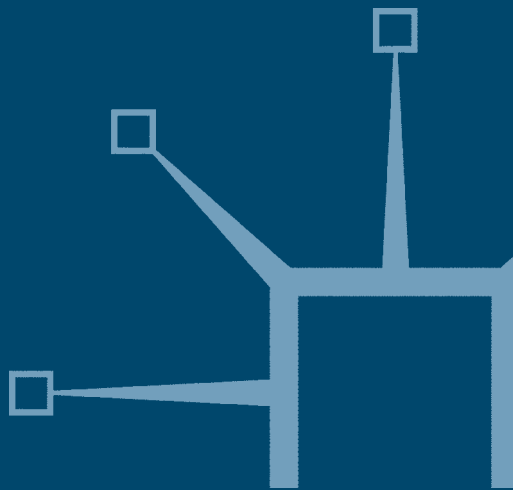


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Regionalism and Governance in the Americas

Continental Drift

Edited by
Louise Fawcett and Mónica Serrano



Regionalism and Governance in the Americas

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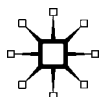
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Editorial Matter and Selection

' Louise Fawcett and Monica Serrano 2005

Individual Chapters (in order) ' Richard Feinberg, Louise Fawcett & Monica Serrano, Monica Serrano, Louise Fawcett, Lorena Ruano, Diana Tussie & Ignacio Lubaqui, Gustavo Vega-Cinovas, Blanca Torres, Roberto P. Korzeniewicz & William C. Smith, Laurence Whitehead, Andrew Hurrell, David Pion-Berlin, Neil S. MacFarlane & Monica Serrano, Monica Serrano 2005

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First published 2005 by

PALGRAVE MACMILLAN

Houndmills, Basingstoke, Hampshire RG21 6XS and

175 Fifth Avenue, New York, N. Y. 10010

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ISBN-13 1-4039-4522-8 hardback

ISBN-10 1-4039-4522-5 hardback

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources.

A catalogue record for this book is available from the British Library.

Library of Congress Cataloging-in-Publication Data

Regionalism and governance in the Americas: continental drift / edited by Louise Fawcett and Monica Serrano.

p. cm.

Includes bibliographical references and index.

ISBN 1-4039-4522-5

1. Regionalism—America. 2. Pan-Americanism. 3. Regionalism (International organization) 4. United States—Foreign relations—Latin America. 5. Latin America—Foreign relations—United States. I. Fawcett, Louise L. Estrange. II. Serrano, Monica.

JZ5331.R44 2005

327.7—dc22

2005042932

10 9 8 7 6 5 4 3 2 1
14 13 12 11 10 09 08 07 06 05

Printed and bound in Great Britain by
Antony Rowe Ltd, Chippenham and Eastbourne

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Preface: Contextualizing US–Latin American Relations

Richard Feinberg

The United States has long resisted what geography would seem to dictate: a special relationship with Latin America. Frequent rhetorical and occasional real concessions to the idea of hemispheric solidarity notwithstanding, US foreign policy from World War II has generally preferred to eschew regionalism close to home in favor of a wider global reach. Clearly, the US has often shown favoritism to particular regions, from Europe to Asia and the Middle East. But, on the broadest scale, US hegemony has arisen in tandem with a universalist perspective in which global policies and institutions loomed largest.

Historically, the US wasn't inflexibly opposed to regional integration schemes, as evidenced by Washington's acceptance and even promotion of European integration as a powerful instrument to bring peace to a continent wracked by a century of bloodletting that had twice drawn the US into global wars. But when regionalism did not appear to serve US geopolitical interests, local trading blocs represented a potential threat to global integration. In the post-Cold War period the emergence of regionalism was attributed to the shifting trade strategies of the hegemonic powers in a more pluralistic world. It raised the specter of competition among great trading blocs – titanic struggles in which smaller nations might find themselves scurrying to avoid exclusion from regionally grounded preferential schemes. Alarmed at the prospect of a world thus divided into hostile trading blocs, the US trade policy community retained global trade liberalization as its strongly preferred first-best solution until the early 1990s. Common wisdom also dictated that trade policy be kept neat and separate from other policy issues and variables in the international political economy. For most trade specialists, trade policy was about reducing trade barriers, not about sharing values or altering balances of power.

Fast-forward to the present, and all of this seems a world away. The all-powerful US Trade Representative Office (USTR) has buried its historical dedication to globalism and the GATT-WTO as being not only the first-best, but the only legitimate trade strategy. Regional Trade Agreements are no longer anomalies to be explained away as fitting unique circumstances; they have been fully accepted and incorporated

into the heart of a US trade policy for which the aggressive pursuit of Free Trade Agreements (FTA), from Latin America to sub-Saharan Africa, has also become a hallmark. In 2001 the USTR lamented: "There are over 130 preferential trade agreements in the world today – and the United States is a party to only two of them."¹ That situation itself already seems remote.

At the same time, though, while it has expanded, the US paradigm has not undergone an entire revolution either. Seen from a trade-bargaining perspective, plurilateralism or regionalism can strengthen the hand of US negotiators engaged in global, or indeed other regional forums. First the Canadian and then the Mexican FTAs were designed in part to encourage negotiations taking place within the GATT.² Regionalism also offers opportunities to set precedents that may later be advanced in global forums – as the Asia Pacific Economic Cooperation (APEC) forum did in 1996 with its international telecommunications agreement, later accepted by the World Trade Organization. Regionalism, in a word, can spur globalization.

No longer the old menace, regionalism is not quite then the new hero. Herein lies the riddle of its status and value for the US. Take the North American Free Trade Agreement (NAFTA). This unprecedented experiment in regional integration for the US coincided with, and in some ways provoked, a great tide of opposition to free trade across the political spectrum within the US. Ever since the early 1990s, for the US the distinction between regionalism and free trade has become blurred, and the opposition to both sharper. For those like the George W. Bush administration, bilateral, plurilateral and global trade forums can all positively interact to make the best of all possible free trading worlds.³ For others, from protectionists to mercantilists and social welfare advocates, this "competitive liberalization" has become global menace number one.

Given the blocking strength of the latter coalition in Congress, the post-NAFTA history of regionalism may prove to be in many ways an aberration. Had the Clinton administration kept to the true domestic equilibrium path, NAFTA might have been gradually and incompletely extended, some unconnected bilateral FTAs signed. Indeed, in the decade since NAFTA, that has been the pattern, as the US has ratified an FTA with Chile, and the Bush administration has followed up its trade negotiations with Central America with FTA talks with the Dominican Republic, Panama and select Andean countries – although it remains to be seen whether the executive branch can build a majority in the US Congress willing to ratify these follow-on accords. In any

case, Brazil and Argentina remain outside this sequenced approach, at least to date. But this sequential strategy has fallen into place only gradually, and as a second-best to the preferred comprehensive Free Trade Area of the Americas (FTAA), despite the sour mood of the US Congress and its refusal during the Clinton years to renew the fast-track authority. Along with FTA negotiations with Singapore and Chile, regional negotiations with APEC, and renewed efforts to launch the new WTO round, the FTAA was willingly accepted as a legacy by the new Bush administration.

For critics, most of the alleged gains from hemispheric free trade had already been realized in NAFTA. Once Canada and Mexico were excluded from the numbers, the near-term gains from more open trade with Central and South America would, they argued, be modest. And then, was it wise to enter into such a close arrangement with Latin America? In the bureaucratic and policy communities, Europe, Asia, and the Middle East continued to hold sway as regions of primary importance and attention. A certain disdain for Latin America, deeply rooted in the ethnic origins of the long-dominant East Coast foreign policy establishment, was not far beneath the surface of these arguments.

Why did the FTAA project become so pressing? On the one hand, the new Republican president was a professed friend of regional integration with Latin America. Indeed, in what may now count as a minor irony of history, candidate Bush had criticized Clinton both for paying insufficient attention to Latin America and for dropping the ball on the FTAA. In his first year in office, Bush had 26 meetings with Western Hemisphere heads of state, not including his attendance at the Summit in Quebec. Along with this extraordinary early focus, Bush also had a different take on the electoral road to the heart of the Hispanic vote, intuiting that Latino sentiment, offended by the verbal assaults of some of the anti-NAFTA voices, would be flattered by a more welcoming policy toward Latin America.

Even so, in picking up the FTAA ball, Bush also flew in the face of an important sector of his own constituency. Many corporate executives preferred to focus on tax reforms or on the current quarter's earnings, rather than to spend political capital on potential long-term gains from trade liberalization. While many corporate lobbyists were not placing trade at the top of their congressional agenda, some sectors, such as telecommunications and pharmaceuticals, had already satisfied many of their trade goals in previous negotiations. Other sectors, such as agriculture, were increasingly divided on trade policy, as some big

commodity producers now feared fresh competition from cheap imports. The deep reluctance in the US to pursue further market-opening initiatives with Latin America was reflected in the razor-thin votes in the House of Representatives which finally granted President Bush authority to negotiate trade agreements that Congress would not seek to amend in the summer of 2002.

Were the US the only side to the story, then the FTAA in particular might continue to have represented a disequilibrium solution within the US, lacking sufficient domestic support to reach the final goal. But, news though this may be to those who like their image of the hegemon to be monolithic – without either the porous pluralism of the US decision-making process, or the pluralistically fragmented character of US domestic politics – there is indeed another player in the highly disputatious, complex, multilevel game which the process toward a more integrated Western Hemisphere has now become. In its own way, the contribution of this player is every bit as novel as that of the US.

If the hemispheric integration process has proven to be a belated geography lesson for the US, Latin American elites had also been skipping the class throughout the nineteenth and twentieth centuries. True, in Simón Bolívar the continent had an early integrationist visionary, even if his vision was not always clear about whether North America was to be included or not. The idea of a hemispheric free trade zone, too, was discussed at the time of the founding of the Pan-American Union at the end of the nineteenth century. But for Latin American nationalists of the right and left, independence from US power was a goal devoutly to be wished for. When nationalist barricades against foreign commerce and capital weren't erected, Latin America was ready to fall into the embrace of Europe.

In 1990, though, after Europe had conspicuously failed to open its arms to him as he went the rounds promoting Mexican markets, it was President Carlos Salinas de Gortari who proposed an FTA to President George Bush. It was the leaders of the Andean countries, at a mini-summit in Cartagena, Colombia, who first urged Bush to consider a post-Cold War economic policy toward the region that yielded the Enterprise for the Americas Initiative (EAI), a forerunner of the FTAA. It was the Chileans who pressed three successive US administrations for an FTA. It was Latin Americans who proposed to the Clinton White House that the US convene a post-NAFTA meeting of hemispheric leaders to diffuse the spirit of NAFTA southward, who insisted that the centerpiece of the subsequent 1994 Miami Summit be a free trade pact, and who cornered the US into accepting a firm end date for negotiations.

The United States acceded to Latin American pressures only at the last moment, when the credibility of the Clinton summit hinged on the announcement of a certain date. Without the Miami Summit, region-wide free trade would probably have remained a vague aspiration, not a potentially hemispheric-wide consensus. In early 2002, Central America got its turn, waited for from 1997, to twist the US arm to open negotiations for a plurilateral FTA, as a building bloc toward Central America's final goal, the Free Trade Area of the Americas.⁴

If the US was knocked off its equilibrium path over the FTAA, then, there is a strong case for saying that it was the Latin Americans who did it. Why?

As a consequence of the 1980s debt crisis, among other factors, Latin American economies adopted a more outward-oriented growth strategy. By the early 1990s, structural shifts in Latin American economies and politics as well as in Latin Americans' interpretation of their own interests were altering much, if not all, of the region's traditional aversion to integration with the US. Two parts of this process stand out. First, as commonly noted, there was a shift in regional integration models from the inward-looking and protective to forms coupling domestic liberalization with an opening to global markets, a shift which not only altered Latin American attitudes toward trade liberalization, but also contributed to the more positive views in Washington toward regional projects. But to this pattern of so-called 'open regionalism' ought to be added an equally dramatic historical shift. Latin America's smaller, developing countries achieved what, by the lights of the post-Cold War paradigm of regionalism, they ought not to have been able to: a push for regional integration from the bottom up, with developing nations a driving force in history.

Clearly, Latin American motives clustered around trade and investment and macroeconomic issues. As Latin America increasingly turned away from a North-South perspective on the world toward perceiving a future as tied to global capital and technology flows, so, by enlarging their markets, Latin Americans hoped to attract more international investment and, with it, technology transfer. In the FTAA they also saw the opportunity to gain secure access to the world's largest and most dynamic market, access that they had never really extracted from negotiations in the General Agreement on Tariffs and Trade.⁵

Putting it solely in terms like these, however, underplays the dimensions of the Latin American historic gamble. Politically, the gamble was that closer ties with Washington would bolster forces behind the region's transitions to democracy. While this democracy motive was

not obvious in Mexico's drive for NAFTA, in explaining their interests in tying their future closely to the United States, Chilean elites articulated their belief that trade ties would help solidify their democratic institutions. The same center-left coalition that proudly ratified the US–Chile FTA also erected a statue of martyred president Salvador Allende in front of his presidential palace, in an act illustrative of how far US–Latin American relations had traveled in 30 years. The linkage between trade and democracy, once so alien to trade policy purists, was reinforced by the democracy clause at the Quebec Summit, effectively converting the FTAA into a tool of international political economy, a potential trade sanction to deter violators of the democratic norm.⁶ The Inter-American Democracy Charter then codified the Quebec democracy clause into hemispheric dogma in 2001.

Hemispheric convergence – free markets between free societies – thus rose to dizzy heights, giving rise to even greater ambitions for the FTAA. As César Gaviria, secretary-general of the Organization of American States, recognized: “The FTAA was conceived from the beginning as part of a broader effort at rapprochement.”⁷

The prospect which such statements conjure is of the FTAA as a grand strategic alliance for the twenty-first century, based upon the world's largest free-trade pact, stretching from Alaska to Argentina. Its appeal is almost mesmerically strong. Whether this convergence of interests and values that appeared so powerful in the mid-1990s will remain strong enough to allow for the completion of the FTAA project is, at the time of this writing, much less certain. As the historical perspective that informs many of the essays in this book makes clear, US–Latin American relations have traveled in cycles of convergence and divergence, and it may be that the inability of the pro-integration elites in both countries to complete the project when their influence was at its zenith could result in the project gaining only partial completion or even dissolution.

This book of essays reminds us of a whole range of perspectives, not just on the FTAA, but on the multiform experience of regionalism in the Americas, that will inform the debate on hemispheric integration in the years to come. That range is amply and ably laid out in this volume, one of whose merits is that its contributors remain cautiously clear-eyed rather than mesmerized, some moderately optimistic, others steeped in historical pessimism. Critically, they keep in sight the one key factor which some romanticized visions of what is happening in the hemisphere dangerously neglect: national power, and power's asymmetries.

We can debate whether and when US and Latin American interests converge and diverge, as the essays in this volume elucidate, but there can be no dispute that unequal national power sets the context for the Western hemisphere dialog, and remains the true measure of the Latin American gamble. While it has successfully proven that unequal power of the nominally weaker states can make a difference to the reluctantly reactive hegemon over regional integration, Latin America's largest gamble, the FTAA, was made without the certainty that it would pay off in real terms, whether in economic exchange or democratic progress, or even that the US political process would not abandon the eager Latin American brides at the altar. For its part, Brazil has been ambivalent from the outset, positively interested in less encumbered access to US markets and fearful of being left out of the grand bargain, but also wary that the FTAA might spell the end to its dream of Brazilian hegemony in South America. In Brazil the continent has a leading player which has continued to hedge its bet, in the face of a certain amount of US pressure to take trade flows to their far from realized potential.

Brazil's protectionism and hegemonic pretensions may be one major hurdle to the completion of the Latin American quest for the FTAA, but so too is revived nationalism and protectionism from the US. The heavy compromises over subsidies for agriculture, textiles, citrus, and steel made by President Bush, whether for political or partisan reasons, in the process of securing the Trade Approval Authority in 2002 raised significant doubts over the political capacity of US trade negotiators to negotiate balanced agreements with foreign producers.

The challenges facing FTAA negotiators, though, are not just to aggregate the vast complexity of interests at play; there are also long-term stakes for the international political economy and the regional governance of the Western Hemisphere. Indeed, one of the salutary lessons of this multidisciplinary book is that, while it may be a great gamble, regional integration also opens a Pandora's box of new governance issues.

Latin American diplomats may have been shrewd in seeing that a hemispheric free trade alliance had the potential to lend them leverage over the US on some interdependence issues. They may even have anticipated the power struggle with the US over the preferential terms of treatment of an FTAA which, obviously, the US would like to have being fulsome to US interests. But the foreign ministers assembled in Lima to sign the Inter-American Democracy Charter with Secretary of State Colin Powell on September 11 2001 could not have anticipated how the world was about to change that day.

In the post 9/11 world, Washington's attention has focused on sources of global instability and violence, and in that context Latin America appears relatively tranquil. In light of the strong domestic opposition to further trade liberalization, it remains to be seen whether the executive branch, whether in Republican or Democratic hands, can rally sufficient positive interest in hemispheric integration. But if it does mobilize to secure congressional approval for the FTAA in 2005 or thereafter, the presidency will have to play a trump card beyond economic self-interest, and as so often in US history when trade agreements are submitted to the people's chambers, the national security rationale will be advanced as the debate clincher.

As it witnesses the FTAA being promoted as the centerpiece of US strategic policies toward Latin America, the foundation of a new economic-security platform from which the US can securely project its power in an otherwise dangerous world, some Latin Americans may wonder whether they got more than they bargained for. Already NAFTA is being amended, *de facto*, into a security zone within which a wide range of national bureaucracies, from customs to intelligence, collaborate against common threats. In this new international context, Latin Americans may perceive additional sources of leverage with which to pressure the US to respond, once again, to Latin American interests. In this, as in many other respects, the transnational perspectives assembled in this book will have much to instruct all sides.

Notes

- 1 Office of the United States Trade Representative (USTR), *International Trade Legislative Agenda* (Washington, DC: USTR, 2001). Available at www.ustr.gov.
- 2 Ann Kimberly Elliot and Gary C. Hufbauer, "Ambivalent Multilateralism and the Emerging Backlash: The IMF and WTO," in Stewart Patrick and Shepard Forman (eds), *Multilateralism and U.S. Foreign Policy: Ambivalent Engagement* (Boulder: Lynne Rienner, 2002), p. 403.
- 3 See Richard Feinberg, "The Political Economy of US Free Trade Agreements," *The World Economy* 26(7) (July 2003), 1019–40.
- 4 As a senior USTR official said in an author telephone interview of March 2002: "First of all, we were responding to continual expressions of interest by Central America."
- 5 See Diana Tussie, "Globalization and World Trade: From Multilateralism to Regionalism," *Oxford Development Studies* 26(1) (1998).

- 6 Of course, the idea of inserting a democracy clause in a trade agreement hardly originated in Washington. The European Union requires members to be democracies respectful of human rights. Under Brazilian leadership, Mercosur members have effectively used their 1996 democracy clause as a deterrent in Paraguay.
- 7 César Gaviria, "Integration and Interdependence in the Americas," in José M. Salazar-Xirinachs and Maryse Robert (eds), *Towards Free Trade in the Americas* (Washington, DC: Organization of American States/Brookings Institution, 2001), pp. 303–15.

Acknowledgements

This book is the product of a conference organized jointly by the Centres for International Studies of Oxford University and of El Colegio de México. We are grateful to the MacArthur Foundation, the Konrad Adenauer Stiftung, the Foreign and Commonwealth Office, the Norwegian Foreign Ministry and the William and Flora Hewlett Foundation for their generous funding of the project. Ilán Bizberg, Jorge Domínguez, Guadalupe Gonzáles, Soledad Loeza, Antonio Ortiz and Carlos Rico provided constructively critical comments on the original papers. Héctor Mancera later provided valuable research assistance, while the late and sorely missed Carlos Roces was a pillar of support throughout.

The book itself would not have been possible without the analytical and editorial incisions from the hand of Paul Kenny.

LOUISE FAWCETT

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Introduction

Louise Fawcett and Mónica Serrano

Scanning back over the decades from the vantage of the post-9/11 war on terrorism, Peter Andreas writes:

At the height of the Cold War in the 1960s, security issues reigned supreme. In the 1970s, economic matters overshadowed security, with “interdependence” the favorite buzzword of the decade. In the 1980s, geopolitical tensions sharpened, giving security primacy once again. In the post-Cold War... “globalization” became the popular theme. Now, in the first decade of the twenty-first century, it seems that security is back with a vengeance... And nowhere is this more evident than in North America, where the imperatives of security and of economic integration appear to be on a collision course.¹

Regionalism since the 1960s has also ebbed and flowed with some, if not all, of these tides. Indeed, if we start from the successful experience of Europe, regionalism has been a distinctively uneven, stop-go process, as Karl Deutsch once noted.² Efforts to copy the European model ran adrift until the 1980s and early 1990s gave rise to new political, economic, security and culturally driven projects which sought in different ways to find a new space for regions in an increasingly interdependent global order. Then, around the closing years of the last century, a yet newer regionalism emerged, incorporating multilevel regional arrangements and reflecting a vastly increased density, breadth and range of interactions above, between, and below states.

This pattern of appearance and disappearance, revival and stalling, has lent a somewhat manic-depressive rhythm to the discussion of regionalism – bursts of enthusiasm followed by attacks of doubt. The sequence marks not just the academic literature, but, as the highs and lows of public response to the European odyssey show, seems to be peculiarly intrinsic to regional integration. Or take the contrast between the more incautious expressions of enthusiasm for the North American Free Trade Agreement (NAFTA) – “not only are the three countries of North America *more alike today than ever before*, but *their people like each other more than before*” – and the damning title of a civil society report, *The Failed Experiment: NAFTA at Three Years*.³

At the same time, the academic study of regionalism has also become a rather unusual one. Under the influence of the discipline of International Relations in general, and of the theory of neorealism in particular, the regional sub-discipline has come under pressure to deliver up a grand theory of regionalism's place in world order, or the world system. This demand is reflected in the increasing adoption of comparative, holistic – indeed, global – approaches in regional study. There is now no region of the world which has not been put in some kind of comparative perspective.⁴

The trouble, though, is that the perspectives have also multiplied, from international political economy to the last strong contender, security – in a queue which the governance perspective of this book joins. Each perspective is faced with the sub-dividing imperatives of comparative holism and empirical specificity. But as each perspective attempts to hold to both, so the field divides deeper into sub-areas. The paradoxical result is that holistic theories of regionalism are now generated from within sub-areas of regionalism.⁵

Is the quest for a grand theory of 'the regionalist project' quixotic? In fact, as Mónica Serrano's genealogical excavation of the regional field in the next chapter shows, the question is better if turned around: can the discursive project of regionalism ever recover from the economic theory which has done so much to deform it? If regionalism is not a theme which easily finds its footing in contemporary discussions of globalization, it is in no small measure due to its singularly unfortunate legacy from the *anti*-regionalism of that theory. What to do with that legacy remains a central challenge for the new perspectives on regionalism. Working with it yields what she calls a discursive deficit for a field which has had little vocabulary for non-economic regionalizing motives. Ignoring it is itself quixotic when anti-regionalism has left such a mark on none other than theory-demandant International Relations.

Serrano's argument provides a justificatory basis for the methodological pluralism within this book's governance perspective on regionalism. Economics is not spirited away; but neither is it sovereign. In chapters 4 and 5, indeed, economic processes are also, inextricably, political and governance processes. The cross-fertilization of economics, transnational politics, security and governance is the hallmark of this book's method: it gives us our perspective on regionalism in the Americas.

Why only the Americas? The negative answer has already been implied: comparative approaches are theory-building largely to the

degree that they narrow perspectival plurality down. The same is even truer of predictive approaches. Second-guessing the future of the Americas, on the bases, say, of the current state of the negotiations over the Free Trade Area of the Americas (FTAA), or of Latin America's putative consolidation of democracy, is not a game this book goes in for. Too many undirected continental and regional forces, so many perspectives are involved, (and too many predictions about regionalism in general have been wrong), to make it one worth playing.

This, of course, can be put more positively. Every region is unique; some may be more unique than others; but only in the Americas does an approach to regionalism by definition have to encompass the supra-comparative question: regionalism's relation to the one global hegemon, the US. Africa, Asia, and Europe all have to deal with America; Latin America deals with it directly. The latter's situation is, in both senses, comparatively unique.⁶

So too, in a less immediately obvious sense, is the situation of a hegemon which is also a regional actor. As Buzan and Waever noted in 2003, the main trend in discussions of regional security has been to omit the US – because its global reach exempted it from regional consideration.⁷

In the long perspective which Louise Fawcett opens in chapter 2, the global hegemon has indeed been a forceful, but also normatively driven regional player, under the banner of over two hundred years of pan-Americanism. Hegemonic it might be, but the US was never able wholly to impose its regional idea over the competing, and well-established Latin American idea. The complex dance of resistance, engagement, and withdrawal which Fawcett choreographs for a US with many ways of intervening, and a Latin America with fewer hopes of escaping, can be seen being repeated in today's maneuverings, as many of the subsequent chapters bear out.

Fawcett's chapter gives the book two of its key motifs: competing regionalisms, and regionalism as an arena for competing political and cultural ideas. Both are taken up by Lorena Ruano in her dynamically comparative approach to interregional relations between Europe and the Americas, contributing to the fast-growing literature on the phenomenon of "inter-regionalism."⁸ Moving beyond the static debate on "models" of integration, Ruano presents a European Union (EU) which is keenly aware of being in competition with the US in the Americas, and whose long ties with the Common Market of the South, *Mercosur*, constitute a potentially significant political obstacle to the achievement of an FTAA. But competing regionalism goes beyond tit-for-tats: in recognizing that the "democratic deficit" is a governance issue, the

EU is also stealing a march on the very different ideas of what integration entails in the Americas.

That in turn is a question which Diana Tussie and Ignacio Labaqui purposefully beg in their chapter on the “grand bargain” of the FTAA. Sweeping across a vast panorama of conflicting domestic and national interests, they see a Caribbean whose ultimate incentive is that it has no choice, an Andean region also seeking to retain already existing trade preferences with the US, and a Southern Cone divided between an enthusiastic Chile and a wary Brazil. As for the US, its main incentive lies in using the FTAA as a “tool” with which to secure hemispheric-wide alignment with US laws on intellectual property rights, services and investment.

While more focused on a specific issue – the dispute resolution mechanisms set up by NAFTA – the chapter by Gustavo Vega-Cánovas offers an indirectly optimistic counterview. Although asymmetries clearly exist between the NAFTA three, the mechanisms have established a track record in which compliance with legal rulings rather than trade power politics has largely won out. The significance of Vega-Cánovas’ scrupulous analysis increases if these mechanisms are indeed to be incorporated into an FTAA, in which case Brazilian hopes for trade-remedy laws might not be in vain.

NAFTA and asymmetry are also the themes of the chapter by Blanca Torres – but with a twist. Few could have predicted that transnational coalitions joined over environmental protection would become such successful children of NAFTA. But while charting this success story, Torres also highlights asymmetries, both between the success of the environmentalist and the less inspiring story of labor coalitions, and within environmental coalitions themselves, divided as they are between policy orientation and grassroots activism.

Torres’ observations are directly taken up in the “insider–outsider” schema advanced by Korzeniewicz and Smith’s discussion of civil society actors. Here asymmetry gives rise to polarization, as the “insiders” may find themselves in the privileged position of being delegated to by governments looking for efficient “private” solutions to sensitive policies. If a unified global civil society can thus not yet be seen in the Americas, in the more broadly political regional map which Korzeniewicz and Smith end by drawing, its participation is nonetheless critical to the project of a democratically “transformative regionalism.”

For many, democratization was already supposed to have transformed Latin America. In his chapter, Laurence Whitehead challenges the irreversibility of this assumption, prying open the notion of a

“norms cascade” to find many and growing tensions between the region’s formally established electoral democracies and the expanding universe of human rights demands. Comparing Latin American human rights protection with Europe’s, noting the discrepant standards used by international human rights monitoring agencies, Whitehead’s analysis is not designed to yield easy answers, but rather to spur on the need for vigilance.

Nor are easy answers to be found in the wide-ranging agenda of Andrew Hurrell’s chapter which both synthesizes many of the arguments presented in the book, and takes us on a compelling tour through liberal perspectives on hegemonic power logics. Like Whitehead, Hurrell is cautiously suspicious of the case for hemispheric convergence around US-promoted norms and values. Instead, he suggests a more realist appreciation of the phenomenon of hegemonic consent: as the best hope for weaker states to institutionalize cooperation and constrain the hegemon. At the same time, though, this picture also implies ‘the limits of regional governance’.

Those limits are sharply delineated in David Pion-Berlin’s account of security cooperation and hemispheric threat in the Southern Cone in which he initially draws the contrast between a successful new tradition of sub-regional confidence building, and the pressure to accede to US militarization in response to the newer threats of drug trafficking and terrorism. If no country in the sub-region is at liberty to refuse that pressure, Pion-Berlin also, however, turns critically back upon the achievement of sub-regional security cooperation, questioning its ability to adapt to the new hemispheric security environment.

In the chapter by Neil MacFarlane and Mónica Serrano, we arrive at the most dramatic manifestation of that new environment in the continent: the impact of 9/11 upon the management of the US borders with Canada and Mexico. In keeping, though, with the long perspective of this book, for MacFarlane and Serrano the US move to securitization of its borders becomes the springboard for a far-reaching comparison of the political, historical, cultural *and* economic repercussions of Canada and Mexico’s integration with the US under NAFTA.

If regional integration can now be accepted as having significant repercussions for national identity and sovereignty, the issue is in turn deeper than the “collision course” between securitization and economic integration. In the Conclusion, Mónica Serrano draws together a range of factors which have been working toward regional disintegration within the Americas, fundamentally questioning the viability of the “regional project in global governance.”⁹ These factors stem

from both economics and security, in the forms which they have taken under the US hegemon's leadership. But they also stem from the governance crises within Latin America – or, the failure of 'governance' to respond to crises of the magnitude of the Colombian. In a manner which earlier accounts of the relation between regionalism and global order might be surprised by, regionalism in the Americas can now indeed join the globalization conversation – as a unique and comparable case of integration's logics of fragmentation.

Notes

- 1 Peter Andreas, "A Tale Of Two Borders," in Peter Andreas and Thomas J. Biersteker (eds), *The Rebordering of North America: Integration and Exclusion in a New Security Context* (New York: Routledge, 2003), p. 19.
- 2 Karl W. Deutsch, *The Analysis of International Relations*, 2nd edn (Englewood Cliffs, NJ: New Jersey, 1978), p. 226.
- 3 The quotation comes from Robert A. Pastor, *Toward A North American Community: Lessons from the Old World for the New* (Washington, DC: Institute for International Economics, 2001), p. 158. Italics in the original.
- 4 For one *tour d'horizon*, see the five-volume UN/WIDER series on "The New Regionalism" coordinated by Björn Hettne (Basingstoke: Macmillan/Palgrave, 1999–2001).
- 5 For a rigorously hypothetico-deductive case in point, see Barry Buzan and Ole Waever, *Regions and Powers: The Structure of International Security* (Cambridge University Press, 2002), p. 79: "The possible forms that regions can take are derived from the concept of the RSC [regional security complex]..." For a recent attempt to bring together leading theories of new regionalism, see Frederick Soderbaum and Timothy Shaw, *Theories of New Regionalism: A Palgrave Reader* (Macmillan/Palgrave, 2003).
- 6 This point is well made in Alberto van Klaveren, "America Latina y la Unión Europea. La otra relación transatlántica," in Christian Freres and Karina Pacheco (eds), *Desafíos para una nueva asociación. Encuentros y desencuentros entre Europa y América Latina* (Madrid: Caterata: 2004), pp. 107–28.
- 7 Buzan and Waever, *Regions and Powers*, p. 268.
- 8 See, for example, "La Unión Europea y América Latina: Interregionalismo, identidad y gobernabilidad," in Freres and Pacheco, pp. 129–58.
- 9 Helge Hveem, "The Regional Project in Global Governance," in Soderbaum and Shaw, *Theories of New Regionalism*, pp. 81–98.

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Regionalism and Governance: a Critique

Mónica Serrano

Introduction

Even though additional acronyms are perhaps the last thing regionalist discourse needs, here are some of the FAQs (frequently asked questions) around which it has integrated.

Why has regionalism revived since the late 1980s? In terms of what models or theories should it be analysed? Does it pose a challenge to neorealist views of world order, and/or to the multilateral world trading system? Does ascendant regionalism relate to hegemonic decline? Is regionalism globalization in a minor key?

Some of these are questions with reasonably high aspirations. So it comes as all the more of a surprise to learn, as any reader of the literature soon does, that regionalism as a field of study is largely a dismal business. “Little consensus” is forgivable – but “depressing ambiguity”?¹

The words “unresolved,” “inconclusive,” “elusive” and “ambiguous” toll through the literature. Forget the big questions. In regional study, the most frequent of all FAQs remains: what *is* a region?²

This leads to a rather startling situation: while there are certainly theories of regionalism, they share no agreed epistemological foundation. Theories of regionalism, as suggested in the Introduction, set off from *different* foundations. This yields holistic theories based upon partial grounds.

That the problem, though, goes deeper than this becomes immediately apparent if one sketches a comparison between the study of regionalism and the theory of neorealism. While that theory evolved from the questionably loaded premises of classical realism toward more analytically deductive structural laws of explanation, it has never relinquished the claim both to *know* its object and to *see* it better than

others. To the contrary: “Realists maintain that there is an objective and knowable world.”³ The scientifically deductive laws assist in knowing and seeing the world better.

By comparison, the swelling chorus of cognitive despair in the literature on regionalism is a complaint about the lack of a foundation for knowledge. This does not mean that the regionalist field has gone to the other extreme and adopted a relativistic approach in which regions are what we make of them. Objective descriptions and definitions of regionalism are everywhere advanced. But without a covering law of general explanation, regionalist descriptions and definitions *are* discursive in the sense adopted by this chapter: they form a set of relations between statements which, taken together, constitute the regionalist field.

The disclaimer about constructivism should be insisted upon. The intention here is not to deny objectivity, or even to quarrel with the claim that it is “objective reality that largely determines which discourse will be dominant.”⁴ Discursive dominance based on a particular kind of objectivity has been a distinctive feature of the regionalist field.

So too has division. The major original split was between a political analysis of economic integration in Europe, and an economic analysis of the political-international consequences of regionalism. A distinctive sub-discourse of “security community” also made an early showing, with Karl Deutsch, but would remain dormant until reproduced decades later as the (still) sub-discourse of regional security complexes.

The original division has been irregularly reproduced within the field, and indeed makes it a field of statements rather than an evolving, covering tradition.

The parting of the regionalist ways: a tale of two theories

As noted by Andrew Hurrell in 1995: “The theoretical analysis of regionalism conventionally begins with those theories that were developed explicitly to explain the creation and early evolution of the European Community.”⁵ The specific reference is to *The Uniting of Europe*, published in 1958 by Ernst Haas.

Meanwhile, for Arvind Panagariya in a 1999 overview of the regionalism debate: “Viner’s seminal concepts (1950) of trade creation and diversion remain central today.”⁶ The specific reference is to *The Customs Union Issue*, published by the Carnegie Endowment for International Peace.

Both references go back a long way. Both tell us that there is regionalism, and then there is regionalism. Why is one theory only conventionally invoked while the other is still seminal?

The discursive moves which are open to what we shall call the institutional-theoretical half of the regional field are limited – this is the point of calling them conventional. Analyses of *this* regionalism conventionally begin with the (European-specific) theory of neofunctionalism which immediately has to be rejected, because it didn't work (and was European-specific).⁷

Haas' theory has been summarized so many times that it is worth recalling that it, like the regionalist use of the word "supranational," was once original:

As the process of integration proceeds, it is assumed that values will undergo change, that interests will be redefined in terms of a regional rather than a purely national orientation and that the erstwhile set of national group values will gradually be superseded by a new and geographically larger set of beliefs.⁸

Now compare a standard reprise:

Neo-functionalists emphasize an incremental and gradual process of change driven fundamentally by the logic of self-sustaining processes which cause integration in one sector to "spill over" into others.⁹

The reprise is not a misrepresentation of the logic of Haas; but it is a reduction of his discursive scope. Haas used the "spill over" phrase once; in the secondary literature, it is his only signature tune.¹⁰

To be sure, at the end of a sophisticated discussion of the heterogeneity of values and beliefs about Europe in the 1950s, Haas was moved to set more store on "*gradual* change in economic and political relations in the direction of unity."¹¹ But what he meant was that no ideologically doctrinal expression of values and beliefs would be as functional as their gradual convergence; *not* that values and beliefs are in themselves functional. Haas also posited "that economic integration... does *not necessarily* lead to political community since no pressure for the reformulation of expectations is exercised."¹² This refusal to equate free trade with regional integration, and the question of expectations, are themes which this book will revive.

Yet, as Hurrell writes ominously: “criticisms grew... the theory failed to predict [the] evolution of the EC.”¹³ What Hurrell is evoking is the second reductive move, one we shall also find used against regionalism’s economic discourse. It shrinks the theoretical compass into a short-term tool of prediction about “where regionalism is headed.” As Lorena Ruano demonstrates in this volume, one consequence of this move has been to reduce the role of Europe in regionalist debates to the narrow question of its exemplariness versus exceptionalism, while – in an ironic twist – really, existing interregional reality has long moved on.

Haas himself was certainly headed toward “political community.” Not for nothing was his analysis based upon perceived loyalty shifts; the new regional community was where his loyalty lay. Thus, with the discourse represented by Haas, there were in fact two dimensions. First, a theory which carved out from the Cold War an autonomous space for institutional regionalism. And, secondly, a floatingly positive evaluation of regionalism.

Depressingly for the prospects of both, Haas ceded to the objective-predictive criticisms, penning in 1976 a recantation forbiddingly entitled *The Obsolescence of Regional Integration Theory*. Neofunctionalism’s successor, neoliberal institutionalism, quickly moved on to “international organization more generally conceived.”¹⁴ And the positive valuation of the themes of regional community and identity disappeared. The field of regionalism lay open to a discourse claiming greater predictive objectivity. Ambivalence replaced loyalty as the orientating value in the field.

Jacob Viner’s concept was that internally tariff-reducing customs unions (and preferential trade areas) may create new trade between union members at the price of diverting trade from lower-cost suppliers outside the union to the advantage of more inefficient but preferentially treated, higher-cost suppliers inside the union. Regional integration, in other words, *may* encourage rent-seeking behavior and promote protectionism among members. The Vinerian calculation of static welfare distribution is then about whether more trade is created than diverted.

Even for those regional economists who could wish to see more complex models taking into account the members’ ability to achieve economies of scale and the terms of trade effects upon them, the appeal of Viner’s “basic insight” on the regional field is hard to overestimate.¹⁵ For the beauty of Viner’s formulation was that, while apparently closed around a fixed set of quantifiable resources, it opened a

niche for a larger set of questions about regionalism's place within the multilateral trading system, notably: is economic regional integration compatible with multilateral liberalization? In other words, how much do regional integration schemes hurt members and non-members?

That these were not largely open questions takes us, as with Haas, back to Europe. Writing in 1950, for a major International Peace institute, the background to Viner's theory was one of the failure of multilateral economic institutions to prevent either the Great Depression or great power rivalry centered upon "discriminatory trade blocs and protectionist bilateral agreements."¹⁶

To sketch that context so cursorily is to risk falling foul of Payne and Gamble's stricture against "casual reference to the supposed lessons of the 1930s and the inexorable descent into world war which followed the unfortunate regionalist tendencies of that decade."¹⁷ Although "many observers" go along with the argument (which the authors take in the direction of the declining hegemon thesis), it is "fundamentally flawed."

True as that is, what about those many observers? Telling them that they are wrong may cut less ice when they can find "fear of regions" and "malign regionalism" reproduced from *within* regionalist discourse.

Clearly, Viner was not the progenitor of all the demons. In fact, as Stephan Haggard notes, "Viner's formulation was fundamentally indeterminant" over the effects of regional trade diversion.¹⁸

He was indeterminant about more than that. In a sentence which a more solidaristic field might have wanted to suppress, Viner also wrote:

Economists have claimed to find use in the concept of an "economic region," but it cannot be said that they have succeeded in finding a definition of it which would be of much aid...in deciding whether two or more territories were in the same economic region.¹⁹

The upshot? Whatever regionalism was, regionalist economists were predisposed to be against it. Discursively, the question might have appeared to take the form of a studied ambivalence: is regional economic integration a building block or a stumbling block to global free trade? But, when posed by free trade purists and liberal international economists, the question was, of course, only a leading one.

From a revisionist developmental perspective too, Sheila Page concludes: "Liberalizing to all countries, rather than the region, may give gains both from greater openness and from openness to, on average, a

more stable environment” – by which she means the environment regulated by the World Trade Organization (WTO).²⁰ Or, in the words of the Report of the Commission on Global Governance: “It is also unclear whether regional organizations will become building blocks of a more balanced global economic order or degenerate into instruments of a new protectionism that divides the world.”²¹

And so on. Half a century’s worth of variation on the theme of regional malignity has left a legacy which is hard to avoid. The comparative moral is also clear enough: if institutional-theoretical regionalist discourse became “positively” entropic, the economic paradigm of regionalism has been reproduced beyond the field, running and running on the negative entropy fed in by its outlet to the larger discourse of global multilateralism.

Regionalism and the costs of paradigm-capture

For the discourse of regionalism, though, this has also been a paradigm-capture. As Sheila Page has also generously noted: although “multilateral trade would almost always be better (or even unilateral multilateralism),” “what is striking is that those supporting regions do not do such calculations.” Instead, “opponents” do them.²²

Typically, this invites the move to prediction again, now by defenders hoping for a better outcome. Opponents of regionalism may have had good cause in the past, but this time – with open regionalism – it’s going to be a different story. Here we have a range of non-static benefits, from locking-in liberalizing reforms domestically and signaling a commitment to them for foreign investors, a medium- as opposed to short-term focus on improving sectoral economies of scale, *as well as* greater conformity with, and even recourse to, world trade rules. In more sophisticated accounts, the dispute is no longer “between free trade and protection, but rather between free trade and strategic trade.”²³

For approaches other than the predictive, the issue is more vexed. Discourses of regionalism also exercise a material effect upon the development of regionalism in the real world. Where a discourse fades away, it leaves a vacuum in the real-world debates; where a discourse successfully reproduces “hegemonic deference,” to borrow Andrew Hurrell’s phrase in this volume, it is not an inert object to be shunted to one side by a free-standing real world. Instead, it continues both to condition the terms of debate for new participants, and to influence “what is going to happen.”

Thus, if free traders continue to be unconvinced by open regionalism, so too do many of its defenders.²⁴ On the one hand, anti-regionalists still tend to concede that regional trade may be “benign” only after they have reassured themselves that its percentage of world trade is either not that great, or, better still, is falling.²⁵ But, more deeply, the anti-regionalism of regionalist discourse has extended beyond trade diversion *per se* to target the proliferation of trade-distorting rules of origin, countervailing and anti-dumping measures, which also characterize the new regionalism. In turn, the new theme of economic regional governance has not been conjured out of thin air; it has been a response to a real-world-influencing discourse of regionalist ambivalence.

But while some new themes may enter the discourse as extensions of its paradigmatic core, others may not find the ride so easy. One of the commitments of this book is to expand the discourse beyond its core. At the same time, with what Diana Tussie and Ignacio Labaqui call the “grand bargain” of the Free Trade Area of the Americas (FTAA) at the forefront of peoples’ minds when they consider regionalism as it exists today in the Americas, the book cannot help also reflecting the paradigmatic dominance of free trade over what could be, what should be, but what all too often is not, a wider discourse of regional integration. Is a more plural discourse now possible? Does the dominant economic discourse fit with and cover not only all that we mean by regionalism, but also all that is happening within the new integration of the Americas? The answers are yes, and no, but we need to go a bit further before getting to them.

And paradigm shift?

The obstacle that confronts is this: economists have themselves highlighted the limits of the economic paradigm, by dividing its trade core from its ‘trade-related’ periphery. But while this division limits the paradigm, it also recognises it.

The issue is motives – and expectations. For anti-regionalists, the motives for regional integration are either unchanging or baffling. The unchanging motives belong within the paradigm; the baffling ones exceed its jurisdictional limits, and so do not need to be accounted for.

First, take unchanging motives: *does* the move to open regionalism in fact signal a step from protectionist to liberalizing motives among regional integrators? After all, open regionalism fixes tariff barriers for non-members at the level prescribed by GATT Article XXIV, has the potential to open discriminatory arrangements to non-members, could

possibly promote both unilateral and multilateral liberalization – might even break down the barrier between regionalism and the global system. Isn't a transformative shift in evidence? No, writes Arvind Panagiriya:

despite lower (though by no means low) external barriers today, the motivating force behind regional arrangements is no different than in the 1950s and 1960s. Now, as then, discrimination is the name of the game as member countries continue to be driven by a desire to secure a *preferential* access to the partner country's market.²⁶

Open regionalism, to answer the FAQ, is a contradiction in terms. Or, in terms of the other FAQ – how new is the new regionalism? – the answer remains “not very.”²⁷ Routinely dangled between inverted commas, even the word “new” has not been welcome in the discourse.

That, however, does not settle the matter. Indeed, the more open regionalism shows signs of approximating to the optimal answer, the more inexplicable becomes its failure to get it right first time: “Why didn't they [the new regional integrators of Latin America] opt for multilateral liberalization or simply unilateral liberalization?”²⁸

But, if economic regional integrators start by going wrong, why *do* they do it?²⁹ If regional members stand to lose income from integration, or to gain less than they would under multilateral trade; if “the reality [is] that multilateralism, rather than regionalism, offers the most viable answer to globalized trade”; if *there is no optimal economic logic to economic regional integration* – what are we to say?³⁰

Not our problem, say the economists; look for non-economic motives. Or, in the words of the rather weary axiom: “trade is an issue that is not only about trade.”

Now, this may well count as news – but only to those who have been laboring under a dominant paradigm for so long. As a basic insight, it has its uses. On its back, “domestic factors” and “the security dimension” have hauled themselves into the field. But while they have presented “challenges,” neither has attempted an overthrow of the economic paradigm. The “two-level games” of domestic analysis hardly touch upon sub-elite realms, understandably perhaps when these are often seething with opposition to the perceived neoliberalism of free trade policies. For its part, the new study of regional security complexes has been notably mute on trade as a past and potential source of security conflict.

The challenge instead remains the one posed by the economists: why should there be any motives for regional integration (if we must allow that it happens) other than trade? These motives will probably be malign. If they are malign, they are probably politically motivated.³¹ Political motives scarcely count as rational motives; others count not at all.

Faithful to this sovereign set of assumptions, regionalist discourse has fallen upon ordinary language with the reforming zeal of an arbitrary monarch:

Regionalization or regionalism has been used to refer to an *economic* process in which trade and investment within a given region – however defined – grow more rapidly than the region’s trade and investment with the rest of the world...

Regionalization in this economic sense should not be confused with regionalism as a form of *political* organization...³²

[Regional] widening means an enlargement of the market, permitting even greater economies of scale. Deepening involves the reduction of internal barriers or distortions.³³

To which list of ordinarily capacious, but regionalistically shrunken terms might be added “convergence,” “integration” and “cooperation.”

Regional widening, regional deepening – shouldn’t these also refer to values and beliefs? But no. Regionalist discourse provided no vocabulary for those motives. In Habermasian terms, regionalism is all system, no sociocultural lifeworld. The cost of paradigm-capture is discursive deficit.

Regional evolution...

Where are regions? Where are they going?

If many analysts have got stuck on the first question, no one wants to get left behind with the second. This has produced an odd disjunction within regionalist discourse. While its fifty-year-long foundational economic debate has been backward-looking, the discourse has also drifted quietly along on a pervasive idiom of evolutionary process. Unlike the influence of the trade creation/diversion paradigm, the influence of this idiom has been subterranean.³⁴ Like the economic paradigm, though, the idiom has some claim to scientific validity. The combined effect of paradigm and idiom is perhaps sufficient to explain

why the social constructivist theory of identity transformation has been largely conspicuous by its absence within the discourse.³⁵

The source of this subterranean current goes back to Haas, with his conception of political integration “not as a condition but as a process.”³⁶ If Haas brought evolutionism into regionalism, however, it was on more ambitious grounds than the less than gripping summaries of neofunctionalism convey. States were not “immutable entities”; Belgium came into existence in 1830, “Germany federated in 1870”; the new environment of the European Community would be a threat to the European nation state’s survival – eventually.³⁷

The argument, as so often pointed out, was circular (the institutions that survive are those that were going to survive). Nonetheless, it is behind both sides of the debate about the new regionalism, surviving in the general claim that constantly evolving environmental contexts both select institutions and social practices and demand their continuing adaptation. After that common assumption, though, the sides divide.

Defenders of the new regionalism tend to say that region building is a learning experience for imperfectly competitive exporters in developing countries: “the regional context allows for liberalization in a more predictable and controlled environment.”³⁸

Opponents tend to be more grudging: “if a region survives is the only test.”³⁹ The *if* is either meant to be a big one, or to beg the question of *how* regions survive – as selfish mutants; at best, hosts for parasitical rent-seeking firms, at worst, packs of predators (bound together only by temporary alliances) of the global system. Not for nothing does the “building block” image of the globalists quote pointedly from the language of DNA.

The tenor of anti-regionalism, more social Darwinist than Darwinist, is pervasive in one of the literature’s most characteristic modal judgements: why should we expect regionalism, the error in the copying of DNA, to survive? “In the past, almost all [regional] groups have failed.”⁴⁰ Many of the regional arrangements of the late 1950s and early 1960s, particularly among developing countries, “were still-born.”⁴¹ In Latin America alone, the fossil record gives us: LAFTA, CACM in its first version, and AG.⁴² In turn, perhaps the most frequently asked question about the loosely institutional *Mercosur*, formed in 1986, has been: when is it going to die?

When it emerged in the 1990s, the study of the new regionalism was deeply marked by such views of the limited life to be expected from it. In a very British survey, the authors of *Regionalism in World Politics*

heaped up “the legitimate scepticism about the prospects for regionalism”: “None of the authors... suggests that there is some unstoppable momentum towards regionalism and several are deeply sceptical...”⁴³

Despite the Lazarus-like resurrection of cases like the Andean Group, which by 1995 had become the Andean Community, the argument against unstoppable momentum has been widely followed. Unlike, say, classic sociological theory’s world-differentiating march from tribal organization to modernity, regional discourse has preferred to talk of process rather than “progress.”

Regionalist discourse, in other words, is still marked by the counter-reaction against what it took to be European teleology talk in the 1950s. In evolutionary terms, the fallacy to be avoided is the Lamarckian one, as found in the following atypical regionalist statement: “All successful regions, and most others, not only allow early links to evolve, but have other objectives other than freeing trade, and this may be essential for the *will to evolve*.”⁴⁴ A will to evolve can neither serve as a causal explanation of regional evolution over time, nor account, any more than could Lamarck, for the evolution of adaptive complexity.

Once again, then, we come up against a veto within the discourse: regionalism is just not an entity which one can talk about in terms of political intentionality or normative aspirations. It is “not based on the conscious policy of states,” but on “the often undirected processes of social and economic interaction.”⁴⁵ Its evolution, like all evolution, is “blind to the future.”⁴⁶

In the Americas, it is a continental drift.

... and evolving globalization

If the idea that regions just evolve in order to survive may put us in mind of neorealism, so the idea of regionalism as on an undirected path to greater adaptive complexity may well put us in mind of globalization.

Indeed, much of what can now be said about regionalism can equally be applied to globalization, as evidenced by the recourse to integrative images of flows and networks common to the discourses of both. In words which may sound familiar, for example, Björn Hettne writes: “We are concerned with a process [globalization] rather than a condition.”⁴⁷

That the journey from coal and steel, tariffs and sectoral agreements, should have taken regionalism to rub shoulders with the world of cell-phones and the Internet, CNN and Nike, is itself a proof that nothing

wills its own evolution. As they have interconnected, so the discourses of regionalism and globalization have also thrown up new questions. The most salient for our purposes is the question of governance.

But we cannot turn to this immediately: *old* questions have also been thrown up. As with the discourse of regionalism, there are many in the discourse of globalization who have picked up the hard end of evolutionism: globalization is a competitive environment demanding complex adaptation. In the words of the Director-General of the WTO: "And this system requires us all to adapt."⁴⁸ (He leaves the "or" to speak for itself.)

And there are some who have wanted to paint globalization as an end-historical teleology, heading to the universal goals of capitalism and democracy. For anti-regionalists, the temptation is there to conflate these two views, making it hard for them to resist seeing in the reigning globalized environment a fulfillment of their prophecies about the viability of the lesser regional species. Hard too for those sweeping the global skies not to take them up at their word:

Present-day diagnoses of the world economy are torn between the vision of an increasingly globalized economy and one which is relapsing into regional blocs, based on North America, Europe, and East Asia. In this image, with memories of the 1930s, globalization takes on the role of hero slaying the dragon of competitive regionalism.⁴⁹

This scenario, of course, as the author is the first to tell us, is "simplistic." Hence its appeal. When it comes to slaying the dragon of regionalism, some pro-globalists forget their anti-Lamarckian scruples: globalization (at last) is the end of regionalism.

Or should be. If the species still survives, it is because of an accident that happened in the Americas. In 1982 – runs the story – the US, frustrated with the protracted stand-off with the EU in the eighth round of GATT multilateral trade negotiations, suddenly saw in regionalism a means both to push on with trade liberalization and to increase its bargaining advantage over the EU. As Andrew Wyatt-Walter took up the story:

"For the first time since the Second World War, the USA is actively pursuing its own regional policy, rather than playing its traditional post-war role of ensuring that the regionalism of others, particularly

Europe's, remains reasonably compatible with multilateralism in international economic relations."⁵⁰

But the luck of the new regionalism cannot hold out for long. If it began as a beneficiary of larger historical processes with the vacuum-creating, internationally diffusionist end of the Cold War, the survivor's luck will end when the US sees the error of its regionalist-promoting ways and returns to its globally hegemonic role in the multilateral fold.⁵¹ Mexico got lucky with NAFTA; the luck of the other Latins will run out.⁵²

Is this the true story of regionalism today in the Americas? A story not really about the Americas, but about the US; not really about regionalism, but about the road to globalization? To answer affirmatively is to concede too much to the teleological assumptions, but, as the rest of this book should make apparent, there are both newly hegemonic drives from the global power of the US re-shaping the Americas, and discernible patterns of regional *dis*-integration in response to them. In this other story, the question is not so much "where is the US headed?" as: what are the effects of its global-regional policies *wherever* it is going?

This question intersects with the more nuanced stories about regionalism and globalization which, naturally, one can also find. Let us briefly consider two.

One, which we can call the *global-integrationist* story of regionalism, sees more synergistic feedbacks than the choice between adaption or extinction in the new regional-global system. Here, for example, regionalism's comparative advantage to the US consists in its freedom to try out new rules over intellectual property rights and investment, services and government procurement, in the regional laboratory – rules which an overstretched international regulatory system may either not regulate, or may indeed, as Richard Feinberg notes, later adopt.

The larger moral of this story, then, is that regional integration "reflects the evolution of the global system."⁵³ "There are powerful pressures towards greater conformity," writes Andrew Gamble, "some of which are being expressed through the new regional arrangements."⁵⁴ Too many pressures, too much conformity? Regionalists committed to finding the regional level of analysis will not be encouraged when they find the EU, ASEAN and NAFTA lumped with the WTO as instances of "the globalization of the economy."⁵⁵

So finally, then, what of the case for an *intermediate* story? Fittingly, the story here is more cautious. Regional integration is a “strategic compromise,” regionalism is “ambivalent.” More informatively, Gamble and Payne write: “regionalism typically seek[s] to accelerate, to modify, or occasionally to reverse the direction of social change which emergent structures like globalisation and regionalisation represent.”⁵⁶

For them, the critical variable was the state (which is why it makes sense to talk of regionalism reversing regionalization). Certainly, a state like Brazil may seek to modify the regionalizing agenda of the FTAA. But is modification a reverse or acceleration gear? Where, in other words, is this story going?

Both the integrationist and the intermediate stories are agnostic about the future trajectory or survival of regionalism. On the one hand, they have to compete with the first, stronger story of regionalism’s supercession, the story whose assumptions one may not wish to buy, but which it is increasingly implausible not to acknowledge. On the other, try as they may, they can no longer crank up a dialectic between regionalism and globalization – a dialectic in which state-led regionalism would serve as a stable, resistant antithesis.

Where, then, are the non-synergistic energies between regionalism and globalization to be found? In the Americas, regional opposition to globalization is most productive in the activity of transnational civil society actors. But their activity is also, of course, itself a manifestation of regional globalization.

Regional anti-globalization

Globalfóbicos, as they are quaintly called in Latin America, give us a variation on one of regionalism’s oldest themes: the insiders *versus* the outsiders. Anti-globalization movements seem to be the new outsiders. Ironically, though, we can find role models for movements seem to be the new outsiders. Ironically, though, we can find role models for them in, of all places, the neofunctionalism of regionalism and its neoliberal institutionalist successor. Haas saw the integration process as being moved by non-state actors (by which, admittedly, he meant interest groups and political parties), while Keohane and Nye then educated us as to how transnational relations arose to deal with problems of complex interdependence.⁵⁷ Today’s anti-systemic outsiders are also inside parts of the regionalist legacy.

As Blanca Torres’ chapter demonstrates, we need to go back to NAFTA in order to understand the subsequent mutation of these two

strains in the Americas, and the paradoxes that have ensued there. If NAFTA is unique in its labor and environmental clauses, it is because the protectionist Blue and Green anti-integrators successfully mobilized for them. The anti-founding fathers, that is, were also founders; the outsiders came in; and the rest is the transnational history Torres, Korzeniewicz and Smith deal with, in all of its outsider-insider permutations.

The specifically regional dimension of the story concerns the manner in which transnational civil society action has *spilled over* onto the Summits of the Americas, in Miami, Santiago and Quebec, the meetings of the World Social Forum in Brazil. Now, while anti-globalization may well now evince nuances amongst the protests, the overall picture is strikingly inter-fused: a “protectionist” transnational anti-globalization movement which, in the FTAA, targets a hemispheric-regional arrangement as a symbolic dragon of globalization. So much for the old binary opposition.

Nor, of course, is the role of the Brazilian state in this inconspicuous. While at the intergovernmental level, the state can only hope to modify the FTAA, it is as a host for transnational civil society that it may hope to see a reversal. The transnational politics of opposition have altered the whole meaning of “resistance from the periphery.”

Korzeniewicz and Smith point to the democratizing potential of the coalitions for a “transformative regionalism.” Yet they also join Torres in perceiving a tendency for them to replicate power asymmetries. The solidaristic identity transformations of which earlier theories could confidently speak are often missing, being replaced – to use another old phrase – by “temporary alliances” between actors willing to put both identities and loyalties to one side. At Quebec 2001, for example, Blues and Greens lined up with Republicans over the issue of labor and environmental standards, and developing countries aligned with free traders.

The inescapable conclusion is that transnational coalitions tend to reflect not just the relative empowerment of their US members, but also the domestic divisions within the US. This mutated “hegemony” needs at least to be recognized in the prospectuses being written for a global civil society.

But, with their criss-cross of global and anti-global vectors, transnational coalitions also deserve to be considered as one of the forces of the order in chaos in regionalism in the Americas. Graphically, the democracy clause at Quebec was signed to the sound of street protests and police “repression.” More disturbing, the polarization between insiders and outsiders is, as Korzeniewicz and Smith well put it, a cause

and consequence of deeper social fragmentation in Latin America. And finally, with regards to the hemispheric-regional “process” itself: are the modifying insiders inside a process they are attempting to reverse or accelerate? Are they, indeed, exemplars of governance in action?

Regionalism and governance

Regionalism and governance might have been made for each other. Definitions of governance are indeed of less aid than the vaguely generalized, diffusely communalized understanding that it is about a cluster of verbs and a cluster of subject and object nouns. The verbs are: managing, regulating, cooperating, interacting, self-sustaining, self-reinforcing. The subjects of these verbs are: networks; sub-state, private actors; non-governmental collectivities; international organizations; transnational coalitions; epistemic communities. And the objects, when the subjects are not self-reflexive, are: efficiency; better management and regulation; guidance toward order.

Put it like this: governance is *not* about sovereign state-steering, although “it includes formal institutions and regimes empowered to enforce compliance.”⁵⁸ Nor is it about the achievement of determinate outcomes, although the notion of order is all-encompassing. It is, instead, underneath a dense, horizontal, decentralized, formal and informal, overlapping, interdependent, complex wash of adjectives, about *processes*.

Thus, despite its provenance in US corporate-speak, “governance” has gravitated around an organic, non-mechanistic linguistic core – not exactly nineteenth-century sociology’s *Gemeinschaft*, or Habermas’ lifeworld, but a core vibrant with positive, “feel-good” connotations. Governance gravitates naturally towards the word *good*.

And regionalism? No small part of regionalism’s survival after the assault on its malignity is also owing to a residual liberal sense that integration, convergence, cooperation and community are also naturally positive attributes. Regionalism and governance potentially share a vocabulary; governance also ascended as regionalism was re-appearing in the 1990s. From a regionalist-centric viewpoint, one might be forgiven for surmising that this new non-statist discourse represented a resumption of regionalism’s interrupted liberal institutional vocation.

Or, even farther back, its neofunctionalism: “the expansion of economic activity generates pressures for enhanced regional or international coordination by enabling... organizations to fulfill functions that states can no longer perform.”⁵⁹ The European Union, with its array of

networks, from public interest groups to specially privileged policy delegates, now provides a special case of neofunctionalism's legacy to new governance. (For many, its heavy bureaucracy also provides a clear argument of the need for good governance treatment.)

Outside the EU, though, the story has been different. Part of the answer has just been supplied: even as non-EU regionalism largely failed to follow a liberal institutional path, the dominant attitude in regionalist discourse was worried about whether coordination should be regional *or* international; whether, that is, a regionalism prone by definition to elude multilateral rules, should not itself be an object of regulation.

In other words, the wider debate about regional governance, when not conducted on the European terms noted by Lorena Ruano, replayed the terms of the trade paradigm. The accent thus fell upon the difficulties and costs for the WTO of regulating and managing free trade agreements, let alone "the other policy elements which a region may include": "Multiple levels of decision-making are difficult to manage."⁶⁰ On the basis of the need for a regime for regions as the list of "trade-related" issues also expanded, the WTO established its Committee On Regional Trade Agreements.⁶¹ While, presenting the logics behind the UN's Global Compact of 2001, John Ruggie defended the initiative to encourage global corporate social responsibility against "potentially far less friendly ways," namely "throwing the whole bundle of social and environmental issues into... regional trade pacts."⁶²

Even in regional security, where cooperation and conflict management could presumably come into their own as post-Cold War "goods," the slowness of the steps towards "the regionalization of peace-keeping" is as notable as the prominence of the argument about costs as a motive for the collective security providing UN. Nor are many yet persuaded by the effectiveness of regional organizations as managers of conflict.⁶³

Add the institutional weakness and political instability of developing nation-states, and more optimistic versions of regionalism as a pillar of international order have a lot of headway to make. The more representative stance is only cautiously ambitious: "What is certain is that, within such a system, regionalist governance is positioned to play a major role."⁶⁴ Which system? The "highly complex, 'plurilateral' system of governance."

