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Introduction

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INTRODUCTION

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THESE are dynamic times for international economic relations. Many layers and configurations of integration arrangements are emerging on the global economic scene. There is a complex multiplicity of multilateral, regional and bilateral arrangements. Looking at regional integration efforts alone, which constitute the focus of this symposium, one can immediately see the upward pattern of the trend. Between 1978 and 1991, the number of Regional Trade Agreements (RTAs) remained nearly static. Since the beginning of the 1990s, the trend was reversed and one could observe a constant dramatic increase in the number of RTAs that are being formed. From 42 RTAs notified to the GATT's Contracting Parties according to Article 7(a) of the GATT in 1991, the number increased by 107% to 87 Agreements in 1998.¹ According to the World Trade Organization (WTO), there are currently 170 RTAs in force. The WTO expects the total number of RTAs to rise to nearly 300 by the end of 2005.²

The geographic spread of this trend towards regionalism is one of its most characteristic features. According to the WTO, nearly every member country of the WTO is a member in one or more regional integration arrangement. Such arrangements are not only occurring between developed countries, but also between developed and developing countries as well as amongst developing countries. The latter development is particularly notable. Regional integration efforts amongst developing countries are on the rise and are expected to continue to increase. This is arguably part of a wider trend towards increased trade amongst developing countries. South-South trade has been expanding faster than world trade. During the 1990s, the share of South-South trade in the total trade of developing countries has increased from 34% at the beginning of the decade to 40% at the end.³ It is also arguably part of a growing strategic

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1. LUCIAN CERNAT, *ASSESSING SOUTH-SOUTH REGIONAL INTEGRATION: SAME ISSUES, MANY METRICS*, UNCTAD POLICY ISSUES IN INTERNATIONAL TRADE AND COMMODITIES STUDY SERIES No. 21 at 3, U.N. Doc. UNCTAD/ITCD/TAB/22, U.N. Sales No. E.02.II.D.11 (2003).
2. WTO, *REGIONAL TRADE AGREEMENT*, available at www.wto.org (last visited Aug. 20, 2004).
3. UNCTAD SECRETARIAT, *REGIONALISM AND SOUTH-SOUTH COOPERATION: THE CASE OF MERCOSUR AND INDIA* at ¶ 13, U.N. Doc. TD(XI)/BP/11, U.N. Sales No. GE.04-51504 (2004).

inclination of developing countries to increase economic co-operation amongst themselves. A trend that was described by the President of Brazil as “New Trade Geography.”⁴ This is not perceived as a substitute for trade with developed countries, which remains the South’s most important market. It is rather an attempt at diversification of markets and creating alternatives.⁵

For developing countries, regionalism is a development strategy. Regional integration agreements amongst developing countries reflect this developmental focus in their provisions. For example, four out of the six objectives stipulated in Article 3 of the treaty establishing the Common Market of Eastern and Southern Africa (COMESA) refer explicitly to the objective of economic development. Article 3(a) provides as one of the aims and objectives of the Common Market “to attain sustainable growth and development of the Member States by promoting a more balanced and harmonious development of its production and marketing structures.” The Southern Common Market (MERCOSUR) Agreement reflects the same aspirations in its Preamble by stating that “the expansion of their domestic markets through integration, is a vital prerequisite for accelerating their process of economic development.”

The economics of regional integration is not unequivocal on the relationship between economic growth and regional integration.⁶ Regional integration could advance the process of economic development by broadening the market, enhancing competition, strengthening the negotiating power of its members in the global arena and strengthening the members’ commitment to domestic reforms. However, a poorly structured regional integration arrangement could either simply never achieve its potential or even worse hamper the development process of some members by diverting trade in favour of others. The contribution of regional integration to economic development is contingent on the economic structure of the region, the design of regional integration agreements and their implementation.

It is well established now, that South-South regional integration arrangements have often failed to achieve their objectives. This has been variably explained by non-conducive economics, poor design, and even more often by failure to secure adequate implementation of the commitments. In a study on the issue published by the UNCTAD in 2003, the author stated that:

[I]t has to be said that only relatively few integration schemes among developing countries have effectively achieved their integration objectives. Most RTAs among developing countries are still behind their original schedule. This slow progress in regional integration has led many observers to conclude that significant economic advantages

4. *Id.*

5. *Id.*

6. WORLD BANK, *TRADE BLOCS* at 29 (2000), available at http://www.worldbank.org/research/trade/trade_blocs.htm (last visited Sept. 17, 2004).

from integration have rarely been reaped[.]⁷

This symposium provides a representative analysis of regional integration arrangements involving developing countries. The contributions span the geographic spectrum dealing with integration efforts in Latin America, Africa, the Middle East, the Post-USSR area, and Asia. In addition to the geographic breadth of the discussion covered in this volume, the contributions also deal with the variety of regional integration efforts. Baquero-Herrera, Gari and Akinrinsola competently explore developing countries' attempts at establishing a common market in the style of the European Union including MERCOSUR and the Andean Community in Latin America and ECOWAS and WAEMU in Africa. Abbas, and Malcolm deal with free trade areas. Petrov and Wang provide two very interesting discussions of *sui generis* forms of regional integration arrangements in the cases of the Common Wealth of Independent States (CIS) and the Mainland and Hong Kong Special Administrative Region Closer Economic Partnership Arrangements (CEPA). In addition to these specific integration commitments, the analysis in this volume also covers cooperation agreements and declarations that aim at providing an umbrella framework that stimulates further integration efforts such as NEPAD and the GCC as analyzed by Gamau and Marar.

