# Part I

# General Legal Aspects of MERCOSUR

# 2

# Theories of Regional Integration and the Origins of MERCOSUR

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The very concepts of region, regionalism, and regional integration are controversial.[1] However, Joseph Nye's definitions are a useful base of departure. He identified an international region as 'a limited number of States linked together by a geographical relationship and by a degree of mutual interdependence', and regionalism as 'the formation of interest groupings on the basis of regions'.[2] Classical or old regionalism conceived closed regions as depicted by the term 'fortress', as they tended to foster regional integration at the cost of global fragmentation. In contrast, contemporary or open regionalism aims at achieving 'compatibility between the explosion of regional trading arrangements around the world and the global trading system as embodied in the World Trade Organization'.[3]

Contemporary regionalism can be seen as an umbrella concept, covering a multiplicity of distinct phenomena. Andrew Hurrell enumerates five of these, arguing that none should be given the exclusive use of the term: (a) regionalisation; (b) regional awareness and identity' (c) regional interstate cooperation; (d) state-promoted regional integration; and (e) regional cohesion.[4] The first meaning—regionalization—could be understood as interdependence, whereas the second—regional identity—conveys more a cultural than a political or economic notion; their common feature is that none is produced intentionally but are brought about by unintended factors, such as increasing interchange flows or common historical roots. The next three subtypes respond to a different logic: they are either the outcome of state decisions—cooperation and integration—or its consequence—regional cohesion. In them, 'the region plays a defining role in the relations between the states (and other major actors) of that region and the rest of the world', while constituting 'the organizing basis for policy within the region across a range of issues'.[5]

[1] BM Russett, 'International Regimes and the Study of Regions' (1969) 13 *International Studies Quarterly* 123; L Fawcett and A Hurrell (eds), *Regionalism in World Politics: Regional Organization and International Order* (Oxford, Oxford University Press, 1995); A Gamble and A Payne (eds), *Regionalism and World Order* (Malaysia, MacMillan Press, 1996); A Warleigh and B Rosamond, 'Theorising Regional Integration Comparatively: An Introduction', ECPR Joint Sessions of Workshops, Workshop 10 on Comparative Regional Integration, Towards a Research Agenda, Nicosia, Cyprus, 25–30 April 2006.

[2] JN Nye, *International Regionalism* (Boston, Little, Brown & Co, 1968) vii.

[3] F Bergstein, 'Open Regionalism' (1997) 20 *The World Economy* 5.

[4] A Hurrell, 'Regionalism in Theoretical Perspective' in L Fawcett and A Hurrell (eds), *Regionalism in World Politics: Regional Organization and International Order* (Oxford, Oxford University Press, 1995).

[5] Hurrell, 'Regionalism in Theoretical Perspective' (n 4) 44.

With regard to the economic dimension of regional integration, there are four progressive levels of achievement.[6] The simplest, the *free-trade zone*, is an area in which domestic obstacles to trade are dismantled; this means that customs tariffs are not imposed on the products of any member country. Distinctively, a *customs union* moves one step further: at this stage a common external tariff is established, fixing the amount that products coming from the rest of the world have to pay to enter the region. This implies that the member countries form only one entity in the arena of international trade. The third step, a *common* or *single market*, is a customs union to which the free mobility of productive factors between the member countries and a common trade policy are added. It also contemplates the coordination of sectoral macro-economic policies among its members, and requires the harmonisation of national legislation. Fourthly, an *economic union* appends centralised monetary institutions and common financial policies to the single market. It goes beyond simple coordination and harmonisation among the member countries, to establish unified supranational agencies, such as a central bank, and a single currency.

Despite the economic goals of regional integration, the necessity of establishing some kind of common institutional arrangements fosters linkages other than purely economic. In the wake of higher levels of state-promoted economic integration, increasing flows of trade and investment are likely to manifest, ie growing regionalisation in the sense of the first subtype defined by Hurrell. Likewise, increasing flows of people and communications are able to nurture a regional awareness, as in the second subtype. None of them, however, mean regional integration, which can be defined as the process of 'how and why [national states] voluntarily mingle, merge and mix with their neighbors so as to lose the factual attributes of sovereignty while acquiring new techniques for resolving conflicts among themselves',[7] provided that 'they do so by creating common and permanent institutions capable of making decisions binding on all members'.[8]

The main theories of international relations, the most significant of which are neo-realism (developed by Kenneth Waltz), neo-liberalism (Robert Keohane and Joseph Nye), constructivism (Alexander Wendt), and neo-idealism (Bruce Russett), do not fully grasp the phenomenon of regional integration—and often they do not even address it. Therefore, several specific theories have been devised to cope with it. Among the most noteworthy are federalism (advanced mainly by Michael Burgess), functionalism (David Mitrany), neo-functionalism (Ernst Haas), communicative interactionism (Karl Deutsch), liberal intergovernmentalism (Andrew Moravcsik), and supranational institutionalism (Wayne Sandholtz and Alec Stone Sweet). They are all discussed next in order subsequently to test their fit to the case of MERCOSUR.

[6] B Balassa, *The Theory of Economic Integration* (Westport, CT, Greenwood Press, 1961).

[7] EB Haas, 'The Study of Regional Integration: Reflections on the Joy and Anguish of Pretheorizing' in LN Lindberg and SA Scheingold (eds), *Regional Integration: Theory and Research* (Cambridge, MA, Harvard University Press, 1971) 6.

[8] A Malamud and PC Schmitter, 'The Experience of European Integration and the Potential for Integration in South America' (2007) 6 *IBEI Working Papers* 16.

# I Theories of International Relations: Neo-Realism, Neo-Liberalism, Constructivism, Neo-Idealism

Regional integration can be considered as a small sub-area in the broader field of world politics, though it has grown strongly (yet not steadily) over the last half century. This development was unexpected for most analysts and theoreticians; furthermore, it was often at odds with mainstream theories of international relations.

Since being updated by Kenneth Waltz,[9] as a result of which the prefix 'neo-' was added, the realist theory originally sketched by Hans Morgenthau[10] has dominated the field of international relations. World politics are conceived of as taking place in an anarchic environment, where sovereign nation-states are the only key actors. As no legitimate monopolist power is at work, self-help is the only behaviour that states may count on; hence, the different interests and capabilities of the actors will mould their interactions, giving rise to a dynamics of international alliances and oppositions resulting in a balance of power. National interests are defined in two layers, high politics—politico-territorial and military issues—and low politics—economic and other issues. The former are crucial, thus rendering the world an arena determined by security concerns and power politics.