Governance, that is, comes before regionalism; after all, the other word governance gravitates towards is *global*, which is not a neutral

word when set in relation to regionalism. To the extent that it picks up the signal from the old regionalist discourse, global governance, as we have seen, can very easily view regionalism as yet one more of the negative externalities thrown up by increased interdependence which it is called upon to manage in the globalization era. The converse is no less narrow: even more regional-centric governance approaches tend to cast regionalism in terms of *state* capacity to manage the negative externalities of globalization.⁶⁵

Only in Europe has governance converged synergistically with regionalism; elsewhere, analyses of global governance appear to betray governance's own guiding governance principle of neutrality when it comes to regionalism.⁶⁶ Where there is not hostility, there is silence.

This is the vacuum into which flows the other gravitational force upon governance: hegemony. Wasn't the denser international order portayed by global governance supposed to have side-lined the exclusive agency of hegemonic states? Or, to put the question more skeptically, didn't governance arise at the same time as the exercise of hegemonic power was in need of new sources of legitimacy? Why bring the old player back on to center stage?

Not only does this book have many separate answers to that last question; it is itself, in many ways, a response to it. The Americas cannot be mapped in any meaningful way without drawing in the de-centered hegemon and its de-centering force. In the succinct words of Andrew Hurrell in chapter 9: "After all, what is most striking about the Western Hemisphere is the degree to which new forms of deeper and more expansive regional governance have taken place against the backdrop of continued US hegemony."

On the one hand, the view from the Americas directly challenges some of the more apolitical versions of governance now in vogue. A reading of the chapter by MacFarlane and Serrano, for example, should serve to bring one up short when one comes across the not uncharacteristic claim that drug enforcement "cooperation" between the US and Mexico – in other words, enforcement by the Drug Enforcement Agency (DEA) – is an instance of governance in action between "transgovernmental networks."⁶⁷ Certainly, there has been a considerable US investment in presenting the "governance of the border" as a technical series of problems to be managed by self-evidently needed regulations and "smart" technological means. That does not make them any less political in their impact for either the neighboring sovereign states or their populations.

Nor, as we saw in the previous section, can the more blandly organic views of governance readily accommodate the furious politics of the

contest between cooperators and contesters *within* the governance struggles over NAFTA and the FTAA. Where the deliberate creation of networks by the European Commission, “in order to formulate and implement policy more effectively,” may not be a political issue in Europe, in the Americas it very much is.⁶⁸

But, if this book cannot but adopt a politicizing approach to the unequal exercise of power in the Americas, its views of hegemony are not static either. Indeed, its other tendency is to emphasize just how many uses the US has found in the newly available power of indirect hegemonic governance, from policy delegation to civil society “insiders” to “soft” legalization of commercial policy objectives, from the drive to regulatory expansion of US law into other countries’ intellectual property and investment regimes to the persuasive imposition of securitization on the grounds of the need to manage “negative externalities.” These can only limply be characterized as “regulating processes that are happening.” Nor, as this chapter has sought to demonstrate, will the value-neutral language in which economists talk of intellectual property rights and the like as “non-trade related” issues be of much politically objective use in catching the hegemonic governance dimensions of the FTAA.

If there is politics in the hemispheric process of governance, we should also expect to see a range of contestations, submissions, and, above all, dilemmas for the weaker parties. The picture here is also dynamic – and divided. Many states in Latin America see no option, a few look for the exit, more wish for an exit. This is the dis-integrative picture to which we turn in the Conclusion. Two paradoxes, though, are notable. First, the exit from hemispheric regionalism largely points to *closer*, more preferential “integration” with the US. And secondly, the best hope for dealing with the asymmetries of hegemonic governance lies in filling the institutional rules with the *value* of impartial neutrality. Governance, that is, is less a neutral process, than a set of rules which, in the politicized context of power asymmetry, has precisely the value of neutrality to offer.

While there are local pockets of hope exemplified by the record of the dispute resolution mechanisms of NAFTA in this book, the overall conclusion is that the hegemon has adapted far more successfully to the new governance environment than the sub-regions. That, of course, should come as no surprise when the real game of governance lies in defining the rules before playing by them. But insofar as there are those who believe that governance has nothing to do with power, the lesson of regionalism in the Americas may at least be instructive.

Notes

- 1 Edward D. Mansfield and Helen V. Milner, "The New Wave of Regionalism," *International Organization* 53 (3) (Summer 1999), 618, 594, the latter quoting a phrase by Frank Gunter.
- 2 Patrick Morgan, "Regional Security Complexes and Regional Orders," in David A. Lake and Patrick M. Morgan, *Regional Orders: Building Security in a New World* (Philadelphia: Pennsylvania State University Press, 1997), p. 23: "A review some years ago identified eight different labels for region and twenty-one different attributes of it in use."
- 3 John J. Mearsheimer, "The False Promise of International Institutions," *International Security* 19 (3) (Winter 1994/1995), 41.
- 4 *Ibid.*, 43.
- 5 Andrew Hurrell, "Regionalism In Theoretical Perspective," in Louise Fawcett and Andrew Hurrell (eds), *Regionalism in World Politics* (New York: Oxford University Press, 1995), p. 45.
- 6 Arvind Panagariya, "The Regionalism Debate: An Overview," *The World Economy* 22 (4) (1999) p. 482.
- 7 Compare, for one of many instances, Gordon Mace, Louis B elanger, and contributors, *The Americas In Transition: The Contours of Regionalism* (Boulder: Lynne Rienner, 1999), p. 8: "How should one analyze contemporary regionalism as applied to the Americas? The first wave of theoretical studies on regional integration was centered more or less on three analytical frameworks that were strongly influenced by the European unification process. The neofunctionalist school..."
- 8 Ernst Haas, *The Uniting Of Europe: Political, Social And Economic Forces 1950-1957* (Stanford, CA: Stanford University Press, 1958), pp. 13-14.
- 9 Anthony Payne, "Globalization and Modes of Regionalist Governance," in Jon Pierre (ed), *Debating Governance: Authority, Steering, and Democracy* (New York: Oxford University Press, 2000), p. 209.
- 10 Haas, *Uniting of Europe*, p. xiii.
- 11 *Ibid.*, p. 526. Italics in the original.
- 12 *Ibid.*, p. 12. Italics in the original.
- 13 Hurrell, "Regionalism," p. 60. Hurrell balances the criticisms.
- 14 John Gerard Ruggie, *Constructing The World Polity: Essays on International Institutionalization* (London and New York: Routledge, 1998), p. 42.
- 15 Stephan Haggard, "The Political Economy of Regionalism in Asia and the Americas," in Edward D. Mansfield and Helen V. Milner (eds), *The Political Economy of Regionalism* (New York: Columbia University Press, 1997), p. 25. The always influential Albert O. Hirschman, while mildly taking "venerable" Viner to task for not integrating his economic with his political analysis, in 1979 took up the protectionist implications of trade diversion for the European Community's Common Agricultural Policy. *Essays in Trespassing: Economics to Politics and Beyond* (Cambridge: Cambridge University Press, 1984), pp. 270-2.
- 16 Douglas Irwin, quoted in Mansfield and Milner, "The New Wave of Regionalism," p. 597.
- 17 Anthony Payne and Andrew Gamble, "Introduction," *Regionalism and World Order* (New York: St Martin's Press, 1996), p. 1.

- 18 Haggard, "The Political Economy of Regionalism," p. 26.
- 19 Quoted by Mansfield and Milner in their "The New Wave of Regionalism," p. 590, and "The Political Economy of Regionalism: An Overview," in *The Political Economy of Regionalism*, p. 3.
- 20 Page, *Regionalism among Developing Countries* (London: Macmillan, 2000), p. 288.
- 21 *Our Global Neighbourhood* (Oxford: Oxford University Press, 1995), p. 25.
- 22 Sheila Page, "The New Regionalism In The Americas," paper delivered at the conference "Competing Regionalisms in the Americas," Mexico City, March 14–15 2002.
- 23 Gamble and Payne, "Conclusion," *Regionalism and World Order*, pp. 251–2.
- 24 Although they advance the defenses, Devlin and French-Davis p. 282, for example, still see regional integration as a second-best option in "a second-best world." Even Gamble and Payne, "Conclusion," p. 252, concede something to the multilateral objections of Paul Krugman.
- 25 Page, *Regionalism among Developing Countries*, pp. 294–5 – "although clearly trade diversion or income effects could be important for major trading partners [like the EU]."
- 26 Panagariya, "The Regionalism Debate," p. 505.
- 27 Robert Devlin and Antoni Estevadeordal, "What's New in the New Regionalism in the Americas?," in Victor Bulmer-Thomas (ed.), *Regional Integration in Latin America and the Caribbean: The Political Economy of Open Regionalism* (London: Institute of Latin American Studies, 2001), p. 19: "Major concerns are about trade diversion and the undermining of the multilateral system."
- 28 Antonio Ortiz Mena López Negrete, *The Political Economy of Regionalism: Current Theorizing and Preliminary Observations on the G-3 FTA* (Mexico: CIDE, 2000), p. 1. Ortiz Mena's study of the G-3 Free Trade Agreement admirably bears out his scepticism, by showing, that: "Five years before the entry into force of the G-3, Mexico's trade with Colombia accounted for only 4 per cent of its total exports, [but] in 1995 this figure had actually gone down to 0.64 per cent.... Regarding Colombia, in 1990 its exports to Mexico accounted for 0.62 per cent of its total exports and by 1995 this figure still was extremely low: 0.01 per cent" (p. 14). Venezuela's exports to Mexico between 1990 and 1995 remained at 0.0097 per cent of its total exports (p. 16). The conclusion is that "the agreement does not appear to make much sense strictly in terms of current flows of trade and investment between the three countries," p. 32. He also counts over 1,000 rules of origin.
- 29 Haggard, "The Political Economy of Regionalism," p. 32: "why would unilateral free traders still seek regional cooperation through formal agreements?"
- 30 "Parting Statement By The Director-General Of The WTO," General Council, April 14 1999.
- 31 Hirschman, *Essays in Trespassing*, p. 272.
- 32 Haggard, "The Political Economy of Regionalism," p. 48.
- 33 Robert A. Pastor, *Toward A North American Community: Lessons from the Old World for the New* (Washington, DC: Institute for International Economics, 2001), p. 180.
- 34 Take, for instance, Mace and Bélanger, *The Americas in Transition*, p. 1: "Regionalism is a social construct devoid of automaticity in the sense that it

is a product of human agency, not some sort of natural evolution." On page 2 the authors are telling us that "regionalism is a process." Part I is then entitled: "The Regionalist Project and Its Environment."

- 35 Ruggie, *Constructing the world Polity*, pp. 24–6 points to some sparse examples, but concludes that constructivism has been hampered by the lack of "a deeper theoretical understanding of possible processes of transformation." Social constructivism is thus not entirely immune from the criticism he levels at neorealism: "Left unexplored... are ideas of the sort that John. F. Kennedy had in mind when he honored Jean Monnet by saying: you are transforming Europe by a constructive idea," p. 18. The main follow-up to Deutsch et al. 1957 *Political Community and the North Atlantic Area* was Emanuel Adler and Michael Barnett (eds), *Security Communities* (Cambridge University Press, 1998).
- 36 Haas, *Uniting of Europe*, p. 11. Italics in the original.
- 37 Ibid., p. 4.
- 38 Devlin and French-Davis, "Towards an Evaluation of Regional Integration of Latin Americas," p. 274.
- 39 Page, *Regionalism among Developing Countries*, p. 45. As she herself points out, the argument is still circular.
- 40 Ibid., p. 4.
- 41 Mansfield and Milner, "The Political Economy of Regionalism," p. 1.
- 42 Respectively, the Latin American Free Trade Association, the Central American Common Market, and the Andean Group. Explanations of their overall, if not total, failure center upon their inward-looking strategies of fostering domestic demand for manufacturing goods – that is, their use of regionalism as an extension of import-substitution industrialization (ISI). See Devlin and Estevadeordal, pp. 17–19. The association between the failure of ISI and that of inward-looking regionalism in Latin America has been deep, if not indelible.
- 43 Fawcett and Hurrell, "Introduction," p. 5.
- 44 Page, *Regionalism among Developing Countries*, p. 6. Italics added. Haas himself talked of a process "far too complex to be described" as "the will to a united Europe", p. 13.
- 45 Hurrell, "Regionalism," pp. 40, 39.
- 46 Richard Dawkins, *The Selfish Gene* (Oxford: Oxford University Press, 1989), p. 8.
- 47 Björn Hettne, "The New Regionalism: A Prologue," in B. Hettne and A. Inotai (eds), *Comparing Regionalisms: Implications for Global Development and International Security* (Basingstoke: Palgrave, 2001), p. xvii.
- 48 "Parting Statement."
- 49 Ian Clark, *Globalization and Fragmentation: International Relations in the Twentieth Century* (Oxford University Press, 1997), p. 3.
- 50 Andrew Wyatt-Walter, "Regionalism And World Economic Order," in *Regionalism in World Politics*, p. 77.
- 51 A less noted problem for this story is that Mexico had in fact been in the GATT from 1986 – but, in its eyes, unrecognized.
- 52 Not just Latin luck. See Dirk Messner and Franz Nuscheler, "World Politics – Structures and Trends," in Paul Kennedy, Dirk Messner and Franz Nuscheler (eds), *Global Trends & Global Governance* (London: Pluto, 2002), p. 141: "The

concurrence of globalization and regionalization is one of the structure-building trends of world society and world politics alike. Globalization will see the emergence of a new hierarchy of the world's regions, it will further strengthen the 'OCED world,' and will decouple the world's poor regions from the dynamics of the world economy."

- 53 Saul B. Cohen, "Geopolitics in the New World Era: A New Perspective in an Old Discipline," in George J. Demko and William B. Wood (eds), *Reordering the World: Geopolitical Perspectives on the 21st Century* (Boulder: Westview Press, 1994), p. 21.
- 54 Andrew Gamble, "Economic Governance," in *Debating Governance*, p. 134.
- 55 Pierre, p. 5.
- 56 Gamble and Payne, "Conclusion," p. 250.
- 57 R.O. Keohane and J.S. Nye (eds), *Transnational Relations and World Politics* (Cambridge, MA: Harvard University Press, 1971).
- 58 *Our Global Neighbourhood*, p. 2.
- 59 Mansfield and Milner, "The Political Economy of Regionalism," p. 17.
- 60 Page, *Regionalism among Developing Countries*, pp. 290–1. "Trade-related" areas include intellectual property, investment and services, and non-trade subsidies.
- 61 In the eloquent words of Item VI in the minutes of the Committee's 5 December 2003 meeting: "SYSTEMIC IMPLICATIONS OF REGIONAL TRADE AGREEMENTS AND INITIATIVES FOR THE MULTILATERAL TRADING SYSTEM AND THE RELATIONSHIP BETWEEN THEM No discussion took place on this item."
- 62 John Gerard Ruggie, "The Global Compact as Learning Network," *Global Governance* 7 (4) (October–December 2001), 377.
- 63 See, for example, S. Neil MacFarlane and Thomas G. Weiss, "Regional Organizations and Regional Security," *Security Studies* 2 (1) (Autumn 1992), 6–37.
- 64 Payne, "Globalization and Modes of Regionalist Governance," p. 216.
- 65 Gamble and Payne, "Conclusion," pp. 261, 264: "regionalism would have a role, as one level of governance, as a means for states to manage certain common problems," problems resulting from the failure of "the governance of the world order" to manage globalized capitalism. The argument latches onto the wider thesis in which news of the demise of the state at the hands of globalization has been exaggerated. A contrary view would be that the steering roles of states have been transformed by globalization, and that one of the deepest problems with regionalist defences is that they refuse to accept this.
- 66 *Global Trends & Global Governance* is a typical case: regionalism makes its appearance only in a chapter on the world economy, which inevitably concludes on the note of "dangers for the stability of the world economy," p. 82.
- 67 Anne-Marie Slaughter, "Everyday Global Governance," *Daedalus* 1 (Winter 2003), 87.
- 68 Alberta Sbragia, "The European Union as Coxswain: Governance by Steering," *Debating Governance*, p. 234.

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Part I

Continental Regionalisms

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2

The Origins and Development of Regional Ideas in the Americas

Louise Fawcett

Introduction

This chapter traces the role of ideas in shaping regional processes in the Americas. It provides a historical backcloth to the chapters which follow, and demonstrates that different forms of regionalism in the Americas have distinctive roots that have contributed to its evolution and current progress. What follows is necessarily a selective exercise since the time frame is long and the literature vast, but the attempt to draw out some key features in the history and development of regionalism is instructive within the book's broader frame of reference.

Regionalism in the Americas, understood both as an expression of regional identity, and as an attempt to give that identity institutional form, dates from the beginning of the Independence period. This already tells us a great deal. That there has been any regional idea for nearly two centuries makes Latin America already quite distinct. It also helps to explain regionalism's trajectory. This time frame, together with the exposure to different influences, distinguishes the Americas from, say Africa or Southeast Asia, to say nothing of a region like Central Asia where the regionalist experiment has barely begun.

In this chapter, I trace some different historical strains of what we may loosely call "Americanism" with a view to understanding how they have evolved and fit into the current framework. Two broad trends may quickly be discerned: the first deriving from the early idea of the Americas, postulated by independence fighters and thinkers like Simon Bolívar and Andrés Bello, incorporating a distinctly hispanic interpretation of American identity, though subject also to other European influences. The second, and arguably predominant trend

reflecting a US-driven pan-Americanism, emerges in the late nineteenth century.

Some – those who only perceive the forward advance of US power – would say that any meaningful debate over competing regional ideas is over. Others would argue that we cannot speak of two strands of American regionalism, but of multiple strands to incorporate the at times interlocking, at times discrete agendas within both North and South America. Still others would point to the different trends within pan-Americanism, from the imperial era to the present.¹ Yet another view is that in any study of really existing regionalisms, ideas only figure if translated into concrete outcomes, such as institutional design and policy.

This chapter argues that, although their impact is hard to measure, ideas matter in the history of regionalism, and there is a rich Latin American dimension to explore. To demonstrate a unified picture of Latin America, however, is misleading. Latin America does not readily correspond to the image of the popular caricature.² But acknowledging diversity is not to concur with an approach that critiques the whole idea of Latin America and advocates a nation-by-nation analysis.³ We need not dwell on the French origins of the term, *Amerique Latine*, for outside Spain, it has been widely accepted. More significantly, a nation-by-nation approach, while useful in many ways, is inadequate to explain the totality of interactions in the Americas, where “powerful currents,” patterns of consensus and conformity repeatedly recur.⁴ Such patterns, whether economic, political or social, have provided a distinct analytical and normative frame.

The above is unsurprising given the region’s common experience and culture; so is the discovery that US-driven regional ideas have diverged from Latin regional ideas even if the two have at times presented themselves as parallel, complementary or even fused processes. Describing “Teutonic” and Spanish America at the end of the colonial period, James Bryce found them “unlike in everything, except their position in the Western Hemisphere,” an observation which led him to conclude: “How much and simpler and better it would have been if each continent had received its own name... Similarities would not have been imagined where differences exist.”⁵ Underlying this chapter is the question of whether this view still holds.

By way of illustration, let us crudely review the regional idea from the Independence period to the present. At first there was a “southern,” Spanish American idea, independent of Spain to be sure, but drawing on European support, and a “northern” pan-American idea

driven by the United States. At first the former, though inchoate, dominated, though with separate national, or sub-regional agendas – from Brazil, Central America and the Caribbean – emerging around the late nineteenth century. The demise of European power, hastened by World War I, helped establish US predominance, but not in the realm of ideas where Latin and European thought, fed by the flow of immigrants, persisted. Today, we see variations on the theme of southern regionalism, drawing on European support and inspiration; and on the northern theme, drawing on the older pan-American agenda. Influential, particularly at the social and environmental level, are the plethora of sub-state and transnational groups and networks. Though interdependent, contrasting, even competing visions of the Americas survive.

The editors of a documentary survey of US–Latin American relations demonstrate how the asymmetry between the USA and Latin America has led to the “silencing within the historical record as it has been constructed in the United States, of Latin American initiatives aimed at addressing that asymmetry.”⁶ One could include Canada here.⁷ Silencing is a strong word, yet there is truth in this statement, and in the related claim that “too often the study of inter-American relations deteriorates into a study of US foreign policy.”⁸ Latin America’s history is rich in examples of home-grown thinkers who have articulated ideas and policies that are an integral part of the story of regionalism.

The focus on Latin America is deliberate, to shift the burden of explaining regionalism away from the United States, and to address the relative neglect of the Latin American contribution in the English-language literature. And while this is not a purely Latin American problem (the record of regionalism elsewhere has often been too readily dismissed by western scholarship), the Americas are in some ways unique because of their uniting characteristics: longevity as a states system, commonality in terms of Iberian as well as indigenous influence and culture, and exposure to US hegemony. This relative neglect can be also explained by using the lens of International Relations’ hitherto dominant paradigm: realism, which leaves little room for ideas, and accords small or weak states only minor significance in the international system. George Kennan made a forceful case for non-engagement in Latin America on such grounds at the beginning of the Cold War.⁹ In a more liberal era, where ideas are not held captive by power, this record can be set straight by a fuller exposure of the Latin American contribution to the development of continental regionalism.

The beginnings of the regional idea

The first formal bid from the United States to define its hemispheric interests came early in the nineteenth century, in calls for an “American System,” uniting the continent against Europe, and then in the historic “No Transfer” and “Monroe” Doctrines enunciated in 1811 and 1823 respectively. These declarations of containment were hardened as “Manifest Destiny” entered the lexicon in 1845.¹⁰

Spanish America already had an alternative prescription for regional order, derived from its own Independence struggles. Simon Bolívar’s legacy to regionalism is legendary. In 1824, following victory over Spain, he convened a first conference of American states, inviting Britain for its “support for the cause of independence”; but initially excluding the United States, Brazil and Haiti. Bolívar’s “Congress of Liberty” aimed to create a Latin American confederation, and secure Spain’s recognition of independence. The Congress of Panama which finally met in 1826 achieved neither, its peculiarities and eclecticism recalling the early Comintern conferences: Bolívar was absent, and only a smattering of delegates from the newly independent states – Mexico, Central America, Gran Colombia and Peru – attended, together with representatives from Holland and England.

The British position was illustrative. The foreign secretary, George Canning, urged his representative to convey the view that “to a league among the States, lately Colonies of Spain, limited to objects growing out of their common relations to Spain, Her Majesty’s Government would not object. But to any project for putting the United States of North America at the head of an American Confederacy, as against Europe, would be highly displeasing to your Government.”¹¹

In Britain, Latin American regionalists found a useful ally. And while British (and to some extent French) influence prevailed, broader US pretensions were held in check. Ultimately neither the recognition of independence, nor the pursuit of commercial interests, were enough either to stabilize the new states or to act as an effective counterweight to an increasingly powerful north. The competitive tensions between European and US interests in defining a regional system, if often occluded, have never entirely disappeared: whether in the hispanismo movement after the Spanish-American War, in Germany and Italy’s pursuit of Latin American partners in the 1930s, but also in continuing EU deliberations over preferential regional arrangements.

Bolívar’s regional project soon withered. In 1829, facing the break-up of his own regional creation, Gran Colombia (comprising Colombia,

Venezuela and Ecuador), he declared his intention to resign, issuing his prescient warning of how the United States seemed “destined to plague America with torments in the shape of freedom.”¹²

If the first Congress was remarkable in failure, the Monroe Doctrine was only gradually to evolve as a hallmark of US policy to the region, contributing to a solidification of regionalism of the second type. Its imprint came early to Mexico and the Caribbean, but its extension awaited the final displacement of European power in the early twentieth century. Popular mythology in Latin America celebrates the name of Bolívar. However powerful the Monroe imprint loomed in later policy terms, in the realm of ideas, the Bolivarian-as-Latin-American imprint remained salient, if fragmented, represented by regional actors and thinkers who continued the debate about the future direction of the continent and the role the United States would play in guiding it.

Andrés Bello was one such figure.¹³ Born in Caracas in 1781, a contemporary of Bolívar, Bello spent formative years in London, before settling in Chile where he quickly achieved fame. Of particular interest among his extensive writings are his contribution to a Latin American interpretation of the theory and practice of International Relations which had important consequences for the development of the American regional idea. His enormously influential *Principios de Derecho Internacional* (first published in 1832), with its emphasis on sovereignty, equality and non-intervention, helped shape the external relations of the new American states, and provide a framework for Latin American positions vis-à-vis the development of the inter-American System.¹⁴

Bello also outlined, in 1844, his thoughts on the viability of an American Congress “to represent all the new states of this continent and discuss and regulate their common international interests.” Once skeptical of this “beautiful utopia,” he now urged the importance of collaboration:

The different parts of America have been too separate from one another. Their common interests invite them to association... For us, even a common language is a precious heritage that we must not squander. Were we to add to this link the tie of similar institutions, a legislation that recognises substantially the same principles, a uniform international law, the cooperation of all the states in preserving peace and administering justice... would not this be an order of things worthy in every way?

Bello went on to articulate key positions that represent the foundations of Latin Americanism: opposition to “armed intervention”; the need for mediation; the dangers of hegemony: “all strong nations have abused and will continue to abuse their power; there is no congress in the world that can offer effective resistance to a law whose origin lies in man’s moral constitution”; the importance of trade: “trade has done more to improve international relations than all other causes put together”; and the principle of non-interference in states’ internal affairs.¹⁵

Here was a recipe for regionalism and regional order. Bello saw the act of union as a stabilizing force in a region of great instability: “The fact that most of the American states do not as yet possess settled institutions is no obstacle. They have de facto governments; they can in consequence, join together.” This observation has contemporary relevance, since one of the recognized strengths of regionalism is to help stabilize states and consolidate democratic rule: a role which the EU has performed, and now the OAS and *Mercosur*. Bello’s project was thus an important marker.

Other intellectuals pursued similar ideals. The Argentine Juan Bautista Alberdi also called for an American Congress to promote “continental equilibrium”: incorporating economic and commercial balance and the pursuit of peace.¹⁶ And there were a series of congresses, held in different Latin American capitals. Though unique in their hispanic orientation, and indeed for the succession of treaties and agreements they produced, these congresses were poorly attended, and their ambitious proposals for confederation and unity unrealized. Even Mexico’s drastic territorial losses to the United States failed to generate a united response.

When US Secretary of State James G. Blaine called for a peace congress in Washington in 1882, to discuss outstanding territorial disputes, and establish a system of arbitration, this was a first and ultimately more successful move to follow up in more formal fashion the doctrine of Monroe. Blaine’s early initiative faltered, but his contribution to the pan-American idea, and the growth of bipartisan support for commercial expansion saw the realization in 1889 (during his second term in office) of the First Inter-American Conference.¹⁷

Efforts to portray this hemispheric initiative as Bolívarian were ingenuous, but the conference offered obvious business opportunities and the opportunity to air concerns. Its results were mixed, the most important being the establishment of the Pan-American Union. A customs union and arbitration system were discussed though neither

materialized. So this was a first for regionalism. Still, there were undertones of dissatisfaction: Latin Americans did not wish to see European power transferred to the United States, and mutual suspicions clouded declarations of hemispheric unity and goodwill.

Such suspicions were captured in the critical literature of the day. The Cuban nationalist José Martí warned of the dangers of the conference. His fears for Cuba led to his critique of the United States, “of the continuous existence there of all the violence, discord, immorality, and disorder blamed upon the peoples of Spanish America.” Shortly before his death, he wrote of his duty: “to prevent, by the independence of Cuba, the United States from spreading over the West Indies and falling, with that added weight, upon other lands of Our America.”¹⁸ Martí’s critique, which extended to Latin Americans themselves for their failure to unite, continued to inform regional developments.

Latin American fears and renewed search for identity were accentuated by Spanish defeat in 1898, and the growth of US influence in Cuba, the Philippines and Puerto Rico. Indeed, the Spanish–Cuban–American war marked the beginning of an intense period of intervention lasting until 1934.¹⁹ This formal debut on the world stage occasioned a lively debate within the United States, and saw Latin American voices raised in protest. The anti-US mood was bolstered by revived Spanish pretensions to influence in their former colonies, embracing a language of cultural unity and anti-imperialism, a movement known as hispanismo. This had a strong literary and romantic component, reflected in the works of writers like José Enrique Rodó and Rubén Darío.²⁰

In his popular book *Ariel* (1900), the Uruguayan Rodó reflected on the US challenge to Latin American identity: “I do not imply that everything they have achieved has been entirely negative... [but] let us refuse to see an exemplary civilisation where there exists only a clumsy, though huge, working model...”²¹

After the Platt amendment (1901), redefining US–Cuban relations and the severance of Panama from Colombia (1903), the Nicaraguan-born Darío composed his much-cited poem “To Roosevelt” where the United States is referred to as the “future invader of our naive America,” and Roosevelt as “the dreadful hunter.”²²

This lyrical hispanismo had its practical side. A conference in Madrid in November 1900 had marked the beginning of a series of diplomatic efforts by Spain to rebuild influence and counter growing US influence in the hemisphere. As the Venezuelan Rufino Blanco Fombona noted, the name of Bolívar was increasingly celebrated in Spain.²³ Cultural

affinity, however, cannot readily be translated into influence, in the absence of other material incentives. There were only limited choices for Latin American states, then as today, in terms of how to situate themselves between the US and Europe, and the precedent set at the end of the nineteenth century – the consolidation of northern power and influence on a sometimes resistant south – would be progressively refined and reinforced in the twentieth.

The concerns of Latin Americans about the management of US power gave rise to continuing preoccupations of the sort outlined by Bello. The consequences of intervention and unequal treatment, the rights of weak states, and the pursuit of equality remained central concerns, that drove to the heart of the emerging relationship between the two Americas, but also, in an age of expansive great power claims over the protection of nationals and property, between the Americas and Europe. In the last decade of the nineteenth century, his successors took up the challenge.

In the doctrine bearing his name, Carlos Calvo, Argentine diplomat and scholar, outlined two core principles, the right to non-intervention, and the equal treatment of foreigners and nationals. Never formally accepted outside Latin America – or indeed in international law – the Calvo Doctrine provided further foundation to the search for undifferentiated treatment: the adherence in the Americas to the rules that “European states invariably... follow in their reciprocal relations.”²⁴

A version of the doctrine was refined in 1902 when Luis Drago, Argentine foreign minister, argued that the pursuit of European claims – in this case debt repayments against Venezuela – did not constitute a right to intervention. US President Theodore Roosevelt’s response was indicative, both of his desire to keep Europe out, but also of the right of the United States to act as it thought fit in the Americas. In the “Roosevelt Corollary” to the Monroe Doctrine (1904), the president outlined under which conditions intervention, or “the exercise of an international police power” in the Americas, might be justified.²⁵

The Roosevelt Corollary was unpopular, running against the current of anti-interventionism, and becoming another obligatory point of reference in US–Latin American relations, and bringing terms like the “big stick” into the popular vocabulary. Most important it provided a new lens to understand US power. Calling for “Union Latino Americana,” the Argentine writer José Ingenieros denounced pan-Americanism, calling the Monroe Doctrine a “declaration of intervention.”²⁶

Early pan-Americanism arguably did little to enhance the position of Latin American states, and failed to see translation of ideals into policy. In some ways, these states lacked the wherewithal to effect a common policy, weak and internally divided as they were. Yet the very presence of an institution like the Pan-American Union, and meetings and activities it supported, was important, providing a seat at the table, and hence an opportunity to influence the agenda, to apply part of the complex web of legal norms and practices that had already evolved between Latin American states. Their positions hardened, as their statehood was consolidated, and they became more significant actors on the world stage.

Old and new pan-Americanism

Such assertiveness was evident before and during World War I and also in the League of Nations. Invited to the Second Hague Conference in 1907, Latin American states pressed for the adoption of (an ultimately weakened version of) the Drago Doctrine into international law.²⁷ In the war itself, only Cuba, Central America, and Brazil (with whom the United States had enjoyed a special relationship since the start of the Republic²⁸) played an active role; important states like Chile, Argentina and Mexico remained neutral. After the war, the evident Latin American enthusiasm to join the League of Nations (all states were members at some time) was influenced by the absence of the United States, and the belief that the League might act as a counterweight to US power. If the specific mention made in Article 21 to the Monroe Doctrine as a “regional understanding” outside the League’s remit was ominous, the Latin American countries were also “registering a protest against the US conception of an exclusive inter-American system.”²⁹ Membership helped raise their status in international affairs, according a degree of legitimacy that other new states would acquire through UN membership after 1945.

In the 1930s, with the League’s reputation tarnished by failure – one example was the Bolivia and Paraguay conflict 1932–35 – and US policy assuming a more attractive aspect, Latin Americans contemplated more favorably the possibilities of pan-Americanism, though the position of some countries, like Argentina, remained hostile.³⁰

President Franklin Roosevelt’s Good Neighbor strategy was a response to earlier costly and unsuccessful policies at a time of growing international crisis. The extent of US unpopularity was brought home by the appeal of the Nicaraguan resistance leader Augusto Sandino,

whose language, like Martí's before him, repudiated US power and urged resistance from below.³¹ A set of trade deals was accompanied by a softer political line which played to Latin American concerns. A new treaty with Cuba, withdrawal of US marines from Nicaragua, and the Buenos Aires Conference (1936) were all helpful – the latter in resolving residual ambiguity over the thorny issue of intervention. At the 1938 Lima Conference there was widespread support for a resolution calling for a “united hemisphere” against outside threats.³² And Brazil–US relations prospered under the influence of Oswaldo Aranha, whose commitment to pan-Americanism was transparent.³³

The advent of the European war saw the burgeoning of inter-American agencies, adding to an already complex, if still informal regional system. This lent cohesion and purpose to the US-driven but inclusive pan-American project. Significant was a report of the Inter-American Juridical Committee which issued a set of recommendations on the nature of postwar international organization, and the role of regional agencies in particular. And regionalism's appearance in the UN Charter followed representations from Latin American as well as other states with investments in existing arrangements. Fearful of US hegemony and veto power, these states saw in the OAS a vehicle for containment, to maximize their bargaining power. The notion of interlocking systems, which would come to inform UN debates over the relationship between regional and universal institutions, was welcome to north and south Americans alike, the latter believing it would maximize their freedom to maneuver. Mexico's President Avila Camacho spoke of hemispheric solidarity as a step toward achieving a higher solidarity.³⁴

There were some clouds: the Good Neighbor policy, the experience of war and the postwar euphoria, which undoubtedly brought solidarity to the Americas, were not enough to overcome north–south differences in a changing international environment. Observing the political landscape of the Caribbean Basin, Victor Raul Haya de la Torre claimed that Roosevelt had made himself the “Good Neighbor of Tyrants.”³⁵ The war and threat of fascism were received differently across the continent while Franco's Spain, and his attempt to promote a Hispanic community, also yielded a mixed response.³⁶ If the pull of the US became stronger during and after the war, there remained the allure of other alignments, like Argentine President Peron's attempt to export his model of state-driven economic development.³⁷

Such reservations notwithstanding, the war and immediate postwar period represented a high point in pan-Americanism. There was con-

siderable fanfare attendant on the new American institutions that evolved after World War II, with the OAS and its two founding treaties (Rio, 1947 and Bogotá, 1948) as the flagship. And for a while it seemed that in the re-configuration of the American system, the long-held designs of Latin American states for equality, independence and non-intervention were met. In the new institution, the imprint of Bello, Calvo and Drago were clearly visible. In Chapter III of the OAS Charter, Article 6 refers to the equality of states; Article 15 to the principle of non-intervention; Article 16 to the non-use of force; Article 17 to the inviolability of territory.³⁸ This was, in the words of Colombia's Alberto Lleras (later to become OAS Secretary General), "the culmination of pan-Americanism, with all prejudice gone, and a difficult history forgotten."³⁹

Such rhetoric failed to match reality. The Cold War was hardly conducive to the kind of inter-American solidarity of which the charter spoke, and the OAS came to be perceived at worst, as a tool of US interest and policy, and at best as a limited form of containment.⁴⁰ Not all shared the US perception of the communist threat, inevitably pushing economic and social reform further down the agenda. In the 1950s and 1960s, as the organization became embroiled in Washington's efforts at "roll back," in Guatemala (1954) and Cuba (1961) and the Dominican Republic (1965), Latin Americanism – as resistance from below, and linked to a bigger Third World movement – grew, and the reputation of the OAS declined. Brazil's position had also shifted. Aranha, now retired from politics, spoke of the need for Third World solidarity and adjustments to pan-Americanism "to make increased concessions to world organization." By the end of his life he was advocating openly an independent foreign policy for Brazil.⁴¹

For many Latin Americans, this new version of pan-Americanism was a cloak for "Yankee imperialism," captured in the title of Juan José Arévalo's book, *The Shark and the Sardines*.⁴² Few would contest that inter-American relations had come to rest on US-driven security agenda. But two caveats should be noted. First, the OAS implied a degree of institutional accountability. Members needed to be lobbied, even cajoled, for support. As Lleras Camargo claimed, the fact that the OAS wore only the fig leaf of equality did not deny its member states, "no matter how small," the right to speak with authority and command respect.⁴³ Secondly, not all players were opposed: if the USA took its supremacy for granted, there remained those in Latin America – and elsewhere – who supported the regional arrangements.⁴⁴

As in the past, US difficulties in the management of hemispheric relations, provided others the opportunity to influence the regional agenda. In his "Operation pan-America," Brazilian President Juscelino Kubitschek sought to capture the initiative in a bid for regional leadership. Referring to the damage done to pan-Americanism, aggressively demonstrated on Vice President Nixon's goodwill tour of Latin America in 1958, Kubitschek called for action "to restore composure to the continental unity," with a view to correcting the "false impression that we are not behaving in a fraternal way in the Americas."⁴⁵ US responses to this pan-Americanism with a Brazilian face were cautious, but the larger message was not lost.

President Eisenhower now shifted from his former soft line on authoritarianism, and affirmed his support for representative government. The US would not endorse however a Venezuelan proposal whereby the OAS would only recognize regimes that were freely elected and supported human rights.⁴⁶ In the Act of Bogotá (1960), there were new proposals to promote economic and social development. The previous year had seen the establishment of the Inter-American Development Bank, one of whose roles would be to support regional integration, encouraging a sense of regional ownership of plans for economic modernization and development.⁴⁷

John F. Kennedy was more ambitious. In his Tampa Speech of October 1960 he warned that "time was running out for us in Latin America." His Alliance for Progress was conceived as a plan "to transform the 1960s into an historic decade of democratic progress."⁴⁸ Innovative and reformist in many ways, there was no disguising the security-driven, Cold War-first focus of US policy, particularly after the discovery of Soviet missiles in Cuba. Responses from the region were mixed. Chile's president, Eduardo Frei, provided an elegant critique of the Alliance as a vehicle for political, social and economic change, and of its failure to engage local actors, and to promote regional integration.⁴⁹ Arthur Schlesinger bluntly criticized it "at best as a classical example of liberal good intentions, over-packaged, over-promised, oversold; and at worst as neo-colonialism."⁵⁰

Here as before, caution should be exercised in painting this period as a struggle to see the US security vision imprinted on Americas. There were attempts, in the OAS, the UN and elsewhere, to challenge growing US hegemony, throwing doubt on the claim that "Latinoamerica no es regionalista."⁵¹

Membership of the United Nations, and of groups like the Non-Aligned Movement (NAM), offered the chance to articulate another

agenda, free from the obvious constraints of the OAS. Though an examination of early General Assembly voting patterns yields a moderate-to-strong Latin American–Western match, it proved, like the NAM, to be an important forum, particularly for the articulation of an New International Economic Order.

The UN's Economic Commission for Latin America (ECLA), one of five regional commissions, also emerged as a important platform during the 1950s. Under its executive secretary, Argentine Raul Prebisch, ECLA advocated a radical set of economic strategies to tackle underdevelopment in Latin America, but also, by way of example, throughout the Third World. In this respect, Latin American social scientists were among the first in the South to create a distinctive school of thought.⁵²

The erosion of the early ECLA vision – and of the dependency analysis of which it was part – swept aside by debt crisis, adjustment and liberalization programmes which followed, cannot remove its significance as an important Latin American initiative, one which inspired generations of reform-minded politicians, and had wide international appeal.

One of ECLA's early prescriptions to remedy underdevelopment was regional integration, of the "closed" variety, borrowing from the early example of Europe. And despite the barriers to integration: the low levels of intra-regional trade, poor communications, high premiums placed on sovereignty, and different levels of development, some progress was made in this period, where Latin America experienced its first wave of regionalism. An alphabet soup of regional groups emerged in the 1950s and 1960s: the Central American Common Market, Latin American Free Trade Area, the Andean Pact and CARICOM. A joint Mexican–Venezuelan initiative to address concerns about Latin America's position in the global economy led to the creation in 1975 of a Latin American Economic System.⁵³

This is not the place to rehearse the history of these early attempts at integration – despite recording some increases in regional trade, their overall record was disappointing – but their existence tells us something about the nature and progress of Latin American regionalism. Though influenced by Europe, this was a homegrown development and one that captured the idea of collective bargaining power and contestation. Regionalism had an emotional appeal as an "independence" movement, it reinforced the notion of parity: of dealing with the US as an equal. It also became a point of reference for later institutional development.⁵⁴

Security and conflict resolution remained outside the scope of newer regional groups. The Cold War, and the Rio Treaty, left little room for

maneuver, beyond muted protest and sporadic rebellion at OAS forums. Although Latin America has been a relatively pacific region in terms of inter-state conflicts, it has suffered from high levels of intra-state conflict, and here the picture of resolution and mediation at the regional level has been decidedly mixed. Pan-American institutions do feature in the resolution of Central American disputes, alongside the use of groups of “friends.”⁵⁵

One security initiative to emerge after the Cuban missile crisis was the Treaty of Tlatelolco (1967), effectively creating a nuclear-free zone. Though dependent on the US for its success, the very existence of a regional non-proliferation regime was significant. This idea of a “security community” – already relatively advanced in Latin America – would progress further with the consolidation of democracy.⁵⁶

Despite some modest achievements, the reality of US predominance, political instability and economic failure help to reinforce popular impressions of the 1970s and 1980s as lost decades for Latin America. The dire predictions of revolutionaries might have been exaggerated, but the region faced severe problems. The coup in Chile bringing General Pinochet to power revealed a dark side of superpower détente, and reminded Latin Americans of the limits of their influence. As Ronald Reagan assumed the US presidency, the consequences of the debt crisis, the South Atlantic War (which revealed the paradox of two OAS votes effectively defending the Monroe Doctrine as embodied in the Rio Treaty) and the specter of renewed intervention in Grenada in 1983, left Latin America vulnerable. Indeed, Reagan has been identified with the “last years of the Monroe Doctrine” for his activities in Central America – most notably his commitment to oust the Sandinistas from Nicaragua.⁵⁷

The picture was perhaps not so black as it seemed. In their varied responses to the decade of crisis Latin American states were not always the helpless pawns they are often portrayed to be. For some states there was a relatively robust return from economic crisis, and an emerging liberal consensus which included political reform. The long-standing commitment to the containment of US power within an institutional and legal framework remained. On this base, the seeds of a renewed regional order were sown. The post-Cold War period represented both an opportunity and challenge.

The end of the Cold War and the ‘New Regionalism’

The end of the Cold War remains endlessly attractive as a turning point in International Relations. Has it made a real difference as

regards regional projects in the Americas? A superficial glance does indeed reveal a series of changes around this period, but a longer look points also to continuities, suggesting the evolutionary and learning nature of the process. Since much of this volume deals with specific aspects of newer regional policies, here I want only to sketch out their contours, and offer a brief assessment of the post-1985 period.

Evidence clearly supports an expansion of regionalism in terms of both institutions and members, and also activities and functions. Growth of and interest in the regional domain has also taken place in the context of an ongoing debate about the nature and structures of global governance. The so-called “new regionalism” is commonly, if sometimes inaccurately, linked to the end of the Cold War, with factors like systemic pressure, new regional interdependencies, and democratic convergence all playing a role.⁵⁸ As regards the Americas, even before the Cold War ended, new ideas and levels of regional activity were cutting across – and building on – older patterns.

We have already seen how the debt crisis unleashed the processes of economic and political liberalization: global trends, but with their own local dynamic, according regional actors and institutions an important role. At the security level, regional diplomacy was deployed in the Central American conflicts through the Contadora process, bringing democracy firmly into the peacemaking vocabulary. More broadly, the OAS has undergone a process of re-legitimization, partly reflecting lower incentives for US intervention (and normative convergence), but offering Latin Americans new opportunities for representation. And, once again, the region can be seen, after Europe, as the most active and successful exponent of the new regionalism.

One reason for this is the relatively robust history of regionalism and ideas, and the accompanying network of legal norms and practices, that this chapter has demonstrated, providing a fertile base for future developments. Another is growing affinity with the West.⁵⁹ However different the Americas may be, physical proximity and influence, as well as political and cultural commonalities explain the relative success of regional models there as compared with, say, Africa and parts of Asia, though one should note the recent progress made in both of these regions.

From a general perspective, the end of the Cold War appeared to offer new opportunities and challenges to developing countries worldwide. Strengthening the structures of regional governance appeared as a rational strategy to maximize bargaining power. Regionalism in the periphery became a means to check marginalization, or what Jorge

Castañeda termed “Africanization.”⁶⁰ States necessarily responded in different ways, reflecting their international interests, sociohistorical characteristics, and sensitivity to global trends.⁶¹ But, as in the past, commonalities also emerge.

The US dimension is crucial here, for the new regionalism also received its selective endorsement. Critiques of US power at the end of the Cold War focus on the lack of strategic vision – even negligence – in its dealings with Latin America. The US, however, has been reasonably consistent in its support for and pursuit of regionalist options in the Americas. This development has both expanded and complicated the regional menu. For Latin America, embracing regional revival means making difficult decisions about both the management of US power and neighborhood relations. It has also allowed a degree of creativity and flexibility in setting the regional agenda.

In an early initiative following the Contadora experience, Colombia’s President Belisario Betancur called for a reformed and representative OAS in which all members had equal weight. “We can be a community linked by history and geography. But we cannot serve the interests of any superpower bloc.”⁶² Idealistic, given the continuing Cold War, Betancur’s message marked the beginnings of a phase of renewal, in which the Enterprise for the Americas Initiative (1990), the Santiago Resolution (1991) and the Miami Summit (1994) all played a role. The significance of these developments is discussed elsewhere, but this period appeared to demonstrate an emerging normative consensus with significant Latin American input.

The same could be said for renewed efforts to promote sub-regional integration and here also we have seen revival, whether in CACM, CARICOM, or the Andean Pact, but also innovation in the case of *Mercosur*. Both NAFTA and the FTAA project remain sub-regional in the sense of their failing to move beyond a core group of North American and selected Central and South American states. Increasingly common are cross-regional linkages whereby selected groups, say in the Andean region, engage with Southern Cone states in *Mercosur*. What unites these different initiatives is a broad commitment to open as opposed to closed regionalism, and a concomitant consensus regarding economic and political objectives. None of this implies homogeneity, or the surrender of the Latin American to the North American (or European) idea. Rather it represents a continuing effort to maximize relative advantage. If there is northern tier bandwagoning with the United States and southern tier balancing against both reflect continuing doubts and questions about US power.

The mutual interest in Asian–Latin American, as well as European–Latin American links, part of the growing phenomenon of “inter-regionalism,” is further testament to the extent to which states of the region both wish to retain historical linkages, and to develop a wide range of options. Spain and Mexico have initiated the Ibero-American summits, bringing together heads of state from Latin America and the Iberian Peninsula. The first summit saw Cuba’s ratification of the Treaty of Tlatelolco; subsequent summits revealed the hemispheric divide over the adverse regional consequences of US policy toward Cuba.⁶³

Outside formal institutions and state-to-state relations there has been an enormous expansion of non-state-based regional activity. Other chapters in this book reveal how it is impossible to speak of regionalism without reference to non-governmental and civil society movements whether labor, indigenous, private sector or environmental groups. If regional policy remains principally the domain of states and formal institutions, such actors are increasingly important as lobby and pressure groups, or at the point of delivery where aid and assistance are involved. Again, outside Europe, Latin America is perhaps unique in terms of the size and number of such groups, but also of their relative power.

One novelty of all these newer structures of governance is the way in which politics, economics and security are increasingly intertwined. Even where economic integration or free trade were the original motives behind regional action, political bargaining and security spillover inevitably result, revealing regionalism’s complex agenda. That of *Mercosur* was always deeply political, *NAFTA* less overtly so, though other chapters reveal its creeping security agenda. Into this equation must be introduced global initiatives to “regionalize” peace and security, both to engage local actors and relieve burdens on the UN.⁶⁴ While instances of sustained high-level political and security cooperation among Latin American states remain few, such issues encroach increasingly on regional agendas. Democratization has played a role in freeing states from old security dilemmas as witnessed in the Southern Cone. In the troubled Andean region, Colombia’s President Álvaro Uribe has moved toward accepting the principle of OAS involvement in verifying peace talks with rebel groups, while cautiously endorsing the Rio Group’s call for Contadora-style approach.

Debates about new forms of regionalism continue and the literature is already vast with reference just to the Americas. The region’s two great powers, Mexico and Brazil, have chosen contrasting routes to regionalism, promoting two visions of American order. Lesser powers

join them in an increasingly complex web of hemispheric, regional and sub-regional networks. To be sure Mexico and Brazil's distinctive situations and histories help explain current choices. Both have shifted from earlier positions in respect of their relations with the United States: Mexico leaving behind a century of animosity, Brazil its earlier pan-Americanism. So regional alignments and patterns are fluid and shifting, not fixed.

In this altered regional configuration, has the game really changed? To return to a question posed earlier in this chapter: how much, in a more global, but less ideologically driven order do Latin American ideas matter? Here, different interpretations abound. At one level, regionalism as reflecting a culture of innovation and resistance has not disappeared. Both Brazil and Mexico are seeking for themselves enhanced international roles, pursuing contrasting models of continental regionalism – models with deep historical roots. And while the two regional types are different – NAFTA starting as a trade arrangement, *Mercosur* closer to the European model, combining the idea of common market, civilian government, democracy consolidation, and shared institutions – they share commonalities. Indeed for the President of the Inter-American Dialogue, Peter Hakim, these are merely two different routes to “going global.”⁶⁵

Going global implies complementarity of regional and global processes, spurred on by developments since the 1990s. There are clearly strong pressures on Latin American states to cooperate in frameworks like NAFTA, FTAA, *Mercosur*, but essentially in a US interests driven direction. Thinking about globalization and regionalism in this way renders redundant the search for Latin American ideas: all roads lead to Rome.

The above line of argument has its uses, but skips too lightly over regional actors and agendas. Much regional activity is precisely about mitigating and balancing globalization and inequalities between states: it is also about devolving power to the region, filling spaces that global structures cannot.

In refusing to cede to the global view one should avoid stargazing about real or imagined regional orders. There is evidence of a revitalized OAS agenda, leaving behind a past so closely associated with powerful north; of continuing progress in *Mercosur* – despite the financial crises that have assailed the Southern Cone – and in other regional and sub-regional configurations. Trade has increased, democracies are more robust; and for many countries security has improved.⁶⁶ Laurence Whitehead's chapter reveals evidence of region-specific practices in

democracy and human rights. Significant, however, are regionalism's limitations in regard to some of the region's most pressing problems and conflicts: those generated by economic crisis, and the spillover effects of the narco-guerrilla wars in the Andean region. In such cases US power, or multilateral action still call the tune.

The controversy over Plan Colombia and reluctance to engage with the Colombia conflict – despite the limited progress noted above – is testament to continuing difficulties and divergences over regional ideas and policy. The OAS presidency of former Colombian president, Cesar Gaviria, has been one obstacle, but where state interest and US power are so intimately involved, regional responses tend to be compromised. The absence of response does not mean an absence of ideas: one enduring idea, inherited from the post-independence era, relates to the continuing reluctance to violate the sacred principles of Latin Americanism: sovereignty, independence and non-intervention, though we have seen how even these have been subject to change.

Looking briefly at the region since the events of September 11 2001, helps place this post-Cold War discussion in final perspective. This short period in the history of US–Latin American relations deserves mention, since it offers a microcosm of the Latin American dilemma in relation to institutions and great power relations.

The perception that the post-September 2001 period is a new era in international politics may be exaggerated, but to many since that date the world has looked different – and less friendly. Early and widespread sympathy with United States, soon gave rise in Latin America to older anxieties about marginalization and neglect. What was seen as a more promising US line, articulated by a recently-elected President Bush, was quickly sidetracked by the new focus on global terror. This in itself was worrying to Latin Americans, who once more saw the specter of intervention loom.

Rather than renewed intervention, however, the continent appeared to have declined in relative salience: the US was variously accused of not paying enough, or not the right kind of attention to populist trends in Venezuela, to Argentina's crisis, and to Lula's election in Brazil. Articles on the "Bush Doctrine" are noteworthy for their failure to mention Latin America. The refocus on security, including terrorism and weapons of mass destruction, did not bring Latin America to the fore. Rather, the region has been reminded of its subordinate place in the international system.

One reason for this has already been alluded to: the region represents a safe area for the United States: this is not the colonial era, nor the Cold

War where external powers threatened. The region may be unstable, but it is host neither to international terrorists nor to weapons of mass destruction. The troubles of the Andes or Southern Cone do not threaten world peace. This reality makes critiques of US “neglect” seem overplayed. They rest on false assumptions of the universality of US power. No state system can be truly unipolar. Power is deployed only when and where deemed necessary, and more often than not its deployment will require allies.⁶⁷ In this scenario Latin America is not neglected – indeed it must frequently be courted for favors – but it does not present an immediate danger and its salience will rise and fall accordingly.

Attention will therefore be selectively turned to Latin America when such attention is required, and when other commitments permit, and for different reasons Argentina, Chile, Colombia, Mexico and, of course, Cuba, remain very much in the frame. In other words, the US interest in managing the regional agenda is much as it always was. Latin Americans, still wary of the north, and intent on preserving a southern agenda, will continue to forge policies in the face of an uncertain, and far from omnipotent superpower, a situation which invites innovation, and the continued application of Latin American principles. The Iraq intervention of April 2003, which saw much of the region united in opposition to US policy, can only strengthen Latin American determination to continue the search for policy options in the post-Cold War era. Their competence in this regard is likely to grow.

Conclusion

This chapter has demonstrated how a variety of regional ideas and possibilities, expressed at different levels, and by a wide range of actors, have presented themselves in the Americas. This is true of other regions though, in some ways, the Latin American experience is quite particular. The reason for this is not, as some argue, merely the overlay factor of the United States, but also the dynamic and evolving position of regional forces. From the early Independence period to the present – from Bolívar to Bush – a rich tapestry of regional activity is revealed, in which the role of local actors in initiating, sustaining and amending processes is clear.

In examining this diverse menu, this chapter has opposed the view that we are witnessing the North Americanization of the continent, with only a southern bloc marking some resistance to an advancing US-driven neoliberal logic.⁶⁸ This view of the unity, even fusion of

regional processes, while containing some truths, is too stark. The aim has been to demonstrate the continuing salience of regional ideas expressed by a range of different actors, and their ability to influence outcomes. The resistance of the Cold War and earlier periods may be muted, but it clearly remains: Latin America has not only been a rule-taker in the regionalism game. It is true that the NAFTA/FTAA processes are powerful and hard to resist, and that Mexico and Argentina needed the kick start of the international financial community after their respective crises. But the extension of any Free Trade Area depends both on US willingness and Latin American acquiescence – indeed, as Richard Feinberg notes, the latter may drive the process. For this and a number of other reasons it is likely that the Latin American contribution to regionalism will survive.

So efforts at sub-regional, alongside regional or hemispheric integration, as well as engagement with multilateral initiatives are set to continue. The degree of complementarity between different regional projects will vary, according to time and circumstance. The process, however, like most regional processes, will remain fraught and complex, subject to intense pressure from above and below.⁶⁹ And the role of transnational or sub-national actors in fleshing out the contours of regionalism, noted in subsequent chapters, is likely to grow in importance.

In tracing key developments, albeit in broad sweep and selective fashion, in Latin American ideas from the origins of Independence to the present, the scene is set for other chapters. Latin Americanism – originating in responses to North American and European doctrines and policy, but constantly evolving and mutating in response to local stimuli – is part of the different stories they tell. Although at times it has subsided, and new variants have risen to fill spaces left by old, it has survived. In this regard Latin Americans have had a significant role, and left an indelible mark: leading, inspiring, opposing and also converging with the United States, and other powers on regional policy. That this role has changed and evolved, but remains significant to our understanding of contemporary processes in the Americas, is not in doubt.

Those who see homogenization might point to the way in which northern and southern cultures have merged: all Americans can eat tacos and drink Coke, listen to rock and Salsa, read García Márquez. But before we reach this culturally neutral conclusion we need to consider how sensitive issues like immigration, drugs, crime and punishment are handled, creating new divides, giving rise to diverse

perceptions, indeed tensions, in different parts of the Americas. Culture both pulls and pushes: the growing Latino population – 12 per cent of the total in 2000 – is a source of concern for many North Americans.⁷⁰ For Latin Americans, travelling north means tight border and immigration controls. The opinion poll, *Latinobarometro*, demonstrates the prevailing levels of mistrust between the Americas. Stereotyping still abounds in official as well as popular culture. So the sense of difference, even resistance, captured by generations of thinkers, remains.

In some ways then, Bryce's now nearly 100-year-old view of the Americas still holds good: exposure has softened the contours of inter-American relations, but at their core key differences remain. We cannot make too bold a claim about the uniqueness of the Latin American idea and its contribution to regional practice, but nor can we possibly afford to ignore it.

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3

The European Union and Regional Integration in the Americas

Lorena Ruano

Introduction: regional integration after Europe

What is the status of the European Union as a model for regional integration after the creation, revival or development of the several regional integration agreements in the American continent in the 1990s? While it held the field to itself, the European Union could safely be described as the most advanced experiment in successful regional integration. Now that NAFTA, *Mercosur*, the Central American Common Market (CACM), the Andean Community, and possibly a Free Trade Area of the Americas (FTAA), have all emerged to challenge the Eurocentric bias of regionalist studies, is the European Union a one-off case or a *primus inter pares*?

The recent formation of regional arrangements in the Americas has raised the question of the extent to which the EU can still be regarded as an incomparably unique experiment. At the same time, though, the EU is different. While the regional arrangements in the Americas similarly aim at free trade, with measures that touch upon “beyond the border regulations,” it is the differences with the EU which first appear paramount.

The EU boasts a supranational set of institutions and laws in the Commission, the European Parliament, and the European Court of Justice. Outside the EU, there are no supranational institutions against which to contrast a purely “state-driven” process of integration.¹

More than this, though, the supranational dimension of the EU was one that the framers of NAFTA were keen to avoid: “very little pooling of sovereignty in the European sense was achieved: resistance to supranationality was as great in the United States as in the other members.”² Indeed, it was largely on the grounds of implications for its sovereignty

that the US was reluctant to tie itself to any regional arrangements until the late 1980s. The dispute settlement mechanisms of NAFTA, as those of *Mercosur*, are clearly intergovernmental (with the exception of Chapter 19's provision for private actors). There is no intention to advance into further stages of integration.

This, of course, contrasts with the stated aim of the Treaty of Rome of bringing the European member states towards "an ever closer union." Although it started with a focus on economic and technical policy areas, the European Community quickly moved toward the inclusion of political issues in its agenda. From the 1970s European Political Cooperation was institutionalized and the first direct elections to the European Parliament were conducted.

If this represents the road not traveled by NAFTA, *Mercosur* might seem to promise more common ground. Not only did the members of *Mercosur* decide in favor of a Customs Union, like that of the early European Community, but its foundation has also been based, to a large extent, on the reconciliation of Argentina and Brazil, just as the EU was built around the postwar Franco-German axis. Policy makers in *Mercosur*, as well as Central America, have repeatedly made reference to the EU as an inspiring "model."³

The EU actively promoted the export of its integration "model" to *Mercosur*. In 1993, it established in Montevideo a Centre for Regional Integration Training which started concentrating on trade, customs, competition policies, adjustment and stability conditions. Later on, assistance was extended to training for dealing with issues such as fraud and drug trafficking, and the harmonization of statistics, as well as taking *Mercosur* administrative and technical officers to European airports, ports and border-crossings. Certain rules of harmonization in *Mercosur* are actually copied from the European ones, not least because this allows an easier insertion of *Mercosur* products into the Single Market.

Yet, substantial as this support is, its largely technical nature also testifies to the limits of *Mercosur's* importation of the European model. Invidious as it is, the contrast is also eloquent between the unprecedented level of economic policy coordination over several years which brought the Euro into existence in January 2002, and the disarray instantly caused within *Mercosur* by Argentina's financial debacle at the same time. No Common Agricultural Policy is there to regulate relations between Argentina and Brazil either.

From 1992, when the Maastricht treaty turned the European Community into a Union, to 2004, when the EU's fourth round of

enlargement took in Central and Eastern Europe, the EU has embarked upon an adventure which few other regions could either hope, or wish, to emulate. As debates have unfolded over topic after topic, from the Common Foreign and Security Policy to the creation of an European Army and a Charter of Fundamental Rights, so the EU has shown both ambition and a deeper consistency with its original political purposes: to reconcile France and Germany and to secure Western Europe in the context of the Cold War.⁴

In this sense, the causal links between integration, peace and economic development that are highlighted by those who see the EU as a model are not crystal clear. American support in providing capital through the Marshall Plan and security through the North Atlantic Treaty Organization (NATO) intersected with a set of historical circumstances from the end of the Second World War to the rise of the Cold War, with its continent-dividing effect, which lie at the foundation of the EU's uniqueness. This history is also at the root of the skepticism of realists in general, and hegemonic stability theorists in particular, as to whether the European integration process can be emulated elsewhere in the absence of American hegemony.

American hegemony, though, brings us to one of the paradoxes of regional integration: with all their differences, the arrangements in Europe and the Americas are connected by the common need to define and sustain a relation with the US. Common as it is, though, this need also tends to drive regional integration arrangements apart from each other, albeit with important exceptions like that of *Mercosur* and the EU.

On the one hand, then, European desires either to export its integration model to the Americas, or to see it being adopted there, have run up against the priority Europe has had to set on its relationship with the US. In Europe's eyes, Latin America has traditionally come a very poor second to the US.