The analysis presented in this issue clearly confirms the finding stated earlier that South-South regional integration efforts are often behind schedule, ineffective and falling short of achieving their objective. Even a cursory reading of the articles in this volume bear without doubt the validity of this conclusion. Gari, discussing MERCOSUR and the liberalization of services states that:

Mercosur's original objective was to establish the common market by December 31, 1994. However, thirteen years later, the free circulation of services is one of the many ambitious goals spelled out in the treaty that is yet to be achieved.⁸

Similar findings are made by Petrov in his analysis of the CIS where he states:

[T]he full CIS potential is hardly explored yet. Indeed, the CIS's original objectives of political, defence and peacekeeping partnership are pending its fulfillment. The CIS substantive economic agenda is yet to be properly considered.⁹

In analysing the reasons for the lack of effectiveness of South-South regional integration efforts, the contributions in this volume offer valuable insights. Gari clearly focuses on the economic foundations in explaining the lack of drive to accept and implement commitments towards the liberalization of trade in services consistently with the MERCOSUR

7. CERNAT, *supra* note 1 at 6.

8. Gabriel Gari, *Free Circulation of Services in MERCOSUR: A Pending Task*, 10 *LAW & BUS. REV. OF THE AM.* 545, at 545 (2004).

9. Roman Petrov, *Regional Integration in the Post-USSR Area: Legal and Institutional Aspects*, 10 *LAW & BUS. REV. OF THE AM.* 631, at 644 (2004).

objectives. In the same vein, Abbas explaining the lack of progress in Arab integration traces it to the lack of complementarity between the import and export markets of Arab countries, which in turn minimizes the benefits of regional integration.

Economic fundamentals aside, the main direct reasons for ineffective integration amongst developing countries remain inadequate institutions. Institutional failures both domestically within member states and regionally is one of the main reasons for the slow progress in integration efforts amongst developing countries. This point is well established through Akinrinsola's comparative analysis of the ECOWAS and WAEMU, upon which she concludes that the effectiveness of domestic legal and judicial systems is a precondition for member states' compliance with their regional commitments.

The weakness of regional institutions is repeatedly identified as a fundamental reason for the slow progress of regional integration amongst developing countries. In a sense, the developing countries' jealousy of their sovereignty has been a core cause behind this weakness. It is this concern for, or rather obsession with, sovereignty that proves to be an insurmountable obstacle to any attempt at introducing a degree of supranationalism in the regional structure. This is evidenced in the weakness of dispute resolution mechanisms across the various arrangements discussed in this Issue. As the analysis of Marar on the GCC, Akinrinsola on ECOWAS and Malcolm on the FTAA show, any attempt at creating a regional dispute resolution mechanism of judicial nature is often circumscribed by qualifications of jurisdiction that threaten the operation of the organ.

These institutional weaknesses, one may argue, are symptomatic of a general lack of commitment to the rule of law by member states both domestically and in the sphere of their international legal obligations. As Gamau in her analysis of NEPAD demonstrates, "haphazard and partial" adherence to international law by African states undermines the effectiveness of their regional efforts. Similar concerns are also reflected in Bequero-Herrera's analysis of the Andean Integration as "'top down process' which heavily relies on the Presidential leadership of [its] members" and how this enhances the influence of politics over the predictability of the rule of law.

The complexity of the legal landscape of international economic relations adds to the challenges facing developing countries in their attempt to secure effective participation in the global economy. The capacity and institutional implications of this multitude of forums is not to be underestimated. Malcolm, in his discussion of dispute resolutions makes a valid point regarding the implications of lack of indigenous legal skills for developing countries' voice and participation in international dispute resolution mechanisms.

It is therefore my pleasure to introduce this *Integration Symposium* Issue, which aims to contribute to an unfolding understanding and debate

regarding the legal design and implementation of regional integration arrangements. This Issue comes out of a coordinated research project and related conference organised by the London Forum for International Economic Law and Development and two of its constituent institutions: The International Financial Law Unit (IFLU) and the British Institute for International and Comparative Law (BIICL) on the 28th of May 2003.¹⁰ The Forum's objective is to cultivate young developing countries' scholarship in areas of law relevant to developing countries' developmental project. The voices of the young developing country scholars heard in this Issue are certainly very promising for the London Forum's mission. Special appreciation is expressed to Prof. Marise Cremona and Prof. Joseph Norton of CCLS and Prof. Mads Andenas of BIICL for supporting and overseeing this project and to Ms. Iwa Akinrinsola for coordinating its implementation.

10. www.lforum.org