Neo-realism 'has little interest in regionalization or regional economic integration'.[11] Instead, it focuses on the concept of regime, defined as 'explicit or implicit principles, norms, rules and decision-making procedures around which actors' expectations converge in a given area of international relations'.[12] In this view, 'any action which either diminishes that capability deliberately or assigns it irrevocably to another polity is (theoretically) incomprehensible'.[13] Consequently, neo-realism does not aim at explaining international arrangements that 'may involve institutional structures very different from the traditional idea of a coalition, alliance, or traditional international organization'.[14]

Unlike neo-realism, institutional neo-liberalism claims that cooperation among states is not only possible but also to be expected, given certain conditions.[15] As national *interests* are translated into national *preferences*, by way of opening the black box of the state, institutions manage to play a crucial role in facilitating agreements, guaranteeing compromises through monitoring and supervision, reducing transaction and information costs, and generally orienting behaviour. The zero-sum game of realists thus becomes a positive-sum game, and the issue-linkage allowed by the dilution of the high/low politics distinction gives place to a scenario of complex interdependence. In this context, subnational agencies and transnational actors are recognised to play a relevant role that is neglected in neo-realist theory.

Interdependence 'consists of (a) economic interpenetration in terms of international trade and financial flows; (b) nation-states' collective interest in avoiding a major nuclear

[9] K Waltz, *Theory of International Politics* (Reading, MA, Addison-Wesley, 1979).

[10] HJ Morgenthau, *Politics Among Nations: the Struggle for Power and Peace* (New York, Knopf, [1948] 1985).

[11] Hurrell, 'Regionalism in Theoretical Perspective' (n 4) 53.

[12] SD Krasner, 'Structural Causes and Regime Consequences: Regimes as Intervening Variables' in SD Krasner (ed), *International Regimes* (Ithaca, NY, Cornell University Press, 1983) 1.

[13] PC Schmitter, 'Examining the Present Euro-Polity with the Help of Past Theories' in G Marks, FW Scharpf, PC Schmitter and W Streeck, *Governance in the European Union* (London, Sage Publications, 1996).

[14] Hurrell, 'Regionalism in Theoretical Perspective' (n 4) 53.

[15] R Axelrod, *The Evolution of Cooperation* (New York, Basic Book Inc., 1984); R Keohane and JN Nye, *Power and Interdependence*, 2nd edn (Glenview, IL, Scott, Foresman & Co., 1989).

war; and (c) nation-states' collective interest in avoiding ecological catastrophe'.[16] Despite this threefold definition of interdependence, the main emphasis falls on the first factor, intensive economic exchange, 'which may influence political relationships but does not necessarily elicit an integrative response from those most affected'.[17] Interdependence is not a sufficient condition for, nor is it the same as, cooperation or integration, but it is a facilitating (and may even be a necessary) condition.

A third approach, constructivism (or reflectivism)[18] lies on less material foundations than the above theories. Instead of drawing on either political or economic factors, constructivists 'are interested in the construction of identities and interests, and, as such, take a more sociological than economic approach to systemic theory. On this basis, they have argued that states are not structurally or exogenously given but constructed by historically contingent interactions'.[19] Consequently, they 'emphasize the importance of shared knowledge, learning, ideational forces, and normative and institutional structures'.[20] Although there are many orientations within the constructivist label, all of the various approaches reject both neo-realism and neo-liberalism for their positivist and rationalist assumptions.

Integration is, in the constructivist framework, a possible response to the transformation of national identities and expectations. As interchange between different peoples grows, new collective identities are believed to emerge from previous allegiances; supranational institutions are thus created in order to encompass and contain the most recent loyalties.

Finally, one of the first but long-time dormant theories of international relations is neo-idealism. Its origins go back at least two centuries to Immanuel Kant's speculations on world peace,[21] but its latest rediscovery dates from the 1970s and 1980s, when the third wave of democratisation acquired momentum. Neo-idealists claim that domestic factors are neither secondary nor complementary for international politics but instead they are fundamental, and regime type is among the most determinant of them.[22] As first evidence, these approaches underline that democracies do not wage war with each other. From this peaceful assumption, it has frequently been concluded that some kind of cooperative behaviour will arise, and indeed, this has happened in many regions worldwide. However, democracy has not yet proven to be either a necessary (see the initial case of Mexico in NAFTA, or the more complex instance of ASEAN) or a sufficient condition for regional integration.

[16] D Sanders, 'International Relations: Neo-Realism and Neo-Liberalism' in RE Goodin and H-D Klingemann (eds), *A New Handbook of Political Science* (Oxford, Oxford University Press, 1996) 444.

[17] C Webb, 'Theoretical Perspectives and Problems' in H Wallace, W Wallace and C Webb (eds), *Policy-Making in the European Community*, 2nd edn (Chichester, John Wiley & Sons, 1977) 32.

[18] R Keohane, *International Institutions and State Power* (Boulder, CO, Westview, 1989).

[19] A Wendt, 'Collective Identity Formation and the International State' (1994) 88 *American Political Science Review* 385.

[20] Hurrell, 'Regionalism in Theoretical Perspective' (n 4) 65.

[21] I Kant, *La Paz Perpetua* (Madrid, Editorial Tecnos, [1795] 1985).

[22] JN Nye, 'Neorealism and Neoliberalism' (1988) 40 *World Politics* 235; PC Schmitter, 'Change in Regime Type and Progress in International Relations' in E Adler and B Crawford (eds), *Progress in Postwar International Relations* (New York, Columbia University Press, 1991); Z Maoz and BM Russett, 'Normative and Structural Causes of Democratic Peace, 1946–1986' (1993) 87 *American Political Science Review* 624.