On the other hand, the sheer size and power of the US make the regional relations with its partners asymmetrical to an extent which is not found in Europe, even with expansion. Discussions of regional integration in the Americas which set out by seeking the influence of the European model all too readily end by finding only that of US hegemony.

Beyond the question of whether Europe has, or should have, served as a model for regional integration in the Americas, then, there is the question of what exactly Europe's relations with the regionally integrated Americas actually have been and are shaping up to be. This, the

question with which this chapter begins, involves considering the US, but not only the US.

Indeed, a US-centric approach to regional integration risks missing as much as an Eurocentric one. Unrepeatable it may be, but the EU experiment contains elements, specifically of redistribution and democratization, whose absence from the regional integration arrangements in the Americas should weigh in any assessment of the latter.

At the same time that it has lessons to teach other integration arrangements, though, the EU is a particularly difficult actor for them to deal with. For practical purposes, the uniqueness of the EU often lies in its multifunctional, inward-looking unwieldiness. The governance systems which have arisen within the EU set it at an even greater distance from other regional integration arrangements. But the very fact that governance systems and institutions have to be included in the account of regional integration arrangements itself points to a new direction in both their evolution and our assessments of them.

The European Union's relations with regional integration arrangements in the Americas: the Latin angle

For the countries of Latin America and their regional groupings, relations with the EU are crucial as a counterweight to US hegemony, not only because of the need to expand and diversify their trade, but also as a normative referent on substantive policy issues, ranging from trade to security.

For the EU, the main incentive to form relations with Latin American partners has been economic: to avoid losing its share of the markets in the Americas as a result of trade diversion created by the continent's regional integration processes. The EU's normative referents, particularly on security, have revolved around the US and the commonality of values in the "Transatlantic Community."⁵

Putting the difference as bluntly as this serves to remind one that not all asymmetries with Latin America are made in the US. Indeed, the EU's relations with Latin America in the main area of interest for the EU – trade – are set quite explicitly within a hierarchical order of priorities, in the "pyramid of preferences" of the Common Commercial Policy. At the top stand the members of the European Economic Area, followed by the associated countries of Eastern and Central Europe, the countries of the Mediterranean, then the ex-colonies of Africa the Caribbean and the Pacific, and only then Latin America.⁶

Two specific factors led, not to a re-ordering of priorities by the EU, but to an increasing of its attention to Latin America.

First, there was the need to recover markets lost to NAFTA. From the 1980s, the share of European exports in Mexico's external trade had fallen from 20 per cent to 6 per cent by 2000.⁷ The signature of a cooperation treaty with Mexico followed in 1997, with the subsequent launch in January 2000 of negotiations to create a free trade area between the EU and Mexico. European investment flows, however, remained concentrated in the North Atlantic Area.

According to Pascal Lamy, the EU Commissioner for Trade, the rationale for negotiating an agreement with *Mercosur* and Chile followed similar lines, especially after the announcement in 1994 of the initiative for a FTAA. In anticipation of potential trade diversion effects, but now on a continental scale, the EU entered into negotiations with Chile and *Mercosur*.⁸ As *Agence Europe* put it: "the prospects of regional integration in the Americas may lead to a pan-American free trade area from which the European economic operators cannot risk being excluded."⁹

Secondly, there was a European perception that the Latin American economies, especially those of *Mercosur*, were a "fast growing market," and that "no other geographical area of the world offered better prospects for the economy of the European Union."¹⁰ A 1999 Commission report on the European Union interests in *Mercosur* and Chile stated bluntly: "the EU stands to gain significantly from these Latin American markets" as the "EU's exports to *Mercosur* have maintained a high rate of growth."¹¹

Mercosur thus became the only area of the American continent where the EU surpassed the US as first trade partner and source of investment, attracting over 50 per cent of European foreign direct investment to Latin America in the first half of the 1990s (against 40 per cent from the US and Japan) in a tendency that continued into the late 1990s. The EU also became the main destination of *Mercosur*'s extra-regional exports (18 per cent against 13 per cent to the US in 1998) and the first source of imports (24.4 per cent, against 21.7 per cent from the US).

In 2004, at the third Summit of the Americas and the European Union it was announced that the EU and *Mercosur* would sign a free trade agreement by the end of that year, in what the EU referred to as "the most ambitious of its history."¹²

From its anxious beginnings, then, EU penetration of Latin America had led the EU to regard *Mercosur* as, in Lamy's words, an "important pillar in a multilateral multipolar world." The specific content of this

political reference was that *Mercosur* was increasingly seen as a potentially useful ally in the process of negotiating the World Trade Organization rules and promoting an “open regionalism” consistent with them.

This appeared particularly important given the different views between the EU and Washington over the use of trade sanctions, the “precautionary principle” in health and safety, and the idea that “trade rules must not override the concerns of society,” to name but a few bones of contention.¹³ A useful ally in dealing with US unilateralist impulses in the global trade system, a potential alternative to the more liberal American model, *Mercosur* was also regarded as the most suitable area for the “export of the European model” of regulation and organization. The politics of regional integration relations had been discovered by following the economics.

The European Union’s relations with regional integration arrangements: the US angle

Until the 1990s, the US had been ambivalent about regional integration in Western Europe and “skeptical” about regional integration in general because of the discriminatory effects of regional integration arrangements for global economic regimes. Its shift toward signing regional and bilateral trade arrangements is a significant one.

In a reflection of EU fears over NAFTA, the US was fearful about the completion of the Single Market Programme 1992 and the prospect of a “fortress Europe.” But the US was also dismayed by the minimal progress of the Uruguay Round of the General Agreement on Trade and Tariffs (GATT) during the 1980s. By the end of the 1980s, fear of exclusion from world markets, especially given the slowness and uncertainty over the outcome of both the GATT and of the World Trade Organization, was an important factor pushing the US to favor regional integration, whether to secure access to the markets of the main trading partners, or to pool together in order to have more weight internationally.

Bilateral arrangements gradually came to be seen by the US as a way to push forward the new elements of its trade agenda (agriculture, services, and behind-the-border barriers to access foreign markets) that the GATT was too slow to promote. Then regional arrangements also became a means for the US to tackle these issues more expediently with its two neighbors (and with Israel from the mid-1980s) while

pushing forward the “GATT-plus” agenda with increased leverage in the Uruguay Round.¹⁴

Developments within Latin America also favored the US turn to regionalism, in turn prompting the renewed interest on the part of the EU. The unilateral liberalization of Latin American economies, following the debt crisis of the early 1980s, entailed the need to secure market access in the large industrialized economies as well as “locking in” unpopular economic policies through international agreements. Many factors, from the transition to democracy to the rising appreciation of globalization, accounted for this turnaround. Decisive too was the replacement, following 1982’s debt crisis, of the import substitution model of development with an export-oriented economic strategy.

The upshot was that, in stark contrast to previous suspicions about US domination in the hemisphere, in the 1990s Latin American governments displayed unprecedented enthusiasm for signing free trade arrangements with the US. This in turn set the background for President Clinton’s announcement at the Miami Summit of 1994 of his intention to create a Free Trade Area of the Americas (FTAA) by 2005.

Even if the progress toward the latter is now in doubt, the significance of the US shift toward having its own regional projects in North America and the Asia Pacific is still overwhelming: the US no longer acts solely at the bilateral or global level, it is now also a player at the regional level. This has in turn presented the EU with an unprecedented challenge, as it will now for the first time confront the discriminatory effects of regional integration as an outsider.

The change in the US strategy toward regional integration therefore led both the US and EU to try to further institutionalize “transatlantic integration.”

In early 1990, the US and the EC signed the “Transatlantic Declaration” setting up a framework for “regular and intensive consultation” aimed at facilitating trade and investment, reducing trade tensions and improving the coordination of their positions in global and regional economic fora. In 1995, they signed the “New Transatlantic Agenda” (NTA) intended to upgrade cooperation and contribute to both closer economic relations and the expansion of world trade. In a move which paralleled the creeping entry of political concerns into EU relations with *Mercosur*, but with a deeper commonality of values, the New Transatlantic Agenda fanned out to the aims of promoting peace, stability and democracy, and responding together to “global challenges” (international crime, drug trafficking, health and environmental

issues). It also sought to promote contacts between strategic private actors, mainly businessmen and scientists.

Yet the ambitious plans for a Transatlantic Free Trade Agreement of the early 1990s and for the creation of a "New Transatlantic Marketplace," proposed by the European Commission in the late 1990s, came to naught when they were rejected by France and the Council of Ministers. In their place, a more watered-down version was agreed in 1998. Labeled the "Transatlantic Economic Partnership," it concentrated on removing regulatory barriers through the work of its "steering group."¹⁵ The promise of political partnership seemed to have been withdrawn almost as soon as it was made. US protectionism, particularly over steel, rose to the top of European concerns.

The difficulties in bringing about this agreement thus show how, on the one hand, the EU's external behavior is not necessarily coherent, and how, on the other, elements of competition and cooperation continue to underpin the relationship between the EU and the US. The mixture, in fact, permeates the relations of the EU with the rest of the American continent as a whole.

Competing regionalisms: the EU versus NAFTA

The EU signed its agreements in the 1990s with Mexico and *Mercosur*, and the New Transatlantic Agenda with the US, because of one overriding motive: the fear of losing market shares in the Americas as a result of trade diversion brought by the regional integration agreements emerging there. Yet, while it may be a pure motive, economic fear cannot resist becoming tainted by political ambitions and antipathies, especially when fear gives way to success. The EU has been able to proceed so far with *Mercosur* to no small degree because it had a political vision of and for *Mercosur*. EU relations with Mexico in the mid-1990s, by contrast, proved to be far more vexations for both sides. The EU's dispute with Mexico is telling because it testifies to the depth of the EU's political commitment to its own model even when pursuing economic goals.

Few cases of regional integration could more clearly demonstrate where the EU had *not* provided the model than the regional integration arrangement into which Mexico was locked, NAFTA. True, NAFTA is more than a minimalist arrangement. It goes further than a simple lowering of tariffs by including "beyond the border" barriers which aim at modifying domestic regulations; it also covers some areas of environmental and labor policy; and, as has become clearer after 9/11, and is discussed in Chapter 11, it is underpinned by security concerns.

Yet, in most respects, NAFTA holds an inverted mirror up to the EU. The issue of institutional supranationality, as mentioned, is relegated to the small print of the dispute settlement mechanisms. Equally conspicuous from a European perspective is the manner in which “the first experiment in North–South integration” has not only not given any hint of providing a framework for redistribution, but has also presided over a widening increase in regional disparities in terms of GDP per capita between the north and south of Mexico.¹⁶

The EU’s redistributive policies evident in both the Common Agricultural Policy and the Structural Funds are one of the great lessons – or questions – of the EU model for other regional integration arrangements. They represent an acknowledgement of the costs of increased economic competition inside the Common Market for the poorest regions and most backward sectors, and the will to address these imbalances through the intervention of public authorities.

More pragmatically, redistributive policies have been useful tools to further integration or proceed with enlargement, being used to “buy-in” reluctant partners. For example, when Spain joined the EC in 1986, the Integrated Mediterranean Programmes were created to help those regions of the south of France, Italy and Greece that stood to lose most from Spanish competition. At the same time, the Commission argued in favor of doubling the resources devoted to the Structural Funds to cope with the negative effects that would ensue from the Single Market project’s liberalization.

Such a commitment to redistribution is absent from any other regional arrangement freeing trade, particularly absent from NAFTA which, if it resembles any aspect of European experience, would be closer to the now extinct European Free Trade Area. By contrast with Europe’s expanded integration, NAFTA can all too easily seem to have preserved its US justification of keeping Mexican immigration to the North at bay.

The EU could do little about redistribution for Mexico under NAFTA (although EU foreign policy elsewhere in the continent, particularly in Colombia, has continued to be premised upon it). However, from December 1995, when the European Council in Madrid authorized the Commission and the Council of Ministers to start negotiations with Mexico, it could insist upon the inclusion of the “democratic clause” within the agreement.

On the face of it, the agreement with Mexico did not pose as much of an inter-sectoral problem as did that of *Mercosur*, because Mexican agriculture is rarely in competition with EU producers.¹⁷ But Mexico,

then under the rule of the Party of Institutional Revolution, flatly refused the democratic clause. Negotiations went on for 16 months, and were only resolved when the PRI's majority was removed from Congress in elections in 1997.

Even when self-interest appeared paramount, it could not override the EU's un-NAFTA-like collateral commitments.

European interests and purposes

In the case of the democratic clause, the European Parliament is a key player in the EU. In other areas, though, other interests prevail. Indeed, for any given EU policy there are probably as many motives as there are actors and internal trade-offs. Priorities are a matter of internal competition within the multilayered, multifunctional EU.

Thus, in the negotiations with Mexico another thorny issue related to EU demands for security mechanisms for foreign investors, with strong disagreements arising between the two sides about the repatriation of capital in the case of economic or political crises. While Mexico insisted that it should have competence over such situations, the EU favored the creation of a neutral authority.¹⁸

The issue was still a thorn during the negotiations of the agreements with *Mercosur*. The Commission's report of 1999 had indicated that, in the field of investment: "There are three aspects of capital importance to the European Union: access to investment opportunities, *legal protection of investment* and the establishment of a stable and transparent framework for the private sector" (emphasis added).

The Argentine crisis of 2001–2002 confirmed the risks of investing in emerging markets. EU investments in *Mercosur* began to turn from an asset to a liability, and conflict arose between the Argentinian and Spanish governments over the effect of the crisis on Spanish companies which had invested heavily, mainly in the banking and telecoms sectors.

For the EU, the crisis was a blow. Not only is *Mercosur* the EU's most favored regional partner in the Americas; through Brazilian recalcitrance vis-à-vis the US, it also represents Europe's best hope of heading off the threat of the single, unified hemispheric Free Trade Area of the Americas in which, ironically, US demands for investment rules are one of the sticking points.

Yet the crisis within *Mercosur* also confronted Europe with questions about its own interests and motives. On the one hand, the need to provide a secure environment for investment and trade is likely to be

insisted upon more than ever, leading to increasingly problematic negotiations. But on the other, both sides represent more to each other than a good opportunity to diversify trade. In the agreements signed with *Mercosur* and Mexico as well, trade issues are certainly to the fore, but are also part of a package in which technical cooperation is bound up with aid assistance, political conditionality with protective patronage towards the former colonies of some of the EU's member states. Whether the Latin Americans like it or not, the EU only developed an interest in institutionalizing relations with Latin America after Spain and Portugal joined the EC in 1986.

European interests and purposes are thus a mixed bag. Economic protection, whether of investors or against the US, is a strong motive. But, against this, Latin America accounts for a mere 6 per cent of the EU's foreign trade. Why, one might still wish to ask, were the agreements with Mexico, *Mercosur*, and Chile negotiated at all? The full answer brings us to the kind of international actor that the EU is, one every bit as "original" as its integration model.

Understanding the EU's ways of doing external business

There is a plausible case for explaining the fondness of the EU for signing bilateral trade deals by reference back to the nature of the EU itself. For a long time, the EU concentrated mainly on economic matters, both for the Common Market and abroad. But a realization that trade agreements could become "a proxy for a foreign policy," otherwise the business of the member states, brought them within the Commission's sphere of ambitions to increase its own competences.¹⁹

The organizational argument of the Commission's "creeping competences" has also been used to explain why the EU has the largest foreign aid budget and is the largest source of aid for Latin America, especially Central America.²⁰

When the momentum for the establishment of a Common Foreign and Security Policy (CFSP) beyond the competence of the Commission picked up, there was a new need for the harmonization of external action. The EU's policy of cooperation with third countries was reformulated in 1992, along with its specification for Latin America at the Corfu summit of 1995. The new guidelines for this policy introduced a differentiation among countries according to their level of development.²¹ More importantly, the link was established between development, trade, democracy, the environment, and social affairs. The purposes of the EU's external action multiplied.

At the same time, the EU's positions in international negotiations increasingly responded to the need to forge complex internal compromises not only across member states, but also across sectors. With its weak inter-sectoral co-ordination mechanisms, the multi-functional and multi-level configuration of decision-making processes inside the EU required that the final agreement with third parties reflect the broad position within the EU first, and only then the actual position of the third party itself. The purposes of the EU's external action thus also became inward-looking.

The result is that the EU's motives for action abroad are not easy to pin down. Nowhere is this better demonstrated than in the divergence, sometimes incoherence, of EU positions in agriculture and trade, topics which have characterized relations and disputes with the US in the context of WTO, but which have also been prominent in negotiations with *Mercosur*.

On the same day that the Commission put a recommendation to the Council for approval to negotiate the free trade treaty with *Mercosur*, the majority of the Council of Agriculture Ministers expressed their reluctance over the plan. The row not only opened an "inter-institutional" divide along the supranational/intergovernmental fault-line between the Council and the Commission; the divide also existed within the Commission itself.²²

Two lessons about the EU follow from such episodes. The first is that despite the impetus for the creation and consolidation of a Common Foreign and Security Policy, the various components of the EU rarely speak with a single voice. The second is that the EU's policy toward regional integration arrangements in the Americas is in fact a reflection of complex decision-making procedures which often confront the EU's own different institutions (the Commission, the Parliament, the Council), its member states, and policy areas (the competition between trade and agriculture).

The processes of accommodating so many national and sectoral interests makes the EU policy process a highly fragmented one, following different logics and timings which are not always easy to reconcile, and which explain much of why the Union's positions during negotiations with the outside world take the shape they do: technocratic, contradictory, and inflexible.

These traits can actually become assets when negotiating with weaker partners, as in the case of Mexico and the "democratic clause." The many "veto points" that exist within the EU decision-making process meant that any modification to the clause encountered con-

stant obstacles, not just from the European Parliament, but also from within the member states who would be expected to ratify the treaty domestically.

But, equally, if the EU's "foreign policy" has to coexist with the member states' own independent foreign policies, this opens room for maneuver for third parties. When Mexico signed bilateral agreements with some of the EU's member states, it also exploited one of the weaknesses of the EU as an international actor.

One final trait of the agreements with Mexico, *Mercosur* and the US also reveals how the EU's internal processes are projected into its negotiations with third parties. It concerns the role of "new governance" systems. Whether despite or because of its own governance difficulties, the EU has become preoccupied with building a multilayered new governance system based upon de-centralized cooperation, by which private actors, NGOs and the EU's members' own regions are recognized as partners in the policy-making process.

Concomitantly, in its external ambits, the EU has taken to promoting "grassroots" or "horizontal" contacts between itself and foreign parties. These include exchanges and networking among businessmen, scientists, political parties, and parliamentary groups. In November 2002, to cite just one result, the first EU-Mexico summit of NGOs took place in Brussels under the auspices of the Commission.

Such moves confirm the manner in which governance has become an unavoidable consideration both within regional integration arrangements, and in relations between them. As it happens, the challenge of constructing new governance networks for the purpose of legitimating regional integration arrangements is the last lesson the EU has to offer the Americas.

Conclusion: supplying the democratic deficit

The challenge of legitimizing regional integration arrangements is particularly important for the American continent, where the democratic nature of Latin American regimes remains far from certain. Much of the free-trade frenzy that over took the governments of Latin American countries in the 1990s came from the intention to remove recent economic reforms away from the vagaries of domestic politics, which, in turn, were undergoing processes of democratization.

Yet, in a sense, the praiseworthy aim of stabilizing economic policy in the region has been carried out at the expense of the exercise of democratic practice. This is a significant caveat to US policy toward the

region, which aims at promoting both democratization and free trade, because the two, despite much liberal thinking, might well not always go hand in hand.²³ Restrictions on accountability appear inherent in the nature of regional free trade agreements.

The EU case, as that of global institutions like the WTO, also shows that it is not easy to reconcile public opinion to highly specialized and technical issue areas where high cognitive barriers exclude non-experts from the policy debates conducted by elites. The specialized and segmented nature of public policy in regional integration agreements in general demands a high degree of technical knowledge to articulate interests. This in turn excludes numerous actors from even knowing what their stakes are in a particular decision. This affects not only consumers or voters, but on certain occasions even prime ministers and heads of state, or ministers from other departments.

At the same time, though, there is now increasing awareness of the need to legitimize regional integration arrangements in order to prevent backlashes of public opinion, and "Seattle-like" protests at every summit meeting. Within Europe too, assumptions that the effects of joining the EU would help the democratization and development of the countries from Central and Eastern Europe are being revised. Little thought has been given to the downsides, such as the fact that conditionality imposed by the EU on these countries has been an important factor inhibiting the development and consolidation of party systems in the region, with many public policy decisions being taken by the executives to fit the EU blueprint, with little public debate.²⁴

The Commission's white paper on Governance (CEC, 2001) has tried to address this problem by encouraging consultation with other groups from civil society, like environmental or labor NGOs. There has also been, since the Amsterdam Inter-Governmental Conference in 1997, a new increase in the powers of the European Parliament.

Although such efforts have improved the representation of citizens and organized "civil society," they have not resolved either the tendency for better resourced and organized groups like producers to dominate networks managed by government officials, or the threat of public opinion backlashes, such as the near French failure to ratify the Maastricht Treaty in 1992 or the Irish failure to ratify the Nice Treaty, to the very project of regional integration.²⁵

In this respect at least, the model of "Europeanization" still has something to teach regional integration arrangements in the Americas about the effects of regional integration, and in particular of its institutionalization, on domestic processes and societies.

Notes

- 1 Thus, the comparative work in EU integration studies, dominated by the debate between intergovernmentalists and neofunctionalists, has looked at federal states, mainly the United States, Germany, Belgium rather than at other regions. See Fritz W. Scharpf, "The Joint-Decision Trap: Lessons from German Federalism and European Integration," *Public Administration* 61 (1998), 239–78; Kalypso Nocolaidis and Robert Howse (eds), *The Federal Vision: Legitimacy and Levels of Governance in the US and the European Union* (Oxford: Oxford University Press, 2001). Explanations for regional integration in other areas draw mainly from the International Relations literature on economic interdependence and globalisation. See Andrew Hurrell, "Regionalism in Theoretical Perspective," in Andrew Hurrell and Louise Fawcett (eds), *Regionalism in World Politics* (New York: Oxford University Press, 1995), pp. 37–73; Marianne H. Marchand, Morten Bøås and Timothy M. Shaw (1999), "The Political Economy of New Regionalisms," *Third World Quarterly* 20(5), 897–910.
- 2 Miles Kahler, *Regional Futures and Transatlantic Economic Relations* (New York: The Council on Foreign Relations Press for the European Community Studies Association, 1995), p. 13.
- 3 Claudia Sánchez Bajo, "The European Union and Mercosur: a Case of Inter-Regionalism," *Third World Quarterly* 20: 5 (1999), 933.
- 4 William Wallace, "Regionalism in Europe: Model or Exception?," in *Regionalism in World Politics*, pp. 201–27.
- 5 Karl W. Deutsch, *Political Community and the North Atlantic Area: International Organization in the Light of Historical Experience* (New York: Greenwood, 1969).
- 6 Instituto de Relaciones Europa-Latin América [IRELA], *El Mercado único europeo y su impacto en América Latina* (Madrid, 1993).
- 7 Agence Europe Europe Daily News Bulletins, no. 7636 (January 19 2001).
- 8 Pascal Lamy, "Regionalism and multilateralism in Latin America," Speech delivered to the Federation of Industries of the State of Sao Paulo, July 10 2001. Available at <http://europa.eu.int>
- 9 Europe Daily News Bulletins, no. 7268, July 23 1998.
- 10 Wolf Granbendorff, quoted in "The Americas: Reviving the European connection," *The Economist*, June 26 1999.
- 11 "European interests in Mercosur and Chile," *Commission report of November 1999*. Available at http://europa.eu.int/comm/external_relations/merc-sur_doc/report_nov99.htm
- 12 *Milenio*, May 28 2004.
- 13 Lamy, "Regionalism and Multilateralism."
- 14 Kahler, *Regional Futures*, p. 8.
- 15 Mark A. Pollack and Gregory C. Shaffer (eds), "Introduction," *Transatlantic Governance in the Global Economy* (Lanham: Rowman & Littlefield, 2001), p. 15.
- 16 The phrase is from Jean Grugel and Wil Hout, *Regionalism across the North–South Divide: State Strategies and Globalization* (London: Routledge, 1999).

- 17 Even so, given the CAP's preference system toward third countries, products like bananas and fresh flowers were excluded from the deal. See *Agence Europe*, March 11 2000.
- 18 In the event, Mexico went on to sign bilateral agreements with Germany, the Netherlands and Spain, and argued that it awaited a solution within the OECD negotiations for a Multilateral Investment Agreement. See Jacques Lecomte, "Las relaciones entre la Unión Europea y México: tres generaciones de acuerdos de cooperación," in IRELA, *La Unión Europea y México* (1997), p. 25.
- 19 Patrick Messerlin, quoted in "The EU's tangle of trade deals," *The Economist* January 29 2001.
- 20 Lecomte, "Las relaciones entre la Unión Europea y México," p. 8.
- 21 A traditional approach to aid was retained for Less Developed Countries, while cooperation between businessmen, scientists and technology communities was opened for Newly Industrializing Countries, amongst which Mexico, Chile and the countries of *Mercosur* were all included.
- 22 *Europe Daily News Bulletin*, no. 7286 (July 23 1998).
- 23 See Eric Stein, "International Integration and Democracy: No Love at First Sight," *American Journal of International Law* 95 (3) (2001), 489–534.
- 24 Abigail Innes, "Party Competition in Postcommunist Europe: The Great Electoral Lottery," *Comparative Politics* 35 (1) (2002), 85–104.
- 25 One might also mention the difficulties that the US Congress raised during the ratification of NAFTA, and the subsequent failure of President Clinton to renew the "fast-track" authority for concluding trade agreements after 1994. For the same reasons, President George W. Bush also experienced considerable trouble in extracting the "trade promotion authority" from Congress, even though it was announced as one of his priorities.

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Part II

From Free Trade to Economic Governance in the Americas

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4

The Free Trade Area of the Americas: the Hunt for the Hemispheric Grand Bargain

Diana Tussie and Ignacio Labaqui

Policy is not made once and for all; it is made and remade endlessly.

Charles Lindblom, *The Science of Muddling Through*

Introduction

The Free Trade Area of the Americas (FTAA) represents the grand bargain of the hemispheric project across the Americas. At the same time, as it has evolved from a largely technical to an increasingly political bargaining process, the FTAA has evidenced the extent to which neither regional integration, nor indeed globalization, are dynamics devoid of politics.

In retrospect, in the period between the 1994 Miami Summit and the 2001 Buenos Aires Ministerial meeting, the driving force behind the FTAA was a self-propelling, sizeable bureaucratic machinery. The logic was that the cumulative momentum of decision making by mid-ranking officials would itself determine the strategic paths to be either followed or rejected.

Of course, this interrelationship between the day-to-day management of diplomacy and strategic policy objectives has always been part of policy making. But the FTAA is a striking instance of a process which became both denser and more porous, opening plenty of interstices for influence from competing interests. This not only added to the complexity of arriving at an agreement, but also necessitated a degree of political input above and beyond the technocratic level.

Thus, when the Trade Promotion Authority (TPA) was passed by the US Congress in 2002, the US removed a hurdle which had been undermining its political credibility in the negotiating process. And when

the Quito Ministerial Meeting in November 2002 handed over chairmanship to the United States and the other major player, Brazil, this was in recognition of the point that a working agreement between the two leading actors in the process constituted a prerequisite for substantive progress on unsettled issues, and for the culmination of the negotiations themselves.

Since then, the FTAA has entered a decisive stage in which political commitment to the grand bargain has been as critical as the intensive bargaining over the issues which will mark the content and coverage of the agreement.

The question of political commitment has become particularly salient in the US, where mixed feelings about trade liberalization have not disappeared – mixed feelings reflected in the tightness of the TPA which curtailed the ability of US negotiators to advance in many areas of interest for the Latin American part of the region. The foreign policy commitments demanded from other governments by the administration of George W. Bush have also posed a political challenge of their own to the FTAA process.

However, the prospects for continuing reforms in the FTAA process have also been negatively affected since 2002 by the erosion of political and economic stability in the region. To complicate matters further, the road toward the FTAA also faces competition from concurrent multilateral and bilateral negotiations. These may either pave the way for, or place obstacles to the achievement of the FTAA.

This chapter is largely devoted to analysing these major challenges to the completion of the FTAA negotiations. But, while we end by setting out some short-term prospects, our concern is also to draw out some of the deeper dynamics involved in what, alongside the contingent question of political commitment, remains a bargaining process with its own intrinsically political dynamic. How should this dimension to the FTAA be characterized?

Bargaining, to begin with, may be viewed as a form of reciprocal conflict management. The bargaining process implies some compromise over partially inconsistent goals by the parties.

In international negotiations, the essence of the process may appear to lie in leaders bargaining among themselves, attempting to resolve differences through compromise, persuasion and side-payments. The direct influence of the leaders' constituencies is not sharply evident in the first instance. But because differences ultimately concern societal resources, there is, in a second instance, a broadly felt need for collective social action. This is the pattern in trade negotiations. Here articu-

late and concerned business coalitions and pressure groups soon emerge to condition and constrain government action, requiring in turn intense efforts of interest articulation at different domestic levels. The dilemmas to which this gives rise pose serious and difficult questions for negotiations under democratic politics, and ultimately for a sustained process of integration.

The ability of the governments to close the process successfully thus depends not just upon political commitments, but also on balancing the domestic interests of competing constituencies. Needless to say, this balancing often shows through in the commitments governments are able to give.

Something of the dynamic involved is captured in the following schema offered by Putnam:

The politics of many international negotiations can usefully be conceived as a two level game. At the national level, domestic groups pursue their interests by pressuring the governments to adopt favorable policies and politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments. Neither of the two games can be ignored by central decision-makers, so long as their countries remain interdependent, yet sovereign.¹

The FTAA provides a clear, if complex, instance of such a two-level game. The complexity arises from the multiplicity of negotiating tables at Level I, which we shall call the international level. Here we find the hemispheric table at which the FTAA agreement is discussed; the multi-lateral table, taking place at the Doha WTO Round; and the regional/sub-regional table, with a plethora of trade agreements competing with each other as well as with the FTAA.

The different negotiating tables at Level I not only affect each other; in enlarging or reducing the size of the win-set, they also either increase or decrease the chances of ratification at Level II, the national-domestic level. Negotiations do not proceed in a linear fashion from one level to the next; instead, this is an interactive game in which negotiations on one level affect policy options at the other.

The deep challenge for political leaders committed to the FTAA thus lies in creating "synergistic linkages" between both levels. The reality, however, is that governments are often split in a tug of war. On the

one hand, to strike a deal they have to foment supportive domestic coalitions formed by potential beneficiaries, while also creating offsetting mechanisms to compensate domestic losers. On the other, such domestic trading can tend to sharpen competing interests at the international level into conflicts. Ideally, activity at the international level is about searching for partnerships and cooperation. In practice, given the two levels of the game, the activity is often reduced to constantly plugging holes and just keeping the wheels turning. As we shall see, these pull–push dynamics have been most evident in the FTAA’s two leading players, the US and Brazil.

Before we turn to them, though, we start by sketching out the broad patterns of incentives in each sub-region for launching at all upon such a stamina-testing hunt for the grand bargain. These sub-regional patterns are multiform, and sketching them involves using a broad brush. In what follows, we do not attempt to do justice to micro-level incentives and business interest coalitions, which far from dormant are often in the driver’s seat.² We also disregard for the purpose of the discussion intra-regional interests, focusing instead upon the axis of incentives between the US and the rest of the region.³

At the aggregate level, incentives to join the grand bargain of the hemispheric project vary widely across the Americas. Trade relations between non-NAFTA economies and the US are far from being homogeneous, with a pattern of heavy dependence on exports to the US (50 per cent or more) in Central America and the Caribbean, and more modest dependence (below 25 per cent) in the Southern Cone. Nonetheless, for Latin America and the Caribbean, the FTAA represents mainly the opportunity to ensure for its exporters more stable and reliable access to the US market, and thus a bridge to sustain export-led growth. The FTAA’s carrot of free trade is thus a promise of greater advantages than those held out by retaining already existing deals, with the manifold centrifugal forces to which they give rise.

Yet the outstanding feature of the hemispheric integration process is also its overall unevenness. The vast regional asymmetries are reflected in uneven levels of development, different economic structures, great disparities of geographical size and, not least, contrasting and even conflicting trade interests. The FTAA includes both the US, the single largest economy in the world, and Haiti, one of the poorest nations in the world. High inequality and a skewed income distribution are also distinctive features of the nations of Latin America. The heterogeneity of the 34 countries involved is in turn translated in their different interests in the process, and in the different positions adopted by

parties. Thus while, for example, Uruguay, Central America and Chile have been largely enthusiastic about the FTAA, Brazil, Mexico, and Venezuela have been less keen. But, rather than with them, we begin with the first mover, the US.

US incentives for the FTAA

The paradox of the Western Hemisphere's significance for the US during the 1990s was that it represented both one of the fastest-growing markets for US exports, and yet still amounted to little more than a marginal destination for them. This balance, of course, leaves to one side NAFTA (which also accounted for the bulk of intra-hemispheric trade). Thus, although US exports there (excluding Mexico) grew at an annual rate of 17 per cent between 1990 and 1996, and at one of 20 per cent from 1997 to 1999, exports to FTAA countries (excluding NAFTA) represented in 1999 only 7.17 per cent of US total exports.⁴

But trade is not necessarily the main engine that sustains US interest in the hemisphere; trade policy has never been for the US *just* about trade. Since 1914, but especially from the 1930s onwards, the US has felt itself to be responsible for leading a free trade crusade. Conducted under a variety of political imperatives and circumstances, the mission of trade liberalization became mixed with other causes, notably the conflation of market and political freedom under US leadership. In essence, this was a universal projection of the American dream – a vision of economic plenty in the context of political freedom which found its expression some decades later in the notion of a “free world.”

Garnering consensus on further liberalization often depended upon the existence of a menace or enemy. Thus, the GATT and the Bretton Woods System were, to a large extent, the economic counterpart of the NATO containment strategy during the Cold War. Despite the termination of the latter, a similar spirit has been re-embodied in the Trade Act of 2002 with its statement that:

The expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and its leadership in the world. Stable trading relationships promote security and prosperity. Trade arrangements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of rights and obligations. Leadership by the United States in

international trade fosters open markets, democracy and peace throughout the world.⁵

In this sense, then, the FTAA is not merely about business for the US. Precisely what more it is about, though, is a matter of some debate. The above statement, for example, was written after the events of 9/11, events which contributed to catalysing approval for the TPA. Extraordinary as the impact of 9/11 thus was, in this regard it also fitted with a longer, Wilsonian tradition in the US for which free trade is a prerequisite for international peace and a vital component of US security.

That link between international peace and US security is, however, one which others might question. In one view, the FTAA was designed to be a reassertion of US hegemony in the hemisphere vis-à-vis extra-hemispheric interests, and even a renewed version of the Monroe Doctrine for the twenty-first century.⁶

The merits of such views will continue to be debated, but in talking up the hegemonic “agenda” of the FTAA they risk understating what it does actually represent for the US: a vehicle to establish a uniform discipline across the hemisphere with regards to intellectual property and investment protection, effectively serving to lock in the protection of American business in the region, as well as to establish incentives for competing investment. A key signal of this US interest lies in its desire to see a replication of the investor–state principle included in NAFTA.⁷

By the same token, the TPA aims to ensure a hemisphere-wide degree of protection for investments and intellectual property similar to that provided by US laws.⁸ In this respect at least, the FTAA can indeed be viewed as a US tool, one for advancing a hemispheric standards convergence in trade agenda issues. “Standards harmonization,” whether in the areas of intellectual property, services or investment, can also be understood in the light of the US tradition of extra-territoriality in the application of its legal provisions. The other side to the coin is that the FTAA promises to bring to the US government a much more manageable environment for pushing forward on issues like labor and environment provisions that seem intractable in the WTO.

Central America and Caribbean incentives

The momentum of both the Central American Common Market (CACM) and the Caribbean Community (Caricom) demonstrate a wider trend in intra-hemispheric trade in the 1990s. Putting NAFTA to

one side again, intra-hemispheric trade experienced high growth rates, fostered both by structural reforms, the conclusion of new sub-regional trade agreements such as *Mercosur* and the Group of Three (G3), and by the revival of previous arrangements like the CACM and Caricom. Before the crisis of the late 1990s, intra-hemispheric flows accounted for over half of the total US\$1.2 billion of Western hemisphere exports.

Progress then stalled. The CACM postponed until 2005 the launching of its Common External Tariff (CET), originally envisaged for 1999. In the case of CARICOM, its members have been unable to accomplish the 1992 CET reduction scheme.⁹

Central American and Caribbean countries account for a large number of FTAA members. All countries from both these sub-regions are small economies. Their numerical superiority ought to give them a degree of leverage at the FTAA negotiating table. Yet, on the one hand, strong centrifugal forces impede them from holding joint positions on different fronts, while the region-wide spread of the “spaghetti bowl” of trade agreements also undermines their ability to negotiate as a bloc. These sub-regional countries are thus induced to seek integration at the regional or multilateral level, or if to explore sub-regional integration, to do so with a larger partner, rather than deepening existing trade arrangements. This is especially so for the CACM. For instance, despite the fact that all Central American countries have a FTA with Mexico, they were unable to negotiate as a unified bloc with it. Separate agreements were reached first by Costa Rica and Nicaragua, and then by the Northern Triangle of Guatemala, Honduras and El Salvador. Costa Rica has also signed an FTA of its own with Canada.

Perhaps in recognition of this shortcoming, an attempt has been made to improve the negotiating odds of the Caribbean countries by adopting the principle of decision making by consensus established in their Regional Negotiating Machinery. On occasion this has allowed them to block progress in negotiating groups, as when CARICOM was able to block an agreement reached by the US, South and Central America on the definition of the base tariff for market access negotiations.¹⁰

Yet on the wider canvas, Caribbean trade diplomacy is still characterized by weakness. Thus, for example, in spite of the work of the Special Consultative Group on Small Economies created at the 1998 Santiago Ministerial Summit, Caribbean representatives have raised complaints about lack of reference to the fate of small economies, usually present in Ministerial and Summit declarations, in the draft version of the agreement. They also complain about the lack of a place in the negotiations for compensation mechanisms and issues contained in the

social agenda, despite the fact that they were included in the Miami and Santiago Plans of Action.¹¹

If small is thus not always powerful in such cases, it can be beautiful in other respects. Both Caribbean and Central American exports have obtained preferential access to the US and Canadian markets through regimes such as the Caribbean Basin Initiative (CBI) and the Canadian Programs for Commonwealth Caribbean Trade, Investment and Industrial Cooperation (CARIBCAN). And in tourism, as well as in related transportation services, the Caribbean countries enjoy important sources of foreign investment attraction and sub-regional employment.¹² One of the major attractions of the FTAA is that, as a consequence of tourism expansion, it might encourage investment in other services like fast-food restaurants, telemarketing, data processing, real estate and entertainment companies.¹³

Central American economies also show a heavy reliance on the US market as a destination for their exports. With the exception of Costa Rica, the isthmus economies are mostly dependent on traditional exports (sugar, bananas, coffee, fisheries, and so on) and off-shore processed goods. Export Processing Zones have played a key role in the attraction of investments in the Caribbean basin, especially in the clothing sector, for which the Guaranteed Access Level Program passed by the US Congress in 1986 grants unrestricted access to the US market.

But if the FTAA brings the opportunity to lock US unilateral trade concessions and to bring in extra investment, it also poses several risks for these countries. Caribbean countries are heavily dependent on US trade; at the same time, though, they exhibit a strong reliance on tariffs as a source of revenues. In this respect, the Caribbean economies share an important similarity with these of Latin America. Notwithstanding differences, Latin American average tariffs are much higher than those applied by the US. This in turn implies that these are the economies which will bear the cost of tariff reduction under the FTAA; potential gains stand to be offset by real adjustment costs.

An equally invidious trade-off confronts the countries of this sub-region over the impact of the FTAA upon precisely those sub-regional integration schemes from which they have been benefiting. On the one hand, the FTAA might do much to promote tourist and related service industries, as well as the integration of infrastructures in areas like electricity supply. Hemispheric integration, by granting unrestricted access to other hemispheric economies, might also increase competitiveness. But, if the grand bargain of the FTAA is struck, a good part of the substance of the sub-regional schemes will wither.

This is the light in which the FTAA represents a less than inspiring prospect for the countries of this sub-region. Their final incentive, though, is that they have no choice. The Caribbean Basin Initiative of 2000 established that their willingness to be part of the hemispheric arrangement would be a precondition for their preferential access to the US. Defection is not an option.

Andean incentives

The FTAA process has put a fresh sheen on the Andean Community, giving it an incentive to seek out greater relevance for itself. The Andean Community has a web of institutions and a 30-year-old history, one not without setbacks, including an almost perennial conflict over the Common External Tariff. Although the conflict now seems to be waning, Bolivia and Peru with lower tariff level are in practice not applying the CET, while Ecuador maintains a considerable number of exceptions.

Nonetheless, in late 2002 the outline of an agreement was reached, initially covering 62 per cent of the tariff structure.¹⁴ Trade liberalization is supposed to be fully enforced by 2005, by which time the Andean Common Market should also be in place. Steps already taken cover not only topics of the new trade agenda, but also entail coordination of macroeconomic policies, and common social and foreign policies.¹⁵

How far such coordination will really advance is, however, a very different question given both the prominence of the Colombian conflict in the sub-region, and the tensions to which it has given rise, particularly between Colombia and Venezuela. Both immersed in their own variety of strife, both differ over the FTAA as well as over Plan Colombia. While the administration of Álvaro Uribe is likely to continue favoring progress in the FTAA as part of its wider alignment with the US under Plan Colombia, President Hugo Chávez remains the defiant champion of anti-globalizers against what they deem to be a project of US hegemony. Venezuela was the only country to sign the Quebec 2001 declaration with reservations.

The divergence between Colombia and Venezuela casts a heavy mantle of doubt over the ability of the Andean nations to maintain, as they have done to date, a unified front in the FTAA negotiating process. Nor is this divergence only a matter of posturing on the part of President Chávez. With over 80 per cent of its exports made up from oil and oil derivatives, which already face few or no barriers to the US,

Venezuela has few trade incentives to participate as a full member in the FTAA.

Although exceptional, Venezuela's stance is not without a certain monitory force for the Andean Community. Indeed, oil and oil derivatives represented a 59 per cent of total Andean exports in 2000.¹⁶ Andean exports are generally concentrated in a relatively small number of primary products, notably coffee, gold, bananas and coal. Nearly half of these exports go to the US, which is also the sub-region's major import source. The US, though, is not only the Andean Community's main trading partner; it is also the sponsor of two preferential schemes which have done much to benefit Andean exports: the Generalized System of Preferences (GSP) and the Andean Trade Preference Act (ATPA).

In the original ATPA, originally included in the 2002 Trade Act, textile and garment exports were excluded from tariff benefits. The subsequent, renewed ATPA, however, established trade preferences for textile and garment products, provided that they are dyed, printed and finished in the US. In addition, the new ATPA authorizes free access to other goods, including footwear, watches and oil and its derivatives, if the US Executive considers them not to be commercially sensitive.

As with the Central American and Caribbean sub-region, then, a grand hemispheric bargain poses the risk of diluting central elements of extant Andean trade initiatives and unilateral preferences with the US, deals whose benefits extend even to US-antagonistic Venezuela. Can the FTAA cement the unilateral concessions granted by the US in the ATPA and the GSP, while extending an opportunity to gain extra footholds in the US market? For pro-FTAA business and unions in the textile and garment industry, the strategy ahead lies in deepening and speeding up trade liberalization, eliminating exceptions to free trade and common disciplines. For other sectors more cautious about the risk that hemispheric liberalization will undermine the benefits of discrimination by eroding Andean preferences, the strategy is to try to sustain differential treatment for different levels of development, a strategy which could translate into different phasing-in periods for commitments.¹⁷

On the one hand, then, despite the Andean Community's search for fresh relevance, centrifugal forces emanating from the US can be expected to remain decisive in the sub-region. And on the other, the Andean Community is set upon a particularly tricky course as it enters into hemispheric negotiations while seeking to retain unilateral preferences from a different trade regime.

The Southern Cone: incentives for Chile, disincentives for Brazil

By contrast with the other Caribbean and Latin American sub-regions, the Southern Cone presents a more fragmented picture. While its economies are less dependent on the US market, and, with the advent of *Mercosur*, the pattern of intra-regional trade is denser, a sense of overall unity is conspicuous by its relative absence, no more so than when the issue is trade liberalization. In Argentina, the legacy of the financial and economic crisis of 2001–2002 has been to cast a special cloud over liberalization in societal perceptions. Outside Argentina, the sub-region has, in Chile and Brazil, two extremes in attitudes toward trade openness in general, and the FTAA in particular.

Chile is generally regarded as a classic case of a free trading country. With exports reaching 30 per cent of GDP, the country has galvanized its resources to become an active demandeur in bilateral, hemispheric, regional and cross-regional trade negotiations. Chile's ambitions, though, received a setback in the lack of US Congressional approval for a fast track authority between 1994 and 2002. This led to the pursuit of FTAs with Canada and Mexico, and to some exploration of the *Mercosur* alternative, one soon foreclosed both by *Mercosur*'s higher tariff levels and its members' financial instability. At the end of 2002 Chile finally concluded an FTA with the US, ratified by both the Chilean and US Congress the next year. Given this record, Chile looks set to travel the whole FTAA way.

Brazil, by contrast, has the deserved image of being at best a reluctant participant in the FTAA process, for a number of reasons. Brazil is a continental economy with a dense domestic market; it remains one of the less open economies of the sub-region with the highest average regional tariff (14.3 per cent) and with exports accounting for less than 10 per cent of its GDP. On the other hand, though, those exports – ranging from relatively high-tech goods like airships, tractor-parts, explosive devices and telecommunications equipment, to low-skilled labor-intensive goods like footwear, and natural-resource-intensive goods like oil, steel, and paper – have often been the target of a wide gamut of US protectionist instruments. Tariff peaks, anti-dumping and countervailing duties have all been brought to bear against Brazilian orange juice, footwear, clothing and sugar exports.

The upshot is that Brazil finds itself in a position over the FTAA which is the reverse of that of many other sub-regional countries looking to protect preferential market access schemes. If Brazil has a

key stake in the FTAA, it lies with the ability or willingness of the US administration to relax its trade remedy laws.¹⁸ But if Brazilian skepticism required justifying, it need look no further than to the US passing of the protectionist Farm Bill and the imposition of countervailing duties on Brazilian steel exports in March 2002.

Brazil, though, is not just a target of US protectionism; it is also one of US interest, particularly in intellectual property rights, an issue which has for several years been at the centre of bilateral conflict. With regard to services liberalization too there has been conflict, this time over positive and negative list approaches. As Stephenson explains:

Under a positive list approach, countries undertake national treatment and market access commitments specifying the type of access or treatment offered to services or services suppliers in scheduled sectors... The alternative top-down, approach to services trade liberalization is based on negative listing, whereby all sectors and measures are to be liberalized unless otherwise specified in annexes containing reservations, or non-conforming measures.¹⁹

Brazil, alongside with the other *Mercosur* members, favors a selective positive list approach, similar to that of the GATT and the *Mercosur* Montevideo Protocol on Services Liberalization.²⁰ The US, following a negative list approach, is in favor of an across the board liberalization scheme.²¹ Translated into practice in the area of government procurement, Brazil opposes the US intention of including state companies and sub-national entities under the FTAA agreement.

Unsurprisingly, then, disagreements between Brazil and the US on procedural issues constantly crop up. Brazil advocated the notion of the single undertaking, decision making by consensus and the possibility of negotiating en bloc, as ruling principles for the FTAA negotiations.²² This was in opposition to US desires for an “early harvest” and country-by-country negotiations. At the Buenos Aires Ministerial meeting of 2001, the Brazilian delegation explicitly rejected the US and Chilean proposal for an earlier end to negotiations.²³

To the list of Brazilian disincentives over the FTAA must finally be added the distinctive global vision, centered on increasing its political influence, of Brazil’s foreign policy. Since the mid-1970s, with the exception of the brief Collor administration, Brazil’s approach to trade and economic relations has been driven by this so-called “globalist paradigm” which posits that Brazil must diversify its foreign relations in order to counterbalance US hegemony in the Americas.²⁴

Against this backdrop, Brazilian foreign economic policy has privileged both sub-regional and multilateral negotiations in an attempt to hedge its bets and increase its leverage vis-à-vis the US. The vision is underscored by Brazil's interest in broadening *Mercosur*, and in the project of a South American Free Trade Agreement. For the same reason, multilateral trade negotiations are of utmost importance to Brazil. Indeed, it is here, rather than at the sub-regional level, that Brazil has found like-minded allies, such as India and South Africa, to block the most ambitious goals promoted by the US and Europe in the new trade agenda. Such precedents create a burden of expectations within Brazil which it is difficult to see being overturned.

Challenges ahead

If the FTAA represents a grand bargain meshing and melting together regional and sub-regional agreements, it faces not just the challenge of a mixed bag of incentives to join in, but also collective challenges to create a policy synergy. Although some of these challenges stem from the nature of domestic constituencies, they are substantive enough to create entanglements across national boundaries; they are thus part of the collective undertaking.

The US: searching for a liberalizing coalition, or going it alone?

As already noted, the US has for long been a crusader for trade liberalization, under the sway of both foreign policy imperatives and reasons of political economy. A wide and strong domestic coalition, which included unions, multinationals, banks and consumer groups, traditionally supported this policy until the 1970s. Then the pro-trade coalition broke down in the face of economic downturn and increasing competition from Europe and Japan, leading unions and other vulnerable sectors to favor protectionism again.²⁵

The rupture in the broad domestic consensus in favor of free trade and the wave of parochial isolationism that swept through the US after the end of the Cold War have increasingly complicated the task of free trade advocates inside the US. NAFTA is, of course, the outstanding counterexample, where with support from a large amount of US business, pro-free trade actors outweighed protectionist forces. But protectionist sectors still constitute powerful lobbies entrenched in the US Congress.

Their leverage first prevented passing fast-track legislation during the Clinton administration, and subsequently raised the price that George

W. Bush had to pay in order to win the TPA battle in Congress. The approval of the TPA only followed a painstaking bargaining process between the Executive and Legislative branches, in which the paper-thin margins registered in the two votes in the House of Representatives clearly proved that, even with significant concessions, free trade is not widely supported in the US. Indeed, before the approval of the Trade Act, President Bush had to assuage protectionist-prone sectors, imposing duties on steel imports, and signing the new Farm Bill.

The Farm Bill, or to give it its full title, the Agricultural Security and Rural Investments Act, included, among other features, authorization for the US Executive to disburse US\$180 billion in subsidies to US agricultural producers over a ten-year period. This momentous increase in subsidies marked a turnaround of the previous Farm Bill's direction, but was still not sufficient to prevent further concessions having to be granted to obtain the TPA. The latter establishes in particular a Congressional oversight mechanism, which requires the US Trade Representative Office to consult with the Congressional Committees both during the negotiations and prior to initialling any agreement involving agriculture. In addition, the TPA clearly instructs the US Trade Authority to preserve US power to enforce its own trade-relief legislation and avoid agreements that would curtail the ability to use anti-dumping and countervailing duties legislation.

The consultation procedures established for issues such as agriculture, or dispositions regarding labor and environmental standards, as well as those clauses regarding intellectual property, will in turn be hard to swallow for certain Latin American countries, most crucially Brazil. The restrictions placed by the US Congress in the areas of agriculture and trade-remedy laws clearly decrease the attractiveness of an agreement with the US, dimming prospects of US market access, and making the promise of a fast track authority hollow.

At the same time, though, even while the FTAA counts on the active support of the US financial community and of business linked to intellectual property and services provision, the US has still to reconstruct for the FTAA dimension of the hemispheric project the domestic coalition that saw through NAFTA. A broad and heterogeneous coalition formed of unions, environmental NGOs, and agricultural and steel producers has expressed a less unwavering faith in trade liberalization. Their lobbying abilities at Capitol Hill, along with a degree of hemispheric negotiation markedly less intense than that over NAFTA, have become factors in the shaping, if not the viability, of the FTAA process

inside the US. In sum, the aggregation of US interests is a challenge lying ahead of the FTAA, with the bulk of US business not showing much passion for hemispheric negotiation.²⁶

The weakness of the liberalizing coalition inside the US is compounded by the readiness of the Bush administration to apply unilateral action outside the US. True, the Clinton administration never ruled out unilateral action as an option, but the Bush administration has indisputably reshaped the tool into a privileged instrument for securing foreign policy goals, as manifested in the rejection of the Kyoto Protocol, the withdrawal from the 1972 Anti-Ballistic Missile Treaty, the projected repeal of the International Criminal Court, and the invasion of Iraq without UN Security Council authorization.

In the regional arena, despite President Bush's initial promises of special priority for hemispheric relations, there is a common perception that, with the notable exceptions of Colombia, Cuba and perhaps Mexico, regional interests have been relegated to a distant *nth* place on the US agenda. The feeling that a cold shoulder has been turned to Latin America has a direct bearing upon the FTAA process, enabling those opposed to it to argue, not without grounds, that the FTAA is about domination and not about trade.

From reform to where for Latin America?

At the time of the Miami Summit in 1994, the outlook from Latin American countries was quite optimistic. Countries in the region were making progress on both political and economic fronts, leaving behind the worst excesses of authoritarianism, regulation and protectionism. When the heads of state of the Western Hemisphere signed the Miami Declaration and Plan of Action, there was general consensus in favor of trade liberalization and structural reforms, consensus shared both by political elites and electorates.

Thereafter, the picture seems to have changed radically. The succession of global financial crises that spread through the second half of the 1990s had a serious impact on the region, leading not only to economic downturn, but also to political backlash manifested in high social discontent. Both old and new forms of political violence and social disruption arose as threats with the potential to undermine democratic stability from Bolivia and Venezuela to Argentina, Ecuador, Peru and Paraguay. Meanwhile, an end to Colombia's domestic strife appeared as far off as ever.

The first tangible indicator of financial crisis was the decline in the massive inflow of Foreign Direct Investment (FDI) that had swept into

the region during the past decade. Figures in Table 4.1 show the sharp fall, particularly from 1999. With the exception of Mexico, the trend left its mark on the whole of the region, reflecting the change in the mood of investors as regards emerging markets in general, Latin American ones in particular. Financial crises, either regional or extra-regional, resulted in spreading instability and recession, with trade arrangements proving highly vulnerable to shifts and crises in exchange rates, foreign investment and capital flows. New versions of "beggar-thy neighbor" behavior became common.²⁷

Disappointing growth rates have led to doubts over the promised effects of liberalizing reform policies. According to figures released by the Economic Council of Latin American Countries in 2001, the regional annual average GDP and GDP per capita growth rates during the 1990s barely hit 3.2 per cent and 1.4 per cent respectively. These figures fall far behind the growth rates in the period 1950 to 1980.

Thus, although no country in the region has rolled back reforms, reform policies have come under fire, increasingly being held responsible for the political, economic and social troubles that afflict many Latin American countries. Whether or not economic reforms are really at the root of economic hardship, if citizens continue to make the association, the task of garnering a domestic consensus for the approval of an hemispheric free trade agreement will prove to be a hard one.

The FTAA and the competition

Competing multilateral and bilateral trade negotiations present another challenge for the FTAA process. Hemispheric negotiations can be boosted by "cross-fertilizing" interactions, or relegated to a work in progress by "blocking interactions."²⁸ In fact, in terms both of process management and of substantive issues on the agenda, both types of linkages are likely to occur.

It is significant, then, that the final stage of FTAA negotiations and the multilateral round launched in Doha are to take place simultaneously, with a shared deadline of January 2005. Hemispheric countries agreed that the FTAA would be WTO-plus. Thus, the degree of adherence to the Doha schedule will ultimately influence the WTO-plus nature of the final agreement.

The type of interaction between multilateral and hemispheric negotiations will also vary depending upon the issue. A loss of steam in multilateral negotiations will have a negative impact on progress in negotiations over agriculture and trade-relief measures at the hemispheric level. So far the US has insisted that agriculture needs to be dis-

Table 4.1 Foreign Direct Investment inflows for Latin America and the Caribbean, 1990–2001 (US\$ million)

<i>Countries</i>	<i>1990–94^a</i>	<i>1995</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001^b</i>
1 LATA	14,371	28,084	41,741	61,458	66,661	82,769	70,404	45,490
Argentina	2,971	5,610	6,949	9,161	7,292	23,984	11,665	5,383
Bolivia	85	393	474	731	957	1,016	733	551
Brazil	1,703	4,859	11,200	19,650	31,913	28,576	32,779	17,292
Chile	1,129	2,657	4,634	5,219	4,638	9,221	3,675	4,455
Colombia	818	968	3,112	5,562	2,829	1,468	2,376	2,310
Ecuador	293	470	491	625	814	690	720	600
Mexico	5,430	9,526	9,186	12,831	11,312	11,915	13,286	12,775
Paraguay	98	103	149	236	342	87	82	80
Peru	785	2,056	3,226	1,781	1,905	2,390	680	723
Uruguay	—	157	137	126	164	235	298	250
Venezuela	836	985	2,183	5,536	4,495	3,187	4,110	1,071
2 Central America and the Caribbean	1,410	1,926	2,068	4,140	5,542	5,261	3,657	3,000
3 Caribbean Financial Centers	2,506	1,270	8,627	7,827	12,130	17,113	13,941	11,000
Total	18,287	30,934	52,413	73,084	84,295	103,930	87,266	59,490

Source: ECLAC (Economic Council of Latin American Countries), 2002.

Notes: ^aAnnual average.

^bPreliminary estimates.

cussed globally, thereby conditioning substantive progress in the FTAA negotiations upon the progress in the WTO.

At the same time it is worth noting that regional and bilateral agreements have always proven more amenable arenas in which to set new issues on the trade agenda. The inclusion of environmental and labor standards in the FTAA agreement, a precondition demanded by the US Congress, could set a precedent to resuscitate these highly contentious issues in the WTO.

In short, aspects of the FTAA may be hollowed out by interaction with multilateral processes. The fact that the US prefers to deal with agriculture, and trade relief measures at the WTO, and the likelihood that the next multilateral round of negotiations will extend beyond 2005, could well prove to be a blow to the hopes of many Latin American countries. This is a prospect to be taken note of by a global player such as Brazil whose interests are better served at the multilateral level, a setting which has the added advantage of requiring lower concessions than those it would have to grant in the hemispheric setting. The reluctance of the US to make substantial concessions in agriculture, anti-dumping and subsidies in the FTAA will also reduce the attraction of hemispheric integration, leading many to believe that investing resources in the WTO is more worthwhile.

By the same token, the proliferation of bilateral negotiations, each with specific terms and conditions, also compromises the broader Western Hemisphere negotiations. Acknowledging that hemispheric negotiations will be hard to complete, the US has followed a two-track strategy, pursuing both the goal of hemispheric negotiations and also bilateral FTAs with as many Latin American countries as possible. The US has already concluded an agreement with Chile and the Central American Free Trade Agreement (CAFTA) with Guatemala, Nicaragua, El Salvador and Honduras.²⁹ How much of the substance of these deals will be subsumed by the FTAA is unclear; but the fact remains that each country in possession of a bilateral deal will have fewer incentives in the FTAA. Equally, if the US perceives hemispheric negotiations to be going down too long and winding a road, bilateralism might also be the more attractive option for it.

The possibility of bilateralism lurks not just in strategy, but also in the sharing out of decisions in the hands of the negotiating groups. A key, unsettled question in this area is whether most favored nation treatment will be conditional or unconditional, as well as whether market access offers will be made country by country, as proposed by the US, or on a most favored nation basis.

While so much remains open to speculation and doubt, one certainty at least can be counted on: that while "multilateralism is an extremely demanding institutional form... the hegemon has far more unilateral and bilateral options available to it."³⁰

Conclusion

A turnaround of the FTAA's hemispheric momentum is out of the question. But whether it leads to a grand or a hollow bargain is still very much a matter for debate.

To begin with, the next phase of the FTAA requires a new fix between technical advance and the push of political commitment to reconcile differences at both negotiating levels, the domestic and the international, be the latter hemispheric or regional/sub-regional.

Domestically, constituencies are bound to intensify their action in the coming years. Indeed, the US has already provided a major instance of their bargaining power. If business interest in the hemispheric initiative has been lukewarm in the US, however, it has been even more wary in Brazil. The strong opposition to the FTAA shown by organized civil society in Brazil is an extra factor here. As mentioned by Korzeniewicz and Smith in this volume, a 2002 referendum conducted by over 60 civil society organizations, backed by the National Confederation of Catholic Bishops, showed up a rejection rate of the FTAA of over 90 per cent.³¹

Against such a background, the FTAA's chances of making domestic headway will depend upon delivering answers to a host of questions. For microeconomic domestic interests, some of these questions are: will most favored nation treatment be conditional or unconditional? Will the treatment of products be different for countries according to their level of development, with the main exports of small countries receiving preferential treatment? Will tariff reductions vary by country, with differential treatment applying to import coverage?

Domestic social pressures, already now intertwined across the hemisphere, will also make themselves felt in the effort to insert social clauses and "global safety nets" into negotiations. The emergence of the debate on global public goods, along with the increased emphasis given to economic and social rights in the human rights agenda, represent challenges which can be managed and watered down, but not spirited away. Indeed, in some ways the impact of these interactive pressures upon the FTAA negotiating process will stem precisely from their acceptance of the inevitability of trade adjustment: to the degree

that they are no longer manifestations of either crudely nationalistic neoprotectionism or all-out anti-liberalization, their case for managing the potentially destructive aspects of adjustment will be harder to sweep under the carpet.

Even so, in the case of Brazil, only a substantive offer by the US is likely to persuade it to open up its economy. So far the strategy appears to have been to exert indirect pressure upon Brazil through the "corral" effect of the bilateral FTAs the US has been signing across the region. As the cost of staying out for Brazilian exporters is raised, they may be expected to lobby their government to participate in the FTAA process.

Even should such a hurdle be cleared, however, the four major collective challenges discussed by this chapter will remain to be dealt with. They are, to recapitulate: the ability of US Congress to free itself from protectionist business coalitions; the translation of US foreign policy unilateralism into indifference towards the region; the prevalence of political and financial uncertainty in significant areas of Latin America; and the "spaghetti bowl" of concurrent bilateral and multilateral negotiations.

These sets of constraints and challenges create the setting for two broad, possible scenarios. In an optimistic one, even though motives are mixed and the situation marked by conflicts of interest, partnership and cooperation also remain possible. Or, though not every key player may be ready to move at the same time, what one or two do will itself create a situation likely to require others to act. The wrestlers will stop nervously circling one another, and follow each other to the negotiating table. Once there, although they will have to be looking over their shoulders to ensure that the agreements they hammer out will be sufficiently palatable to competing constituencies to obtain domestic ratification, the negotiators will not be hostages either to those constituencies. In other words, the optimistic scenario assumes a review of the current US policy in the region and a US Executive able to discipline protectionist forces, along with some sort of progress in multilateral negotiations.

