the main focal point in debates about regional secretariats, advanced by both weaker actors and the EU itself, which has, over time, strengthened them beyond mere administrative units, in loose relation to increasing trade liberalisation commitments. In SADC, the region's high dependence on EU (and other European donors') aid has been an important driver in this respect, especially regarding the Restructuring Exercise in the early 2000. In the other two regions, active EU efforts have been strongly rejected; yet, under crisis conditions, the EU has assumed the role of a

43 Barnett and Finnemore (2004)
44 Mathiason (2007), esp. Chapter 9. For a useful typology of regional secretariats, see Filadoro (2009)
45 The shift from mere ad hoc cooperation to a more formalised intergovernmental structure took place in the early years of each regions' cooperation effort and is not analysed in this thesis.

switchman between plausible alternatives. However, most member states' protective attitude towards national sovereignty (lack of fit) lies at the heart of all three secretariats' continued weakness when compared with the ECom. Nevertheless, EU technical and financial assistance has worked against a strong form of decoupling, in which regional secretariats are mere 'empty shells'.

Alternative Explanations: Functional Delegation?

Functional theories of regional secretariats have been developed mainly in the European context. They emphasise the benefits that member state may reap from delegating functions associated with coordination and monitoring to centralised independent bodies and come in two main forms. One version revolves around the need for the centralised provision of *information* to coordinate and monitor the implementation of regional rules.[46] The other one argues that only regional secretariats can *credibly commit* member states that incomplete contracts are filled in through a stream of future decisions and implementation is monitored in an unbiased manner.[47] These are plausible and indeed important arguments why regional secretariats serve important functions for states. However, I argue that they are largely indeterminate in that the same functions could plausibly be served by other institutional arrangements that are more decentralised. Thus, functional arguments are insufficient to account for the existence and subsequent evolution of regional secretariats as such, even though such arguments are regularly heard among policy-makers.

[46] Cram (1994); Moravcsik (1998), pp. 71-73; Barnett and Finnemore (2004), pp. 24-25
[47] Majone (1996), pp. 41-44; Moravcsik (1998), p. 73-77; Majone (2001); Pollack (2003), Chapter 2

As Moravcsik rightly points out regarding centralised information, there is no *a priori* reason why a decentralised model relying on well-established national bureaucracies ought to be less well placed to perform the task of providing information for effective coordination.[48] However, a similar argument can be made for the credible commitment (and informational) view in regard to monitoring. While both theories are right in pointing to the need for unbiased information for monitoring due to member states' incentives to provide wrong information on their implementation records, this could also be done in a credible way via *decentralised* mechanisms that rely on 'fire-alarm' oversight by private actors, as is done in NAFTA.[49] One might argue that the effectiveness of such decentralised mechanisms has a tipping point, when trade liberalisation commitments reach a depth and complexity that requires centralised monitoring. Even if this were true, it is clear that none of the regions has, as we saw in the previous chapter, reached a level of *actual* trade liberalisation commitments when compared to NAFTA that would render such an argument very plausible. Thus, both informational and credible commitment variants of functional delegation theories tend to be indeterminate as regards concrete institutional arrangements to fulfil the functions of coordination and monitoring.

However, I go further to argue that they are not merely indeterminate, but also to some extent misleading in the current context. Especially in view of the initial preferences of member states opposed to any form of delegation, we would expect them to opt for decentralised intergovernmental arrangements. These not only promise similarly effective outcomes, they have the added advantage of lesser costs

48 Moravcsik (1998, p. 71; 1999)
49 This issue will be discussed in more detail in the next part of this chapter.

due to reliance on existing institutions rather than the creation of new ones.[50] Moreover, the regional secretariats under study barely provide the information and/or credibility these theories view as the reason for their creation: not only do member state bureaucracies continue to play an important role in these tasks, member states also often downright prevent them from developing unbiased or credible information in the first place, as we will see below. The capacity of these institutions to fulfil the functions they have been delegated remains low. Nevertheless, the mandates they have been endowed with, with the partial exception of Mercosur, are broad-based and open-ended rather than narrowly circumscribed, as functional theories might expect.[51] Thus, unlike functional expectations, controls are often informal rather than formal in nature. Moreover, even though delegation decisions were taken at moments in time when trade liberalisation commitments also changed, a closer look at the accompanying discourse and the exact sequence of decisions indicates, as we will see, that institutional decisions and considerations about functional need were quite separate.

In sum, functional theories based on an assumption of independent decision-making given a particular starting point (which in our case is ad hoc cooperation) are insufficient and, to some extent, misleading in helping us to understand the evolution of regional secretariats in ASEAN, Mercosur and SADC. The discussion indicates that we need to appreciate how member states came to increasingly view delegation to regional secretariats as a necessary and in fact appropriate way to address the problems of coordination and monitoring given their initial reluctance. As Thatcher

[50] Jupille and Snidal (2006), for example, expect the creation of new institutions only as a strategy of 'last resort', that is, when the focal institution is unsatisfactory and the existing institutional landscape cannot be changed in a way to perform these functions in some other manner. Both could have been done here.

[51] Moravcsik (1998), p. 76

and Stone Sweet aptly note, functional theories are ill placed to do that because "[s]tipulating the existence of sufficient functional demand … tells us next to nothing about how actors came to define problems in ways that pointed to delegation."[52] It is here that EU influence has played an important role.

Driving Centralisation in SADC

As mentioned in the introduction, SADC's initial institutional cooperation structure was almost entirely decentralised. Each member state was responsible for coordinating and overseeing implementation of cooperation in a particular sector through a so-called Sector Coordinating Unit, which formed part of the central government structure.[53] A weak central secretariat existed mainly to administratively assist the work of the sectoral coordinators. Julius Nyerere, Tanzanian President at the time, explained the rationale of this initial set-up as follows:

> SADCC is also unusual in Africa because of its structure. It does not consist of a Headquarters and Secretariat which initiates and organises everything, with member countries trying to keep direct and budgetary control through periodic Ministerial and Summit meetings. Instead, all members are actively concerned in the initiation and implementation of all SADCC projects, with each having the responsibility for coordinating and promoting a particular sector. This structure enables the Secretariat to remain small and effective, while monitoring and coordinating the work of the coordinators.[54]

While SADCC relied heavily on external funding for the running of its Programme of Action, it initially intended to finance the core costs of its lean institutional structure itself. However, because member states often failed to contribute even their own "modest amount"[55], donors were an important driving force of SADCC cooperation, including its institutional structure, from the beginning. Even the small Secretariat

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52 Thatcher and Stone Sweet (2002), p. 8
53 For a list of sectors and coordinating countries, see Mandaza and Tostensen (1994), p. 73
54 Cited in Mandaza and Tostensen (1994), p. 70
55 SADCC Secretariat (1991a), p. 53

itself was soon financed almost entirely by external donors.[56] It was already in the mid-1980s, that the ECom expressed clear views vis-à-vis its counterparts on the "managerial and administrative weakness of SADCC", namely the Secretariat's inability to assume an overall coordinating role.[57] In the ECom's view, this was the main reason why SADCC was unable to utilise much of the mobilised resources from external partners, on which the organisation was heavily reliant. Until the end of the 1980s, the EC and its member states had contributed 62 percent of all donor funding[58], which accounted for around 90 percent of the total cost of the SADCC Programme of Action at that time.[59] In order to improve the situation, the ECom signed a Memorandum of Understanding with the SADCC Secretariat in 1986 in order to open a formalised channel of communication on the overall priorities of EC support and the specific projects to be funded, thereby seeking to strengthen its overall coordinating role in a more indirect way.[60] Early on in the SADCC process, the ECom thereby sought to construct a focal point for debate on why SADCC's efficiency remained wanting and what could be done institutionally to mitigate the situation.[61] Yet, in a study on the institutional structure conducted by the Secretariat in 1989, which assigned more concrete responsibilities to individual institutions at each stage of the project initiation and implementation process, the Secretariat was retained

[56] Council of Ministers, July 1988 (Vol. 1), p. 131
[57] Council of Ministers, January 1985, p. 59
[58] Hanlon (1989), p. 40
[59] SADCC Secretariat (1991a), p. 53
[60] Mandaza and Tostensen (1994), pp. 85-86
[61] Throughout the decade, the EC was the only external cooperation partner that constantly expressed dissatisfaction with SADCC's efficiency and made institutional proposals on how to deal with it. The records show that other donors, which the Executive Secretary of the Secretariat regularly visited to talk about cooperation (US, UN, UNCTAD or the Nordic countries), merely spoke about the resources they wanted to contribute and the projects they wanted to finance (see for example Council of Ministers, January 1985, p. 71).

as a weak administrative body.[62] This expressed continued intense member state preferences for a decentralised approach to cooperation in the region.

Nevertheless, concerns about the inefficient disbursement of European (and other) funds continued to be a mainstay. When the end of the Cold War lessened the strategic constraints on its international partners, some donors withdrew their support completely, while the EC was at the forefront of complaints about SADCC's continuously bad disbursement rate, which was "the lowest of all ACP regional groupings", threatening to reallocate its support to other ACP countries.[63] This eventually had its effects on institutional reform with the creation of SADC in 1992. In view of the new commitment to increasing regional integration, SADCC commissioned a study on the formalisation of the organisation.[64] This study concluding that "the institutions governing SADCC are adequate and effective generally", but recommended a modest degree of centralisation in the Secretariat.[65] While it suggested "to keep it relatively small", it also proposed to make it the "principal operational institution" of SADCC, *inter alia* by appointing *regionally* the three top officials of the nationally based Sector Coordinating Units and making them staff members of the Secretariat itself and spelling out its responsibilities more clearly.[66] The Council of Ministers subsequently endorsed the report; yet, insisted on retaining the decentralisation of sectoral coordination and thus rejected the recommendation to locate the top tier of the Sector Coordinating Units in the

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62 SADCC Secretariat (1989)

63 SADCC Secretariat (1991c), p. 51; similarly, Council of Ministers, July 1988 (Vol. 1), p. 95

64 Interestingly, the consultants were given a range of documents to consult for their study such as the founding Treaty of the Economic Community of West African States, the Charter of the OAS and of ASEAN as well as the UN Charter, consciously excluding the EC Treaty of Rome (SADCC Secretariat 1990, p. 125).

65 Malima et al. (1991), p. 375

66 *Ibid.*, pp. 377-8

Secretariat itself.[67] The old SADCC ethos of full member state control of the process and weak regional institutions was still very much alive. Nevertheless, the outcome of this process as regards the new formal role of the Secretariat in the Windhoek Treaty establishing SADC appears surprising. It established the Secretariat as the 'principal executive institution of SADC' and essentially emulates the open-ended mandate of the ECom. It is accorded powers in *all* of the areas of the ECom, that is, strategic planning and management, monitoring and evaluating implementation, financial administration, external representation as well as proposal of harmonised policies and programmes without further specifying any of them (Art. 14). This might be the result of a EU-financed consultant taking part in the drafting of the Treaty itself.

As an emulation account would make us expect, despite this new mandate of the Secretariat, the actual practice of cooperation and policy-making did not change much after the Treaty of Windhoek. Member states continued to coordinate sectoral policies based on the Sector Coordinating Units, while the Secretariat lacked the expertise and resources to contribute much to this process. As we saw in the previous chapter, throughout much of the 1990s, regional economic integration remained a dead letter anyways. The Secretary General of the Secretariat officially complained to the member states as late as 1998 that the institution was unable to "effectively discharge its mandate as the principal executive arm of SADC."[68] It is thus not surprising that dissatisfaction among cooperation about SADC's performance continued throughout the 1990s.[69] An independent audit, commissioned in response to the EU's increasing

67 SADCC Council, August 1992b, p. 6
68 Mbuende (1998), p. 256
69 As early as 1993, the Secretariat expressed its fear that "SADC is losing credibility and risks losing the support of cooperation partners" (SADC Council, September 1993, p. 39). Similarly, SADC Secretariat (1993a), p. 462

dissatisfaction[70], firmly anchored these problems on SADC's political agenda and triggered a sustained debate about institutional reform.[71] However, at this point the very outcome of potential reforms was still open.

Member states commissioned a series of studies on institutional reform from the mid-1990s onwards. The most influential one was done by various EU experts at *Imani Development Consulting*, who essentially sought to adapt the ECom model to SADC's circumstances.[72] They recommended a centralisation of some functional tasks in the Secretariat, but – in view of member state's preferences – proposed less than a formally exclusive role in regional agenda-setting.[73] Nevertheless, SADC member states initially rejected these proposals because they were "reluctant to close down their coordinating units and [to increase] the power of the Secretariat."[74] Subsequently, the Council considered various options for institutional reform, all of which emphasised the need for better coordination *within* the existing system of sectors without even mentioning centralisation.[75] A Review Committee still lamented as late as 2000 the "reluctance to consider a more centralised regional institutional structure required for an inter-sectorally coordinated regional integration effort."[76] As this narrative indicates, many observers saw a functional need to centralise SADC's institutional structure in order to engage more effectively in regional economic

70 See SADC Secretariat (1994)
71 See SADC Secretariat (1996), p. 5
72 Interview with Mike Humphrey, November 2009
73 Chipeta et al. (1997)
74 Isaksen and Tjønneland (2001), p. 4
75 SADC Council, February 2000a, pp. 81-82. For the wider context of these concerns, see Herbst (2007)
76 SADC Review Committee (2000), p. 488

integration, but this move was fiercely opposed by member states and other stakeholders.[77]

However, the dissatisfaction of external cooperation partners continued to grow towards the end of the decade as implementation problems persisted and institutional reform was still pending. The Dutch entirely abandoned their support to SADC in 1998 and the Consultative Conference, hitherto "the most important event in the SADC's calendar of activities"[78], did not take place for the first time in the same year. At that point, SADC's legitimacy crisis vis-à-vis outside partners reached a peak. Only a few months later, the Summit officially mandated a review of all SADC institutions with the objective "to improve its [SADC's] operational efficiency."[79] This time around, the reform debate took a different tone. Under the impression of a major legitimacy crisis of the organisation, member states found it difficult to retain their strong preference for the decentralised structure and the Summit quickly announced that regional economic integration "implies delegating authority and strengthening the capacity for decision-making to the relevant agencies."[80] A Review Committee, tasked to make concrete proposals for institutional reform in 2000, took up many of the earlier proposals by *Imani Development* and argued: "Experiences of other successful regional organisations suggest that member states would have to cede some of their authority and sovereignty to a supra-national body or Secretariat if the pace of integration is to be accelerated."[81]

77 Chipeta et al. (1997), p. 62
78 Sidaway (1998), p. 564
79 SADC Council, August 2000b, p. 87
80 SADC Summit, March 2001, p. 2
81 SADC Review Committee (2000), pp. 487-8

A major reform to restructure SADC institutions was adopted in March 2001. It hardly seems coincidental that adoption took place at the same time as rumours had started to spread that the EU was thinking about abandoning its Regional Indicative Programme (RIP) amidst a major restructuring of cooperation with Africa and policy-makers were seeking "to convince the EC to retain the RIP for the SADC region."[82]

The Secretariat formed the core of the so-called Restructuring Exercise.[83] The reform abolished, once and for all, the Sector Coordinating Units and Commissions – the backbones of the previous framework – and thereby gave the Secretariat the *exclusive* responsibility for those tasks, which it had already been assigned in the early 1990s: policy formulation and harmonisation, including the monitoring and evaluation of member state implementation, strategic planning, resource mobilisation and research.[84] The internal organisation is now similar to that of the ECom: it is organised around four Directorates, each responsible for a specific cluster of regional integration, as well as an additional department that deals with cross-cutting issues.[85] However, despite the extended mandate, the revamped Secretariat still lacks the necessary human and financial resources to fulfil its delegated powers effectively. As my interviews and other reports reveal, member states are still very reluctant to empower the Secretariat to develop policy proposals and monitor implementation without very close scrutiny.[86] Moreover, there is a lot of informal resistance at the

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82 SADC Council, August 2000b, p. 82

83 For good overviews of the Restructuring exercise, see Isaksen and Tjønneland (2001); Isaksen (2003); Tjønneland (2005)

84 The main formal difference to the ECom is its *exclusive* right to propose legislation, which the SADC Secretariat does not have.

85 The Directorates deal with Trade, Industry, Finance, Investment and Mining; Food, Agriculture and Natural Resources; Infrastructure and Services; and Social and Human Development and Special Programmes, respectively. The Department is responsible for Strategic Planning, Gender and Policy Harmonisation (see SADC Summit, March 2001, esp. pp. 11-13).

86 See Tjønneland et al. (2005), p. v; Giuffrida and Müller-Glodde (2008), pp. 120-3

implementation stage. The EU has now taken on this task to some extent. It finances about half of all Secretariat staff.[87]

In sum, it is highly unlikely that some form of endogenous learning due to the bad implementation record that hampered SADC's effectiveness and ultimately success *per se* drove the cost-benefit calculations of SADC policy-makers regarding institutional reform. Instead, the increasing threats to withdraw external donor funding was key for its initiation and ultimate 'success'. Functional pressures for institutional reform were undoubtedly present, but it is unlikely that they would have been addressed at all, and in the manner that they were, at this particular moment in time.

The EU as Switchman in ASEAN and Mercosur

Initially, ASEAN's cooperation structure was completely decentralised without any regional coordinative institution. Coordinative, agenda-setting and monitoring functions were being fulfilled entirely by purely intergovernmental bodies, chiefly the National Secretariats in each of the member states, which implemented the work of the organisation, in cooperation with the ministerial meetings and the Standing Committee of Ambassadors, which they serviced. Even the formal creation of a small ASEAN Secretariat (ASec) in 1976 under the leadership of the Secretary-General, which had 7 permanent staff, did not change this situation.[88] The National Secretariats, in conjunction with functional committees and the Standing Committee continued to coordinate policies, set the agenda and monitor its implementation.

[87] Saurombe (2009), p. 104. It contributes about 55 percent of the Secretariat's external financial support, with another 27 percent from the UK and 16 percent from Germany (based on data from Tjønneland 2006, p. 9).

[88] Art. 3, Agreement on the Establishment of the ASEAN Secretariat. In fact, it quickly raised quips of the institution being nothing more than a "glorified post office" (Chin 1992, p. 56).

Observers and insiders alike thus began to lament in the 1980s that "there is still not a trace of supranationalism in the structure."[89] Since that period, there have been calls for an institutional strengthening of the ASec, from individuals and groups inside and outside of government, with the argument being that the organisation needs an institution "for representation of the Asean 'community interest'."[90] These calls were largely independent of concrete functional needs to solve particular cooperation problems. These demands revolved around the general 'usefulness' of a central institution that could direct the process of (economic) cooperation in the common interest.[91] These calls gained renewed vigour as member states started discussing increasing moves in economic cooperation in the late 1980s, as we have seen in the previous chapter. Yet, they were only loosely connected to these debates as such and a decision to strengthen the secretariat was taken long before any concrete commitments in economic cooperation, that were later taken with AFTA, had been agreed upon or were even in the pipeline. Instead, institutional debate was based on a general sense that – as the study commissioned by member states to strengthen the ASec noted – "the Secretariat is under-equipped and under-powered to deal with Asean's present and future challenges"[92] – whatever those might be. A diffuse functional need rather than a concrete ambition to enhance the credibility of commitments was thus at the heart of institutional reform in the early 1990s.

When the member states commissioned the so-called Group of Five to suggest institutional changes, they faced the somewhat difficult dilemma that, on the one side,

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89 Drummond (1982), pp. 306-7

90 Alagappa (1987), p. 193

91 In 1982, a high-level ASEAN Task Force even made concrete proposals to strengthen the institution in order to effectively serve a three-stage hierarchy of Heads of Government Meetings, a general Council of Ministers and a Committee of Permanent Representatives – a set-up very similar to the EC's (Pelkmans 1992, p. 101).

92 Ghazali Shafie and Tan Sri (1991), p. 1

the ASec forms “a symbol of Asean’s unity”, but on the other, “unlike other regional groupings, a conscious decision was taken early on *not* to make it the Association’s central administrative apparatus” – as the Group of Five report aptly noted.[93] Even though the general ‘functional context’ was indeterminate as to the specific role of the Secretariat – as the report also briefly mentions, there were institutional options that continued the largely decentralised form of coordination that had dominated previously –, the mandate nevertheless asked the Group to focus on recommendations for the long-term strengthening of the ASec. At the same time, member states expressed their concerns – mirroring the initial ‘anti-EC’ ethos – “that a stronger Secretariat could lead to the loss of control and the emergence of a supranational authority.”[94]

The starting point for the Group, in which the prominent EU economist Jacques Pelkmans was the only non-regional member, thus was somewhat ambiguous: make recommendations on a strengthening of the ASec, while avoiding any form of supranationality. There is evidence to suggest that the ECom served as the main referent in deliberations.[95] Yet, the group was extremely cautious to avoid any, even remote, appearance of EU derived similarity in its recommendations.[96] It recommended a good deal of centralisation in the ASec developing it into the central coordinating body, but presented the OECD Secretariat as the main referent for its proposals and packaged it as an attempt to enable the institution to fulfil its *previously agreed upon* mandate rather than to enlarge it per se. While the important task of project initiation remained with sectoral member state committees, the group

93 Ghazali Shafie and Tan Sri (1991), p. 10, emphasis in original
94 *Ibid.*, p. 1
95 For example Naya et al. (1992), p. 27
96 Private email correspondance with one member of the Group of Five, August 2010

recommended to endow the Secretary General with the power to set the medium-term agenda by devising an ASEAN Plan for Cooperation, to entrust the institution with the responsibility to implement and coordinate all work and monitor projects, to conduct research in order to build a technical planning capacity and to gradually build an ASEAN Civil Service – many of the ECom's central characteristics.[97] In sum, the report suggested an "*irrevocable* shift towards the ASEAN Secretariat [which] implies the dissolution of the five ASEAN Economic Committees with their (nationally run) interim Technical Secretariats."[98]

The Heads of State largely endorsed these recommendations at their meeting in Singapore in January 1992. The ASEAN Economic Committees were abolished and the ASec was rendered the main coordinating body in conjunction with the Senior Economic Ministers (SEOM) meeting. The Secretary General was endowed with a formally 'enlarged mandate to initiate, advise, coordinate and implement ASEAN activities.' This mandate has been called supranational by some observers[99]; yet, it remained undefined in its exact content. Nevertheless, the ASec was given additional resources and recruitment made independent of member states to enable it to fulfil its mandate more effectively. What is notable, though, is that the institutional functions of the ASec were not adapted from the report's recommendations in view of the newly assumed trade liberalisation commitments, which had not yet been discussed at the time the report was prepared.[100] Here, the important functions of coordination and supervising implementation remained mainly with the SEOM meeting, assisted in unspecified ways by the ASec.

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97 Ghazali Shafie and Tan Sri (1991), pp. 25-30
98 Pelkmans (1992), p. 102, my emphasis
99 Akrasanee and Stiefel (1992), p. 31
100 Pelkmans (1992), pp. 124-9

In the following period of implementing AFTA, the ASec played a minor role. Initiatives for the removal of NTBTs and an expansion beyond the removal of tariffs were taken by intergovernmental committees, which also largely supervised implementation. This pattern followed – as a Philippine policy-maker noted – a long-standing and "observable leitmotif of bureaucratic instruments employed to give the perception of co-operation while at the same time limiting its impact."[101] In the wake of AFTA, the ECom also began to scale up its support for the integration process. Between 1996 and 1998, it financed a small Institutional Development Programme for ASec, which aimed to strengthen its internal coordination procedures and technical capacity.[102] At the same time, EU representatives were trying hard to convince their counterparts that the ASec ought to be strengthened if the new objectives in economic integration were to be achieved, especially as regards the monitoring of economic integration commitments.[103] However, in the absence of any political will to do so and a lack of material leverage similar to the one exerted in SADC, these efforts remained largely futile and triggered a rethinking of EU cooperation with ASEAN in the late 1990s that would avoid "unrealistic expectations" to be put on ASEAN or its secretariat.[104]

Nevertheless, before long institutional debate entered the ASEAN agenda again in the wake of the Asian financial crisis and subsequent efforts to enhance economic cooperation, as before with a prominent role for ASec. As the idea of forming a common market gained ground again, policy-makers also realised that ASec needed

[101] Akrasanee and Stiefel (1992), p. 30
[102] Martin (2009), p. 84
[103] Interview with Jonathan Scheele, June 2010
[104] European Commission (2003d), p. 12. Interview with Jonathan Scheele, June 2010. Another policy document remarked self-critically that EU cooperation programmes had often been "overly ambitious and were not paced with ASEAN's own agenda" (European Commission 2005b, p. 4).

further strengthening in order to cope with increasing demands on ASEAN's institutional framework.[105] This debate culminated in preparations for an ASEAN Charter, which started in 2006. As we have seen, preparatory work by an EPG took a visit to the EU in order to prepare its report; the workings of the ECom and its role in decision-making was one of the main themes of the study tour. There is thus little doubt, at this point, that the ECom was the main focal point for institutional debate on changes in the ASec. As a result, the EPG report essentially reiterates many of the proposals of the Group of Five, namely to enhance the resources of ASec to carry out its functions in policy planning and technical support and develop a proper career path for ASEAN civil servants. The most 'innovative' recommendation was to entrust the Secretary General with the "role of monitoring and reporting cases of non-compliance."[106] This recommendation, as the comparison with Mercosur below will bring out, was far from functionally 'dictated'; there are similarly plausible ways to organise monitoring in more decentralised ways. Instead, it was a choice that was reinforced by conversations the group had in Europe, as one of my interviewees remarked.[107]

In contrast to the EPG's recommendation regarding QMV, its proposals regarding ASec were largely taken up – in some cases using explicit EU terminology. Thus, ASEAN has also designed ASec as the 'Guardian of the Treaties', to monitor compliance and submit a report on the matter to the Summit (Art. 27, Charter). However, on the actual role of ASec on decision-making, the Charter remains vague. It merely speaks of the Secretary-General's task 'to facilitate and monitor progress in

[105] Hanoi Plan of Action, Para 10.3; Eminent Persons Group (2000), p. 36
[106] Eminent Persons Group (2006), p. 21
[107] Interview with participant of the group, September 2009

the implementation of ASEAN agreements and decisions' (Art. 11/2, Charter). Thus, member states remain reluctant to assign the institution any formal role in the initiation and preparation of cooperation.