# II Theories of Regional Integration

## A Federalism

As regards political integration, the idea of federalism goes a long way back. However, although some medieval thinkers (and even the ancient Greeks) developed this idea, modern federalism is a newer strategy. Kant in principle, and the American founding fathers in practice, devised a model that evolved successfully and was thus admired and emulated elsewhere. Almost two centuries later, the idea migrated back to its original continent to sustain Europe's nascent self-consciousness. Altiero Spinelli, the Italian leader of the European Federalist Movement, was the staunchest advocate of a federal pan-Europeanism; he 'believed that only a dramatic leap to federalism would succeed in unifying Europe'.[23] Many European constructors originally adopted this idea, including Jean Monnet and Robert Schuman. However, when federalism proved unable to support the Council of Europe as the embryo of an integrated continent, in 1949, most of them turned to an incremental approach.[24]

One of the key federalist assumptions is the interchangeability between the national and supranational levels. It presupposes that 'the political postulates concerning identity, action and loyalty are the same regardless of the level of institutional formation. Hence, the principles underpinning federalism at the national level apply equally to federalism at the world (level)' or, more restrictively, at the regional level.[25] As an example, the archetype of the Swiss Confederation has been offered as a prospective model to explore for the institutionalisation and democratisation of the European Union.[26] Other authors would argue that 'federal politics' is an already appropriate label for the European Union,[27] or even that federalist features resembling German federalism are currently at work at the expense, not to the benefit, of optimal policy outcomes.[28]

International federalists see their object as a process—federalisation—rather than as a static end-point—federation.[29] The federal strategy admits two ways to advance integration: either through intergovernmental constitutional bargaining or through the call of a constituent assembly. In the end, however, both paths lead to the establishment of a federal state, and both are driven from above, although the latter demands the people to support the call from the elites.

[23] BF Nelsen and AC-G Stubb (eds), *The European Union: Readings on the Theory and Practice of European Integration* (Boulder, CO, Lynne Rienner Publishers, 1994) 69.

[24] D Mutimer, 'Theories of Political Integration' in HJ Michelmann and P Soldatos (eds), *European Integration: Theories and Approaches* (Lanham, MD, University Press of America, 1994).

[25] S Hix, 'The Study of the European Community: the Challenge to Comparative Politics' (1994) 17 *West European Politics* 11.

[26] J Blondel, 'Il Modello Svizzero: un Futuro per l'Europa?' (1998) 28 *Rivista Italiana di Scienza Politica* 203; A. Trechsel, 'How to Federalize the European Union … and Why Bother' (2005) 12 *Journal of European Public Policy* 401.

[27] AM Sbragia, 'Thinking about the European Future: the Uses of Comparison' in AM Sbragia (ed), *Euro-Politics: Institutions and Policymaking in the 'New' European Community* (Washington, DC, Brookings Institution, 1992); S Dosenrode (ed), *Approaching the European Federation* (Aldershot, Ashgate, 2007).

[28] FW Scharpf, 'The Joint-Decision Trap: Lessons from German Federalism and European Integration' (1988) 66 *Public Administration* 239.

[29] M Burgess, *Federalism and European Union: the Building of Europe, 1950–2000* (New York, Routledge, 2000).

## B Functionalism

Functionalism came into being by the end of the Second World War, and was advanced as an alternative mechanism to international politics for safeguarding world peace. It shared with federalism its prescriptive elements and aims, but rejected rather than embraced politics either as a means or end. David Mitrany, who first proposed it, viewed it as a pragmatic, technocratic and flexible system to overcome the problems raised by nationalism and 'competing political units'. The functional approach would 'overlay political divisions with a spreading web of international activities and agencies, in which and through which the interests and life of all the nations would be gradually integrated'.[30]

Despite its recognition of a dynamics of integration, thereby accepting integration as a process, functionalism was an ideological tool aimed at a static objective.[31] That end was the construction of a final *super-partes* world entity. To achieve a supranational state that would prevent war, the element of conflict, which is tantamount to saying any theory of politics, was put to one side. This neglect was stressed by later critics of functionalism, and would subsequently be addressed by the following approach, neo-functionalism.

Mitrany deeply distrusted in a potential central authority, so his proposal was based on the experience of the American New Deal. He supposed that a decentralised area-by-area and issue-by-issue treatment of questions would increasingly drain states' capacity, while building non-political organs and bodies capable of dealing with administrative tasks.[32]

## C Neo-functionalism

As pointed out by Nelsen and Stubb, 'functionalism failed as a theory for several reasons, but one stands out: it contained no theory of politics'.[33] When economic problems proved to be unmanageable by technical experts, and theory could not explain why certain choices had been made, a new approach emerged to understand the development of the European Community by addressing the deficiencies of functionalism. It was then that a group of scholars from the University of Berkeley, led by Ernst Haas, developed the neo-functionalist theory.

Haas carried out much of his work in the 1950s and 1960s, when he supported the idea that technological and scientific changes would produce incentives and pressures for international institutional innovation. In turn, innovation would lead to political 'learning' by political leaders, national bureaucracies and international organisations. Neo-functionalism, just like the functionalist and other pluralist approaches, argues that 'what matters most is a utilitarian calculus on the part of actors, and not a dramatic or passionate commitment to a new order'.[34] The theory conceives of integration as an open *process*, characterised by the *spillover* from one area to another. Although the ending point is supposed to be open, 'it is clearly intended to be institutional'.[35]

[30] D Mitrany, *A Working Peace System: an Argument for the Functional Development of International Organization* (London, Royal Institute of International Affairs, 1943).
[31] Hix, 'The Study of the European Community' (n 25) 11.
[32] Mutimer, 'Theories of Political Integration' (n 24).
[33] Nelsen and Stubb, *The European Union* (n 23) 99.
[34] EB Haas, *The Obsolescence of Regional Integration Theory* (Berkeley, CA, University of California, 1975) 12.
[35] Mutimer, 'Theories of Political Integration' (n 24) 31.

Spillover, the central metaphor of neo-functionalist theory, is the process whereby 'a given action, related to a specific goal, creates a situation in which the original goal can be assured only by taking further actions, which in turn create a further condition and a need for more, and so forth'.[36] Jean Monnet captured this logic of gradually creating factual solidarities (as opposed to following a pre-established plan) in his motto, *petits pas, grands effets* (take small steps to achieve large effects). Interests, rather than politics or discourse, were considered to constitute the fuel for integration.

However, one shortcoming of neo-functionalism was that it 'always had more to say about the ongoing role of institutions than about the factors that explain the birth of regionalist schemes'.[37] Although it recognised the difference between background conditions, conditions at the time of union, and process conditions, thus allowing for different variables to have a different weight according to the stage, the main accent and stronger predictions were oriented towards the process. Once integration had started, neo-functionalism saw it as being fostered by two sorts of spillover: functional and political, unlike Mitrany's purely technical conception. Such a twofold mechanism predicted that integration would become self-sustaining. This expected capacity of prediction was what the neo-functionalists believed to be one of the most salient features of their theory.