In contrast, in the pessimistic scenario, the Americas would live on with intense, fragmented negotiations. An FTAA of sorts would come into effect in 2005 with room for country-by-country bilateral reciprocity; with very generous transition times and temporary safeguards for sensitive sectors; with ample leeway for smaller economies (broadly and generously defined); and with some environmental and labor clauses. An hemispheric agreement characterized by its coexistence with several preferential trade arrangements, mushrooming and overlapping bilateral free trade agreements, with different degrees of coverage and depth, would emerge. Muddling through would win the day.

Notes

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- 2 Business interest coalitions in international trade negotiations are strikingly understudied. For a brave start, see Amrita Narliker and Ngaire Woods, "Sectoral Coalitions: The Case of Services," in Diana Tussie (ed.), *The Promise and Problems of Trade Negotiations in Latin America* (London: Palgrave, 2003).
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- 4 See Carol Wise, "Latin America and the FTAA: Collective Action of Collective Apathy," 2001. Available at www.netamericas.net
- 5 US Trade Act of 2002: Title XXI.
- 6 Victor Bulmer-Thomas and Sheila Page, "Trade Relations in the Americas: MERCOSUR, The Free Trade Area of the Americas and the European Union," in Victor Bulmer Thomas and James Dunkerley (eds), *The United States and Latin America: The New Agenda* (Cambridge, MA: Harvard University Press, 1999).
- 7 NAFTA's Chapter 11 establishes that private investors can present cases for arbitration either under ICSID or UNCITRAL to prevent states not only "directly nationalizing an investment," but also to prevent them from taking measures "tantamount to nationalization or expropriation."
- 8 The TPA states that "the principal negotiating objectives of the United States regarding foreign investments are to... secure for investors important rights comparable to those that would be available under United States legal principles and practice by... d) seeking to establish standards for expropriation and compensation for expropriation consistent with the United States legal principles and practice; e) seeking to establishing standards for fair an equitable treatment consistent with United States legal principles and practice..."
- 9 Comisión Económica para América Latina y el Caribe (CEPAL), *Panorama de la inserción internacional de América Latina y El Caribe*, Santiago de Chile, 2001.
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- 17 Julio César Gil, "El ALCA, un paso más en la consolidación de la Comunidad Andina," *Capítulos del SELA*, No. 62, May–August 2001.
- 18 See Vivianne Ventura Dias, "Notas sobre acesso aos mercados e a formac[.]ao de uma área de livre comercio com os Estados Unidos," División de Comercio Internacional e Integración, CEPAL. Serie Comercio Internacional No. 20, Santiago de Chile, 2001; Sidney Weintraub, "The Brazil–US Relationship: A Tale of Mutual Ignorance," *Issues in International Political Economy* (Washington DC: Center of Strategic and International Studies, 2002); Antonio Barbosa, "The FTAA that is in Brazil's interest," 2002. Available at www.sice.org.
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5

Regional Governance: the Case of Dispute Settlement in NAFTA

Gustavo Vega-Cánovas

Introduction

The central purpose of the North American Free Trade Agreement (NAFTA) was to liberalize and promote trade and investment between the three North American partners. Another goal was to improve the management of trade and investment relations, and to this end important dispute settlement procedures were instituted to minimize the conflict inherent in closer economic relations.

Significant in itself, the NAFTA experience on dispute settlement is also of great relevance to the Western Hemispheric integration process as a whole: NAFTA and the negotiations for a Free Trade Agreement of the Americas (FTAA) follow the same logic. Both purport to be regional arrangements seeking to achieve economic growth through free trade and to attract foreign investment without a commitment to a higher level of supranationality. In the European Union trade and investment disputes are resolved by the European Court of Justice. NAFTA's dispute settlement procedures represent a different type of experiment in governance.

NAFTA is the most comprehensive free trade agreement short of a common market negotiated by any countries in recent times. It covers not only trade in all goods, but also trade in services (including financial services), investment, competition policy, intellectual property and temporary entry for businesspersons, among others.¹ NAFTA is also emblematic of the role of the growing number of trade agreements through which the rapid and extensive process of liberalization in trade and investment in the international economy has been furthered since the 1980s. Many of these agreements are now characterized by detailed rules governing the exchange of goods and services, capital

and technology and agreed-upon exception to those rules. As the role of international trade and investment in national economies has grown, so has the role of these rules.

This feature can be highlighted if we cast a look back to the fairly simple framework of procedures to help governments to resolve conflicts in the General Agreement on Tariffs and Trade (GATT), the basic international trade agreement from 1948 through to 1994. GATT had Articles X and XXII in turn requiring transparency and providing for consultation, but both aimed more at dispute avoidance than at dispute settlement. It also had Article XXIII, setting out procedures giving parties the right to complain and seek redress when others failed to live up to their obligations. These procedures worked reasonably well, but they became based more on customary practice than on established obligations, and they required consensus at every decision point.

Even within GATT, members experimented with varying techniques to make its provisions operative. After GATT, trade agreements have tended to include techniques of conflict resolution and compliance assurance within their provisions. These techniques for dispute resolution make international agreements more robust by helping resolve ambiguity, enforcing rules and clarifying norms.

Governments have increasingly seen benefit in procedures that go beyond simple consultative or objective support models to mediation and even adjudication. Yet because these have greater implications for the exercise of national political autonomy, they tend to be more difficult to negotiate and bulk larger in negotiations. This was certainly the case with the negotiations over the dispute settlement mechanisms in NAFTA. On the other hand, though, the NAFTA negotiations also provided opportunities to all three partners to build on the GATT experience and the Canada–US Free Trade Agreement (CUSFTA). These experiences were coded into a more binding and transparent set of procedures geared to ensuring full compliance with the rights and obligations agreed upon in NAFTA.

NAFTA contains a number of dispute settlement mechanisms which are contemplated in the three main Chapters: 20, 19 and 11. Their basic institutional design and the record of disputes which have arisen within them are in turn the subject of this chapter, which considers how well these mechanisms have served their purpose of managing the trade and investment relationships among the three NAFTA partners.

Chapter 20

Chapter 20 provides a general mechanism to handle all disputes not specifically provided for elsewhere in NAFTA. This is a traditional dispute settlement mechanism between sovereign countries not open to private actors. Chapter 20 is ultimately a political mechanism, and it is closely modeled after the dispute settlement procedures that evolved in the GATT, but with a number of important innovations aimed at making the procedures more certain and credible.

The mechanism provides that disputing countries will first try to settle the matter themselves through political (consultation) channels. Failing this, they will then constitute a panel of independent experts to provide a report on what the parties' legal obligations are to one another under relevant international agreements, principally NAFTA's. The panel report will then be transmitted back to the trade ministers of the disputing countries, which are expected, but not legally obligated, to implement the findings of the panel. If a party is unable to implement an adverse panel report, there is a possibility of retaliation by the affected party.

The NAFTA partners have resolved many cases using the bilateral consultation provisions of Chapter 20. In 1994, for example, the US was able to reassure Canada that its interests would be taken into account over a suspension agreement between the US and Russia concerning uranium dumping. Over sugar in 1995, both the US and Canada negotiated revised quotas. Likewise, US impediments to Mexican tomatoes and avocados in 1996 were ultimately resolved through consultations between the US government and Mexican growers.

A Chapter 20 arbitral panel decision has been requested, by contrast, in very few cases. In two cases, *Poultry and Dairy* and *Broom Corn Brooms*, the panels found against the US, dismissing its complaint over Canadian tariffication of import quotas on supply-managed dairy and poultry products in the first, and sustaining Mexico's complaint over US tariffs on imported brooms in the second. In both cases, while the US expressed disappointment with the verdicts, it complied with the recommendations of the NAFTA panel. Two other cases, however, opened deeper disagreements, both between the US and Mexico, and merit fuller consideration.

The *Cross Border Trucking* case was also initiated by Mexico, based on a complaint that the United States' decision to maintain prohibitions against the operation of Mexican trucking service providers in the US

constituted a violation of US obligations of NAFTA. The allegation that NAFTA would permit unsafe Mexican trucks to operate in the US had been a central charge in the domestic opposition to NAFTA. When the January 2000 ruling finally came, the US government announced that even though it would accept applications from Mexican trucking firms, the applications would not be finalized, effectively extending the ban to the operation of Mexican trucking service providers in the US. The US also continued a ban on allowing Mexican nationals to invest in US trucking firms. Yet NAFTA's terms called for both Mexico and the US to phase out barriers to cross-border trucking, including investment, by the end of 1995.

Mexico itself had resisted US pressures to allow US carriers to operate in Mexico, and only reluctantly agreed to a reciprocal opening. The hope in the Clinton administration had thus been that Mexico would not object too strenuously to the extension of the ban. Mexico, however, felt that if it accepted exceptions in this case other industries threatened by NAFTA's provisions would clamor for similar extensions. Even so, Mexico still hoped to resolve the case in negotiations, taking almost five years to decide that it wanted an arbitral panel. On February 6 2000 the panel issued its final report, unanimously finding for Mexico.

In the event, the new Bush administration still did not act immediately. Not until December 2001 did Congress pass a bill creating a regulatory framework for certifying Mexican trucks. In order to secure Democratic support in Congress, the final bill contained stringent safety regulations, which relatively few Mexican trucking firms were likely to be able to meet. While it did not achieve all of its objectives, the Teamsters Union voiced its general satisfaction with the final outcome. The legislation would require several months to implement. And even after President Bush had announced a beginning to the opening of US borders to Mexican long-haul trucks at the end of 2002, a federal judge in March 2003 prevented the executive order from being carried out and ordered the Transportation Department to first carry out a study that assessed the environmental impact of the order. In June 2004 the US Supreme Court unanimously ruled that the administration decision to comply with NAFTA did not require an environmental assessment. In early 2005 the US government began processing applications of Mexican trucking service providers in the US.

The fourth case for which a NAFTA Chapter 20 panel was requested, but was not constituted, involved an issue that was even more con-

tentious than trucking: sugar. The case, which concerns the interpretation of provisions governing US imports of Mexican sugar, could be seen as a continuation, in another forum, of an intense political struggle. It was a struggle that began during the negotiation of NAFTA, continued during the effort to pass the agreement in the US Congress, and boiled over during the first years of NAFTA's implementation.

US sugar producers have long been among the most subsidized and protected of US industries, reflecting the concentrated political strength of sugar cane growers in Florida and Louisiana. As a consequence, sugar prices in the United States are considerably higher than elsewhere in the world.

Prior to NAFTA, the US restricted sugar imports through a system of quotas. Mexico's annual quota was only 7,200 tons a year, a very small amount. Because Mexico consumed much more sugar than it produced, despite being a significant producer of sugar, the small quota had not historically mattered much.

In NAFTA, the United States agreed to a complicated formula in which Mexico imports to the United States would grow from 7,200 tons a year to 25,000 tons a year for the first six years of the agreement, then jump to 150,000 in 2000, and increase 10 per cent annually thereafter.² If, however, Mexico became a net exporter of sugar for two consecutive years (measured as sugar production minus sugar consumption), its exports to the US could exceed the maximums up to an amount equal to the net surplus.

The question, obviously, was whether Mexico was likely to remain a net importer or would become a net exporter after NAFTA. The complication was that under the NAFTA, Mexico would be opening its markets for the first time to corn sweeteners, the cheaper substitute whose most significant use is for sweetening soft drinks. If Mexican soft drink formulators switched to cheaper imported corn sweeteners, Mexico could suddenly have a substantial surplus in sugar. If so, Mexico would be entitled to export virtually unlimited quantities of sugar duty free into the United States. This possibility did not go unnoticed by the negotiators, who saw the swap of corn sweetener for sugar as the kind of gain from trade that trade agreements were intended to produce.

The US sugar lobby, however, rightly viewed the agreement as a significant threat and mobilized to revise what they saw as an oversight. Under pressure to concede in the run-up to the House of Representatives vote on NAFTA, in which the votes of the Florida and Louisiana delegations were crucial, Mexico's negotiators quietly agreed

to a new understanding. Mexican consumption of sweeteners would be included in the calculation of Mexico's net surplus production status, thus considerably lowering the likelihood of Mexico being classified as a net sugar exporter. Given this, the caps of 25,000 tons a year for the first six years, and 150,000 tons a year beginning in 2000, were much more likely to be binding. The understanding also established an overall cap of 250,000 tons a year on the volume of duty-free access should Mexico reach net surplus status. The understanding was not made public or officially included in the NAFTA's agreements voted upon by the legislatures of Mexico and the United States.

Once NAFTA came into force, there was a rapid increase in the export of US corn sweetener to Mexico as soft drink bottlers and other food processors substituted fructose for sucrose. The rapid shift away from sugar, coupled with the limits on Mexican sugar producers' ability to export to the United States, threw Mexico's sugar industry into crisis. Mexican sugar refiners, accustomed to high prices and a protected market, found themselves hopelessly in debt. Mexican cane growers marched on Mexico City.

Under pressure from both growers and refiners, the Mexican government of Ernesto Zedillo worked on two fronts. First, it sought to negotiate a larger quota for its sugar exports to the US by threatening to challenge the legitimacy of the understanding under Chapter 20. It argued that as they had not been part of the formal record on which either the Mexican or US legislatures had negotiated, and were rather secretly entered into by the former (and now disgraced) Mexican president Carlos Salinas, they did not have standing. On March 12 1998 Mexico invoked Chapter 20 and asked for consultations with the US. These would fail to produce an agreement.

On the second front, Mexico sought to limit fructose imports from the United States. In January 1998, after a Mexican agency concluded that US corn sweeteners were being sold in Mexico below market prices, Mexico imposed anti-dumping duties on them. The US Corn Refiners Association initiated a NAFTA Chapter 19 anti-dumping case against Mexico and, shortly afterwards, took a similar case against Mexico in the WTO.

Mexico's attempt to limit fructose imports from the US did not meet with much success. After numerous delays, the WTO panel ruled against Mexico in June 2001, finding Mexico at fault for not having adequately assessed the effect of fructose imports on its sugar industry. The WTO decision, upheld after appeal by Mexico, was subsequently reinforced by the decision of the NAFTA Chapter 19 panel, which ruled

on October 10 2001 that the Mexican Ministry of Trade had not adequately demonstrated a threat of injury from imports. In December 2001, the Mexican Congress, prompted by the rulings against its anti-dumping duties, passed legislation imposing a new tax on all fructose imports. But under pressure from the United States, Mexican President Vicente Fox rescinded the tax, a move that was subsequently challenged in the Mexican courts. The Supreme Court subsequently declared the rescission of the tax by the Mexican Executive illegal.

Mexico was equally frustrated in its attempt to negotiate a larger sugar quota with the United States. Years of negotiation yielded little progress. In August 2000, Mexico formally requested that a NAFTA dispute panel be established. The United States balked at the request, and Mexico backed off. In December 2001, Mexico threatened to seek international mediation if the United States failed to agree to the establishment of a NAFTA arbitration panel in the next 180 days, yet by early 2003 no panel had been constituted and the case was still far from being settled. As in the trucking case, the intensity of the domestic political pressures had made governments leery of actually bringing the case to a NAFTA panel. The two cases thus mark the limits of Chapter 20.

Chapter 19

NAFTA's Chapter 19 establishes a mechanism that allows Canadian, Mexican and US importers or exporters the option of taking a disputed anti-dumping or countervailing action issued by a Canadian, Mexican or US administrative authority to a binational panel of experts with binding powers to review the action and decide if the action was issued in accordance with the law of the issuing authority.

This mechanism was established as a second-best option in an attempt initially by Canada and then by Mexico to be granted exemption from the scope of US unfair trade remedy laws. For Canada and Mexico, the high frequency of use by the United States of unfair trade remedies, specifically anti-dumping actions, during the 1980s made it absolutely essential to ensure secure undistorted access to the US market, and this mechanism was seen by both countries as a way to exercise indirect control over the use of US trade remedy laws. The US opposed the creation of the mechanism in CUSFTA and its continuation in NAFTA, but accepted it once it realized that it would be useful to manage its relations both with Canada and Mexico.

Thus, the NAFTA parties agreed to retain their own anti-dumping (AD) and countervailing duty (CVD) laws and practices. However, they also agreed that amendments to such statutes would be subject to notification and consultation constraints, and be consistent with the GATT, other multilateral accords, any successor agreement to which they were all parties, and with NAFTA itself.

The centerpiece of the mechanism is the establishment of *sui generis* binational review panels. At the request of a party,³ binational panels, driven by independent ad hoc panelists, replace judicial review by domestic courts of final AD and CVD determinations. The panels' mandate is to review whether a final determination is made in accordance with domestic law. They must apply the same standard of review and general legal principles that the reviewing court of the importing party would apply.⁴

However, it is important to note that, despite this, Canada and Mexico believed that the five experts sitting in the place of judges would be more rigorous when applying domestic law, and would therefore overturn those decisions influenced by domestic politics. On the other hand, American negotiators intended Chapter 19 panels to operate and decide in the same way as domestic courts. This fundamental divergence in points of view still persists.

Incorporating the mechanism of Chapter 19 into NAFTA was not an easy task for Mexico due to the perception of Canadian and US negotiators that Mexico's AD and CVD legal framework was both procedurally and substantively problematic.⁵ Although Chapter 19 of NAFTA is essentially identical to Chapter 19 of CUSFTA, Mexico was obliged to accept certain additions in order to be granted access to binational review panels. First, to appease US concerns that constitutional constraints in Mexico might interfere with the panel process, a new mechanism was incorporated for the safeguard of the panel review system.⁶ Secondly, Mexico agreed to implement several procedural changes in its trade law.⁷ The procedural amendments, in general, had the virtue of increasing the level of transparency of AD and CVD administrative practice, thus, significantly contributing to reduce the potential of the administrative agency making arbitrary decisions. Additionally, new rules dealing with consultations were provided to further increase the transparency in the administration of AD and CVD laws.

The Chapter 19 binational panel process has proved to be as popular a dispute settlement mechanism in NAFTA as it was in CUSFTA.⁸ From 1994 to 2003, 86 cases were initiated, including cases completed, terminated or continuing; see Table 5.1.

Table 5.1 Binational panel reviews under NAFTA Chapter 19, 1994–2003*

<i>Appeal brought against</i>	<i>Total reviews</i>	<i>Appealed by Canadian producers and/or governments</i>	<i>Appealed by US producers and/or governments</i>	<i>Appealed by Mexican producers and/or governments</i>
US Agencies	56	27	—	29
Canadian Agencies	19	—	17	2
Mexican Agencies	12	3	7	2
Totals	87	30	24	33

Source: "FTA Decision and Reports"

<<http://www.nafta-sec-alena.org/english/decisions/fta/index.htm>>.

*Statistics up to February 2003.

The comparable figures for CUSFTA were 47 cases over five years. The average number of cases per year under CUSFTA was slightly over nine, and had that rate continued, it is likely that Chapter 19 in the bilateral CUSFTA would have produced about 74 cases in eight years, in other words 20 per cent fewer cases than have been experienced under NAFTA. Considering that NAFTA has added a third Party to the Agreement, which in itself might be expected to increase the potential for disagreements and hence the number of binational panels, it would appear that the frequency of cases has dropped slightly under NAFTA in comparison to the frequency established under CUSFTA.

It is clear from Table 5.1 that the United States is the main target for dispute settlement actions; it accounts for nearly two-thirds of the cases initiated, or more than half the total of cases against Canada and Mexico. These figures are not surprising, given the relative size of the US economy, and the export dependence of both Canada and Mexico on the United States. As for the two smaller partners, Canada and Mexico have used Chapter 19 binational panels with the same frequency. The activity of both Canada and Mexico is also reflected in Table 5.2, which shows the incidence of binational panels over the eight-year period.

In the year 2000 there were some 17 cases initiated, including 11 by Canada and Mexico against the United States. For the other years in the eight-year period, cases appeared fairly evenly distributed around the average of about nine cases per year.

Table 5.2 Incidence of binational panel reviews under NAFTA Chapter 19 by year, 1994–2003*

<i>Appeal brought against</i>	<i>Total reviews</i>	<i>1994</i>	<i>1995</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>
US Agencies	56	2	5	1	8	5	7	11	6	10	1
Canadian Agencies	19	4	4	1	2	3	1	4	0	0	0
Mexican Agencies	12	3	1	3	1	1	0	2	0	1	0
Totals	87	9	10	5	11	9	8	17	6	11	1

Source: "FTA Decision and Reports" <<http://www.nafta-sec-alena.org/english/decisions/fta/index.htm>>.

*Statistics up to February, 2003.

Table 5.3 Disposition of binational panel reviews under NAFTA Chapter 19, 1994–2003*

<i>Appeal brought against</i>	<i>Total reviews</i>	<i>Affirmed</i>	<i>Remanded</i>	<i>Terminated</i>	<i>Continued</i>
US Agencies	56	5	11	20	20
Canadian Agencies	19	8	4	6	1
Mexican Agencies	12	1	5	4	2
Totals	87	12	20	30	23

Source: "FTA Decision and Reports"

<<http://www.nafta-sec-alena.org/english/decisions/fta/indez.htm>>.

*Statistics up to February 2003.

Table 5.3 indicates the disposition of cases; at the outset it is clear the United States has a large number of terminated and continuing cases, with the result that its completed cases for the period here examined are about the same as Canada and twice those completed by Mexico.

For the completed cases, a similar pattern previously found in CUSFTA continues to exist between the United States and Canada, namely that a large majority of panel decisions against US agencies (nearly two-thirds) result in remands to the agency. In contrast, for Canadian agencies the majority of panel decisions result in the agency determination being affirmed. This pattern is especially interesting given that it has continued even after the addition of a third country into the North American trade regime. As for Mexico, its ratio of remands is very high, reflecting no doubt the growing pains of accommodating to the anti-dumping and countervailing duty systems of its North American partners.

The actions that binational panels review include the determination of the margin of dumping or of subsidy, or the determination of injury. In CUSFTA, dumping determinations were the most frequent subjects of panel reviews, with subsidy determinations (leading to countervailing duties) and injury determinations being less numerous. In NAFTA, this distribution has continued and has become more pronounced, with reviews of dumping determinations accounting for over three-quarters of the total cases (see Table 5.4).

As for subsidy determinations, neither the Canadian nor Mexican governments have invested much effort in anti-subsidy practices, with the result that binational reviews contesting the imposition of countervailing duties are directed almost wholly against US agencies.

Table 5.4 Subject of binational panel reviews under NAFTA Chapter 19, 1994–2003*

<i>Appeal brought against</i>	<i>Total reviews</i>	<i>Anti-dumping duties</i>	<i>Countervailing duties</i>	<i>Injury</i>
US Agencies	56	51	6**	3
Canadian Agencies	19	10	0	9
Mexican Agencies	12	10	2	0
Totals	87	71	8	13

Source: "FTA Decision and Reports"

<<http://www.nafta-sec-alena.org/englishc/decisions/fta/indez.htm>>

Notes:

*Statistics up to February 2003.

**Four of these cases also covered anti-dumping duties.

The industries initiating Chapter 19 binational reviews are shown in Table 5.5. As the data suggest, a few industries have emerged as heavy users of dispute settlement and they account for a large proportion of the total cases. Semi-manufactured goods make up the largest category in all three countries, and within this category the steel industry is by far the predominant player. For example, of the 24 US cases under semi-manufactures, various steel products account for 13 cases. Similarly in the category of minerals, the product portland cement accounts for twelve of the 16 cases directed against US agencies. Overall, the products included in Table 5.5 are not high-tech goods in areas that countries might like to build comparative advantage. Instead, the heavy users of Chapter 19 dispute settlement are the same import-competing industries that rely on anti-dumping policies to meet price competition in international trade.

In conclusion, the Chapter 19 dispute settlement mechanism has been as heavily used under NAFTA as it was under CUSFTA. This is no small accomplishment, given that Mexico needed to be integrated into a dispute settlement system originally designed to accommodate two Anglophone North American countries with very similar legal systems. Despite the potential for discord, difficulties in the process of decision making attributable to the differences between civil and common law systems have not been evident.

Chapter 11

The purpose of Chapter 11 is to encourage the free flow of investment among the parties by imposing limitations upon the capacity of a host government to impose discriminatory or market-distorting measures

Table 5.5 Industries initiating Chapter 19 binational panel reviews, 1994–2003*

<i>Appeal Brought Against</i>	<i>Total Reviews</i>	<i>Prepared Foods</i>	<i>Live Animals</i>	<i>Apparel Goods</i>	<i>Household Goods</i>	<i>Minerals</i>	<i>Electronics</i>	<i>Semi-manufactured</i>	<i>Agricultural Goods</i>	<i>Alcoholic Beverages</i>	<i>Textiles</i>	<i>Pharmaceuticals</i>	<i>Chemicals</i>
US Agencies	45	0	3	1	8	13	1	18	1	0	0	0	0
Canadian Agencies	19	1	0	0	2	0	0	8	3	1	1	1	2
Mexican Agencies	11	0	0	0	0	0	0	6	2	0	0	0	3
Totals	75	51	3	1	10	13	1	32	56	1	1	1	5

Source: NAFTA Decision and Reports@ <<http://www.nafta-sec-alena.org/english/decisions/fta/index.htm>>

*Statistics up to February 2003.

upon such investments or investors. To that end, it establishes an array of protections in each country for investments and investors of the other two parties, reinforced by the right of private parties to seek judicial remedy in the event of a breach of the obligations of Chapter 11.

The investment provisions dealing with investment flows embody some of the most innovative provisions aspects of NAFTA, all the more so in an agreement between two advanced developed countries and one developing one. This chapter establishes an open investment regime in North America and provides a predictable framework for business planning and investment. Chapter 11 "covers practically all the hard-core conditions that experts consider necessary to include in an international agreement of this nature."⁹ The chapter also includes an innovative set of provisions to address disputes between foreign investors and the host government. Unlike the state-to-state provisions of Chapter 20, Chapter 11 provides for mandatory arbitration between an investor and the government. A panel of three arbitrators, one picked by the complaining investor, one picked by the responding government, and a chair selected jointly, will hear such investor–state disputes.

The investor-to-state dispute settlement has been characterized as the "single most significant legal development, which has taken place through the NAFTA."¹⁰ This is because NAFTA conveys to individual investors the right to bring international legal disputes against a host state, a right that traditionally belonged only to other states. Not only does this mechanism imply the creation of "a system of claim adjudication parallel to national courts,"¹¹ but it has also "enhanced the role of supranational rules and administrative structures in the governance of the FDI regimes of North America."¹² In addition, Chapter 11 establishes a set of rules that "create an interface between NAFTA and either of the two international arbitration conventions, namely the International Convention for Settlement of Investment Disputes (ICSID) and the arbitration rules of United Nations Commission on International Trade Law (UNCITRAL)."

After a slow start, investors have begun to make increasing use of these provisions, particularly to challenge regulatory policies that, in their view, have had discriminatory and negative impacts on investors' interests. By the beginning of 2003, 23 cases had been initiated under NAFTA's mechanism for the settlement of investment disputes; see Table 5.6. Nine cases have been filed against Canada, nine against Mexico, and five against the US. Nine of the 21 cases have thus far reached a final award. Four of these nine awards have been rendered in favor of the Claimant investor and five of them in favor of the

Table 5.6 Inventory of Chapter 11 case, 1994–2003 – *continued*

<i>Complaining party</i>	<i>Responding party</i>	<i>Disposition</i>
Halchette (US)	Mexico	not pursued
Signa (Mexico)	Canada	not pursued
CEMSA (US) (Karpa et al.)	Mexico	The Tribunal found Mexico in violation of Article 1102 and awarded damages to the investor in the amount of 9,464,627.50 Mexican pesos, plus 7,496,428.47 Mexican pesos in interest generated at the time of the award.
Loewen (Cda)	USA	Ongoing
UPS (US)	Canada	A jurisdictional challenge advanced by Canada was successful and the Tribunal asked the investor to submit an amended claim.
Mondev (Canada) claim.	USA (Boston)	The final award dismissed the claim.
ADF (Cda)	USA	The final award dismissed the claim.
Trammel Crow (US)	Canada	Ongoing
Crompton (US)	Canada	Ongoing
Robert J Frank (US)	Mexico	Ongoing
Canfor (Cda)	USA	Ongoing
Fireman's Fund (USA)	Mexico	Ongoing
GAMI Investments (USA)	Mexico	Ongoing

Respondent State. In the five cases favoring the Respondent State, Mexico and the US were the Respondent. Canada has been the Respondent State in two of the cases reaching a final award in favor of the Claimant, and Mexico likewise in two of them.

On the one hand, Chapter 11 established an innovative principle: that private parties may challenge and seek relief from governments' alleged breaches of their obligations. But in practice, 23 cases represent a modest response to its opportunity. The same paradox applies to the amount of

damages involved in Chapter 11 cases. This amount has reached a total of more than US\$3 billion. Yet in only three of the four awards in favor of the Claimant investor has a determination been made on the amount of damages. The Arbitral Tribunal in *Metalclad* awarded the Claimant \$16.7 million in damages, including interests. This is approximately 13 per cent of the amount claimed by *Metalclad* originally. In the *CEMSA* case the Arbitral Tribunal awarded the claimant \$1.7 million in damages and interests generated, approximately 17 per cent of the amount claimed by *CEMSA*. In the third case, *Pope and Talbot*, the Arbitral Tribunal awarded the claimant half a million dollars, less than 0.05 per cent of the amount claimed by the claimant.

One case out of 23 has in fact been settled out of the arbitration during the proceeding. Canada agreed to pay *Ethyl Corporation* approximately US\$13 million in settlement and to remove the ban on trade of MMT between Provinces and issue an apology. This settlement constituted 6.4 per cent of the amount claimed originally by *Ethyl*. In addition, two cases out of the 23 have been discontinued by withdrawal of the Claimant investor, one of them as a consequence of the *Pope & Talbot* decision. And one of the 23 cases has remained inactive for a long time. In this case, *Sunbelt Water v. Canada*, it is still uncertain whether it can be counted as a claim submitted to arbitration.

It is true that the total damages sought in the cases amount to more than US\$3.5 billion. But even if half of the cases were resolved in favor of the claimants, and the awards reached approximately 20 per cent of the damages sought by the claimants, we would be talking of roughly \$650 million in damages, a figure that does not represent even 1.0 per cent of the estimated total NAFTA foreign investment in Mexico since the entry into force of NAFTA. The Mexican government estimates that as of March 2000, the United States and Canadian investors held participations in at least 12,557 corporations in Mexico. Of these, investors in a mere seven brought NAFTA investment arbitrations against Mexico.

On the other hand, the three cases pending against the United States are the first ever investment claims brought against the United States, the most active Claimant on behalf of their investors internationally, and the home government to the most active Claimant investors under investor–state dispute settlement.

Conclusion

The extensive and varied mechanisms for dispute resolution that are embodied within the North American Free Trade Agreement represent

in their variety and breadth a unique approach to the well-acknowledged need for sound dispute settlement mechanisms in matters involving regional trade agreements.¹³

The overall record of litigation between the three countries over the past eight years under NAFTA (and the WTO) is one of commitment to the rule of law. The three countries have used the procedures roughly equally. The three have succeeded and failed in pressing their complaints. The three have generally accepted the results of panel proceedings and implemented the required changes in law and policy, although not always with enthusiasm and grace. On occasion, some additional pressure has been required to resolve the issues. On other occasions, the resolution of one dimension of an issue has led to a flare-up of a related issue. In general, however, the three governments have been prepared to make full use of the system and to live by its results.

Similarly, panels as adjudicatory bodies have fulfilled their role very professionally and have decided as they were expected to do, namely, on the basis of fairness, efficiency, transparency, consistency, impartiality and reasoned decision making based upon the rule of law.

In NAFTA Chapter 19 disputes, for example, during the almost eight-year period of cases in NAFTA, panels have sustained decisions by administrative domestic authorities, and remanded others, seeking either clarification or stronger justification for the decision rendered, or, in the absence of justification, determining that the decision be vacated. Experts reviewing the reasoning in such cases have generally agreed that the panels of experts, familiar with the economic and legal concepts, have performed their tasks ably and professionally and often more thoroughly than had been the case by the domestic courts.¹⁴

While some cases that took place between Canada and the US during the period of existence of the CUSFTA led some critics to argue that the bias of foreign participants in favor of their own litigants had tainted and discredited the Chapter 19 process, so far this claim has not been made regarding the NAFTA experience. There are good reasons for this. There has been no case involving a decision split along national lines. More than 80 per cent of the cases have been decided unanimously while the rest have involved majorities of mixed national origin.

By any measure, the process has demonstrated a very high level of impartiality and professionalism and, despite the number of high-profile cases, has succeeded in resolving disputes on a more principled, less political basis. In short, Chapter 19 has proved a pleasant surprise in reducing the cross-border temperatures in trade remedy disputes. It

has forced officials in all three countries to operate within the scope of the law, and reduced the capacity of pro-protectionist industries to pressure administrative officials to favor their interests.

The more general dispute settlement provision of NAFTA's Chapter 20, on the other hand, have been used less frequently but equally usefully. A variety of difficult issues have been resolved at the consultative level as well as at the Panel level where the decisions have been considered of exceptionally good quality.

As for investment disputes, the overall evidence from our analysis is that Chapter 11 is an efficient mechanism to resolve investment disputes. The experience so far is that arbitrations are launched, tribunals constituted, and proceedings undertaken, without the disputing parties dragging their feet or refusing to arbitrate. The disputing parties have had ample opportunities to submit their objections, challenges, submissions and claims. Contrary to the other dispute settlement mechanisms under NAFTA, Chapter 11 investment arbitration utilize procedural rules, to the extent not modified by NAFTA, that exist and are applied also outside NAFTA, and that include independent administrative bodies (the case of ICSID and the ICSID Additional Facilities Rules), or that establish ways of solving impasses during the arbitration that do not rely uniquely on the willingness of the disputing parties. This contributes to the smooth and efficient conduct of the proceedings.

There has been no report of a NAFTA Party suggesting it would refuse or delay payment of damages if ordered under an award. In fact, there is the case of the government of Mexico, which has already complied with the Metalclad award. This has several consequences. NAFTA's investment arbitration is not designed to effect a direct policy change. It facilitates enforceability and compliance because it is generally easier for a state to pay compensation than to change or amend a law or policy. It is, or should be, an extraordinary remedy. It is not the remedy to be sought for minor disturbances or measures that could be more effectively challenged through domestic remedies in order to secure the continuity of the investment.¹⁵ In fact, this mechanism derives from the customary law of claims under international law where the exhaustion of local remedies constitutes a condition to raise a claim to the international level. Though under NAFTA, an investor need not as a general rule exhaust its local remedies as a procedural condition to issue a claim, the question of whether it is necessary to exhaust local remedies to successfully claim a breach under certain of the substantive provisions has not yet been resolved by any Tribunal.

Notwithstanding this, Chapter 11 has produced considerable controversy which the NAFTA governments have been ready to address by committing themselves to reclarifying the main purpose of the chapter. In different Chapter 11 cases the three NAFTA governments themselves began complaining that companies were stretching the bounds of the requirements to give investors a minimum standard of treatment in ways that governments never intended. A clarification statement issued in July 2001 by the three ministers sought to limit the standard of treatment to other well-established norms of treatment while excluding obligations under other agreements.

As far as relations between the NAFTA three themselves go, to the extent that Canada, Mexico and the United States have been prepared to use available rules and procedures, it is clear that the new, more binding dispute settlement procedures have helped the management of their relations. The existence of international agreements does not mean that conflicts will not arise, but, rather, that there is a better basis for addressing and resolving them. Since the three partners carry out one of the busiest trade relations in the world, it was to be expected that numerous disputes would arise as the NAFTA agreements were implemented. This expectation has proved to be well founded. Yet the application of clear rules within a set of binding procedures has ensured equality of standing among the three parties. Agreed rules, rather than power politics, have determined outcomes.

Nevertheless, there are limits to a government's willingness to cede control to international rules and procedures, as illustrated by continuing conflict over both Mexican trucking services and sugar, which have bedeviled Mexico-US relations over the last few years. Mexico's restraint in adopting retaliatory measures on the trucking services case appears to be based on the judgment that, despite Mexico's strong case, the costs of adopting retaliatory measures outweighed the benefits. Asymmetry clearly remains an issue in cases like these. On the other hand, the NAFTA Chapters have created a framework to deal with even the "unfairness" of unfair trade laws.

Notes

- 1 See Gary Hufbauer and Jeffrey Schott, *NAFTA: An Assessment* (Washington, DC: Institute for International Economics, 1995).
- 2 Frederick W. Mayer, *Interpreting NAFTA: The Science and Art of Political Analysis* (New York: Columbia University Press, 1998), p. 138.
- 3 Chapter 19 provides access to binational panels for any parties that have a legal right to take an AD or CVD action to domestic courts. This empowers

private parties to initiate binational panels through governments and to represent themselves in those panel processes. Effectively, this has provided standing to private parties in international dispute settlement, which is normally reserved for national governments representing nation-states. Given the politicized nature of AD and CVD issues in Canadian–US and Mexican–US economic relations, and the fact that panels can be initiated by private parties themselves, it was to be expected that Chapter 19 would be a heavily used form of dispute settlement.

- 4 There is a large subliterate on the history, functioning and evaluation of Chapter 19 binational panels under the CUSTA and NAFTA. See, among others, Gilbert R. Winham, “NAFTA Chapter 19 and the Development of International Administrative Law: Applications in Antidumping and Competition Law,” *Journal of World Trade* 65 (1998); J.C. Thomas and Sergio López Ayllón, “NAFTA Dispute Settlement and Mexico: Interpreting Treaties and Reconciling Common Law and Civil Law Systems in a Free Trade Area,” *Canadian Year Book of International Law* 75 (1995).
- 5 Procedurally, it was thought that panelists from Canada or the United States would not be able to apply Mexico’s civil law correctly, nor would Mexican panelists be able to adapt to Canadian or American common law practices. See Homer E. Moyer Jr., “Chapter 19 of the NAFTA: Binational Panels as the Trade Courts of Last Resort,” in Judith H. Bello et al. (eds), *The North American Free Trade Agreement: A New Frontier in International Trade and Investment in the Americas* (Washington, DC: Section of International Law and Practise, the American Bar Association and the International Lawyer, 1994), p. 429. Substantively, there were a number of significant differences between Mexican trade law and American or Canadian trade law. See Maxwell A. Cameron and Brian W. Tomlin, *The Making of NAFTA: How the Deal Was Done* (Ithaca, NY: Cornell University Press, 2000), p. 48.
- 6 See NAFTA article 1905. The mechanism is that if a party alleges interference in the panel process, that party can request consultations. If consultations are not satisfactory, a Party can request the formation of a special committee. The special committee will make a finding on the charge of improper interference with the panel process, after which the parties will try to seek a mutually satisfactory solution within 60 days. If no solution is reached, the complaining party can suspend the operation of the AD/CVD panel system with respect to that party or suspend any other benefits under NAFTA. See Gary N. Horlick and F. Amanda Debusk, “Dispute Resolution under NAFTA: building on the U.S.-Canada FTA, GATT and ICSID,” *Journal of World Trade* 21 (1993), 34.
- 7 See NAFTA. annex 1904.15, Schedule of Mexico.
- 8 CUSFTA went into effect on January 1 1989, and was succeeded by NAFTA on January 1 1994. During the five years of its existence, the Parties formally brought 47 cases against each other; this figure does not include disputes that were resolved in consultations prior to the establishment of a binational panel. Of the 47 cases, 28 were directed against US agencies (either anti-dumping or countervailing duty determinations of the Department of Commerce, or injury determinations of the International Trade Commission), and 19 were directed against Canadian agencies (against Revenue Canada – now Canada Customs – and Revenue Agency,

for anti-dumping or countervailing duty decisions, or the Canadian International Trade Tribunal for decisions on injury).

- 9 Fernando de Mateo Venturini, "NAFTA, Foreign Direct Investment and Economic Integration: A Mexican Approach," in *Migration, Free Trade and Regional Integration in North America* (Organisation for Economic Co-operation and Development, 1998), pp. 195, 201.
- 10 Barry Appleton, *Navigating NAFTA: A Concise User's Guide to the North American Free Trade Agreement* (Toronto: Carswell Legal Publications, 1994), p. 149.
- 11 Appleton, "Navigating NAFTA," p. 82.
- 12 Michael Gestrin and Alan M. Rugman, "The North American Free Trade Agreement and Foreign Direct Investment," in *Companies Without Borders: Transnational Corporations in the 1990s* (Toronto: Blachwell, 1996), p. 188, and p. 192 for the following quotation.
- 13 For example, the Southern Cone Common Market (Mercosur) incorporates a mechanism for third-party resolution of disputes among the member governments, consisting of negotiations, a type of conciliations by the member governments, and compulsory arbitration. See Mercosur/CM/DEC No. 1/91-Protocol of Brasilia for the Solution of Controversies, reprinted in Thomas Andrew O'Keefe "Latin American Trade Agreements," quoted in David Lopez, "Dispute Resolution under NAFTA: Lessons from the Early Experience," *Texas International Law Journal* 32 (2) (1997).
- 14 Eric J. Pan, "Assessing the NAFTA Chapter 19 Binational Panel System: An Experiment in International Adjudication," *Harvard International Law Journal* 40 (1999); David A. Gantz, "Resolution of Trade Disputes Under NAFTA's Chapter 19: The Lessons of Extending the Binational Panel Process to Mexico," *Law and Policy International Business* 29 (1998).
- 15 It is also extraordinary in that it is not a domestic type remedy, but an international law remedy. At issue is not whether the measure was lawful or legitimate under the domestic law of the Party, but whether it was contrary to the NAFTA investment obligations.

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Part III

The Politics of Transnational Civil Society Opposition

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6

Transnational Actors and NAFTA: the Search for Coalitions on Labor and the Environment

Blanca Torres

Introduction

The North American Free Trade Agreement (NAFTA) has encouraged the activity of new transnational actors while old ones have remained in the field. Among the most active, indeed, are many of the social and civil organizations that formed part of the transnational coalitions that opposed NAFTA or fought for the introduction of commitments regarding labor and environmental protection within the latter. How successful have these actors been in forming transnational coalitions after the passage of NAFTA? What have been the opportunities for – or dilemmas of – cooperation? Have foundations been laid for even more powerful coalitions and transnational activity, or are we still at a stage of, at best, “strategic alliances” between organizations whose interests are only sporadically convergent?

For those transnational actors who were involved there at the beginning, a decade’s progress of NAFTA has involved some painful choices between adjustment, retrenchment, diversification and/or coalition building. These dilemmas have been most acute in the field of labor, where the younger generation of actors has inherited the weight of the older’s ambivalences. In the field of the environment, by contrast, the transnational actors show every sign of being not only unburdened by the past, but positively empowered by the existence of NAFTA.

Striking as the contrasting experience is, however, a deeper look at both transnational labor and environmental coalitions reveals a common pattern of asymmetrical power relations between, on the one hand, US and Canadian partners, and Mexican on the other. Managing

unequal power has turned out to be just as much of a challenge for the contestants of NAFTA as for its parties. The future success of transnational coalitions will depend upon fully recognizing this.

NAFTA and labor: *la lucha continua*

The resistance of US organized labor to NAFTA continued after its passage into existence. For the new leader of the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) in 2001, NAFTA was still a "bad deal."¹ Likewise, the United Steel Workers of America, along with the Made in USA Foundation, would have its constitutional challenge to NAFTA thrown out by the US Supreme Court of Justice as late, again, as 2001.

New as it is, the AFL-CIO leadership has maintained a critique of NAFTA. At the top level, there is the ideological attack, in which the global market and free trade are "not natural phenomena but creatures of state power," and as such ought to be democratically resisted.² At the bottom level, there is the bottom line: the bad deal, the "lost jobs," the "hemorrhage of work," the "depression of US salaries."

American labor's bottom line was reached in an effort to repeal NAFTA. That hope may have been abandoned, but the bottom line tends to resurface in high-publicity campaigns to reform NAFTA and its parallel labor agreement.

The Canadian labor leadership, meanwhile, has pursued its opposition to NAFTA from a position of relatively greater strength. Where the AFL-CIO was modernizing against a backdrop of reductions in both national unionization (from 34.5 per cent in 1954 to 15.5 per cent in 1998) and in real wages (by 15 per cent from 1973 to 1995), Canada enjoys a unionization rate double that of the US with both a higher minimum wage and better labor standards.³ The Canadian Labor Congress (CLC) has in turn advanced a more sophisticated critique of NAFTA. Focus is kept on radical objectives: to incorporate a social clause both in the WTO and in regional trade pacts, including the Free Trade of the Americas (FTAA), and to introduce enforceable codes of conduct for multinational corporations. Of a piece with this social emphasis, through the 1990s the CLC privileged an international strategy over a trilateral one.

Yet even in the Canadian case there have been articulations of the argument of the bottom line. Whether it is the AFL-CIO or the CLC, the bottom line means Mexico.

Hitting bottom: the Mexico line

Canadian labor complaints about downward pressures on wages and relocation of production, particularly in the auto parts sector, reveal a shared US–Canadian sense that Mexico marks the threshold of NAFTA's acceptability. This sense is, in turn, the key sticking point for transnational actors seeking coalitions with Mexican labor organizations. The dilemma, clearly enough, is that it is hard to build coalitions with a labor force that is also, at a deep level, considered to be offering unfair competition.

The AFL-CIO, in particular, has wrestled with this dilemma. On the one hand, it has held to the bottom line, in other words, mobilizing to prevent the migration of US industries to a country with lower labor standards; and on the other, it has continued to argue for an international diffusion of core labor standards.⁴

Yet in Mexico, the workers' solidarity of the AFL-CIO has not played well. Remembered for its erstwhile anti-communist crusades, the AFL-CIO had also been a noted ally of US governments in their drive to achieve access to foreign markets and investment opportunities.⁵ Mexican Labor has not forgotten either the way the AFL-CIO conditioned its acceptance of free trade to a commitment by the US government to level the playing field with foreign competitors in general, Mexican in particular. Mexico's largest workers' federations have made it clear that they do not have the best will in the world towards the AFL-CIO.

Those federations are grouped together in the Labor Congress, an umbrella for the Confederation of Mexican Workers (CTM) and the Revolutionary Confederation of Workers and Peasants (CROC). Bridges with the AFL-CIO have not been built.

Where the AFL-CIO has come to be seen as a compromised transnational actor when it comes to Mexico, the traditionally intimate relationship between union leaders and the Mexican political regime also accounts for why the Mexican labor leadership was reluctant to take a transnational stance on NAFTA. Given the choice between betting on transnational labor solidarity, or maintaining their special domestic political position, Mexican leaders did not have much sleep to lose.

There was also the matter of a disadvantageous reform to them of the Federal Labor Law which was being vented at the time of NAFTA. A deal, clearly, was waiting to be done. The union leadership promised collaboration; the Federal Labor Law remained unreformed under both the Salinas and Zedillo administrations. Comparatively speaking,

NAFTA thus began by strengthening traditional trade unionism in Mexico which for some time had showed clear signs of weakness.

Then came the Fox transition to democracy in 2000. Union leaders declared that labor would maintain "its historic alliance with the state."⁶ Despite its electorally pledged commitment to a reform of labor legislation, the new administration's legislation would look closer to what the traditional unions were themselves proposing.

Such is the background to the complaint of the CLC leadership in the late 1990s that "strong interlocutors" within the Mexican trade union movement were hard to find.⁷ From a traditional Mexican labor perspective, the strength of Mexican official unionism lay in its remaining an interlocutor with its state. From a transnational perspective, independent interlocutors were needed.

For the AFL-CIO, instead of bridges, what seems to be a long-term strategy emerged. Diplomatic relations with the CTM and CROC would be in theory maintained; but, in practice, the US federation was to go around those traditional Mexican unions and link up with more independent unions.

The prime case was the telephone company workers' union (STRM). The STRM was one of the few members of the Mexican Labor Congress that had sought out new links with US organizations during the anti-NAFTA opposition. In 1997 the STRM broke away from the Mexican Labor Congress, leading some major unions towards the creation of the National Workers' Union (UNT).

The STRM was a prominent target for strategic alliance from Canadian as well as US labor. So too were smaller unions with longer pedigrees of independence. One such organization happened to be enticingly called the Authentic Independent Front (FAT). More than the STRM, the FAT symbolizes the new-generational possibilities of labor coalition-building in Mexico. Critically, the FAT participated in the transnational anti-NAFTA coalition to the extent of participation in the Teamsters' mobilization to postpone the entry into the US of Mexican trucks.⁸

Unions divided

The FAT began as a small federation of trade unions, cooperatives and grassroots groups, of Christian Social Democratic origin. Its involvement in the anti-NAFTA coalition was encouraged by Canadian trade unions from the province of Quebec, with whom it had maintained links for some time.⁹ The FAT also went looking for direct links with

North American allies, finding a special one with a small US organization, the Electrical, Radio and Machine Workers of America (UE). The “strategic alliance for organization,” established in 1992, between the FAT and the UE became the axis of the former’s transnational activity. Both organizations targeted those transnational firms that are common employers of their members, both in the U.S. and in Mexico.¹⁰ More precisely, FAT would try to create independent unions in those firms Mexico. Most of them were maquiladoras.¹¹

From here it was a step to joining activities with (and eventually joining altogether) the Coalition for Justice in the Maquiladoras (CJM), which also featured in the long-term strategy of the AFL-CIO of indirect participation in Mexican union organizing.

The CJM is a key cooperative, space-opening organization in the oppositional NAFTA landscape. Formed by religious and community groups as well as major labor organizations, including the CLC as well as the AFL-CIO, it is both trilateral and exemplary of transnational coalition-building. Its ramifying nature is revealed, for example, in the collaboration of the Interfaith Center for Corporate Responsibility (New York) in its major study of Mexican labor conditions.¹²

From its own small beginnings, the FAT had also made it into the big league of transnational actors. Gradually, its activities would come to be supported by the United Auto Workers; the Teamsters; the Union of Needle Trades, Industrial and Textile Employees; the Service Employees’ International Union; and the United Steel Workers of America. The FAT became a beneficiary of transfers from US local trade unions and NGOs administered by its US partner, the UE.¹³

The FAT has been able to open two main offices, one in Mexico City and a Center for Labor Studies in Ciudad Juárez, to provide legal and educational assistance to workers in the North and the Center of Mexico. The bulletin of the FAT, *Mexican Labor News and Analysis*, circulates through the network of the UE. Moreover, political backing granted by the presence of US trade unions’ representatives and/or activists at key moments in the FAT’s activities increased its domestic visibility. But the FAT’s activities would also highlight the risks of scaling the transnational heights. Cooperating with the transnational actors meant competing with the home team on its turf.

Efforts to create independent unions in the *maquiladora* sector resulted in incidents of both threats and physical attacks by enforcers from the traditional Mexican unions (and perhaps some employers). There were dismissals of independent activists. Successes proved ephemeral, defeats resounding. The full meaning of the term “protec-

tion unions" came into force, and the strategy of unionizing plant by plant was postponed, if not abandoned.

Two front lines in the battle for transnational labor coalitions

The *maquiladora* sector and the closed shop practice of traditional Mexican unionism thus represent two overlapping front lines in the battle of transnational labor movements. The FAT had fought on both. Its defeat could hardly be left to stand, for symbolic as well as pragmatic reasons.

Symbolically, the coalitions being sought by transnational actors have followed a pattern of benign paternalism in which all main labor confederations, Mexican as much as US and Canadian, ought ideally to nurture independent organizations, allowing them to bloom. From a transnational perspective, the symbolism of what happened to the FAT's initial unionizing efforts was all wrong.

So too was the practical result. Neither US nor Canadian labor organizations can be expected to sit by while their Mexican counterparts "protect" plunging conditions and wages in the *maquiladoras*. Not even the old generation of anti-NAFTA opponents who have continued saying "I told you so" really want to have their worst nightmares confirmed. Forced into accepting the potentially positive role of international trade, actors such as the AFL-CIO and the CLC have in effect set their sights lower: with the juggernaut of NAFTA now out of range (its dynamic performance in the second half of the 1990s having seen to that), the closed shop of Mexican official unionism presented itself as a worthy target.

The struggle, then, continued. Despite diplomatic talk of its willingness to work with the Mexican Labor Congress, by the late 1990s the AFL-CIO and the CLC were openly reporting their closer ties with Mexican independent unions.¹⁴

Backed by the UNT, which had pledged itself to a joint declaration with the AFL-CIO defending the right to associate, to revise the labor aspects of NAFTA, and to work towards the standardization of labor conditions and rights in both countries, the CJM/FAT sent a new wave of workers into the struggle at the border.

It was not a complete failure. In one plant belonging to the Duro Corporation, the labor board of the state (Tamaulipas) granted legal status to an independent union. But a few months later the independent union had lost the election for sole bargaining rights, the rock

upon which all other efforts by the CJM/FAT also foundered.¹⁵ By December 2000 the *Mexican Labor News and Analysis* had the news that there were virtually no independent labor unions in the *maquiladora* sector.¹⁶

“Nefarious alliances”

Certainly, physical attacks upon, as well as blacklistings and firings of, independent union activists have a dissuasive effect. The hard end of traditional union politics in Mexico is no nicer than that evident in moments of US trade union history. But, if both coercion and dirty politics are necessary parts of the explanation of the failure of transnationally backed independent unions to take root, they are not sufficient either.

To begin with, protection unionism has a long tradition in Mexico, but there was a context to the conflict with the independent unionizing, a conflict which was going to be particularly acute in the *maquiladora* sector. Though still maintaining some political strength, traditional unions were experiencing strong difficulties in adapting to the newly opened economy and to export-led growth. In an attempt to ensure their own survival, union leaders accepted the demands of business for increased “flexibility” in labor relations.¹⁷ When it came to the *maquiladoras*, multinational firms left no doubts about how much active unionism would be tolerated. Whether conservatively or realistically, union leaders seized the only option that they considered available: “formal” trade unionism, guaranteed by time-honored “protection contracts.”¹⁸

In practice, protection did not amount to much for workers, as union leaders, particularly the most corrupt, increasingly accepted precarious labor conditions and lower salaries. But practice had another aspect: traditional Mexican trade unionism’s coalition building with government. The dividends from *this* coalition would become apparent when even the pro-business Fox administration leaped to protect the traditional unions – not from multinational firms, but from transnational enemies.

Thus, the Labor Secretary soon declared that the support of US labor for new unions in *maquiladora* firms in Coahuila and Chihuahua was destabilizing the Mexican workers’ movement.¹⁹ For good measure, the president of the Nuevo Leon branch of the business organization Confederación Patronal de la República Mexicana (COPARMEX) denounced a “nefarious alliance” between the AFL-CIO and leftist

labor unions, Jesuit priests and the Roman Catholic Bishop of Coahuila.²⁰

Nationalism as well as employment became the two intertwined bottom lines of Mexican resistance to transnational labor coalitions. Taken together, they are remarkably powerful unifiers of antagonistic interests in Mexico.

Thus, Mexican businessmen stress that they want to defend the Mexican labor market from US unions whose only motivation is the fear of losing US jobs. In reciprocation, CTM leaders woo US firms to Mexico, saying they should not be put off by the US labor conspiracy.

Mexico's nationalist backlash against US unions thus joins NAFTA's hall of mirrors: union coalitions that threaten NAFTA are resisted in much the way that US unions resisted the threat of Mexico. When in 2002 the leader of the STRM was confronted with allegations that foreign unions had supported the strike by the Independent Union of Workers of the Volkswagen Mexico car industry, as they had the Aeroméxico strike, he "admitted" to the alliance with the AFL-CIO, but hastened to add that "under no circumstances do we allow the U.S. union federation to tell us what to do or to provide financing."²¹

Coalition Made In the USA: Handle With Care

If nationalism is a factor even in Mexican unions which participate in transnational coalitions, the other side of its coin is power asymmetry.

In the early days of the *maquiladora* struggle, for example, highly skilled and politically articulate US teams would land in *maquiladoras* where over 50 per cent of the workforce were unskilled, poorly educated, young and, not least, poor women. They were not sufficiently empowered to be in favor of confrontational tactics.²² This note would also be sounded by a major UNT member, the National Union of Social Security Employees, when it asked the UNT for a more cautious international strategy than that being pushed by the affiliated US and Canadian federations.

Caution is in fact often the guiding principle of Mexican independent unions. Nowhere was this more apparent than in the misgivings registered by some Mexican independent union leaders at the 2001 ruling by the Mexican Supreme Court which declared unconstitutional articles 395 and 413 of the Federal Law which had traditionally allowed unions and employers to resort to "the exclusion clause" in collective bargaining agreements.²³ In what can only have been a major surprise to their US allies, the independent leaders argued that

the repeal of the closed shop provision could lead to the fragmentation of large unions.

The discovery that some independent unions and workers in Mexico can be – for want of a better word – traditional, also confirms that asymmetry far from equates with one-way US hegemonic domination of its transnational partners. Asymmetry may appear to offer an open invitation to the intervention of the more powerful; in practice, it often frustrates their objectives.

The success story

Difficult as the transnational labor relation is, its story is not one of unmitigated failure. At the same time, though, the terms of success are also instructive, as the following story shows.

Before it changed its name to MexMode, Kuk Dong International was a Korean-owned *maquiladora* in the state of Puebla. Things went wrong for Kuk Dong with both its wages (low) and its food (poor). The AFL-CIO representative helped the workers publicize their case on US university campuses which had also been hearing “the real story of globalization” from touring FAT activists. The United Students Against Sweatshops pitched in with support, obtaining verification of the workplace conditions by the Workers Rights Consortium, an activist coalition of students and administrators from 85 American colleges and universities.²⁴ Its verification was in turn verified by a monitor agency called Verité, which was hired by no less than Nike, a Kuk Dong client. The Campaign for Labor Rights bombed Mexican consulates with dozens of letters. An independent union was finally able to sign a collective agreement with major improvements for the workers, and the *New York Times* ran the story on October 8 2001.²⁵

A number of features are noteworthy about this transnational success story, beginning with the “brush-fire” effect of the US civil association networks. The FAT knows all about this. A tour of its workers in April 2002 took in not just eleven cities, but “union halls, churches, universities and other venues from Pennsylvania to Iowa.”²⁶

To succeed, both labor networks and activism have to ramify even further afield, into the adjoining universe of NGOs and human rights organizations.²⁷ The expansion of human rights by NGOs and others into new frontiers of economic and environmental advocacy is a new-generational phenomenon. Their point of entry into NAFTA has been opened by the parallel agreement, the North American Agreement on Labor Cooperation (NAALC). In NAALC, a whole host of human rights

organizations, including religious groups as well as the old-generational opponents of NAFTA, have found a handy vehicle for their characteristic skills of verification and publicization.

Human Rights Watch even admits to submitting “communications” to the NAALC to verify NAALC itself.²⁸ While imprecisions and loopholes in NAALC are easily probed, coalitions like that for Justice in the *Maquiladoras* invest heavily in the compilation of databases on wages and conditions, data without which – as the case of Kuk Dong International shows – no publicity “sunshine” strike is possible. The CJM is in fact itself a case in point, along with others like the International Labor Rights Fund, and the American Friends Service Committee, of this newly mutated breed of transnational organizations which are both labor and human rights-oriented.

With its ambitious linkage of labor rights and trade, NAALC may well be a magnetic attractor for transnational labor rights coalitions, but its three-tier structure of labor principles and labor rights, objectives and obligations is also, by common consent, something of an obstacle course, in which the goal of sanctions (the “last resort”) against offending parties recedes behind the lines of the three National Administrative Offices, the Evaluation Committees of Experts, consensual work programs, government-to-government talks, and, of course, governments themselves. The grand total of 24 submissions to NAALC between 1994 and 2001 is eloquent of these obstacles; no case has made it to an Experts Panel or Panel of Arbitration Procedures.²⁹

On the one hand, then, NAALC’s “public communications” mechanism affords a focal point both for scrutiny and for the clustering of transnational networks and strategic alliances. But, on the other, the path to actual success in the age of globalization leads back to the US, and even then at a cost in terms of the investment of human and logistical resources which is remarkably high.

The missing link remains where both traditional and independent Mexican unions say it is: with the Mexican state and Mexican government policies.

Fighting together for the environment

Unlike their labor counterparts, US and Canadian environmental non-governmental organizations (ENGOS) have had notable success in finding Mexican allies, or creating them. Networks and coalitions abound, multinationals know that ENGOS are watching them, and the mainstream media are interested.

NGOs are NAFTA's most successful children. Until the beginning of the 1990s, there were few organizations on the US side of the border raising environmental concerns about Mexico, and almost none on the Mexican side.

The negotiations over NAFTA coincided with the United Nations Conference on Environment and Development in Rio de Janeiro in 1992, and led to the proliferation of NGOs throughout Mexico. Their creation was favored by larger possibilities of internal and external financing. Where foreign funding remains something of a taboo in the world of transnational labor coalitions, no such restrictions apply to the environment.

But this is not the only reason to regard the early days of NAFTA as a "golden age" for NGOs. As with the US labor unions, but to a greater extent, opposition to NAFTA paid, conditioning acceptance worked. Environmental commitments in NAFTA and the parallel and bilateral agreements go some way beyond those regarding labor protection. Focusing the environmental campaign in the US political arena was the right move.

Even more impressive, though, was the fact that large US NGOs were able to penetrate the wall of Mexican officialdom, maintaining direct government contacts to this day. Upon the signing of NAFTA, a US\$30 million US–Mexican fund for conservation, lobbied for by large US NGOs, came into being. So too, to take but one example, did the Red Fronteriza de Salud y Ambiente in Hermosillo, Sonora, promoted by the Border Ecology Project from Bisbee Arizona, and formed by half a dozen NGOs from both sides of the border. The Texas Center for Policy Studies and Bioconservación (Monterrey) co-founded the Binational Environmental Network which includes 15 environmental and community organizations.³⁰

The implementation of the trilateral North American Agreement on Environmental Cooperation (NAAEC), together with the bilateral border cooperation accord between the US and Mexico, reinforced this high-level convergence. Like labor transnational actors, NGOs have tried to test the environmental parallel agreement's citizens' submissions mechanism, particularly regarding public access and participation.³¹

The trilateral and bilateral institutions – the Commission for Environmental Cooperation (CEC) and the Border Environmental Cooperation Commission (BECC) – provided for by those agreements became important focal points for the joint activity of NGOs from the three countries. Financial support from the CEC's North American

Fund for Environmental Cooperation has gone both to bilateral and trilateral projects, strengthening links between organizations of the three countries.

These ENGO networks have actively participated in the BECC to prevent further degradation of the US–Mexican border and to allow the cleaning of the area.³² They also had their way in the selection of criteria to be used by the BECC to certify environmental infrastructure projects to be financed by the North American Development Bank (NADBank).³³ ENGOs networks were tough in trying to prevent, and later to condition, funding of private projects. And they successfully demanded financial support from the Environmental Protection Agency (EPA) for technical assistance to poor communities to prepare projects.