Nevertheless, subsequent informal practice has somewhat moved in this direction. The ECom through its ASEAN Programme for Regional Integration Support and other measures as well as other international cooperation partners have supported ASec in developing capacity and proposals, in particular for the AEC. This has rendered the institution the almost exclusive *de facto* initiator of proposals in economic integration without a short period of time. According to the Deputy Secretary-General on the ASEAN Economic Community (AEC), 95 percent of them originate in ASec.[108] However, this number is misleading to the extent many of these proposals do not originate in the ASec bureaucracy itself, which still has very limited resources, but come to as much as 80 percent from external cooperation partners, including the EU.[109] Whether this position of ASec as the *de facto* almost exclusive initiator of most of the organisation's rules in economic integration will ever be codified formally in an ASEAN agreement is doubtful. However, it appears that member states, at least for the time being, have largely accepted ASec's leading role in this area in an informal manner.

This is very different from the Mercosur Secretariat, which is still the weakest of the three regional secretariats, both formally as well as in terms of capacity. Nevertheless, I suggest that EU influence has acted as a subtle switchman at various critical junctures of the institution's development. Mercosur's founding treaty did not

[108] Interview with Sundrem Pushpanathan, September 2009
[109] Interview with David Martin, September 2009

formally provide for the establishment of a central secretariat, but mentioned it as part of the Common Market Group's institutional infrastructure to archive documents and announce meetings (Art. 15, Treaty of Asunción). Yet, it was with the support of the EU, which provided 1.8 million Euros in technical and financial support for the administrative secretariat in Montevideo between 1992 and 1995[110], that the secretariat took the initiative, absent any formal legal basis, to monitor the first Mercosur work plan and report regularly to the Group on its progress – an informal initiative that the national coordinators accepted.[111] It was also at this stage, that EU representatives were active proponents of a stronger institutionalisation of Mercosur in general and of the secretariat in particular.[112]

In the run-up to Ouro Preto, where the final institutional architecture was to be decided, institutional debate began, including the potential establishment of a Mercosur Secretariat. The configuration of interests, which emerged at that time, has essentially continued to structure institutional debate over the Secretariat since then. The smaller member states, especially Uruguay, have been supporters of a strong Mercosur Secretariat with the capacity and powers to give direction to the integration process.[113] Both Brazil and Argentina have been very sceptical or outright opposed to this proposal, which is not only a function of their relative power position within the organisation, but also a more fundamental belief, especially during the 1990s, that Mercosur's institutions should be as minimalist as possible and purely

[110] The number is taken from Botto (2009).
[111] Filadoro (2006), pp. 680-1. I have been unable to find out to what extent this initiative was actively encouraged or even suggested by EU actors themselves, but the close interaction between secretariat officials and EU representatives suggests that a flow of information took place regarding the need for independent monitoring of implementation.
[112] During the transition period, the EU also financed and conducted three seminars on institutional questions for regional integration in Latin America (see www.cefir.org.uy).
[113] As an Argentinean policy-maker quipped: "Uruguay has always wanted to turn Montevideo into Mercosur's Brussels."

intergovernmental.[114] Nevertheless, the Ouro Preto Protocol codified the Administrative Secretariat as an official Mercosur institution that was now responsible for servicing the entire organisation rather than merely the Common Market Group. Its responsibilities, however, remained limited to administrative tasks.[115]

Since these early days, the debate about the Secretariat has formed part of a wider discussion about the extent to which an economic integration process that sought to emulate Europe's common market model needed a similar institutional set-up.[116] Brazil has been the fiercest opponent of a stronger Mercosur Secretariat – a position it has regularly justified by reference to the ECom. José Botafogo Gonçalves, a high level Brazilian diplomat, noted, for example: "We are certainly not going to reproduce the European experience and its bureaucratic administration. First, because we don't have the money to do it – and that's enough. But even if we had the money, more and more Europeans are fed up with the way the European Commission is wasting their money on all kinds of activities, including those that are politically controversial, like their agricultural policy. We are not going to reproduce this mess in MERCOSUR."[117]

However, when the regional financial crisis hit in the late 1990s and incipient conflict threatened to unravel the project entirely, Brazilian policy-makers softened their strict

[114] Marcos Castrioto de Azambuja, Brazilian Ambassador to Argentina in the mid-1990s remarked, for example: "MERCOSUR does not have the luxury to develop its architecture… MERCOSUR has difficulty with setting up institutions with bureaucratic content. The political will does not seem to be there. The environment is contradictory to the 1950's institutionalism of Europe" (cited in O'Neal Taylor 1996, p. 850).

[115] The Protocol retained the right of initiative with the Common Market Group and created an additional body, the Trade Commission, which assists the Group in matters specifically related to the CU, including monitoring the implementation of the CET.

[116] Caetano et al. (2009)

[117] Cited in Tulchin and Espach (2002), p. 6

opposition to even the most modest strengthening of the Secretariat. This opened a window of opportunity for Uruguay and also Paraguay's long-standing calls for a stronger Secretariat to be heard and set in motion a process that culminated in the transformation of the Administrative Secretariat into a Technical Secretariat, which from then on was officially called Mercosur Secretariat.[118] Its main task was to serve as an 'effective space of reflection' on the process of integration 'from a Community perspective' by lending legal and economic advise to decision-making bodies, writing reports on topics of interest and monitoring the integration process by issuing biannual reports. According to interview accounts, the process of negotiations leading up to this decision was controversial. According to the countries' former foreign minister, Didier Opertti, Uruguay "was pushing strongly for a fundamental strengthening of the Secretariat" that would entail "some right to initiate legislation."[119] This was, however, rejected by the larger member states, which were merely willing to 'concede' to enhance the Secretariat's technical capacity.

In any case, this reform did not reflect the independent adaptation to a specific functional need. Member states had consciously chosen to restrict the Secretariat's competences initially and the external context had not changed in a way to render that decision 'functionally flawed.' In fact, the establishment of a technical unit in the Secretariat – composed of two economists and two lawyers –, which followed this decision, does not 'solve' any functional problem at all. The problem continued to be dominated by the two largest members, coordination remained decentralised through intergovernmental channels and the new monitoring 'function' did nothing to alleviate the implementation problem. In short, the old intergovernmental logic remained

[118] See Decision CMC/30/02
[119] Interview with the author, July 2009

entirely intact.[120] In this sense, the 'strengthening' of the Secretariat appears primarily as a symbolic concession to the smaller members, which is characteristic of emulation processes. Moreover, especially the larger member states subsequently did everything they could to curtail the Secretariat's independence.[121] They were in fact unwilling to grant the resources and independence to allow it form an 'effective space for reflection.' Given Uruguay's specific input and the extent to which the ECom had already served as the focal point of debate prior to this decision regarding reform of the Mercosur secretariat, I suggest that it is a first, yet very subtle, instance of the EU serving as a switchman.

Shortly after the reform had been announced, the ECom quickly offered its support to help develop the capacity and internal procedures of the strengthened Secretariat. This has formed part of a wider effort – as the EU's latest Regional Strategy Paper states bluntly – "[t]o strengthen the Secretariat's operational and managerial capabilities in order to transform it in an *effective executive body* capable of handling *new* tasks and responsibilities."[122] This quote attests to a somewhat 'expansive' agenda of EU support that goes beyond merely enhancing the Secretariat's capacity. There is another good example of the dynamics emanating from the EU's willingness to enhance the Secretariat's influence and other member states' willingness to confine it. One of the ECom's main focuses has been to develop the capacity of the Secretariat to manage and develop the Structural Convergence Fund, initiated in 2004 (see Chapter 6). This has led to a constant struggle with Mercosur's Committee of Permanent Representatives, which shares responsibility with the Secretariat over management of

[120] See Caetano et al. (2009). For academic assessments of this issue, see Malamud (2005b); Domínguez (2007), p. 112; Malamud and Castro (2007)

[121] For a range of examples, see Bouzas (2008), p. 360; see also Caetano et al. (2009), p. 25

[122] European Commission (2007b), p. 31, my emphasis

the Structural Convergence Fund. Several interviewees complained about the EU's strong support for the Secretariat on that matter.[123] Nevertheless, member states are currently contemplating shifting some of the (minor) functions from the Committee to the Secretariat, beyond the mere realm of the Structural Convergence Fund (Decision CMC/56/08). Once again, these considerations are difficult to imagine in the absence of the EU.

5.3 Regional Dispute Settlement Mechanisms

Traditionally, the institutionalised adjudication of disputes through an authoritative and hierarchically structured court system was confined to the nation state. For a long time, this was one of the main differences that divided national and international politics, where anarchy constituted and continues to constitute an important structural impediment to a similar system. Nevertheless, international politics has become increasingly legalised, that is, the decisions of governments are increasingly subject to the constraints of international law.[124] This part addresses EU influence on the creation and evolution of DSMs as "a key dimension of legalization"[125], which serve to adjudicate disputes between member states and to ensure compliance with regional agreements.

We can roughly distinguish three ideal types of DSMs that conform to the three focal points outlined in Chapter 3.[126] The first one, ad hoc cooperation, suggests an ad hoc

[123] Interview with Regis Arslanian, June 2009
[124] For a recent treatment, see the special issue of *International Organization* 54:3 (August 2000).
[125] Keohane et al. (2000), p. 457
[126] There are various typologies on the market that distinguish roughly similar categories of institutionalisation, legalisation or legalism in DSMs (see Yarbrough and Yarbrough 1997; Keohane et al. 2000; Smith 2000). In practice, of course, policy-makers can mix elements of all three, which they have regularly done, as we will see. Rather than discrete 'types', the categories

resolution of disputes, which are raised by governments themselves, adjudicated by direct diplomatic consultations and negotiations between the disputing parties and often accompanied by good office procedures by other governments. The second one, intergovernmental cooperation, relies on non-permanent independent expert panels, which rule on a case based on consideration of the respective legal basis, but governments control access to the panels and have to endorse the final ruling. The third option, supranational cooperation, relies on independent and binding third-party adjudication that usually involves the establishment of a permanent court or tribunal. It tends to be characterised by three central elements[127]: judgements are compulsory (no political consent is required); not just states, but community institutions and private litigants can initiate cases (administrative and constitutional review authority); and a preliminary ruling mechanism connects the national and supranational legal systems via the request for legal opinions by national courts.

In any case, policy-makers in the EU have chosen the third option. The ECJ not only renders compulsory judgements and disposes of administrative and constitutional review authority, giving not just the ECom but also other Community institutions and private litigants the right to initiate non-compliance and infringement cases. Article 177 of the Treaty of Rome installed a preliminary rulings procedure that allows (and in some instances requires) national courts to ask the ECJ for binding opinions on the applicability and 'correct' interpretation of EU law in Community-related rulings.[128]

are better seen as forming part of a continuum that spans 'relations- or power-based' DSMs on one end and 'rules-based' ones on the other (see Davidson 2009).

[127] I take these central design features of supranational courts from Karen Alter (2008a, 2008b, 2012).

[128] This has been the main 'gateway' for the ECJ's transformation of the European legal order into a quasi-constitutional system akin to domestic legal systems (Weiler 1991; Alter 1998).

What is the pattern of dispute resolution in the other regions? SADC has moved furthest from no DSM in the early period towards an ECJ-type Tribunal in 2005. Mercosur has moved from an ad hoc arrangement in the Protocol of Brasília towards an intergovernmental arrangement with supranational elements in the Protocol of Olivos and is currently discussing the establishment of a Mercosur Court of Justice. ASEAN moved from no DSM in the early period via a purely intergovernmental arrangement towards an enhanced intergovernmental arrangement with certain supranational elements in 2004 and is currently debating a further strengthening of the DSM in the context of the Charter process. How can we understand these institutional developments of regional DSMs? My main argument in this part is that EU influence, in different ways, has exerted an independent pull towards supranational DSMs in the context of a broader community building process that is irreducible to purely functional dynamics. Hence, dynamics associated with the EU as a switchman are discernable to varying degrees across the three cases. While it has led to the establishment of an ECJ-style Tribunal in SADC and has moved Mercosur slightly beyond the WTO baseline, these dynamics are still ongoing in ASEAN, with uncertain outcomes for the future. I start by outlining two concrete puzzles in the creation and evolution of DSMs, before turning towards an examination of EU influence in each of the three regions.

Puzzles of Regional Dispute Settlement Mechanisms

Most existing explanations of DSMs are functional and emphasise the need for credible commitments in view of the severity of cooperation problems in trade liberalisation.[129] Such accounts view DSMs as the result of the need to adjudicate disputes and ensure compliance with trade liberalisation commitments, while variation in the degree of legalisation reflect the severity of the underlying enforcement problem.[130] This is generally seen as a function of the depth of trade liberalisation commitments.[131] Increasing liberalisation commitments, especially those that go beyond mere tariff and quotas to address non-tariff barriers to trade, enhance the complexity of agreements and therefore raise the danger of free riding, i.e. the possibility of cheating. The more difficult it is for member states to commit credibly to cooperation, the more likely they are to establish strong DSMs.[132] Yet, evaluating such a functional argument at the regional level is impossible without consideration of trade liberalisation commitments and DSMs at the multilateral level in the GATT/WTO, to which most of the member states belong. The most simple and plausible argument of the evolution of regional DSMs is that policy-makers create in the regional context a DSM to which they are subject at the multilateral level anyways. This allows them to adjudicate disputes closer to home and in a context that is less dominated by powerful industrialised countries.[133] Given that regional commitments barely go beyond multilateral commitments in practice, as we saw in the previous chapter, the severity of the enforcement problem is roughly comparable in both contexts. In other words, there is no obvious functional need, then, to go *beyond* multilateral DSMs in the regional context. Where does this leave us?

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[129] Some accounts of DSMs also entail power-based elements, but these are rather rare and would, in any case, find it difficult to account for such an evolution towards stronger DSMs given that the distribution of power has not changed substantively in the three regions (see Cooley and Spruyt 2009, p. 154; see also Goldstein et al. 2000, p. 391; Smith 2000, p. 149).

[130] Abbott and Snidal (2000), pp. 427-30; Koremenos et al. (2001), pp. 789-91

[131] Smith (2000), p. 148; Yoshimatsu (2006), pp. 124-5; Cockerham (2007). Walter Mattli (1999, pp. 54-55) makes a similar argument, but he views 'commitment institutions' as a (weak) prerequisite for successful integration rather than seeking to account for the *actual level* of institutionalisation.

[132] These accounts do not distinguish, however, between mere commitments and *actual* liberalisation – a distinction that is highly important in the cases under study, as we have seen in the previous chapter.

[133] Alter (2012)

During the early 1990s, policy-makers faced a rough choice between a GATT-style DSM and an ECJ-style one when embarking upon the creation of a DSM. The former was essentially a purely intergovernmental mechanism with governments tightly controlling all stages of the process. At that moment, the main question was thus whether states decided to delegate adjudicative functions to an independent third party or not. Given member states' reluctance to cede sovereignty in all three regions, the biggest puzzle during that period is the SADC case. Only there did policy-makers opt for the establishment of a permanent Tribunal with compulsory jurisdiction, while ASEAN and Mercosur established a GATT-type intergovernmental mechanism. The severity of the enforcement problem was not greater there than in the other two cases. In fact, the opposite is true. While both ASEAN and Mercosur assumed concrete trade liberalisation commitments with the Treaty of Asunción and AFTA, the Treaty of Windhoek merely stipulated a vague ambition to form a common market – the same than in Mercosur. Thus, a mere focus on the depth of trade liberalisation commitments is insufficient to explain this pattern.

After the creation of the WTO in 1995, the multilateral DSM changed radically. It moved from a purely intergovernmental system in GATT to a partly supranational system with the creation of the WTO Dispute Settlement Understanding, which has compulsory jurisdiction and a mechanism whereby states can initiate non-compliance suits with WTO law. Given that after 1995, institutional alternatives for dispute settlement – the WTO or ECJ models – both involved delegation to a third party, the tricky questions of regional dispute settlement design revolve mainly around the exact degree of independence, access and embeddedness.[134] Do member states stick with a

[134] For a detailed discussion of these three dimensions, see Keohane et al. (2000)

WTO-type DSM in the regional context or move further along the lines of the ECJ model? Here, we see further movement *beyond* that multilateral baseline in Mercosur and SADC, while ASEAN is currently discussing such a move. Thus, the SADC and Mercosur cases are the most puzzling for the period after 1995. Intra-regional trade interdependence, as we saw in Chapter 4, did not increase much after the mid-1990s, and it is thus unclear, from a functional perspective, why there should have been increasing demand by private operators for such a move. Moreover, it is implausible to argue that the previous record of dispute resolution explains this evolution. The SADC Tribunal was formally established only in 2005 and began its operation in 2008; very few cases were brought to the ASEAN DSM throughout the 1990s and appeared to be solved there[135]; while the Mercosur DSM also saw only a few cases and appears to have worked reasonably effectively, according to recent scholarly accounts.[136]

SADC

Discussions on a DSM for SADC began in the early 1990s in light of the newly envisioned integration agenda discussed in the previous chapter. In 1991, an expert team made recommendations on a revised institutional structure arguing that its institutions 'are adequate and effective generally', mentioning only in a side note (not in the list of institutions to be *officially* included in the new Treaty) that "settlement of disputes shall be by arbitration, and an arbitration tribunal or committee shall be provided for."[137] This proposal thus suggested an intergovernmental GATT type DSM, thereby reflecting member states' reluctance to delegate sovereignty. Even the

135 In fact, the 1996 Agreement on ASEAN Dispute Settlement, which established a GATT-type body, had not been used at all until 2002 (Davidson 2002, p. 145).
136 Arnold and Rittberger (2011)
137 Malima et al. (1991), p. 379

theme document for the 1992 Consultative Conference, which for the first time seriously engaged justifications for different approaches to economic integration in the region, was largely silent on the issue. It merely noted that a regional development community requires "mechanisms of mediation and arbitration, to which all agents of integration – governments, business, civil associations and individuals – can seek justice."[138] Hence, when the decision was taken to establish a Tribunal with the Windhoek Treaty, no real discussion on the costs and benefits of alternative options had taken place at the regional level.

However, this decision was taken in a particular context marked by uncertainty regarding the continued commitment of external partners to the organisation. More specifically, it became increasingly clear at the time that the geopolitical changes of the Cold War, especially the rapid turn of Eastern European countries to market capitalism, would mean increasing competition over scarce resources supplied mainly by Northern industrialised countries. The SADCC Summit of 1991 shared the Secretariat's fear, for example, that "the existing patterns of net resource flows are likely to, at best, stay the same in real terms, in the face of keen competition for aid and investment from the other parts of the world, notably Eastern Europe."[139] Given SADC's dependence on both aid and investment from the EU and other regions, these fears quickly elevated investment market integration and the mobilisation of own resources for the operation of SADC to the top of the regional agenda.[140] This was also against the background that the main impact of the envisaged common market

[138] SADCC (1992), pp. 41-42
[139] SADCC Summit, August 1991, p. 7
[140] SADCC Council, August 1992b, pp. 2-3

was to be expected in stimulating "new types of investment" rather than increasing intra-regional trade.[141]

This context of external dependence constrained policy-makers' choices. It was paramount for them to retain the credibility and legitimacy with external aid and investment partners and signal to them that the new integration effort justified their continued support. One of the ways to do this is to draw on the credibility of established models, especially those favoured by external partners, by 'visibly' emulating (some of) its central features, while retaining a more sovereignty-preserving institution 'in practice'. This is what the Tribunal stipulation in the Windhoek Treaty did. It envisaged the establishment of a permanent Tribunal with compulsory jurisdiction and the power to 'give advisory opinions' over all matters of the treaty and subsidiary instruments (Art. 16). Nevertheless, the Treaty stipulation remained vague and was thus left for further elaboration in a separate protocol. Even though member states concurred in principle that it was important "to accept the implications" of regional integration on sovereignty, as the 1992 Council of Ministers noted[142], they were nevertheless clear about their view of the Tribunal as a purely intergovernmental institution, thus closer to the GATT DSM 'in spirit', than a supranational institution akin to the ECJ. Shortly before the Treaty was signed, the Council of Ministers noted that it "only fully provides for the central intergovernmental

[141] SADCC Council, January 1992a, p. 2
[142] *Ibid.*, p. 6

organs of the community, i.e. the Summit, Council, Standing Committee of Officials, the Secretariat and the *Tribunal*."[143]

With South Africa's accession to SADC in 1994, the issue of sovereignty came to the fore again.[144] As by far the largest member of the organisation, it not only shared with other members the generally protective attitude concerning national sovereignty, but also – in contrast to them – lacked the strong strategic interests in regional integration in general. By the mid-1990s, it had started to negotiate a FTA with the EU and was more generally shifting its trade policy priorities beyond the Southern African region. When member states finally started work on the Tribunal Protocol in 1997, endogenous conditions strongly appeared to work against a strong DSM. The newly established WTO DSM, to which South Africa had acceded in 1995, was fully compatible with original treaty stipulations, including the mention of 'advisory opinions', and thus appeared like the obvious choice.

However, the external context once again mattered. As we have seen before, SADC's international cooperation partners had grown increasingly dissatisfied with the organisation's performance and threatened to cut their funding. In this general context of uncertainty, they posited particular doubts about the ability to improve the record of the organisation without an enhanced DSM that could push member states to abide by their commitments.[145] I have found no evidence that EU actors (or others) ever

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[143] SADCC Council, August 1992b, p. 35, my emphasis. This decision was taken at a time before strong Tribunals had spread across the African continent and thereby created potential diffusion pressures (see Alter 2012).

[144] Schoeman (nd), p. 8

[145] SADC Council, February 1999, p. 112. It should be noted that the elaboration of the Tribunal Protocol started at around the same time but was largely independent of broader debates about restructuring SADC institutions. It constituted the 'enactment' of a concrete stipulation in the Windhoek Treaty.

explicitly connected continued funding with a particular type of DSM. However, on various occasions, EU-oriented actors conveyed their views about "what an effective and credible dispute settlement mechanism ought to entail", as one of my interview partners recounted of an EC-financed British judge who formed part of the expert group drafting the Protocol.[146] At the same time, the EU conveyed that it would be willing to contribute to the establishment of SADC institutions. This external context once again influenced policy-makers' decisions: they had to balance the need to accommodate external partners' expectations with their own preferences, while the prospect of financial support mitigated potential distributional struggles over the financing of an institution that could turn out to be a heavy financial strain on member states.

The result was the design of an institution that follows the ECJ in all main elements, but mitigates its potential intrusiveness – a pattern that once again follows an emulation. On the one side, the Tribunal Protocol, adopted in 2000, features exclusive competence to constitutional review (Art. 17), private access (Arts. 15, 18) and a preliminary rulings procedure (Art. 16), which is a literal copy of Article 177 of the Treaty of Rome. It even goes beyond the ECJ's competences by stipulating that non-compliance suits can be brought directly by individuals when all other domestic remedies have been exhausted (Art. 15b) and by explicitly providing for the development of 'Community jurisprudence' (Art. 21b).[147] On the other hand, policy-makers carefully circumscribed the Tribunal's competences and realm of application. The protocol thus stipulates that sanctions in case of non-compliance with a ruling could only be imposed by the Summit, acting as always by unanimity. Moreover, the

[146] Interview with Stephen Kokerai, November 2009
[147] For a good overview, see Ruppel and Bangamwabo (2008)

area in which the Tribunal would have potentially had its most direct impact, i.e. trade liberalisation, is barred from its jurisdiction. The SADC Trade Protocol explicitly states that disputes are settled through negotiation and ad hoc expert panels (Art. 32) – a WTO-type arrangement. Member states continue to hold the view, as one astute observer notes, that a "trade dispute is not simply a by product of increased beneficial trading relations, but an unfriendly act."[148] Finally, in the absence of a direct effect doctrine and a preliminary rulings procedure that does not require national courts of last instance to refer cases to the Tribunal, as in the EU, private access and even preliminary rulings are much less likely to be sovereignty-encroaching. As long as member states do not incorporate rules into their domestic legal corpus, they do not constitute claimable rights among citizens.[149]

Nevertheless, SADC members were quick to 'claim' financial and administrative support for the new institution. Shortly after the Tribunal started its operation in 2005, SADC announced: "Since the Tribunal has just commenced operations, it is envisaged that the Tribunal will later on attract International Co-operating partners (ICPs)."[150] Funding in the 9th EDF was set aside for support for the Tribunal. The EU has also organised various training events and study trips for the newly appointed judges to Europe.[151] As the Tribunal is still in the process of establishing procedures, it has already sparked huge controversy. Several white Zimbabwean farmers, who had been dispossessed by President Mugabe's land reform, used the private access provision to

148 Saurombe (2009), p. 103

149 Frimpong Oppong (2008). However, a 2008 ruling by the Tribunal, in which it found that elements of Zimbabwean President Mugabe's land reform were in breach of SADC law (*Campbell case*), has sparked huge controversy and led to a 'temporary suspension' of its activities in August 2010. While Zimbabwe continues to refuse to implement the ruling, SADC Heads of State are currently discussing curtailing the Tribunal's mandate (see http://www.zimbabwedemocracynow.com/2011/05/26/sadc-tribunal-rights-watch-statement/, last access: 14.6.2011).

150 See http://www.sadc.int/tribunal/organisation.php (last access: 14.6.2011)

151 Phone interview with Charles Mkandawire, November 2009

call on the SADC Tribunal after domestic courts had rejected their complaints. Its 2008 ruling found that elements of Zimbabwean were indeed in breach of SADC law (*Campbell case*). While Zimbabwe continues to refuse to implement the ruling, SADC Heads of State decided on a 'temporary suspension' of the Tribunal's activities in August 2010 and are currently discussing curtailing the Tribunal's mandate.[152] In sum, SADC's heavy dependence on outside support has had an important impact on the Tribunal's design. Whether this situation is sustainable in the medium-term remains to be seen.

Mercosur

Unlike the SADC Tribunal, the evolution of Mercosur's DSM has been much more gradual with a significant strengthening of institutionalisation over time and in a context in which material dependence on the EU is largely absent. Instead, I suggest that emulation has played an important role in the DSM's evolution, which was driven by a continuous struggle between the stronger and smaller member states, the latter of which have sought to establish an ECJ-style Mercosur Court of Justice from the beginning of the integration process, while especially Brazil has been keen to retain institutional flexibility and thereby national autonomy. Over time, the smaller member states' demands for the establishment of an ECJ-style court have developed increasing traction as the integration process proceeded (yet not necessarily deepened).