However, the spillover effect did not take place as planned. What first appeared as a complex but self-sustainable process turned afterwards into an extremely contingent phenomenon, of little use for eliciting general conclusions or predicting particular outcomes. As a consequence, Haas began to stress the role of ideas and 'consensual knowledge', thus paying more attention to the relevance of political leaders and their goals.[38]

The change of focus, from an 'inevitable' and incremental evolution of international complexity toward a less-determined process, led to the modification of some previous assumptions. Consequently, the role that individuals can play in the international arena, and the institutional contexts that may provide incentives for or constrain their actions, were highlighted as key elements of a more general development. De Gaulle's disruptive intervention was decisive for Haas's theoretical reformulation.[39]

It is within this framework that the executive format, ie presidentialist or parliamentary, acquires greater relevance. If the leadership and the leaders' goals are to influence the integration process, then the mechanisms by which national leaders are appointed, and the institutional resources they may resort to or by which they are limited, cannot be neglected. Hence the executive format, as a given structure of incentives and restrictions, affects the opportunities and features of the integration process.

## D Communicative Interactionism

Communicative interactionism, also called transactionalism, was a theoretical tool developed by Karl Deutsch in the 1950s, aiming at the explanation—and the creation—of a

[36] LN Lindberg, *The Political Dynamics of European Economic Integration* (Stanford, CA, Stanford University Press, 1963) 9.

[37] Hurrell, 'Regionalism in Theoretical Perspective' (n 4) 60.

[38] K Waltz, 'Foreword' in E Adler and B Crawford (eds), *Progress in Postwar International Relations* (New York, Columbia University Press, 1991).

[39] Haas, *The Obsolescence of Regional Integration Theory* (n 34).

'security community'. This concept means that, among a number of countries that feature similar substantive attributes in a given region, the possibility of waging war against each other becomes entirely unthinkable (*Gemeinschaft*). The theory suggests that an increasing pattern of communication and interchange between neighbouring societies will give rise to a growing sense of community, regional awareness and supranational identification. The departing point is the homogeneity among mass societies that share common values, such as capitalism and liberal democracy.[40] Hence, elites and organised groups are considered of minor importance for this process.

The assumptions of transactionalism stress the importance of intraregional communications such as trade flows, telephone calls, post-mail and even tourism, all measurable variables that render the theory easily falsifiable. However, there have been difficulties in establishing a correlation between 'behaviour' and 'identity', the defining characteristic of a 'community'.[41]

In what concerns the organisational aspects of integration, the theory expects the development of common identities among the people of the integrating areas prior to any formal institutionalisation. Therefore, institutions are considered to be an outcome rather than an engine of integration.

## E Intergovernmentalism

Intergovernmentalism is the tangible form that the realist approach takes to integration.[42] However, its most sophisticated versions add more than nuances to a plain neo-realist conception. Moravcsik, for instance, deliberately denominates his framework as 'liberal intergovernmentalism', because it does not assume the state as a unitary actor but considers instead that domestic politics have a decisive impact on subsequent interstate relations.[43] In this sense, he makes a concession to the many criticisms received by realist authors regarding their neglect of subnational processes, and accepts the idea of opening up the black box of the state as neo-liberal institutionalism had already proposed.[44] However, this acquiescence does not imply a compromise; it leads instead to the reaffirmation of all the intergovernmentalist tenets as far as the international level is concerned.

One of the first authors to call attention to the domestic level was Bulmer.[45] He underlined the primacy of the nation-state: his point was that 'member governments, pursuing their own interests, were the "central actors" in the EC policymaking process'.[46] Domestic politics was thus the source for explaining regional policy-making, and also integration itself; yet Bulmer thought his theory had 'a mixed intellectual parentage' with

[40] K Deutsch, *Political Community and the North Atlantic Area: International Organization in the Light of Historical Experience* (Princeton, NJ, Princeton University Press, 1957); Hurrell, 'Regionalism in Theoretical Perspective' (n 4).

[41] Hix, 'The Study of the European Community' (n 25) 4.

[42] Ibid; Schmitter, 'Examining the Present Euro-Polity' (n 13).

[43] A Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Ithaca, NY, Cornell University Press, 1998).

[44] Keohane, *International Institutions* (n 18); Keohane and Nye, *Power and Interdependence* (n 15).

[45] S Bulmer, 'Domestic Politics and European Community Policy Making' (1983) 21 *Journal of Common Market Studies* 349.

[46] Nelsen and Stubb, *The European Union* (n 23) 141.

'the transnationalist study of the international political economy'.[47] This rather eclectic and empirical analysis was deepened in the next decade, especially by Alan Milward's 'European rescue of the nation-state'.[48]

What constitutes the leading intergovernmentalist study so far was, however, published in 1998.[49] It is an impressive piece of work in which a framework for understanding European integration is offered, along with an in-depth examination of the so-called five major bargains[50] that arguably defined the features of the European Union. Moravcsik presents a three-stage approach to regional building. In the first stage, national preferences are defined by each state based on its economic interests; consequently, the theory dismisses the view that geopolitical interests may hold the same importance as economic ones to explain the formation of national preferences, thereby detaching itself even further from neo-realism. The second step consists of the negotiations between national governments to fulfil their nationally defined preferences; these negotiations depend on the asymmetrical interdependence existing between the bargaining states, and not on any kind of supranational entrepreneurship—a point that makes a crucial difference with the neo-functionalist assumptions. The last phase involves the establishment of common institutions, according to intergovernmentalism, to ensure the credibility of the commitments achieved; Moravcsik concludes that the choice for the transfer of sovereignty to international institutions is due neither to federalist ideology nor to centralised technocratic management. In turn, the option between pooling and delegation of decision-making competence varies across countries and issues and responds to the equilibrium reached by national preferences in each bargain.

Many intergovernmentalists see integration as a limited (regional) international regime. Thereby, its institutionalisation is not reckoned as endangering the primacy of the signatory nation-states. In other words, 'intergovernmentalism argues that supranational integration will be limited to areas which do not affect the fundamental issues of national sovereignty'.[51] However, it is not easy to understand how a state could undo its compromises once its ties with the neighbouring countries have reached a certain level of interdependence. Institutions have effects and these effects are cost reversible: that is precisely the function of institutions, to make compromises credible through raising the costs of non-compliance. The relativisation of institutions on the part of intergovernmentalism sheds some shadow on the potential to generalise conclusions anywhere else than Europe.

## F Supranational Institutionalism

The last major theory developed to deal with integration could be labelled 'neo-transactionalism', although its main supporters have timidly called it a 'transaction-based

[47] Bulmer, 'Domestic Politics' (n 45) 363.
[48] A Milward, *The European Rescue of the Nation-State* (Berkeley, CA, University of California Press, 1992).
[49] Moravcsik, *The Choice for Europe* (n 43).
[50] Each one of these turning points roughly characterises a decade in the existence of the European Union. They are the Treaty of Rome, the consolidation of the common market (comprising the Common Agricultural Policy, the implementation of the common market, the veto of British membership, and the Luxembourg Compromise), the European Monetary System, the Single European Act and the Treaty on European Union.
[51] Hix, 'The Study of the European Community' (n 25) 6.

theory of integration'.[52] Others prefer instead the term 'supranational institutionalism' or 'supranational bargaining theory', as opposed to Moravcsik's 'intergovernmental bargaining theory'.