Securing an institutionally validating framework for their activities is a significant achievement. But, in the environmental case, US ENGOs also seem to have succeeded in opening institutional space for, and enhancing the capabilities of, their Mexican domestic allies.

As with the AFL-CIO, history has played a part here, as the large ENGOs that opposed NAFTA (Sierra Club, Greenpeace, Development GAP and Friends of the Earth) have maintained their contacts with the half a dozen Mexican NGOs which joined the anti-NAFTA coalitions under the aegis of the Mexican Action Network in Response to Free Trade (RMLAC), as well as with new members of this network. The story was repeated with the Canada Action Network.

But domestic ENGOs have also encountered a greater degree of receptivity from Mexican governments than labor activists. Federal authorities have opened new spaces for their participation in decision-making processes, at least in an advisory capacity, with one national consultative council for sustainable development and four regional ones being established in 1995. Dozens of more recently created councils to deal with specific issues or problems have also become sites for the activity of ENGOs and other stakeholder participants. At the border, in addition to the access to the bilateral institutions provided by the parallel agreements, these ENGOs have greater access to *maquiladora* facilities than labor activists.³⁴

Although the large, mainstream, ENGOs have not entirely escaped charges of collaboration in such linkages with and through the Mexican government, neither have they been held hostage. Their transnational activities have sought out other channels, including launching international campaigns to prevent the deterioration of specific areas. Such campaigns prove that the proliferation of transna-

tional actors can be a source of organized strength, with both the international and the local winning. Thus, in the campaign against the expansion of the Japanese-owned salt factory in Baja California, whose victory led to a Biosphere Reserve, the participation of fifty Mexican groups is as noteworthy as the leadership of US ENGOs.

These ENGOs are distinctively policy-oriented. They have been willing to work closely with state and local governments, as well as the BECC and, in a few cases, with the CEC itself. US universities in California, Texas and Arizona approach them; so, occasionally, does the business sector. Their activities certainly encompass campaigns, but much of the emphasis falls upon reliable data collection, projects on public access to environmental information, projects for public participation in environmental infrastructure planning for the BECC, changes in government position regarding such matters as toxic release inventories, a compulsory nationwide registry of emissions and transference of pollutants, public "right-to-know" legislation, environmental education in school, as well as orchestrating network positions.

In a word, NAFTA's transnational coalitions on the environment can boast all of the following: satisfactorily high levels of internal and external funding; governmental as well as trilateral institutional recognition; use of mechanisms for both advisory and litigious participation; a proliferation of local organizations; some publicized victories against offending multinational firms; and, last but not least, the means to make a potential policy impact on the targeted government. Are these the verifiable standards of transnational coalition success?

Whose environment? Whose fight?

Transnational links between US and Mexican ENGOs were strengthened after NAFTA's approval despite the fact that Mexican ENGOs felt that most of their proposals had been ignored by their US colleagues. Critically, their emphasis on the need to take into account asymmetries between countries was ignored. As with labor, failure to respond to asymmetry has a rebarbative effect upon the potential achievements of transnational coalitions.

The first warning shot was fired when Mexican ENGOs signaled their opposition to economic or trade sanctions, even in the case of a "persistent pattern" of non-compliance with environmental legislation by one of the parties.³⁵ Subsequent episodes in the story of environmental asymmetry include the nationalist backlash when the first petition under the NAAEC was filed against Mexico, and the lack of support by

any Mexican ENGO, with one exception, for the promotion of an embargo against Mexican tuna imports in the US.

Mexican environmental priorities, by contrast, have been those it shares with other underdeveloped countries: soil erosion, water supply and management, waste management and other basic public services. Because US and Canadian ENGOs have had a preponderant role in the elaboration of CEC agendas, some of the CEC's work programs have been far from acknowledging these priorities.

The rift goes deeper, however, than the issue of agenda setting. While the mainstream ENGOs are policy-oriented, the newest generation of Mexican environmental actors are characterized by a distinctively Latin American focus on community and justice. Evolving from squatter movements demanding land titles and basic services, their demands are to secure "economic benefits through land, even development, and livelihood."³⁶

Where the politics of the mainstream coalitions is based on a model of civic democracy, with a preference for lobbying and litigating, the politics of the fringe movements is one of direct democracy and action. Most of the environmental justice movements have no trust of official information, and are usually reluctant to get too close to either their governments or to bilateral organizations. Mainstream organizations are in turn as shy of establishing links with them as they are with independent labor organizations. The preferences of the US foundations which fund them is mentioned as a factor.

Ideology may divide, then, but so too does competition for funding. Mexican NGO activists mention that US foundations and NGOs encourage them to focus on environmental issues "to the exclusion of broader issues of poverty."³⁷ The lesson for Mexican ENGOs and environmental justice groups is clear: before they can secure the support of counterparts for their concerns, they have to raise their performance on the unlevel playing field.³⁸

Conclusion

Labor and the environment are symbolic places where transnational asymmetry really shows. US unionized workers have little in common with the unskilled workers of the *maquiladoras*. Mexican labor does not have the buffer provided to their Northern counterparts by the welfare systems still functioning in their countries. A stagnant economy and increasing competition in the attraction of foreign investment face Mexican union leaders – traditional and independent – with a very

difficult dilemma: to choose between bad formal jobs and no formal jobs.

This in turn compounds the frustration of the would-be transnational coalition builders with their Mexican counterparts. To take but one example, when Mexico replaced China as a main producer of certain types of clothes in the US market in 1998, many of the US unions who signed up to protest were also sponsors of the FAT.³⁹ Cooperation is unable to override conflicting interest; and transnational labor coalitions have not yet succeeded in promoting major changes in Mexican government policies which, while they may seek to establish a break with the practices of the old regime, also seek to replace it with "a new conservative, pro-business regime that promotes the even more intensive exploitation of labor."⁴⁰

Transnational coalitions over the environment provide both a more heartening story of achievement, and an even more salient instance of asymmetry.

Certainly, it would be wrong to imply that there are no overlaps between the goals of mainstream ENGOs and environmental justice movements, nor that US ENGOs do not occasionally adopt strategies closer to the experience of their Mexican allies who do not share in their litigious culture. Chemical Waste was stopped in its plan to develop an incinerator for hazardous wastes in Tijuana not by a submission to one of NAFTA's mechanisms, nor by resorting to US courts, but by ENGO-facilitated community mobilization.⁴¹

Likewise, if environmental justice movements have organized campaigns against toxicity and the effects of chemicals inside and outside workplaces, against the disregard of companies for worker health and safety, and the contamination of local water supplies by toxic substance leaks, so have mainstream coalitions like the Environmental Health Coalition, which has worked with the *Comité Ciudadano Pro-Restauración del Cañon del padre* and others in the ecological restoration of the Canon, and the clean-up of New River in Mexicali.

Yet the larger game of transnational coalitions on the environment requires considerable technical scientific and legal expertise as well as extensive networks, and the capacity to manage both the networks and the data flows. Asymmetrical conditions of access to transnational resources, lack of influence over large transnational organizations, all too easily become perceived extra injustices.

This is all the more damaging when the resort to the parallel NAFTA agreement mechanisms continues to be both costly and burdensome. Despite their ability to get the ear of the Mexican government on

specific “big” projects, the impact of ENGOs on Mexican government policy has been less than spectacular.

On both fronts, then, the challenge for transnational coalitions is to avoid reproducing the asymmetries against which they also contend.

Notes

- 1 Available at <http://www.afcio.org/publ/speech2001/sp0508htm>
- 2 See Jay Mazur, “Labor’s New Internationalism,” *Foreign Affairs* 79 (1) (January–February 2000), 79–80.
- 3 Andrew Jackson and Bob Baldwin, “Lessons of Free Trade: A View from Canadian Labor.” Available at <http://www.clc-ctc.ca/policy/trade/free-trad.html>
- 4 See Barry Carr, “Globalization from below: labor internationalism under NAFTA,” *International Social Science Journal* 51 (1) (March 1999), 49–50.
- 5 Bruce Nissen, “Cross-border Alliances in the Era of Globalization,” in Ray M. Tillman and Michael S. Cummings (eds), *The Transformation of U.S. Unions: Voices, Visions and Strategies from the Grassroots* (Boulder and London: Lynne Rienner, 1999).
- 6 *Uno Más Uno*, October 8 2000.
- 7 *Reforma*, May 22 1999.
- 8 *AFL-CIO News*, March 22 1996, 2. See the discussion by Gustavo Vega in this volume.
- 9 Author interview with Berta Luján, head of the RMLAC.
- 10 See María Lorena Cook, “Regional Integration and Transnational Politics: Popular Sector Strategies in the NAFTA Era”, in Douglas Chalmers et al. (eds), *The New Politics of Inequality in Latin America. Rethinking Participation and Representation* (New York: Oxford University Press, 1997).
- 11 The first important unionizing efforts were those at subsidiary plants of G.E. Honeywell, Echlin, Sony, Hyundai, and MaxiSwitch/Silitek Corp.
- 12 “Making the Invisible Visible: A Study of Maquila Workers in Mexico,” *Mexican Labor News and Analysis* 6 (6) (August 2001), 7. Hereafter *MLNA*.
- 13 Robin Alexander and Peter Gilmore, “A Strategic Organizing Alliance Across Borders,” in *The Transformation of U.S. Unions, Voices, Visions and Strategies from the Grassroots*, page reference ???
- 14 See “NAFTA: The Social Dimensions of North American Economic Integration.” Available at <http://www.c.c.ctc.ca/policy/trafe/naftaintro.html> See also *Excelsior*, July 6 1998; *Proceso*, May 23 1999.
- 15 There were complaints of secret ballot denial. *MLNA*, March 6 2001, 4.
- 16 *MLNA* 5, 9 December 2000, p.7.
- 17 See Ilan Bizberg, “Le syndicalisme mexicain face a la mondialisation et a la decomposition du régime Politique,” *Revue de l’IRES* 29 (Winter 1998–1999).
- 18 See Jorge Carrillo and Miguel Angel Ramírez, “Maquiladoras en la frontera norte: opinión sobre los Sindicatos,” *Frontera Norte* 2 (4) (1990), 121–52; Cirila Quintero Ramírez, “Variantes sindicales en la frontera norte. Los casos de Coahuila y Chihuahua,” *Frontera Norte* 11 (22) (1999), 53–79; and

- María Xelhuantzi López, *La democracia pendiente* (México: Sindicato de telefonistas de la República Mexicana, 2000).
- 19 Statement to the Chamber of Deputies, *La Jornada*, February 22 2001. See also *MLNA*, 6, no. 3, March 2001, p. 3.
 - 20 *MLNA* 7, no. 2, February–March, p. 3.
 - 21 *El Financiero*, January 14 2002.
 - 22 Joe Bandy, “Border Crossings: Transnational Movements for Alternative Development and Radical Democracy in the U.S.–Mexico Border Region”, PhD dissertation, University of California, Santa Barbara, July 1998, 345–69.
 - 23 See *La jurisprudencia y la libertad sindical* (México: Secretaría de Trabajo y Previsión Social, Cuadernos de Política Laboral, 1999). These rulings do not yet constitute jurisprudence in Mexico, the Supreme Court having to issue similar rulings in five cases before the decision becomes obligatory for lower courts.
 - 24 *MLNA* 6, no. 2, February 2001, pp. 6, 8.
 - 25 Meanwhile, two hundred workers at an Alcoa plant were being fired for organizing a work stoppage. Although the independent union did survive, limits to union militancy within the maquiladoras became clear. *MLNA* 6, no. 8, October 2001, p. 9.
 - 26 *MLNA* 7, no. 3, March 2002, p. 14.
 - 27 See Bruce Nissen, “Combating Plant Closing in the Era of the Transnational Corporations,” in Lawrence G. Flood (ed), *Unions and Public Policy: The New Economy, Law and Democratic Policies* (Westport, Conn.: Greenwood Press, 1995), p. 135.
 - 28 Human Rights Watch, Canada/Mexico/United States, “Trading Away Rights: The Unfulfilled Promise of NAFTA’s Labor Side Agreement,” vol. 13, no. 2(B), April 2001.
 - 29 Fourteen of the submissions have been against Mexico, nine of them linked to failed attempts to create independent trade unions in subsidiary maquiladoras of US, Japanese and Korean firms.
 - 30 See Richard Kiy and John D. Wirth, *Environmental Management on North America’s Borders* (College Station: Texas A & M University Press, 1998).
 - 31 For a thorough analysis of the potentialities and uses of this mechanism, see John K. Knox, “A New Approach to Compliance with International Environmental Law: The Submissions Procedure of the NAFTA Environmental Commission,” *Ecology Law Quarterly* 28, no. 1 (2001), 1–122.
 - 32 Mary E. Kelly, “The Border Environment and the Changing Bilateral Relationship,” *Enfoque* (Center for U.S. Mexican Studies, San Diego,) Fall 2002, pp. 1, 6.
 - 33 For an analysis of the BECC’s impact on public policy making in the border region, see María Carmsen de Mello Lemos and Antonio Luna, “Public Participation in the BECC: Lessons from the Acuaférico Project, Nogales, Sonora,” *Journal of Borderlands Studies*, 14, 1 (Spring 1999), 43–64.
 - 34 See Bandy, “Border Crossings,” p. 342.
 - 35 See: Regina Barba Pirez, “La Unión de Grupos Ambientalistas en el proceso de negociación del Tratado de Libre Comercio,” *Frontera Norte* 5 no. 10 (July–December 1993), 118–32.
 - 36 See Bandy, “Border Crossings,” p. 77.

- 37 Carol Zabin, "Nongovernmental organizations in Mexico's Northern Border," *Journal of Borderland Studies* 14, 1 (Spring 1999), 43–64.
- 38 The exception is the border zone where the negative impacts of inadequate infrastructure on the US side are recognized on both sides.
- 39 *Este País*, May 1 1998.
- 40 *MLNA* 6, no. 1, January 2001, p. 5. Compare Dan La Botz, "Labor after the PRI." Available at <http://multinationalmonitor.org/mm2001/01march/corp2.html>
- 41 Bandy, "Border Crossings," p. 231.

7

Transnational Civil Society Actors and Regional Governance in the Americas: Elite Projects and Collective Action from Below

Roberto Patricio Korzeniewicz and William C. Smith

Introduction: regionalism and globalization

Contemporary regionalism in the Americas constitutes a complex, multilayered arena for contestation among social forces and contending political projects. Some of these rival projects actively promote the globalization of markets, production, finance, and culture, while others attempt defensively to accommodate themselves to its seeming inexorable logic, and still others mount struggles of resistance to it.

Regionalism in the Americas is thus, not least, one of the contested arenas of globalization. Recognizing this, in turn, enables us to adopt a critical stance toward some of the stereotypes of regionalist projects such as the Free Trade Area of the Americas (FTAA). Just as it is often represented as the manifestation of a hegemonic project for market-driven integration spearheaded by US governmental and corporate elites, so US-sponsored regionalism as a whole is often cast as a proxy, a “building block,” or way station toward the triumph of neoliberalism or globalization.

On the other hand, integration schemes in Latin America such as *Mercosur* are also misconstrued if they are linearly interpreted as “progressive” alternatives to US-sponsored regionalism or, more modestly, portrayed only as “stumbling blocks” challenging US hegemony and braking the momentum of globalization.

Stereotypes of globalization are particularly common in the area covered by this chapter: the emergence and crystallization of *sui generis* trans-border networks linking individuals and civil society organizations operating throughout the hemisphere at local, national, and

transnational levels. The chapter is about the opportunities for collective action on the part of the civil society actors in these networks, and about the implications of their participation for the future of regionalism in the Americas. But, before we can advance in that direction, we need to deal with the naïve, but all too common vision of a regionalism (or globalization) “from below” pitted against a monolithic regionalism (or globalization) “from above.” As we shall see, relations between elite projects and collective action from below are far more fluid – and interesting – than this.

Working from the dichotomy of the above versus the below, some analysts have optimistically heralded “global civil society” as a “domain that exists above the individual and below the state but also across national boundaries, where people voluntarily organize themselves to pursue various aims.”¹ Similarly, some observers, especially those who tend to portray global civil society as a more robustly constituted actor, argue that local and national movements, and the transnational networks in which they are embedded, possess the potential “to offset the cooptation of governments by the market-oriented forces associated with globalization-from-above.”²

At the other extreme, other observers are less optimistic. They interpret the emergence of supranational instances of governance and coordination through third-party enforcement and regulation of contested markets to imply less “public,” less transparent, and less legitimate institutional arrangements dominated by capital and the interests of governmental elites in advanced capitalist countries. In this scenario, the emphasis falls upon the manner in which massive asymmetries in political power and social, cultural, and economic resources generally translate into regional agendas in which state elites and market actors are pre-eminent. Thus, for example, O’Brien et al. argue that “[w]hile social movements may extol the virtues of global civil society, that space has been and is largely dominated by the extensive formal and informal contacts of transnational business and their allies.”³

On the one hand, then, we find claims “transnational communities of resistance” are in the process of “transforming the world economy into a significant milieu” of alternative action.⁴ And, on the other, critiques of the actual capacity of transnational civil society actors to create “a parallel arrangement of political interaction that cross[es] the reified boundaries of space as though they were not there.”⁵

Both views exaggerate the homogeneity of transnational civil society actors. In the Americas, indeed, while transnational networks and coalitions have exercised voice and demanded participation in regional

integration processes, it is the heterogeneity of the ensemble of civil society actors which stands out. There is no single model of civil society participation. Nowhere is this more clearly seen than in the polarization between “insider” and “outsider” transnational organizations and networks to which we now turn, presenting a schematic description first before moving on to some instances of their involvement in regional processes in the Americas.

Insiders and outsiders

Table 7.1 presents a schematic grid of regional civil society networks which marks some of the parameters of collective action from below.⁶

Of course, whether an organization adopts one posture or the other is not always easy to ascertain. What is perceived as participation by some may be construed as contestation by others. Some organizations and networks begin in one equilibrium between the two polar strategies, but later the dynamics of their own practice might impel them toward a different equilibrium.⁷ Moreover, many organizations and networks adopt practices that seek simultaneously to use and to transform existing arrangements, so they might perceive their own orientation as straddling both insider and outsider strategies. For all these reasons, the organizations and networks in question (as well as observers) might reject the label of “insiders” and “outsiders” as being too stylized a characterization of their overall strategy.

Nevertheless, the distinction between insiders and outsiders is useful if we wish to capture heuristically some of the crucial features and contrasts in different patterns of collective action discussed in the chapter by Blanca Torres. Indeed, strategic choices by different types of networks and organizations combine over time to configure quite distinct patterns of institutional path dependence.

Insider civil society actors and regional networks tend to develop collaborative collective action frames. Seeking to intervene on and/or reform very specialized and technical fields of knowledge, insider civil society organizations and networks generally find themselves obliged to adopt appropriate forms of operation (for example, by becoming versed in the specialized knowledge and discursive strategies governing the practice of bureaucracies in national governments and multilateral organizations).⁸

Bureaucratization, from this point of view, becomes very much implicit in the very effort of insiders to transform existing fields of power. Hence, the action repertoires of insiders focus almost exclus-

Table 7.1 Convergence/divergence in regional civil society networks

	<i>Insider Networks</i>	<i>Outsider Networks</i>
<i>Institutional Structures & Organizational Path Dependence</i>	Privilege close links with governments and multilateral agencies (e.g., IDB, OAS, USAID, etc.). Domestic politics and institutional arrangements facilitate delegation and self-monitoring by networks regarding the provision of public goods lead to transnational network formation.	Privilege ties to grassroots social movements and organized labour. Deployment of oppositional identities and confrontational strategies vis-à-vis globalization. Blockage of access by institutional arrangements and strong distributional externalities lead networks to seek transnational alliances with counterparts in other countries.
<i>Collective Action Repertoires</i>	Strategies of cooperation & collaboration; working the media and behind-the-scenes lobbying activities. Policy-oriented research, policy papers addressed to influential political and private sector elites. Consultations focused on official agendas do not lead beyond the formation of networks, and eventual trans-border coalitions tend to be rather weak; no social movement formation. Priority on gradual reform of existing institutions.	Strategies of confrontation, contestation & mobilization; teach-ins, street protests, and demonstrations. Action-oriented research, critical manifestoes, and policy proposals addressed to key activists and broad mass publics. Intense informational exchange, cooperation, and joint issue campaigns with counterparts may foster trans-border coalitions and, in some cases, the emergence of transnational social movements. Priority on accumulation of forces and systemic transformation.
<i>Impacts on the Hemispheric Political and Economic Agendas</i>	Relative success in influencing the rhetoric of national and multilateral policy elites via the politics of expertise, with little emphasis on generating broad public support.	Relative success in mobilizing grassroots sectors and framing issues, but only indirect influence in shaping policy agendas through the politics of leverage, framing, and transparency.

ively on policy-oriented research, the preparation of policy papers, the organization of civil society consultations around official agendas, and networking with like-minded civil society organizations from other countries.

In contrast, the collective action frames and discursive strategies of outsider civil society actors and networks privilege the politics of “oppositional” identities, and their action repertoires stress contestation – the mobilization of grassroots support, the issuance of critical manifestoes, protests, and demonstrations. They also seek out network partners from other countries with similar institutional histories and worldviews. When successful, these networks may transform themselves into effective coalitions capable of coordinating sophisticated international campaigns. A few eventually may undergo a further metamorphosis and emerge as transnational social movements capable of sustained strategic political action promoting transformative projects.

Nonetheless, it might appear that both insider and outsider networks are at a significant disadvantage in dealing with governments and the transnational corporate actors that dominant hemispheric politics. Networks, advocacy groups, and issue coalitions usually wield little power, at least as conventionally defined. They are not political parties, nor do they exercise bureaucratic power based upon mandates legitimated in democratic elections, and they certainly do not command impressive material resources.

What, then, are the actual modalities of collective action from below in the case of the Americas? We begin with the insiders, but also with a dimension which is too often missing in accounts of civil society participation.

Delegating to the insiders

Most analyses of globalization and transnational actors downplay the role of states, domestic institutional arrangements, and international organizations in the formation of transnational actors. This is a mistake. States and domestic institutional arrangements, as well as international organizations, are crucial to understanding how social actors functioning across borders constitute themselves and sometimes achieve access to decision-making processes of governments and multi-lateral organizations.⁹

The official governmental discourse of many countries, particularly the United States, Chile, Canada, and Costa Rica, now regularly

emphasizes the promotion of civil society participation in hemispheric negotiations, and considerable political clout and financial resources have been expended to achieve this goal. The same is true of intergovernmental organizations such as the World Bank, the Organization for American States, and the Inter-American Development Bank, which have created special bureaucracies to promote region-wide civil society participation and provide significant funding and logistical support to many of the same groups and networks. This explicit commitment confounds expectations based upon traditional arguments about state sovereignty, according to which diplomats and trade negotiators could be expected to resist public scrutiny and demands for transparency and participation.

What explains this apparent contradiction? Why have state elites and international organizations, most notably international financial institutions (IFIs), made a priority of the promotion of civil society participation in initiatives such as the Summits of the Americas (SOA)?

Why, too, have US governmental agencies such as the Department of State, the US Agency for International Development (USAID), and the National Security Council operating out of the White House, often endorsed and/or promoted the activities of both US-based NGOs and regional networks led by foreign civil society organizations? The Canadian and Chilean foreign ministries have also supported collaborative civil society endeavors.

Part of the answer is that trans-border movements find enhanced opportunities for participation when states and international institutions have an incentive to *delegate* limited authority to societal groups with the expert knowledge and what Max Weber called “intensive efficiency” characteristic of insider groups. States and international institutions also sometimes have an incentive to encourage national NGOs and advocacy groups to “go transnational” and to engage in *self-regulation* and *monitoring* with regard to innovation and implementation in specific policy domains.

Delegation, self-regulation, and monitoring are particularly relevant with regard to certain kinds of “global public goods” and to collective action by civil society actors generally supportive of regionalism and globalization.¹⁰ Many moderate insider movements, particularly those which share beliefs and interests with political and administrative elites in positions of governmental power, are able to facilitate the construction of focal points for resolving coordination problems across multiple issue domains. Such domains arise from the involvement of a diverse array of governmental and social actors located in many coun-

tries. Rather than confronting the informational and transaction costs themselves, national leaders and international functionaries frequently find that cooperation with transnational social actors can provide more effective and efficient “private” solutions for implementing and monitoring the impacts of politically sensitive policies.

Some of what we call insider organizations, working “closely with the official process [of hemispheric negotiations], sometimes willing to compromise their demands so as to make them politically viable,” were well established prior to the 1994 Miami summit.¹¹ From Miami to Santiago (1998) and Quebec (2001), the SOA track, which has been managed primarily by the foreign ministries of the 34 participating governments, has focused on broad themes involving democratic governance, environmentally sustainable development, and other issues such as gender equity, education, and judicial reform.¹²

As the thematic remit of the Summits expanded into their domains, so the insiders were able to mobilize to make the summits an important part of their concerns, seeking to create new channels, or take advantage of existing channels of dialog with hemispheric governments. Their strategic positioning exemplifies the logics of delegation, self-regulation and monitoring. The most active civil society organizations in this process include the Esquel Foundation (US), the Canadian Foundation for the Americas (FOCAL), the Corporación Participa (Chile), the North-South Center (US), the Inter-American Dialogue (US), and the Fundación Futuro Latinoamericano (Ecuador). These organizations formed the Civil Society Task Force that, in the context of the so-called “Troika,” worked in close coordination with governmental officials at the Summit Follow-Up Office of the Organization of American States and the Summit Implementation Review Group.

US and Canadian governments, reluctant to be seen as infringing on the national sovereignty of other regional governments, in their turn often favor indirect mechanisms to promote region-wide civil society participation. These indirect means are reflected in the incorporation of insider organizations linked to the official summit organizers. For example, the aforementioned Civil Society Task Force, created in 1993 by USAID, and coordinated by Esquel since 1996, functions “as a clearing house as well as a vehicle to coordinate civil society input and monitoring action” on the Summits. Over 400 groups participate in this network, including “representatives from U.S. and international non-governmental organizations (CSOs), government agencies, multi-lateral institutions, foundations, academia, the media, and private non-profit organizations.”¹³

Similarly, the Red Interamericana para la Democracia (RID) was founded in 1995 at the initiative of the Kettering Foundation and the Partners for the Americas. Supported by USAID grants, and with technical assistance from the Kettering Foundation, this insider network includes some 150 organizations, although its core group consists of groups with considerable previous regional experience, such as Esquel, PARTICIPA, and FOCAL, as well as others with less international exposure, including Asociación Conciencia (Argentina), Fundación Poder Ciudadano (Argentina), Fundación BOLINVEST (Bolivia), the Instituto de Investigación y Autoformación Política (Guatemala), and the Centro de Capacitación para el Desarrollo (Costa Rica), among others.¹⁴ Other examples of trans-border networks and coalitions based on the exchange of information and the organization of international campaigns abound.

But in addition to the logics of delegation, self-regulation and monitoring which appear to govern support for these networks, states and technocrats at intergovernmental institutions such as the OAS and the IDB may also have specific strategic political motivations for promoting networks and certain modes of civil society participation.

They frequently seek to neutralize or co-opt social potentially anti-systemic movements in order to forestall lobbying efforts or public mobilizations in opposition to important strategic initiatives or specific policy preferences (for example, structural adjustment, trade liberalization, protection for intellectual property rights, environmentally sensitive projects, and so on.) Moreover, by allowing the selective participation of some civil society actors, powerful governments such as the United States may see their leverage over weaker governments strengthened.

The opposite is also possible: weaker governments may be motivated to facilitate the formation and activities of transnational networks for the purpose of mobilizing public support in contentious negotiations with the United States or with multilateral financial institutions.

Thus, rather than assuming an inevitable conflict between state elites and multilateral institutions, the former may have strategic reasons to help transnational advocacy networks and coalitions overcome their collective action problems.

In the process, these favored civil society activists can achieve limited participation in decision-making arenas, as they have done in those of the Summits of the Americas. However, these forms of collective action generally deliver only modest success in terms of greater civil society participation and representation. Despite their ability to attain

goals and advance policy making, the adoption of bureaucratic mentalities and institutionalized procedures by insider networks and organizations generally entails this trade-off. The path is left open for the outsider strategy which emphasizes direct popular representation as a means of promoting empowerment and social equity.

Keeping the “outsiders” out

The Summits of the Americas are but one of the new regional institutional arrangements emerging in the Americas. Opportunities for effective civil society participation in them are heavily conditioned by the interest of key state actors in controlling and shaping these arrangements from above.

Nonetheless, the opening provided by the Summits of the Americas (SOA) gains in salience when compared to the resistance governments have shown to civil society participation in the Free Trade Area of the Americas (FTAA). The differences between the SOA and FTAA tracks underscore the significance of opportunity structures, institutional arrangements, and the incentives for elites to facilitate, deflect, or block collective action from below.

While trade and economic issues figured prominently on the agendas at the Miami, Santiago, and Quebec summits, the FTAA negotiations have always operated along a highly centralized track, one largely monopolized by regional governments acting through executive-branch agencies responsible for finance and trade. The closed and opaque style of negotiation has proven antithetical to significant civil society participation.

In the case of the FTAA, the options of delegation, self-regulation, and monitoring are closed. Trade officials are confident they possess the requisite professional knowledge and reject the need for outside expertise, particularly from labor or environmental groups. In addition, and again in contrast to the SOA “global public goods” agenda, the most contentious FTAA issues – foreign investment, deregulation of capital flows, lowering tariffs and non-tariff barriers, protection for intellectual property; and so on – have significant distributional consequences and major externalities for third parties, including other governments, firms, consumers, workers, farmers, women, indigenous groups, and others. Consequently, the FTAA track is shaped by a dominant logic of exclusion. This in its turn acts as a stimulant to the outsider networks.

Outsider networks involved in opposition to free trade have typically overcome their collective action problems by strengthening their ties with organized labor and grassroots constituencies in their own countries, and by forming coalitions with like-minded groups throughout the hemisphere. Indeed, as Blanca Torres has demonstrated in this volume, the precursors of latterday civil society opponents to free trade are some of the coalitions which formed in the early 1990s in Mexico, Canada, and the United States against NAFTA.¹⁵

Few are more notable than the Alianza Social Continental, officially founded in 1999, and the largest and most influential outsider network in the hemisphere. The Alianza is a broad and heterogeneous meganetwork, a *red de redes*, consisting of a stable core group of well-organized affiliates (themselves a complex ensemble of local and national NGO networks and grassroots groups), and a much larger array of dozens of peripheral organizations whose participation in trans-border activities is less intense and more sporadic. The three most active and well-organized core members are: the US-based Alliance for Responsible Trade (ART), which operates with significant financial support from organized labor to advance a "progressive internationalist" position on trade, labor rights, and globalization; the Red Mexicana de Acción Frente al Libre Comercio (Mexican Network for Free Trade Action, RMALC), whose extensive transnational links now encompass Latin American, European, and Asian networks working on issues of trade liberalization and globalization; and Common Frontiers, a multi-sectoral Canadian network that grew out of the popular opposition movement to the Canada-US Free Trade Agreement as well as to NAFTA.¹⁶ In addition, organized labor in Brazil plays an important and growing role within the Alianza.

The Alianza, according to its leaders, is consciously attempting to advance beyond the network stage, and even the phase of coalitions and joint-issue campaigns, toward the construction of a genuine transnational social movement. This entails not merely different collective action strategies to those pursued by the insiders, with higher levels of collective identity and solidarity, along with more sophisticated forms of organization and governance. It also entails counterpoising elite projects with an alternative vision of regionalism, "often against governmental positions."¹⁷

Some of the transnational activists who mobilized in Quebec against the Summit of the Americas, like the activists targeting globalization in Seattle, in Washington DC, and Genoa, represent the incipient formation of such a transnational social movement. Yet their action is also

conditioned by the logic of exclusion. This, as we shall see, also brought them into conflict with the insiders.

The post-Quebec impasse in civil society participation

The Quebec Summit of 2001 crystallized two parallel divergences within the regional project: between the SOA and the FTAA tracks; and between insider and outsider movements and networks.

Some civil society groups, particularly the environmentalists and citizen activist groups linked to “outsider” networks such as the Alianza Social Continental, had strenuously criticized the secrecy and lack of transparency which characterized the free-trade talks. In terms of both agenda and strategic collective action repertoires, they were progressively converging with the anti-globalization mobilizations at Seattle, Washington DC, Prague, Davos, Porto Alegre, and elsewhere.¹⁸

In this context, the Canadian organizers of the Quebec meeting pledged to stage a so-called “Democracy Summit” focusing on three “baskets” of interrelated issues: (i) strengthening democracy; (ii) creating prosperity; and (iii) realizing human potential, all linked under the umbrella of “human security.” The goal was that, by “promoting democracy,” the SOA agenda could be linked directly in the FTAA negotiating track of “creating prosperity.”

By shifting the focus from a purely trade-driven agenda, however, Canadian government officials also hoped to bring the insider groups more closely into the official process, while simultaneously placating the grassroots anti-free trade and environmental activists alienated from the summitry and FTAA processes. This overture to civil society representatives included generous governmental financing given to Canadian groups such as Common Frontier to help them organize an extensive series of academic conferences and civil society meetings, as well as to support a parallel, officially sponsored “Peoples’ Summit.” These efforts at rapprochement were only partially successful.

The more moderate “insider” representatives of civil society networks, which had staked much of their credibility on expectations for substantial progress at Quebec, expressed some enthusiasm for the inclusion of the “democracy clause” limiting participation in the FTAA process to countries with democratic governments. However, even these supporters of summitry were disappointed by the weak endorsements of labor rights and environmental protection, and the limited incorporation of the rest of the social agenda defended by most civil society activists.¹⁹ Moreover, beyond the rhetoric, as the outsiders had

foreseen, the numerous action plans and the Final Declaration were predictable – the “Democracy Summit” turned out to be principally about free trade after all.

The Alianza network and other combative “outsider” organizations had angrily rejected governmental efforts to promote participation in the SOA and the FTAA negotiations. They condemned the elite-sponsored projects as leading inexorably toward a “NAFTA clone” or a “NAFTA on steroids” (even as pro-business advocates of regional integration were criticizing the Quebec Summit as advancing too slowly toward a kind of “NAFTA lite”).

While many insider organizations were disenchanted, seeing only poor prospects for meaningful civil society input in the final phase of the FTTA negotiations, the successful meetings in 2001 and 2002 of the World Social Forum in Porto Alegre, Brazil, plus several smaller meetings of the Social Forum elsewhere in the region, gave renewed impetus for mobilizations by the outsider movements in opposition to elite projects for regional integration. To take one example, the success of the 10,000,000-vote plebiscite against the FTAA held in Brazil in 2002 with the imprimatur of the Brazilian Catholic Bishops’ Conference (and plans for similar popular plebiscites in other countries), was seen as confirmation of the potential for new forms of resistance from below.

The road to polarization

Polarization in terms of strategies and collective action repertoires, rather than convergence and collaboration, appears to be the more likely scenario for the future practice of regional civil society actors on issues related to hemispheric integration.

A corollary is that, as the summits and the FTAA negotiations reveal, the risk entailed in the divergence of trajectories between the different networks is that their contrasting strategies may foreclose many more opportunities for influence than they open.

This is not to say that both the insider and outsider networks and coalitions cannot frequently play crucial roles in establishing new international norms or generating new levels of compliance with previously established, but little observed, norms.²⁰ Given the skill they have acquired in recent years in playing the politics of information and knowledge to demand accountability, as well as their skill in acquiring strategic leverage, the ability of insiders to exercise this form of power has grown significantly. Although the capacity of the out-

siders to shape national and regional agendas is more nebulous and difficult to pin down, genuine transnational social movements capable of sustained strategic action also have the potential to wield power to frame issues, shape political identities, and exert leverage over other actors, including states and multilateral organizations.

Yet transnational civil society actors of both kinds face severe constraints sharply limiting their capacity to wield significant influence, much less transform, the pace and direction of regionalism. Some of these constraints are logistical, having to do with limited financial resources and fragile administrative infrastructures.²¹ North-south asymmetries, as might be expected, also play their part. Regional networks in the Americas reveal tremendous disparity in their financial resources: while a handful of regional networks have annual budgets in the US\$6-14 million range, one-third of the networks we have surveyed had annual budgets of less than US\$100,000, and many have minuscule budgets of only a few thousand dollars. Furthermore, confirming what other authors have noted, most networks show heavy financial dependence on a limited number of external funding sources, particularly US and European development agencies and foundations. The funding difficulties faced by most civil society organizations and networks in the region undoubtedly constrain the capacity of such organizations to participate consistently and effectively in international policy-shaping debates.²²

Given these constraints, rather than a strong and well-articulated actor, a more accurate portrait reveals "global civil society" in the Americas to be only in the early stages of development.²³ The question to which this assessment in turn gives rise is to what extent does the growing polarization between insider and outsider organizations and networks pose an obstacle to the work-in-progress.

Some observers have defended the view that, although they may not be aware of it, the activities of the insider and outsider networks complement one another and, therefore, "it is essential for [networks] to maintain open lines of communication and for us to act in a coordinated manner."²⁴

There are a number of reasons for doubting whether this is possible. Fundamentally, the insiders want to improve and reform hemispheric arrangements, not overturn them. The outsiders, by contrast, frequently excel at critique, and at pointing out the cynicism, contradictions, and short-sightedness of governmental and corporate elites, and even of timidity of the more ameliorative proposals advocated by their insider counterparts.

Domestic and supranational opportunity structures also shape the possibilities for participation and collective action very differently. Elite incentives and institutional openings cut one way for insiders, another for outsiders. Insiders are granted incentives to continue with the technocratic effectiveness and influence vis-à-vis policy elites. At the same time, they risk sacrificing broad popular support and participation. Extremely weak collaborative relationships with other sectors of civil and political society in the countries in which they operate, particularly with organized labor and political parties, are already a more or less fixed characteristic of the insider groups, in part because of lingering doubts among traditional, well-established political actors about the extent to which these civil society organizations and networks effectively represent the specific interests of society they claim to embody, or even the degree of transparency of decision making and resource allocation within them.

In contrast, the outsiders may prove capable of establishing social movements which mobilize considerable popular support. Full-fledged transnational social movements, whose dominant form of collective action goes beyond information exchange to joint mobilization across national boundaries, are the case in point. Thus, for example, the Alianza Social Continental's widely distributed policy document, *Alternatives for the Americas*, emphasized that opposition to the neo-liberal version of free-trade integration is widely shared by citizens of various ideological persuasions across the hemisphere.²⁵ Its opposition to the FTAA was explicitly linked to that of international organized labor.²⁶

Instead of fluid lines of communications and potential complementarities implied by an implicit division of labor defined by their divergent strategies for collective action, then, regional civil society insiders and outsiders may inadvertently be placing their goals at risk because of growing conflicts and animosity. Social mobilizations aimed at challenging the prevailing social and regional order will probably come at a high price in terms of lost opportunities to shape the political agenda.

They also, however, bring us to one last question: to what degree does the polarization between insiders and outsiders also replicate, within the field of civil society organizations, broader divisions within Latin American politics? Is the polarization of political trajectories across the region itself a symptom of the socially fragmenting effects of the advance of market integration?

Conclusion: civil society actors and competing regionalisms

As we have constructed it, the dichotomy between the Weberian efficient rationality of the insider networks and the popular representation of the transnational social movements now active in the Americas is clearly charged with other political echoes. Indeed, many countries in Latin America have demonstrated first a polarization between “rational” policy making and broader representation, and then a troublesome elective affinity between the implementation of neoliberal technocratic policy making and the reactive rise of neopopulist politics. The divergent evolution of transnational civil society movements at once reflects and depends upon this wider political divergence within the region.

Table 7.2 represents four possible scenarios based upon the interaction of the two dimensions of participation and representation on the one hand, and “rational” policy making and implementation on the other.

The experience of the 1990s in Latin America attests to the difficulty of attaining the virtuous equilibrium located on the “high road” of S_4 . In this perhaps patently utopian scenario, elected officials strengthen effective representation, expand democratic spaces for public debate, and incorporate political parties and other social actors more fully into policy design and implementation. Transparency and accountability prevail in the exercise of government, and practices of rule are largely free from corruption and clientelism.

This is also the scenario in which both insider and outsider social movements, as well as CSOs and the transnational networks of which they are part, could find a more or less assured role in promoting the participation of civil society, not least in the construction of a new regionalism.

The “high road” path implies efforts to construct broad reform-mongering coalitions capable of addressing the concerns of the middle class, formal and informal workers, women, environmentalists, and indigenous peoples. The participation of these constituencies would help weaken potential veto coalitions that appeal to nostalgia for statist protectionism and the illusion that the subsidies and rent-seeking privileges of import substitution can be easily restored.

Clearly a transition to such a “high road” in Latin America has not been achieved.²⁷ Instead, regimes characterized either by the prevalence of populism, particularism, clientelism, and corruption, or by strong

Table 7.2 Alternative institutional-political scenarios

	<i>Low Participation & Representation</i>	<i>High Participation & Representation</i>
<i>Low Administrative Capacity</i>	<p><i>(S₁) Low Road</i></p> <ul style="list-style-type: none"> • Growing fragility of democracy, representation, and low-intensity citizenship • Little or no effective regulation of markets • Little or no redistributive capacity • Growing poverty and deepening inequality • No/slow growth and “race to bottom.” and inequality • Slow and erratic growth in a few selected niches. 	<p><i>(S₂) Populist Path</i></p> <ul style="list-style-type: none"> • Clientelism, particularism, and weak institutionalization of democratic politics; executive power strengthened at expense of parties/parliaments • Extensive intervention in markets • Modest redistributive policies • Persistent poverty
<i>High Administrative Capacity</i>	<p><i>(S₃) Technocratic Path</i></p> <ul style="list-style-type: none"> • Effective management privileged over disruptive politics of representation • Increased autonomy of the executive combined with political reforms to enhance accountability • Regulation of markets limited to the management of “risk” • Some redistributive capacity results in some poverty reduction but inequality persists at moderate/high levels • Segmented growth – rapid in some niches, stagnation in others. 	<p><i>(S₄) High Road</i></p> <ul style="list-style-type: none"> • Renovation of parties and representative institutions to improve participation and inclusion • Strengthening of deliberative mechanisms of accountability • Regulation of markets as guided by public deliberation • Redistributive capacity to create safety nets and to compensate losers in market integration • Gradual reduction in poverty and inequality • Dynamic growth – more balanced across sectors.

technocratic proclivities are not likely to be tolerant of greater participation and contestation by autonomous organizations and networks of civil society, particularly if these are transnational in character.

Civil society participation itself, however, does not follow a single modal pattern. Table 7.3 envisions four contending regionalist projects, each rooted in one of the stylized scenarios just sketched.²⁸

The project of “degenerative regionalism” is based upon the “low road” scenario, the perverse combination of fragile democratic governance, economic crisis, and low capacity of the state to regulate markets

Table 7.3 Competing regionalist projects

	<i>Low Participation & Representation</i>	<i>High Participation & Representation</i>
<i>Low Administrative Capacity</i>	<p><i>“Degenerative Regionalism”</i></p> <ul style="list-style-type: none"> • Based upon (S₁) Low Road • Marginal role for both “insiders” and “outsiders”; total exclusion of “ultra-outsiders” • Breakdown of international commitments leading to isolation from the world economy 	<p><i>“Nationalist Regionalism”</i></p> <ul style="list-style-type: none"> • Based upon (S₂) Populist Revival • Attempts a clientelistic capture of “outsiders,” marginality for “insiders,” and co-optation/repression for “ultras” • Resistance to agents of globalization (IMF, USA, International Finance) and segmented integration with the world economy
<i>High Administrative Capacity</i>	<p><i>“Neoliberal Integration”</i></p> <ul style="list-style-type: none"> • Based upon (S₃) Technocratic Path • Incorporation of “insiders” but “outsiders” marginalized while the “ultras” are ignored or repressed • Concerted, but unregulated efforts to enhance international linkages and promote market integration • Full engagement with world economy 	<p><i>“Transformative Integration”</i></p> <ul style="list-style-type: none"> • Based upon (S₄) High Road • Incorporation of “insiders” and “outsiders” and gradual decline of “ultra-outsiders” • Concerted but regulated efforts to accumulate social capital and to promote market integration in ways compatible with equity • Selective engagement with the world economy with greater role for state coordination

and to ameliorate poverty and inequality, which are exacerbated by the negative impacts of globalization. In the context of political collapse and plunging investment, it is difficult to imagine a very positive role for local or transnational civil society actors, whether they are insiders such as the civil society actors affiliated with the OAS Citizen Participation network and the USAID-supported Red Interamericana para la Democracia, or outsiders like the civil society organizations linked to the Alianza Social Continental network. Of course, this variant of regionalism also poses a severe stumbling block for broader market regional integration.

The project of “nationalist regionalism” and semi-autarchy is based upon the scenario of populist revival and the aggrandisement of executive power. It promises no more than meager, and probably short-lived, economic compensation for the losers in processes of market integration. However, populist rhetoric and the politics of clientelism might result in a more-or-less successful effort to co-opt some anti-globalization outsiders, particularly those affiliated with more combative labor organizations. In contrast, more technocratically inclined insiders active in summitry or the FTAA probably would find themselves marginalized. State policies toward the “ultra-outsiders” might vacillate between repression and half-hearted and episodic co-optation. The attempted *aggiornamento* of state-led import substitution – combined with the rhetoric of resistance to the FTAA and globalization – underlying a nationalist project of regionalism could conceivably generate limited economic growth, perhaps with limited openings of some segments of the market to the world-economy. If successful, such a nationalist project might elicit some support for a regional economic bloc, such as an inward-looking *Mercosur*. Nevertheless, the prospects for dynamic economic expansion will be severely constrained by the globalizing forces of technology, trade, and finance.

A “neoliberal” regionalist project has, of course, a strong affinity with the technocratic scenario of Table 7.2. To the extent that poverty (although perhaps not inequality) is ameliorated through orthodox growth policies, this project is compatible with the incorporation of moderate civil society actors, domestic and transnational, such as PARTICIPA, Poder Ciudadano, and other groups affiliated with insider networks active in summitry and the FTAA consultations. Outsider networks and social movements committed to more militant forms of contestation, such as those affiliated with the Alianza Social Continental and the organized labor movement, however, are unlikely

to exercise much influence under neoliberal projects. The “ultras” most likely will be ignored or repressed, if this is viewed as necessary to assure political and macroeconomic stability. In short, this form of regionalism probably would exacerbate the “democratic deficit” characterising current projects of hemispheric integration and discussed by Lorena Ruano in this volume.

In this sense, neoliberal regionalism might constitute a “building block” toward unfettered globalization led by state elites and impelled by the market. A variety of architectures are compatible with this project, ranging from the consolidation of NAFTA with its present membership, to an expanded NAFTA (perhaps incorporating Chile, Central America, and the Caribbean Basin), to a full-blown FTAA compatible with World Trade Organization rules and encompassing most, if not all, of Latin America.²⁹

Finally, there is the possibility that the “high road” scenario – strengthened procedural and substantive dimensions of democracy, expansion of social safety nets to compensate those sectors hurt by globalization and the regulation and coordination of markets – could form the basis of a project of transformative regionalism. In contrast with the other projects mentioned, this variant of regionalism would be grounded in civil society, more as a future prospect than as a current phenomenon.³⁰

Skeptics will probably contend that the viability of this scheme hinges on an excessively optimistic, indeed voluntaristic, interpretation of current realities. Certainly it is true that this project of transformative regionalism is antithetical to the globalizing forces of technology, trade, and finance. Yet, while this is at best a future prospect rather than an immediate reality, it also highlights some of the fundamental components of a firmer and more legitimate democratic foundation for deeper and more comprehensive forms of rationalization and globalization. Our speculation, in this regard, is buttressed by the view that transnational civil society networks, coalitions, and social movements – including insiders as well as outsiders – can indeed potentially make significant contributions to a regional project in which the exercise of deliberative democracy is central. Moreover, if an “other world” really is a possibility, with acceptable trade-offs that do not forgo the potential efficiencies of world markets, the participation of local, national, and transnational civil society actors will be indispensable in rendering the forces of rationalization and globalization compatible with greater social equity and new forms of democratic politics and popular sovereignty.

Notes

- 1 Paul Wapner, "Politics Beyond the State: Environmental Activism and World Civic Politics," *World Politics* 47 (1995), 313.
- 2 Richard Faulk, *Predatory Globalization: A Critique* (Cambridge: Polity Press, 1999), p. 163. The literature does, of course, contain more nuanced analyses. See, among others, Jackie Smith, Charles Chatfield, and Ron Pagnucco (eds), *Transnational Social Movements and World Politics: Solidarity Beyond the State* (New York: Syracuse University Press, 1997); Jackie Smith and Hank Johnston (eds), *Globalization and Resistance: Transnational Dimensions of Social Movements* (Lanham, MD: Rowman & Littlefield, 2002); Jackie Smith and Joe Bandy (eds), *Coalitions Across Borders: Transnational Protest and the Neoliberal Order* (New York: Rowman & Littlefield, 2004); and John Guidry, Michael Kennedy, and Mayer Zald, "Globalizations and Social Movements," in Guidry, Kennedy, and Zald (eds), *Globalizations and Social Movements: Culture, Power, and the Transnational Public Sphere* (Ann Arbor: University of Michigan Press, 2003), pp. 1–34. For different conceptualizations of global civil society that alternatively stress elements taken from the Marxist, Hegelian, Lockean, Tocquevillean, and Habermasian critical theory traditions, see Robert W. Cox, "Civil Society at the turn of the Millennium: Prospects for an Alternative World Order," *Review of International Studies* 25 (1999), 3–28.
- 3 Robert O'Brien et al., *Contesting Global Governance: Multilateral Economic Institutions and Global Social Movements* (Cambridge University Press, 2001), p. 15. For even stronger dissents, see Leslie Sklar, *The Transnational Capitalist Class* (New York: Blackwell, 2001) and William K. Carroll and Colin Carson, "Forging a New Hegemony? The Role of Transnational Policy Groups in the Network and Discourse of Global Corporate Governance," *Journal of World-System Research* 9(1) (Winter 2003). Available at <http://jwsr.ucr.edu>
- 4 André C. Drainville, "Civic Consensus and Protest in the Transnational Arena: A View from Quebec City on the Eve of the Summit of the Americas" (Unpublished manuscript, 2001), p. 15. Compare André C. Drainville, "Left Internationalism and the Politics of Resistance in the New World Order," in David Smith and J. Boroez (eds), *A New World Order: Global Transformations in the Late Twentieth Century* (Westport, CT: Praeger, 1995).
- 5 Ronnie Lipschutz, "Reconstructing World Politics: The Emergence of Global Civil Society," *Millennium* 21 (1992), 390.
- 6 In drawing these distinctions among networks, coalitions, and movements, we follow the discussion in Sanjeev Kagram, James V. Riker, and Kathryn Sikkink, "From Santiago to Seattle: Transnational Advocacy Groups Restructuring World Politics," in Khagram, Riker, and Sikkink (eds), *Restructuring World Politics: Transnational Social Movements, Networks and Norms* (Minneapolis: University of Minnesota Press, 2002), pp. 3–23.
- 7 Hence, as Jelin notes, "social movements and collective actors are not always neat, rational, and unitary: rather, they contain and express a multiplicity of meanings, varying according to context and historical conjuncture." See Elizabeth Jelin, "Emergent Citizenship or Exclusion? Social Movements and Non-Governmental Organizations in the 1990s," in

William C. Smith and Roberto Patricio Korzeniewicz (eds), *Politics, Social Change, and Economic Restructuring in Latin America* (Boulder: Lynne Rienner Press, 1997), p. 80.

- 8 As Max Weber observed, “[w]hen those subject to bureaucratic control seek to escape the influence of the existing bureaucratic apparatus, this is normally possible only by creating an organization of their own which is equally subject to bureaucratization.” Max Weber, *Economy and Society: An Outline of Interpretative Sociology*, vol. 1, edited by Guenther Roth and Claus Wittich (Berkeley: University of California Press, 1978), p. 224.
- 9 See Sydney Tarrow, “Transnational Politics: Contention and Institutions in International Politics,” *Annual Review of Political Science*, 4 (2001), 1–20, for an excellent survey of the relevant literature on transnational politics. See also the important study by Diana Tussie (ed.), *Luces y sombras de una nueva relación: El Banco Interamericano de Desarrollo, el Banco Mundial y la sociedad civil* (Buenos Aires: Temas Grupo Editorial, 2000).
- 10 See Inge Kaul (ed.), *Global Public Goods* (New York: Oxford University Press, 1999) for essays discussing global governance and the supply of global public goods, which are goods “with benefits that are strongly universal in terms of countries, peoples, and generations.”
- 11 Marisol Pagés, “El Área de Libre Comercio de las Américas (ALCA) y la sociedad civil,” in Bruno Podestá et al. (eds), *Ciudadanía y mundialización: La sociedad civil ante la integración regional* (Madsid: CEFIR, CIDEAL, INVESP, 2000), p. 172.
- 12 This section summarizes some of the findings presented in Roberto Patricio Korzeniewicz and William C. Smith, “Protest and Collaboration: Transnational Civil Society Networks and the Politics of Free Trade in the Americas,” *The North–South Agenda Papers* 51 (September 2001). This research was part of a project supported by the Ford Foundation and conducted under the auspices of FLACSO-Argentina’s Research Program on International Economic Institutions. See Diana Tussie and Mercedes Botto (eds), *Sociedad civil y el proceso de Cumbres de las Américas ¿Nuevos o viejos patrones de participación y cooperación en América Latina?* (Buenos Aires: Editorial Tema, 2003) for important analyses of the SOA and the FTAA, including country case studies and treatments of key thematic issues such as the environment, education, and judicial reform.
- 13 EGF (Esquel Group Foundation), “Civil Society Task Force: Overview” (Unpublished manuscript, 1999), p. 386.
- 14 See Korzeniewicz and Smith, “Protest and Collaboration,” for extensive citations of the literature of these organizations along with their worldwide web addresses.
- 15 See also María Lorena Cook, “Regional Integration and Transnational Politics: Popular Sector Strategies in the NAFTA Era,” in Douglas Chalmers et al. (eds), *The New Politics of Inequality in Latin America: Rethinking Participation and Representation* (New York: Oxford University Press, 1997), pp. 516–40; J.M. Ayers, *Defying Conventional Wisdom: Political Movements and Popular Contention against North American Free Trade* (Toronto: University of Toronto Press, 1998); and Barry Carr, “Globalization from Below: Labor Internationalism under NAFTA,” *International Social Science Journal*, 51, 1 (1999), 49–59.

- 16 Other “outsider” organizations affiliated with the Alianza Social Continental include: the Alianza Chilena por un Comercio Justo y Responsable (Chilean Alliance for Just and Responsible Trade); the Réseau Québécois sur l’Intégration Continentale (Québec Network on Continental Integration); the Rede Brasileira pela Integração dos Povos (Brazilian Network for a People’s Integration); the Coordinadora Latinoamericana de Organizaciones del Campo (Latin American Coordinator for Rural Organizations, CLOC), an international peasant movement; and the Iniciativa Civil para la Integración Centroamericana (Civic Initiative for Central American Integration, ICIC); and Vía Campesina, a worldwide farmer movement with active affiliates in Latin America. Again, see Korzeniewicz and Smith, “Protest and Collaboration” for additional information on these organizations.
- 17 Pagés, “El Área de Libre Comercio,” p. 9.
- 18 See José Seone and Emilio Taddei (eds), *Resistencias Mundiales (de Seattle a Porto Alegre)* (Buenos Aires: CLACSO, 2001) for analyses of the evolution of these movements. It is worth noting that the distinction between “moderates” and “rejectionists” within the Alianza Social Continental became blurred after the 1999 “Battle of Seattle.” Many Alianza affiliates, such as ART, RMALC, and Common Frontiers, increased their cooperation with other coalitions such as the Global Trade Watch networks, adopting a posture of strident, across-the-board opposition to US- and corporate-led globalization and regional integration efforts.
- 19 See Richard Feinberg, “The Quebec Summit: Tear Gas and Trade Pacts” (Institute of the Americas, 2001). Available at <http://www.iamericas.org/publications/Americas>
- 20 For analyses of the roles these actors can play in triggering “norm cascades,” see Margaret Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998), and Thomas Risse-Kappen, “The Power of Norms versus the Norms of Power: Transnational Civil Society and Human Rights,” in Ann Florini (ed.), *The Third Force: The Rise of Transnational Civil Society* (Washington, DC: Carnegie Endowment for International Peace, 2000), pp. 177–209.
- 21 In a Ford Foundation-sponsored project, supported by the Foundation’s Rio de Janeiro, Santiago, and Mexico City regional offices in conjunction with five national teams in Argentina, Brazil, Chile, Costa Rica, and Mexico, we have been conducting a research project into the organization and governance of 300 regional networks (165 based in Spanish-speaking countries, 56 in Brazil, and 99 headquartered outside the region). The questionnaire (in Spanish, Portuguese, and English) and preliminary database may be consulted at www.bsos.umd.edu/redes/redes.
- 22 As O’Brien et al., *Contesting Global Governance*, p. 196 notes: “[t]rade unions, NGOs, religious organizations and grass-roots associations have in most cases lacked sufficient staff, funds, information and coordination capacity to mount fully effective pressure” on the International Monetary Fund.
- 23 Compare Anne Marie Clark, Elisabeth Friedman and Kathryn Hochstetler, “The Sovereign Limits of Global Civil Society: A Comparison of NGO Participation in UN World Conferences on the Environment, Human

- Rights, and Women," *World Politics* 51 (1998), p. 5: "the construction of a global society is underway but is far from complete."
- 24 Pagés, "El Área de Libre Comercio," p. 172.
- 25 This document proclaimed that "The issue for us is not one of free trade versus protection or integration versus isolation, but whose rules will prevail and who will benefit from those rules. Any form of economic integration among our nations must serve first and foremost to promote equitable and sustainable development for all of our peoples." See Alianza Social Continental, *Alternatives for the Americas: Building a People's Hemispheric Agreement* (prepared in April 2001 for the 2nd Peoples Summit of the Americas). Available at <http://www.asc-has.org>.
- 26 The Brussels-based International Confederation of Free Trade Unions (ICFTU) and the Organización Regional Interamericana de Trabajadores (ORIT) condemned the Quebec Summit's Final Declaration saying that: "Leaders must acknowledge that without the involvement of civil society, without a strong participation of trade unions, the deal won't work. Over all the Americas, the heads of states and governments clearly do not have support from their own populations when they make empty pledges to achieve trade liberalization. The governments must remedy this situation, put social development ahead of free trade, and listen to the voice of the people and their trade unions." See ICFTU-ORIT, "Global Union Demands Stronger Labor protection in the FTAA" (April 24 2001). Available at <http://www.icftu.org>.
- 27 For insightful analyses of changing class cleavages and shifts in patterns of participation and representational regimes in post-transition democratic regimes, see Frances Hagopian, "Democracy and Political Representation in Latin America in the 1990s: Pause, Reorganization or Decline?," in Felipe Agüero and Jeffrey Stark (eds), *Fault Lines of Democracy in Post-Transition Latin America* (Boulder, Colorado: Lynne-Rienner/North South Center, 1998); Kenneth M. Roberts, "Political Cleavages, Party-State Linkages, and the Transformation of Political Representation in Latin America," *Studies in Comparative International Development* 36 (4) (Winter 2001), 3–33; and Elisabeth Jay Friedman and Kathryn Hochstetler, "Assessing the 'Third Transition' in Latin American Democratization: Representational Regimes and Civil Society in Argentina and Brazil," *Comparative Politics* 35 (1) (October 2002).
- 28 Although we have modified his categories significantly, our analysis of regionalism is inspired by the discussion in Chapter 6 in James H. Mittleman, *The Globalization Syndrome: Transformation and Resistance* (Princeton, NJ: Princeton University Press, 2000).
- 29 This variant also need not be limited to by the geography of the hemisphere. Chile, for example, is actively engaged in deepening its insertion into globalizing processes through consolidation of its already significant links (30 per cent of its exports) with the European Union or with the APEC countries in the Pacific Basin.
- 30 Compare Mittleman, *The Globalization Syndrome*, pp. 128–9: "At the end of the day, the possibilities and limitations of transformative regionalism rest on the strength of its links to civil society."

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Part IV

Democracy and Hegemony: the Governance of the Western Hemisphere

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8

Democratization and Human Rights in the Americas: Should the Jury Still be Out?

Laurence Whitehead

Introduction

Much democratic theory is normative, and so naturally incorporates conceptions of human rights into its account of what constitutes a democracy. Equally, much of the emphasis in the literature on democratization and human rights falls upon the application of *international* norms.

Consider, for example, a recent survey of Latin America's human rights practices by Ellen Lutz and Kathryn Sikkink. They argue that: "international and regional actors buttressed by changing norms that justify and legitimate their involvement, are playing a more active role in domestic processes of democracy and human rights than ever before."¹

The Pinochet case provides them with one powerful illustration of a pattern which they characterize as a "norms cascade" that can be traced back to the ratification of the American Convention on Human Rights and the installation of the Inter-American Court of Human Rights in the late 1970s, followed by the Inter-American Conventions to Prevent and Punish Torture and against the Forced Disappearance of Persons in the late 1980s.

Likewise, Tom Farer and others have drawn attention to the growing authority of international law and institutions, and have argued that in the Americas the way toward strengthened democracy and a more reliable protection of human rights is via mechanisms of collective defence that would go "beyond sovereignty."²

For such viewpoints, there are durable benefits to be had from the adoption of more regionally authoritative, and perhaps internationally binding, procedures for upholding citizen rights and democratic

values. Reinforcement of this view comes from the plentiful evidence that abusive regimes have in the past sought to shield themselves from criticism and scrutiny of their human rights malpractices by invoking exaggerated and even hypocritical versions of the national sovereignty defense.

To be sure, arguments for the application of international democratic norms now also stress that progress must be consensual. Effective implementation of such normative commitments, argue Lutz and Sikkink, requires a series of steps involving a sequence of actors – local advocacy groups that draw attention to abuses, followed by transnational campaigns that dent the reputation of offending states, perhaps followed by sanctions that may be bilaterally or multilaterally enforced, and that may in turn spur domestic courts to take such issues more seriously. “While bilateral and multilateral enforcement continues to be selective, such measures frequently impose high costs on recalcitrant states.”³

In the case of Latin America, redemocratization may be viewed as having facilitated the establishment of such sequential processes, and strengthened confidence in the authority of international legal institutions. Indeed, Latin America *has* participated prominently in the worldwide shift towards a more liberal democratic international system in the last quarter of the twentieth century.

Nonetheless, the picture just sketched raises more questions than it answers. First, in the wake of 9/11 and the launch of America’s “war on terror,” it is far from certain that the “norms cascade” is irreversible. Previously established understandings about the non-use of torture to obtain information, about due process, the rights of combatants, and the proper standards for holding detainees have all been brought into question.