The Treaty of Asunción provided for the creation of a DSM during the transition period (Art. 3) – until then, disputes were to be resolved through direct negotiations

[152] See http://www.zimbabwedemocracynow.com/2011/05/26/sadc-tribunal-rights-watch-statement/ (last access: 14.6.2011)

between the affected governments. Discussions on the new DSM started soon thereafter and pitched two 'camps' against each other that have also structured debates over the Mercosur Secretariat. The smaller members, especially Uruguay, advocated the establishment of an ECJ-style court in order to bind the stronger members, while both Argentina and Brazil preferred a purely intergovernmental DSM instead in order to retain Mercosur's flexibility.[153] This constellation of preferences and their broad content has been fairly stable over time (with some changes in the position of Argentina)[154]; yet, a notable evolution has taken place.

The outcome of these early negotiations was the Protocol of Brasília adopted in 1991 (Decision CMC/01/91), which, in substance, endorsed the GATT model; yet made 'cosmetic' concessions to the smaller members' demands for an ECJ-type body – a paradigmatic case of decoupling characteristic of emulation.[155] It established an Arbitration Tribunal with compulsory jurisdiction and included a stipulation on private access – in principle including two of the three major features of an ECJ-style mechanism. However, these stipulations were designed in a way that ensured complete political control over the process, thus constituting largely empty shells. For one, private access to the system was not direct, but operated through the national sections of the Common Market Group, which decided by unanimity how the complaint was to be dealt with (Chapter 5). Moreover, the pivotal judge on the three-judge Arbitration Tribunal had to be chosen by consent between the two disputing

[153] Several interview partners confirmed this general constellation of interests.

[154] For an extensive overview of each countries' interests in institution-building in Mercosur, see Martínez Puñal (2005), pp. 116-39

[155] This is not to deny that the specifics of this arrangement involved some learning from other models, including the GATT, CUFTA and LAFTA systems (O'Neal Taylor 1996, pp. 872-3).

parties.[156] Finally, the Arbitral Tribunal, despite its suggestive name, was only an *ad hoc* mechanism that was functionally equivalent to the decentralised system of GATT panels rather than the centralised EC system with the ECJ. However, these seemingly insignificant features were an early manifestation of the bigger member states' concessions to the smaller ones – a pattern that has continued to this day.[157]

In the following years, the ad hoc Arbitration Tribunal was barely used as member states preferred to deal with disputes directly through bilateral negotiations. Even following the major financial crisis in the region, in the wake of which especially Argentina sought protection from cheap Brazilian imports by erecting barriers to the free flow of goods that contradicted the treaty, member states continued to deal quite effectively with the fallout of the crisis through intergovernmental negotiation rather than recourse to the Adjudication Tribunal.[158] Some authors even hailed 'presidential diplomacy' and other informal arrangements as a successful alternative to strong regional institutions.[159] At the same time, the consultation procedure established to deal with private complaints regarding the application of the CET was fairly effective in settling disputes amicably in this particular area.[160] In this sense, the DSM was operating relatively successfully in the actual adjudication of disputes. Three widely cited functional problems that presented themselves – the long duration of settling disputes in some cases, the absence of a coherent body of 'community jurisprudence'

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156 However, unlike in GATT, ad hoc arbitration could be requested unilaterally. Yet, the main difference to the EC to this day is that Mercosur legislation does not have direct effect but only becomes binding when incorporated domestically, as in SADC (Araujo 2001, p. 32).

157 The Ouro Preto Protocol also discussed the Mercosur DSM, but no agreement could be reached on a permanent system, so the transitional system from the Protocol of Brasília was retained (O'Neal Taylor 1996, p. 874).

158 Between 1991 and 2002, member states had made only 9 references to it (Bouzas et al. 2008, p. 104). There are no official statistics about conflicts that were settled at the negotiation stage, but this appears to have played an important role (Arnold and Rittberger 2011).

159 See Malamud (2003, 2005b)

160 Arnold and Rittberger (2011), pp. 21-26

and the implementation of rulings[161] – could have been dealt with through more piecemeal reform, especially against the background that adjudication was operating fairly successfully in general.[162] The major problem was the generally low compliance rates with Mercosur legislation for lack of incorporation into the domestic legal systems, often due parliamentary or bureaucratic resistance.[163] However, in the absence of other member states bringing complaints to the ad hoc Adjudication Tribunal, this situation could not be mitigated through the mechanism and was not mitigated by the major institutional reform that took place with the Olivos Protocol in 2002. The Permanent Review Tribunal, established by that reform, is thus difficult to account for as a result of functional dynamics.

I argue instead that this reform was the result not merely of a concrete functional problem, but reflected a broader dissatisfaction with the continued tight political control of the Mercosur integration process and the lack of strong regional institutions, in which the creation of a Mercosur Court of Justice akin to the ECJ took a particularly prominent place. It was seen as an "indispensable guarantee for a community of states based on the principles of economic inequality and legal equality", as Uruguay's foreign minister Didier Opertti formulated.[164] Thus, the position that Uruguay had been taking since the beginning of the integration process – to create a supranational Mercosur Court of Justice – was increasingly shared, and forcefully voiced, by a number of other important actors in the region. Academics were among the strongest critics of the purely intergovernmental character of

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161 Vinuesa (2005); Bouzas et al. (2008), pp. 105-7

162 In fact, member states *were* addressing some of these problems this way (see Decisions CMC/17/99 and CMC/23/00). Moreover, the member states' Supreme Courts started developing informal arrangements to deal with many of these issues in a hands-on manner (Oliveira 2007).

163 Interview with Evandro Didonet, June 2009. For example, between 2000 and 2004 only 40 percent of Council resolutions were incorporated into domestic law (Bouzas 2005b, p. 8).

164 Cited in Pimentel and Dreyzin de Klor (2004), p. 148, my translation

Mercosur and argued forcefully that supranational institutions in general, and a supranational court in particular were "sorely needed."[165] Another important voice emerging at the time were Supreme Court judges, even in Brazil, who favoured a stronger institutionalisation of the Mercosur DSM including a supranational court. Maybe most forceful was an advocacy group of influential legal scholars from the region, who had on various occasions occupied positions in Mercosur institutions and even national governments and who demanded the establishment of an ECJ-type Mercosur Court of Justice. They were very familiar with Europe – some had written doctorates comparing the EU and Mercosur legal systems[166] – and were supported in study trips and other activities aimed at giving them first-hand experience of the European legal system by various European actors, including the EU itself.[167]

This broader context of civil society demands constrained actors' choices in the negotiation of a revision of the Protocol of Brasília, which started in 2000. Initially, debate focused indeed on the concrete functional changes necessary to 'relaunch' the integration process after the severe financial crisis. An ad hoc Group on Institutional Matters was mandated to elaborate recommendations on a series of concrete functional problems that had beset the integration process until then (see Decision CMC/25/00). The resulting proposals envisaged a moderate strengthening of the independence of the Arbitration Tribunal. At that time, Brazil announced that it was willing "willing to improve the dispute resolution system, but that does not mean accepting a supranational court"[168] and proposed the establishment of a non-permanent review court akin to the WTO, which found the support of Argentina and

[165] See also Gonzalez (1999); Rocha Filho (1999); Araujo (2001), p. 35
[166] See Perotti (2004)
[167] Pimentel and Dreyzin de Klor (2004), p. 141
[168] Cited in Arnold and Rittberger (2011), p. 20

Paraguay. However, Uruguay rejected it because it wanted a permanent institution and a strengthening of private access.[169] Yet, in view of the continuing crisis, which threatened to unravel the entire project, the tide gradually turned. The Olivos Protocol, adopted in February 2002, establishes a Permanent Review Tribunal modelled on the WTO. The smaller member states succeeded in adding the attribute 'permanent' to the newly established body in order to distinguish it from ad hoc arrangements and at least invoke associations with the type of rules-based system they had originally proposed.[170] Moreover, the Protocol contained a provision on (non-binding) 'consultative opinions' that already reaches beyond the WTO baseline (Art. 3). Elaborating this stipulation in Decisions CMC/37/03 and CMC/02/07, member states emulated the wording of Article 177 of the Treaty of Rome, but did neither allow national courts (they have to act through their national Supreme Courts) nor the Mercosur Secretariat to request such opinions[171], thereby clearly protecting national sovereignty.

When Lula da Silva was elected President in Brazil in 2002, he sought a relaunch of Mercosur in the wake of the regional financial crisis *inter alia* by strengthening Mercosur institutions. Lula himself has stated publicly that the future of Mercosur would entail the creation of supranational institutions along EU lines.[172] Shortly thereafter, member states began discussions on a fundamental revision of Mercosur's institutions 10 years after the Ouro Preto Protocol. In these negotiations, Uruguay

[169] Pimentel and Dreyzin de Klor (2004), p. 149-50

[170] A Brazilian interview partner was quite surprised that they insisted so fiercely on this adjective, given that its substance remained the same. In fact, while the Permanent Review Tribunal does have a building in Asunción now, the judges only convene when there is a case to be heard; they have to be 'permanently available' (Art 19).

[171] However, treaty organs with decision-making power and the Mercosur Parliament can request consultative opinions. Apparently, the 'Permanent Forum of Supreme Courts of Mercosur Countries' was very influential in retaining its gatekeeping role in the process of consultative opinions (Oliveira 2007, pp. 97-99).

[172] Interview with Regis Arslanian, June 2009

tabled a proposal for the establishment of an ECJ-style Mercosur Court of Justice that would hold compulsory jurisdiction over all economic integration matters in Mercosur, be endowed with an exclusive competence to constitutional and administrative review, have a more effective preliminary rulings procedure, and extend direct access to other treaty organs and private persons.[173] Nevertheless, the larger member states rejected these demands, with Brazil arguing at the time that the Brazilian Constitution does not allow for a legal body that constrains its Supreme Court[174] – an argument that the Supreme Court itself has since questioned. Despite Brazil's continued scepticism, the creation of an ECJ-style Court in Mercosur constitutes, ever since, the main focal point in the debate on legal integration up to the highest governmental levels.

Since then, the ECJ-focused advocacy coalition has continued to expand and has sought to hold Brazil to its general willingness to consider supranational institutions. This has set in motion a process that seems to be at the brink of overcoming remaining resistance to the establishment of a full-fledged ECJ-type supranational Mercosur Court of Justice in the Brazilian government. The advocacy coalition has stepped up its activities through a series of events where institutional reform is discussed and policy-makers confronted with "basic elements for the constitution of a Mercosur Court of Justice."[175] It increasingly joins forces with other powerful actors and Mercosur's own institutions. The Supreme Courts in Mercosur, organised in an epistemic network, announced their general openness to the possible creation of a Mercosur Court[176], while the Permanent Review Tribunal regularly cites ECJ rulings

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173 Interview with Elbio Rosselli, July 2009
174 Interview with Reinaldo Salgado, June 2009
175 Perotti (2009)
176 Perotti (2009), fn. 1

in its own judgments, indicating their clear relevance to the Mercosur integration process. The newly created Mercosur Parliament has also been advocating its creation in the so-called 'political declaration', which the member states endorsed in October 2010 (Decision CMC 28/10).[177] By so doing, they have now committed, in principle, to the establishment of a supranational Mercosur Court of Justice.

ASEAN

In ASEAN, the issue of a DSM started to be discussed in the run-up to AFTA in the early 1990s.[178] As member states, for the first time in the organisation's history, began to embark upon trade liberalisation rather than mere economic cooperation, there was a functional demand to tackle the issue of disputes. A few (European) voices quickly raised the 'need' for a supranational court to ensure proper legal certainty, but such a proposal did not resonate with policy-makers in the region.[179] Instead, most recommendations anticipated their reluctance to agree to a high degree of legalisation and therefore argued that "ASEAN cannot really look to this model [ECJ] for guidance… it should not consider, at least in the short to medium run, creating a Court of Justice."[180] This assessment by a group of experts from the region at the time continues to reflect a strong sense among policy-makers to this day, namely that the EU's legal system is too intrusive to be suitable to ASEAN's more consensual decision-making and integration style. However, as ambitions in economic integration

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[177] Paraguay, for example, sees a Mercosur Court of Justice as an important 'counterweight' to what it sees as Brazil's 'overrepresentation' in the new Mercosur Parliament, which is discussed in Chapter 6 (see 'Impulsa Paraguay creación de Tribunal de Justicia de Mercosur', *Pueblo en Línea*, 16 June 2009).

[178] A High Council to settle political disputes between member states had been established in 1976, but only became operational in 2001, and an early investment agreement provided for an ad hoc dispute settlement procedure based on political negotiation (for an overview, see Davidson 2002, pp. 141-3).

[179] Pelkmans (1992), p. 126

[180] Naya et al. (1992), p. 27

have progressed, reference to the ECJ has grown and demands in that direction have been increasingly voiced by a variety of actors inside and outside the region. Today, it is fair to say that the ECJ constitutes the main focal point of political debate in the region, which augurs well for EU influence via the switchman dynamic. However, to what extent this will eventually play out is too early to judge.

Despite concrete trade liberalisation commitments taken in the agreement on the ASEAN Free Trade Area, policy-makers decided to retain their well-trodden way of settling disputes based on mutual consultations (Art. 8, Common Effective Preferential Tariff Agreement), while providing for the potential establishment of a more formalised DSM in the AFTA Framework Agreement 'whenever necessary' (Art. 9). After Singapore took an intra-ASEAN economic dispute with Malaysia over the application of the AFTA agreement to the WTO in 1995, policy-makers felt compelled to provide for a more formalised arrangement within the region.[181] Consequently, they adopted the 1996 ASEAN Protocol on DSM, which was based mainly on the GATT model.[182] It provided for limited third party review by an ad hoc panel, the rulings of which a political body had to endorse before they became legally binding. However, endorsement of the panel report was by simple majority of SEOM members and, in case of appeal, by a simple majority of ASEAN Economic Ministers, whose decision was final and binding (Arts. 7, 8). It thus marked a "dramatic first use of nonconsensual decision making within ASEAN" and therefore an important break

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[181] Kahler (2000), p. 565; see also Smith (2000), p. 168
[182] The Protocol is available at www.aseansec.org/16654.htm (last access: 16.10.2011).

with past practice.[183] However, the arrangement was used very little even though member states continued to openly defect on their liberalisation commitments.[184]

When ASEAN member states embarked upon a new phase in economic integration with the Bali Concord II, the issue of dispute settlement entered the political agenda again. Interviewees confirmed that during the process of designing a new DSM, the EU model was considered among others[185], but the eventual result of negotiations was an arrangement along the lines of the WTO. The 2004 ASEAN Protocol on Enhanced Dispute Settlement Mechanism thus introduced a WTO-style Appellate body.[186] Around the same time and with major support by the EU, member states also created a legal unit in the Secretariat to provide legal advice to member states and firms, a mechanism for Consultation to Solve Trade and Investment Issues, modelled on the EU SOLVIT mechanism[187], and a Compliance unit to provide mediation services for resolving disputes.[188]

Despite these institutional improvements that have brought ASEAN's DSM in line with WTO arrangements and various other mechanisms for pragmatic dispute resolution in a more decentralised fashion, institutional debate on dispute resolution has nevertheless continued. It gained renewed impetus during the Charter-making process, which started in 2005. It might not be surprising *per se* that reference to the

183 Kahler (2000), p. 566
184 For examples, see Yoshimatsu (2006), p. 123
185 Interview with Jeffrey Chan, September 2009
186 ASEAN Protocol on Enhanced Dispute Settlement Mechanism, Vientiane, 29 November 2004.
187 The SOLVIT mechanism is an online problem-solving network among member states that seeks to settle cases of misapplication of Internal Market law by public authorities, accessible for free for citizens and businesses.
188 Foong Khong and Nesadurai (2007), pp. 55-56. Under the ASEAN Programme for Regional Integration Support, the ECom has assisted in the implementation and operationalisation of the new DSM as well as the other mechanisms through capacity building and technical assistance projects, including a study visit to Brussels (programme website: http://www.aseansec.org/apris2/).

ECJ became more frequent as ASEAN's new economic integration objective – to create a EU-style common market – was being fleshed out. But from a purely functional perspective, we would expect that, to the extent that it was operational and in fact being used, the WTO-type mechanism policy-makers had created was sufficient to ensure the credibility of trade liberalisation commitments that were *de facto* not as deep as NAFTA's. Because of its low usage rates, however, which suggest policy-makers' continued unwillingness to subject their economic integration process to independent and legalised forms of adjudication, it has never acquired real credibility.[189] This might have been one of the reasons why various actors inside and outside the region continued to advocate a further institutionalisation of ASEAN's DSM, increasingly along ECJ lines. A former Thai official has argued, for example: "While embracing all aspects of the EU institution [*sic*] is politically unfeasible and unnecessary, the establishment of a supranational ASEAN court – fashioned on the European Court of Justice – would be critical to the economic integration process."[190] Similarly, various studies by the influential ASEAN-ISIS network of think tanks in the context of the Charter-making process suggested unambiguously that an "ASEAN Court of Justice should be established as an independent body" and the influential McKinsey study, commissioned by the member states to make recommendations on economic integration in ASEAN in the early 2000s, similarly proposed a supranational DSM along European lines in order to ensure the credibility of newly assumed commitments.[191] Even the ASEAN Interparliamentary Association, the

[189] Davidson (2004)
[190] Akrasanee and Arunanondchai (2005), p. 67; similarly, Hew and Soesastro (2003)
[191] Hernandez 2007, pp. 37-38; Schwarz and Villinger (2004), respectively

organisation's parliamentary body, demanded the establishment of an ASEAN Tribunal for effective adjudication of disputes.[192]

As with other areas of institution building in ASEAN, the EPG on the ASEAN Charter, which took a study visit to the EU during their deliberations, largely set the agenda also on the issue of dispute settlement in the Charter-making process. Even though it had learned in Brussels that "strong, efficient, impartial and well-funded central institutions are necessary to serve as the foundation for a rules-based regional organisation"[193], the group was unwilling to recommend the introduction of a central, supranational mechanism. Its final report state rather vaguely that a DSM be established, which "should include compliance monitoring, advisory, and consultative as well as enforcement mechanisms… similar to those available under the 2004 Protocol."[194] Even though some members of the group, such as former Philippine President Fidel Ramos, were in favour of recommending a supranational Court, the EPG was unable to find agreement on this issue.[195] It reflects the long-standing fear among regional policy-makers that what they perceive as overly formalised dispute settlement could be divisive. The eventual stipulations in the Charter reflect this view. The HLTF that drafted the final document decided to rely mainly on existing mechanisms, without precluding the possibility that other, stronger mechanisms are established in the future (under Art. 25). Once again, member states were divided on the question of whether a supranational court should be established, but eventually decided – as one participant explains – "that, on balance, ASEAN is not quite ready

[192] See the institution's website: http://www.aipo.org/Activities.htm (last access: 15.10.2011). Its emergence and evolution will be further discussed in Chapter 6.
[193] Chalermpalanupap (2009), p. 132
[194] Eminent Persons Group (2006), p. 42
[195] Interview with Fidel Ramos, September 2009

yet for a formal court."[196] However, the creation of an ASEAN Court of Justice is among other "good ideas that can be further considered."[197] We may therefore see its establishment in the future.

In sum, the pattern of DSM across the three regions is varied. While there is substantive evidence that the ECJ has formed the main focal point of debate, as regions have progressed towards more ambitious forms of regional economic integration, only SADC has established an ECJ-style Tribunal. Even though Mercosur has gone somewhat further than ASEAN in increasing institutionalised DSM beyond the WTO baseline, a continued scepticism among many (powerful) member states regarding supranationalism has hampered more profound forms of EU influence. However, there is reason to believe that this 'absolute' scepticism is likely to crumble in the coming period.

5.4 Conclusion

In this chapter, I have sought to show that EU influence has had a discernable influence on regional institution building processes in ASEAN, Mercosur and SADC. As all three regions have moved towards deeper forms of economic integration, with ambitions to establish EU-style common markets, the Community's institutional framework, I argued, has almost inescapably formed a (suggested) focal point for debate. Despite its presence, however, emerging institutional similarities with the EU remain limited due to policy-makers' widespread continued reluctance to pool and delegate sovereignty in regional institutions. This has also been the main reason, I

[196] Woon (2009), p. 74, my emphasis; see also Poole (2009), esp. p. 69
[197] Chalermpalanupap (2009), fn 10

suggested, why the EU's active (and sometimes quite forceful) promotion of stronger regional institutionalisation, which has been specifically geared at strengthening regional secretariats, has met with only limited success. Despite some increase in the formal delegation of power to regional institutions, their actual practice continues to be overwhelmingly dominated by member states' willingness to retain complete control over the process. This pattern is broadly similar across the three cases.

Compared to regional market building discussed in the previous chapter, evidence of EU influence on regional institution building is more subtle, especially in the cases of Mercosur and ASEAN. In SADC, the EU has acted as a driver of processes towards a higher degree of centralisation in the organisation's institutional framework, most notably the SADC Secretariat. However, in a context of high material dependence on the EU, the establishment of an ECJ-style Tribunal in 2005 also forms part of the EU as a driver dynamic. In Mercosur and ASEAN, on the other hand, there is some evidence for the EU acting as a switchman, especially in regard to the establishment of CPRs and the gradual strengthening of regional secretariats. Concerning regional DSMs, EU influence is difficult to distinguish, at this stage at least, from the impact of simple membership in the WTO, which makes states subject to multilateral adjudication in the economic realm. Only the future evolution of DSMs will make it possible to adjudicate with more confidence between EU and alternative influences.

Chapter 6

Regional Community Building

ASEAN, Mercosur and SADC have always been more than mere vehicles for market liberalisation, including the efficiency-enhancing institutions required to guide such an endeavour, which formed the subject of the previous two chapters. Similar to the EU itself, their original impetus was political rather than economic, seeking to overcome internal and/or external threats and long-standing rivalries through closer regional cooperation. Yet, and quite unlike the EU, their initial 'operative mode' was minimalist, eschewing any cooperative arrangement that went beyond what was needed for pragmatic cooperation in specific policy fields, as we saw in the introduction. Only over time have these regions become more genuinely concerned with the construction of a community. Recent landmark treaties in all three regions formulate similar ambitions in this respect. The ASEAN Charter speaks of the aim to form an ASEAN Community, composed of a Security Community, an Economic Community and a Socio-Cultural Community; further, to promote a 'people-oriented ASEAN' and an 'ASEAN identity' (Art. 1). The SADC Windhoek Treaty transformed the previous 'Consultation Conference' into a Community and declared its ambition 'to involve the people of the Region centrally in the process' (Preamble). Mercosur's Treaty of Asunción, despite its economical orientation, copied the respective EC stipulation from the Treaty of Rome to declare member states' will 'to lay the bases for ever-closer union among their peoples' (Preamble).

However, what exactly is a regional community? Most attempts to define a community in international relations revolve around two main elements: peoples or citizens and not only states have shared identities, values and meanings that find expression in manifold relations going beyond the regular diplomatic interaction between governments characteristic of the contemporary world; and member states exhibit "a reciprocity that expresses some degree of long-term interest and perhaps even altruism."[1] What emerges from this characterisation is that community building does not deny the importance, and indeed continued centrality, of member state interests; yet, it views them as both defined and acted upon in a different way. More specifically, they reach beyond the short-term, narrowly defined state interests of the type of Tit-for-Tat self-interested cooperation conceived by neoliberal institutionalists to entail a more long-term and wider conception. Nevertheless, the term remains somewhat elusive, not least for policy-makers themselves.[2] How, then, in concrete political instances of cooperation do states create – to draw on Deutsch's famous formulation[3] – a 'sense of community' that "assure[s], for a 'long' time, dependable expectations of 'peaceful change' among its population"?

In this chapter, I analyse when and how the EU has influenced the formalised manifestations of regional community building in three central areas: solidarity; participation and democracy; as well as external actorness. The first two are internal and have traditionally been the bread and butter of domestic politics; the third one sheds light on the external dimension of internal community building efforts. Yet, all

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1 Adler and Barnett (1998), p. 31. A philosophical treatment of the idea of community in IR is offered by Linklater (1990).

2 Charles Tilly writes, for example, of a "Haze of Paradigm Lost" still surrounding use of the term and the diffuse "mixture of description, sentiment, and moral principle" which it evokes (Tilly 1998, p. 397).

3 Deutsch (1957), p. 1

three share an underlying concern with the legitimacy of regional cooperation processes.

The EU has, over time, developed unique formal sets of rules in all of these areas that have traditionally been associated with nation states rather than IOs: redistribution in the form of EU cohesion policy as an expression of European solidarity[4]; parliamentarisation through the directly elected European Parliament (EP) as the core of expressing the norms of participation and representative democracy at the European level; and European Commission (ECom) representation based on international legal personality (ILP), which allows the EC to enter into international agreements *as a regional organisation* independent of the constituent member states, as the characteristic external face of European integration. The latter has, especially in the trade field, approached the unitary character of nation states. It is in regional community building that the EU has maybe achieved its most distinct supranational character in international politics. Unlike in the EU, none of these formalised arrangements was present in the regional groupings under study from the beginning. Over time, however, we observe a striking dynamic towards similar types of rules in community building; yet, without the supranational element of the EU.[5] Thus, all three regions feature EU-style structural funds, but with redistribution organised by states between states rather than by supranational organisations between state sub-units (regions); all three dispose of regional parliamentary bodies, and in Mercosur even a full-fledged parliament, but without any formal decision-making competence

4 The Common Agricultural Policy is, in terms of resources, the most important redistributive policy in the EU and another major expression of European solidarity. It will not be further considered here, however, because its resource intensity makes it *a priori* irrelevant for poorer developing, also because their economies continue to rely, much more heavily than was ever the case in Europe, on the agricultural sector.

5 Of course, all of these features have also evolved enormously over time in the EU. However, the seeds of them all, and often more, were contained in the Treaty of Rome.

(to date); and all three regions have adopted ILP as an organisation, but none of them has developed a unitary voice based on representation by a supranational institution in international trade negotiations. How can this evolution from the complete absence towards a partial adoption of EU-type community building features be understood?