This approach is explicitly crafted to explain the rise and shape of the European Union, although its using of general theories to account for integration allows for its generalisation and application elsewhere. The fundamentals of neo-transactionalism draw on two of the previously reviewed theories, ie transactionalism and, especially, neo-functionalism. It assumes that the increase in transnational transactions between neighbouring countries leads to the development of a more complex pattern of relations, both social and economic, within and among countries. The resulting increase in complexity cannot be managed satisfactorily by existing norms and regulations, thus the costs of information and transaction will rise. In turn, the need to reduce these costs will drive transnational transactors to claim for the establishment and standardisation of rules.

According to this view, the main actors of integration are nation-states (as for intergovernmentalism) and also transnational transactors, the European Commission and the European Court of Justice.[53] In short, all the four national, transnational and supranational actors must be reckoned as playing a part in determining the outcome of European integration. The starting point for the process is regarded as institutional, since the Treaty of Rome established the two supranational bodies in 1957.

The theoretical roots of neo-transactionalism are made explicit by Stone Sweet and Sandholtz, who observe that 'the three constituent elements of our theory are prefigured in neofunctionalism: the development of transnational society, the role of supranational organizations with meaningful autonomous capacity to pursue integrative agendas, and the focus on European rule-making to resolve international policy externalities'.[54] They also claim to agree with Haas 'that there is a logic of institutionalization'.[55] However, it is at the institutional level that they advance significant modifications to previous theorisation.

While the influence of institutions is simultaneously determining of and determined by other feedback factors, there are two logics that underlie the process and keep it far from the mechanical or political automatism of simple spillover: 'the first has to do with path-dependence, the second with principal-agent relations'.[56] Based on these logics, neo-transactionalists distance themselves to some extent from neo-functionalism and, especially, from intergovernmentalism, since both logics reinforce their argument that 'institutionalization in the EC is not reducible to the preferences of, or bargaining among, member governments. The expansion of transnational society pushes for supranational governance, which is exercised to facilitate and regulate that society'.[57]

The concept of governance as a continuum between an intergovernmental and a supranational pole is not new. However, the novelty offered by neo-transactionalism is the possibility that changes can occur at different speeds, or even in opposite directions, regarding different issue areas. Therefore, many European Unions are possible depending

[52] W Sandholtz and A Stone Sweet (eds), *European Integration and Supranational Governance* (Oxford, Oxford University Press, 1998).

[53] Ibid.

[54] Ibid 6.

[55] Ibid 16.

[56] Ibid 19.

[57] Ibid 19. Stone Sweet and Sandholtz define supranational governance as the competence of the European Community to make binding rules, for its member states and citizens, in any given political sector.

on the matter at stake (telecommunications, monetary union, security, defence, and the like). The disaggregation of a given region's governing processes by policy sector may well tell us more than its characterisation as a whole, or the search for an average measure.

Another crucial feature of integration is its possibility of developing in either a negative or positive way. Negative integration refers to the dismantling of national restraints on trade and distortion of competition, while positive integration implies common policies that shape the conditions under which markets operate.[58] This distinction is highly significant because the former can be attained through intergovernmental proceedings, while the latter may require the enforcement of supranational organisations. Since negative and positive integration are generally sequential, the use of this criterion supports the view of those who see the passage of intergovernmentalism to supranationalism as progressive over time; however, progressive does not mean irreversible.

## III Comparing the Theories

Not all the authors agree on calling his or her conception of integration a 'theory'. Among them, Schmitter and Moravcsik[59] stand out for designating theirs as an 'approach' and a 'framework' respectively. Their attitude is a tacit acknowledgment of the complexity of the subject matter; however, the utility of their work for both explanation and prediction is no more limited than those schools that call themselves 'theories'. Therefore, the three terms will be used interchangeably here.

A crucial element for assessing the reach of these theories is the role allocated to economics. Many of the approaches recognise a central position to economic aspects such as commercial flows and trade interdependence, while others hold a more culturalist or even institutionalist accent. An emphasis on political economy is particularly given by intergovernmentalism, as it stresses the convergence towards more liberal, deregulated, open and market-oriented policies on the part of previously divergent national economies to explain the domestic push for integration. In contrast, neo-realism is unable to account for processes where the economy or ideational values rather than security and power concerns appear as first movers.

Regardless of the approach, MERCOSUR provides challenges to most of the above economic assumptions. As Hurrell points out, 'liberal theories (both neo-functionalist and institutionalist) which see cooperation as a response to the problems generated by increased interdependence have little to say about the moves towards subregional cooperation that gathered pace in the second half of the 1980s. Indeed state-led cooperation was a response to *declining* levels of trade interdependence'.[60] Although neo-functionalism never intended to explain initiation, its logic does not adequately fit MERCOSUR's further steps either. Paradoxically, a pure intergovernmentalist approach to such an intergovernmental region as MERCOSUR is not appropriate either, since no major interstate

[58] FW Scharpf, 'Negative and Positive Integration in the Political Economy of European Welfare States' in G Marks, FW Scharpf, PC Schmitter and W Streeck (eds), *Governance in the European Union* (London, Sage Publications, 1996).

[59] Schmitter, 'Imagining the Future of the Euro-Polity' (n 13); Moravcsik, *The Choice for Europe* (n 43).

[60] Hurrell, 'Regionalism in Theoretical Perspective' (n 4) 258.

bargaining has led to either pooling or delegation of sovereignty. Furthermore, MERCOSUR has not even completed the negative stage of integration, while negotiations to advance through the positive phase more often than not end in failure or lack of implementation.

An additional distinction between contending theories is regarding politicised processes versus technical-economic processes. While it is true that the neo-functionalists have been the main supporters of this distinction, intergovernmentalism has also seemed to accept the dyad simply to turn it upside-down, emphasising the major importance of asymmetrical power over technical management. In contrast, MERCOSUR suggests a different continuum, running from the politicisation pole to the institutionalisation pole (see Figure 2.1), as it exhibits a process of non-conflictive complementarities between politicians and technocrats (although with a visible supremacy of the former) but without supplying their operation with an institutional framework.