Secondly, international practices are not necessarily as stable and benign as Lutz and Sikkink suppose. In Haiti, for example, the US intervened militarily to restore Aristide as a democratic president, only then to later depose him as a threat to good governance. In neither case was this display of physical force accompanied by the necessary measures to promote lawful coexistence and respect for human rights.

This in turn brings us to the problem of sovereignty, where there is a strong case for saying that unilateral abandonment of sovereignty in such a key area would not serve the interest of authentic democratization, especially not in a region characterized by such inequalities of national power.⁴ In fact, Latin American traditions of legalism were inspired by a correct appreciation that international law provides a

useful defense against external imposition. Not all Latin American democrats view the prospect of intrusions on national sovereignty with enthusiasm when state capacity to preserve citizen security is weak or absent.

The Lutz and Sikkink analysis works best for a limited range of gross human rights abuses that are clearly illegal and where the (presumably easily identified) violators are state actors. But beyond these cases, there is a broad and diverse range of issues to be unpacked. They concern each of the three terms in this chapter's title, and can be encapsulated in a leading question: does the Latin American region constitute a distinctive unit within the so-called "third wave" of democratizations, and has it developed its own specific regional norms concerning the promotion of human rights?

In its response, this chapter starts from the premise that claims about convergence around liberal international norms (and the emergence of a "global civil society") should be treated with caution. On the one hand, if Latin America has been part of an international norm convergence on democracy and human rights, it has participated in accordance with regional characteristics that also differentiate it from elsewhere. And on the other, while there remains considerable scope for strengthening both democracy and the protection of human rights, progress can only be incremental, negotiated and, above all, local. Indeed, in their conclusion Lutz and Sikkink also stress that *internal* movements for democracy and human rights are ultimately decisive. International processes are characterized as playing a "crucial but subsidiary role."⁵

Taken together, these two points enable us to say why, even if international processes clearly count, so too does regionalism. Jon C. Pevehouse, for one, has highlighted the argument that some regional organizations may be more effective than their global counterparts in promoting democracy, because "smaller, more homogeneously democratic regional organizations will have a stronger influence."⁶ This depends upon the existence of well-defined and properly enforced mechanisms for vetting the democratic credentials of member states, and the development of instruments of conditionality that generate appropriate and effective incentives for ruling elites in non-complying countries to adjust their priorities. Thus, although for example, the criteria for democracy laid down at the 2001 Quebec Summit were quite clear and exacting, monitoring and enforcement of these criteria may be a different matter.

But, at a more fundamental level, while it is clearly important to account for how international norms are filtered and promoted

through regional mechanisms, regional-centered approaches may risk oversimplifying more intractable issues as much as international ones. At this level, this chapter contends both that there are tensions as well as linkages between democratization and human rights, and that even if we adopt a broad definition of the former, there is no mechanical equivalence between democratization and the promotion of human rights. International processes such as the post-9/11 shift of emphasis from the expansion of rights to the enforcement of security, sadly, also bear this theoretical observation out.

Before we broach the topics of either democratization or human rights, though, what do we mean by “the Americas”?

The Americas and regionalism

The Latin American region is elusive. The term could simply denote a geographical collection of territories; or it could highlight linguistic and cultural characteristics which are not in fact uniformly distributed across that physical space, or it could be a more abstract politico-ideological construction with a fluctuating support base.

Given such elusiveness and diversity, the geographical definition begs fewest questions: “the Americas” refers to everything from Alaska to Tierra del Fuego, and Latin America is the Americas minus the US and Canada (but including Puerto Rico).

For some purposes the Organization of American States (OAS) is the crucial regional forum, but this is an expression of pan-Americanism, including North America and led from Washington. As Louise Fawcett discusses in this volume, pan-Americanism has a long tradition in the region. For our purposes, its pertinent sequella include the Central American Court of Justice (established under US auspices in 1908); the Inter-American Treaty of Reciprocal Assistance of 1947; the OAS Charter which provides a key human rights document for the region; the Alliance for Progress; President Carter’s human rights initiatives; the Contadora Group; the Esquipas Process, the Rio Group; and the Summits of the Americas, among others.

Yet, despite this institutional tradition, there is no region-wide norm on a range of major issues. On some legal issues, such as the death penalty, extradition, the extra-territorial application of national laws, and the rights of undocumented migrants, there is a Latin American regional norm which is at variance with the US standpoint. On other major issues, like the reach of state authority, access to justice, indigenous rights, and the duties owed by national judiciaries to international

covenants and court rulings, there is no single Latin American-wide norm, but rather a mosaic of shifting practices.

Washington's long-standing and persistent leadership role may thus distinguish the region, but a preliminary glance reveals no "regionalism" in the region in the sense of consensus or equivalence of outcomes. This in turn, as we shall see, has a direct bearing upon the question of which "region" we should privilege when examining democratization and human rights in the Americas – the whole of the Western hemisphere, Latin America, and the Caribbean, or more sub-regional groupings? And if they do not all mesh into a seamless web, which regional institutions deserve priority attention – those based in Washington, or those based in San José and the Andean Commission, for example? How distinctive are these various regional institutions and networks by comparison with their global counterparts?

But, before we turn to these questions, it is also worth pausing to consider what *does* unite the Americas as an area distinguishable from the rest of the world.

Regional identity in historical perspective

In a very long historical perspective, the Americas have been marked by two unique legacies. To begin with, this was the continent where, for almost three centuries, European conquerors and colonists organized and profited from the importation of slave labor from Africa, uprooting millions and assigning them to a helot class in the development of the "New World." Of course, there was slavery in other continents, but nowhere else was it either on such a massive and systematic scale or accompanied by such widespread extermination of native American peoples. Nowhere else were slaves so comprehensively deprived of their previous identities, or subjected to such impersonal color-based legal oppression.

This system ended in the nineteenth century – formally in 1888, in the case of Brazil. Its institutional and social shadow, however, is still cast over debates about human rights across the Americas to this day.

The nineteenth century also saw the implantation of legal and constitutional doctrines derived from the Rights of Man. In fact, though, these secular doctrines were overlaid in the Americas onto a Catholic one, established early on in New Spain, for which all humans, irrespective of race, were God's creatures with immortal souls.

The paradox in this combination of legacies is that the continent was founded both on labor coercion and also, by virtue of the

longevity and uniformity of the official commitment to the universality of human rights, on liberal constitutionalism.

In this light, although Washington's support for democracy, human rights and the rule of law have been a recurrent regional mantra (even in the face of evident *realpolitik* counter-indications), this continuity of liberal internationalist discourse in itself distinguishes the Western Hemisphere from all other regions of the world. The discursive traditions of the Americas are more distinctively liberal internationalist than elsewhere.

Regionalism and human rights in the Americas

Because it has a 200-year-long history of liberal constitutionalism, the Americas present a region with a tradition which is far more open to pro-human rights international influences than, say, parts of the Middle East and East Asia.

But while undoubtedly regional norms and standards do indeed tend to favor convergence around consensus values, the Americas are, as already mentioned, also distinguished by significant divergences. Brazilian attitudes to positive discrimination on racial grounds are very different from those in the US. Caribbean family structures and attitudes on gender issues are very different from those found in the more traditional Catholic areas of Latin America. Similarly, the judicialization of rights may make sense in societies with strong rule of law institutions, but it hardly has the same appeal in Haiti or Honduras.

Indeed, in the Americas there is also a long tradition of disconnect between "hecho" (compliance) and "derecho" (law). This aspect of regionalism is likely to persist. At the formal level, the adoption of international best practice and the emulation of foreign models is characteristic behavior in most Latin American republics.⁷ But local experience suggests that when Guatemala ratifies the 1966 International Human Rights Convention on economic social and cultural rights and, in its 1986 Constitution, subordinates domestic to international law; or when Colombia ratifies the 1970 Inter-American Convention on the Rights of the Person or the 1984 Convention against Torture and other Inhuman or Degrading Punishments; or when Honduras ratifies the 1989 Convention of the Rights of the Child, what this means in terms of real effects on ordinary citizens in each country is a product of internal dynamics that are often out of sync with "international waves."

But the difficulty of human rights goes deeper than either divergence or non-compliance. It goes back to the complex and contextual nature of human rights themselves.

There is, of course, a Universal Declaration, and also a series of regional charters spelling out the major aspects of the officially endorsed rights regime. This framework has been progressively elaborated over the past decade or so, and provides a vital checklist of considerations that should be included in any analysis of regional human rights norms.⁸ But the resulting structure of rights is open to multiple interpretations.

For example, if human rights includes the provision of some guaranteed minimum of social rights (food, shelter, education, healthcare), then Cuba is at the opposite pole from the rest of the Americas, and not, if we think particularly of an issue like food security, in a negative sense. But if human rights are mainly about civic freedoms, the right to information, the right to choose the country's political leadership, then Cuba's ranking is exceptionally low.

Cuba is an extreme case, one to which we shall return. But its trade-off over different rights does suggest how difficult it is to envisage a regionally agreed hierarchy in the face of substantive conflicts of human rights interpretation.

In conditions of endemic civil conflict in particular, loose *bien pensant* aspirations will provide incomplete guidance on how best to promote a durable structure of human rights for all over the long term. Colombia provides a case in point.

If "democratic security" may be considered to belong to a human rights framework, then its promotion by the Uribe administration should raise no qualms. But if its promotion entails alleged relations between paramilitaries and the security forces, there are serious qualms to be allayed.

In Colombia's multidimensional conflict, several hundred thousand people are internally displaced each year.⁹ Their human rights are patently being violated, yet it is hard to see how in a deteriorating situation the Colombian state can attend to them without foregoing elements of its long-term strategy for democratic security. Indeed, perhaps the most alarming feature of the conflict is the ceding of large swathes of national territory to the control of local armed groups, insurgent and paramilitary, which administer justice, or violate human rights, according to their own criteria and without reference to national, let alone regional laws and conventions. The dilemma for those unsympathetic to the argument of democratic security is that, while this situation

lasts, the only conclusion about human rights that may be safely reached is that they will continue to be violated on a massive scale.

Colombia is an extremely hard case for human rights advocacy, reflecting an as yet unresolved tension between those for whom human rights should be protected by the state, and those (it should be said, predominantly international actors and agencies) for whom they should be protected against the state.

Extreme as it is, Colombia also demonstrates how applying the human rights framework is far from straightforward in the fraught contexts where it is most needed. Indeed, if Latin America presents a mosaic of practices with regards to human rights, it also reflects some of the dissensus which reigns within the realm of human rights theory and advocacy. Taken together, these factors in turn considerably widen the scope for debate over the ways the Americas as a whole are (or should be) classified for human rights monitoring.

Regionalism and human rights monitoring

When it comes to human rights monitoring, we can in fact distinguish three major alternative conceptions of the region. These alternative conceptions are directly linked to alternative conceptions of human rights, or to alternative motives for subjecting the “region” in question to human rights scrutiny.

To begin with, there is an apparently straightforward geographically inclusive conception of “the Americas” which would in theory cover everything from the Malvinas to Alaska. Here the declared motive is to establish a comprehensive inventory of human rights practice, on the basis that objective knowledge is accumulated by applying neutral observational techniques without discrimination.

An early example of this kind of comparative exercise, dating from the very end of the Cold War, was provided by Charles Humana.¹⁰ Of the 104 countries he evaluated according to a standardized set of criteria, 22 were located in the Western Hemisphere. By contrast, the US State Department’s annual report to Congress on human rights practices has an even broader coverage. It evaluates the performance of 34 Western Hemisphere nations and a total of 191 countries and jurisdictions. Cuba is, of course, among the 34, as is Canada. But the US and its Caribbean dependencies are exempted from scrutiny.¹¹

When Charles Humana performed his evaluation for the years 1986–1991, the US was one of 17 countries rated as scoring above the world average for human rights performance, only outscored by

Canada. The world average stood at 62 per cent, and, in what must have been an awful prospect for the world, if true, Guatemala was placed on it. Peru, at the height of the conflict with Sendero Luminoso, was thought to perform far better than the outlier of Cuba – at 54 per cent as against 30 per cent.

If the case of Guatemala raises a question about the neutrality of such “league tables,” the exemption of the US from the reports of the State Department now raises more. In June 2004, for example, Bertrand Ramcharan, the acting UN High Commissioner for Human Rights, observed that the reported ill-treatment of detainees from Afghanistan and Iraq in US-run detention centers in Guantanamo and Baghdad “might be designated as war crimes by a competent tribunal.”¹² In the light of more general concerns about the erosion of respect for human rights and the rule of law in the US post-9/11, it will surely be more appropriate for human rights monitoring which follows the broad approach to assess the Americas as a whole. Indeed, the problem was noted by *Human Rights Watch* at the time of the Clinton administration when it stated that “both federal and state governments have... resisted applying to the US the standards that, rightly, the US applies elsewhere.”¹³

But *Human Rights Watch* is also an exemplar of a second, more instrumental and discriminating conception of regional human rights monitoring. Here the region consists of those states and jurisdictions that need to establish their compliance with some externally determined (possibly legal) standard of human rights performance in order to secure associated benefits. This conception excludes from scrutiny those parts of the Americas that are not international supplicants.

Thus, while *Human Rights Watch* devoted a separate chapter specifically to the US in 1999, its report only examined 68 nations and territories, of which ten were located in the Western Hemisphere. The nine major Latin American republics considered under the heading of “Americas” were Argentina, Brazil, Colombia, Cuba, Guatemala, Haiti, Mexico, Peru and Venezuela.

This “highlighting” approach brings us to the third and last major conception, one which directs attention only to those parts of the Americas that are judged grossly deficient in their human rights performance, the countries that “let the region down.” This is the “trouble spots” approach, and is exemplified by the Leiden University’s Interdisciplinary Programme on Causes of Human Rights Violations.¹⁴ In 2001 it identified 26 high-intensity conflicts in the world, of which only Colombia was in the Americas.

Different as they are (and incomplete as this sketch is), these monitoring exercises all take a fairly restrictive and individualist view of what human rights are about. In contrast to the UNDP's *Human Development* reports, social rights are not included, nor are issues of gender equality, or collective indigenous rights. On the one hand, each agency has its own definition of the scope of the enquiry and of the issues to be prioritized. On the other, there is no regional or international consensus on either territorial or thematic coverage, or indeed on the methods of measurement and evaluation to be deployed. The UNDP provides a case in point. The aim of its reports is to incorporate a wider range of claims to rights under the umbrella of "human development," but they fall back upon surveying some standardized (and often very imperfect) indicators of human rights performance across the entire world.

By contrast, some agencies, like the Inter-American Institute for Human Rights and the Inter-American Court of Justice, are highly specialized and focus their attention on a narrow range of precisely defined issues that can in principle be treated uniformly. Others such as the Democracy Promotion Unit of the OAS consider human rights as one component in a much broader agenda of concerns, thereby potentially opening the door to trade-offs under which some leniency on the evaluation of human rights could be justified in exchange for enhanced cooperation on other dimensions of democratic performance.

Democratic performance, however, as we shall now see, also proves to be a vexed issue in both theory and practice.

Democratization and human rights in the Americas: the narrow view

According to the orthodoxy of the Summits of the Americas, the region consists of 34 democracies (19 of the 20 republics of Latin America, plus all the other independent states of the Caribbean, plus the US and Canada). Only Cuba is excluded. This conception is echoed by the OAS. It is possible to raise some doubts about the details of this orthodox binary schema, but the regional standpoint on democracy is (for now at least) fairly clear, and, as Richard Feinberg mentions in the Preface to this volume, is reflected in such mechanisms as the democracy clause of *Mercosur*.

Yet democratizations vary in timing and content. Where Mexico's recent major democratization came to the very end of the "third wave," the schema of the "third wave" hardly fits for two of the oldest

democracies in the region, Colombia and Venezuela. In between are such varied experiences as Argentina, Chile, and Guatemala. Region-wide generalizations may succeed in differentiating this cluster from other democratizations elsewhere in the world, such as decolonizations or post-Soviet transitions, but Latin American's own internal diversity should not be underestimated. Democratization provides one important framing device for interpreting political change, but if we follow, for example, the typology of Manuel Antonio Garretón, in which regression, transition, foundation, and reform are all open pathways, it should be clear that democratization takes different forms in different settings.¹⁵

Once again, though, the question of Latin American variety is not the only issue. It intersects with the question of which conception of democracy and democratization we are to adopt. Here, to start with, we take the narrow view.

On this procedurally minimum view, the key element of democratic governance lies in periodically competitive elections, with "institutionalized uncertainty" about the composition of the government after each election. The question then is about what implications follow for the protection of citizens from generalized human rights violation in the transition from authoritarian rule to this system of democratic governance.

During the election period itself, the requirement would be that rival parties and candidates have access to all regions of the country, and that on the day of the vote all ballots are cast and counted in conditions of personal security. If the vote is to be uncoerced, and the choice is to be free and based on fair access to alternative viewpoints, then it might be thought that a supportive environment of good human rights conditions is also required.

But this equation between narrowly defined democracy and the wider protection of basic rights rests on an assumption that is all too often inaccurate in a Latin American context. For a start, plenty of scope is left for chronic violations in between elections, and for systematic violations attributable to conflicts other than those arising from competition for political office.

For example, successive elections in Guatemala have been held regularly and more or less in accordance with procedural minimum definitions of democracy, and have resulted in alternation between rival parties. Yet this has proved perfectly compatible with the persistence of systematic and wholesale violations of the basic rights of the largely "Indian" highland peasantry.

Guatemala is an extreme example of what can go wrong when a “foundational” exercise in democratization includes almost no serious commitment to human rights among its building blocks. Among the grim list of human rights violations that continued after the peace accords it would be necessary to include ethnic cleansing, intimidation of the courts, human trafficking and the commercialization of body parts.¹⁶ After 1993 regional attempts to help with an upgrading of the quality of democracy in Guatemala have produced negligible results, and the initial energy behind them has drained away, as the true human situation there has become impossible to misinterpret.

It would be an injustice, however, to take such a case as fully representative of low threshold classifications of democracy. The holding of elections in Colombia on schedule in 2002, for instance, taking place as they did in a setting of almost overt civil war and escalating foreign involvement, showed that the maintenance of genuine electoral democracy is no mean achievement.

But, as we have already seen, Colombia also poses a challenge to any automatic linkage between electoral democracy and the protection of wider human rights, even though in theory even a procedurally minimum definition of democracy ought to carry with it some quite demanding implicit assumptions about respect for the civil rights of the electorate.¹⁷ The assumption that there *is* such a linkage rests upon an image of a political regime which is highly institutionalized, effective, and has a broad social reach.

Where that condition holds, a procedurally minimum democracy accompanied by a bill of rights (or some equivalent arrangement such as an authoritative human rights commission or a people’s advocate) will certainly tend to generalize citizen protection beyond the day of the election, and outside the context of the immediate competition for voters.

However, where the reach of the state is weak and uncertain, where the rule of law is unreliable, and where large sectors of the population are intermittently at the mercy of *de facto* local powers, then clean elections may not be sufficient to guarantee minimum standards of human rights performance across the board and throughout the year. Unfortunately, Colombia is not the exception in this regard: these conditions of institutional weakness persist in much of Latin America despite the current near universality of technically democratic national governments in the region.

Narrow democratization may therefore be one element reinforcing respect for human rights, but it provides no general guarantee. This is a

point which may be dramatized by going to the opposite extreme of Colombia, Cuba. The human rights profile of Cuba reflects an exceptionally strong system of internal controls, with visible political violence kept to an absolute minimum (for fear of US intervention), and with external displacement as the main safety valve against dissent. But Cuba does demonstrate that an absence of formal democracy can coexist with the preservation of civil peace (no death squads, no civil violence), and the protection of a limited set of social rights at the expense of severe regimentation.

The good of formal democracy is not, of course, in question. But, on the narrowest definition of democratization we should expect no particularly direct linkage between the entrenchment of a robust and comprehensive system for the protection of human rights and the establishment of a democratic regime.

Indeed, where normative theory used to treat democratization and human rights as two mutually reinforcing, or even constitutive, elements, there is now a trend in the comparative politics literature to downplay postulated connections between democratization, understood as a change of overall political regime, and other substantive outcomes like the strengthening of human rights performance.¹⁸ In part, this is because the “really existing” democracies that have proliferated over the past generation mostly fall far short of any normative ideal. But the shift toward skepticism about efforts to associate regime change in any strong way with consequent “substantive” outcomes is also to some extent the reflection of disappointment with the outcomes of the narrow conception of democracy and democratization.

Democratization and human rights in the Americas: the broad view

The advantage of adopting a narrow conception of democracy is that sharp and simple criteria for binary classification can be defined. By contrast, a broad conception of democratization as a long-term process facilitates a more serious examination of human rights performance over time and space, but also complicates the task of democratic classification and audit.

Partly in line with this reasoning, regional and international commitments to support democracy in post-transition societies have often tended to focus mainly on electoral processes. Broader considerations are harder to monitor. They may also stir up resistance.

Take the issue of civilian control over the military and the security forces. In theory, this could well be regarded as an essential accompaniment to free electoral competition for office. But if it were a practical condition, then neither Guatemala nor Paraguay would have clearly passed this test, and their failure to classify as democracies would have brought considerable inconvenience to their international mentors. If Guatemala in particular were to be reclassified as undemocratic, the country might lose the trade concessions extended under the Caribbean Basin Initiative, and its elected president should be excluded from negotiations over the Free Trade Area of the Americas.

Small wonder, then, that this basic aspect of democratic institutionality may be soft-pedalled in some international fora, including some Latin American regional agreements. Even in Chile an impediment to civilian control over the military can be found in the still prevailing Constitution of 1980.

Yet if there is not clear civilian control over the military and the security forces then one of the most vital defenses against the violation of human rights will be missing. Once, that is, we move beyond the most minimum procedural definition of democracy and democratization, we run into substantial difficulties about where precisely to draw the line on such a critical issue.

Similar observations apply to the place of "the rule of law" in our characterization of a democratic regime, or to the status of the various fundamental rights of the citizen guaranteed by the constitution (in *habeas corpus* and the rest of the standard liberal "bill of rights"). Consider the case of contemporary El Salvador as an illustration of the complexities and perverse interactions that can arise. In that country it is widely believed that the rights of the defendant have been bolstered and reinforced to such a point that the legal process constitutes something approaching a "criminals' charter." Police are understandably reluctant to risk their lives to arrest delinquents (often far better armed than themselves) when they know both that the chances of the case coming to trial are low, and those of acquittal are high.

The strengthening of the rights of the defense was an understandable and necessary response to a previous cycle of court-sanctioned police oppression. But from the standpoint of contemporary human rights promotion in El Salvador, the result may be a deficient rule of law regime that contains few institutional incentives for officials to play by the rules. In such a context, where the death penalty is also outlawed, extra-judicial killings may rise.

In Mexico, too, there is a similarly justified perception that, in a setting of almost total judicial impotence and collusion between police and organized crime, the rights of the defendant obliterate those of the victims of crime.

Democratization may thus favor the protection of human rights in general, but it does not necessarily curb impunity: human rights violations *can* be committed by security forces themselves, notwithstanding the “democratic” credentials of their governments. Institutional improvements in human rights protection can in fact take place whether or not the regime has moved toward democracy. In the Americas there are authoritarian regimes which reliably punish extra-judicial killing, for example, and there are democratic regimes which do not.

If civilian control of the military and deficiencies in the rule of law are specific cases where tension arises between democratization and the protection of the citizenry from gross violations of human rights, the inconsistencies are likely to be all the more common when a broader range of basic rights is included.

In general, broader conceptions of democratization tend to build in human rights as an explicit and integral component of what democracy involves. There is a “family” of such conceptions. Some of them tend to involve progressively increasing the coverage and effectiveness of already existing liberal democratic institutions. But there is a good deal of elasticity, and sometimes even special pleading, in discussions of how far to go beyond the most minimal of definitions. This in turn relates to the expanding universe of human rights definitions.

Consider the right of a child to education, and the associated prohibition of child labor. On the one hand, there is some evidence that democracy favors the provision of universal primary education. But where family survival strategies are at stake, poor voters may not wish to risk too heavy a stress on the promotion of such a right, at least in the absence of associated welfare policies that the better off are unwilling to finance.

It would be easy to multiply such examples of the potential for tension between democratization and conflicting human rights. But too great an emphasis upon them would also be misleading. While broadening the conceptions of both democratization and human rights may well generate unresolved tensions, it is also the case that over the long run a broad process of democratization tends to create new spaces in which demands for better human rights performance can emerge and flourish.

Indeed, there are certain institutional innovations that have become almost standard features of most new democracies, at least in Latin America (a Defensor del Pueblo, a Human Rights Commission, an epistemic community of think tanks, NGOs and associated specialized publications, congressional committees dealing with such issues, to mention but a few). Truth and Justice (or Reconciliation) Commissions and reports, such as Peru's in 2004, also deserve special mention, even though, as Mexico shows, there are also democratic regimes which at least initially shy away from such controversial matters.

Such innovations are far from exhausted. To give but one possible example, if all suspicious deaths were to be subject to autopsy and legal recording by an independent body of forensic investigators, then death squads and disappearances might cease to be costless options. If such an innovation appears a remote possibility now, it should be borne in mind that so too did many of the innovations just cited.

Thus, the case for adopting a broad conception of democratization really has more to do with long-term perspectives than with single issues and local contradictions. This is why, despite the many forms of backsliding, selective application and of course abuse, that have for so long been characteristic of its history, the region's unique liberal constitutionalist tradition and adherence to the democratic norm also matter.

From this long perspective, democratization is dynamic and open-ended. It may involve a considerable amount of adaptation to local traditions and understandings. It may also proceed unevenly across the social and geographical territory of each national society, and it may proceed only partially in harmony with democratizing initiatives in neighboring countries, or indeed within its region as a whole.

Viewed as a process in this way, democratization contrasts with narrower and more closed institutional definitions. Clearly, if regular competitive elections help the process of implanting wider democratic values, then human rights may be expected to gain support from both institutions and practices in individual new democracies. The argument here, though, is that this remains an *if*: the presence of a democratic regime, or an overall context of democratization, *may* be a favorable background condition, but it provides no automatic guarantee that human rights will in fact be taken seriously.

So the claim becomes that any effective human rights consensus must be socially constructed and locally grounded, arising from the specific histories and social priorities of individual societies. The

balance and substantive content of human rights protections is likely to vary from one to another both across time and space.

This initially unexciting conclusion gains somewhat in force if one sets it against the expectation that democratization and human rights would together ride the crest of a uniformly liberal wave, in which “all good things” come together.¹⁹ Instead, our attention should be directed to the ways in which international influences depend heavily on the presence of mediating networks and filters embedded within national political regimes that, even if they are democratizing or indeed democratized, operate as much according to local custom and practice as in accordance with supposedly uniform liberal norms, whether regional or global. Even within a region whose historical traditions and institutional structures may appear unusually favorable to collective action to strengthen the protection of human rights, the dynamics of domestic politics remain decisive.

The other advantage of a long-term perspective on democratization follows on from this: it will tend to be uneven in time as well as across space. Far from sweeping together down a broadening road, processes of advance toward more rule-governed, more consensual, and more participatory forms of political organization are more likely to be long, slow, and convoluted.²⁰ They may include protracted episodes of contestation, such as, for example, over some of the potential conflicts of rights to which we have alluded. They can also be subject to extended periods of delay or even reversal, and do not necessarily culminate in some standard preordained and “consolidated” outcome. The consequences of the security shock of 9/11 are a notable case in point.

The case for a broad view of democratization within Latin America is also, then, a claim about Latin America’s status as a distinctive unit within the global movements toward democratization and the promotion of human rights. It can be disaggregated into three main sub-claims:

- (a) that regional practice is derived more from local experience than from the emulation of external models;
- (b) that regional institutions play a significant role in structuring that practice, and that in doing so they operate in accordance with a tradition of at least partial autonomy from global standards;
- (c) that regionalism manifests itself in region-wide outcomes that can be differentiated from their global equivalents (or equivalent outcomes in other large regions).

To test these sub-claims, we now turn to one such large region, Europe.

Contrasts with Europe

The Latin American region presents a diversity of practices and outcomes, with highly specific variants of democracy and of human rights protection. At the same time, though, there are also some major region-wide regularities which may be schematically highlighted by contrast with Europe.

In general, as Lorena Ruano discusses in this volume, European integration is characterized by a highly legalistic and bureaucratic style, which rests on the assumption that formal decisions will be effectively and uniformly enforced by impersonal institutions. This assumption is, of course, an oversimplification, but if one thinks of the *acquis communautaire*, or the authority of the European Courts, it seems a reasonable way to capture our first theme: *reliability of rule enforcement*.

By contrast, within the Latin American regional institutions, as within most national administrations, the decision to enforce, delay, reinterpret or ignore political rulings is typically discretionary, handled on a case-by-case basis, and often subject to personal intervention by one or more powerholders. This is at least a reasonable working assumption with regard to most cases where human rights claims are at issue, and can be tracked through the activities of the Inter-American Court of Human Rights.

It follows from this first contrast that whereas most European citizens have access to a stable and rule-bound set of institutions for the processing of their claims (albeit institutions that may be remote and hard to understand), most Latin Americans have to contend with institutions that are for weaker and less predictable. At the formal level they may well have obtained a panoply of official rights and entitlements (possibly more than in Europe). But in many countries, and in most policy domains, rights can be abruptly withheld, institutions can simply fail to deliver. This *instability of rights* is the second thematic contrast.

European welfare states have aimed to deliver not only stable and predictable entitlements, but also *almost universal coverage of benefits*. This applies not only to social welfare benefits, but of course also to the civil and political rights that are thought in Europe to underpin the welfare state.

Here too, at the risk of over-schematizing a complex reality, the Latin American experience is different. In general, the subcontinent

displays greater extremes of social inequality, and exclusion than in Europe. Welfare benefits have often been concentrated on limited sectors of the population, rather than achieving universality. Thus, welfarism in Latin America has not necessarily presumed the prior existence of universal civil and political rights. It might even be a substitute for them. And as economic and political crises have affected the region, welfare benefits have expanded and contracted, sometimes catastrophically. Civil and political rights have also proved highly volatile in many parts of the region. Universalism is the exception.

Finally, the predominant attitude toward most citizen rights in Europe is that they are to be seen as *entitlements*. In Latin America, by contrast, they are more like officially encouraged aspirations, claims that may be quite widely honored in good times (at least for those with some social standing), but not reliably available for all in all circumstances. When times are hard, the most the authorities can offer to many citizens is the hope that their formal rights will be worth something later on.

Not all of these comparisons need be construed as being invidious. For example, Latin American patterns of discretionality and personalism are not necessarily inappropriate when excessive formalism could prove exclusionary. Nor should the case for convergence on human rights in Europe be overstated: a uniform protection of civil liberties has yet to emerge, as evidenced in varied uses of recorded evidence in different national courts, for instance. Nor yet is it the case, of course, that there is a European consensus on the extension of a range of “universalistic” rights to immigrants.

Other differences are also grounded in different realities and historical legacies, as well as in contrasting social and economic structures. In drug trafficking and organized crime, Latin America faces sources of state institutional weakening, insecurity, injustice and human rights violations that are comparatively absent in Europe.

Or take a key contrast between the modalities of human rights protection. Whereas in Europe the key institutional mechanism has been the emergence of a productive and effective court, in the Inter-American system the Court is of less significance than the Commission on Human Rights.²¹ This has adopted an increasingly broad view of its responsibilities, but it is important not to lose from sight, in controversies about supplementary demands, the background reality to the Court’s history: the gross violations characteristic of military rule in the 1970s.

That historical legacy is also part of the long perspective on democratization in Latin America. In particular, the establishment of checks on “official repression” and security apparatuses in countries like Argentina, Brazil and Chile should not lead us to downplay the achievement of “minimal” democratization in securing the human rights demands of a fair vote and honest vote counts, conditions which Western Europe at least has been able to count on as givens.

Conclusion

While durable advances in strengthening both democracy and the protection of human rights in Latin America are still ongoing, the “elective affinity” between democratization and specific human rights provisions clearly rests upon the maintenance of electoral democracy.

Although not questioning this base assumption, the main argument of this chapter has been a caution against resting with the narrow view of either democratization or democracy. There is no automatic guarantee that because a regime is classified as narrowly democratic it will throw its full weight behind high and consistent standards of human rights performance throughout a political jurisdiction. By contrast, the force of a broad conception of democratization lies in opening the way for more fully substantive human rights outcomes.

But the broad view also brings us up against the marked variations across the continent in the content and balance of human rights protection. The processes involved are protracted and interactive, and depend heavily on the internal balance of forces in each country. Convergence on a relevant and effective human rights regime for the Americas can only be expected to proceed fitfully and unevenly, even in a fully democratized continent.

This conclusion is reinforced by the judgments of the specialized human rights monitoring agencies. While there is broad consensus that democracy is the norm in the region, there are very divergent criteria for judging everything else, not least “the region” itself.²² Rather than providing reliably objective yardsticks, the monitoring exercises reflect the pattern of variation within human rights advocacy.

The question of whether there *ought* to be a single, universally high standard of human rights accountability leads us back to the role of both international and regional models and practices of governance.

On one extreme view, those states identified as failing to meet regional standards of human rights performance would be required to relinquish their sovereignty. As a view it is worth mentioning not so

much for its plausibility as for the way it directs attention to one of the most singular characteristics of the region, the “ideological hegemony” of the US. For many, the most characteristic features of US leadership in the regional promotion of democracy and human rights are contained in the mix of moralizing and legalistic language on the one hand, with double standards on the other. Certainly, many Latin Americans are ambivalent about a regionalism too directed from Washington. By the same token, most North Americans are not interested either in submitting their domestic affairs to region-wide constraints.

Yet, despite the capacity of the huge asymmetry of US power and influence to filter the ways in which human rights issues are perceived and managed within the Americas is an issue, it is also true that the US has the strongest incentives to offer.

In the presence and role of the US, the region finds one last comparison with Europe. In the European Union, much the most powerful mechanism for promoting democracy has been to offer the prospect of membership to those candidate states that meet the prescribed community-wide standards.²³ As Mexico’s entry into NAFTA, and the subsequent proliferation of free trade agreements between the US and the rest of the region, have shown, even when no direct democratic conditionality is attached, the incentive of closer economic integration also carries with it incentives for improved democratic governance.

This in turn takes us to another factor in the regional evaluation: international influences, from both North America and Western Europe, have played a more significant role than influences from the rest of Latin America. Certainly, to stay with Mexico, pressures from the reports of the Inter-American Commission on Human Rights helped to stimulate its eventual acceptance of a human rights culture. But it is difficult to single out a distinctively regional contribution. With Mexico, as with most of Latin America, the available mechanisms and incentives are loose, and the reach of regional conventions, exhortations, incentives and sanctions limited.²⁴ Indeed, in general Mexican governments are more concerned over criticisms directed at them from other states within the OECD than from their southern neighbors.

Because of its “defection” from the region with NAFTA, Mexico may appear to represent a special case. Seen in one light, indeed, Mexico offers a comparatively positive image in which the components of human and citizenship rights that are either in competition with each other, or that are not well protected in other countries, have progressed to a satisfactory level.²⁵

In other lights, however, Mexico still presents a case for vigilance. International attention is directed to it over the long uninvestigated murders of hundreds of women in Ciudad Juárez. Nor have other sources of conflict, potential and actual, been resolved. On the one hand, as momentum builds up to prosecute those responsible for the repression of 1968 and the dirty war of the 1970s, the Mexican military, having opted against a Truth Commission, shows signs of restiveness. And on the other, as manifested by a mass demonstration in Mexico City in June 2004, citizen security remains a strong, unsatisfied demand.

Even, then, in a context less fraught than many in Latin America, the jury is indeed still out. Democratization may gradually increase the pressure for serious and uniform enforcement of consensual regional standards, but the outcome is far from assured as yet. The establishment of region-wide institutions and norms favoring the promotion of human rights is part of the battle; ensuring effective implementation of human rights pledges is another.

Notes

- 1 Ellen L. Lutz and Kathryn Sikkink, "The International Dimension of Democratization and Human Rights in Latin America," in Manuel Antonio Garretón and Edward Newman (eds), *Democracy in Latin America: (Re) Constructing Political Society* (Tokyo: United Nations University Press, 2002), p. 279.
- 2 Tom Farer (ed.), *Beyond Sovereignty: Collectively Defending Democracy in the Americas* (Baltimore: Johns Hopkins Press, 1997).
- 3 Lutz and Sikkink, "The International Dimension of Democratization," p. 284.
- 4 By contrast, the UNDP has acquired a valuable experience in reconciling peace building with democracy promotion within a framework that respects national sovereignty. For an illuminating account of this international agency's activities in Central America, see Carlos Santiso, "Promoting Democratic Governance and Preventing the Recurrence of Conflict," *Journal of Latin American Studies* 34 (3) (August 2002).
- 5 Lutz and Sikkink, "The International Dimension of Democratization," p. 297.
- 6 Jon. C. Pevehouse, "Democracy from the Outside –In? International Organisations and Democratization," *International Organization* 56 (3) (Summer, 2002), 543.
- 7 For example, the 17 mainland Latin American republics have almost universally ratified all the six major international human rights instruments. By contrast, most Caribbean island states have refused to ratify at least one and sometimes several of these conventions, mainly the convention against torture and cruel and degrading punishment, since they wish to return to

- the death penalty. For full details, see Table R11 in H. Anheier, M. Glasius, and M. Kaldor (eds), *Global Civil Society* (Oxford: Oxford University Press, 2001).
- 8 For a comprehensive overview, see Peter Schmitz and Kathyn Sikkink, "International Human Rights," in W. Carlsnaes, T. Risse and B. Simmons (eds), *Handbook of International Relations* (London: Sage, 2002).
 - 9 According to the Global Internal Displaced Persons Project, *Internally Displaced People: A Global Survey* (London: Earthscan, 2nd edition 2002), p. 83: "By mid 2002, some 2.2 million persons were IDPs in the region [the Americas] – nearly four times the number of refugees. The large majority of these persons were found in Colombia, a country producing as many as 300,000 IDPs a year and considered one of the worst situations of internal displacement in the world." Some of this rural displacement is due to violence, some to campaigns of land enclosure and clearance, and some to the effects of drug eradication. Whether the latter should be considered a human rights issue, given the frequent dependence of peasant survival strategies upon coca cultivation, is a further complicating question. Although Colombia accounted for the majority of IDPs in the region, the same report also included Guatemala, Mexico and Peru.
 - 10 Charles Humana, *World Human Rights Guide* (New York: Oxford University Press, 1992).
 - 11 See US State Department, *Country Reports on Human Rights Practices for 1999* (Washington DC, 2 vols), which explains that the main purpose of these reports is to assist the US Congress in framing trade legislation. The reports have been issued annually since 1977.
 - 12 *Financial Times*, June 5–6 2004. But, according to Alan Elsner, *Gates of Injustice*, some of the practices deplored in these camps (such as the use of dogs and sexual intimidation) are also used on non-political prisoners in US jails.
 - 13 Human Rights Watch, *World Report 1999* (New York), p. 385.
 - 14 *World Conflict and Human Rights Map 2001* (Leiden).
 - 15 Manuel Antonio Garretón, "The New Socio-Political Matrix," in *Democracy in Latin America: (Re) Constructing Political Society*, pp. 220–48.
 - 16 See, for example, *Le Monde*, March 3–4 2002, summarizing a report by Amnesty International on Guatemala's "terror, anarchy, and impunity," highlighting the "genocidal" obliteration of 600 villages from the national map, and the forced exile of ten or so judges and magistrates, including the public prosecutor involved in investigating the 1998 assassination of the main author of the tragically misnamed *Nunca Más* report on gross human rights violations.
 - 17 Colombia, though, does have an ombudsman responsible for human rights.
 - 18 The literature also debates a series of other substantive outcomes and their relationship to regime type: does democracy increase or reduce growth? does it diminish extreme inequalities in income and wealth? does it contain or provoke ethnic conflict? The general conclusion is that regime type is at best only loosely connected to most of these outcomes (which in turn are only indirectly connected to human rights performance).
 - 19 To give an example of spatial differentiation, such progress can gather momentum in capital cities, middle-class suburbs, and the world of liberal

opinion formers, while at the same time – elsewhere in the system, often in rurally undeveloped areas – there can be increasingly arbitrary politics, with heightened polarization and exclusion (as in Chiapas, or Corsica, or Kashmir).

- 20 I develop this argument more fully in my *Democratization: Theory and Experience* (Oxford University Press, 2002).
- 21 See Henry J. Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, Morals* (Oxford University Press, 2nd edn, 2000), Chapter 10: “Regional Arrangements.”
- 22 As for Cuba, the exception to the norm, while the regional consensus rates it as a human rights pariah, at the global level a different standard was applied in April 2004 when the country was elected unopposed to the UN Commission on Human Rights. The US objection was undermined by its treatment of both the UN in the decision to invade Iraq and of the prisoners it held on Cuba.
- 23 But other EU efforts to promote democracy and human rights in adjacent areas where membership is not on offer have been far less successful. See Richard Youngs, *The European Union and the Promotion of Democracy: Europe’s Mediterranean and Asian Policies* (Oxford University Press, 2001).
- 24 For example, in the immediate aftermath of the collapse of the Soviet bloc, some Latin American governments joined Spain and Canada in an attempt to steer Cuba toward a relaxation of political and economic controls, but more recently the regional ambition to promote a controlled liberalization on the island has lost momentum.
- 25 Immediately on taking office, President Fox appointed a special ambassador for human rights and signed a technical assistance agreement with the UN’s High Commissioner for Human Rights. By the same token, though, it was not until the domestic change of administration as a result of the democratic elections of 2000 that international scrutiny of Mexico’s internal affairs became fully accepted.

9

Hegemony and Regional Governance in the Americas

Andrew Hurrell

Introduction

The 1990s witnessed a very significant expansion of regional institutions and important changes in the ambition, scope and density of regional governance in the Americas. These changes followed partly from the creation of regional economic integration schemes (as with NAFTA and *Mercosur*) and from the ongoing process of negotiation for a Free Trade Area of the Americas (FTAA). All of these involve “deep integration” and the detailed international regulation of a wide range of previously domestic issues. In the political area, the 1990s saw a revitalization of the efforts of the Organization of American States (OAS) to establish democracy as a regional norm and to act collectively in the defense of democracy. The agendas of successive Summits of the Americas (Miami 1994, Santiago 1998, Quebec 2001) reveal an extraordinary range of issues, many of which – for example, corruption, money laundering and military relations – would have been very hard to imagine as legitimate topics for inter-American debate, let alone action, even a few years before. There was even a resurgence of security regionalism (for example, in the form of regular hemispheric defense Ministerials) and increased international debate about the new security challenges facing the region (most notably in relation to drugs and transnational crime).

Characterizing and assessing the institutionalization of the Western Hemisphere is far from easy. Acronyms abound and it is easy to produce a complex organizational map of the region’s numerous international organizations that would significantly overstate the degree and density of institutionalized governance. And yet the changes in regional governance that have taken place since the early 1990s are highly significant – certainly in terms of aspiration and ambition, but

also in many cases of actual achievement. They are significant compared both to the region's own past and to all other regions of the world – with the exception of Europe.

The crucial question is how these changes can be explained. The first section of this chapter reviews four liberal arguments that dominated much of the debate in the 1990s. Both individually and together these arguments highlight many important aspects of regional governance. But they significantly overstate the degree to which changes in regional governance can be understood in liberal terms; and they underplay the continuing role of unequal power. After all, what is most striking about the Western Hemisphere is the degree to which new forms of deeper and more expansive regional governance have taken place against the backdrop of continued US hegemony. Even if it had been possible to talk about a modest decline in both US power and what Abraham Lowenthal called Washington's "hegemonic presumption" in the 1970s,¹ this trend was reversed as a result of the re-assertionism of the Reagan era, the damage inflicted on Latin America during the debt crisis of the 1980s, the geopolitical impact of the end of the Cold War, and, most recently, the renewed emphasis on external power projection that has followed from September 11. The continuity of unequal power within the region is unlikely to account very well for the changing pattern of institutionalization – although changing perceptions of that power on both sides have been an important factor. However, the Western Hemisphere does represent a fascinating vantage point from which to explore the relationship between hegemonic power and regional institutions and to unpack the complex ways in which liberal logics of regional governance interact with the logics of hegemonic power.

The power-political aspects of regional governance and regional institutions have been relatively neglected in academic writing. The second section therefore draws together the specifically power-political interests that shape the calculations of both weak and strong states. The Conclusion provides a tentative and schematic overview of how these power-related interests affect our understanding of regional governance, giving particular weight to the differences that exist between hemispheric governance on the one hand, and governance within the North American sub-region on the other.

Explaining regional governance: liberal perspectives

Liberalism has long formed a central part of the rhetoric of inter-American relations and of the idea of hemispheric solidarity based

around republican values, international law and regional institutions. But for long periods (indeed for most of the twentieth century) liberal interpretations of the region were on the defensive. However, from the late 1980s, liberalism regained ground, claiming to provide a more accurate account of the dramatic changes that were taking place in US–Latin American relations and the move toward greater and more institutionalized cooperation. Reflecting core assumptions of liberal theories of International Relations, this way of looking emphasized: the increasing density and depth of societal, ecological and economic interdependence between the states and societies of the region; the emergence of an ideological consensus built around a belief in market-liberalism and political democracy; the emergence or strengthening of new actors within a more active and activist regional transnational civil society; the increased pluralism of policy making in both US and within Latin America states; and the increasing importance of multi-lateralism and regional institutions. Four categories of argument have been especially important.

Interdependence and institutional enmeshment

It is under this heading that we find some of the strongest arguments of those who claim that US–Latin American relations have been transformed by the increasing depth and density of the interdependencies that have grown up both in terms of economic relations, but also around such issues as drugs, migration and the environment. Liberals predict that increasing levels of interdependence generate increased “demand” for international cooperation; they have for a long time stressed the dynamic effects of successful regionalism and the many spillovers and spillarounds that it creates; and they see a natural link between growing interdependence and the creation of an increasingly dense and important transnational civil society in which non-state actors play an increasingly important political role.

This way of looking highlights a number of very important things about regional governance. In the first place, relations within parts of the hemisphere (above all the NAFTA area and the Greater Caribbean) have been significantly changed by the increasing depth and density of the interdependencies that have grown up on such issues as drugs, migration and the environment. The remarkably complex and dense links between societies that have emerged between the US, Mexico and the Greater Caribbean do indeed lead to precisely the “intermestic” politics that liberal commentators highlight, and to an increasingly dense and politically significant transnational civil society.

Secondly, this picture seems to capture some important elements of regional institutions. The proliferation of international and regional institutions is commonly, and correctly, associated with increased levels of transnational exchange and communication. Institutions are needed to deal with the ever more complex dilemmas of collective action that emerge as regions become increasingly integrated and interdependent. It is around this basic insight that liberal institutionalism is constructed and developed. Institutions are viewed as purposively generated solutions to different kinds of collective action problems created by increasing density and depth of interaction and interdependence. This agency-centered institutionalism views institutions as affecting decision making by altering cost-benefit calculations: reducing transaction costs, providing information and transparency, and facilitating enforcement. On the rationalist institutionalist account, institutions affect state behavior by making it rational to cooperate and by altering incentives. Institutions affect actor strategies (but not their underlying preferences) by reducing transaction costs, by identifying focal points for coordinated behavior, and by providing frameworks for productive issue-linkage. On a more cognitive or constructivist account, institutions are strong to the extent that they shift actors' understandings of both problems and of the existence and character of cooperative outcomes (via increased technical knowledge), or they create processes of socialization by which norms and values are diffused. Actors come to internalize external norms via institutionalized interaction leading to changes in both interest, but also identity. This way of thinking has been productively applied to NAFTA;² and it explains a great deal both about the dense network of over 270 treaties and agreements that are in force between Canada and the United States, and the increasing pressure toward more formalized cooperation that has gathered pace between Mexico and the United States.

Below NAFTA the two most relevant sets of institutions are the OAS and what we might call the post-Miami FTAA process. If institutional strength is much weaker in these cases, then this is closely related to the unevenness of interdependence. Clearly interdependencies exist as we move south. What happens in many parts of South America has the capacity to affect both US interests and the quality and character of life in the US. But linkages are neither as strongly structural nor as consistently politically salient as many liberal commentators suggest.

Take, for example, the impact of economic and financial developments in Brazil or Argentina on the stability of the US and global financial systems. When, in 1998–99, there was very real fear of

financial contagion across emerging markets, Washington became closely involved. However, as the crisis became less pressing for the financial system and, more importantly, for the interests of US banks, so the issue slipped off Washington's agenda. Interdependencies certainly exist. But they are subject to political management and to at least a degree of political control. In the case of the environment, interdependence may well be structural: what Brazil chooses to do in the Amazon or as regards global warming will profoundly affect the global environment in which we all have to live. But this does not necessarily translate into sustained political attention. For example, the international and regional salience of deforestation as an issue declined significantly through the 1990s, despite the renewed rise deforestation rates as the Brazilian economy recovered.

The possibilities of pluralism

Several liberal accounts, such as the following, highlight the impact of domestic pluralism on the nature of US hegemony:

A distinctive feature of the American state is its decentralized structure, which provides numerous points of access to competing groups – both domestic and foreign. When a hegemonic state is liberal, the subordinate actors in the system have a variety of channels and mechanisms for registering their interests with the hegemon. Transnational relations are the means by which subordinate actors in the system represent their interests to the hegemonic power and the vehicle through which consensus between the hegemon and lesser states is achieved. This system provides subordinate states with transparency, access, representation, and communication and consensus-building mechanisms. It supplies the means for secondary states to significantly express their concerns and satisfy their interests.³

There is nothing new in the idea of seeking influence by playing beltway politics or by seeking to exploit the pluralism of the US domestic political system. Washington's kleptocratic and sultanistic clients in Central America and the Caribbean such as Somoza or Duvalier knew very well how to mobilize their backers in Washington. Equally, the sophistication of economic and trade lobbies has grown significantly over the past twenty years with the deployment of ever-larger sums of money on lobbying and on publicity. South Korea was an early entrant into this field faced by the shift to aggressive unilateralism within US

trade policy in the 1980s. Mexico is probably the most active developing country in this particular aspect of “intermestic politics.”⁴

But whilst this has become an inevitable part of weaker states’ diplomatic engagement with Washington, there must surely be room for doubt as to how far most secondary states can “significantly express their concerns,” let alone “satisfy their interests” in this way. In part, this follows from the low salience that even very large Latin American states such as Brazil have for the US domestic political agenda. In part, it follows too from the lack of resources and expertise – including a quite remarkable lack of specialist knowledge of the US and of the US political system even amongst those most dependent on the US or most closely allied to it. But, more importantly, this view rests on an exaggerated view of pluralism and US foreign policy. It may be true, for example, that the trade agenda is contested (over Trade Promotion Authority [TPA], over “trade and” issues, over the how protectionist the US should be in, say, steel or agriculture). But the idea of a deeply divided polity in which a little bit of successful lobbying by foreigners can shift the agenda in their favor should not be pushed too far. Through the 1990s there was very little pluralism on many of the aspects of economic policy that most affected Latin American countries. Instead there was a widespread consensus in and around Washington against the need for reform of financial institutions to manage global instability; and in favor of the need to use both aggressive trade diplomacy and linkage politics to force open developing country markets and to press what Washington viewed as the “logical” and “natural” path to further liberal economic reform. And, in the period since 2001, pluralism has not been the most evident characteristic of either the US polity or of US foreign policy. It is also important to remember that US domestic pluralism can increase power asymmetry. As theorists of two-level games remind us, “the stronger a state is in terms of autonomy from domestic pressures, the *weaker* its relative bargaining position internationally.”⁵ Indeed, the compromise that emerged in August 2002 from the TPA is one that works well to strengthen US bargaining power: trade promotion authority for the administration on the one hand that will enable the resumption of serious negotiations, but combined with an obligation to consult with Congress throughout the negotiation process on the other.

Democracy and democratic enmeshment

For liberals it is axiomatic that foreign policies and the character of regional international societies are heavily influenced by the domestic

character of states, and that this plays a fundamental role in shaping their international behavior. On this view, for example, the specifically liberal character of the United States has been of central importance in understanding its objectives and policies in the region. Thus, even when the broad goal is security, the way in which that goal is understood and the means by which it is pursued has been consistently influenced by a powerful liberal impulse, stressing the importance of promoting democracy and free markets.

Moreover, US administrations have found themselves ever more enmeshed in the issue as a result of: the degree to which promoting democracy has become a shared goal uniting Democrat and Republican administrations at least since Carter; the existence of bureaucratic and Congressional structures and reporting requirements which keep human rights and democratization on the political agenda; the power of national and transnational civil society groups on this issue; and the institutionalization of democracy within the institutions of the region (both the OAS and, the Quebec Summit, the FTAA process itself). All of these factors make it hard to walk away from human rights politics within the region.

Nevertheless, it is important not to exaggerate the extent to which this kind of broad ideological convergence feeds easily or neatly into foreign policy convergence or the construction of effective regional governance.

In the first place, consensus over substantive values can coexist with deep dissensus over the procedural values by which a group of states organizes itself, and through which shared values are acted upon. Thus, countries such as Brazil have indeed supported democracy in the region. But they have been reluctant to endorse coercive intervention in pursuit of that goal. This was clearly visible during the Haitian crisis and in the discussion over whether OAS sanctions should be used against Fujimori in Peru. The very different views on Cuba, and of how to deal with Cuba, provide a further example of how generally shared ends can coexist with strong divergences over means. The coercive imposition of shared values (via conditionalities, sanctions and intervention) under conditions of power inequality and weak institutions is bound to create strains and to raise legitimate suspicions – as has certainly been the case.

Secondly, there may well be agreement as to the importance of democracy and liberal values, but, as Laurence Whitehead demonstrates in the preceding chapter, quite radical disagreement as to which goods from the liberal basket should be given priority. There is indeed

a good deal of consensus within the Americas regarding human rights and political democracy – quite a strong and dense “overlapping consensus,” to use Rawlsian language. But if the political values within that consensus are not ordered and prioritized, then there is no guarantee that conflict will not result.

In the 1990s, for example, “liberal values” were understood by the United States and its principal allies in terms of freedom from murderous tyrants and in terms of democracy, elections and political self-determination. Notions of economic or distributive justice and conceptions of economic and social rights were almost completely absent. Similarly, it was a feature of the 1990s that the developed democracies were happy to preach the virtues of democracy and human rights across the world, but were curiously unwilling to apply these same values to the functioning of international institutions. These issues have begun to return much more forcefully on the current Latin American agenda, as the discontents of globalization have become both more evident and politically more salient.

Thirdly, there is the changing nature of the challenges facing democracy. If democratic backsliding were simply a matter of military coups and the failure to hold clean elections, then a regional consensus might be relatively easy to sustain. But contemporary challenges to democracy in Latin America have far more to do with the murky erosion of democratic systems (“authoritarian inclinations in democratic day-dress”) and the erosion of the social and economic fabric and inter-personal trust that sustains democratic institutions. A similar structural change has taken place in the field of human rights.

Thus, for example, “traditional” human rights violations by high-level agents of the state have undoubtedly declined in Latin America as a result of the move away from military government. Yet sustained and in many ways “structural” human rights violations still occur on a large scale: low-level police brutality, the murder of street children, rural violence, attacks on indigenous peoples. In many cases the role of state authorities may be difficult to demonstrate, or may indeed be wholly absent, and the capacity of weak and inefficient state apparatuses to correct these abuses may be extremely limited. Even assuming widespread goodwill, these changes pose major challenges both for the mechanisms of a regional human rights system and for the possibility of political consensus on the collective promotion of human rights.

Finally, these problems are compounded by the inevitability of selectivity. Sometimes selectivity derives from national policies and traditions. Thus, Washington expects the region to take its strictures on

human rights seriously, whilst at the same time remaining aloof from the inter-American human rights system. Sometimes it derives from Washington's difficult reconciliation of human rights and democracy with other, and often "harder" interests – visible not just in the many instances of US collusion with repressive military governments during the Cold War, but also in Washington's historically ambivalent attitude toward human rights and democracy in Mexico.

For all these reasons democracy has been a source of shared interests between the US and Latin America and has indeed underpinned some of the changes in regional governance. But it has also remained a source of differences and even tension, with Venezuela providing the most important recent example and Cuba the most important problematic future case.

Modes of policy change

Perhaps the most important liberal explanation for the emergence of new and more expansive conceptions of hegemonic governance relates to the spread and internalization of shared preferences and normative understandings. New forms of regional governance became viable in the 1990s because of the regional process of democratization and the convergence around a range of broadly neoliberal economic policies.

If we think about how Latin American states adapted to the changing constraints and opportunities of both globalization and the end of the Cold War, we can think in terms of three images or models. At the liberal end, we can identify a process of *progressive enmeshment*. This develops the Kantian notion of a gradual but progressive diffusion of liberal values, partly as a result of liberal economics and increased economic interdependence, partly as a liberal legal order comes to sustain the autonomy of a global civil society, and partly as a result of the successful example set by the multifaceted liberal capitalist system of states. The dynamics here are provided by notions of emulation, learning, normative persuasion, and technical knowledge. This image does capture important aspects of the inter-American system in the 1990s and of the degree of unforced ideological consensus (for example, in Argentina under President Menem, in Mexico and in Chile). But it glosses over the roles played by coercion and conditionality, and skirts far too delicately around the importance of power hierarchies and asymmetries. Notions of rational learning and normative persuasion represent only a partial and rather apolitical view of how dominant ideas and practices are absorbed and internalized by subordinate states and state elites. And the backbone of any hegemonic system is the will-

ingness to use coercion and threat of force, however much the dominant state cultivates other forms of influence. That willingness did not disappear as a considered tool of US regional policy even under President Clinton – both in terms of the use of coercion and sanctions to promote economic reform and in terms of the use of overt force to defend perceived US interests (as in the case of Haiti).

This does not, however, mean that we need to replace liberal enmeshment with a straightforward process of *hegemonic imposition*. Proponents of this view might be neorealists or neodependency writers, particularly those with strongly Gramscian intuitions about global capitalism and the role of transnational social forces, and the formation of new transnational class alliances.⁶ Yet, whilst coercion is indeed important, there are serious problems with the idea of imposition. As with old-style dependency theory, it fails to give sufficient weight to domestic dynamics. Thus, institutionalized integration with the US has been used by particular governments and politicians (most notably in Mexico) as a means of ‘locking in’ a set of neoliberal policy choices. Moreover, the model of hegemonic imposition is, certainly in the cases of major Latin American states, often empirically wrong. The dramatic changes that took place in the foreign policies of Mexico and Argentina in the 1990s, as well as the less dramatic changes in the foreign policy of Brazil, reflected national choices and the evaluation of different national strategies of international insertion – albeit within a constraining international system. This view tells us far too little about the actual mechanisms of influence, how the big Gramscian or neorealist picture plays out in particular cases, and about the important degrees of variation across cases. So “imposition” provides just as unhelpful (and in many cases empirically inaccurate) a guide as “learning” to the specific ways in which external pressures are received, interpreted and acted upon in the weaker state.

An alternative image is that of *coercive socialization*. This provides an alternative to these extreme positions, one that captures many aspects of the adaptation of weaker and developing countries to the end of the Cold War and to globalization processes. Coercive socialization describes the ways in which interaction within a highly unequal international system leads to the adoption and incorporation of external ideas, norms and practices. As part of the process of internalization, historically embedded conceptions of interest shift, actors re-evaluate their political options, organizational structures are revised, and a changing institutional context provides the framework for an evolving set of bargains between state and society.

The image of expanded regional governance resting on a secure consensus of liberal values presents a one-sided view of the process of policy change and overstates the breadth, depth and security of that consensus. The fact that regional governance is characterized by liberal political and economic values does not mean that liberal theory provides the best explanation of how this situation came about. Moreover, consensus has continued to erode, reflecting the widespread disillusion with the fruits of neoliberalism, the awareness of the acute vulnerability of the region to external economic shocks, the spread of anti-American attitudes at both an elite and popular level in the face of the direction of US foreign policy, and the move to the left in several major countries.

Explaining regional institutions: power logics

We do not need realist dogma to remind us that institutions are not only concerned with liberal purposes of solving common problems or promoting shared values. They are also sites of power and reflect and entrench power hierarchies and the interests of powerful states. The vast majority of weaker actors are increasingly “rule takers” over a whole range of issues that affect all aspects of social, economic and political life. In addition, it is hardly news that the rhetoric of “a regional community” will often reflect or to reinforce the power and interests of particular states.

To make progress it may be useful to develop the analytic distinction between issue-specific interests and power-related interests. Power-related interests emerge when there are significant cross-linkages between an institutional arrangement concerned with the management of one or more substantive issues on the one hand, and the broader character and dynamic of a power relationship on the other. These cross-linkages may derive from the distribution of the costs and benefits of cooperation, or from the structure of the institution itself, or from the particular role played by an institution within the broader structures of hegemonic power.

Subordinate states

What are the power-related logics that help shape the policies and decisions of weaker states? On one side, there are a number of recurring power-related interests that create powerful incentives for weaker states to become involved in the creation and maintenance of regional institutions

In the first place, institutions can provide important platforms for influence for weaker states by constraining the freedom of the most powerful through established rules and procedures. The most fundamental goal is to tie down Gulliver in as many ways as possible, however thin the individual institutional threads may be. The attraction to Canada and Mexico of formalized dispute settlement within NAFTA provides the clearest example within the region.

Secondly, institutions open up "voice opportunities" that allow relatively weak states to make known their interests and to bid for political support in the broader marketplace of ideas.

Third, and related, institutions provide opportunities for influence via what might be called "insider activism." This involves working intensively within the institutions: being a catalyst for diplomatic efforts, doing a lot of the "behind-the-scenes" work in organizing meetings and promoting follow-up meetings; getting groups of experts together to push the agenda forward; exploiting what one might call the institutional platforms and the normative niches that create room for maneuver and shape how problems are understood. The success of Argentina and Peru in the negotiation of the Inter-American Democratic Charter provides an illustration of the way in which institutions provide scope for activism by secondary states.⁷

Fourth, institutions provide political space to build new coalitions in order to try and affect emerging norms in ways that are congruent with their interests and to counterbalance, or at least deflect, the preferences and policies of the most powerful. And fifth, there are the costs of exclusion. Weaker states may well enter a regime or institution even if it does not reflect their interests because the costs of remaining outside are simply too high. As Gruber suggests, the "go it alone power" of powerful states has very significant implications for explaining patterns of governance.⁸

On the other side, however much weaker states are attracted to the power-leveling potential of institutions, living with, and still more integrating with, hegemonic states creates a number of serious and recurring dilemmas.