In this chapter, I seek to show that EU-style rules are difficult to escape when particular cooperation problems in community building enter the regional political agenda. Rather than reflecting purely endogenous structural, functional or ideational conditions, as most mainstream accounts suggest, I argue that the respective evolution and, in most cases also, outcomes of formal rules in regional community building are difficult to understand without explicit consideration of EU influence. More specifically, I posit that the EU's achievements in expressing norms of solidarity, democracy and external representation have tended to form focal points in regional political debate and thereby have empowered actors when demanding similar 'rights.' Especially in the longer run, I suggest that (powerful) member state governments find it difficult to deny these demands due to their implicit or explicit commitment to community building. However, in the absence of the conditions that have been favourable to community building in Europe, these 'concessions' tend to be, at least initially, rather symbolic. This explains the gap between the existence of EU-type arrangements but their complete lack of supranational elements and often of substance. With the exception of external actorness, where supply-led EU influence has tended to reinforce endogenous dynamics, the Community thus has mainly acted as a switchman between *a priori* similarly plausible alternatives.

6.1 Solidarity

Traditionally, the idea of solidarity (or distributive justice – the concept more commonly used in political philosophy) was confined to the nation state and found its most visible expression in the introduction of redistributive policies through the gradual establishment of European welfare states.[6] International politics, in contrast, remained the realm of hard-nosed realpolitik, in which moral concerns of any kind were considered irrelevant at best and quite dangerous at worst.[7] After the horrors of World War II, however, the stark contrast between the domestic and the international in terms of moral judgements started to be questioned. The imperative to retain international peace and security clearly demanded some concern with solidarity also at the international level out of sheer self-interest. While the post-war era thus saw the gradual emergence of a norm of North-South solidarity in the form of development assistance[8], the main harbinger of solidarity remained the nation state. The two were related in what John Ruggie has famously described as 'embedded liberalism', i.e. the conviction that international free trade should leave domestic distributive choices largely unaffected.[9]

Despite the fact that the idea of solidarity has thus been increasingly discussed in international politics, there are still very different conceptions of the extent to which it is relevant and the 'obligations' for states flowing from them. These conceptions can

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6 For an overview, see Stjernø (2005)

7 See Morgenthau (1948); Kennen (1954), pp. 47-49. For a discussion of the concept of solidarity in IR, see Weber (2007)

8 Lumsdaine (1993), Chapter 2

9 Ruggie (1982). For a broader overview, see Kapstein (1999)

be usefully organised around the three focal points for regional cooperation.[10] For proponents of ad hoc cooperation, the international realm is largely uninhibited by concerns about solidarity. In this view, mutually beneficial cooperation is the result of direct reciprocity, in which each player makes concessions to the extent that the other player responds to them favourably with own concessions.[11] This conception has been prominently formalised in the Most Favoured Nation clause of the GATT/WTO. Advocates of intergovernmental cooperation view solidarity as requiring more than direct reciprocity, especially in situations in which the partners are very unequal in terms of power and resources. What has been termed diffuse reciprocity entails the uneven distribution of cooperation costs through concessions to weaker members.[12] This conception found its most prominent expression in the 'special and differential treatment' (SDT) clause for developing countries in the GATT/WTO. Advocates of supranational cooperation tend to view solidarity, at least to some extent, as a moral duty rather than in purely interest-based terms. To the extent that a common identity exists or is to be achieved, the stronger members of a community ought to show solidarity with the weaker members as a matter of principle – a conception that has been largely confined to the nation state. The EU has taken this conception beyond its traditional context by extending the idea of economic redistribution to the regional level. In actualising its ambition 'to confirm the solidarity which binds Europe' (Preamble, Treaty of Rome), it established (and over the years extended) the EU cohesion policy, which aims at actively reducing economic disparities between members and regions. This policy has two main characteristics. First, resources are distributed centrally, funded through the EU budget and administered by the ECom

[10] These largely coincide with Gouldner's classical three-fold discussion of reciprocity as mutually contingent exchange of benefits, as unequal exchange of benefits and as a moral norm (Gouldner 1960).

[11] This has been demonstrated most famously by Axelrod (1984).

[12] Keohane (1986), p. 20

(in conjunction with sub-national governments).[13] Second, it breaks with the traditional focus on inter*national* solidarity by organising redistribution at the level of (subnational) regions rather than states.[14]

What is the pattern of solidarity arrangements in the three regions under study? While all three regions endorsed some form of SDT once trade liberalisation started, none of them featured any redistributive mechanism at the regional level initially. Until today, however, they have also created an (embryonic) EU-type cohesion policy based on a centralised fund for financial redistribution: the SADC and ASEAN Development Funds and the Mercosur Structural Convergence Fund (FOCEM). However, these funds redistribute resources between countries rather than regions and are generally much smaller than they are in the EU, being endowed to a significant extent by extra-regional contributions, including from the EU, in ASEAN and SADC. Thus, the *practiced* solidarity within all three regions remains rather limited to date. How can we understand this evolution of formalised solidarity in ASEAN, Mercosur and SADC?

I argue that the creation of embryonic EU-type cohesion arrangements in the three regions was far from inevitable, as structural accounts might suggest. There was no inherent need to change the status quo of addressing economic asymmetries mainly through SDT given that the structure of asymmetry and the depth of actual trade liberalisation commitments was not much different from, say, NAFTA. Yet, I suggest that when smaller and economically weaker member states eventually started voicing grievances about the (potentially) unequal distribution of benefits from regional

13 The two main funds are the European Regional Development Fund and the European Social Fund.
14 For an overview, see Hooghe (1996)

integration and demanded ‘solidarity’ beyond Most Favoured Nation and SDT arrangements, stronger members found it difficult to resist against the background of their implicit or explicit commitment to community building. In this situation, EU cohesion policy served as the ‘natural’ focal point. When decision-making was characterised by a crisis-context, members emulated EU-type convergence funds (Mercosur), where it was not, members merely learned from the general idea drawing on existing solidarity arrangements (ASEAN and SADC). EU financial support has facilitated the establishment of convergence funds in ASEAN and especially in SADC.

Alternative Explanations: Endogenous Conditions?

The development of redistributive policies in the three regions, I argue, does not merely reflect purely structural or ideational conditions endogenous to the regions themselves. They are difficult to account for either as a reflection of the pattern of economic asymmetry, the depth of trade liberalisation commitments or the transfer of domestic ideological concerns about redistribution to the regional level – all plausible explanations that have been advanced mainly in the European context.

A structural explanation would predict the likelihood of regional redistribution to vary as a function of two conditions: the size of economic asymmetries as well as the absolute economic wealth of the richest country in the region, which is most likely to serve as the main paymaster for such an arrangement. Large economic asymmetries *between* countries are likely to increase the demand for redistribution. Comparatively small economic asymmetries *within* the richest country and a high absolute level of wealth of that country are likely to increase its political feasibility. These expectations are difficult to square with the existence of regional redistributive mechanisms in all three regions. In fact, they work *against* the existence of EU-style redistributive mechanisms in all three regions. Maybe with the exception of Singapore and Brunei in ASEAN, which are much richer than their fellow members as industrialised countries, economic asymmetries in terms of wealth are still sizeable, but not larger than in, say, NAFTA, which does not have a redistributive mechanism. Thus, we would not necessarily expect stronger demands for regional redistribution than in other regional groupings. More importantly, however, its political feasibility appears low according to this account. The three biggest countries in the three regions in terms of *absolute* wealth – Brazil in Mercosur, Indonesia in ASEAN and South Africa in SADC – have a lower level of *relative* wealth than some of the countries to which resources are being redistributed. For example, in 2009 Indonesia was only the fifth richest country in ASEAN, South Africa the fourth richest and Brazil still poorer than Argentina in terms of Gross Domestic Product per capita.[15] Moreover, economic disparities are often as large, if not larger, within member states than between them – a situation quite different from the EU. For example, the poor regions in Brazil, Indonesia or South Africa are poorer than some of those regions in the other member states to which resources are being distributed. Governments in stronger member states could have simply rejected the transfer of resources to other countries; no matter how small they are in practice, pointing to tight budget constraints in view of their own severe development needs.[16] And indeed, this problem continues to hamper the endowment of such funds and explains their comparatively small size and the

[15] These numbers are based on own calculations from World Bank data.
[16] Jacoby (2008)

heavy reliance on external funding in ASEAN and SADC.[17] Yet, it has difficulty to account for the existence of such funds in the first place.

A second explanation – the most prominent in the EU context – interprets cohesion policy as a mechanism that facilitates transition to the demanding adjustments in domestic policies required from member states and new entrants by diffusing potential political opposition. It has thus been connected to treaty changes that engaged in major reform.[18] In contrast to NAFTA, for example, (new) members not only had to bring down tariffs and loose trade policy independence in establishing the common external tariff, they also had to change domestic legislation in certain areas and accept being locked into common supranational institutions – all of which seriously restrained countries' room for manoeuvre.[19] In all other regions, however, neither have countries moved much beyond tariff liberalisation (with the partial exception of Mercosur), as we have seen in Chapter 4, nor have they, as Chapter 5 showed, locked themselves into supranational institutions. It is therefore questionable whether any redistribution is 'merited' at all.[20] Moreover, the establishment of these funds did *not*, in all three cases, constitute a concrete side payment as part of a larger reform package, as we will see below. In any case, the amounts involved in these funds to date are so small that they can hardly be seen as effectively easing

[17] One of my interview partners in Brazil noted, for example, that this was the main reason why the proposal for FOCEM was controversially debated in the Brazilian senate before passing. Similarly, Indonesia contributes very little to the ASEAN Development Fund to date, simply because it still faces overwhelming developmental challenges in its own country (Narjoko and Amri 2007, p. 62).

[18] Sandholtz and Zysman (1989), p. 121; Moravcsik (1991), p. 43; Marks (1992), pp. 198-9; Pollack (1994), p. 111

[19] However, even in the European context economists in particular have questioned the rationale of this argument because high uncertainty besets predictions about the distributive consequences of economic liberalisation and it is far from clear that peripheral or poorer states will necessarily loose out in relative terms (see Marks 1992, pp. 202-4).

[20] For a similar point in regard to ASEAN, see Langhammer (1997), p. 172

adjustment costs.[21] In fact, they were initially proposed and adopted without firm funding commitments and even specific administrative arrangements, and only in loose anticipation of new, yet still unspecified economic integration objectives. They are thus better interpreted, I will argue, as the result of a political decision to symbolically meet the demands of weaker member states in order to secure their *general* commitment to the integration process.

Finally, EU cohesion policy developed against a background of a firmly established norm of redistribution at the national level, mainly expressed in the gradual emergence of generous national welfare states. Given the intense economic and social interdependence between European countries, it was reasonable to argue that this principle also held normative relevance and should be applied at the regional level.[22] The situation is very different in the other regions. Not only is the degree of social and economic interdependence much lower than it was at any time in Europe, as we have seen in Chapter 4; it is also difficult to argue that most member states in the three groupings share a firmly established domestic norm of redistribution. One might still suggest that rather than reflecting the transfer of the redistributive principle from the domestic level, as in Europe, it reflects the application of an increasingly well-established principle of redistribution in the international realm to the regional level.[23] Nevertheless, it is not obvious why a principle that developed in the context of huge asymmetries between industrialised and developing countries, the North and the South, should equally apply to relations between developing countries. In fact, almost

[21] Simply consider a few numbers: in the EU, transfers from structural funds amounted to 2.5 percent of GDP in Spain in 1996 and even 3.1 percent of GDP in Greece – sizeable amounts (Bustillo and Ocampo 2005, p. 40). In Mercosur, for example, they amount to just 0.003 percent of GDP for Paraguay and even less for Uruguay. The situation is similar in SADC and ASEAN.

[22] For an argument in this vein, see Marks (1992), pp. 204-6

[23] See Lumsdaine (1993)

all of the countries now financing these funds are still (net) recipients of development aid because they still have major pockets of poverty within them (the only exception might be Singapore), as mentioned before. Thus, the normative case for regional redistribution is much less clear-cut than it was in Europe.

In sum, the creation of EU-type structural funds in the three regions hardly formed an inevitable departure from the status quo due to specific material or ideational conditions internal to the regions themselves. We thus need to turn to the role and dynamics of EU influence.

Mercosur

Mercosur is the most clear-cut case of similarities in redistributive rules with the EU. The FOCEM, created in 2004, was explicitly modelled on the EU's structural convergence funds.[24] Yet, how are we to understand the broader departure from the initial situation at Mercosur's founding, when Brazil and Argentina fiercely rejected any 'responsibility' for the distributive outcomes of trade liberalisation? In line with the neoliberal ideology prevailing in the early 1990s in the region, market liberalisation was expected to lead to disproportionate benefits for the smaller and economically weaker member states, thereby leading to increasing convergence – a view that was largely shared in the smaller member states as well.[25] The Treaty of Asunción was thus based on the principle of 'reciprocal rights and obligations' (Art. 2), with longer transition periods and a few extra exceptions granted to Uruguay and

[24] Dabène (2009), p. 187
[25] Duina and Buxbaum (2008), p. 210

Paraguay in line with common international practice.[26] Even though the 1994 Ouro Preto Protocol indicated that member states were 'mindful of the need for special consideration of the less developed countries and regions in Mercosur' – a stipulation that was inserted at the last minute based on Paraguay's intervention[27] –, no specific action was taken in this respect. General enthusiasm about Mercosur's early success in expanding intra-regional trade pushed the question of economic asymmetries into the background.

Nevertheless, government officials also in the large member states were aware that economic asymmetries needed to be addressed.[28] Yet, this insight only became politically salient in the late 1990s when, amidst the spiralling regional financial crisis, countries started to take stock of the process and critically assess costs and benefits. Especially policy-makers in Paraguay realised then that despite Mercosur's early expansion, not only little catching up had taken place towards Brazil, but Paraguay had even fallen further behind in relative terms. Paraguay, supported by Uruguay, thus started calling more vocally for a realisation of the respective stipulation in the Ouro Preto Protocol. In the early 2000s, Paraguay elaborated a proposal for the Treatment of Asymmetries, which it presented to the other member states.[29] However, the larger member states initially ignored the proposal as neoliberally minded governments rejected to deviate from their initial position on the topic.

26 For an overview of these 'extras', see Bouzas (2005a), pp. 93-96
27 Interview with Reinaldo Salgado, June 2009
28 Nofal (1997)
29 Interview with former Paraguayan policy-maker, July 2009. Unfortunately, I was unable to find out the concrete details of this proposal.

This situation changed a few years later, for two main reasons. First, Uruguay stopped to merely voice its dissatisfaction with the integration process internally, but undertook concrete action to seek alliances beyond the regional context. In 2002, it set up a Joint Commission for Trade and Investment with the US in order to prepare moves towards closer economic ties. In an attempt to fend off these moves, Brazil became more open-minded towards discussing proposals for stronger support of the smaller member states.[30] Second, new left-wing governments entered office in Brazil (Lula da Silva) and Argentina (Nestor Kirchner) that were more open-minded towards the idea of redistribution in general. They quickly endorsed the idea of creating a Structural Convergence Fund in June 2003 and instructed further negotiations.[31] An expert group on structural convergence was to present proposals. The expert group studied the EU legislation on the issue and one member even travelled to Europe to inspect the European convergence funds in operation. The elaborated proposal for FOCEM envisaged the creation of a supranational institution similar to the Commission that would administer the fund and think 'regionally' rather than 'nationally'. The hope was that this would lead to a strengthening of the secretariat and would thereby have repercussions for the regional integration process more generally.[32] This recommendation was quickly rejected by Brazil, however.

A less sovereignty-encroaching version was finally adopted in December 2004 with the objective to promote competitiveness and social cohesion as well as to reduce the asymmetries of less developed regions and member states (Decision CMC/45/04). It initially entails an annual volume of US$ 100 million, to which Brazil contributes 70

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[30] Uruguay nevertheless signed a Trade and Investment Framework Agreement with the US in 2007 (see 'Uruguay Signs Trade Agreement with the United States', MercoPress, 18 October 2007).
[31] Press release (2006b), p. 309
[32] Interview with former Secretariat official, July 2009

percent, Argentina 27 percent, Paraguay one percent and Uruguay two percent. Unlike in the EU, however, not regions but states will benefit from the financial support, based on specific quotas, which are calculated on a mix of GDP per capita and size (Paraguay receives 48 percent of the funds, Uruguay 32 percent and Brazil and Argentina both 10 percent). Even in Brazil, everyone agrees that "the FOCEM is clearly inspired by the European Structural Funds."[33]

SADC

In SADC, solidarity constituted the single most important rationale for its founding. The economically weak and vulnerable Frontline states sought to lessen their economic dependence on, or economic asymmetry vis-à-vis, an economically powerful yet hostile neighbour by seeking external financial assistance. Hence, the organisation itself was essentially a means for the redistribution of resources from economically potent extra-regional actors to weak regional countries in order to balance a hostile South Africa. Consequently, the idea of a redistributive mechanism within the region itself never occurred. However, some external partners channelled their contributions through a single centralised fund, such as NORSAD composed of four Northern European countries, while most other donors financed individual projects or simply pledged lump sum contributions. Even after the end of the Cold War, SADC remained highly dependent on external donor funding, which was pledged for individual projects and the annual Consultative Conferences. In addition, many external donors had bilateral aid programmes with individual SADC countries.

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33 Interview with Reinaldo Salgado, June 2009

However, when SADC expanded its membership to other countries in the course of the 1990s, a new situation arose. With South Africa, a new and resourceful state had joined SADC in 1994 that could potentially contribute resources to finally launch the Development Fund. On the other hand, new and poor members with large pockets of poverty had also joined the organisation, enhancing the need to address the issue. In 1998, the SADC Finance ministers thus commissioned a study on the desirability and viability of a SADC Development Fund. In the same year, the EU funded a SADC-FISCU project on the future financing of SADC's integration plans. Whereas the former study found that there was no immediate need for such a fund because the main problem in SADC was not the availability of funding per se but the preparation of bankable projects, i.e. capacity constraints and administrative hurdles[34], the EU-funded Development Finance Study proposed *inter alia* the establishment of a Development Fund. In 2002, another series of studies was conducted to examine the 'desirability, viability and sustainability' of the proposed development fund, this time financed by the German development bank KfW. Taking up the recommendations of the earlier study commissioned by the finance ministers, it recommended the creation of a Project Preparation and Development Fund[35] – an idea adopted by the SADC Council of Ministers in August 2003.

In the context of developing the Regional Indicative Strategic Development Plan, a SADC Development Fund was again discussed as one of a number of financing instruments for development. While all other instruments were thoroughly elaborated with clear strategies and target indicators, the idea of a development fund was

[34] 'Does SADC need a development fund?', *African Business*, July 2010, available at: http://findarticles.com/p/articles/mi_qa5327/is_366/ai_n54637661/?tag=content;col1 (last access: 3.7.2011).

[35] http://www.sadc-dfrc.org/index.php?id=4 (last access: 2.7.2011)

subjected to a consultancy study in order to assess 'the need for a development funding mechanism' as well as 'the need for and advisability of enabling elements for intra-regional resource transfers to avoid polarisation (i.e. structural funds).'[36]

All these varied initiatives and proposals finally flowed into the leaders' decision to establish a 'special fund of SADC to be known as the Regional Development Fund' in the context of the Restructuring Exercise on SADC's institutions. It consists of contributions from member states and other regional and non-regional sources such as the private sector, civil society, NGOs and workers and employers organisations (Art. 26A, Amended Treaty of SADC). This decision was highly contested. Critics continue to point to the Regional Development Bank of South Africa that operates regionally and has a similar agenda. Other international and commercial development banks operate in the region and development funds in other regions have foundered. The main reason has been the inability or unwillingness of countries to contribute. In response, it was defended by the SADC Head of the Finance Committee with the words: "It would be our fund. We would identify, as a region, projects and programmes necessary to facilitate regional integration."[37] However, she also admitted that the endowment of the fund with resources was still unresolved: "This is our most urgent issue. One source could be the international cooperation partners in our development process. Then there are European investment banks. Some do provide grant finance, but it is limited." And indeed, the German development bank

36 SADC Summit (2003), p. 82

37 http://findarticles.com/p/articles/mi_qa5327/is_366/ai_n54637661/?tag=content;col1 (last access: 2.7.2011)

KfW and the EU have already pledged contributions to the Development Fund, while "so far, the private sector has not been interested."[38]

ASEAN

The issue of economic disparities and a potential redistribution of resources between member states did not enter the ASEAN agenda until the early 1990s because of the relative homogeneity in economic development of the five founding members and their focus on political rather than economic cooperation. At that time, an enlargement of the organisation to the formerly Communist and poor developing countries of Vietnam, Laos and Myanmar and Cambodia (CLMV), just as trade liberalisation had become an integral part of ASEAN's agenda. This situation immediately raised questions about the development gap between the new CLMV countries and their old and more developed peers. Politico-economic interests in the Cambodia, Laos, Vietnam in particular quickly questioned the anticipated benefits from participation in AFTA and ASEAN more broadly. They raised concerns over the future of state-owned industries and feared their peripheral status in AFTA.[39] Newspapers joined into these initial concerns and publicly warned of a 'two-tiered ASEAN' that could derail the integration process.[40]

Before long, Secretary General Ajit Singh proposed the idea of an EU-style fund for the development of the new members at the end of 1997.[41] This initial suggestion was backed up by the new member states, who constantly called for more support and the

38 http://findarticles.com/p/articles/mi_qa5327/is_366/ai_n54637661/?tag=content;col1 (last access: 2.7.2011)
39 Nesadurai (2006), p. 208
40 Phar (2003)
41 Rüland (2000), p. 437

political will to actively address the development gap. These calls continued over many years. At the Vientiane Summit in Laos in 2004, the Lao Prime Minister Bounyang Vorachit reminded his colleagues in his opening address: “Apart from those challenges, the development gap between the old and the new members in ASEAN is still large.” This was followed by a clear call from the CLMV “to renew more effective assistance and support to the CLMV countries … to ensure sustainable benefits to all ASEAN members.”[42]

Other regional actors reinforced these demands. The ASEAN-ISIS network of regional think tanks argued in a memorandum to the EPG that the objective of equal benefits from integration cannot be based on liberalisation measures alone but would have to entail the provision of public goods, citing the example of the EU. Their recommendations revolved mainly around a better coordination and ownership of existing initiatives, given that the “framework for reducing development gap is already in place.”[43] The EPG concretised these lingering demands in its report on the ASEAN Charter. It backed the calls for establishing a Special Fund for narrowing the development gap and suggested that it should be filled by voluntary contributions from member states and the private sector and be administered centrally by the ASEc under supervision by the Standing Committee and in consultation with the CPR – very similar to the operation of the structural funds in Europe, which they had visited before.[44]

[42] Pholsena (2005), p. 180
[43] ASEAN-ISIS Memorandum (2007), p. 50
[44] Eminent Persons Group (2006), pp. 43-44

Confronted with demands by the new member states, the leaders agreed to address the issue. First, they offered SDT treatment. The CLMV countries will be integrated gradually into AFTA, with extended trade liberalisation schedules that reach until 2015. Moreover, they have been offered voluntary preferential tariff free access to the markets of the original members under the ASEAN Integrated System of Preferences from 2002 onwards, instead of 2010, the target date for a tariff-free AFTA. These are to be negotiated bilaterally, based on requests for specific products.[45] In addition, the CLMV states saw increasing inflows of foreign direct investment from its ASEAN neighbours, which averaged about 40 percent in the latter half of the 1990s.[46] Hence, ASEAN leaders initially opted for the obvious and widely accepted way of addressing economic asymmetries between the members to an FTA. Wider monetary redistribution was initially rejected by the old member states because they feared loosing their recipient status with external partners.[47]

Nevertheless, as ASEAN enlargement was in full swing, the Asian financial crisis hit. In order to reassure their new peers, the Vision 2020 reaffirmed leaders' commitment "to moving towards closer cohesion and economic integration, narrowing the gap in the level of development among Member Countries." This was followed, in November 2000, by Singaporean Prime Minister Goh Chok Tong's proposal for an Initiative for ASEAN Integration to help bridge the development gap between the new and the old members of the regional grouping.[48] This was concretised with the Hanoi Declaration on Narrowing the Development Gap in July 2001, which identified the areas of support for the four new members through enhancing their productive

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45 Narjoko and Amri (2007), pp. 64-65
46 Nesadurai (2006), p. 209
47 'ASEAN's Prosperity Depends on Change', *The Nation* (Bangkok), 24 July 2001
48 Yoshimatsu (2006), p. 131

capacity and increasing their competitiveness. The initiative essentially contains nothing new in terms of activities and resources, but simply united disparate bilateral and international development efforts for the CLMV countries under the ASEAN umbrella.[49] It was hoped that this would spark an inflow of additional funds from external donors to match internal commitments. In 2005, this centralisation effort was further enhanced through the creation of one coherent ASEAN Development Fund. As former Secretary General Ong Keng Yong has recently noted, the EU convergence funds constituted an indispensable source of inspiration in looking at ideas on how to solve the problem.[50]

6.2 Participation and Democracy

Traditionally, international cooperation was seen as the exclusive realm of national governments. It helped them to enhance their problem-solving capacity in the face of increasing interdependence, thereby improving the output legitimacy of national political systems. At the same time, it allowed member states to guard policy areas and issues that constituted central realms of national sovereignty, thereby leaving input legitimacy largely untouched.[51] The normative questions of democratic legitimacy and popular participation, even in democracies, were only posed at the national level, if at all. However, as the boundary between the domestic and the international has increasingly blurred, countries around the world have concomitantly empowered international institutions to reach deep into territory that previously

[49] As early as 1994 and amidst debates about ASEAN enlargement, the EU explicitly encouraged (the old) ASEAN members to support the poorer states in Southeast Asia in cooperation with itself ‘in order to facilitate their full participation in the economic growth’ of the region (ASEAN-EU Ministerial Meeting 1994, para 17). The EU sought to facilitate this process by designing development projects at the sub-regional level across the three new MSs in the latter half of the 1990s; however, initial participation by the old ASEAN MSs was weak (Robles 2004, p. 53).