**Figure 2.1 Different uses of the concept 'politicisation'**

| *Theory* | *Context* | *Continuum and emphasis* | |
|---|---|---|---|
| Neo-functionalism | European Union | Politicisation | Technical management |
| Intergovernmentalism | European Union | Politicisation | Technical management |
| Interpresidentialism | MERCOSUR | Politicisation | Institutionalisation |

Assuming the use of 'politicisation' as opposed to technical management, Caporaso argues that 'power has been strangely downplayed in the EC. I can see two reasons for backgrounding power. The first reason is that integration studies, as a field, has a "technicist" orientation in a certain sense … The second … has to do with the nature of the EC itself'.[61] However, the mechanism through which political leaders agree on general principles and leave the drafting of the detailed rules to leading national and supranational technicians arose prior to the development of any EU *nature*: it was the process (lately known as the 'Messina method') eventually used in the drafting of the Treaties of Rome.[62] In contrast, the second meaning of the concept 'politicisation', as opposed to institutionalised proceedings, better suits the operation of MERCOSUR. Whether this is due to MERCOSUR's nature or to its immaturity, and hence temporary, is still to be seen.

The issue of 'institutionalisation', as discussed above, is certainly not missing in the debates on European integration. The role played by the European Court of Justice has been recognised as crucial to fostering integration, especially during the seeming stagnation ages of the 1970s and early 1980s.[63] Some authors have arrived at the point of

[61] JA Caporaso, 'Regional Integration Theory: Understanding Our Past and Anticipating Our Future' in A Stone Sweet and W Sandholtz (eds), *European Integration and Supranational Governance* (Oxford, Oxford University Press, 1998) 347.

[62] EB Haas, '*The Uniting of Europe* and the Uniting of Latin America' (1967) 5 *Journal of Common Market Studies* 340.

[63] JHH Weiler, 'A Quiet Revolution: the European Court and its Interlocutors' (1994) 26 *Comparative Political Studies* 510; A Stone Sweet and TL Brunell, 'Constructing a Supranational Constitution: Dispute Resolution and Governance in the European Community' (1998) 92 *American Political Science Review* 63; W Mattli and A-M Slaughter, 'Revisiting the European Court of Justice' (1998) 52 *International Organization* 177.

explicitly proposing 'an institutionalist theory of European integration'.[64] The difference between the two blocs, however, is that what must be explained in the European Union is the presence (and shape) of institutions, whereas in MERCOSUR the question to be accounted for is their absence.

Until a few years ago, a major difficulty in studying integration was 'the single-case issue' provided by the European experience.[65] Now that integration seems to have settled its roots elsewhere, comparative studies have become possible. However, while most theorists concerned with integration are now switching from international relations to a comparative politics approach, they are doing so conceiving the European Union as a novel 'national case' instead of approaching it by contrast to other regions.[66] This may be fruitful for a better understanding of European domestic politics or the Europeanisation of the European national polities, but does not add much to the understanding of integration processes as such. Likewise, the contributions made in the field of public policy[67] and regulation theory[68] are not yet generalisable to other regions in the world.

What are the perspectives, therefore, for the theoretical debate on integration? It is highly likely that it will open up over the next few years, along with the expansion of the object itself. The consolidation of regions other than Europe, whether following the European model or not, will demand further research to cope with this. However blurred this development may appear at present, some of the major debates it will raise are foreseeable: (a) the prior relevance of micro or macro-foundations; (b) the relationship between transnational society and supranational institutions; (c) the relevance of history and path-dependence;[69] (d) the scope, limits and shape of regional institutionalisation; and (e) the role and extension of democracy (at both levels).[70]

Figure 2.2 shows a comparison of the theories presented above across six key dimensions. All these theories have been devised to understand the EU development, so it comes as no surprise that none fits the case of MERCOSUR. Federalism never was in the minds of the founders; spillover has not taken place; interdependence has followed rather than preceded the signature of the treaties; and a common identity can seldom be seen as either a driver or a consequence of Southern Cone integration. Rather, it seems that the initial decisions were fed by domestic interests as identified by the national presidents, and their implementation profited not so much from the successful example of the European Union, as from the failure of past Latin American experiences, which were considered excessively ambitious in terms of institutions and too naïve regarding their faith in supranationality. The choice for policy-makers opposed supranationalism to intergovernmentalism, and the former was defeated by the latter. The experience of MERCOSUR

[64] G Tsebelis and A Kreppel, 'The History of Conditional Agenda-Setting in European Institutions' (1998) 33 *European Journal of Political Research* 41.

[65] Caporaso, 'Regional Integration Theory' (n 61) 343.

[66] Hix, 'The Study of the European Community' (n 25); Caporaso, 'Regional Integration Theory' (n 61); PC Schmitter, *How to Democratize the European Union . . . and Why Bother* (Lanham, MD, Rowman & Littlefield, 2000); Warleigh and Rosamond, 'Theorising Regional Integration Comparatively' (n 1).

[67] A Heritier, *Policy-Making by Subterfuge: Interest Accommodation, Innovation, and Substitute Democratic Legitimization in Europe* (San Domenico di Fiesole, European University Institute, 1996).

[68] G Majone, 'The European Community Between Social Policy and Social Regulation' (1993) 31 *Journal of Common Market Studies* 153.

[69] Caporaso, 'Regional Integration Theory' (n 61).

[70] S Bartolini, *Restructuring Europe: Centre Formation, System Building and Political Structuring Between the Nation State and the EU* (Oxford, Oxford University Press, 2005); Schmitter, *How to Democratize the European Union* (n 66).