Weaker states have to balance the advantage of formal institutions against their capacity to make informal arrangements work in their favor. In Canada, for example, those who argue against "grand bargains" with the United States, and against a new institutional architecture for the region, believe that their country can operate very effectively within the informal governance and administrative networks that exist between Canada and the United States. Formality, in

other words, would undermine an established Canadian advantage, a very different view than the one that has traditionally predominated in Mexico.⁹

Another dilemma concerns scope. NAFTA was in part about seeking a set of rules that would constrain the discretion and unilateralism of the US – a rule-governed framework that would tame the powerful. But power considerations also led to a strong Mexican preference for a policy of segmentation – formal cooperation in the economic area but clearly marked off from other issues, no matter how closely they were in fact related to economic integration. Here the dilemma is between the autonomy benefits of segmentation versus the possibilities of integrative bargaining.

Finally, weak states have to gauge the potential strength of whatever procedural constraints might be built into an agreement. Yes, there may well be a formal and highly legalized dispute settlement procedure. But why should the powerful state abide by its findings? And, if it does, to what extent does this rest on the broader bargaining relationship? Take, for example, the Brazilian goal of securing a rule-governed structure of economic relations with the US – the extent to which an FTAA will protect Brazil and other weaker states from the use of the instruments of US trade protection such as tariff peaks, antidumping and countervailing duties. This is in many ways far more important than the direct balance of costs and benefits. While the case of Mexico and NAFTA highlights that, even under conditions of extreme power asymmetry, formal disciplines can prove relatively effective, the difficulty for Brazil lies in gauging how far this outcome follows from the still unique and very special character of US interests in Mexico and from the degree to which dense interaction and interdependence has complicated the balance of power between the two countries.

Liberals are keen to argue that hegemony cannot account adequately either for the creation or the sustainability of institutions.¹⁰ One important part of this argument stresses the role of overt efforts by the hegemon to compel or induce compliance with the rules of an institution or regime.¹¹ This is what hegemony is all about. If such efforts cannot be identified, then we should conclude that hegemony plays no role and that other (liberal) explanations must be sought.

Yet hegemony can play crucial roles in the functioning of institutions even in the absence of overt efforts or specific policies. The existence of hegemonic power itself creates a powerful logic of hegemonic deference. Weaker states have such an important stake in institutions and in keeping the hegemon at least partially integrated within those

institutions that they are willing to accord deference to the hegemon, to tolerate displays of unilateralism, and to acquiesce in actions that place the hegemon on (or beyond) the borders of legality. The persistence of an institution in such cases does not need to flow from the power of its formal rules, nor directly from the actions of the hegemon. The problem for weaker states is how to capture the joint gains stressed by the institutionalists, but to do so in such a way as to keep the powerful both engaged and, hopefully, constrained. Managing this dilemma may well involve painful concessions to the special interests or unilateralist impulses of the strong. It might also involve acceptance of the degree to which shared purposes need to be based both on the mixed motives of the powerful and on extremely illiberal and hierarchical institutions.

The United States as the dominant power

The involvement of very dominant powers in institutions is puzzling. All things being equal, the more powerful a state is and the more effectively it can achieve its goals through unilateral or bilateral means, the less attracted it will be to multilateralism.

But if hegemony raises important puzzles, the particular characteristics of United States hegemony raises still more. The United States has had a long tradition of ambivalence toward international law and institutions. This has varied across administrations, but has been a constant element in US policy. It has engaged both liberals and conservatives, often united in not wishing to allow institutions to stand in the way of the US promoting both its hard interests and its great moral purposes.

The involvement of the US in regional institutions is puzzling for a further reason. The United States has rarely viewed the Americas as simply a collection of states like any other, in which conflicting power and interests are to be managed, mediated and negotiated, including through law and institutions. It resisted until 1933 the core pluralist norms of sovereign equality and non-intervention. It has persistently promoted political norms that incorporate its claims to special rights, from the Monroe Doctrine in 1823 to the Johnson Doctrine in 1965. It has been consistently willing to intervene militarily and to use and justify a wide range of unilateral coercive policies. And finally, its policies to the region have been shaped, in earlier times by overt notions of racism and racial and civilizational superiority and, in more recent times, by a powerful and persistent hegemonic presumption. Deference and obedience are to be expected rather than earned and rewarded.

To what extent are there power-related logics that help explain the policies and decisions of the United States toward regional institutions? It is crucial to begin by noting a power-related argument that has been very important elsewhere, but that is much less significant in this region. This concerns the notion of strategic restraint and the role of institutions in signaling that strategic restraint. If a dominant power wishes to maintain its predominant position, then it should act with strategic restraint so as to prevent the emergence of potential rivals. A rational hegemon will engage in a degree of self-restraint and institutional self-binding in order to undercut others' perceptions of threat.

John Ikenberry provides one of the clearest accounts of this logic. In all of his recent writings he has stressed the distinctive, open and institutionalized character of US hegemony and of the "liberal" bargain that Washington deploys to address "the uncertainties of American power":

Asian and European states agree to accept American leadership and operate within an agreed-upon political-economic system. In return, the United States opens itself up and binds itself to its partners, in effect, building an institutionalized coalition of partners and reinforces the stability of these long-term relations by making itself more "user friendly" – that is, by playing by the rules and creating ongoing political processes with these other states that facilitate consultation and joint decision-making.¹²

Exactly how far this benign, self-restrained constitutionalist order provides an accurate image of US relations with Europe or Asia may be debated. But it seems strikingly at odds with the reality of Washington's relations with weaker states, including its hemispheric neighbors. On the one hand, it is very hard to see Latin American countries engaging with the US within institutions that provide even weak degrees of consultation, let alone anything remotely approximating to "joint decision making." On the other, the degree of US power is so great that the perceived incentives to make concessions or to "self-bind" in order to prevent even major Latin American countries from shifting to more oppositional policies have been much weaker. Washington has many other forms of positive and negative sanctions with which to achieve this goal.

But what of other power-related arguments? In the first place, hegemonic states may use institutions in order to legitimate their power. Power is, after all, a social attribute. To understand power in interna-

tional relations we must place it side by side with other quintessentially social concepts such as prestige, authority and legitimacy. A great deal of the struggle for political power is the quest for authoritative control that avoids costly and dangerous reliance on brute force and coercion. One of the most important roles of regional institutions is to create reasonably stable patterns of authority, and to legitimize power.

The United States has certainly sought to engage with institutions in order to acquire legitimacy for its actions. This was classically true in the case of the interventions of the Cold War years; it was true of the Missile Crisis and of subsequent policy toward Cuba; and it was true of US attempts to secure multilateral backing for the isolation or destabilization of governments deemed antithetical to US interests. And legitimacy arguments have been central to those writing about the revival of the OAS and the efforts made through and around the organization to deal with democratic challenges in cases such as Guatemala, Peru, or Haiti.

But the use of institutions for legitimacy is not confined to security; the "legitimacy buffer" provided by institutions has been very important to the exercise of US power in the region. Imagine, counterfactually, a 1980s in which the promotion of economic liberalization and neoliberal reform had had to depend exclusively on direct US pressure and involvement, rather than being mediated through the policies and conditionalities of the World Bank and the IMF. Or, more recently, think of the way in which, even an administration containing many members who were deeply antagonistic to the international financial institutions (IFIs), nevertheless moved back to those same institutions to mediate and manage the Argentinian crisis.

The legitimacy role of institutions is central to stable hegemony. Stable hegemony rests on a delicate balance between coercion and consensus, between the exercise of the direct and indirect power of the hegemonic state and the provision of a degree of autonomy of action and a degree of respect for the interests of weaker states. Within empires, weaker actors are directly and explicitly subordinated to the dominant power. Hegemony differs from empire in that there are agreed rules; force and coercion are in the background; and there is some acceptance of equality; but with the hegemon maintaining an extra voice and veto power over rules that affect its ascendancy.

In addition to legitimacy, hegemonic states use institutions to project, cement and stabilize their power. This point is often made. But what does it mean? It may mean the use of institutions to promote so-called milieu goals and as "a transmission mechanism in the effort to

universalize American values.”¹³ The pattern of hemispheric Summits provides a good example (Miami in 1994 after a gap of 27 years, Santiago in 1998, Quebec in 2001). These have shaped the regional agenda across a wide range of issues – including previously contested issues such as corruption, but also sustainable development, democracy, education and so on. They also served as the initiator of a very wide range of follow-up meetings and committees. Here we see a clear example of the so-called second face of power, the power to set agendas, to decide what gets decided, and to mobilize bias.¹⁴

But “agenda setting” misses out the ways in which institutionalized and legalized deep integration locks states into particular sets of norms and rules. Thus, for the United States, neither NAFTA nor the FTAA has been about trade, but rather about cementing a wide set of rules and disciplines that will shape Latin American markets in ways that promote US interests. These cover intellectual property, investment protection, government procurement, and services as well as the broader convergence of standards around US models. Unlike, say, the GATT, these are not negative interdictions, but immensely detailed positive obligations that are incorporated into domestic legal systems and which will affect the character of domestic economic management. Even allowing for some laxity of enforcement, this represents a significant degree of institutionalized “lock-in.”

The FTAA also provides a favorable forum to secure the management of such issues as environment or labor standards, which the US is unable to achieve in multilateral forums. At the hard end, “locking in” may involve formal agreements and treaties; but rules and practices are often diffused more informally through regulatory interaction and through anticipatory changes introduced as part of a negotiating process.

Some commentators also see institutions as important to US power in so far as they embody its “soft power” attributes, such as cultural emulation or ideological attractiveness.¹⁵ But, perhaps especially in this region, cultural influence is complex and very hard to track and assess; it flows across the region in many different directions, including from south to north.

Power in fact is not simply about interactions between specific actors, with one state seeking to change or shape the actions of another. It cannot be reduced to the interactions of pre-given actors. It is also about the constitution of action, and of the material and discursive conditions for action. This “fourth face of power” can sometimes sound abstract and overly structural.¹⁶ But it may have quite straightforward and very significant applications.

Consider, for example, the way in which the market-liberal economic orthodoxy of the 1980s and 1990s and its implementation by the IFIs and the US Treasury quite literally constituted finance ministries and central bankers as the central actors both in foreign economic policy and in many aspects of domestic economic management. Because of the way in which international and regional institutions operated, power shifted within governments: health and education policy came to be effectively controlled by finance ministers and central bankers. It also involved a discourse of development which delegitimized alternative values and voices.

It is also important to note that inter-state institutions by no means exhaust the possible routes to institutionalization and norm-regulated integration in a globalizing world. Much important work has been devoted to the study of transnational regulatory networks responsible for the development, diffusion and implementation of an increasing range of norms, rules and regulations. Much of this is technical and takes the form of soft law or of memoranda of understanding (on money laundering, banking and accounting standards, insurance supervision, police cooperation and so on). But the issue of power within these networks remains vital. Such networks allow powerful states to shape and influence the process of integration without the need for formal inter-state bargaining.¹⁷ For powerful states the choice is often not between institutions and no institutions, but rather which institutions offer the best trade-off between effectiveness on the one hand and the maximization of the control and self-insulation on the other.

Here we should note the regional impact of a more general phenomenon, namely regulation via the externalization of US domestic law. In many areas the US has sought to avoid constraints of international law and instead to rely on its own domestic law: certification, unilateral sanctions, the use of US courts as international courts, and what Nico Krisch calls "indirect governance" in areas that range of security regulation, aviation standards, to the development of the internet.¹⁸ Power, once more, enters the picture: "This is not only so because of the exercise of raw political pressure, but more often because of the superior expertise of US agencies, the availability of model norms in US domestic law, and the market dominance of US corporations, especially in the early phases of emerging fields."¹⁹

Finally, as do Korzeniewicz and Smith in this volume, we need to note the role of the US in exploiting the politics of transnational civil society. State power is increasingly determined by the ability of govern-

ments both to work successfully within civil society and to exploit transnational and transgovernmental coalitions for their own purposes.

Conclusion

For weaker states, power creates important incentives to engage in institution building; but it also involves multiple dilemmas and uncertainties. But we can understand neither the changing patterns of regional governance that occurred in the 1990s, nor the challenges of the future, without understanding how power and governance interact.

For the United States, the power-political incentives to engage in institution building help explain why a hegemonic power was prepared to become involved in the deepened and more elaborate forms of regional governance that developed in the 1990s. But these incentives have rarely been strong enough to underpin a clear and sustained project of cooperative hegemony. They also help to explain the limits to regional governance.

Even in the 1990s, the dominant US preference was for low-cost and relatively light forms of institutions that clearly reflected US interests and that avoided either long-term commitments or binding constraints. In the economic area, Washington remained unwilling to make significant concessions on its freedom to use domestic trade instruments (especially anti-dumping and countervailing duties) in the interest of achieving an FTAA. The present likelihood of a "FTAA lite" or "FTAA a la carte" merely continues this pattern.

In terms of security, regional governance at the hemispheric level has never matched the rhetoric. It is true that there has been renewed debate and consultation at the hemispheric level and even some institutional stirrings, both in terms of renovating existing institutions and in rethinking the Rio Pact. However, there remain very significant divergences between the US and Latin America over the nature of the security agenda, which the global war on terror has only exacerbated. And, of course, Washington has avoided any significant degree of multilateralization of its major security concern and of its deepest security involvement in the region – namely, the Colombian conflict. (Although it should be pointed out that Colombia has been equally resistant to multilateral involvement, just as Brazil has been resistant to the development of an effective regional security system.)

The case of democracy is harder to evaluate. It is true in a general sense that establishing democracy as a secure regional norm reflects US values. But it is also true that the policy implications of the consolidation of a regional democratic norm have become potentially more constraining for the US – to the extent, for example, that participation of states in the FTAA becomes increasingly conditional on democratic criteria.

From the perspective of regional governance, the really crucial distinction is between North America and the region as a whole, and it is within North America that liberal and power-related interests need to be brought together in order to explain the changes in governance that have occurred and that are likely to continue.

On one side, liberals are correct in stressing how the North America sub-region has been reshaped by extremely powerful logics of interdependence and integration. NAFTA as a formal institution has proved relatively durable and effective, and the United States has remained enmeshed within NAFTA, despite the strong unilateral inclinations of the Bush administration and despite the domestic political sensitivity of many of the issues under dispute. As Gustavo Vega-Cánovas notes in this volume: “In general, however, the three governments have been prepared to make full use of the system and to live by its results.”

Secondly, North America illustrates the very close relation between high and low politics and the ease by which deep integration can become “securitized.” It is not, as some liberal writings suggest, that integration removes power and security concerns. It is rather that security comes to be redefined around new sets of problems and new security challenges that are inexorably tied to integration processes and to the negative spill-overs and externalities generated by those processes. The security of the US is being profoundly reshaped by the impact of high levels of interaction and interdependence that exist with its neighbors, above all within the North American and Caribbean regions, and by the security implications of drugs, migration, money laundering and terrorism. September 11 dramatically raised the salience of these changes; but their dynamic was already present.²⁰

And, thirdly, North America illustrates the inability of even the most powerful state in the world to insulate itself from regional developments and to reassert its control over its borders. US security now necessarily depends on neighbors. Washington has certainly devoted enormous efforts to reasserting control of its borders. But this cannot succeed without stable and sustained cooperation from its neighbors; without a significant degree of beyond the border cooperation; and without cohesive and effective governance in Mexico.

Liberal perspectives, then, do help us to capture many of the core governance challenges facing governments in the sub-region, including, indeed especially, the United States. One of the most important insights of liberal writing on regional integration is to underscore the dynamic effects of successful regionalism and the many spill-overs and spill-arounds that it creates. Regionalism is an extremely complex process made up of not one, but a series of competing logics – logics of economic and technological transformation and societal integration; logics of power-political competition; logics of security; and logics of identity, community and sovereignty. What we see within NAFTA (as we have done in Europe) suggests that integration is best viewed as an unstable and perhaps indeterminate process of multiple and often conflicting logics, with no overriding teleology or single end-point. The sub-region, then, does suggest that there are powerful logics of integration that constrain even the most powerful state and that constrain even a very unilaterally minded US administration from walking away from regional institutions.

To some extent, liberals are also right to suggest that integration and interdependence blunt and tame the exercise of unequal power. Mexico is in an infinitely more favorable bargaining position with the United States than any other country in Latin America. And, in the case of Canada, effective cooperation (including on border control and security) survived the public differences that followed September 11. As even Richard Perle acknowledged in 2003: “Our economies are intertwined, and even if people wanted to be punitive – and I don’t know anyone who does – when you have an economic relationship like that existing between us, it’s like setting off a munition within your own lethal radius.”²¹

But power and the power-political interests of both weak and strong states continue to matter. They have a very deep effect on the form that regional cooperation has already taken, especially within NAFTA. The explicit preferences of the United States were to avoid an institutional framework that would allow for the internal development of integration and would constrain its legal and political autonomy; and to avoid institutions capable of providing a political framework for managing ongoing bargaining and issues that could not be contained with the framework of the treaty.

These preferences affect the obstacles that lie in the face of future regional governance. The region appears to be a textbook case of how integration and interdependence create increasing functional demand for cooperation; but also of how power-political interests work against

that demand being met by formal and deeper institutionalization. Indeed, the sub-region presents an analytical and political conundrum. Under conditions of both asymmetric power and high levels of interaction and integration, it is unclear what an ideal institutionalized structure would even look like. The literature on US–Mexican or US–Canadian relations is full of analyses of the obstacles and barriers to cooperation, but rarely specifies what a viable, let alone ideal, alternative might actually look like.

Notes

- 1 Abraham F. Lowenthal, *Partners in Conflict: The United States and Latin America* (Baltimore: The Johns Hopkins University Press, 1987).
- 2 See Frederick M. Abbott, “NAFTA and the Legalization of World Politics: A Case Study,” in Judith L. Goldstein et al., *Legalization and World Politics* (Cambridge: MIT Press, 2001).
- 3 Daniel Deudney and G. John Ikenberry, “Realism, Structural Liberalism, and the Western Order,” in Ethan B. Kapstein and Michael Mastanduno (eds), *Unipolar Politics: Realism and State Strategies after the Cold War* (New York: Columbia University Press, 1999), pp. 109–10.
- 4 Todd Eisenstadt, “The Rise of the Mexican Lobby: Even Further from God and Even Closer to the United States,” in Rodolfo O. de la Garza and Jesus Velasco (eds), *Bridging the Border: Transforming Mexico–US Relations* (1997). Cuba and the Cuban lobby also comes in here, but this is a very particular case. See Jorge Dominguez, “US–Cuban Relations: From the Cold War to the Colder War,” *Journal of Inter-American Studies and World Affairs* (Fall 1997).
- 5 Robert Putnam, “Diplomacy and Domestic Politics. The Logic of Two-Level Games,” reprinted in Peter B. Evans, Harold K. Jacobsen and Robert D. Putnam (eds), *Double-Edged Diplomacy* (Berkeley: University of California Press, 1993), p. 450. On the extent to which the NAFTA negotiations confirmed this prediction, see Cameron and Tomlin, *The Making of NAFTA* (Ithaca, NY: Cornell University Press, 2000), especially p. 230.
- 6 For the straightforward imposition thesis, see James Petras and Morris Morley, *US Hegemony Under Siege: Class, Politics and Development in Latin America* (London: Verso, 1990).
- 7 Andrew F. Cooper, “The Making of the Inter-American Democratic Charter: A Case of Complex Multilateralism,” *International Studies Perspectives* 5 (1) (February 2004), 92–113.
- 8 Lloyd Gruber, *Ruling the World: Power Politics and the Rise of Supranational Institutions* (Princeton: Princeton University Press, 2000). See pp. 93–167 for his analysis of the Western Hemisphere.
- 9 See Robert Wolfe, “See you in Washington? A Pluralist Perspective on North American Institutions,” *Choices* 9, 4 (April 2003).
- 10 See, for example, Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984).

- 11 As, for example, with Lisa Martin's examination of multilateral economic sanctions. See Lisa L. Martin, *Coercive Cooperation: Explaining Multilateral Economic Sanctions* (Princeton: Princeton University Press, 1992), especially pp. 27–8.
- 12 G.J. Ikenberry, "American Grand Strategy in the Age of Terror," *Survival* 43, 4 (Winter 2001), p. 27. See also *After Victory: Institutions, Strategic Restraint, and the Rebuilding of Order after Major War* (Princeton: Princeton University Press, 2001). For a realist version of this idea, see Michael Mastanduno, "Preserving the Unipolar Moment: Realist Theories and U.S. Grand Strategy After the Cold War," in Ethan B. Kapstein and Michael Mastanduno (eds), *Unipolar Politics: Realism and State Strategies after the Cold War* (New York: Columbia University Press, 1999), p. 147.
- 13 R. Foot, N. MacFarlane and M. Mastanduno, "Conclusion: Instrumental Multilateralism in US Foreign Policy," in *US Hegemony and International Organization* (Oxford: Oxford University Press, 2003), p. 267.
- 14 See Steven Lukes, *Power: A Radical Analysis* (London: Macmillan, 1974).
- 15 On soft and co-optive power, see Joseph S. Nye, *Bound to Lead: The Changing Nature of American Power* (New York: Basic Books, 1990), especially chapter 6.
- 16 Peter Digeser, "The Fourth Face of Power," *Journal of Politics* 54 (4) (1992).
- 17 As one of the major analysts of these developments herself notes: "In particular, government networks can be seen as a way of avoiding the universality of international organization and the cumbersome formality of their procedures that is typically designed to ensure some measure of equality of participation." Anne-Marie Slaughter, "Governing through government networks," in Michael Byers (ed.), *The Role of Law in International Politics* (Oxford: Oxford University Press, 2000), p. 199.
- 18 Nico Krisch, "More equal than the rest? Hierarchy, Equality and US Predominance in International Law," in Georg Nolte and Michael Byers (eds), *The United States Hegemony and the Foundations of International Law* (Cambridge: Cambridge University Press, 2003).
- 19 *Ibid.*, p. 163.
- 20 See Peter Andreas and Thomas J. Biersteker (eds), *The Rebordering of North America* (London: Routledge, 2003).
- 21 Quoted in Jennifer Welsh, *At Home in the World* (New York: Harper Collins, 2004), p. x.

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Part V

Regional Governance and the Security of the Americas

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10

Sub-Regional Cooperation, Hemispheric Threat: Security in the Southern Cone

David Pion-Berlin

Introduction: the rise of security cooperation in the Southern Cone

Three decades ago, realists would have felt thoroughly vindicated by the security environment in the Southern Cone and Brazil. “Beware of thy neighbor” was the motto for defense and security preparations. States assumed the worst about each other’s hidden intentions. They presumed that the military expenditures of their neighbors were offensive in purpose and sought to offset these with purchases of their own, thus giving rise to the classic security dilemma: the drive to make oneself more secure makes a rival less secure. If peace were to be preserved it would only be so through a strategic balance between competitors. Military-to-military cooperation was not sought because, in an atmosphere of mistrust, the costs of betrayal were high. Uruguay worried about encroachment from Argentina and Brazil, its giant neighbors. Argentina and Brazil had been perennial rivals for domination in the neighborhood and clashed over water rights. Argentina and Chile held on to long-standing disputes over borders and the Beagle Channels to the South.

Today, realists would be on the defensive in the case of the Southern Cone. In a change as dramatic as it is recent, the Southern Cone states have developed cooperative security relations predicated on intense diplomacy followed by increased military-to-military contacts, forewarnings, disclosures and transparency. It is difficult to remember a time when disputes have been so consistently settled by diplomatic means and when military solutions to conflict have been disqualified. Ministries of Foreign Affairs have overtaken Ministries of Defence in importance.

Argentina took the lead in forging sub-regional security agreements. That nation's defeat in the 1982 Malvinas War jolted it into an acute awareness of just how unprepared its military was for combat. Wishing to avert future battlefield calamities, it had every incentive to find diplomatic solutions to long simmering disputes with its neighbors.

The Malvinas defeat, of course, also helped to end to military rule, and restore democratic rule in Argentina. Democratically elected Argentine President Raúl Alfonsín took the initiative in signing the 1984 Treaty of Peace and Friendship with Chile that put an end to the Beagle Channel feud, obliging both countries to resort to peaceful means of conflict resolution. Since then, the two nations have signed accords that have resolved some 23 age-old border conflicts.

The political, economic and military synergies unleashed by the transition to democracy are the key variable in the transformation of the Southern Cone's security environment. Even if the origins of cooperation could be traced back to one or two agreements forged during the period of military rule, the impetus toward security cooperation gathered apace fairly quickly on the heels of transitions to democracy in Argentina, Brazil, and Chile, and economic convergence soon thereafter.

The Southern Cone, then, seems to present a case which gives more comfort to liberals than to realists. Liberal theories about the linkages between democratization, economic interdependence, and peace would all seem to have found confirmation.¹

Thus, the newly democratized states of Argentina and Brazil launched vigorous diplomatic efforts in 1985 which led to a series of agreements on the peaceful use of nuclear power, paving the way in turn for other kinds of bilateral understandings. Politically, these accords broke down the psychological barriers to cooperation which had separated them for so long. Economically, they set the stage for the 1991 Treaty of Asunción that created the basis for *Mercosur*, and which shortly led to cooperative security measures.

Mercosur's political leaders made the connection between economic gain, democracy, and security cooperation quite explicit. At the tenth summit of *Mercosur* presidents in 1996, they called democracy an "essential condition for cooperation" within the economic realm, and agreed that any rupture of the democratic order (in other words, military coups) could result in that country's expulsion from the integrated market and loss of all rights emerging from it.² Two years later, the presidents officially declared the region a "zone of peace." That meant that the region must be free of weapons of mass destruction,

and its members obligated to fortify consultative mechanisms in the realm of security and defense, as well as being committed to a unified methodology of transparency on military spending.³

The exact nature of security relations between these states is still evolving, but it can best be described as a form of security cooperation. Unlike strategic balancing, the nations do not depend on the build-up of dissuasive forces to deter aggression from others. And unlike a security alliance, there is no pooling of resources, intelligence and command systems to confront an external aggressor.

In the new arrangement the objective is to reduce or eliminate the sources of security anxiety by increasing military-to-military contacts, exchanging information and making defense intentions and capabilities transparent.⁴ All the Southern Cone states have engaged in a series of confidence-building measures that have included military visits, informational exchanges, joint exercises and the public revelation of defense plans and budgets.⁵

The greater transparency in relations between countries proposed by the theory of democratic peace is borne out by the open publication of Defense white papers in Argentina, Chile, and Brazil. But at the same time, the Southern Cone version of security cooperation is not an inevitable result of economic interdependence and democratic convergence: various other security complexes of a collaborative design could have evolved.⁶ Security cooperation has evolved in lieu of a security alliance; democratization in and of itself has not persuaded the Southern Cone states to push toward the institutionalization of their complex in the form of a sub-regional defense system.

Thus, on the one hand, security cooperation has generated a collective understanding of security as an indivisible good: the security of the whole yields the security of each. Since 1985, this security relation has been locked into place by an impressive number of agreements between the Southern Cone neighbors.⁷ So legally and politically committed have these countries become that the costs of defection would be quite high. On this basis, reasonable defense build-ups for the non-threatening purpose of modernization have been allowed. Argentina, for example, has repeatedly stated that Chile's purchase in 2002 of F-16s from the US is not considered a threat.

On the other hand, though, hesitation about institutionalizing a more binding security alliance testifies to the enduring strength of conflicting national interests. While a realist perspective on the Southern Cone would be wrong to contend that the region will inevitably suffer a backslide into the selfish defense of state interests

via the expansion of military power, it cannot be entirely ruled out of the account either.

Thus, Chile is still pulled by unilateral impulses even as it pursues cooperative ventures. For example, in 2004 a conflict over gas supply from Argentina led President Lagos to announce that Chile would pursue a plan to end its energy dependence by the development of a nuclear power energy system.

By contrast, Argentina has been an enthusiastic proponent of a security alliance, to mitigate the chances of military expenditures by its more financially endowed neighbors escalating into an arms race that Argentina would probably lose. Uruguay meanwhile is dwarfed in size by Brazil and Argentina, and fears losing influence to its neighbors should a security alliance be formed. Brazil, on the other hand, does not want a supranational agency imposing binding decisions on it precisely because it is large and would resent rulings joined by smaller states, and is in any case more concerned with challenges at its northern border caused by the spillover from the civil conflict in Colombia. Finally, Paraguay is a nation turned inward, whose military is devoted less to defense and more to national security, civic action and the pursuit of wealth and power.

In other words, security cooperation has taken root, but as an arrangement necessitating fewer commitments and posing fewer threats to sovereignty than would any move toward a formal defense system. While the strong convergence of political and economic interests of these states, the desire to avert hostilities, and the relative symmetry in military strength between the ABC countries, have made this arrangement possible and successful, the longer-term purpose of this security complex has also become an open question. The *Mercosur* states have been so successful at resolving military disputes between them that one has to speculate about whether they can sustain their interest in the confidence-building arrangements they have forged. Southern Cone military-to-military cooperation could be a victim of its own success, as governments divert resources and attention toward more pressing domestic and foreign priorities.

At the same time, though, terrorism and the trade in illicit drugs have emerged to pose new challenges to sub-regional security collaboration. A new sub-regional system has been put into place to respond to these threats, but without satisfying the post-9/11 concerns within Washington. On the one hand, the Southern Cone finds itself drawn into the larger regional situation of other Latin American countries; and on the other, it finds itself sharing the risk of being subsumed within a larger hemispheric drive led by the United States.

This chapter begins with the dilemmas for the Southern Cone posed by this unprecedented conjuncture between a system of cooperation which has proven successful albeit while in danger of having run its course, and the sudden need to both respond to new security threats, and do so on terms that satisfy the US hegemon. Can sub-regional and regional security complexes easily coexist? This chapter will argue that in the case of the Southern Cone, they cannot. The historical domination of the US means that any effort to overlay a regional system upon a sub-regional one creates profound asymmetries and conflicts of interest. Unhappily, the autonomy and tranquility gained for the sub-region through its security cooperation is now at risk from threats and pressures to which cooperation was not designed to respond.

New threats

On the face of it, the links between economic, political, and security spheres within the Southern Cone seemed to have created an equilibrium scenario; the interactions between regional partners produced mutually beneficial outcomes; no party had any incentive to desert in search of a better deal, even though differences defined by national interests persisted.

Argentina's 2001–2 financial crisis provided a significant test case. Until then, security relations among the *Mercosur* states seem to have been consistent with predictions offered by liberal theories: the mutual economic gains reaped during *Mercosur's* largely successful first decade inspired more security cooperation. Would the theoretical converse hold true? Would reductions in trade flows and the economic slippage caused by Argentina's crisis necessarily trigger less security cooperation?

In the event, the well-forged links between economic, political, and security spheres stood up to the pressure. *Mercosur* members did not retreat to defensive mercantilist policies, expressed genuine solidarity with Argentina's efforts to strike a fair bargain with the IMF, and did not retreat from security cooperation. The equilibrium of the sub-regional system survived intact.

Yet the more latent risk to the *Mercosur* security community was one of obsolescence. The military threats that had made the Southern Cone states determined to overcome them no longer held much relevance as the geopolitical disputes and hostilities between states that once raged through the region largely disappeared. Argentina renounced any grounds for conflict with Chile, Brazil and its other neighbors. So did Brazil. Once the region's primary competitors for geopolitical domina-

tion, Brazil and Argentina now shared, in the words of ex-President Cardoso, a “common strategic vision.”⁸

But if neighbors were not potential enemies, neither was there a clear sense of what the common external foe was, or could be. The security arrangements serving to preserve and consolidate the hard-won peace between the *Mercosur* states did not serve the purpose of projecting combined military power toward the defeat of foreign enemies. What, then, was the military’s purpose in this part of the world when there was no call for them (as opposed to police and internal security forces) to pursue joint missions? The participation of Chilean and Brazilian soldiers in the UN peacekeeping mission in Haiti may provide one clue, but political and military leaders have yet to answer the larger question.

The shortfall in common understandings might not have proven serious had it not been for the combination of the emergence of narco-trafficking, organized crime, and terrorism as threats, and the increasing demand by the US for military responses to them.

In some ways, the threats were not new; what was new was the US focus on them, and the consequent drive to hemispherize the response to them. This has posed a sharp dilemma for governments which prefer to keep their militaries at arm’s length from these kinds of conflicts. Bringing into sharp relief the difference between defense and security, Southern Cone states have wished to argue that, while the threats may be real, they are neither directed at states nor are they military in nature.⁹ Instead, a new sub-regional system has been put into place which calls on the bureaucratic services of the Ministries of Justice and the Interior, and the operational services of the police, border patrols, courts, and intelligence agencies. It has not, however, proven sufficient. Nowhere is this more demonstrably the case than at the “Triple Frontera” between Argentina, Paraguay and Brazil.

Security at the Triple Frontera

If the Southern Cone states have been unable to prevent themselves being drawn into a hemispheric-wide campaign against “new” security threats, it is above all by way of the problems encountered at this geographical border. Long known as a center for the trafficking of contraband, drugs, and arms, and more recently for terrorist operations, the lax immigration controls and corrupt officials at these borders have facilitated free movement for criminal organizations.

As long as a decade ago, when first the Israeli Embassy in Buenos Aires was bombed in 1992, and then in 1994 a car bomb destroyed the Jewish Education and Welfare Building in the same city – attacks which left 117 dead and 450 wounded – the operational origin of the terrorist acts was probably across the border in Paraguay. Then as now, Paraguay's Ciudad del Este was a major transshipment point for drugs, a center of black market commerce (reportedly valued at US\$10 billion annually), and, with its large Arab population, a noted safe haven for Islamic terrorist groups like the Iranian-linked Hezbollah one which carried out the attacks. Although Argentine complicity in the attacks went from the involvement of police units to the subsequent judicial investigative incompetence and alleged acceptance of US\$10 million in hush money by President Menem from the Iranian perpetrators, the Paraguayan link between contraband, drugs, and terrorism has also been credibly made.¹⁰

In a pattern which would later become more familiar in relation to Al-Qaeda, Islamic fundamentalist groups in Paraguay have allegedly financed their terrorist operations by participating in these illicit activities, using charity organizations as money-laundering fronts. Poor immigration controls provide ideal conditions both for illicit activities to continue and for terrorists to cross over with false documentation.¹¹ Paraguayan security forces themselves admitted that Ciudad del Este was “beyond control” and a “terrorist sanctuary.”¹²

But the problem was never Paraguay's alone, and it soon became apparent that a coordinated response would be needed. Beginning in 1995, Argentina, Paraguay and Brazil signed and implemented a series of accords to enhance cooperation, implement anti-terrorist measures and create a Tripartite Command to coordinate action to control the frontier.¹³

Yet the problem extended beyond the tri-state neighbors to involve the other *Mercosur* states. In an irony with echoes in NAFTA, *Mercosur's* success in breaking down economic barriers between neighboring states and multiplying the movement of people and goods across the Triple Frontier had also stimulated illicit trans-border activities. Unlike NAFTA, though, this occurred without a consonant increase in security and border control.¹⁴ Not only were the commercial gains of *Mercosur* being eroded, but the effect on foreign investment of a reputation for violence was also causing concern.¹⁵

For these reasons, the other *Mercosur* states joined Argentina, Brazil, and Paraguay early in 1998 in launching a Plan of Security for the border area, with an emphasis on measures against narcotrafficking,

money laundering, and terrorism. Surveillance of clandestine flights was increased, as was coordination between banks to detect laundering schemes, and a data bank to monitor border crossings by suspected religious fundamentalists was established. The Plan was followed up in August 2000 by a meeting of *Mercosur's* Interior Ministers to discuss the impact of crime on the integrated economies.

Self-interest, then, was already giving prominence to the security dimension of *Mercosur* before 9/11. When 9/11 occurred, the *Mercosur* Interior Ministers were able to respond quickly, creating a Permanent Working Group for devising common counter-terror policies by December 2001. The Group had at its disposal an operational force under a unified command, comprised of intelligence-gathering officers from all the states.

Apparently, the *Mercosur* states had taken a major step toward institutionalizing their collective security response to new threats. Having laid the foundations first, they could even be said to be prepared for the challenges the post-9/11 world order would pose. In the words of Guillermo Stirling, Uruguay's Interior Minister, with the agreement of 2001 the trading bloc "entered an era of security."¹⁶

The new security era

What does entering an era of security mean, though? Clearly, the new security situation is a far cry from the classic dilemma known to the Southern Cone region in the past, where neighboring states bolstered their military forces for fear of being overrun by opposing military forces. The new threats are not ones which will cause nations to collide with nations, and armies to clash with armies. The notion of strategic balance between nations also makes no sense in this new environment where states confront non-state actors.

If the coordinated efforts of the Southern Cone states to bring terror and criminality under control amounted to a sub-regional security complex, then it was a bird of a new color, distinct from traditional complexes that relied on military force and involved primarily defense-related agencies. Within those complexes, notions of security and defense were virtually indistinguishable.

By contrast, responsibilities for security at the tri-border area have fallen into the hands of the ministers of interior and justice, not defense. Police, border patrols, immigration officials, courts, and intelligence agencies under their jurisdictions have become the central players in this scheme, not the armed forces. Responding to the threats

represented by narcotraffickers or terrorist cells requires a kind of dogged, patient, stealth-like investigative work, which is rightfully the purview of civilian intelligence-gathering agencies more than of military forces.

To be sure, in the face of the new threats, notions of sub-regional security have become meshed with those of internal security. So much so, indeed, that security collaboration of this sort between states can harken back eerily to the epoch of military dictatorships when the internal crackdowns on leftists led to transnational coordination.

To guard against any return to the perverted security collaborations of the 1970s, Southern Cone politicians have gone on record with declarations that the struggle against the new threats must be undertaken will full respect for human rights, the law and democratic institutions.¹⁷ Once again, the role of the military becomes the vexed issue. The need to minimize its direct immersion in counter-terror, crime, and narcotic missions has been acknowledged by all Southern Cone states, and written into law by some.

A third reason may be added to the reluctance of Southern Cone states to push their armed services to the front lines of the new security struggle. At bottom, it is about perspectives. Shortly after 9/11, the US rushed government officials down to the triple frontier to display their displeasure with the security precautions in place there. An FBI agent even appeared in the meeting of the Interior Ministers to deliver the message about the danger of terrorism in the region. As ever, the measure which would most reassure the US about states' commitment to the war on terror is military involvement.

Southern Cone states had their own reasons to be concerned by the lack of control at the triple frontier. But that is not to say that they saw it either as a cauldron of terrorist activity, up there on the axis of terror along with Afghanistan, Iraq, Iran, Pakistan, the Middle East, Indonesia or the Philippines. To the contrary, self-interest also dictated that the sub-region resist such a demarcation, and, along with it, the militarized response.

The upshot is that, after 9/11, entering the era of security meant very different things for the Southern Cone. On the one hand, the sub-region had already in effect evolved two kinds of security complexes, side by side. The first was a form of security cooperation between militaries aimed at eliminating the security dilemma via transparency and confidence-building measures. The second was then a largely non-military form of cooperation predicated on facing down threats of a non-military nature at the Triple Border.

Yet responses to the new security threats could not be untangled from US perceptions of both the threats and the measures it wanted to see being taken against them. Thus, even though the second security complex seemed appropriately designed to respond to the threats at the Triple Border, those threats also happened to be at the top of the list of priorities of Washington and the multilateral forums within which it exerts great influence.

In vain did the defence ministers declare that “the differences in sub-regional contexts do not constitute a barrier to cooperation and exchange, but should be respected and taken into account in the development of a balanced security system that recognizes the particular strategic contexts throughout the Americas.”¹⁸ The Southern Cone effort was submerged within an organized, hemispheric-wide effort spearheaded by the United States. The specific result of the asymmetrical action was that militarization forced itself onto the agenda for the Southern Cone. The implications for the autonomy and stability of the sub-region’s states are worth pondering.

Regional versus sub-regional security complexes

Part of the reason that security cooperation has (so far) worked so well in the Southern Cone is that arrangements of this sort can more easily flourish in smaller, symmetrical venues than in large, asymmetrical ones.

This is not to say that there are not large differences in size, population and resources between a Brazil, Argentina, and Chile. But, militarily, none of these three countries ever had an overwhelming superiority over the other. Thus, each had a strong incentive to avert military confrontations that would escalate into all-out war.

This negative historical condition of security cooperation has taken on a more positive coloring in the last three decades. Although the dependencies are unequal, all the Southern Cone states depend on one another for economic gains because of the inextricable mesh of *Mercosur*. Without being a deterministic relation, the economic and security interactions mutually reinforce one another. The states can treat each other as problem-solving partners who enjoy a rough parity with each other; in both economic and security terms they have more in common with each other than they do with states outside the sub-region. A liberal would add that the states also have an interest in maintaining the democratic conditions of governance which too played their part in bringing about convergence.

If these were the only grounds on which to tell the story of the Southern Cone, it would be one about the triumphant rise of regionalism. As such, it would fit with a larger narrative about the vanishing of an East–West international power struggle after the end of the Cold War. No longer magnetically drawn to either side of a global confrontation, developing countries like those of the Southern Cone would be both free to pursue their own interests as they relate to neighboring states, and to deepen the linkages and interactions within regions which, of course, have been there all along. With the Cold War over, the big power master narrative would no longer overlay the newly liberated regional mini-narratives.

The demise of the East–West struggle is certainly not irrelevant to the transition to the new regional trend in the Southern Cone. At the same time, though, it is worth modifying one premise in the preceding story. The new regional trend predicts neither cooperation nor confrontation; both are possible. Old disputes could re-emerge and conflicts – even war – could ensue. Or, nations could indeed rediscover what unifies them beyond geographical proximity.

With its new climate of cooperation, transparency and confidence building, the Southern Cone region of Latin America stands as a significant case of the latter path: the rediscovery of the intrinsic importance of regional relations, not least regional security relations. Yet these climactic features disappear at the hemispheric level. The more substantial modification to the regional story in turn concerns what happens at this level of interaction, in particular with security relations.

There are great differences between the Southern Cone, Andean and Central American sub-regions that complicate the effort to systematize a hemispheric response to new threats. But the principal and unavoidable difference is that which exists between the US and the rest of the region.

US military superiority in the region is overwhelming. It has in the past used its advantage to pursue its own interests at the expense of its Southern neighbors. It is a matter of record that in the second half of the twentieth century it repeatedly exploited collective agreements such as the Rio Treaty as pretext for unilateral interventions to prop up or undo governments and movements as it saw fit.

Before 9/11 the US was already fully committed to waging the war on drugs on its terms in the region. Its targets embraced peasant coca growers, manufacturers and distributors as well as narco-guerrillas in Bolivia, Colombia, Mexico and Peru. After 9/11 the US has undertaken

a global war on terrorism, and no sub-region is too isolated to avoid being drawn into it if it wishes to remain in the good graces of the US.

US dominance over the region has thus taken a dramatic new turn, changing the terms of the debate about regionalism from interdependence to the chances of preserving autonomy vis-à-vis the hegemon. The achievement of sub-regional cooperation as exemplified by the Southern Cone risks giving way to the dilemma of cooperating with the US against new security threats on terms which favor the US at the expense of its regional allies.

As the intensified militarization of US foreign policy sets the terms of hemispheric security, so the dilemma sharpens for Southern Cone states which were moving decisively away from a reliance on the use of military force to achieve policy objectives. Militarization has become the litmus test of hemispheric and sub-regional relations.

The costs of militarization

US administrations in recent years have consistently diverted governmental resources away from social programs toward defense without paying a political cost. The democratically elected political leaders of the Southern Cone, by contrast, have strong incentives to reduce defense spending and limit the need for military action.

To varying degrees, all of the Southern Cone states are underdeveloped. Brazil, in particular, is plagued with enormous social needs and great internal pressure to divert resources once spent on defense to other sectors. Under President Lula da Silva, Brazil has committed itself to significant reductions in the defense budget. Chile's defense budget still consumes 10 per cent of GDP after the transition to democracy, but this is arguably a symptom of the incompleteness of the latter. Throughout the sub-region there has been a natural and steady decline in military size and expenditures, as politicians see their fortunes tied to providing for impoverished societies more than to building up militarily.

The US has not only looked for ways to expand the role of its armed forces; it also looks kindly on other states that do the same. For example, in addressing his Latin American colleagues at the III Defense Ministerial in Cartagena, Colombia, in 1998, the then US Defence Secretary William S. Cohen was unhesitating in emphasizing the military's indispensable role in combating narco-terrorism.¹⁹

The US emphasis has proven itself dismissive of the risks for others of military immersion in counter-narcotics operations for either civil-

ian control or military professionalism. Destabilizing confrontations between soldiers and coca-growing peasants in Bolivia; the corruption of sections of the military in Mexico; the capture of the Peruvian state by Fujimori and Montesinos – none of these regional instances of the risks of setting the military and Intelligence Services at the forefront of the war on drugs have cut any ice with the US. To account for why this should be so, one has to turn to the privileged case of US intervention in Latin America: Colombia.

The Colombian example

Latin Americans talk, loosely enough, of “Colombianization” as a threat to their states; for the US, the impression is sometimes that Colombia is a Plan first, country second. Colombia’s regional partners have shown more interest in pulling back from its conflict than in diplomatically addressing it; from 1998 on, the US has not only been involved, it has also set a precedent with which successive administrations show little sign of breaking: a military solution as the only desirable outcome.

US involvement in Colombia, it is important to recall, is a special instance of intervention-by-invitation. First extended by President Andres Pastrana, it was democratically reinforced in the electoral mandate given to President Alvaro Uribe in 2000. What in turn troubles Colombia’s regional partners about US involvement is not the specter of unilateral intervention, but the terms of the partnership. In calling in the US, Colombia has not only succeeded in attracting legendary quantities of US aid; it has also opened a path for others to follow. Can the offer of US arms sales, technology and training be refused?

The US can understand invitations, but not refusals. In the past, backsliding nations had certification to discipline them. In the war on terror, even backsliding is not an option: the region’s states *have* to cooperate with the US. This in itself is not, however, the issue for the vast majority of them. The deeper point about even the theme of militarization is whether or not Washington will countenance any deviation from total compliance with its will. Colombia’s enthusiastic (or desperate) level of compliance sets a problematic standard for others to follow.

Take Brazil. Like Venezuela’s President Hugo Chávez, but with considerably greater credibility, President Lula has offered his services as a mediator in future talks between the FARC guerrillas and the

Colombian Government.²⁰ The move, which reflects Brazil's reluctance to classify the guerrillas as terrorists on a par with Al-Qaeda, does not fit with the strategy of the US and the Uribe administration in Colombia. Brazil in turn has had no option but to fall into line with its militarized logic.

Brazil's Amazon-based surveillance system (SIVAM), operated by the armed forces, has been configured to detect and apprehend both FARC guerillas and narcotraffickers who may be using the Amazon's expansive jungle habitat as bases of operations. Brazil has redeployed thousands of troops toward its Northern frontiers, and in May 2002, conducted the largest military exercise ever held in the Amazon close to the Colombian border.²¹

There has also been growing coordination between Brazilian and Andean militaries. In February 2004, Brazil, Colombia and Peru signed an accord to utilize naval forces to patrol the rivers at the borders between these three countries in order to cut FARC supply lines. The signatories suggested this agreement might be the first step toward the creation of a regional multinational force.

Brazilian disquiet with such measures is confined to the small print: the accord talks of criminals and terrorists, not guerrillas.²² Mute protest aside, though, Brazil has been compelled both to relax its restrictions on the use of military force to confront threats at its northern frontier, and to immerse its military forces in a struggle in which, for the US at least, criminals, terrorists and guerrillas are all one and the same. From the regional perspective which continues to wish that Colombia were not its problem, the terms of Brazil's participation are easily represented as an undesirable southward spillover of the Colombian conflict.

Conclusion

The Brazilian experience provides an unpalatable object lesson in the way the new hemispheric-regional asymmetry works, a lesson which may lead us to amend the post-Cold War script for regionalism more generally. US hegemony may be less brutally imposed than in the past, but its pressure on the region now tends to take the form of an invitation to share its perspective on security threats, combined with a flat refusal to credit the existence of other perspectives.

First, for the vast majority of the region's states, there is no option but to cooperate with the US in facing down the new, and not so new, security threats: paying lip service is not enough. To the degree that

those threats grow in magnitude, causing difficulties for police and internal security forces, those states then find themselves under growing pressure from the US to bring in their militaries.

Making deeper commitments to satisfy an unsatisfiable US means spending more resources, but also competing for preferential terms of treatment from the US. The proliferation of bilateral Free Trade Agreements with the US across the region is one index of this trend.

As the region becomes re-magnetized by the US so regional achievements become de-valued. The Southern Cone is a sad portent here. Already, the Southern Cone states are on the slippery slope which leads down to the Andean and the Central American states: minor partners in a far-reaching struggle whose terms are dictated by US administrations.

The sub-regional achievement of the Southern Cone was to put aside age-old geopolitical rivalries, replacing the threat of military force with diplomacy to solve regional problems. Militaries followed the political lead by constructing bridges of cooperation which reduced anxieties and increased confidence between erstwhile foes. The transition to democracy and the creation of a major free trade zone were influential in facilitating these changes. Whether or not it deserves to count as well as a facilitating condition, the absence of input or interference from the United States was also notable. In military and political terms, the sub-region seemed to have found an equilibrium of its own.

The threats to this equilibrium can be calibrated on two scales. The first, and more doom-laden, measures the risks of the sub-region becoming submerged within the hemispheric-wide sphere of influence of a security-obsessed US. At the end of the scale, there is the possibility that terror or drugs could constitute the substance and rationale for a new and revised Rio Treaty. The specific risks are a reversal of the regional trend toward de-militarization, a revival of US interventionism, and a loss of sub-regional peace and autonomy.

The less other scale includes an element left out of the more alarming one: self-criticism. To be sure, sub-regional security arrangements cannot easily coexist with regional ones which materialize within Washington's hegemonic sphere of influence. But how effective was the sub-regional arrangement, not in its primary phase of evolution, but in its capacity to organize responses to the genuinely threatening substance of new threats?

What used to be sub-regional problems of low magnitude and low concern to the US have now been re-emphasized, yet there is an element of special pleading in the claim that they have been blown out of all proportion. In the past, the US used to exclude Paraguay from its

counter-narcotics operations; has the sub-region been too ready to turn a blind eye to the non-economic threats represented by its members' problems of governance?

The Southern Cone states have indeed designed responses to criminality, drugs and, to a lesser extent, terrorism; increasingly, though, these responses need to carry a significant input, or at the very least an endorsement, from the US. The sub-regional struggle is now both to convince the US that some of the asymmetry in its treatment of "partners" should be lifted, while resisting as far as possible the US over-reliance on military solutions. Should the trick be brought off, the US might even re-discover its deeper common interests of economic liberalization and support for democracy with Latin America.

Notes

- 1 An exemplar of this theory is Andrew Moravcsik, "Taking Preferences Seriously: A Liberal Theory of International Politics," *International Organization* 51 (Autumn 1997): 513–53. On economic interdependence reducing the threat of war, see Richard Rosecrance, *The Rise of the Trading State: Commerce and Conquest in the Modern World* (New York: Basic Books, 1986); On the idea that democracies don't fight each other, see Michael Doyle, "Kant, Liberal Legacies and Foreign Affairs," *Philosophy and Public Affairs* 12 (Summer 1983), 205–35.
- 2 MERCOSUR, "Declaración Presidencial Sobre Compromiso Democrático en el MERCOSUR," X Cumbre de Presidentes del MERCOSUR, San Luis Argentina (June 25 1996). Available at <http://www.mercosur.com>
- 3 "Declaración Política del MERCOSUR, Bolivia y Chile, Como Zona de Paz," XIV Summit of MERCOSUR's Presidents, Ciudad de Ushuaia, Argentina (24 July 1998).
- 4 See Jorge I. Domínguez, "Security, Peace, and Democracy in Latin America and the Caribbean: Challenges for the Post-Cold War Era," in *International Security and Democracy: Latin America and the Caribbean in the Post-Cold War Era*, ed. Jorge I. Domínguez (Pittsburgh: University of Pittsburgh Press, 1998), 3–28.
- 5 See David Pion-Berlin, "Will Soldiers Follow? Economic Integration and Regional Security in the Southern Cone," *Journal of Interamerican Studies and World Affairs* 42 (Summer 2000), 47–8.
- 6 See Patrick Morgan, "Regional Security Complexes and Regional Orders," in David A. Lake and Patrick M. Morgan (eds), *Regional Orders: Building Security in a New World* (University Park, PA: Penn State University Press, 1997), 34–8.
- 7 For a listing of these accords, see Ernesto López, "Un Sistema Subregional de Seguridad?," *Fuerzas Armadas y Sociedad* 15 (October–December, 2000), 38–9.

- 8 "Brazil–Argentine Military Accord Said to Show Common Strategic Vision," Agencia Estado News Agency of Brazil (April 27 1997). Available at <http://infoweb.newsbank.com>
- 9 There is also a challenge here to traditional versions of security studies which defined security by reference to the analysis of military force, and conflicts between states in which a country's insecurity derives from its vulnerability to opposing armies. See, for example, Steve Walt, "The Renaissance of Security Studies," *International Security Studies* 35 (1991), 211–39.
- 10 See "Iran Bombed Argentina Jews, Bribed Menem," *Daily Times*, July 23 2002. Available at <http://web.lexis-nexis.com/universe>.
- 11 See "Reunion: Ministros de cuatro paises acordaron cooperar entre si por informaciones y acciones contra terroristas; MERCOSUR tendrá un grupo para combatir terrorismo," *El País Digital* (September 29 2001).
- 12 "Ciudad del este, meca del terrorismo y el contrabando," *El Cronista Comercial* May 20 1996.
- 13 OAS, "Strengthening Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism," Twenty Third Meeting of Consultation of OAS Ministers of Foreign Affairs (September 21 2001).
- 14 See "Auxilio del Pentagono Para Controlar Triple Frontera," *El País Digital* (February 26 1998).
- 15 "Stirling Propone crear MERCOSUR de Seguridad," *El País Digital* (August 26 2000).
- 16 "Etapa de seguridad en paises del MERCOSUR," *El País Digital* (December 1 2001).
- 17 OAS, "Strengthening Hemispheric Cooperation."
- 18 Defense Ministerial Conference of the Americas: Declaration of Manaus, October 21 2000. Available at <http://www.pdgs.org.ar/featured/press-manaos-ing2.htm>
- 19 "Secretary of Defense William S. Cohen: Hemispheric Cooperation in Combating Terrorism," United States Information Agency (December 1998). Available at <http://usinfo.state.gov/topical/pol/terror/>
- 20 United Press International, "Brazil, Colombia Look For Harmony," February 23 2004, lexis-nexis online.
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- 22 "Anti-Farc deal signed with Colombia and Peru," *Latin News Daily* (February 12 2004), lexis-nexis online. Back in 2001, President Fernando Henrique Cardoso took issue with the US appraisal of the region, saying that his country could find no evidence that terrorist groups were currently operating there. *El País Digital* (September 29 2001).

11

Security Regulation or Community? Canada, Mexico, and the Borders of Identity

S. Neil MacFarlane and Mónica Serrano

Introduction

When NAFTA (the North American Free Trade Agreement) was ratified in 1993, it established the world's first non-colonial integration scheme between two developed states and a developing country. By 2001, the experiment seemed so successful that the World Bank could issue a report recommending it for adoption elsewhere.¹ Over twenty years of NAFTA, Mexico's total trade has increased sevenfold; that of Canada and the US more than doubled. Trade between Canada and Mexico increased by 152 per cent after 1994.² US annual merchandise trade with Canada and Mexico has gone up from US\$300 billion in 1993 to US\$600 billion.

NAFTA's economic success has been unprecedented; but it has also come along with some unprecedented consequences. The most immediately dramatic has been its impact on "the governance and the politics of the borders."³ Well known as it is, the sheer magnitude of trans-border flows is still impressive: 200 million legal crossings of the US–Canada border, 300 million of the US–Mexico border in 1999; 475 million people, 125 million vehicles, and 21.4 million import shipments entering the 301 US ports of entry in the same year; goods to a value of US\$1.2 billion sent across the US–Canada border every day.⁴ The southwest US–Mexico border, with its one million daily crossings, has become the busiest in the world.

The corollaries were not long in coming: as movement across the borders gathered apace, so the capacity of the NAFTA countries to control and monitor their frontiers weakened; as integration deepened, so did the vulnerability to disruptions of trade and economic flows. From the mid-1990s to today, the contradiction between these corollaries has grown ever sharper.

On the one hand, at the 38 official US–Mexico border crossings, capacity to inspect the millions of cars, trucks and railroad containers all but evaporated. As the number of inbound containers arriving in ports like Long Beach, California more than doubled – as part of a rise to nine million arriving in the US every year – so in 1997 the US authorities publicly conceded their incapacity to inspect them. Qualms expressed by US and Canada customs authorities were also echoed by Mexican ones.

But, on the other hand, customs authorities were under pressure not to increase transaction costs in trans-border movements, to assist with export competitiveness, and to speed up shipment clearances. Thus, for example, an increasing portion of Canada’s manufacturing trade with the US is now intra-industry. Companies with factories on both sides of the border trade components back and forth as part of an integrated production process. They are highly dependent on smooth transit back and forth across the border.

Intensified interdependence very quickly created a two-front situation of shared vulnerability for the three partners, caught between imperatives to police and throw open their borders. The stage was already being set in the late 1990s for security regulation as an essential ingredient of not just the member states’ political stability and social well-being, but also of NAFTA’s own economic viability.

If the scale of trans-border flows, though, came as a surprise, security regulation was an altogether unexpected consequence of NAFTA. Both the scope of regional integration aimed at, and the level of institutional authority vested in NAFTA, had been intentionally modest. Conceived as a static institution, NAFTA’s role was simply to lock in governments which already accepted the advantages of furthering free trade. If Canada, for example, was prepared to dismantle inefficient systems of production and exchange under the discipline of the free trade regime, it was on the basis of these limited expectations. Free trade itself had been strongly contested by the lobbying of protected Canadian businesses, as it had been in the past.⁵ A desire to separate free trade from questions of sovereignty, along with lingering Canadian discomfort with American hegemony, made for a climate in Canada which was hostile to the suggestion that NAFTA should have a security dimension.

This chapter is about the manner in which the security dimension of NAFTA has confounded both Canadian expectations and Mexican assumptions which, although they now look flimsy, were integral to the light design of NAFTA. But, if NAFTA was acquiring a security dimension well before 9/11, what notion of security do we mean?

While the securitization of its borders by the US is the most salient manifestation of NAFTA's security dimension, other ideas of security are also germane for both Canada and Mexico. These ideas refer to the values of culture and identity, values whose weight has had to be measured by both countries as they confront the power of their giant neighbor. Canada and Mexico have come to very different estimations of the worth of core cultural values vis-à-vis the advantages to be had from acceding to the security concerns of the US. But the fact that identity has been an issue at all tells us something significant about the other face of identity: community. A common investment in security might have been expected to have deepened relations between the NAFTA three into a genuine communality which could compensate for losses of identity. This is indeed the road which Canada appears to have taken with the US. In the process, though, Canada has also marked a distance from Mexico. *If US-Canada security relations can now be conceived of in terms of a security community – a question which is still open – it is a community which excludes the third member of NAFTA. In a way that was unimaginable when NAFTA was passed, not only is the community to which it has given rise a community now significantly defined in terms of security; but one of the NAFTA three is at best an uncertain ally, at worst a threat to that community.*

Regional security regulation and community

For functionalist approaches there is no surprise that deepening economic integration under NAFTA should have generated a need for security regulation.⁶ A desirable as well as inevitable end, security regulation is the rationally instrumental response by states to both the problems and security externalities created by larger economic relations. Security regulation supplies the missing link between heightened interdependence and institutional responses.⁷ It is a form of cooperation which is in the interests of all parties, but which does not rise above a materially transactional level of interaction. From a liberal institutional view, however, if interaction succeeds in becoming institutionalized, new patterns may also emerge; attitudes may be altered as well as material incentives themselves.⁸

A security community, by contrast, begins from the resolution of parties who may have been antagonists in the past not to resort to threat, but goes on to develop more ambitious dynamics. The constructivist views which have been prevalent in theories of security

community explain why. Behavioral changes such as those brought about by regional integration have a feedback effect upon the identities of the actors; the unconstrained sharing of inter-subjective understandings evolves into greater commonality of identity; the separate interests and identities of the community undergo a transformation. Eventually, a combination of common institutions, mutual learning and trust, responsive empathy and shared values allow one to talk of the existence of a security community.⁹ Clearly, for states which identify themselves as being part of a region, the emergence of a security community takes regional integration to greater depths. As common identification deepens, so does security cooperation. As with security regulation, but at a deeper level of trust and commonality, economic integration and security cooperation join hands.

In the beginning: the sovereign security assumptions behind NAFTA

For both Canada and Mexico, expectations about NAFTA echoed those which had been prevalent in late 1950s Europe. Formal economic integration could be separated from the “high politics” of foreign policy and security; no supranational institutionalization would be called for.¹⁰ While Canada, Mexico and the US would become a North American enterprise, security would remain a Canadian–American business conducted in the wider Atlantic community.

For Canadian policy makers, the goal to pursue had been that of a border with the “three s’s”: safe, soft, and sovereign. And if the Mexican government insisted on the advantages of free trade over other forms of integration like a common market, it was in the belief that free trade would, precisely, better protect its sovereignty. The contemporary idea of sovereignty as a cluster of government authority to be unpacked, shuffled and traded with other states in order to cope with both internal and external “inter-mestic” problems on the “domestic-foreign frontier,” was not on the minds of any of the NAFTA partners.¹¹

Instead, the notion of security which played so inconspicuous a role in Canadian and Mexican assumptions about NAFTA was the traditional one of inter-state military relations. The parties faced no significant military threats emanating from the region or its environs; none of them perceived any of the others as a potential threat to their security, as conventionally understood. Why should sovereignty be set at risk by a free trade agreement?¹²

Regional identity in history: Canada

Had they taken up the other concept of security, as an absence of threats to core values, the NAFTA founders might well have started from some different premises. In this notion, it is culture and society, rather than the state, which provides the arena in which the values of physical survival, welfare and identity are at stake.

In fact, beneath its wishful policy thinking, Canada quickly revealed anxieties about the impact of NAFTA on the survival of national unity. Canada would provide a good example not just of this other concept of security, but also of the inseparable nature of regional identity and history.

There are at least two reasons why the theme of unity was, and arguably remains, problematic in Canada. In the first place, Canada began as a collection of poorly connected settlements scattered along the border with the US. Natural lines of communication were north–south across the border with the US, in areas like the Pacific coast, the Columbia River Basin, the Great Plains, the Red River Basin, the Great Lakes zone, and the Atlantic Coast. Communities developed close commercial relations with their southern neighbors on a regional and sub-regional basis. When the time came to create a solid economic basis for national unity, east–west linkages in trade and infrastructure (such as the Canadian Pacific railway) had to either interfere with these north–south linkages, or compensate for their interruption.¹³

The second reason concerns the diversity of origin of Canada's communities, and notably the francophone factor. Historically, from the perspective of Quebec, the US has been less of an identity concern than English Canada. Indeed, the francophone community developed close links with New England, not least as the result of the migration of large numbers of Quebecois to New Hampshire, Massachusetts, New York, and Rhode Island. Tying Quebec into the confederation thus also constituted an important incentive for the strengthening of Canada's economic community at the expense of links to the south.