[50] Ong (2008), p. 444

[51] For the distinction between input and output legitimacy, see Scharpf (1999)

belonged exclusively to the purview of (democratic) governments. This has, in turn, catapulted debate about democratic legitimacy and popular participation onto the agenda of many IOs.[52]

Yet, proposals for remedies vary with the underlying ideology about legitimate political order that broadly mirror the three focal points of regional cooperation.[53] Supporters of ad hoc cooperation focus primarily on output legitimacy, that is, they do not deem necessary formal institutional rules to address issues of participation and democracy to the extent that all partners derive economic benefits from cooperation.[54] Proponents of intergovernmental cooperation focus on input measures through the domestic political system, mainly emphasising the strengthening of national parliaments.[55] For advocates of supranational cooperation (and federalism), the establishment and empowerment of parliamentary institutions at the regional level takes centre stage.[56] It is this latter arrangement that has formed policy-makers' primary reaction to the problem of democratic legitimacy and popular participation (the 'democratic deficit') in the EU.[57] Over time, the EP has developed into the EU's unique representative institution characterised by three main features. It is directly elected, features proportional rather than equal representation of member states and has, over time, gained substantive decision-making powers (the strength of which

52 For example Dahl (1994); Zürn (2000); Howse and Nicolaidis (2003); Moravcsik (2004)
53 See Jachtenfuchs et al. (1998) and its adaptation in Rittberger (2005), pp. 51-57
54 See Majone (1998)
55 See Moravcsik (2002); Schmidt (2006)
56 Lodge (1994); Follesdal and Hix (2006). A fourth cluster of remedies, that is inspired by notions of deliberative or participatory democracy and does not neatly fit into the three-fold distinction, propagates direct and indirect forms of participation by groups of citizens, such as the establishment of civil society councils. This form has played an important role in recent debate about a democratisation of the EU (Greenwood 2007; Saurugger 2008).
57 This is not to deny that other institutional arrangements have been considered or indeed accompany attempts at legitimation through the EP (see fn. 53).

varies with the respective legislative procedure), thus resembling traditional national parliaments.[58]

The outcomes regarding regional parliamentarisation in the three regions under study are more varied than in the case of convergence funds. On the one side is Mercosur, which has created an EP-style Mercosur Parliament (Parlasur); yet, initially with consultative functions only. ASEAN and SADC, on the other hand, still feature rather weak parliamentary assemblies that share little, in terms of formal rules, with the EP: the SADC Parliamentary Forum (SADC-PF) and the ASEAN Inter-Parliamentary Assembly (AIPA). What all three regions have in common, however, is their dynamic trend from a purely intergovernmental organisation without *any* regional parliamentary body at all towards the formalisation of regional parliamentarisation, with continuing pressures towards full-fledged EP-style parliaments. How can this dynamic towards stronger forms of regional parliamentarisation, yet with differential outcomes across the three cases and between the EU and the other regions, be understood?

I argue that these dynamics would have been unthinkable in the absence of the European integration experience with the EP, which has served as an important focal point in regional political debate. Accounts that emphasise structural, functional or even ideational dynamics endogenous to the regions themselves, I suggest, are insufficient to account for the observed pattern. At various critical junctures, neither the domestic institutional or ideational setting nor the 'functional' need of controlling supranational institutions – all well-established explanations – 'dictated' movement

58 For a good overview, see Corbett et al. (2011)

towards regional parliamentarisation. Instead, I argue that a variety of societal actors, usually led by national parliamentarians themselves, have increasingly called for more societal participation in the integration process and in particular regional parliamentary bodies along the lines of the EP. The EU, in some cases, actively supported these efforts. Governments in Mercosur eventually ceded to these demands following the regional financial crisis by emulating the EP; yet without its decision-making competences. In SADC and ASEAN, on the other hand, we see similar dynamics; while the creation of an EP-style regional parliament in SADC appears likely in the coming years, it is unlikely in the near future in ASEAN.

Alternative Explanations: Endogenous Conditions?

The dynamics of regional parliamentarisation in ASEAN, Mercosur and SADC do not simply reflect the structural, functional or ideational context within the regions themselves, as most existing explanations suggest. According to structural accounts, transnational parliamentarisation is the 'logical' extension of member states' domestic democratic constitution to the regional level.[59] This explanation suggests that regional parliamentary bodies are much more likely to emerge in regions composed of democracies, i.e. mainly in Europe and North America. The reason is that democracies share norms of democratic representation, expressed in domestic rules, that "serve as *signposts* or *roadmaps* in that they help actors to define their institutional preferences" regarding the desirability of regional parliamentarisation.[60] From a more dynamic perspective then, democratisation and liberalisation should correlate with increasing dynamics towards regional parliamentarisation. However,

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[59] See Thomas (2006), p. 1191
[60] Rittberger (2001), p. 699, emphasis in original

these predictions play out only partially in the current context. Table 6.1 presents several Freedom House indicators on the patterns of political liberalisation and democratisation in the various regions over time.

Table 6.1 – Patterns of Political Liberalisation (simple average of liberty indices [political rights and civil liberties] of member states)

	No of electoral democracies (2008)	1990	1995	2000	2005	2008
EU	27/27	1.1 (F)	1.1 (F)	1.2 (F)	1.0 (F)	1.1 (F)
NAFTA	3/3	[2.0 (F)]	2.0 (F)	1.5 (F)	1.3 (F)	1.5 (F)
ASEAN	1/10	4.2 (PF)	5.1 (PF)	5.1 (PF)	4.8 (PF)	5.0 (PF)
Mercosur	4/4	[2.4 (F)]	2.8 (PF)	2.3 (F)	2.0 (F)	2.0 (F)
SADC	8/14	5.1 (PF)	3.7 (PF)	4.0 (PF)	4.0 (PF)	3.9 (PF)

Notes**:** 'F' indicates 'free' and 'PF' denotes 'partly free' in the Freedom House rating.
In 1990, the EU was still called EC, SADC did only exist in its predecessor form of SADCC and Mercosur as well as NAFTA had not been founded yet (indicated by '[…]').

Source: compiled from Freedom House data (electoral democracy and liberty indices)

Despite the thoroughly democratic credentials of its member states, NAFTA does not have a parliamentary body while both ASEAN and SADC do, despite their mixed or almost lacking liberal democratic character. Consequently, it appears that even non-democratic countries create such bodies while democratic countries do not necessarily do so. Structural accounts also have trouble to account for over-time dynamics. The EP obviously evolved enormously without changes in the democratic quality of member states. The same holds for Mercosur. And even in SADC, a region with a mixed democratic character, there are strong pressures now towards the creation of a full-fledged regional parliament without major changes in member state institutions.[61]

The second explanation, developed by Berthold Rittberger in the European context, addresses the problem of the rather static nature of structural accounts by emphasising functional dynamics as a necessary (yet not sufficient) condition to account for the process of empowering the EP over time.[62] It depicts the EP's evolution as the result of an increasing, yet already initial, need to ensure democratic control at the regional level as the delegation and pooling of sovereignty to regional institutions progressed.[63] However, such supranational institutions (with the partial exception of SADC) do simply not exist in the other regions, as we have seen in Chapter 5, and thus cannot be necessary for regional parliamentary bodies to emerge and evolve. Instead, complaints about the democratic legitimacy of regional integration have focused mainly on the lack of transparency stemming from being overwhelmingly dominated by national executives, as we will see below.[64] This is rather different from the problem of 'unaccountable' regional institutions and could well be mitigated at the national level.

The third cluster of explanations stresses ideational factors and dynamics, especially federalist ideology. In this view, the creation and strength of regional parliamentary bodies reflects the relative balance between member states' domestic political systems

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61 Structural explanations might, however, hold some purchase in accounting for the variation we see in the strength of regional parliamentary institutions (Erthal 2007, p. 33).

62 Various authors have argued, quite categorically, that purely functional arguments are largely unable to account for the EP's creation and gradual empowerment (Pollack 1997, p. 107; see also Moravcsik and Nicolaïdis 1999, p. 82). For a counter position, see König (2008)

63 Rittberger (2001), pp. 701-2; Pollack (2003), Chapter 4; Rittberger (2005); see also Schimmelfennig (2010)

64 Grugel (2005). For an argument about the *general* empowerment of executives through regional integration, see Moravcsik (1994)

in that 'strong' or 'federal' parliamentary systems seek to replicate these systems at the regional level, while 'weak' or 'unitary' parliamentary systems tend to oppose it.[65] If this explanation travelled well beyond the European context, we should not see *any* regional parliamentary bodies in the three cases, given that even democratic systems are overwhelmingly highly centralised presidential ones.[66] Moreover, a federalist vision of regional integration does not have any traction in regions outside of Europe, at least not at the governmental level. A final explanation, also developed in the EU context, views the EP's empowerment as the taken-for-granted reaction to a cyclically recurrent perception of a EU legitimacy deficit.[67] This account also travels badly to the other cases: Why would policy-makers care about a *regional* legitimacy deficit when the deficit similarly exists at the national level? And why would they 'automatically' seek to mitigate the problem through the empowerment of a regional parliamentary institution when the political context is fundamentally different? In sum, explanations that seek to account for the dynamics and outcomes of regional parliamentarisation need to include external influences in general and that of the EU in particular.

Mercosur

In Mercosur, governments initially did not envisage a parliamentary body in the founding treaty. A Joint Parliamentary Commission (JPC) was only provided for at the last minute because Uruguayan parliamentarians had travelled to Asunción to personally demand its inclusion.[68] It did not form part of Mercosur's core structure, but was instead tucked away under 'general provisions' without stipulating its

65 Moravcsik (1998), pp. 157, 376; Wagner (2002)
66 Mainwaring and Shugart (1997); Reynolds (1999)
67 Goetze and Rittberger (2010)
68 Interview with Maria Claudia Drummond, June 2009; see also Aranda (1994), p. 14

function or competences (Art. 24). In the run-up to the Ouro Preto Protocol, which was to finalise Mercosur's structure, parliamentarians from all member states actively demanded the formalisation of the JPC as a traditional parliamentary assembly with consultative functions.[69] This demand was largely met (Section IV, Ouro Preto Protocol), for two main reasons. First, governments reasoned in a functional vein that the early involvement of national parliamentarians at the regional level would facilitate the domestic ratification of Mercosur legislation (see Art. 25, Ouro Preto Protocol). On the other hand, interviews also reveal that a parliamentary body was seen as appropriate in view of member states' recent democratisation. As one participant in the negotiations recalls, governments felt that such a request could not be denied given that "you have to concede some appearance, you have to have some institutions to say that you are a democratic, open, transparent organisation."[70] Hence, a weak parliamentary body was established early on in the Mercosur integration process due to countries' recent democratisation experience. But how can we account for subsequent dynamics that ultimately led to the establishment of a Mercosur Parliament? The EU's involvement is key to the story.

For parliamentarians in the region, it was clear from the start that the ambition of 'ever closer union', as formulated in the Treaty of Asunción, naturally entailed the involvement of the democratically elected representatives at the regional level. With the EP as the traditional model of regional parliaments in mind[71], the JPC's internal procedures, adopted at the 3rd meeting in December 1991, unequivocally state the ambition to work towards the establishment of a Mercosur Parliament (Preamble, Art.

69 See the activities described in Aranda (1994), esp. p. 40

70 Interview with Paulo Roberto de Almeida, June 2009

71 The head of the Brazilian section, Nestor Proença, announced at the first plenary session in May 1992, for example, the need to "improve the institutional model until the creation of a Parliament granted with supranational powers" (cited in Dabène 2009, p. 145).

3/b).[72] However, no systematic initiatives were taken in this direction during the early years. In fact, even within the institutional framework of Mercosur, JPC parliamentarians hardly acted in view of their declared ambition. Unlike their European counterparts, which in the early days had worked actively towards a stronger role in the institutional framework[73], they largely adjusted themselves to the limited competences they had been given.[74] One observer thus commented that JPC parliamentarians "did not have the skills to do the job [seeking to exhaust the limited competences they had been given], in part because of the absence of parliamentary traditions in the region, but also because they did not see clearly what was at stake."[75]

This was to gradually change through engagement with the EU. Given its ideational affinity with the EP, the JPC quickly sought contact with its European counterpart. Since the early 1990s, Mercosur parliamentarians and members of the European Parliament have met regularly in various fora, which have contributed to convincing them of the importance of strong regional parliamentary bodies for successful regional integration. EP-JPC contacts were formalised in the context of the Interregional Framework agreement and have, on average, taken place every year. Mercosur parliamentarians met their European counterparts in the context of the European Union-Latin America Interparliamentary Conferences every other year; the EP Delegation for Relations with South America, renamed to Delegation for South America and Mercosur in 1996, has regularly visited Mercosur countries and engaged with national parliamentarians and the JPC; and there have been several other, more informal contacts as well. According to a prominent Brazilian delegate to the JPC,

72 The procedures are reprinted in Aranda (1994), pp. 59-66
73 See Corbett et al. (2011)
74 Dri (2009), p. 70
75 Dabène (2009), p. 146

these contacts with EP members always addressed the 'need' to create a Parlasur and were regularly characterised by explanations on the part of the European side why supranational parliaments were important in regional integration.[76] Some JPC parliamentarian were even convinced, eventually, that the EP "is even superior to national parliaments in some areas."[77]

After the conclusion of the Interregional Framework Agreement, official contacts between the JPC and the EU were also extended to the ECom. Following an ECom request for a contact point to negotiate cooperation projects, the JPC established a Permanent Secretariat in Montevideo in 1997. Shortly thereafter, the ECom initiated its first cooperation project with the JPC giving its Secretariat a budget of almost one million Euros. This helped spur JPC activities for creating a Mercosur Parliament. In 1999, for example, it elaborated an agenda for the establishment of a Parlasur and thereby gave the declared yet dormant ambition a new impetus.[78] At the 15th plenary session in 2000, the JPC decided to create a technical group to study the institutionalisation of a Parlasur.[79] Thus, at this point, JPC parliamentarians were convinced that it was time to establish a Parlasur to address Mercosur's democratic deficit and enhance the legitimacy of decisions taken by Mercosur's central institutions.

After a flurry of discussions, seminars and expert consultations on the topic, the Argentinean and Brazilian sections of the JPC presented the first written proposals for a Mercosur Parliament in 2003 making explicit reference to the EP in justifying their

[76] Phone interview with Dr. Rosinha, June 2009
[77] Cited in Dri (2009), p. 64
[78] See Decision CPC/14/99
[79] See Decision CPC/10/00, available in Fundación Konrad Adenauer and Comisión Parlamentaria Conjunta del Mercosur (2006), pp. 167-72

initiative. Subsequent work by the JPC formulated clear demands vis-à-vis governments to establish procedures similar to the EU's consent and co-decision procedures which would require the JPC's endorsement of legislative proposals adopted by the Common Market Council and Common Market Group or in which it could adopt modifications to such proposals with a supermajority.[80] After some internal haggling especially between Brazilian and Argentinian proposals, the JPC presented a first full-fledged draft Constitutive Protocol for a Parliament to the Mercosur executives in 2004. It envisaged the creation of a directly elected Mercosur Parliament with proportional representation and consultative, weak legislative, and supervisory competences as well as a right to initiate legislation.[81]

It is clear that these demands for a Mercosur parliament were based on the EP model. To what extent the socialisation of (individual) parliamentarians in the region through interaction with their European counterparts played an important role is more difficult to ascertain. The intensity of contacts – between March 1991 and the adoption of the Parlasur's Constitutive Protocol in December 2005, parliamentarians from both sides had officially met on 36 occasions, which is an average of more than twice a year – and the setting of the interaction in rather insulated, less politicised contexts are both conducive if not necessary conditions.[82] This intensity of interregional contacts becomes even more meaningful when one considers that the JPC general assembly itself only met twice a year. Thus, interaction with European parliamentarians was as intense as interaction among themselves. Despite their declared ambition to create a Mercosur parliament from the start, they never pursued it through the institutional

80 The respective documents can be found in Fundación Konrad Adenauer and Comisión Parlamentaria Conjunta del Mercosur (2006), pp. 141-5.

81 Fundación Konrad Adenauer and Comisión Parlamentaria Conjunta del Mercosur (2006), pp. 241-68

82 See Checkel (2005), pp. 811, 813

channels open to them. This suggests that they lacked a clear vision of what they were actually aiming towards and how to achieve it. Nevertheless, parliamentarians themselves believe – as the former President of the JPC noted – that "[t]he example of the EU parliament shows us that we could obtain a more active role … taking the first steps towards a decision-making body, as happens in the European institutions."[83] A recent survey of 24 members of Parlasur from all member states found that almost 90 percent of them believed that the EU has had an important or very important influence on Mercosur's *institutional* evolution.[84] This can hardly refer to Mercosur institutions other than Parlasur, as we have seen in Chapter 5.

As mentioned before, the late 1990s saw the emergence of increasing calls for more popular participation and democratic control of the integration process from parliamentarians and civil society actors in the region. These demands encountered a window of opportunity when new left-wing governments entered office in three of the four Mercosur countries within two years who took the issue of democracy and participation more seriously than their predecessors: Lula da Silva in Brazil, Nestor Kirchner in Argentina and Tabare Vazquez in Uruguay.[85] Lula and Kirchner quickly endorsed the idea of creating a Mercosur Parliament[86], subsequently joined by Vazquez. This is when details of its creation started to be worked out. Based on a series of expert studies analysing the reasons for the JPC's weak performance record in facilitating the domestic incorporation of Mercosur norms, an expert on EU law from Spain, Prof. Ricardo Alonso García, suggested the creation of an EU-type co-decision procedure prior to the establishment of a full-fledged parliament that would

83 Cited in Sanchez-Bajo (1999), pp. 335-6
84 Sierens (2009), p. 69. Eight out of nine surveyed EP members held the same belief.
85 See Casal (2008)
86 Press Release (2006a), p. 306

facilitate this process. This proposal – the so-called Alonso Amendment – was adopted in October 2003 as a first step towards the 'indispensable establishment of a regional parliament' in the form of an interinstitutional agreement between the Council and the JPC stipulating their mutual willingness to cooperate more closely for the purpose of facilitating the domestic incorporation of Mercosur norms.[87]

At the same time, the Presidents included the establishment of a Mercosur Parliament into the Mercosur Work Programme 2004-06. They instructed the Secretariat's newly created technical assistance sector to prepare a study on the conditions of democratic governability.[88] The study, supported by the German Friedrich Ebert Foundation, suggested a reform along EP lines: decision-making powers, budget appropriation, control and accountability mechanisms vis-à-vis the Council. The Parlasur Protocol was then intended to be signed at the 10th anniversary of the Ouro Preto Protocol in December 2004 as part of a much broader reform package – the negotiations failed, however. While some of the negotiation items were subsequently dropped, the creation of a Parlasur remained prominently on the agenda. The Heads of State subsequently instructed the JPC itself to prepare the establishment of the Parlasur.[89] A technical working group was established that, based on the input by parliamentarians, elaborated the Constitutive Protocol of a Mercosur Parliament, which was adopted at an extraordinary meeting of the JPC plenary in October 2005. It envisaged the Parliament to be composed of directly elected representatives based on (slightly adjusted) proportional representation – just as the EP. Its envisaged competences revolved around the three-fold powers of the EP: budgetary (adoption of the general

[87] Interinstitutional Agreement (2006), p. 271
[88] See Decision CMC/05/04
[89] See Decision CMC/49/04

Mercosur budget and its financial accounts), decision-making (make recommendations and declarations on legal acts; initiate Mercosur legal acts) and supervisory/control powers (monitor domestic compliance with Mercosur norms; pose questions to and invite representatives of the decision-making institutions; scrutinise the outgoing Presidency's activity report and the incoming Presidency's work plan; give non-binding opinion on nominations for the Secretary General of the MSec and the CPR).[90] Governments finally adopted the proposed Protocol – with minor adjustments – in December 2005 with Decision CMC 23/05.

The Parliament was constituted in 2007. Its internal structure and procedures are a direct copy of the EP's, especially containing provisions for the internal organisation along the lines of party groups rather than member states.[91] Many see it as a milestone in Mercosur's development. For the first time, it formally breaks with the pure intergovernmental logic of the organisation, moving towards elements of supranationality, but informally, the intergovernmental logic continues to obtain. To date, Parlasur has had little impact on the actual workings of Mercosur and has been unwilling to exercise its competences to the fullest.[92] Parliamentarians have been afraid, for example, to scrutinise the Presidency's activity report too harshly for fear that foreign ministers would feel embarrassed and do not return to the Parliament to report.[93] However, the EU quickly started to support the new Parliament with technical and financial assistance in order to aid in its smooth operation.[94] And there is a widespread expectation, even among high-level government officials in the region

90 The text of the proposal is reprinted, including justifications for each article as submitted to governments, in Fundación Konrad Adenauer and Comisión Parlamentaria Conjunta del Mercosur (2006), pp. 46-95.
91 Interview with Maria Claudia Drummond, June 2009
92 Drummond (2009)
93 Interview with Maria Claudia Drummond, June 2009
94 European Commission (2007b), pp. 29-30

itself, that Parlasur will eventually develop into a decision-making body very much like the EP. As one Brazilian official noted, for example: “And we will have to face it, as you faced it in the EU. It is only beginning. Eventually, the Parliament will seek more competences and this is part of the game. If we want real integration among us, we have to accept this.”[95]

SADC

Dynamics in SADC share some similarities with those in Mercosur in that frequent interactions with the EU have strengthened endogenous demands by parliamentarians for the creation of a full-fledged SADC Parliament. In the run-up to the Windhoek Treaty, the issue of a parliamentary body started to be discussed. The annual consultative conference, in which EU officials participated, emphasised the need for an “elected representative regional authority (parliament)” as the process of regional integration evolved[96] – a claim that the Council of Ministers endorsed a few months later when stating: “The Community will need strong institutions of popular representation.”[97] Strongly conditioned by the previous legacy of executive dominance in the process, the Windhoek Treaty nevertheless was completely silent on the issue.

Soon thereafter, parliamentarians from the member states started an advocacy campaign called the ‘Windhoek Initiative’, which aimed to “effectively involve the ordinary citizens of the SADC region in the formulation and implementation of developmental policies” through the promotion of democracy and human rights,

[95] Interview with Regis Arslanian, June 2009
[96] SADCC (1992), p. 41
[97] SADCC Council, August 1992, p. 36

information campaigns and consultation with local stakeholders.[98] They held a first meeting in October 1993 in Windhoek, which was attended by various European parliamentarians as well as a member of the EP, that gave strong support to the idea of establishing a SADC-PF.[99] The next meeting in 1995 adopted a constitution for the body, which was drafted with the support of European members of the EP and the Association of European Parliamentarians for Africa (AWEPA).[100] It essentially emulates the EP's range of competences, but adjusts them to the political context in SADC, making them (initially) merely consultative. The constitution notes that the SADC-PF shall consider and make recommendations on 'policies, strategies and work programmes' as well as 'any treaties and draft treaties' (Art. 8/3, vi and ix) (legislative competences), shall scrutinise and make recommendations on SADC's budget and audited accounts (Art. 8/3, vii and viii) (budgetary competences) and shall consider the Executive General's Annual Report as well as 'study, be briefed and make recommendations on all SADC sectoral reports' (Art. 8/3, viii and xi) (control/supervisory competences). However, it already declares unambiguously the ambition to develop into "a regional parliamentary structure."[101] The SADC-PF was officially launched in July 1996, including a permanent secretariat in Windhoek, with

98 Tjitendero (1995), p. 780

99 This was the first initiative for an African regional parliament in the post-Cold War era (Terlinden 2005, p. 1), indicating that its initial impetus and early dynamics were entirely independent from later developments towards regional parliaments elsewhere in the continent. Even though these developments in neighbouring African regional organisations are affecting dynamics in Southern Africa today, their initial impetus is unrelated to this.

100 AWEPA is a partly ECom-funded body, composed of former and current members of the EP and other national parliamentarians, which supports parliamentary democracy in Africa. For more information, see: http://www.awepa.org/.

101 The text of the Constitution can be found in SADC Parliamentary Forum (1998).

the financial and administrative support of AWEPA.[102] One year later, the Summit officially endorsed it as an autonomous institution under Article 9(2) of the Treaty.[103]

Initially, the body's activities were little focused on fulfilling the formal legislative, budgetary and supervisory competences it had been endowed with or even working actively towards a strengthening of its formal role – a situation similar to that in Mercosur. Instead, it followed the SADC-typical project approach. Reflecting national and regional needs and constraints regarding participation and democracy in the region, it has focused its activities on seeking to strengthen democratic principles and gender equality as well as HIV/AIDS. It has designed, for example, a set of guidelines for elections and benchmarks for democratic parliaments and has successfully dispatched election-monitoring missions across the region. Moreover, it has played an important role in enhancing the capacity of national parliamentarians through a newly established Parliamentary Leadership Centre at the organisation's Secretariat.[104] As these important activities indicate, members of the SADC-PF themselves largely saw their body as a useful platform to help address various pressing needs of their countries rather than necessarily assuming an important role in *regional* decision-making as such.

However, the EU's involvement with the SADC-PF as well as wider continental developments have somewhat reoriented and focused the demands of its members vis-à-vis their governments. Contact with the EU in several fora has contributed to this development. The 2000 Cotonou Agreement strengthened the EU-ACP Joint

[102] Tjitendero (1995), p. 786
[103] SADC Summit, September 1997, pp. 101-2
[104] For an overview of the various activities, see Karuuombe (2008), pp. 235-7

Parliamentary Assembly, composed of elected officials from the EP and parliaments in the ACP states, which meets twice a year for one week (Art. 17/3, Cotonou Agreement) – just as often as the SADC-PF meets for plenary assemblies among themselves. This body recently stated, for example, that "European integration dynamics have partly stemmed … from the existence of a European Parliament, directly elected by citizens, with ever increasing competences" and proceeded to call "on the EU and the ACP Group to step up their support for the parliamentary structures of regional organisations."[105] In 2006, the SADC-PF decided to seek observer status to the Joint Parliamentary Assembly.[106] EP and SADC parliamentarians furthermore meet regularly before EU-SADC Ministerial meetings in the context of the political dialogue. In addition, the EP holds regular inter-parliamentary meetings with its counterpart in South Africa – contacts that were formalised after the country's transition to democracy and have been augmented from one to two meetings a year since 2004.[107] EU (parliamentary) involvement with the SADC-PF has not only contributed to convincing its members to shape and step up their lobbying efforts for the establishment of a SADC Parliament, it has also legitimised their advocacy efforts.