**Figure 2.2 Theories of regional integration: comparative features**

| | *Federalism* | *Functionalism* | *Neo-functionalism* | *Communicative interactionism* | *Liberal intergovern-mentalism* | *Supranational institutionalism* |
|---|---|---|---|---|---|---|
| Main actors | States | Technical bodies | States, supranational bargainers, national and regional economic elites | Mass societies | Mightiest states | States, supra-national bargainers, transnational transactors |
| Central mechanism | Constitutional convention or international treaties | Technical needs | Spillover | Transnational transactions | Interstate bargaining | Transnational transactions, supranational bargaining |
| Domain | Region/ World | World | Region | Region | State/Region | Region |
| Role of inter-dependence | Background factor | Causal factor | Causal factor | Tantamount to integration | Causal factor | Causal factor (and outcome) |
| Role of identity and values | Background factor | None | Outcome | Causal factor | None | Secondary factor |
| Role of institutions | Causal factor | None | Causal factor and outcome (feedback) | Outcome | Outcome | Causal factor and outcome (feedback) |

expresses a drift of the driving push for integration away from society (demand side) and towards the state (supply side).[71]

## IV The Origins of Mercosur[72]

Latin American integration has a long history according to conventional political rhetoric, but a poor record when it comes to concrete accomplishments. The region was previously ruled by two colonial powers, both located on the Iberian Peninsula. Gradually, the territory dominated by the Spanish crown was divided in two, later into four and then successively into a dozen autonomous regions, a process that culminated in the establishment of the nineteen independent, Spanish-speaking states in existence today. Even as the process of fragmentation evolved, the leaders of the wars of independence nurtured the myth of Latin America's natural unity and the ultimate aim of restoring it. Simón Bolívar, the best known of these leaders, called two Pan-American congresses in 1819 and 1826, but failed to bring about regional unity. Almost two centuries later, with the failure of reiterated unification attempts, the Pan-American movement waned and was gradually superseded by a less ambitious but more realistic project: that of regional integration. Idealism and identity receded while economic interests took their place as the justification for collective action.

The first serious effort to promote regional integration occurred in 1960 with the creation of the Latin American Free Trade Association (ALALC, Asociación Latinoamericana de Libre Comercio). Twenty years later, because of its poor performance it was replaced by the Latin American Integration Association (ALADI, Asociación Latinoamericana de Integración),[73] with slightly better but still unremarkable results. Various subregional integration efforts were also made: the Central American Common Market (MCCA, Mercado Común Centroamericano) was established in 1960; the Andean Pact and the embryo of the Caribbean Community were set up in 1969; and in 1991, MERCOSUR was created. These groups scored some early points, but then stagnated or decayed.

The process began in the 1980s, when the third wave of democratisation took root in the region. Democracy would consequently become one of the main goals of the agreements. However, the first steps were taken in 1979, under the military presidencies of Jorge Videla in Argentina and João Figueiredo in Brazil. That year both countries, together with General Ströessner's Paraguay, signed a trilateral agreement regarding the Paraná basin. This agreement settled many disputes on the use of hydric resources in the region,

[71] A Malamud, 'Presidentialism and MERCOSUR: a Hidden Cause for a Successful Experience' in F Laursen (ed), *Comparative Regional Integration*: *Theoretical Perspectives* (London, Ashgate, 2003); JR Perales, 'A Supply-Side Theory of International Economic Institutions for the MERCOSUR' in F Laursen (ed), *Comparative Regional Integration: Theoretical Perspectives* (London, Ashgate, 2003).

[72] This section draws on A Malamud, 'MERCOSUR Turns 15: Between Rising Talk and Declining Achievement' (2005) 18 *Cambridge Review of International Affairs* 421.

[73] ALALC and ALADI comprised the 10 Latin American countries of South America plus Mexico and Cuba.

including the inconveniences and perceived threats to Argentina that would have been created by the construction of the giant Itaipú dam.[74]

The Malvinas/Falklands war allowed for a second crucial stage: the building of confidence and the emergence of a shared self-perception vis-à-vis world politics.[75] On that occasion Brazil assumed a position that, despite its reluctance to support the use of force, explicitly endorsed Argentina's right to the islands. Such a stand was in harmony with most of Latin America, except Chile; but it was all the more significant because Brazil was not only the largest Latin American power, but also Argentina's traditional rival.

The third step, giving rise to lasting cooperation ranging from economic matters through such sensitive issues as atomic power, was launched by the new democratic leaders of the 1980s.[76] Elected in 1983 and 1985 respectively, both Argentina's Raúl Alfonsín and Brazil's José Sarney decided to engage themselves in a process that would have been unlikely to succeed without their strong commitment. Within the frame of the more general treaties, Argentina and Brazil signed 24 bilateral protocols with the purpose of improving trade between 1984 and 1989. In 1985, they signed the Declaration of Foz de Iguazú, which laid the basis for future integration and created a High Level Bilateral Commission to foster the process. The crucial Argentine-Brazilian Integration Act was endorsed in July 1986 in Buenos Aires, setting up the Integration and Cooperation Program (PICAB). As widely acknowledged later, this agreement constituted a turning point in the history of relations between these two countries, and in fact can be seen as the embryo of MERCOSUR. The change was substantially due to the role the newly appointed democratic presidents had decided to play in the regional scenario. Arguably, neither the globalisation pressures nor the democratisation process would have been sufficient to overcome the secular distrust between Argentina and Brazil, including as it did military cooperation and the mutual inspection of their nuclear installations.[77]

In 1988, during the same presidential tenures, the Treaty on Integration, Cooperation and Development was signed. Conceived of as the culmination of a process of mutual recognition and confidence building, it turned out to be a crucial step into the next phase of the new relationship. Towards the end of 1990, Argentina and Brazil signed, and registered with ALADI, an Agreement on Economic Cooperation that systematised and deepened pre-existing bilateral commercial agreements. That same year, representatives of both countries met with Uruguayan and Paraguayan authorities, who expressed their willingness to participate in the ongoing integration process. The result was an agreement to create a common market among the four nations.

[74] C Lafer, 'Relações Brasil-Argentina: Alcance e Significado de uma Parceria Estratégica' (1997) 19 *Contexto Internacional* 249.

[75] F Peña, 'Argentina y la Cooperación Latinoamericana' in RM Perina and R Russell (eds), *Argentina en el Mundo: 1973–1987* (Buenos Aires, Grupo Editor Latinoamericano, 1988); Lafer, 'Relações Brasil-Argentina' (n 74).

[76] However, Gian Luca Gardini in 'The Hidden Diplomatic History of Argentine-Brazilian Bilateral Integration: Implications for Historiography and Theory' (2005) 30 *Canadian Journal of Latin American and Caribbean Studies* 63, shows that previous negotiations had taken place prior to the democratisation in Brazil.

[77] Along with the main Treaty the presidents signed a Joint Declaration on Nuclear Policy (Declaración Conjunta sobre Política Nuclear). For further developments on nuclear cooperation, *cf* M Hirst and HE Bocco, 'Cooperação Nuclear e Integração Brasil-Argentina' (1989) 9 *Contexto Internacional* 63, and JP Milanese, 'Supranacionalidad en el Cono Sur? Análisis de un caso inédito, ignorado y potencialmente paradigmático', I Encuentro internacional de Investigadores de la Red Latinoamericana de Cooperación Universitaria, Universidad de Belgrano, Buenos Aires, 11–12 March 2004.