As the establishment of the Pan-African Parliament approached and the region was engaging in institutional restructuring in the early 2000s, the SADC-PF reinvigorated its efforts to establish a SADC Parliament. The SADC-PF Strategic Plan 2000-2005 elevates this goal to one of its central objectives.[108] In 2003, the General Assembly adopted three documents regarding this endeavour: 'A Case for the SADC

[105] ACP-EU Joint Parliamentary Assembly (2008), pp. 3, 6
[106] Final Communiqué, 21st General Assembly, November 2006, p. 3
[107] For a comprehensive list of meetings, see European Parliament (2009), p. 5
[108] SADC Parliamentary Forum (2000)

Parliament', a 'Draft Agreement Amending the Treaty of the Southern African Development Community' and a 'Draft Protocol on the SADC Parliament.'[109] The latter was elaborated by a Task Group, which drew on best practices from other regional parliaments as well as the EP. It is essentially a blueprint for an EP-type body in SADC, envisaging direct elections and some form of proportional representation, as well as representative, legislative, oversight, consultative and deliberative competences, while it was agreed that it should continue with the programmes of the current SADC-PF.[110] As the former General Secretary of the body, Kasuka Mutukwa, explains: "If established, the SADC parliament would become the legislative arm of SADC and would compliment the role of the SADC Summit, Council of Ministers, and the Tribunal. It will have an oversight role and have law-making powers. It would approve the SADC budget, among other functions."[111]

Since then, SADC-PF delegations have visited all member states to lobby governments directly and have urged the Heads of Government not only to include the issue on the Summit agenda but also to promote the establishment of a SADC Parliament.[112] The latest Plenary Assembly in June 2011 explicitly addressed the issue under the theme 'Towards a SADC Regional Parliament.' The Assembly reminded the Heads of States of their original endorsement of the eventual establishment of a SADC Parliament, given in 1997, and argued mainly for the need for broad-based participation in the regional integration process, while establishing a Task Force to

[109] The document arguing the case for the establishment of a SADC Parliament is available at SADC Parliamentary Forum (2004).
[110] SADC Parliamentary Forum (2003)
[111] 'Does SADC Require a Parliament?', Inter Press Service, 7 March 2009 available at: http://ipsnews.net/news.asp?idnews=46020 (last access: 24.6.2011).
[112] See SADC Parliamentary Forum (2005)

review and consolidate the documents on the Case for a SADC Parliament.[113] Latest press reports suggest that the SADC-PF has tentatively scheduled the launch of the SADC Parliament for November 2011.[114]

It is still too early to judge the fate of this body and its future evolution. The Summit initially "expressed reservations" regarding the idea of establishing a SADC Parliament because it feared a duplication of efforts with the establishment of the Pan-African Parliament.[115] Moreover, member states have regularly expressed concerns about the costs of such a new body[116] and, according to interviews, many governments are still dragging their feet because they fear a loss of "structural control" over the integration process that they are eager to preserve.[117] Nevertheless, its establishment and formal integration into the SADC Treaty appears to be merely a matter of time rather than of principle controversy. In 2004, the Council noted already that it "supported the establishment of a SADC Parliament in principle as a long-term objective."[118] South African President Thabo Mbeki has since reaffirmed this position: "the involvement of the Forum in the practical work of accelerating the process of regional integration would, in a concrete manner, demonstrate the need for the establishment of the regional parliament to which all of us, in principle, have agreed."[119] Over the years, various other countries have expressed their support for the transformation of the SADC-PF into a regional parliament along the lines suggested by the Draft Protocol.

[113] SADC Parliamentary Forum (2011)
[114] 'November Launch Planned for SADC Parliament', African Review, 21 June 2011
[115] SADC Summit, August 2003, p. 11
[116] SADC Parliamentary Forum (2004), p. 548
[117] Interview with Duke Lefhoko, November 2009
[118] SADC Council, August 2004, p. 105.
[119] Final Communiqué, 21st General Assembly, November 2006, p. 1

These dynamics are striking to the extent that the issue of participation was formally addressed with the establishment of SADC National Committees in the early 2000s.[120] These bring together 'key stakeholders' at the national level in order to ensure participation by non-state actors, including national parliaments, in the formulation and implementation of regional policies (Art. 16A, SADC Treaty) – an arrangement that fully reflects the intergovernmental nature of the integration process in the region. Even though there have been concerns about the effective operation of these Committees and their ability to genuinely ensure popular participation[121], current debate about how to address the issue appear to focus almost exclusively on the establishment of a SADC Parliament rather than on the more plausible option given SADC's political and material circumstances: namely a reform of the SADC National Committees themselves.[122] If such reform occurred, it would thus be another case of the EU subtly acting as a switchman between similarly plausible alternatives.

ASEAN

In ASEAN, regional cooperation was originally motivated by the stabilisation of authoritarian regimes in view of the fear of communist subversion and external superpower interference. It was based on the idea of "elite-centred regional socialization" or "peer influence"[123] among leaders who were in power for decades and sought to protect their position by firmly anchoring non-intervention as one of the main principles of the organisation (Preamble, Bangkok Declaration). For much of its

[120] Even though the argument is repeatedly made, it is clear that there is no legal or functional need to create a SADC Parliament, instead of the current Forum, to be in line with Pan-African integration under the African Union, which assigns a central role to regional parliamentary bodies in the development of continental integration (SADC Secretariat 2004b, p. 543).
[121] For example Matlosa (2006), p. 129
[122] The SADC records have no mention at all of any considerations in this direction, which indicates that this option has not been seriously considered at the regional level.
[123] Acharya (2003), p. 127; Severino (2006), p. 11

first few decades then, cooperation rested on an authoritarian elite consensus and progressed in almost complete isolation from wider societal influences. Even the creation of a weak ASEAN Interparliamentary Organisation (AIPO) in September 1977, which brought together parliamentarians from national (yet unelected) parliaments outside ASEAN's official decision-making structure, did not change this situation.[124] In view of domestic authoritarianism, societal participation or even democratic control of an elite-dominated regional integration process was simply out of question.

Calls for more participation and 'democracy' at the regional level only started to emerge towards the late 1990s in view of several member states' transition to democracy and a broader liberalisation of most domestic political processes.[125] The Asian financial crisis had similarly discredited the ASEAN way and led policy-makers to adopt the rhetoric of good governance.[126] When ASEAN governments embarked upon the deepening of the integration process with the Bali Concord II, the notion of a 'people-centred organisation' therefore quickly emerged. This resulted in AIPO's transformation into the ASEAN Interparliamentary *Assembly* (AIPA) in April 2007, which sought "to align it to the objective of building a caring and sharing community in Southeast Asia."[127] AIPA was endowed with a permanent Secretary General resident in Jakarta and given the aim to coordinate and consult with ASEAN in order to offer "parliamentary contributions to ASEAN integration" (Art. 2/3; see

[124] However, since AIPO's creation, ASEAN's international cooperation partners, including the EP, have been invited to the annual general assembly meetings. And some studies have argued that AIPO's creation was driven by mimicry from the EP (Rüland and Bechle 2011, pp. 8-9; see also Jetschke and Rüland 2009, p. 185).
[125] Acharya (2003); Rüland (2009)
[126] Thompson (2004)
[127] Joint Communiqué, 27th AIPO General Assembly, Cebu City, Philippines, 10-15 September 2006, p. 1

also Art. 7/1, 17/1, AIPA Statutes). AIPA was officially recognised in the ASEAN Charter as an associated entity under Article 16.[128]

One might argue that existing theories of transnational parliamentarisation, especially in its functional variant, are sufficient to account for this current status quo of regional parliamentarisation in ASEAN, namely as the endogenous adaptation of previously existing structures to a new regional environment resulting from democratisation and deeper regional integration. This is plausible as far as it goes. Nevertheless, I argue that these explanations miss out on the main underlying dynamic that not only led to this transformation, but also points to a likely evolution in the future that might well resemble that of Mercosur and thereby depart from the expectations of these accounts.

Since the early 2000s, and with increasing vigour since the Bali Concord II, there have been demands by regional parliamentarians that reach beyond the mere establishment of a consultative assembly giving some parliamentary input to the integration process. Jose de Venecia, former Speaker of the Philippine House of Representatives and former President of AIPO, has been the most ardent supporter of the idea of creating an ASEAN Parliament modelled along the lines of the EP. He travelled to Europe to learn about the EP and its historic evolution and sought to convince his fellow AIPO members during the preparatory phase of the Charter-making process that more ambitious demands regarding parliamentary involvement be formulated. During this period, he even organised a briefing for his fellow parliamentarians on the EP's history and evolution, which was conducted by members

[128] The reason why it became only an associated entity rather than fully integrated into ASEAN's core structure has to do with the fact that not all ASEAN members are also members to AIPA (Interview with Termsak Chalermpalanupap, August 2009).

of the EP themselves.[129] While parliamentarians in newly democratising Indonesia quickly supported his calls[130], others – often themselves nominated by governments to their parliamentary posts – were initially much more sceptical. Abdullah Tarmugi, the Speaker of the Singaporean Parliament and former President of AIPA, recounts:

> The whole idea of an ASEAN Parliament is mainly an initiative of the Philippines and Venecia. And also taken up somewhat by Indonesia after that. They saw the European Parliament, which is a supranational body powerful enough to legislate for the whole region, and that's what they saw themselves doing, hopefully… But the other parliaments in ASEAN, we wished for other things. Just imagine Myanmar, for example, they certainly wouldn't want anyone to tell them what to do. Then there is Vietnam, Cambodia, Thailand perhaps. So there is that kind of reluctance.[131]

As this quote indicates, there was initially fierce opposition, even among parliamentarians of AIPO, to the idea of working towards the establishment of an ASEAN Parliament. Nevertheless, a consensus was reached at the 27th AIPO General Assembly held in the Philippines in 2006 that the establishment of an ASEAN Parliament would be a long-term goal.[132] Hence, even the previously reluctant members had by then accepted the idea *in principle*. To quote Adbullah Tarmugi again:

> But we thought it was a bit too early [to the idea of establishing an ASEAN Parliament]. So we thought that in 2006 then, I was in Cebu City also, since there was so much opposition to the idea, why not proceed slowly and gradually? And take the European Parliament model as a long-term one? We don't want to put a target date to it, maybe 10 years we don't know. But at least we come closer to that ideal. […] Given the political scenario we have here, we thought it would take us much longer [to establish a Parliament like in the EU]. But the idea is still there. And even Myanmar didn't reject outright the idea of an ASEAN parliament.[133]

During the Charter-making process, however, parliamentarians were reluctant to already formulate demands in that direction. The EPG on the ASEAN Charter consulted with AIPA and discussed the issue of sovereignty internally. Some

129 Interview with Abdullah Tarmugi, September 2009
130 Interview with Djauhari Oratmangun, September 2009
131 Interview with the author, September 2009
132 See the AIPO website: http://www.aipo.org/Bg_and_History.htm (last access: 10.10.2011)
133 Interview with the author, September 2009; see also S. Ramesh, 'Setting up of ASEAN Parliament is a long-term objective: Tarmugi', Channel NewsAsia, 20 August 2007

members of the group, such as former Philippine President Fidel Ramos, were supporting the idea to recommend the establishment of a supranational Parliament, but it was not consensual.[134] Subsequently, the HTML on the Charter invited AIPA to voice its views at a meeting in Penang, Malaysia, in May 2007. At that meeting, AIPA representatives from Malaysia and Singapore – countries with weak national parliaments – only demanded that the Charter should be "ensuring a more coherent collaboration and coordination between the legislative (AIPA) and executive arm (ASEAN)."[135] This demand was met in 2010 with the establishment of a discussion forum institutionalising regular coordination on AIPA resolutions prior to ASEAN summits.[136] An ASEAN official therefore noted: "Of particular interest on this list [of associated entities] is AIPA… [because it] was … recognized as a 'partner in government' in building the ASEAN Community."[137]

Regional parliamentarians are currently in the process of discussing strategies to work towards their long-term objective of establishing an ASEAN Parliament along EP lines. In this process, they also seek to familiarise themselves with the EP and its operation. A recent job posting by the Cambodian parliament seeking consultants to help in the preparation and implementation of the AIPA general assembly meeting in Phnom Penh in September 2011 explicitly notes, for example, that comparative knowledge of EU and ASEAN matters is considered 'an asset.'[138] To date, these demands are far from coherent and vocal. Nevertheless, it is striking how other actors

[134] Interview with Fidel Ramos
[135] Dialogue Session between the ASEAN Inter-Parliamentary Assembly (AIPA) and the High Level Task Force on the Drafting of the ASEAN Charter in Penang, Malaysia on 17th May 2007; available at: http://www.aipo.org/Activities.htm (last access: 25.5.2010).
[136] See: http://www.aseansummit.org/news58-aipa-builds-asean-parliament-communications.html
[137] Chalermpalanupap (2008), p. 103
[138] See the website: http://www.phnompenhpost.com/index.php/component/option,com_jobboard/id,139/lang,en/view,job/ (last access: 11.10.2011)

have also started talking about an ASEAN Parliament. A Secretariat official noted, for example, that AIPA's new name "implies a *conceivable* future … as an ASEAN-linked parliament for Southeast Asia, perhaps even comparable to the European Parliament."[139] On the other hand, a Singaporean government official expressed with some fear in an interview that the creation of AIPA could be "part of [a] process generating its own momentum" because parliamentarians believed that the "EU has a parliament, why not us?"[140] Thus, it appears that the EP is indeed emerging as a focal point in regional political debates about the future of ASEAN, despite the fact that there are many plausible alternatives to ensure more societal participation in the integration process in general and a stronger participation of national parliamentarians in particular – ideas that were already discussed during the Charter-making process.[141] In sum, only reference to EU influence can explain why we are already observing dynamics associated with eventually transforming AIPA into an ASEAN Parliament in the absence of federalist ideology among regional parliamentarians or the functional need to exert 'democratic control' over strong regional institutions.

6.3 External Actorness

Regional organisations' efforts to construct a regional community are not confined to the region itself; they also have an external dimension. As they consolidate internally, external actorness and international representation also become important areas of

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[139] Chalermpalanupap (2008), p. 103, my emphasis; similarly, Chalermpalanupap (2009), p. 135
[140] Interview with ASEAN government official, September 2009
[141] One interviewee mentioned, for example, that he had suggested the idea of creating ASEAN committees in national parliaments in order to allow for a stronger scrutiny of regional integration, while the ASEAN-ISIS network recommended broader consultative processes that involve a wider range of civil society actors, also including national parliamentarians (see Hernandez 2007, Appendix 2).

activity[142] – a realm traditionally reserved to nation states. In fact, forming a customs union (CU) entails, by definition, a common foreign trade policy. The central challenge associated with this rise of regional organisations as international (economic) actors is their ability to act *in unison* on the international stage. This has a politico-institutional and a legal dimension.[143] The former refers to a regional organisation's ability to formulate regional positions and effectively act upon them internationally, while the latter concerns the question of international legal personality, i.e. whether a regional organisation is legally empowered to act independently of its constituent member states. ILP is neither a prerequisite for international action nor does it facilitate it in any meaningful way. It simply means that an organisation is a bearer of rights and obligations under international law, among which are the ability to enter into international agreements *as an organisation*.[144]

The EU is by far the most developed international actor among regional groupings and has developed a supranational mechanism regarding international action in the trade field based on a formally codified and well-tested procedure.[145] The ECom coordinates member states' position by proposing a negotiation mandate that is endorsed by the Council, it acts as the EC's international negotiator under the control of the so-called 133 Committee of member states and eventually signs the final trade

142 Langenhove and Costea (2007); Marchesi and Langenhove (2009)

143 Ip (2010) draws the distinction between international juridical personality and international political personality.

144 Higgins (1994), p. 46

145 The size of its internal market and its ability to effectively leverage this size externally has made the EU an undisputed superpower in this area (Meunier and Nicolaïdis 2005). Over time, the Community has also sought to establish similar coordinating mechanisms in other policy areas, including the Common Foreign and Security Policy and the Common Security and Defence Policy – albeit arguably with less success.

agreements on behalf of the EC (Art. 210, Treaty of Rome).[146] However, this is not the only possible institutional arrangement for external trade representation, even in a situation in which there is a functional need to represent a common front; in fact, it remains unique in international politics. The simplest form, associated with ad hoc cooperation, is the ad hoc coordination of member state positions and similarly ad hoc negotiation not rooted in any formalised procedure. An intergovernmental coordination mechanism, on the other hand, is based on the decentralised, yet institutionalised coordination of member state trade positions without any role for a regional institution, the member states themselves subsequently negotiate and also sign a final agreement in the absence of ILP.

What is the pattern of external actorness in the other regions? All three regions have engaged in trade negotiations with external partners and have thus started to develop external trade negotiation mechanisms. These are, by and large, intergovernmental in that member states have started to formalise decentralised mechanisms of coordination, in which they themselves remain the primary actors at all stages of the process; yet, with the curious 'exception' that all three regions have adopted ILP to sign international agreements in the name of the regional organisation.[147] How can we account for this pattern of external actorness? I argue that external engagement with the EU has been the single most important incentive for these regional organisations to develop external actorness because the Community is the only actor that has systematically engaged them on a regional basis early on in their market integration process. This engagement has catalysed the process of formalising external trade

[146] For good overviews of EU trade policy, see Meunier and Nicolaïdis (2000); Meunier (2005), Chapter 1. Whereas the EC has held international legal personality since the beginning, the EU only acquired it with the Lisbon Treaty in 2004 (Art. 47) (for a discussion of this issue, see Klabbers 1998; Leal-Arcas 2007).

[147] This curious divergence is well demonstrated for ASEAN by Ip (2010).

negotiation mechanisms beyond mere ad hoc coordination and is, especially in the case of ASEAN and Mercosur, closely associated with these regions' endorsement of ILP. However, because of their reluctance to delegate sovereignty, none has developed supranational coordination mechanisms, which is partly a function of the weakness of regional parliaments discussed in Chapter 5. Thus, the adoption of ILP has been a 'cheap way' to express their community building aspirations in the absence of any willingness to formalise external actorness more strongly.

Alternative Explanation: The Functional Case for External Trade Actorness

As we have seen, external action in international trade functionally requires regional coordination and negotiation mechanisms. These include some institutional arrangements to coordinate different member state positions prior to negotiations, some arrangement to negotiate and an arrangement to sign (and implement) the resulting agreement. Given that member states have been intent to negotiate external trade agreements due to their heavy reliance on external trade, they have had a strong incentive to move beyond mere ad hoc coordination independent of the EU. Nevertheless, some external actors catalyse this process more than others, namely those that insist on truly interregional negotiations rather than using the regional organisation as a loose frame for cooperation. Thus, the move from ad hoc cooperation to intergovernmental cooperation, despite being strongly functionally 'required', is more difficult to achieve in the absence of external catalysts. It is here that the EU has made a contribution.

The most curious issue, however, is the adoption of ILP. Legal scholars agree that ILP is neither a prerequisite for external action nor does it facilitate it in any meaningful way.[148] From a functional perspective, even a CU, which by definition has to have a common external trade policy, does not 'need' ILP; member states could still sign resulting agreements individually. In fact, ILP "is not so much a status as a capacity", entirely dependent on the political will of member states to endow the organisation with it.[149] Legal positivists still argue, however, over how to assess such capacity. For some, an intergovernmental organisation possesses ILP if, and only if, member states have explicitly conferred it upon them through a treaty (will theory). Others contend, in contrast, that it has to be inferred from the *actual* competences and characteristics of the organisation itself (objective theory).[150] This struggle indicates why some conclude that the "question of international legal personality is, in many ways, a theoretical one"[151] – in other words, a question of little practical relevance for an international organisation's ability to act internationally. At the same time, it means in turn that the "mere assertion of personality is like an empty shell" in the absence of certain codified rights and a certain degree of independence that give substantive meaning to its declaration.[152] This immediately raises the question why member states nevertheless expend negotiation effort and resources to explicitly grant it when they are largely unwilling to give it substantive meaning.

[148] Important regional organisations such as the African Union or the Organisation of American States do not have ILP, even though they participate actively in international politics *as organisations*.
[149] Chesterman (2008), p. 12
[150] Klabbers (1998), p. 237. Thus, even organisations that have not been explicitly granted ILP may nevertheless possess it in legal practice to the extent that they dispose of what legal scholars term a *volonté distincte*, that is, the "capacity to take decisions which bind the membership, perhaps even when not all of the members have favoured the decision concerned" (Higgins 1994, p. 46). This was the reasoning of the International Criminal Court in the famous Reparation Case involving the UN – the most authoritative legal statement on international legal personality to date (see Amerasinghe 2005, esp. pp. 77-85).
[151] Chesterman (2008), p. 12
[152] Gautier (2000), p. 336

Mercosur

Mercosur was, from the beginning, also conceived as a project for the smooth insertion of its member states into the international economy.[153] The founding treaty therefore envisaged 'the adoption of a common trade policy … and the coordination of positions in regional and international economic-commercial forums' (Art. 1). ILP was not specifically mentioned in the treaty. According to one participant in the negotiations, the treaty was drafted under relative time pressure and the issue was therefore not even discussed; other issues were considered more important.[154] At that time, there were no internal demands for ILP as domestic consolidation in order to meet the ambitious target dates for the completion of the CU and the common market were more important than developing external actorness.[155]

However, policy-makers deemed the EU to be of potential help in this endeavour and sought close contacts shortly after the organisation's creation. The Community met these demands with enthusiasm. The first informal ministerial meeting took place in the first half of 1992 and the Commission signed an Interinstitutional Cooperation Agreement with the Group of the Common Market, Mercosur's executive organ, to transfer integration know-how and other support.[156] The objectives of this help are set out in a 1994 Commission strategy document:

> the consolidation of Mercosur is a crucial factor in the medium- and long-term progress of its members and the region as a whole. This consolidation does, however, depend on two

[153] Solingen (1998), pp. 150-1. See also the preamble of the Treaty of Asunción, which stipulates the 'importance to achieve an appropriate international insertion for its countries.'
[154] Interview with Jorge Campbell, July 2009
[155] In this context, the Rose Garden Agreement with the US in June 1991 as a forum for rather non-committal mutual economic cooperation mainly served individual member states' interests to structure their bilateral relations with the US rather than an offensive one aimed at developing Mercosur's external actorness (Dandeker 1992). The agreement remained largely non-operational until 2001.
[156] Interinstitutional Cooperation Agreement (1992). The EC had already offered its help for the transfer of integration experience to the *Cono Sur* before its creation (see Matutes 1990, p. 28).

> conditions: the irreversibility of the undertaking given and uncontested international recognition. Both these conditions make the Community an obvious partner: firstly, because its integration offers the proponents of regional integration a model; secondly, because it can back them up with know-how.[157]

The strategy document also officially launched the idea of negotiating an interregional cooperation agreement as one way to contribute to Mercosur's 'consolidation', with the view towards an interregional trade agreement further down the road.[158] At a time of worldwide geostrategic change, the ECom was eager to negotiate the first ever agreement between two CUs, which was seen as having high symbolic and geostrategic value. In the eyes of important European policy-makers, a model of interregional cooperation and eventual integration between two instances of open regionalism was more desirable than the US' bilateral advances in Latin America that did not pay attention to emerging regional blocs.[159] Then Commissioner for Development Cooperation and External Relations Manuel Marín pursued this agenda with most verve, seeking to persuade Mercosur policy-makers to adopt ILP so that the agreement could indeed be signed by two regional organisations independent from the member states.

Accounts differ as to the degree of pressure that Marín and possibly other EU officials applied in advancing their demands. According to some accounts, he made any progress in interregional cooperation *conditional* upon conferring international legal personality on Mercosur.[160] This was never an official EU position, but private information also confirms that Marín emphasised to his counterparts that 'the whole

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157 European Commission (1994a), p. 5
158 *Ibid.*, p. 10
159 Interview by Manuel Marín with Cristina Blanco Sío-López, 13.10.2010; available at: http://www.ena.lu/. Cooperation with Mercosur was the most intense expression of the EU's wider ambition to elevate regions as important actors onto the international stage (see Söderbaum and Van Langenhove 2005).
160 Peña and Torrent (2005), p. 25; see also Bouzas (2002), p. 144

process would be paralysed if legal personality was not conferred upon Mercosur'.[161] Mercosur policy-makers themselves, on the other hand, deny that they were ever 'subject to any undue pressure.'[162] In any case, it seems certain that the EU expressed a clear preference in this regard and that the issue of ILP reached the Mercosur agenda during the Ouro Preto negotiations because of this engagement with the EU. At these negotiations, policy-makers simply copied the stipulation from the Treaty of Rome into the Ouro Preto Protocol, adopted in December 1994, which states succinctly: 'Mercosur shall have legal personality under international law' (Art. 34).[163] The stipulation is not further elaborated (except for a standard sentence on the ability of Mercosur to 'exercise all necessary acts in order to realize its objectives', Art. 35). Negotiations for an interregional framework agreement with the EU started only one month after the Protocol had been adopted and were concluded under the Spanish Presidency in Madrid in June 1995.[164]

A key figure in the regional integration process in Brazil during that period brought Mercosur's new gained international legal personality in connection with its 'political credibility' more broadly:

> Acting as a bloc and speaking with one voice through the pro tempore presidency – held by Brazil in 1998 – we have been able to achieve greater political credibility. We have been able to project a legal personality on the international stage different from those of our individual member states.[165]

161 Private email correspondence with Ramon Torrent, October 2009
162 Private email correspondence with Jorio Dauster, Brazilian Ambassador to the EU, 1991-1999, November 2009
163 However, Art. 210 in the Treaty of Rome lacks the add-on 'under international law'.
164 Interregional Framework Agreement (1995)
165 Botafogo Gonçalves (1999), p. 28

ASEAN

The issue of ILP was similarly discussed for the first time because of engagement with the EU. Even though the Community has had institutionalised relations with ASEAN since 1980 and is thereby its most long-standing cooperation partner (see Chapter 2), early interregional engagement was confined to mere cooperation in a broad range of areas rather than trade negotiations as such. They therefore constituted no specific need to institutionalise external actorness in a systematic way. In the early 1990s, the EU failed to upgrade the cooperation agreement with ASEAN due to unbridgeable differences over human rights.[166] In the economic realm, member states started to negotiate bilateral FTAs with outside countries in the late 1990s, despite initial efforts at internal economic integration through AFTA, and have continued to do so after the adoption of the ASEAN Charter.[167] In the late 1990s, ASEAN still "expressly denied any possession of [international] legal personality."[168]

In the early 2000s, ASEAN began engaging outsiders also economically. It signed FTAs with China in 2004 and Korea in 2006 without the issue of ILP appearing.[169] It was only in the context of negotiations for an interregional FTA with the EU, following the EU's new trade strategy in 2006, that the question of ILP entered the agenda. In accordance with the Community's previous policy to reject Myanmar's military rulers as legitimate dialogue and cooperation partners among ASEAN's

[166] For a broad discussion, see Robles (2004), Chapter 6

[167] According to the WTO RTA database, Singapore currently has 11 bilateral trade agreements, Thailand four, Malaysia two, Brunei two, Indonesia one, the Philippines one, Vietnam one and Laos one; none of which with the EU.

[168] Ip (2010), p. 5

[169] In the early 2000s, ASEAN had already signed international agreements unhampered by the absence of ILP such as the 2000 Memorandum of Understanding with Australia on Haze or the 2000 Memorandum of Understanding with China on Agricultural Cooperation.

ranks[170], soon after exploratory talks had begun the Community announced that it was unwilling to sign any agreement that would hold the signature of Myanmar's generals. As ASEAN, on the other hand, rejected the idea to exclude Myanmar from such an agreement, alternative options were being explored to safe it from failure, given the economic interests both sides had in its successful completion.[171] Seeking to reconcile these conflicting stances, European negotiators eventually indicated that they would be willing to endorse an agreement that was signed by an ASEAN representative *on behalf of* its member states, which would require granting ILP to the organisation. This episode constituted, as one interviewee confirmed, the first time that ASEAN policy-makers were confronted with the idea and started considering it as a serious policy option.[172] Trade negotiations were eventually 'paused' in early 2009 due to ASEAN's inability as a group to meet the EU's ambitious economic agenda and at the end of 2009 EU member states instructed the ECom to pursue bilateral trade deals with ASEAN members.[173] The direct need for ILP because of engagement with the EU thus disappeared, but the issue had come up for discussion. In the meantime, the issue of legal personality was also discussed in the context of the ASEAN Charter-making process. The EPG recommended legal personality in order 'to strengthen the legal foundation of ASEAN as it becomes an Intergovernmental Organisation', but it referred exclusively to the internal aspects, rather than the ability to sign international agreements.[174] The HTLF, which drafted the Charter, adopted this EPG recommendation without much debate.[175] Article 3 thus stipulates concisely:

170 Manea (2008)
171 Interview with David Chin, September 2009
172 Interview with ASEAN Secretariat official, September 2009
173 Press Release, 'EU to Launch Trade Negotiations with Individual ASEAN Countries, Beginning with Singapore', 22 December 2009, Brussels. Available at: http://trade.ec.europa.eu/doclib/press/index.cfm?id=504 (last access: 10.01.2009).
174 Eminent Persons Group (2006), p. 44
175 Interview with ASEAN Secretariat official, September 2009

"ASEAN, as an intergovernmental organisation, is hereby conferred legal personality." This concise formulation was inspired by the EU Constitution, which the drafters had consulted on the issue. As one participant in the negotiations recounts: "we saw the draft European Constitution and it mentions it very briefly, without details."[176] It was agreed that "[d]etails of what ASEAN can or cannot do with its legal personality will be discussed and stated in a supplementary protocol after the signing of the Charter."[177] Nevertheless, the Charter also stipulates, in the section on external relations, that ASEAN may conclude international agreements (Art. 41/7), which indicates that the Charter's drafters wanted to dispel any doubt about ASEAN's formal ability to act internationally, based on the symbolism attached to ILP. This is reflected in a statement by former Secretary General Ong Keng Yong: "the ASEAN Charter will serve the organisation well in three interrelated ways, such as, formally accord ASEAN legal personality, establish greater institutional accountability and compliance system, and reinforce the *perception* of ASEAN as a *serious* regional player in the future of the Asia Pacific region."[178] Astute academic observers from within the region confirm the view that legal personality as the most expressive core of its new ambitions in economic integration "serves the purpose of giving symbolism and legal effect to the group's efforts in becoming an increasingly rules-based and cohesive group."[179]

[176] Phone interview with Termsak Chalermpalanupap, February 2010; see also Chalermpalanupap (2009), p. 13

[177] ASEAN Secretariat, "ASEAN Leaders Sign ASEAN Charter", Media Release (20 November 2007), my emphasis; available at: www.aseansec.org/21085.htm (last access: 7.10.2009).

[178] ASEAN Secretariat, "ASEAN Leaders Sign ASEAN Charter", Media Release (20 November 2007), my emphasis; available at: www.aseansec.org/21085.htm (last access: 7.10.2009).

[179] See Hsu (2008), p. 74

SADC

SADC was formally granted legal personality with the Treaty of Windhoek (Art. 3), which transformed the organisation from a loosely structured 'Cooperation Conference' into a more formalised 'Community'. The decision reflected policy-makers' desire to give the new organisation "an appropriate legal status"[180] and grant SADC officials certain immunities and privileges to protect them from arbitrary arrest when traveling to other member states.[181] A few years later, the SADC Secretariat initiated a discussion about what legal personality actually meant for the ability of individual SADC institutions to sign legal documents, both internally and externally – an issue that the Treaty was entirely silent on.[182] After more than a year of discussion, the Council formally endorsed the Secretariat's recommendation that the Secretary General could sign legal documents of a technical nature on behalf of the organisation.[183]

However, discussions about SADC's ILP resurfaced during current EPA negotiations and have sparked huge controversy. In its draft proposals for a final EPA text, the EU proposes to define the SADC EPA negotiation group as a 'single party', which means that it will enter into rights and obligations vis-à-vis the EU as *one* group, and create an EPA Council as the institutionalised forum in which mutual concerns could be raised between the two groupings. Such a stipulation would essentially confer ILP upon the SADC EPA negotiation group, which encompasses only six out of 15 SADC member states (South Africa, Lesotho, Swaziland, Namibia, Botswana and Mozambique) and create problems regarding the need for institution-building because

[180] SADCC Summit, August 1989
[181] Interview with Stephen Kokerai, November 2009
[182] SADC Secretariat (1997) and ensuing debate
[183] Council of Ministers, September 1998, pp. 145-6

– as one policy-maker explains - “we do not have regional institutions in law that exist for us as SADC EPA states minus the other the other SADC states who happen to be in some other EPA.”[184] The SADC negotiation group therefore has rejected the EU’s proposal because of a lack of institutions within SADC that could take binding decisions for a subset of the organisation’s member states.

The EU’s demand could only be accommodated credibly if new institutions were created among the SADC EPA member states that would allow the group to act collectively vis-à-vis the Community – with potentially detrimental consequences for regional integration among all of the SADC countries. This has led to some frustration, as expressed in the rhetorical question of a South African policy-maker: “Why insist on creating them [EPA Councils] because they are going to pollute the landscape around here of EPA Councils in the SADC context?”[185] Furthermore, given the *ad hoc* nature of the negotiation group, member states are reluctant to incur any obligations on the part of their fellow members, given that a trade dispute between the EU and South Africa could, in such a configuration, have knock-on effects for the market access of the other members of the group.[186] The outcome of this conflict of interests is still uncertain. Informally, the EU has indicated that it would not hold other SADC EPA members responsible if one of them failed to comply with an EPA stipulation.[187] SADC EPA negotiators nevertheless continue to reject such a stipulation.

[184] Interview with Jan van Vollenhoven, October 2009
[185] *Ibid.*
[186] Interview with Xavier Carim, October 2009
[187] Interview with Titus Nxumelo, November 2009

6.4 Conclusion

In this chapter, I have sought to demonstrate that EU influence has had a discernable effect on regional community building in ASEAN, Mercosur and SADC, by which I understood the regional rules that member states of a regional organisation create beyond the economic core of regional market building and the efficiency-enhancing institutions required to guide such an endeavour. I have analysed EU influence in three central areas: solidarity, participation and democracy as well as external actorness. My main argument was that EU influence has been difficult to escape, especially in the long run, when regional actors have demanded particular cooperation problems in these three areas to be addressed at the regional level. Thus, policy-makers' attempts to create solutions to these problems have tended to converge on EU-type arrangements, which have catalysed (dynamics towards) the establishment of centralised funds to address economic asymmetries, the creation of parliamentary bodies and the endowment of regional organisations with ILP. In all three areas, more decentralised mechanisms, which appeared *a priori* more in line with policy-makers' long-standing 'affinity' for intergovernmental arrangements, were available at various critical junctures of their evolution. Thus, I argued, the EU has acted as a switchman between different conceivable ways of regional community building.

Moreover, I have sought to show that Mercosur has developed the clearest similarities with the EU in community building, emulating the EU's structural convergence funds as well as the Mercosur Parliament and adopting ILP as an expression of its international actorness, catalysed directly by negotiations with the EU over an interregional cooperation agreement. In ASEAN and SADC, on the other hand, dynamics towards EU-style arrangements have ushered in outcomes that bear less resemblance to EU arrangements, due mainly to a lesser degree of fit in the respective material and political conditions. Nevertheless, in these two regions also, the initial creation of a centralised fund to address economic asymmetries and the establishment of regional parliamentary bodies appear to form part of a dynamic process that might well lead towards more similarity in outcomes with the EU in the not too distant future.

Chapter 7

Conclusion

Since the 1960s, policy-makers around the developing world have engaged in regional cooperation in an attempt to stabilise volatile relations with neighbouring states and to spur economic and social development. This process has been influenced by a complex mix of internal and external factors, which determine not only its origins and effects, but also its central rules of the game and resultant practices. Drawing on analytical tools from diffusion research, I have sought to demonstrate when and how the EU – as the successful pioneer of the trend towards regional cooperation in the post-World War II era and a materially powerful supporter of regional integration processes around the world – is an important factor in explaining episodes of regional rule change in ASEAN, Mercosur and SADC. Specifically, I have concentrated on analysing EU influence in three central areas of regional cooperation: market building, institution building and community building. I argued that EU influence is difficult to escape because the EU tends to serve as the main focal point of regional debate when policy-makers find themselves confronted with an exogenous cooperation problem, thereby choosing EU-inspired solutions rather than similarly plausible alternatives.

I started the discussion by unravelling a widespread, oft-implicit assumption underlying much of the existing literature on global regionalism, namely that different instances of regional integration can be adequately understood as developing *independently* of each other. I suggested that most scholars view them as affected primarily by specific constellations of interests, institutions and/or ideas and identities endogenous to the respective regions themselves; and even when they consider *external* influences, often in the form of globalisation arguments about the domestic or regional effects of international interdependence, the independence assumption holds grammar. The few scholars that have considered outside influences, also in the literature on the EU's external relations, have conceptualised it as a form of hegemonic power in that a strong actor leverages superior material capabilities and thereby coerces others, to different degrees, into domestic rule change. My main conclusion was that such conceptions of regionalism are not necessarily wrong-headed, yet overlook the much more subtle ideational and 'soft' material impact that external actors often exert.

To address these shortcomings in the literature, I drew on the tools of diffusion research and conceptualised regional organisations as *asymmetrically interdependent* phenomena. Such a conceptualisation takes the well-established notion of 'global regionalism' seriously and seeks to apply it as an analytical rather than merely descriptive concept. Successful forms of political organisation tend to radiate outwards from its original source of innovation rather than resembling genuine networks without an identifiable centre. Applying this insight to global regionalism, I thus argued that the EU sits at the heart of a hub-and-spoke pattern of diffusion processes in global regionalism as both its (admittedly partially) successful ideational pioneer and a materially powerful supporter that is active around the world. Based on this novel conceptualisation of global regionalism, I sought to construct an account of EU influence that depicts regional cooperation as a process of interdependent rule choice in view of particular – internal and external – incentives and constraints. It is based on the assumption of bounded rationality and emphasises the ambiguity inherent in rule choice when policy-makers seek to respond to a given cooperation problem in view of similarly viable options that are difficult to distinguish *a priori* in terms of effectiveness. Such situations of ambiguity are often solved by reference to focal points as they focus members' expectations towards a common referent that serves as the most plausible starting point for finding a solution.

I argued that the EU tends to serve as the main focal point in regional political debate given its ideational and material power in global regionalism. I suggested that there are two dynamics – the EU as switchman and the EU as driver – by which the EU focal point exerts effects on outcomes and tends to increase similarity in formal rules over time. In the more minimalist first scenario – EU as switchman – the Community's influence is confined to the supply side of regional rule change. For a given set of exogenous incentives to tackle a particular cooperation problem at the regional level, the EU tends to lead policy-makers to choose EU-inspired solutions over similarly plausible alternatives. The reasons are that the three organisations under study have similar founding rationales to the one in Europe thereby rendering the EU a relevant referent, that the EU has been successful in addressing many cooperation problems that policy-makers elsewhere are likely to encounter sooner or later in their regional cooperation process, and that there is a more genuine identification with the EU among at least some actors in a region, who are likely to promote EU-type solutions. Yet, the extent to which the EU focal point determines outcomes at any one point in time depends, I argued, on the decision-making context and the degree of fit between EU arrangements, on the one side, and the political and material conditions in the respective regions, on the other. In crisis-situations and with higher respective fit, the extent of EU influence on outcomes based upon the switchman dynamic is likely to increase.

In the more maximalist second scenario – EU as driver – the Community affects the very incentives for rule change. This can be the result of the negative externalities stemming from the process of European integration itself, the EU's negotiation of interregional trade agreements or its financial assistance to other regions. I posited that the EU is more likely to affect incentives, the higher the degree of asymmetric interdependence in trade, investment and aid with other regions. When it does so, I moreover suggested that this is likely to have predictable knock-on effects on the supply side as well. Thus, when the EU alters the regional environment within which policy-makers conduct regional cooperation, it tends to construct a focal point, which leads to the emulation of EU rules, the extent of which again depends on the degree of fit between these rules and local conditions.

Having reviewed my analytical approach to the topic of EU influence in global regionalism, this final chapter proceeds in two parts. In the next part, I draw together the most important empirical findings of the thesis reviewing patterns of variation and similarity across the three cases. Finally, I consider their implication for functional theories of regionalism and international cooperation more broadly.

How Inescapable Is EU Influence on Global Regionalism?

This thesis has largely confirmed the 'intuition' of many empirically minded scholars, outlined in Chapter 2, that the EU matters for the process and outcomes of global regionalism because it 'inspires' policy-makers elsewhere on how to enhance their own prosperity and stability through regional cooperation. Yet, it has sought to give a solid theoretical basis to these long standing claims and has proposed a methodology of how we might rigorously analyse them empirically. This allowed me to show that the EU's influence on global regionalism is far from uniform across cases, neither in terms of outcomes nor in terms of underlying dynamics. Phrased differently, EU influence has indeed been difficult to escape for region-builders around the world, but it has not been equally inescapable for all of them. Below, I review the main empirical findings for each of the three regional organisations, before considering some broader patterns of EU influence across them.

SADC has been most affected by EU influence, which is reflected in the most dramatic trajectory from its very modest beginnings in the early 1980s to a significant degree of similarity in formal rules with the EU today. This is the result, mainly, of its high material dependence on the Community not only as regards trade and investment, but also as regards aid, which is fundamentally different from the other two cases. To a significant degree, SADC relies on EU money and technical expertise to implement some of its central market building agreements and to maintain the mere operation of its central institutions, most notably the Secretariat, but also, to some extent, the Tribunal.

Thus, the EU has regularly acted as a driver of processes of regional rule change in SADC. This has been most apparent in regional developments since the early 2000s, when the organisation not only underwent a fundamental restructuring of its institutional framework that led to a much higher degree of centralisation. It also outlined a detailed strategic plan on how to achieve the Windhoek Treaty's common market objective, which seeks to replicate, almost one to one, the EU's market building experience. As I argued in Chapters 4 and 5, both of these reforms, the largest ones in SADC's 30-year history, have their roots in the externally induced legitimacy crisis of SADC in the late 1990s. I showed that at a time when there was little endogenous political will to move more decisively in the direction of economic integration, it was external donors' increasing dissatisfaction with the organisation's performance, among which the EU was the most important, that catalysed the process of reform. As a result, SADC not only centralised its formerly decentralised institutional structure, with a formally important and partly supranational role for the Secretariat and the establishment of a EU-type Committee of Permanent Representatives, it also finally established a supranational Tribunal in 2005. Moreover and also associated with ongoing EPAs negotiations with African sub-regions, it moved towards more effective implementation of the Trade Protocol, developed and has started to implement the Finance and Investment Protocol, is currently negotiating a regional Services Protocol and has started work on implementing the envisaged SADC Customs Union. Thus, the EU has considerably spurred and is involved in the ongoing implementation of all major SADC initiatives currently underway in the realms of market and institution building. As regards community building, EU influence has been more subtle, and thereby closer to the switchman dynamic. As I demonstrated in Chapter 6, the EU's own experience and technical assistance as well as its (anticipated) willingness to assume some of the costs of rule change have led policy-makers to establish a SADC Development Fund rather than retain the *status quo ante* of bilateral development aid; and it has contributed to dynamics that point in the direction of a soon-to-come establishment of a SADC Parliament.

The picture looks quite different in the case of Mercosur. Even though the EU has sought to act as a driver of regional rule change on various occasions – examples include the case of the Mercosur Secretariat, the establishment of a Mercosur Court of Justice, and perfecting Mercosur's customs union –, it has been much less successful due to Mercosur's lesser material dependence on EU resources and, becoming more salient then, a lack of normative fit. With the exception of Mercosur's government procurement policy, which was catalysed by negotiations over an interregional trade agreement, and some smaller issues regarding the Customs Union, the main characteristics of Mercosur integration, in all three realms of region building, have their roots in dynamics which appear entirely unrelated to the EU.

Nevertheless, the EU has regularly served as a switchman between various plausible alternatives, which has noticeably increased Mercosur's formal similarity with the EU over time. Thus, Mercosur today features a set of arrangements that have clearly been inspired by the EU, including its common market set-up, the Committee of Permanent Representatives, the Structural Convergence Fund and the Mercosur Parliament. In all of these cases, I argued in the previous chapters, plausible alternative arrangements were available that appeared *a priori* more suitable to policy-makers' continuing impetus for pragmatic and weakly institutionalised cooperation. This switchman dynamic, I suggested, has mainly been the result of local actors, in particular the smaller member states and a variety of non-state actors, pushing for EU-type rules that, over time, powerful member state governments' have found difficult to ignore, especially in times of crisis. Even though many Brazilian policy-makers (and also to some extent their Argentinean counterparts) continue to eschew substantively supranational arrangements in region building, the election of President Lula, in conjunction with Nestor Kirchner in Argentina, in the wake of the regional financial crisis opened a window of opportunity in the early 2000s for various demands for EU-type arrangements, that had been voiced for some time, to be heard. This included, most notably, the establishment of a Mercosur Parliament and Structural Convergence Fund, but also the modest strengthening of the Secretariat as well as the establishment of a Permanent Review Tribunal.

In many of these cases, the EU has not been entirely passive, however. It has actively promoted bottom-up demands, engaged in a regular exchange of ideas across various areas and levels of actors and has given substantive amounts of funding and technical aid to assist in the establishment and operation of regional institutions. However, with the exception of the role of European parliamentarians (and wider EU funding) in the establishment of the Mercosur Parliament, where it is unlikely that dynamics would have played out similarly without this support, the actual causal role of this activism is difficult to puzzle out. Last but not least, the initially anticipated and currently ongoing negotiation of an interregional trade agreement between the EU and Mercosur has had a discernable effect in maintaining Mercosur's internal cohesion, especially that of its customs union, in view of attempts by the US to dissolve it with the FTAA initiative as well as internal centrifugal forces, mainly on the part of Argentina and Uruguay, as we saw in Chapter 4.

In ASEAN, EU influence has been the most limited among the three cases in terms of outcomes, mainly because both material interdependence as well as political and material fit have been comparatively low, while few sustained attempts by individual actors to push for the establishment of EU-type rules have occurred. As I showed in Chapter 4, for example, the EU's attempts to negotiate an ambitious inter*regional* trade agreement with ASEAN, and thereby induce rule changes in the regional framework for economic integration, failed. This was because the associated costs of rule change were unlikely to outweigh the benefits stemming from the agreement in view of patterns of interdependence that are as much directed towards China and the US as towards Europe. Moreover, as the example of the ASEAN Interparliamentary Organisation in Chapter 6 showed, even within individual organisations that would benefit from stronger participation in regional integration, there is considerable reluctance on the part of many members to formulate ambitious demands vis-à-vis governments in that direction.

Nevertheless, I argued throughout the preceding empirical chapters, that we can still observe subtle effects of EU influence by the switchman dynamic that are irreducible to a purely functional logic. These are clearest in the recent period of ASEAN's Community building efforts and the Charter-making process. Not only has the organisation set on track an ambitious EU-type programme to achieve a common market by 2015, the emulation of Europe's COREPER in the form of a new Committee of Permanent Representatives, the adoption of international legal personality or the establishment of an ASEAN Development Fund despite functioning bilateral and plurilateral arrangements to support weaker member states are other notable examples. However, even in the core institutional structure of ASEAN, despite its continued relative weakness and big differences to the EU, we recognise these subtle effects. The regular strengthening of the ASEAN Secretariat in order to solve emerging problems of coordination and monitoring is, I suggested, an expression of the switchman dynamic; Mercosur, for example, despite its considerably more advanced state of economic integration, still organises these functions in a largely decentralised fashion. The toughest case for EU influence is certainly ASEAN's dispute settlement procedure. Despite many calls for the establishment of a supranational Court in the wake of the Bali Concord II, it remains puzzling why, for a long time, it lagged behind even the multilateral procedures to which most ASEAN member states are subject.

Across the three cases, there are three broader patterns that deserve mention. First, in all regions the pursuit of ambitious market building objectives in the form of common markets has been closely associated with the EC's Single Market Project, which started in the mid-1980s. Its general ideas, approaches and methods reverberated widely – as an inspiration initially, later also as an increasing threat – and induced changes in economic cooperation in many regions around the world, not least in NAFTA. In fact, my analysis in Chapter 4 suggests that Europe's so-called '1992 project' was at the root of a major international shift not only from the multilateral to the regional level (together with temporary stalemate in the Uruguay Round), but also towards a deeper international trade agenda that gave a new impetus to substantive new liberalisation in many parts of the world. This is not to suggest, of course, that the EU catalysed this trend independent of structural developments in the world economy pointing in that direction. This underlying trend is fundamental. But the EU was the actor making these trends 'visible' and developing a peculiar way of addressing them in the regional context. This resonated strongly around the world, including the three regions under study.

Second, there is a pervasive and continuing pattern across the three cases of great reluctance of member states to delegate and pool sovereignty in common regional institutions. This has been most visible in the rejection, in all three regions, to deviate from the unanimity principle even on minor, highly technical issues. But it is also visible in member states' unwillingness to delegate power to independent regional institutions and, even with the limited delegated powers that exist, to allow them to exercise these powers effectively. A notable example is the SADC Tribunal, which formally disposes of supranational competences, but only member states acting by *unanimity* can decide upon sanctions in cases of non-compliance with rulings. There are many other cases, such as the ASEAN Secretariat, the SADC Secretariat or the Mercosur Permanent Review Tribunal, where member states prevent regional institutions *post hoc* from fulfilling their mandates by constraining the human and financial resources at their disposal. They thereby, often actively, undermine the benefits that regional institutions are supposed to bring.

Third and related to the previous point, there tends to be a significant gap between formal rules, on the one side, and actual practices, on the other. This is the result of emulation rather than learning as the dominant underlying mechanism of EU influence in many cases, indicating that many of the similarities analysed in this thesis are merely symbolic rather than substantial.[1] In other words, member states have regularly chosen arrangements inspired by a conception of supranational cooperation

[1] The thesis thereby confirms similar findings by area studies experts (Malamud 2005a; Jetschke and Rüland 2009).

in *form*, while they continue to operate on the basis of intergovernmental cooperation in *practice*. Thus, we should not expect in these regions substantive dynamics similar to those, which have dominated the process of European integration. Despite much debate about the prominence of federalist ideology in Europe, these have been mainly of a functional type.[2] Therefore, the thesis confirms important recent studies, which find "little evidence of the salience of functional considerations" in the design of non-Western regional organisations.[3] In sum, even though there is considerable yet often subtle evidence of EU influence leading to increasing formal similarity between regional organisations over time, this is far from an indication of a subtle transformation of long-standing conceptions of Westphalian sovereignty in other parts of the world, as they have occurred, to some extent, in Europe. In fact, such expectations are completely misplaced.

Implications for Functional Theories of Regional Integration and International Cooperation

In making an argument about the 'inescapability' of EU influence in global regionalism, I have also sought to advance a broader theoretical claim about a major inadequacy of classical functional theories of regional integration and international cooperation more broadly: namely that they tend to be indeterminate. Employed in this thesis as the null hypothesis, functional theories of cooperation, in short, cast processes of institutionalised cooperation in international politics as reflections of rational policy-makers' efficient adaptation to the specific structural conditions they

2 This is an important point of agreement between neofunctional and intergovernmental theories of European integration.

3 Acharya and Johnston (2007), p. 257

encounter in their environment; in short, an "efficiency view of integration."[4] Yet, what is considered an efficient adaptation to environmental conditions is not obvious and cannot, without further assumptions or knowledge about actors, be derived from the situation itself. As this thesis has sought to demonstrate, functional constraints do not determine *specific* outcomes, but rather delineate the *range of possible* outcomes we can expect to observe.[5] Within these boundaries set by structural incentives, policy-makers are able to choose between several, similarly plausible alternatives that are difficult to distinguish *a priori* in terms of effectiveness or efficiency. As Mark Blyth nicely put it, "structures do not come with instruction sheets."[6]

This is where the importance of focal points comes in, for which I have sought to provide solid micro-foundations in the form of the bounded rationality assumption. Boundedly rational actors choose among the range of similarly plausible alternatives by reference to focal points, around which actors' expectations can converge. This is not a novel insight. Yet, my thesis offers a perspective on such focal points that differs from the way scholars have dealt with the problem of ambiguity to date. Rationalist scholars have mainly focused on the role of powerful actors in actively constructing such focal points.[7] In some instances, as we have seen, this is a useful perspective. When the EU acts as a driver of processes of regional rule choice by affecting the very incentives for action, it thereby tends to construct its own solutions to the respective cooperation problem as the main focal point around which actors' expectations converge.[8] Constructivist scholars have stressed the importance of ideas

4 Mattli (1999), p. 68
5 Depending on how narrow or wide this range of potential options is, the degree of indeterminacy can vary across situations.
6 Blyth (2003)
7 Krasner (1991); Garrett and Weingast (1993)
8 Even though, as I have maintained, this is not a simple coercion story.

in serving as focal points.[9] Yet, what ideas are likely to matter among the range of potentially relevant ones and in what ways?