During the period running between the signature of the PICAB and the creation of MERCOSUR in 1991, a versatile institutional arrangement was settled in order to keep the process working. Its main features were the direct participation of high officials in the negotiations, under the coordination of the foreign ministries; the meeting of a six-monthly presidential summit; the high profile of bilateral diplomatic channels, especially the ambassadors in every capital; and the non-existence of common bodies integrated by independent experts.[78] Most of these characteristics, imprinted with maximum pragmatism and flexibility, were to be maintained in the further stages of the process despite the endowment of some formal structures.

MERCOSUR was finally established in 1991 by the Treaty of Asunción, which brought together Argentina, Brazil, Paraguay and Uruguay. Although the original goal of Presidents Alfonsín (Argentina) and Sarney (Brazil) had been to provide support for their fledgling democratic regimes by lessening domestic pressures for greater military spending and increasing social welfare through international cooperation, the Treaty abstained from referring to political institutions or social actors. Instead, it focused exclusively on economic and commercial issues.

The Protocol of Ouro Preto, signed in 1994, gave MERCOSUR a formal institutional structure that was to remain untouched during the subsequent decade. The Protocol also gave MERCOSUR an international legal personality and defined its juridical bases. However, the bloc has not become a common market. At best, it established the blueprints for a customs union that is still far from complete.[79]

The Treaty of Asunción and the Protocol of Ouro Preto, together with another three Protocols,[80] constitute the institutional skeleton and juridical backbone of MERCOSUR. They deal with economic integration (content) and organisational structure (form). They do not deal with aspects that have acquired greater relevance in the European Union such as regional citizenship, social cohesion and democratic decision-making. Somewhat surprisingly, however, these issues have been and still are present in nearly all debates about MERCOSUR.

The presidents and foreign ministers of MERCOSUR Member States have referred to it as a 'strategic alliance', 'destiny rather than choice', 'the dynamic axis of South American integration', and even as 'the most transcendental political decision in our history'.[81] Lower ranking officials tend to use less lofty language but it is the highest authorities, particularly the presidents of the two largest members, who define the contours of the public image of MERCOSUR. After the global financial crises of 1995–1999, MERCOSUR came to be seen as a symbol of resistance to neo-liberalism. It has even been considered as a prototypical association of developing countries that could stand in the way of a US-promoted hemispheric free trade area. For progressive ideologues, it has acquired an

[78] F Peña, 'El Desarrollo Institucional del Mercosur' in AAVV, *Comunidad Andina y Mercosur. Desafíos Pendientes de la Integración en América Latina* (Bogotá, Ministerio de RREE/Corporación Andina de Fomento, 1998).

[79] R Bouzas, P Motta Veiga and R Torrent, *In-Depth Analysis of MERCOSUR Integration, its Prospectives and the Effects Thereof on the Market Access of EU Goods, Services and Investment*, Report presented to the Commission of the European Communities, Observatory of Globalization, Barcelona (November 2002) available at http://mkaccdb.eu.int/study/studies/32.doc.

[80] They are the Protocol of Brasília (establishing a system for dispute settlement and signed in 1991), the Protocol of Ushuaia (establishing a democratic clause and signed in 1998), and the Protocol of Olivos (establishing a permanent court for appeals and signed in 2002).

[81] A Malamud, 'MERCOSUR Turns 15' (n 72).

'epic' status as a preferred tool for promoting social rather than merely economic goals. The battle cry has been for the creation of 'a political MERCOSUR' that would be able to combat the neo-liberal approach to regional integration. The argument is that the original agreements signed by Argentina and Brazil in 1985–1988 were perverted in the 1990s, transforming what had been a progressive state-led initiative into a conservative market-based project. A return to the original intent would involve bringing political objectives to the fore, ie by prioritising the social and representative dimensions of regional integration as opposed to its trade and investment aims. In this context, recurrent references have been made to the participation of civil society and the establishment of a regional parliament.

In opposition to this romantic view, MERCOSUR was deliberately created and maintained as an intergovernmental organisation. Its founders did not want to replicate the failures of previous attempts at integration in Latin America, especially the experience of the Andean Pact. Hence, they insisted that all decisions would have to be made through a process that exclusively involved national officials, with unanimous consent as the only decision rule. As there is neither community law nor direct effect, all significant decisions have to be transposed into the domestic legislation of every member country to take effect. Furthermore, policies can only be implemented at the national level by national officials, as there is no regional bureaucracy. Dispute settlement is the only area that has been formally excluded from the requirement for intergovernmental consensus, although the mechanisms established by the Protocol of Brasília have been called upon only 10 times in 15 years—in contrast to the more than one hundred rulings made every year by the European Court of Justice. As has been pointed out elsewhere, MERCOSUR appears to incarnate an extreme type of intergovernmentalism: 'interpresidentialism'.[82] Interpresidentialism is the outcome of combining a foreign policy strategy—presidential diplomacy, with a domestic institutional structure—presidential democracy. It consists of resorting to direct negotiations between national presidents who, making use of their institutional and political capabilities, intervene in regional affairs every time a crucial decision has to be made or a critical conflict needs to be solved. Thus far, low levels of previous interdependence associated with interpresidential dynamics have kept MERCOSUR working but prevented spillover from taking place.

Lately, some projects have been advanced with the aim of placing MERCOSUR on track towards deeper integration. The introduction of IIRSA (Initiative for the Integration of South American Regional Infrastructure) in 2000, the creation of a Committee of Permanent Representatives in 2003, the foundation of a permanent Court of Appeals in 2004, the establishment of FOCEM (Fund for MERCOSUR Structural Convergence) in 2005, and the creation of a regional parliament in 2006 seem to be steps in that direction. Venezuela signed a treaty of accession in 2006, although it has not yet been ratified by either Brazil or Paraguay. At the same time, a more strident initiative aimed at integrating the whole subcontinent has been launched: the Union of South American Nations (UNASUR). However, all these projects have been widely publicised but only partially or defectively implemented. After reaping notable successes in the first half of its lifetime and undergoing recurrent crises in the second half, MERCOSUR seems to face a turning point:

[82] Malamud, 'Presidentialism and MERCOSUR' (n 71); A Malamud, 'Presidential Diplomacy and the Institutional Underpinnings of Mercosur: An Empirical Examination' (2005) 40 *Latin American Research Review* 138.

either it recovers its *raison d'être* and consolidates its institutional and normative structure, or it becomes a high-profile but mostly irrelevant political banner. So far, paraphrasing Monnet, its operation could be expressed as *grands mots, petits effets* (speak grandiloquent words to achieve small effects).