In this thesis, I have sought to highlight the role of the EU as the pioneer and most successful example of regional (economic) integration. This perspective suggests that the behaviour of such widely acknowledged pioneers is one important determinant of how indeterminate structural constraints play out in practice. Thus, one important way in which successful pioneers can affect choices among a range of plausible alternatives is that they make 'visible' broader structural changes and, at the same time, offer solutions on how to address them. These 'pioneer solutions' often form a major focal point for debate elsewhere, even though the specific conditions for policy-makers might not necessarily be fully comparable. For example, I argued in Chapter 4 that while increasing international interdependence had undoubtedly increased the general incentives for trade liberalisation among states, only the EU's reaction to such changes with the '1992 project' can explain why it has taken place as much at the regional level as at the multilateral and plurilateral ones, especially in countries with limited economic complementarities. Another way, maybe even more puzzling for functional theories, is that other actors' simply emulate a pioneer's behaviour in order to 'secure survival' following a crisis-situation.[10] As we have already seen, I have demonstrated throughout the thesis that emulation is a much more pervasive mechanism of EU influence than learning, especially in major crisis-situations. While this confirms the general finding that crises can be important catalysts for advances in regional integration[11], it casts considerable doubt on the functionalist assertion that

9 Parsons (2003); Hochschild (2006); Schmidt (2008, 2010)
10 Johnston (2008), Chapter 2
11 Ba (2009a), p. 26; Kühnhardt (2009); Risse (2010), p. 251

rule change is mainly the result of efficient adaptations to changing structural conditions. In many situations, it might be a mere survival strategy, without a profound calculation of the associated costs and benefits.

This reasoning about the indeterminacy of functional theories of regional cooperation and the important role of successful pioneers in serving as focal points on how to deal with situations of ambiguity also has broader implications for the study of global regionalism beyond the specific findings already reported. EU influence seems to have affected NAFTA in very limited ways only, if at all. Unlike the three regions under study, NAFTA has not shown an evolutionary dynamism with significant rule change over time and, therefore, has stayed very distinct in its core rules of the game from the EU. This raises questions about the scope of my argument, which, in turn, casts considerable doubt on the encompassing definition of regionalism that is generally employed in much of the functional literature. Especially quantitatively inclined scholars have tended to lump together mere FTAs between far away countries and broader community building projects between neighbouring countries under the single phenomenon of regionalism. Thus, they tend to assume that these different 'regional' creations are subject to a similar logic.[12] This thesis suggests caution in this regard and in fact implies that we ought to distinguish more systematically between different types of 'regional' groupings. More specifically, it indicates that different types of integration projects are likely to display different dynamics because policy-makers react differently to similar types of structural incentives as a function of policy-makers' different underlying focal points. Whereas

[12] For example Mansfield (1998); Smith (2000); Mansfield et al. (2002). I have already mentioned the potentially severe methodological problem that these authors face when assuming that the different instances of regionalism in their data sets are indeed independent observations. If the argument of this thesis is correct, the different units are in fact highly interdependent, which raises problems of endogeneity.

actors engaged in broader community building projects tend to converge around the EU focal point, as we have seen, we might hypothesise that those involved in mere FTAs between non-neighbouring countries opt for ad hoc or intergovernmental-type cooperation instead.[13]

This implies a series of further hypotheses, which could serve as useful starting points for further comparative research on global regionalism. These are quite distinct from the influential functional expectations developed by Andrew Moravcsik in his *The Choice for Europe* across three stages of international cooperation: preference formation, international bargaining and institutional choice.[14] As regards preference formation, this thesis suggests that in broader community building projects (as opposed to mere FTAs), member states define their interests in such a way as to ensure the long-term stability of relations between member states rather than, as Moravcsik seems to suggest, seeking the highest possible economic benefit for powerful national constituencies in the short term. As regards international bargaining, this thesis suggests that in broader community building processes, powerful member states are more willing to make concessions towards their weaker peers in order to secure the long-term stability of their relations rather than seeking the most beneficial short-term deal, as Moravcsik seems to suggest. Finally, this thesis suggests that in broader community building processes, institutional choice tends to reflect, at least to some extent and over extended periods of time, what the smaller

[13] This would allow us also to construct a bridge to some of the highly interesting, yet in the mainstream literature little considered scholarship on regionalism that deals with more fundamental questions about the very definition and (discursive) construction of regions (Hettne et al. 1999; Söderbaum and Shaw 2003; see also Katzenstein 2005, Chapter 1; Hurrell 2007, Chapter 10; Lorenz and Cornelissen 2011). This literature might contain promising pointers as to the specific dynamics particular to cooperation and integration between neighbouring countries as opposed to far away ones.

[14] Moravcsik (1998)

member states regard as appropriate forms of institutionalisation rather than mere tools to ensure the credibility of international commitments, as Moravcsik posits.

Drawing a distinction between FTAs and wider community building projects promises to yield interesting insights into the quite different dynamics potentially characteristic of each. It would also allow us to tread a useful middle-way between many theoretically minded scholars' calls for theoretical generality and especially area studies experts' tendency to treat different instances of regionalism as *sui generis* phenomena about which useful broader generalisation is impossible. Such an approach would be very much in line with the spirit of mid-range theorising that this thesis has employed.

List of Interviews

The following list contains the positions of my interviewees at the time of the interview, which is given in brackets.

ASEAN

<u>Government Officials</u>

Singapore

Dominic Goh	Deputy Director, ASEAN Directorate, Ministry of Foreign Affairs, Singapore (August 26, 2009)
Suleimah Mahmood	Director, ASEAN Directorate, Ministry of Trade and Industry, Singapore (September 24, 2009)
David Chin	Director General, ASEAN Directorate, Ministry of Trade and Industry, 1999-2006, Singapore (September 15, 2009)
Jeffrey Chan	Deputy Solicitor-General, Attorney-General's Chambers, Member in High Level Legal Expert Group of ASEAN, Singapore (September 23, 2009)
Berry Desker	Ambassador to Indonesia, 1986-93; CEO of the Trade Development Board, 1994-2000, Singapore (September 16, 2009)
Tan Seng Chye	Ambassador to Thailand, 1988-90, Singapore (September 16, 2009)
Tommy Koh	Singaporean government official, member of the Task Force drafting the ASEAN Charter, private email correspondence (September 2009)

Indonesia

Benyamin Carnadi	Economic Directorate ASEAN, Ministry of Foreign Affairs, Jakarta (September 2, 2009)
Sastrohandoyo Wiryono	Senior Ambassador, served in France, Austria and Argentina; American Affairs at Ministry of Foreign Affairs, Jakarta (September 2, 2009)
Djauhari Oratmangun	Director General ASEAN, Ministry of Foreign Affairs, Jakarta (September 9, 2009)
Iman Pambagyo	Director Regional Cooperation, Ministry of Trade, Jakarta (September 9, 2009)

Dewi Fortuna Anwar	Secretary of State, President's Office, 1998-99, Jakarta (September 7, 2009)

Philippines

Fidel Ramos	President, 1992-1998; Member of the EPG on the drafting of the ASEAN Charter, Manila (September 25, 2009)

<u>Regional Institutions</u>

ASEAN Secretariat

Rodolfo Severino	Secretary General 1998-2002, Singapore (August 18, 2009)
Ong Keng Yong	Secretary General 2003-08, Singapore (August 25, 2009)
Termsak Chalermpalanupap	Director Political and Security Directorate, ASec representative to HLTF for the drafting of the ASEAN Charter, Jakarta (August 31, 2009); phone Interview (February 18, 2009)
Sayakane Sisouvong	Deputy Secretary-General ASEAN Political and Security Community; formerly: Deputy Director, ASEAN Directorate, Laos Ministry of Foreign Affairs, 1992-97, Director, ASEAN Directorate, 1997-2003, Jakarta (September 10, 2009)
Sundrem Pushpanathan	Deputy Secretary-General ASEAN Economic Community, Jakarta (September 2, 2009)
Dhannanjaya V. Sunoto	Director Cross-Sectoral Cooperation Directorate, Jakarta (September 10, 2009)
Moe Thuzar	Technical Officer, Socio-cultural Community, 1998-2008 (August 27, 2009)
Bala Kumar Palaniappan	Head External Relations Division Two, ASEAN Political-Security Community Department, Jakarta (September 1, 2009)
Keo Chhea	Senior Officer External Relations Division I, ASEAN-EU Relations, Jakarta (September 4, 2009)
Lim Chze Cheen	Assistant Director Strategic Planning and Coordination Division, Office of the Secretary-General, Jakarta (September 9, 2009)
Nina Laraswati	Technical Officer Customs, ASEAN Economic Community Department, Jakarta (September 9, 2009)
Teh Lip Li	Senior Officer, Office of the Secretary-General; Special Officer, Office of the Secretary-General, Research Department, 2005-2008, Jakarta (September 10, 2009)
Un Sovanassam	Legal and Compliance Unit, Jakarta (September 10,

	2009)

ASEAN Interparliamentary Assembly

Abdullah Tarmugi	Singaporean Member, Singapore (September 23, 2009)

<u>EU Representatives</u>

Moumen Hamdouch	Head of Trade Section, EC Delegation to Singapore, Singapore (August 18, 2009)
Jan-Willem Blankert	Special Advisor ASEAN, EC Delegation to Indonesia, Jakarta (August 31, 2009)
Cécile Leroy	Attaché Economic and Regional Cooperation, EC Delegation to Indonesia, Jakarta (August 31, 2009)
Jonathan Scheele	Desk Officer ASEAN, DG External Relations, 1999-2001, Oxford (2 June 2010)

<u>Others</u>

Wilhelm Hofmeister	Director, Konrad Adenauer Foundation Singapore, Singapore (August 11 and September 14, 2009)
Dominique Girard	Director Asia-Europe Foundation (ASEF), Singapore (August 19, 2009)
Denis Hew	Office of the Director General, Southeast Asia Department, Asian Development Bank, Manila (September 28, 2009)
David Martin	Team Leader, APRIS II Programme, Jakarta (September 3, 2009)
Jean-Michel Emprou	Team Leader, EU-ASEAN Statistical Capacity Building Programme, Jakarta (September 7, 2009)
Chia Siow Yue	Senior Research Fellow, Singapore Institute of International Affairs, since 2003; Director, Institute of Southeast Asian Studies, 1996-2002; Regional Consultant on AEC, Singapore (September 17, 2009)
Carolina Hernandez	Founding President and Director of Institute for Strategic and Development Studies, Philippines; co-founder of ASEAN ISIS Colloquium on Human Rights, ASEAN People's Assembly, ASEAN/East Asia-EU Think Tank Dialogue (September 25, 2009)
Jacques Pelkmans	Consultant to ASEAN, private email correspondence (July, August 2011)
Jørgen Ørstrøm Møller	Danish Ambassador to Singapore and Brunei Darussalam, 1997-2005, Singapore (September 22, 2009)

Mercosur

Governmental Officials

Brazil

Luiz Felipe Lampreia	Minister of Foreign Affairs, 1995-2001, Rio de Janeiro (May 29, 2009)
Carlos Márcio B. Cozendey	Director of Economic Department; Counsellor at Mission to the EC, 2003-06; Director of Mercosur Division at Regional Integration Department, 1999-2003, Ministry of Foreign Affairs, Brasilia (June 5, 2009)
Marcos Rodrigues Savini	Brazilian Mission to the EC, Brussels (April 28, 2009)
Ronaldo Costa Filho	Minister Counsellor at Brazilian Mission to the EC, Brussels (April 28, 2009)
Jorio Dauster	Ambassador, Mission to the EU, 1991-1999, private email correspondence (November 2009, August 2011)
Marcelo Dias Varella	Head of Cabinet, Ministry of Agriculture, Livestock and Food Supply, Brasilia (June 3, 2009)
Bruno de Risios Bath	Director of Mercosur Department, Ministry of Foreign Affairs, Brasilia (June 8, 2009)
Alessandro Candeas	Director of Division of International Bills, Ministry of Foreign Affairs; Political Attaché at Embassy to Argentina, 2001-05 Brasilia (June 8, 2009)
Felipe Hees	Head of Division of Extra-Regional Negotiations of Mercosur, Ministry of Foreign Affairs, Brasilia (June 8, 2009)
Cleiton Schenkel	Division of Extra-Regional Negotiations of Mercosur, Ministry of Foreign Affairs, Brasilia (June 8, 2009)
Cláudia Tercília Zucherato	Coordinator for Europe and Mercosur Affairs, Secretary of Agribusiness International Relations, Department of Sanitary and Phytosanitary Negotiations, Ministry of Agriculture, Livestock and Food Supply, Brasilia (June 9, 2009)
Horrys Friaça Silva	General Coordinator of Bilateral and Regional Agreements, Secretary of Agribusiness International Relations, Department of Sanitary and Phytosanitary Negotiations, Ministry of Agriculture, Livestock and Food Supply, Brasilia (June 9, 2009)
Evandro Didonet	Director of Department of International Negotiations, Ministry of Foreign Affairs, Brasilia (June 4, 2009)
Paulo Roberto de Almeida	Special Advisor to the head of the Strategic Affairs Unit of the Brazilian Presidency, 2003-07; Ambassador to the

	US, 1999-2003, Brasilia (June 3, 2009)
Reinaldo Salgado	Director of Mercosur Division, Ministry of Foreign Affairs, Brasilia (June 9, 2009)
José Botafogo Gonçalves	Minister of Industry and Commerce, 1998, Rio de Janeiro (June 15, 2009)
Regis Arslanian	Permanent Representative to Mercosur, Negotiator EU-Mercosur, Montevideo (June 29, 2009)

Argentina

Jorge Campbell	Secretary of International Economic Relations, 1991-99, Buenos Aires (July 14, 2009)
Marcelo Avogadro	Under-Secretary of International Commercial Relations, 1994-99, Buenos Aires (June 23, 2009)
Felix Peña	Under- Secretary of Foreign Trade, 1998-99, and Under-Secretary of Economic Integration, 1991-92, Buenos Aires (July 14 and 24, 2009)
Alfredo Morelli	Chief of Staff, Ministry of the Economy, 1986-88; Director of Mercosur, Ministry of Foreign Affairs, 1995-97, Buenos Aires (July 14, 2009)
Alejandro Poffo	Directorate for Economic and Commercial Affairs of Mercosur, Ministry of Foreign Affairs, Buenos Aires (June 23, 2009)
Roberto Bosch	Directorate for Economic and Commercial Affairs of Mercosur, Ministry of Foreign Affairs, Buenos Aires (June 23, 2009)
Alejandra M. Ayuso	Counsellor at Argentinean Embassy to the EC, Brussels (April 28, 2009)
Maite Fernández García	Argentinean Embassy to the EC, Brussels (April 28, 2009)
Ivanna Silva	Argentinean Embassy to the EC, Brussels (April 28, 2009)
Graciela Molle	Coordinator of Argentinean Position in Negotiations with the EU, 2001-04, Buenos Aires (June 25, 2009)
Minister Zawels	Director of Unit for Negotiations with the EU, Ministry of Foreign Affairs, Buenos Aires (July 15, 2009)
María Fernanda Jakubow	Director of Cooperation Section, Ministry of Foreign Affairs, Buenos Aires (July 15, 2009)
Roxana Blasetti	Director of International Negotiations, Ministry of Agriculture, Buenos Aires (July 17, 2009)
Maximiliano Moreno	Ministry of Agriculture, Buenos Aires (July 17, 2009)

Ricardo Rozemberg	Ministry of Foreign Affairs, Buenos Aires (July 17, 2009)
Ruben Ruffi	Director of Political Affairs of Mercosur; Representative to Mercosur and ALADI, 1999-06, Mercosur Directorate, 1995-99, Ministry of Foreign Affairs, Buenos Aires (July 27, 2009)

Uruguay

Alvaro Hansen	Head of the Customs Authority, Montevideo (July 9, 2009)
Aníbal Cabral	Director of Mercosur, Ministry of Foreign Affairs, Montevideo (July 9, 2009)
Gustavo C. Schiavo	Directorate of Mercosur and Latin American Integration, Ministry of Foreign Affairs, Montevideo (July 9, 2009)
Paola Repetto Amestoy	Directorate of Mercosur and Latin American Integration, Ministry of Foreign Affairs, Montevideo (July 9, 2009)
Elbio Rosselli	Director of Political Affairs; former Director of Mercosur, Foreign Ministry, Montevideo (July 9, 2009)
Galdós Ugarte	Ex SGT 8 'Agriculture', Ministry of Agriculture, 1993-2005, Montevideo (July 1, 2009)
Pedro Friedrich	Representative in SGT 3 'Customs and Conformity Assessment', Technological Laboratory of Uruguay, Montevideo (July 2, 2009)
María Borthagaray	Representative in SGT 'Evaluation of Conformity', Technological Laboratory of Uruguay, Montevideo (July 2, 2009)
Yanina Corsini Valls	Representative in SGT 8 'Industrial Development', Ministry of Industry, Energy and Mining, Montevideo (June 30, 2009)
Adalberto Fried	Director General in Ministry of Industry, Energy and Mining; Member of SGT 7 'Industry', 2006-07, Montevideo (June 30, 2009)
Mario Piacenza	Director of Unit for International Affairs, Ministry of Livestock, Agriculture and Fishery, Montevideo (July 7, 2009)
José Luis Heijo	Representative in SGT 3 'Technical Norms', Ministry of Trade (July 7, 2009)
Alvaro Ons	Director of Division of Economic Affairs of Mercosur, Ministry of Foreign Affairs, Montevideo (July 8, 2009)
Walter Canela	
Gonzalo Rodríguez Gigena	Permanent Representative to Mercosur, Montevideo (July 9, 2009)

Didier Opertti	Minister of Foreign Affairs 1998-2005, Montevideo (July 22, 2009)

Regional Institutions

Secretariat

Adriana Dreyzin de Klor	Judicial Consultant, 2006-07, phone interview (July 14, 2009)
Jamile Bergamaschine Mata Diz	Technical Consultant, Montevideo (July 8, 2009)
Carlos Carvallo Spalding	Technical Consultant, Montevideo (July 7, 2009)
Alejandro Puglio	Technical Consultant, Montevideo (July 8, 2009)
Alejandro Perotti	Technical Consultant, 2003-06, Buenos Aires (June 24, 2009)
Jimmy Voss	Administration Section, Montevideo (July 7, 2009)
Oscar Stark	Technical Consultant 2003-06; Consultant to Head of Mercosur Secretariat, 2006-07; Member of Technical Unit FOCEM, 2007-08, phone interview (July 21, 2009)
Marcel Vaillant	Technical Consultant, 2003-06; Professor of Economics, Uruguay National University; Montevideo (July 1, 2009)
José Büttner	Director 2005-07; Vice-Minister of Ministry of Economy, Paraguay, 1996-98 and 2001-05, Buenos Aires (July 27, 2009)

Parliament

Dr. Rosinha	Brazilian Member, phone interview (26 June, 2009)
Agustina Rodríguez	Division for International Relations, Parliament Secretariat, Montevideo (July 2, 2009)

Permanent Review Tribunal

Roberto Puceiro Ripoll	Uruguayan Member, Montevideo (July 8, 2009)

EU Representatives

Jérôme Poussielgue	Head of the Cooperation Section, EC Delegation to Uruguay and Paraguay, Montevideo (June 30, 2009)
Manuel Fernández Quilez	Consultant in Cooperation Section, EC Delegation to Uruguay and Paraguay, Montevideo (July 3, 2009)
Brigitte Rose	Young Expert, Cooperation Section, EC Delegation to Uruguay and Paraguay, 2007-2009, Montevideo (July 3, 2009)
Carlos Natale	Desk Officer Argentina, DG External Relations,

	European Commission, Brussels (April 27, 2009)
Angel Carro Castrillo	Head of Unit, Mercosur and Chile, DG External Relations, European Commission, Brussels (April 27, 2009)
Tomás Abadía	Ex-Desk Officer Mercosur, DG External Relations, European Commission, Brussels (April 27, 2009)
Antoine Gilbert	Cooperation Section, EC Delegation to Brazil, Brasilia (June 5, 2009)
Fabian Delcros	Head of Trade Section, EC Delegation to Brazil, Brasilia (June 5, 2009)
Alexandra Bensch	Head of Cooperation Section, EC Delegation to Argentina, Buenos Aires (July 24, 2009)

Others

Carlos Mariani Bittencourt	Head of MEBF, Coordinator of Brazilian Business Coalition, Rio de Janeiro (June 15, 2009)
Maria Cláudia Drummond	Legislative Advisor for Foreign Relations, Mercosur and Regional Integration at the Brazilian Senate, Brasilia (June 5, 2009)
Sandra Ríos	Technical Coordinator of MEBF, Rio de Janeiro (May 27, 2009)
Enrique Mantilla	President of the Argentine Export Chamber, Buenos Aires (July 10, 2009)
Alonso Pablo Ferrando	Project Director of the Argentine Export Chamber, Buenos Aires (July 10, 2009)
Mariana Vazquez	Technical Coordinator of the Consultative Council of the Civil Society to the Ministry of Foreign Affairs, 2006-07; Consultant to the Subsecretriat for American Economic Integration and Mercosur, Ministry of Foreign Affairs, 2003-05, Buenos Aires (July 27, 2009)
Manfredo Steffen	Director of 'Rule of Law' Programme for Latin America, Konrad Adenauer Foundation, Montevideo (July 1, 2009)
Gerardo Caetano	Academic Director at CEFIR, Montevideo (July 1, 2009)
Federico Gomensoro	Director of CEFIR, Montevideo (July 7, 2009)

SADC

Government Officials

South Africa

Marc Jürgens	Deputy Director, European Organisations, Department of International Relations & Cooperation, Pretoria (October 22, 2009)
Jan van Vollenhoven	Chief Director, European Organisations, Department of International Relations & Cooperation, Pretoria (October 27, 2009)
Neil Cole	Chief Director, African Economic Integration, National Treasury, Pretoria (October 27, 2009)
Xolelwa Mluba	Coordinator of Working Groups on Customs Union, Department of Industry and Trade, Phone Interview (October 28, 2009)
Xavier Carim	Deputy Director General, International Trade and Economic Development Division, Department of Trade and Industry; Chief Negotiator on EPAs, Pretoria (October 29, 2009)
Wilhelm Smalberger	Foreign Trade & Rules of Origin, Department of Trade and Industry; Coordinator of negotiations for Trade, Development and Cooperation Agreement, 1996-99; South Africa Mission to Brussels, 1988-1995; Pretoria (November 25, 2009)
Joseph Senona	SADC Unit, Department of Trade and Industry, Pretoria (November 25, 2009)
Sawdile Tyini	Director, Europe Trade Relations, Department of Trade and Industry, Pretoria (November 25, 2009)
Wamkele Keabetswe Mene	Director, Trade in Services, Department of Trade and Industry, Pretoria (November 25, 2009)

Botswana

Nkolai Nkolai	Director, Europe & the Americas, Ministry of Foreign Affairs, Gaborone (November 5, 2009)
Taufila Nyamadzabo	Secretary for Economic and Financial Policy, Ministry of Finance and Development Planning (SADC National Contact Point), Gaborone (November 9, 2009)
Antoine Madikwe	Ministry of Finance and Development Planning, Gaborone (November 11, 2009)
Emomole Morake	Africa Section, Ministry of Foreign Affairs, Gaborone (November 12, 2009)

Regional Institutions

SADC Secretariat

Fudzai Pamacheche	Head of TIFI, 1996-2004, Pretoria (October 30, 2009)

Titus Nxumalo	Legal Counsellor; EPA Unit, 2007-09, Gaborone (November 2, 2009)
Ontlametse Ward	Head of EPA Unit, Gaborone (November 2, 2009)
Ackim Jere	Senior Programmes Manager Statistics; Team leader EU-SADC Regional Statistics Cooperation Programme, 2001-06, Gaborone (November 4, 2009)
Hennie Erasmus	Head of Implementation Unit of Finance and Investment Protocol; Head of SADC Division, multilateral relations, Ministry of Trade and Industry, South Africa, 2005-09, Gaborone (November 4, 2009)
Sadwick L. Mtonakutha	TIFI, Macroeconomic Convergence, Gaborone (November 6, 2009)
Stephen Kokerai	Head of Legal Unit, 1996-2006; legal advisor to government of Zimbabwe, 1989-96, Gaborone (November 9, 2009)
Angelo Mandlane	Director for Policy and Strategic Planning; Principal and Chief Economist, 2000-06; Gaborone (November 13, 2009)
Mike Humphrey	EPA Unit, 2005-09; trade advisor to the governments of Malawi, Zambia and Zimbabwe, 1999-2003; involved as a consultant in the restructuring of the SADC Secretariat, 2001; phone interview (November 23, 2009)

Parliamentary Forum

Duke Lefhoko	Botswana Member, 1999-2008, Gaborone (November 13, 2009)

SADC Tribunal

Charles Mkandawire	Registrar, phone interview (November 24, 2009)

EU Representatives

Gracia Marin Duran	Trade Analyst, EC Delegation to South Africa, Pretoria (October 22, 2009)
Rui Nozes	Counsellor, EC Delegation to South Africa, Pretoria (October 22, 2009)
Lena Sund	Head of Politics, Trade, Information and Communication; Head of the SADC section, 2008-09; Administrator of Trade and SADC Trade-related Projects, 2007-08, EC Delegation to Botswana and SADC, Gaborone (November 2, 2009)
Paul Malin	Head of Delegation, EC Delegation to Botswana and SADC, Gaborone (November 2, 2009)

Others

Richard Hess	Chairman of Imani Development, Pretoria (October 22, 2009)
Hennie Bester	Consultant on the implementation of the FIP, phone interview (November 23, 2009)
Peter Draper	Former SADC Consultant, Johannesburg (November 25, 2009)
Ian Rossiter	Advisor on 10th EDF Programming, Gaborone (November 2, 2009)
David Walker	Technical Expert, EU-SADC Cooperation Project on Customs Cooperation, Gaborone (November 5, 2009)
Graham Holloway	Team Leader, EU-SADC Cooperation Project on Standards, Quality Assurance, Accreditation and Metrology (SQAM), Gaborone (November 6, 2009)
Penina Simba	Legal Expert, EU-SADC Cooperation Project on Customs Cooperation, Gaborone (November 5, 2009)
Antoine K. Nguz	Regional Programme Coordinator, EU-SADC Cooperation Project on SPS, Gaborone (November 9, 2009)
Thomas Farrington	Programme Manager, EDF Advisor, Gaborone (November 11, 2009)

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