Both of these factors constrained the development of north–south trading relationships. That the emergence of free trade in North America was slow had much to do not only with the lobbying of protected Canadian businesses, but also with the fear that opening the gate would threaten the fragile structure of Canadian Confederation. The coming of NAFTA and the rapid alteration of regional trading patterns that has resulted has done much to unravel this carefully constructed economic structure of national unity.

The cultural closeness of English Canada to the US, and the overwhelming asymmetry of cultural power between the two, had also long been felt to render Canada vulnerable to cultural penetration from the US. This vulnerability increased with the development of electronic means of communication and the penetrability of the border to American media.¹⁴ The desire to retain and develop Canadian identity in the face of this threat, and the sense of cultural insecurity that this desire reflects, fostered substantial long-term government efforts to preserve Canada's distinctiveness, efforts which became enshrined in Canada's cultural policy. They involved, almost necessarily, restraint on trade and investment, either through direct subsidies or through the manipulation of taxation.

With the ascendancy of the notion of free movements of goods and capital under NAFTA, it is not unreasonable to expect that Canada's already limited – and, for the US, conflictive – capacity to protect its cultural distinctiveness through restraint on trade and other cross-border flows will be further weakened.

Regional identity in history: Mexico

Mexico's original attitude toward NAFTA provides both contrast and paradox. Indeed, from a longer historical perspective, the thing to explain is why joining NAFTA was *not* perceived as a threat to Mexican national identity.

Historically, the US has been a direct source of considerable insecurity to Mexico, and anti-Americanism is ingrained in the national psyche and the rhetoric of much of the political class. Mexico lost over half of its national territory to the US in the 1848 peace treaty which ended the US occupation of two years earlier, provoked by Mexico's refusal to acknowledge the independence of Texas. The US intervened in Mexico's civil war in the 1920s to protect American oil investments, and to control spillovers of conflict into Texas, Arizona and New Mexico. US recognition was a key prize in the internecine politics of the period. Inferiority towards the US, mixed with compensatory rejection, has been as decisive in the evolution of "Mexicanity" as the promotion of "mestizaje" as a unique experiment in the fusion of European and pre-Hispanic cultures.

In the field of culture, Mexico has again evinced an attitude of defensiveness far more pronounced than Canada's. In the decades following the Revolution, governments became directly involved in censoring and prohibiting the distribution of US films perceived to be

denigratory of Mexican national character. US stereotypes of lawlessness, corruption and poverty as cultural constants of Mexico were such an issue of concern that Mexican governments successfully sought a self-protective role in the production of US films.¹⁵

As Blanca Torres mentions in this volume, if Mexican self-protection was a thing of the past by the time of NAFTA, stereotypes were still very much alive in the tides of anti-Mexican protests from US labor unions and environmentalists. Their force was even tacitly conceded by President Salinas when he promised that “NAFTA would help Mexico to export tomatoes, rather than tomato pickers.”¹⁶

US domestic opposition to Mexico’s participation in NAFTA had the effect of making it a traditional nationalist cause. At the same time, the new image of Mexico which President Salinas projected to the US – a Mexico of technocratic efficiency and modernity – made going into NAFTA a new cause of national pride. In this briefly harmonious moment before the transition to democracy, old and new nationalisms found a common cause in NAFTA. By contrast with Canada’s more general cultural insecurity, Quebec excepted, Mexico was certain that its future lay with NAFTA.

Regional identity and NAFTA: Canadian assumptions

That NAFTA emerged at all is perhaps a reflection of a conscious or unconscious Canadian decision to trade off survival and identity values in order to enhance the third core value of security: welfare. This trade-off was favored by the deepening of European integration, which raised questions about the capacity to remain economically competitive without being part of a wider economic area. Underlying such issues, however, was a more profound shift in Canadian political culture. As one observer put it: “what is truly significant about NAFTA from a Canadian perspective is not what it does to the environment of North American trade... but what the mere fact of its being negotiated at all says about the change of attitude of those who govern Canada and of those others by whom Canada’s governors, in their turn, are most deeply influenced.”¹⁷ In more general terms as well, by the time of NAFTA the visceral anti-Americanism which had characterized Canadian discourse in the 1960s and 1970s had waned.

The reasons are not hard to find. The deepening integration of Canada’s economic system with that of the US under both CUSFTA and then NAFTA, and the corresponding growth in the regional concentration of Canada’s international trade, enhanced Canada’s

economic security. The US rapidly asserted itself as Canada's largest trading partner, accounting for over 85 per cent of the total value of Canada's exports (C\$351 billion in 2001). It is estimated that trade with the US creates approximately two million jobs in Canada.

But, seen from another angle, NAFTA represented a radical deepening of Canada's dependence on US markets. The data thus also clearly show that the US is economically far more important to Canada than Canada is to the US. US exports to Canada constitute only 23 per cent of total American exports.¹⁸ The same conclusion holds with regard to capital markets. US investment in Canada plays a far more important role in the Canadian economy than vice versa.¹⁹ The limited economic sovereignty that the country once possessed was diminished with NAFTA.

This was not the only area of sovereignty, though, to be affected by NAFTA. The evolution of bilateral discussions on border procedures soon indicated that Canada's benefits from the trading relationship could only be possible if Canada were to surrender considerable autonomy in border procedures. Early Canadian hopes notwithstanding, getting "safe and soft" did involve compromise on "sovereign."

Yet, despite the gross asymmetry of power in the bilateral relationship, nationalist warnings and complaints about the threats to core Canadian beliefs and traditions had little resonance in the limited Canadian debate.²⁰ It appeared that Canadian public and elite opinion was reconciled to making concessions in return for maintaining privileged access to the US.

Regional identity and NAFTA: Mexican assumptions

Mexico's political stake in NAFTA was that of more equal partnership with the US. This ambitious hope is one which has proven especially hard for Mexican leaders to jettison. Yet, looking back at the process of convergence which took Mexico into NAFTA, it is clear that just as decisive as the impression made upon US policy makers by President Salinas was the memory of the 1982 debt crisis. By the time President Clinton bailed Mexico out again in 1995 it should have been apparent that Mexico's economic stability, not political aspirations, was the paramount interest for the US.²¹

Mexico also entered NAFTA with a critical assumption about sovereignty. Often bruited by President Salinas, it was that the market would impose its own order upon any dislocations from closer economic integration. By spreading economic prosperity to Mexico, the free trade

market would in particular cut across the push–pull dynamic of Mexican immigration to the US. Rural populations squeezed by US competition would relocate to US factories on the Mexican side of the border.

If Mexican migration would not be a threat to the US, what about drugs? When Mexico entered NAFTA, it had a drug problem. To gain its ticket into NAFTA, Mexico had to sell the line that drug trafficking was a separate issue from liberalization. Illicit drugs were a national security threat to the US, but an open border wouldn't be. The US would continue to receive Mexican cooperation to fight illicit drugs – away from NAFTA.

This tacit understanding was thus premised upon an already extant model of security regulation. In military terms, low-profile cooperation had become by the late 1980s an undertaking by Mexico to deal militarily with a problem it too, in 1987, declared to be of national security dimensions. Politically, as was perhaps inevitable under the regime of the US drug certification process, the essential emphasis fell upon Mexico's will to cooperate. The regional integration of NAFTA not only added an incentive to cooperation; it also coincided with the winding down of the opprobrious certification regime. If threats like illicit drugs really were just negative externalities, was there any reason why they couldn't be fought by the equal partners as they increased their cooperation, and kept their sovereignty?

Mexican assumptions, however, had more shadowy depths than the Canadian. Mexico's deepest interest in cooperating with the US in counter-narcotic policies has been to protect its territorial sovereignty against incursions from US law enforcement agencies, principally the DEA. But, while this is an interest of the Mexican state, NAFTA would also clear the way to hundreds of thousands of Mexican citizens with assumptions very different to those of President Salinas. Their assumptions were expressed in the findings of a 2002 Zogby poll in which 58 per cent of Mexicans agreed with the statement that "the territory of the US southwest belongs to Mexico," and 57 per cent with the statement that "Mexicans should have the right to enter the US without permission."²² Such attitudes may have been buried deep within the complex of Mexican regional identity, and may also play their part in explaining why NAFTA was not perceived as a threat to it. Their practical effect was that NAFTA coincided with the greatest tide of immigration in US history, 10 million in the 1990s.

As for drugs, Mexico had been the point of entry for around 30 per cent of all cocaine consumed in the US in the mid-1980s. By the late 1990s, the figure was 70 per cent.

NAFTA and 9/11: Canada

The implications of asymmetrical interdependence with the US lacked political and security salience prior to September 11 2001, as Canadians went about their business more or less happily. However, these issues came home to roost with a vengeance on that day. Billions of dollars were lost as the result of the interruption of cross-border trade. In Canada, the lives of its many border communities were dramatically disrupted. It became instantly clear that Canada as Canadians had known it could simply not survive without substantial modification of key aspects of Canadian policy and practice.

The results were rapid. In the area of immigration in Canada, common technologies for the screening of immigrants and travelers were developed with the US, along with the development of joint approaches to deportation, and enhanced sharing of information on immigration.²³ In the area of customs, the deployment of US Customs personnel expanded to locations in Canada removed from the border.²⁴ Changes in law enforcement encompassed the creation of joint intelligence teams to analyse and disseminate intelligence and information and conduct threat assessments; the acquisition of technology allowing real time access to each other's fingerprint and criminal record databases; the integration of Canadian personnel into the US Foreign Terrorist Tracking Task Force; and the expansion and acceleration of the IBET programme to create joint multi-agency law enforcement teams at key points along the border.²⁵

In short, the attack on the US created a powerful impetus in Canada to complement the trading relationship with an array of other bilateral integrative arrangements in the area of security. After the critical juncture of 9/11, security cooperation with the US became for Canada a survival issue.

NAFTA and 9/11: Mexico

Mexico's security cooperation with the US passed an immediate test on 9/11 when Mexican airports received hundreds of commercial flights diverted on that day. Thereafter the Fox administration cooperatively waded through a panoply of measures aimed at securitising the US–Mexico border. Modeled on the Canada–US Smart Border Declaration of December 2001, the US–Mexico Border Partnership Declaration of March 2002 declared an action plan to put in place an

integrated infrastructure for travel and commerce, and systems of information exchange to manage the secure flow of people and goods.

According to one analyst, “one of the primary successes of the U.S.–Mexico Border Partnership Agreement has been the increased cooperation and coordination between the governments.” According to the same analyst, however, “Mexico lacks the budget and resources for implementation of [the] initiatives.” US Congress gave US\$25 million to supply the gap.²⁶ By contrast, in 2001 Canada’s Anti-Terrorism Plan alone increased spending by US\$5 billion on Customs, Immigration and the Royal Canadian Mounted Police.²⁷

Mexico’s institutional capacity to deliver on sometimes vaguely promised action items in the wake of 9/11 is a source of many more unflattering comparisons between it and its NAFTA partners. On the one hand, Canada’s Smart Border Declaration laid claim to proven high-level policy continuity, going back to 1995’s Shared Accord on Our Borders.²⁸ Mexico’s implementation of the Border Partnership Agreement, by contrast, brought chaos at the US border and disruption to the 12 million-strong communities of the borderland.

And on the other hand, the investment by the US in border law enforcement bureaucracies sets standards to which Mexico, even with the best will in the world, could not live up. In the financial year of 2003 US\$11 billion was budgeted by the US for border security; the budget of the Immigration and Naturalisation Service rose to US\$5.3 billion; that of US Customs Services to US\$2.3 billion, and that of the Coast Guard to US\$2.9 billion.²⁹ When the digital fingerprinting and passport scanning of people crossing the US–Mexico border goes on-line in 2006, as envisaged in the U.S.-Visit Program, it is a fair bet that the US will have had to dig even deeper into its pocket.

Nonetheless, for Mexico as for Canada the effect of 9/11 was to dramatically raise the security stakes of participation in NAFTA. The question was: what form would security cooperation take? Would the security dimension, missing from the beginning of NAFTA, turn out to be the anchor of regional integration?

After 9/11: security regulation or community?

In April 2001, at the Summit of the Americas, the three NAFTA leaders had spoken as one of their desire both to establish a “predictable framework for the further development of trade and investment,” and to “deepen a sense of community” within North America.³⁰ No doubt, the debate about deepening community would have continued to

meander gently past models like “NAFTA plus” (recognition of separate political jurisdictions, but more economic, political and social partnership), nudging toward a trilateral and common institutional agenda in principle, but none too urgently in practice.³¹ But then 9/11 came. Was it the “mutual security threat” which, according to one line of thought, triggers the emergence of a security community?³²

Before 9/11 the notion of a security community would have been largely helpful in elucidating what NAFTA *wasn't* about. With 9/11 the notion did in some regards become a vital consideration for the US, but in the regional as well as in the global arena uncertainty also arose about just how deep it could go given the unique combination of a US retreat into homeland security with the new Bush doctrine of the unilaterally preventive use of force.

In the discourse of security community, the accent falls upon the shared quality of both perceptions of threats and values, and also upon the voluntariness of identity shifts. To be sure, when the security agenda is set by the hegemon, security cooperation may be maximalized *as if* the other parties belonged to a security community. But the questions – how shared? how voluntary? – remain awkward for those playing catch-up with the leader.

If the effects of hegemony upon current understandings of security community thus remain problematic, there is also a puzzle in power asymmetry for security regulation functionalists. Security regulation as conceived by them works on the premise that each of the partners will obtain net security benefits from political cooperation; that solutions flow simply from increased bilateral cooperation; and that the benefits of securitizing issues and problems outweigh the costs. What the model does not account for, however, is the phenomenon by which cooperation with the hegemon *increases* the underlying inequality of power.

Paradigms of regional security cooperation tend to downplay regional differences across a spectrum of issues, and are often blind to power asymmetry. In fact, paradigms of regional security cooperation which assume equality of cooperative status from manifestations of cooperative will risk buying too much into regional integration's often misleading rhetoric of community and equal partnership.

Security regulation or community after 9/11? Canada and sovereignty

For Canada, the broadening and deepening of the security relationship is to some extent voluntary, reflecting a deeply felt solidarity with its

immediate neighbor, as well as a realization that security questions are to a degree matters of mutual interest where cooperative action is preferable to acting alone. In the contemporary security environment, and given the transnational quality of many of the threats that Canada faces, it too needs deeper cooperation in order to enhance its security.

Yet the aftermath of 9/11 has also posed important new dilemmas for Canadian policy makers in the area of regional security cooperation. Growing levels of border and associated cooperation raise serious issues about Canadian sovereignty and identity, those entities which theories of security community see as fluid and transferable.

To take criminal justice as an example, cross-border cooperation may complicate Canada's capacity to maintain a criminal justice policy that is distinct from that of the US. There are numerous issues over which significant differences of view prevail. Policies, law and cultural perspectives differ over capital punishment, sentencing standards, gun control, criminalization of "soft" drugs, rules of evidence, asset seizure, and broader human rights questions. In addition, in conditions where police officials in one country are engaged in cross-border pursuit, there is some concern over what body of law should be applied to those apprehended.³³

Post-9/11 Canada thus exhibits both strong security cooperation with the US, and some residual resistance to pooling the values of identity in community with the US. At this juncture, the question – regulation or community? – becomes both pertinent and open.

Take the case for characterizing Canada's cooperation as an instance of security regulation. Functionally, the attacks of 9/11 threatened Canada's economic security in NAFTA, as recognized by the "Coalition for Secure and Trade Efficient Borders," which represents over 45 Canadian business associations, when it demanded that the Canadian government "act quickly to pass new legislation on security, customs and immigration."³⁴ If restrictive border security is the price of free trade with the US, Canada's business community was clear that its government should be prepared to pay it. An anti-Terrorism Act and amendments to the Immigration Act were immediate legislative consequences.

But there is also a case for saying that Canada's equal stake with the US in synergizing security and trade, and collectivizing the security of Canadians and Americans, also reflects the *higher* importance of the trading relationship to Canada. Participation in both CUSFTA and NAFTA have profoundly and asymmetrically deepened Canada's dependence on the US. Given this radical deepening of Canada's

dependence on US markets US concerns are extremely difficult to resist or reject. Security regulation may well reflect mutuality of interest to a degree, but it also greatly reduces Canadian flexibility in policy making in the bilateral relationship.

What, then, of the case for security community? Trade trends, coupled with increasing integration of capital markets, raise significant questions about Canada's capacity to sustain autonomous economic and social policies that, in some instances, such as the important one of health care, are perceived to be a significant aspect of Canadian welfare and identity.³⁵ Restrictive immigration policies may also be presumed to have some impact upon the distinctively multicultural aspect of Canadian nationalism (although a reduction of welfare costs in this area is, for the Coalition for Secure and Trade Efficient Borders, a part of the calculation involved in increasing border security and defence spending.)

Such ambiguities concerning national identity and nationalism are the most significant factor in addressing the two key questions about security community – how shared? how voluntary? On the one hand, growing security cooperation is more threatening to Canadian values and identity than it is to the US. But on the other, to judge from the limited debate in Canada over the concessions it is making, it appears that Canadian public and elite opinion is reconciled to the necessity of deeper cooperation in these sensitive areas of national policy while taking care to preserve what they can.

Preserving what can be preserved, of course, begs a question of its own. Sovereignty may be effectively traded in cooperative arrangements as unprecedentedly intrusive as those now demanded of Canada by the US. But are there reserves of sovereignty which are non-exchangeable? Deepening cooperation may testify to a pressure for harmonization; but one is left wondering where the threshold of Canadian tolerance lies, beyond which a nationalist reaction kicks in.³⁶ Curiously, sovereignty in these circumstances is a divisible entity. As some sovereignty goes, preserving the intangible symbols of sovereignty can become *more* of a source of concern.

In the relationship between Canada and the US, we appear to be witnessing a significant rebalancing of economic and security aspects of regional cooperation in North America in favor of security issues. Within the general area of security, we see a shift away from "soft" security issues toward the harder end of the spectrum. This process is essentially dominated by the US, with its concerns being extremely difficult to either resist or reject. Even as security cooperation thus

deepens, it points more toward power asymmetry than toward community. Indeed, security cooperation in the hegemonic subsystem is currently a matter of necessity, not of voluntary choice.

Security regulation or exclusion after 9/11? Mexico and security externalities

In 2001 a bilateral document stated that “migration between Mexico and the US is one of the main ties linking the two countries.” A year before, Samuel Huntington had equally boldly stated that Mexican migration across the border “is unique, disturbing and a looming challenge to our cultural integrity.”³⁷

Such telling differences bring us to what security community means when it is absent. The parties do not open themselves to each others’ perspectives about the threats on which they should be cooperating. There is no resolution, and even no diagnosis, of the different meanings of threats for the parties’ values and identities. Some will still be left in the dark about their stake in the values of the community. Such is unambiguously the case of Mexico after 9/11 when security cooperation came to include the externality-cum-threat of migration flows from south of the border.

In line with the fuzzy security conceptualization of NAFTA, for years both Mexico and the US had opted for a policy of “no policy” with respect to immigration flows which, according to the US Census of 2000, had led to 40–50 per cent of the total number of Mexicans in the US, between 4–4.5 million, being undocumented.³⁸

The 2000 transition to democracy in Mexico after the long rule of the PRI suddenly gave these potential voters over the border a new significance. Their legalization became an “all or nothing” policy objective of the Fox administration’s Foreign Minister, Jorge Castañeda. More explosively, the new administration seemed intent on establishing a linkage between the status of Mexican immigrants in the US and the status of Mexico as a nation. Identity thus become bound up with the wider values of security for Mexico in a manner that could not have been predicted when NAFTA was signed. At the same time though, the mixing in of the issue of voting rights in Mexican elections with legalization in the US also muddied the waters of the Fox–Castañeda proposals. Whose citizens were the undocumented millions to be?

President Fox came to Washington with his migration agreement agenda on September 5 2001; two days after his departure the US

climate darkened under catastrophe. From the Mexican perspective, a crucial regional integrationist design to which President George W. Bush had seemed committed was simply pushed off the table.

Although Mexican ambitions came to nothing, their pursuit did involve an unprecedented step toward sharing responsibility within NAFTA for migration. But, in a paradoxical manifestation of the asymmetrical basis of bilateral cooperation, it was the demands of the weaker party on the stronger which were disproportionate.

For Mexico, mutual responsibility divided into Mexico promoting economic development in areas of greatest migration, and improving border security, particularly against the human smuggling industry. The US would be left to legalize the undocumented millions, provide more generous programs for guest workers, and increase visas to Mexicans.³⁹ No clear undertaking emerged for Mexico to take measures against illegal border crossings.

Mexican diplomacy was certainly quixotic in appearing to wager Mexico's very relation with the US for the sake of an accord that, for a variety of US domestic political reasons, never had much chance of materializing.⁴⁰ But the dynamics revealed in the episode suggest some longer-term lessons about the peculiarities of US–Mexico security cooperation.

At first glance, the issue – for some, the *only* issue – in phenomena like the securitization of the US border against illegal immigration from Mexico is a US hegemony which, almost by definition, overruns other perspectives. The relation between Mexico and the US is an especially visible instance of a larger pattern of power asymmetries and unequal vulnerabilities characterizing the region, in which the margin of choice for the smaller partners of the US is very narrow. Far from leading to community, the success in regional integration has tightened the margin. Cooperation with the US is a euphemism for enforcement by the US.

A case in point, for the purposes of this argument, would be the security cooperation under duress which characterized Mexico's participation in the war on drugs, in many ways the precursor for the war on terror. Given little choice but to come to terms with the realities of US priorities and unilateralism, cooperation is the "second-best" option for the weaker partner. Indeed, even "cooperation" has been a loaded term in the past for Mexican officials who have vainly held out for the more preferential "coordination."⁴¹

Yet, precisely in its stubborn insistence upon cooperation, the war on drugs also suggests some of the drawbacks in too sweeping a characterization of hegemonic action. In pulling weaker parties into the

sphere of its power, the hegemon can also pull conflict into the sphere of cooperation. Thus, cooperation in the war on drugs was also a battle in the war over Mexican sovereignty. If evidence of Mexican military cooperation against drugs was sufficient to carry the day for NAFTA in 1993, the years 1992–96 also saw Mexico refusing to accept US drug control assistance, in protest at the US illegal abduction of Alvarez Machaín from Mexican soil.⁴²

Clearly, the trust which marks relations within a security community is in very short supply in such instances. The hitch, though, is that both the hegemon and the weaker party remain locked into a pattern of security cooperation which releases dynamics that are perverse for both.⁴³ Against the grain of the model of security regulation, with its prediction that the continuing will to cooperate suffices in itself to overcome negative externalities, greater interdependence *exacerbates* bilateral differences of views on security means and goals.

Thus, in the war on drugs, as on the issue of migration, high-level declarations of cooperative intent in security bilateralism have not been lacking, as witnessed by the 1997 U.S.–Mexico Alliance Against Drugs, and the 1998 U.S./Mexico Bi-National Drug Strategy.⁴⁴ Such declarations cannot all be attributed to hegemonic coercion, any more than can be the successes in joint US–Mexican military operations against drug cartels.⁴⁵

On the other hand, though, the problem of security cooperation, even when it works, is that it is not good enough, for either party. The risk assessments of the hegemon are so exponential that its demands for co-operation are symptoms of an unappeasable anxiety; while the inequality of the weaker party is so disproportionate that co-operation is a game of trying to reassure the hegemon that it is an ally, not a threat. This game becomes a losing one when supply-side paradigms, of both drugs and migration, gain the ascendancy over security externality paradigms and identify the weaker party as indeed a threat.

Rather than manifesting a purely “imperial” design, US unilateralism thus emerges from a mesh of disappointed expectations – expectations based upon the mutual commitment to cooperation. To take but one example, the major anti-money-laundering Operation Casablanca by the US Customs Service which targeted Mexican banks on the US–Mexican border proceeded, from 1995 to 1998, without any notification to the Mexican government. Unilateral actions like this are indeed signs that the uses of security cooperation have limits for the US.

But, on larger scales of action, the US faces costs both in unilateralism and in cooperation. Because its demands are asymmetrical, so too

is the cooperation it can expect. The Fox–Castañeda proposals over migration were presented as security-enhancing measures for the US, yet the US would have had to foot a disproportionate amount of the bill for them. Although it chose not to pay on that occasion, though, the lesson is nonetheless that unequal integration is also costly for the hegemon, as is now evident in its massive investment in border law enforcement bureaucracies.

With costs so high, the one thing that one might think the hegemon can afford to do without is the façade of equally communalized security. Indeed, as US border law enforcement agencies prove themselves better at capturing illegal immigrants than terrorists, so Mexico becomes once again, as it explicitly is for the DEA, a *foreign* threat.

Yet, by the same token, it also remains true, in the ritualistic but not entirely empty language of diplomacy, that Mexico and the US are “joined by common values, shared interests, and geography” in an “extraordinary relationship,” one from which migration can now not be excluded.⁴⁶ As the criminalization of Mexican migrants fails in halting the flow of illegal migration to the agricultural areas of the US where their labor is demanded – and indeed helps open a market to criminal human-trafficking entrepreneurs, while depriving the illegal immigrants of an incentive to cross back into Mexico – a swing back to cooperation of sorts may safely be predicted. At the same time, however, such is the extraordinariness of the security regime into which both the US and Mexico are tied that intensified security cooperation over this threat will likely deepen both the discourse and the practical inequality of regional integration.

And a trilateral relationship?

Multilateralizing bilateral relationships is one option for smaller partners in cooperative relationships marked by power asymmetries. Multilateral institutions provide ways for smaller states which want the benefits of cooperation while reducing the risks of asymmetrical dependence to consent to hegemony. They provide some basis for balancing against the powerful. This approach has a long history in Canadian foreign and defense policy, having been one of the initial reasons for Canadian interest in NATO.

Canada has also shared with Mexico a tradition of convergence in nuclear disarmament and non-proliferation, not to mention the diplomatic solidarity of the past evinced in their joint recognition of

Castro's Cuba. Yet "multilateral bilateralism" has become an option which has slipped away from the lesser members of NAFTA.

Despite the interdependence of the security concerns of the NAFTA three, many of which emanate from their participation in a regional trading regime, it is also improbable that Canada would press hard for an institutional structure for trilateral security cooperation.⁴⁷ Adding a "security pillar" to NAFTA appears far off the agenda.

Some of the reasons for this are historical. Canada's security cooperation with the US is historically and functionally far deeper than that of the US with Mexico. Major episodes include the first modern arms control agreement signed between two great powers in 1819; the Roosevelt-MacKenzie King exchanges of mutual defense pledges in 1938; the Ogdensburg Agreement of August 1940 which established a Permanent Joint Defence Board; the creation of the North American Air Defence Command in 1958; and agreement on defense production sharing.⁴⁸ There is also a long history of Canadian-American defense cooperation in multilateral frameworks beyond the continent, notably NATO.

Canada has cooperated with the US for many decades on continental defense. In the air, this cooperation has centered on NORAD since the 1950s. At sea, Canadian and American cooperation has occurred largely within the NATO framework (SACLANT). Land forces cooperation in continental defense was minimal, since there were no land threats to either country. This was reflected in the fact that there was no US command structure for continental defense.

The Bush administration was contemplating a reorganization of North American defense and the associated structures prior to 9/11. The events of 9/11 accelerated this effort. With NORTHCOM Canada faces an American decision to create a US forces command, like SOUTHCOM, CENTCOM and others. In this respect, there is little that is new about it in a general sense, and it implies little about regional security cooperation.⁴⁹ However, it does imply a degree of US interest in land and maritime activity embracing North America that goes well beyond what Canadians are used to.

A similar consideration for Canada has arisen with the second major issue of regional defense cooperation, the development and deployment of missile defense. Again, the events of 9/11 appear to have accelerated US movement in this direction. Fearing that it would erode the arms control regime, Canadian authorities were less than enthusiastic about missile defense. But as a Department of National Defence (Canada) study put it: "although the US can field a ballistic missile

defence with or without Canadian involvement, its clear preference has been for bilateral deployment."⁵⁰ In the words of one observer, this decision faced Canada with the choice between "high morality" and "great practicality."⁵¹

Canada has acquiesced over missile defense, but the same choice now confronts it over NORTHCOM's closer bilateral cooperation between Canadian and American land and maritime forces cooperating in the continental theatre. For some, this draws into question the capacity of the Canadian government to control its forces when operating with American units, presumably under American command. This raises potentially important questions, not only in terms of sovereignty, but also given that Canada has accepted international legal obligations (such as Canada's status under the Non-Proliferation Treaty, and its commitments under the Convention on the Child and the land mines treaty) that differ from those accepted by the US.

If the Canadian government has approached the wider issue of continental defense cooperation with caution, then, it is also the case that it has too much invested in its security relations with the US to set high morality over great practicality. As with its implementation of tougher immigration and refugee laws, Canada appears willing and able to jettison some core identity principles for the sake of relative status enhancement vis-à-vis the US, while also once again hoping to retain as much sovereign control as it can.⁵²

But if Canada has a long stakeholder's interest in security cooperation with the US, it also has a more pressing interest in avoiding having Mexico drawn into the continental security perimeter contemplated by the Coalition for Secure and Trade Efficient Borders. If one takes US–Mexico security relations as one end of a spectrum of possible levels of cooperation, and US–Canada security relations as the other, a trilateral structure might produce levels of cooperation closer to the Mexican pole than the Canadian one. In particular, Canada enjoys levels of access in relations between US and Canadian defense and law enforcement personnel that go well beyond those granted to Mexico. In a trilateral relationship, would Mexico be treated more like Canada or would Canada be treated more like Mexico?

Certainly, there is on the surface little for Canada to be worried about in the remote prospect of Mexican inclusion in any trilateral structures of defense cooperation. Mexican military and police agencies have traditionally been excluded from US military border operations while Canadian agencies have been included in similar programs and policies on their border.⁵³ US border control policy in the south is

heavily affected by “the different realities” of illegal economic migration and drug trafficking. Both phenomena are present on the US–Canada border, but are far less significant. And while US customs personnel pre-clear passengers and goods traffic well within Canadian territory, such a presence is unthinkable in Mexico. Finally, since the US itself views the bilateral context as a lesser evil, trilateral security cooperation is unlikely to evolve.

Nonetheless, Canadian anxieties are still stridently expressed on occasion. US “benign neglect” of Canada belongs to the past; the US should be “reassured” about Canada; Canada should be more “aggressive” in reminding the US of its contributions; Canada has proved to the US “that it should be treated differently from Mexico in the area of economic and security policy.”⁵⁴

Mexico’s different realities for such Canadian views perhaps stem as much from the fact that Canada–Mexico trade stands at one per cent of total North American trade and investment flows as from the negative impacts of drug trafficking and illegal migration. What they reveal, though, is that in the post-9/11 game plan of NAFTA, equal partnership in deepening regional integration risks being replaced by the trading of security cooperation for privileged treatment from the US.

Conclusion

Sovereignty, national identity and asymmetrical interdependence are shared concerns for both Canada and Mexico, yet their progress along the road from security to securitization at the borders has driven them apart. Is there any loss in this, or is it simply a case of *autres temps autres moeurs*?

Since 9/11 Canada has sought both to have the securest border in the world and to integrate its security further into that of the US, although integrated defense structures beyond air defense do not appear to be on the table.

If Canada faces a dilemma, it has two horns: identity and community. As its divergence from the US over the occupation of Iraq demonstrated, not all principles of identity are disposable.⁵⁵ But while they aren’t, a deeply *communalized* security community with the US just eludes Canada’s grasp.

The risk for Canada from intensifying security cooperation with the US is not so different to that which exists for Mexico: even a lot is not enough. Despite possessing exemplary law enforcement forces and the bilateral cross-border agreements with the US, Canada is nonetheless a

transit route for cocaine, heroin and hashish into the US from Southeast Asia.⁵⁶ Canada's more lenient criminal penalties as compared to the US will come under critical scrutiny. Likewise, despite its tough new attitudes to immigration and asylum, Canada is likely to remain vulnerable to US official perceptions of laxity in this area.⁵⁷

Trading autonomy for prosperity with the US also represents the same kind of gamble on the American political process which Mexico lost in the case of migration. Free trade may rule today; but budget deficits and special interests make a reversion to protectionism an option for tomorrow.

Whether manageable or impalpable, such risks give an extra edge to Canadian competition with Mexico for regional bilateral ascendancy. Indeed, perhaps the most striking similarity between Canada and Mexico is to be found in the conviction of each that each enjoys a special relationship with the US. In playing itself off against Mexico, though, Canada may be the easy winner in one game, but find that its rival has been chasing another.

Not too far beneath the surface of the diplomatic rhetoric of cooperation between Mexico and the US, one finds a bubbling cauldron of genuine intentions, genuine misunderstandings, desires for trust, unsurmountable frustrations – and a grudging but deep-seated mutual acknowledgement that the regional consequences of political, social and economic instability in Mexico are too dire to contemplate. Thus, even though it failed, the project of a migration agreement succeeded in eliciting from the US a stake in Mexico's economic development beyond the neoliberal terms of NAFTA.⁵⁸

There is one last way in which the Mexican bet on its special relation may see the loser winning, and again it concerns migration. The case is familiar. There is a Hispanic population in the US of 37 million, two-thirds of which are of Mexican origin; they comprise 11.4 per cent of the civilian labor market and represent a significant consumer market.⁵⁹

The case is also often over-stated. Fastest-growing minority in the US they may be, but the vociferously rights-entrenched pluralism of US minority politics does not guarantee any special favors for Hispanics. Half a million Cubans have also proven to be more politically potent than the rest.

Nonetheless, deepening demographic integration in North America has at least as much potential long-term significance as economic interdependence and common securitization. Demographic integration, naturally, brings to the fore the most intractable and contested of

security values, identity. The current model of securitization at the borders of NAFTA responds to an instinct which is hostile to the notion that new identities can form new regional communities. At the same time, though, as the case of Canada suggests, there may well be a limit to a securitizing regional integration which proceeds too inexorably in paying for economic gain with identity loss.

Notes

- 1 See Robert Pastor, *Toward a North American Community: Lessons from the Old World to the New* (Washington, DC: Institute for International Economics, 2001), pp. 14–15, 22–3.
- 2 Pastor, *Toward a North American Community*, p. 8; Perrin Beatty, “Isolation or Integration – Canada in North America” (Presentation to the Brookings Institution, Washington DC), p. 5.
- 3 Stephen E. Flynn, “Beyond Border Control,” *Foreign Affairs* 79 (6) (2000), 58; Lloyd Axworthy, “A Changing North American Agenda,” *Looking Ahead* 23 (2) (Washington, DC: the National Policy Association, 2001), p. 9.
- 4 Pastor, *Toward a North American Community*, p. 2; Flynn, “Beyond Border Control,” p. 57; DFAIT, “Economic Partnership.” Available at <http://www.can-am.gc.ca>.
- 5 Wilfred Laurier lost the election of 1911 in large part as a result of business opposition to a limited trade reciprocity agreement with the US.
- 6 For the classic argument, see Karl Deutsch, Sidney A. Burrell and Robert A. Kann, *Political Community and the North Atlantic Area* (Princeton, NJ: Princeton University Press, 1957).
- 7 Andrew Hurrell, “An Emerging Security Community in South America?,” in Emmanuel Adler and Michael Barnett (eds), *Security Communities* (Cambridge University Press, 1998), pp. 241–2.
- 8 Hurrell, “An Emerging Security Community,” pp. 232, 246.
- 9 Emmanuel Adler and Michael Barnett, “A Framework for the Study of Security Communities,” in *Security Communities*, p. 35.
- 10 William Wallace, “Regionalism in Europe,” in Louise Fawcett and Andrew Hurrell (eds), *Regionalism in World Politics* (Oxford University Press, 1995), p. 210.
- 11 Princeton N. Lyman, “The Growing Influence of Domestic Factors,” in Stewart Patrick and Shepard Forman (eds), *Multilateralism and U.S. Foreign Policy: Ambivalent Engagement* (London and Boulder: Lynne Rienner, 2002), p. 76.
- 12 As Jill Sinclair, Director General, International Security Bureau, Department of Foreign Affairs and International Trade, “Testimony to The Standing Committee on National Security and Defence” (Ottawa, Wednesday 14 August, 2002), noted: “If there are real threats to Canada that we feel we cannot cope with on our own and we need to deal with them on a bilateral basis, then we must negotiate agreements that will protect Canadian sovereignty, indeed enhance it, by ensuring we have a co-operative relationship with the United States, or whomever the other partner might be, that affords us that enhanced security but does not diminish our sovereignty.”

- 13 See Perrin Beatty, "Isolation or Integration – Canada in North America," Presentation to the Brooking Institution, Washington, DC, December 6 2001, Typescript p. 1: "Macdonald's political platform, the National Policy, extended Canada's boundaries horizontally along the American border, linking the territory by rail, and erecting trade barriers to protect central Canada's domestic market."
- 14 One factor leading to the establishment of Canada's national broadcasting system in 1932, for example, was a concern about the effect of US broadcasting on Canadian unity. See Denis Stairs, "The Canadian Dilemma in North America," in Joyce Hoebing, Sidney Weintraub, and M. Delal Baer (eds), *NAFTA and Sovereignty: Tradeoffs for Canada, Mexico and the United States* (Washington, DC: Center for Strategic and International Studies, 1996), pp. 15–16.
- 15 See Aurelio de los Reyes, "El gobierno mexicano y las películas denigrantes. 1920-1931," in Ignacio Durán, Iván Trujillo, and Mónica Vereá (eds), *México Estados Unidos: Encuentros y desencuentros en el cine* (Universidad Nacional Autónoma de México, 1996). The Mexican guideline for positive representations of Mexico was that "one can show poverty, but not misery."
- 16 Peter Andreas, "Transnational Crime and Economic Globalization," in Mats Berdal and Mónica Serrano (eds), *Transnational Organized Crime and International Security: Business as Usual?* (London and Boulder: Lynne Rienner, 2002), p. 47.
- 17 Stairs, "The Canadian Dilemma," p. 21.
- 18

Table 1. Canada's Merchandise Exports, 1996–2000 (\$CDN 2000)

	1996	1997	1998	1999	2000	2001
Global	280	303	327	367	426	415
US	222	243	269	309	360	351
EU	17	18	19	20	23	22
Japan	12	12	10	10	11	9
Other	28	31	29	28	32	32

Source: Statistics Canada. Balance of payments basis.

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Table 2. Investment Flows, USA–Canada (\$Cbn)

Flow	1994	1995	1996	1997	1998	1999
US to Canada	102.6	112.9	120.5	133	150	173
Canada to US	78	85	94	106	124	134

Source: Statistics Canada.

- 20 For a representative exposition, see Lloyd Axworthy, "Liberals at the Border: We Stand on Guard for Whom?," The 6th Annual Keith Davey Lecture (Toronto, March 11 2002). Available at www.liucentre.ubs.ca.
- 21 Some observers, including Paul Krugman, claim that for the US NAFTA was more a "foreign policy" issue than an economic one. See his "Challenging Conventional Wisdom," 151 and "The Uncomfortable Truth about NAFTA," 163, both in *Pop Internationalism* (Cambridge, MA: The MIT Press, 1996).
- 22 Glynn Custred, "North American Borders: Why They Matter?," Background, Center for Immigration Studies, Washington, DC, May 2003, p. 8.
- 23 For example, research and development on common biometric identifiers; work on a common and secure identity document for permanent residents; the expansion of arrangements for facilitating the movement of pre-approved travellers across the border (NEXUS); information sharing on refugee claimants and asylum-seekers; joint review of visa waiver; and the sharing of lookout lists, and the development of compatible databases for immigration. See "Action Plan for Creating a Secure and Smart Border" (December 12 2001). Available at <http://www.can-am.gc.ca>. Some observers called for a "North American safety perimeter" in immigration policy. See Doris Meissner, *After the Attacks: Protecting Borders and Liberties* (Washington, DC: The Carnegie Endowment, Policy Brief No. 8, November 2001), pp. 5–6.
- 24 For decades, US customs and immigration personnel had been posted at Canadian airports to permit pre-clearing of passengers. After 9/11 Canadian and American officials moved to put into place procedures for pre-clearing commercial goods at rail yards, ports, and factories. In addition, the two countries envisaged enhanced co-operation in clearance of goods from outside North America at initial ports of entry in both Canada and the US. See "The Smart Border Declaration" (December 12 2001). Available at <http://www.can-am.gc.ca>.
- 25 The IBET program began in British Columbia and Washington State in 1996, focusing on trans-border crime. See Royal Canadian Mounted Police, "Canada/US Integrated Border Enforcement Teams." Available at <http://www.rcmp-grc.ca/news>. In May 2002, Canada and the US announced the creation of a new IBET team along the Niagara frontier, joining pre-existing teams in the Atlantic region, the eastern section of the Ontario–New York border, and the Pacific region. By the end of 2003, 14 such teams were due to be in place.
- 26 Deborah Waller Meyers, *Does "Smarter" Lead To Safer? An Assessment of the Border Accords with Canada and Mexico*, Migration Policy Institute No. 2, June 2003, p. 9.
- 27 *Ibid.*, pp. 9, 3.
- 28 *Ibid.*, pp. 2–3: "Of course, the U.S.–Canada Border Declaration also is based on the long-standing cooperation between the two governments, both at federal and local levels, and a strong, trusting relationship."
- 29 U.S. Department of State, Washington File March 21 2001, "Securing America's Borders Fact Sheet: Border Security."

- 30 US Department of State, North American Leader's Statement, Quebec City, 22 April 2001. Available at <http://www.state.gov/p/w.../index>
- 31 Axworthy, 2001, p. 9.
- 32 Adler and Barnett, p. 50.
- 33 See "How Seamless a Border? Canada, U.S. Must Keep Some Gaps to Maintain Sovereignty," *The Ottawa Citizen*, August 5 2002.
- 34 The Coalition for Secure and Trade Efficient Borders, *Rethinking our Borders: A Plan for Action*, December 3 2003, Appendix A.
- 35 See the interesting discussion by Seymour Martin Lipset, *Continental Divide: The Values and Institutions of the US and Canada* (New York: Routledge, 1990), pp. 212–16. While opinion polls put differences between Canadians and Americans in the range of 5–10 per cent, "the cultural differences of the past continue" between the liberal-individualist US and Tory-socialist Canada.
- 36 See Stairs, "The Canadian Dilemma," p. 2: "From the vantage of Canada–US relations, Canadian nationalism is for the most part a sleeping dog. If the dog wakes up, the stimulus for its arousal is more likely to originate south of the Canada–US border than north of it."
- 37 Samuel Huntington, "Reconsidering Immigration: Is Mexico a Special Case?," Backgrounder, Washington DC, Center for Immigration Studies. Available at <http://www.cis.org/articles/2000/back1100.html>
- 38 Herrera Lasso Luis and Mohar Gustavo, "Nuevos paradigmas de la relación bilateral: seguridad, fronteras y migración," mimeo. The authors note that the 1993 Border Group of the Bilateral Commission had created mechanisms of coordination on the frontier, but "had functioned erratically and with very un-homogeneous results."
- 39 Jeffrey Davidow, *El Oso Y El Puercoespín Testimonio de un embajador de Estados Unidos en México* (México: Grupo Grijalbo, 2003), p. 327. As he notes, Mexico's migration proposals had significantly one-sided implications for US sovereignty.
- 40 For a different view, see Davidow, *El Oso*, pp. 328 ff. Davidow, US Ambassador in Mexico between 1998 and 2002, argues that 9/11 was not the critical element in the failure of Mexico's attempt to reach a migration accord with the US. The bottom line for the Bush administration was, instead, the realization that legalizing millions of undocumented Mexican immigrants would bring an electoral windfall to the Democrats, as had occurred after the Reagan amnesty of 1986.
- 41 Cottam and Marenin, "International Cooperation In The War On Drugs: Mexico And The United States," *Policing and Society* 9 (1999) p. 219: "Coordination is among equals: cooperation implies structure and decision-making authority." As they note, the early bilateral Operation Cooperation followed on from the disruptively unilateral Operation Intercept of the Nixon administration in 1969.
- 42 *Ibid.*, 229–230. Machaín was suspected by the DEA of participation in the murder of its agent Enrique Camarena in 1985. Kidnapped in 1990, Machaín was tried and acquitted in Los Angeles in 1992. In response, President Salinas proposed a law to make transnational kidnapping "a crime against the homeland."

- 43 For example, while Mexico's institutional capacity to deliver on the U.S.–Border Partnership Agreement is questionable, its reduplication of US-style securitization through deportation and militarization at the Central American border, with high security visas for Guatemalans, Ecuadorians, Colombians and Cubans, has the effect of protecting the illegal labour market in the US for Mexicans.
- 44 Mexico agreed to coordinate maritime operations with the US Coast Guard, to allow surveillance operations by US ships and aircraft in Mexican water and air space, to accept military support and training, and to admit 12 additional US law enforcement agents. See Jorge I. Domínguez and Fernández de Castro, *The United States and Mexico: Between Partnership and Conflict* (New York: Routledge, 2001), p. 46.
- 45 Extraditions of drug traffickers to the US (a previously moot constitutional issue) went up from four in 1995 to 25 in 2002; in 2002 Mexico quadrupled the amount of cocaine seized in joint maritime operations with the US; in August 2003 joint Operation Trifecta led to the arrest of 240 drug traffickers. Remarks by Antonio Garza, Ambassador to Mexico, delivered at the Border Terrorism Conference, San Antonio Texas, 8 September 2003.
- 46 From The U.S.–Border Partnership Declaration, March 21 2002.
- 47 This is not to say that Canadian policy makers have ignored multilateral institutions in the effort to cope with the challenges posed by 9/11. It is simply that North American multilateralism appears to play little role. This is evident, for example, in an early statement from Assistant Deputy Minister for Global and Security Policy, James Wright. He began by noting the importance of the bilateral NORAD framework, and went on to add that: "We have also been working hand-in-glove with our American neighbours in developing the international response to the fight against terrorism, whether through the G-8, the UN or NATO." Remarks by James Wright, "Standing Committee on Foreign Affairs and International Trade (House of Commons)," 20 November 2001. See also "Canada's Point Man: Interview with Foreign Affairs Minister John Manley," *Canada World View* 14 (Winter 2002), 4–5.
- 48 The Rush–Bagot Accord of 1819 between the US and Great Britain limited naval armament on the Great Lakes. There are 34 intergovernmental agreements in the area of defense. For a listing, see "Treaties and Agreements in Force between Canada and the United States." Available at <http://www.can-am.gc/menu>.
- 49 See Jill Sinclair, Testimony: "Northern Command is a strictly US command. There is no question of Canada being involved in that command structure. This is not envisaged as a binational structure." See also the statement to the Committee by Lieutenant General George Macdonald (Vice Chief of Defence Staff), August 14 2002. Both available at <http://parl.gc.ca/37/1/parlbus/commbus/senate>.
- 50 Department of National Defence, Directorate of Strategic Analysis, Policy Planning Division, *Strategic Assessment 2001* (D STRAT A Project Report 2001/17), p. 126.
- 51 Jack Granatstein, "Evidence to the Standing Committee on Foreign Affairs and International Trade" (May 6 2002).

- 52 See Granatstein, "Evidence": "As long as our troops remain under Canadian command, with Canadians able to decide what they will do and when, if ever, to place them under US operational control, the nation will have more than sufficient power over its military destiny... If operational command is granted to American commanders, it can be withdrawn at any time."
- 53 Cottam and Marenin, "International Cooperation," p. 230.
- 54 Michael Hart and William Dymond, "Common Borders, Shared Destinies: Canada, the United States and Deepening Integration," Ottawa: Center for Trade Policy and Law (un-dated), pp. 7, 24, 29, and p. 31 which refers to "the different realities," as well as to Mexico being a "failed state" like "Colombia and Saudi Arabia."
- 55 Although differences again existed to be downplayed. See Bob Woodward, *Plan Of Attack* (New York: Simon & Schuster, 2004), p. 373: "[Condoleezza] Rice spoke with her counterpart in Canada, who said, sorry, we can't be a part of this, but promised to keep their rhetoric at a low boil – just enough to satisfy Canadian public opinion but without being belligerent or provocative."
- 56 International Narcotics Control Strategy Report, 2000. Available at <http://www.state.gov/g/inl/rls/necrpt/2000/888.htm>
- 57 See Custred, p. 3: "Canada accepts twice as many immigrants and four times as many asylum seekers as a proportion to its population as the US." He notes that post-9/11 speeches by President Bush against states facilitating terrorists were taken in Canada as thinly veiled allusions to its asylum policy.
- 58 Davidow, p. 355.
- 59 See Jorge Santibañez Romellón, "Los latinos ¿una fuerza en Estados Unidos?," *Zeta Seminario*, October 3 2003.

Conclusion: The Americas and Regional Dis-Integration

Mónica Serrano

Thus in the beginning all the World was *America*, and more so than [it] is now...

John Locke, *Two Treaties of Government*, II49

Latin America: a natural case for the construction of regionalism

Or so one might think.

The standard move in almost any discussion of Latin America, naturally, is to flag up the issue of diversity. Different colonial and ethnic legacies, vast cultural and political disparities, and so forth, “resist easy generalization,” as the phrase goes. What it often means is that comparative political analysts of Latin America are fearful of contributing to the stereotypes which the rest of the world cheerfully projects onto Latin Americans.

This may be understandable, but from a regionalist point of view, it has its drawbacks. After all, few such inhibitions apply when Asian or European “collective identities” are invoked. The point might be pushed further: if the geographical unity of Latin America is not to qualify it for membership in the narrative of regionalism, then the discourse really will be stuck at the base level of its first FAQ forever.¹ The old argument of economic exceptionalism for Chile, for example, by which its non-membership of *Mercosur* somehow exempted it from “the region,” now not only makes little sense, but once again testifies to the semantic monopoly of economism over the discourse. Only Europe has experienced a history more marked by regionalism than Latin America.

Latin America's geography is also political. For all the differences and deficiencies, Latin America presents a continent-wide convergence around democratic norms and values, as well as competitive electoral and party political systems. Thus, although Laurence Whitehead in this volume finds much to fault in the domestic implementation of those norms, he also points to a long and distinctive history of human rights protection in Latin America, underwritten by a shared constitutionalist tradition (albeit one, to be sure, in which characteristic tensions between republican and liberal principles also left their stamp). A resuscitation of that history has been central to the revitalization of the Organization of American States (OAS) from 1985.

One might also mention another trans-regional force making for identity cohesiveness in Latin America. Not very salient for political theorists, it is rather more so for the Vatican. Latin America is the most religiously united continent on earth, and has been so ever since the Roman Catholic Church consolidated its autonomously mediatory position between the Spanish Crown and the *conquistadores*, both preventing their imposition of a feudal system of slavery upon the indigenous populations, and in many ways providing the most enduring channel for the latter's incorporation into the Latin American polity.

Latin Americans have an awareness of sub- and trans-regional identity which is tragically lacking in the African continent, proved to be tragically frail in the European one of the crisis-ridden late 1990s, and which lends its regional integration arrangements a dimension which ASEAN, to pick the invidious comparison, cannot begin to dream of.² Indeed, "the regional idea" is trans-political in Latin America, spanning the spectrum from Left to Right.³ If it is to be a "project," regionalism in Latin America will not only have to be attached to the word "elite."

Mercosur, the Southern Cone Common Market, is the quintessential expression of the *depth* which Latin American regionalism can achieve, with its explicit thematics of common security and shared experiences of post-authoritarian democratization in addition to the economics of higher intra-regional trade and investment. That *Mercosur*, in turn, has survived all of its tests – high internal productive disparities, Brazil's 1999 currency depreciation, a preponderant advantage for Brazilian manufactured goods in the market, the lack of both macroeconomic policy convergence and of effective compensatory dispute resolution mechanisms, the Argentine crisis of 2001, and *declining* intra-regional trade growth – clearly points to a states-led political commitment to sustaining integration.

Sustaining integration, or overcoming regional dis-integration? Inter-state relations between Latin American neighbors have a tradition of rivalry which is alive and unwell today. Peru and Ecuador went to war in 1995 over a border dispute; Bolivia today is in conflict with Chile over its access to the Pacific, Chile is in conflict with Argentina over natural gas supply. The number of major, minor but active, and latent territorial disputes David Mares could count in 2001 between Latin American states was depressingly high.⁴

If this is, then, a continent which can boast natural resources for regional integration, so to speak, it is also one in which what Louise Fawcett calls the regional idea has been a *constructed* idea. From a constructivist standpoint, Fawcett points to “the continuing salience of the regional idea”; but from a pragmatic one, she highlights how, from Simon Bolívar’s Republic of Gran Colombia on, the institutional embodiments of the idea have been “remarkable in failure.” The disjunction in turn opens out a wider perspective on regionalism than allowed by the pervasive evolutionary model.

For Latin America, as Fawcett notes, one fundamental starting point is the constructedness of “Latin America” itself. The romance, as so many, starts with the strategically universalizing nineteenth-century French; “Latin” included French and Portuguese as well as Spanish – and kept Anglo-Saxon out.

In an even longer perspective, the constructed history of the regional idea in Latin America starts with the creation by the Spanish Crown of the Virreinos of Nueva España, Nueva Granada, Peru and Rio De La Plata, under the intermediary rule of a collective politico-judicial tribunal, La Audencia. These “regions” were vast and disconnected from each other under Spanish rule; after Independence, they proved themselves to be both fissured and fissuring foundations of a new liberal-republican regional order.

Bolívar’s attempt to construct a regional federation initiated a period of intra-regional war with what became Venezuela and Ecuador. The United Provinces of Central America also disintegrated into civil war, while Chile ended the threat from the confederated state of Peru and Bolivia by war. Throughout the nineteenth century, “regionalism” would become a name one might use for the powerfully disintegrative struggle against centralized state rule. The fissure between federal and regional-local rule still runs deep everywhere in Latin America.

Seen in this light, the history of the regional idea in Latin America is a corrective to common “non-trade” assumptions that, where the economic body of motives for integration may be weak, the cultural and

political spirit may be strong (the South Asian Association for Regional Co-operation is a common example). If regionalism in Latin America inspires nostalgia, it is to some degree because the disaster is safely in the past. Today, the potent mix of nostalgic utopianism and disaster is drunk by few other than Bolívar-admiring President Hugo Chávez.

Another problem about the regional idea in Latin America lies in what Fawcett identifies as its main contribution: the doctrine of non-intervention. The problem being that this is in many ways an *anti*-regional idea, if we mean by the regional idea a term to cover the convergence around, and promotion of, the norms and values with which we began here.

The ambivalence has been most pronounced in the history of the OAS, “the world’s most highly articulated regional association,” as two commentators could write in 1984.⁵ In fact, the OAS was for long more commonly regarded as a dis-articulated institution, a swivelling Janus with one face towards its pan-American, US origin, and another toward self-protective Latin America.

The US-turned face was, notoriously, not notably successful in containing the US from interventions in Guatemala in 1954, the Dominican Republic in 1965, or Panama in 1989; the Latin-American-turned face has not been notably successful either in some of its harder cases like Fujimori’s Peru and Chávez’s Venezuela. That these latter cases raise the issue of intervention deeper than the rhetorical level of democratic defense and promotion contemplated in the 2001 Inter-American Democratic Charter (the strengthening of democratically plural institutions and support for a democratic culture), confirms that the regional idea has left an obstructive legacy for the effectiveness of its main institutional expression. In 2004 the OAS showed itself reluctant to follow the lead of its Secretary-General, ex-Colombia President César Gaviria, in becoming involved in the Colombian administration’s negotiations with the country’s paramilitaries.

This, of course, is not the full story of the recent OAS, as Haiti in 1991, Guatemala in 1993 and Paraguay in 1996 have more or less testified.⁶ Nor is it the full story of Latin American regional cooperation. In perhaps the two most glorious examples of the latter – the Contadora Initiative and the Esquipas II peace accord, both of which led to the end of the civil war in Nicaragua and El Salvador – regional intervention trumped the regional idea (as well as past US policy). At the same time, though, these were one-off cases. As such, they suggest one of the peculiarities of Latin American regionalism: institutionalization over time is not necessarily its most conspicuous feature. Both

regional identity and the willingness to act upon it are instead, as Fawcett says, “emotional” affairs, perhaps often emotionally anti-US affairs. Mexico’s recalcitrantly close relations with – indeed much of Latin America’s protective instincts toward – Castro’s Cuba are a case in point.

The fact that those relations make little economic sense brings us to a last consideration: despite the conflictual pull of the imperatives of non-intervention and democratic promotion, Latin American regional cooperation has also, when it *has* been activated, been a case of cultural politics trumping economics. Regional integration has also, to some extent, been an effort to overcome neighborly dis-integration. If we see these two tendencies as representing the common “memes” of Latin America’s discontinuous reproduction of regionalism, what are their chances of survival once the model of regionalism is colonized by the selfish genes of economics?

From NAFTA

In Chapter 1 we noted how regionalist discourse divides over the meanings of regionalism. NAFTA could not be a better case in point. For a large camp, it is the major experiment in new regional integration in the Americas. For a vocal minority, it was not an experiment in regional integration at all.

The question of what it *was* thus tends to vary over a large range of emphases: a framework for decades of trans-border “silent integration” between the US and Mexico; a historic opportunity for Mexico to secure access to the US market; a turnaround in Mexican neorealist foreign policy efforts to balance against its powerful neighbor; a conversion of the US to regionalism; a one-off static arrangement; an extension of democratizing convergence which would “lock in” liberal reforms in Mexico; and much, much more.

The proliferation of interpretations is in strikingly inverse proportion to a minimal definition of NAFTA: it reduced trade and investment barriers between the US, Canada and Mexico, and added the bonus of dispute resolution mechanisms.

Take the first, leaving the second for later. For Mexico, NAFTA has meant a ninefold increase in its exports to the US from 1980 to 2003: from US\$18,000,000 to US\$165,000,000. In 1980, manufacturing goods accounted for 31 per cent of the total; in 2003, 86 per cent, representing a dramatic decline in dependency upon oil and oil-related exports and a twenty five-fold rate of increase for manufacturing

goods. Mexico has maintained a trade surplus with the US since 1993, exporting just under twice as much as the rest of Latin America together. Foreign direct investment in Mexico rose dramatically after 1993, from US\$3,468 million in 1992 to US\$14,251 million in 2002, with 68 per cent of it coming from the US. Mexico's rates of economic liberalization, foreign investment and exportation all increased rapidly after it added NAFTA to its membership of the GATT.⁷

Why, one might ask, does the Mexican side of the NAFTA debate continue? The answer, of course, depends upon which debate one means. For the minimalist economic debate, NAFTA is widely agreed not to have been a panacea for a country whose annual average rate of GDP growth only increased from 2 per cent between 1980 and 1993 to 4 per cent for the period 1996-2002.

For the present, NAFTA has seen a profound crisis in the Mexican countryside, with sub-national regional disparities of labor productivity and GDP per capita between Mexico's northern and southern states also increasing markedly since NAFTA. As the countryside failed to wean itself off subsistence maize production, so cheaper, subsidized US corn products flooded into the Mexican market, far beyond the limits agreed with NAFTA.

And for the future, Mexico's privileged export access, in sectors from electrical goods to textiles, to the US is threatened by the one country which already exceeds it: China. Just as ominously, from 1994 to 2003 Japan's share of foreign direct investment in Mexico has stood at 3 per cent, a situation which lends credence to the view that US transnational corporations which have eased themselves comfortably into the Mexican domestic market have lost their competitive technological edge with global rivals like the "Asian Tigers" as well as Japan. NAFTA, that is, also proved compatible with US protectionism, the early wave of protests notwithstanding. The implication is that the US stands to join Latin America as one of the losers from globalization.⁸

The economic debate, then, is not going to die down, especially with reports from the World Bank coming down on both sides. But the over-interpretation of NAFTA also reveals a widely shared reluctance to rest with its minimal economic terms. For regionalist maximalists, NAFTA *could* have been so much more. It could have formally recognized the asymmetry with its developing nation partner and inaugurated EU-style social cohesion funds; it could have developed a Common Market in which people as well as goods would have been free to move; it could have developed credible trilateral institutions; *it could have been an experiment in regional integration.*

Few have advanced this call for a North American Community with more pertinacity than Robert Pastor. In one of the more poignant contrasts with the “internal solidarity and mutual support” of the EU, he noted that NAFTA’s preamble spoke of “strengthening the special bonds of friendship and cooperation among their nations – not their peoples.”⁹ It is a point which underlies the discussion by MacFarlane and Serrano.

At the time of writing, Pastor could set his hopes on President Fox as one leader who recognized, in terms which will now have a familiar ring, that regional integration should be about more than trade.¹⁰ Unfortunately, since then, not only have Fox’s 2001 immigration proposals been rebuffed by the US – but with his administration’s failure to achieve agreement on structural reforms in the energy sector, and on VAT and social security pensions, he has also single-handedly refuted the popular reform “lock-in” argument.

The travails of President Fox, though, are but one instance of a larger difficulty with the broadly constructivist critiques of NAFTA: their refusal to take it at face value. Social cohesion funds, freedom of labor movement, recognition of asymmetry, communalizing of identities – these were all excluded, not by accident, but by design from an arrangement whose six-month notice to quit clause should have signaled clearly enough the *shallowness* of the integration envisaged.

Although his overall argument is short on nuance, Jean Grugel’s assessment seems right: “In effect, Mexico chose to push for an integration agreement which is based on maintaining unequal bilateral power.”¹¹ From this starting point we can embrace some of the other, less great, expectations about NAFTA voiced in the literature: that for Mexico it was an insurance policy, based on the calculation that the costs of exclusion were greater than the benefits of inclusion; and that for the US it was fundamentally a foreign policy device, designed to *protect* its southern border against Mexican migration. As the chapter by Blanca Torres vividly reminds us, for many of the US actors who would transnationalize their opposition to it, NAFTA was enough of a threat without adding communitarian injury to perceived economic injury.

In sum, if Mexico certainly gained considerably in terms of both export trade and foreign direct investment from NAFTA, overtaking Brazil as a global trader since 1994, it has been on the terms of a model of integration which locks in the economic assumptions about what regional integration *can* mean – and locks out communitarian assumptions of what it *could* mean. Mexico was decidedly not integrated into a

North American community; the uses of the cultural register in regional discourse lie instead, as MacFarlane and Serrano show, in measuring relative identity losses, not pooled gains.

But Mexico also “defected” from the Latin American regional idea, diverting both trade and investment away from the rest of Latin America and the Caribbean. To put the moral perhaps more bluntly than it deserves to be, if the regional idea was constructed, it could also be de-constructed.¹² NAFTA set the patent model for the FTAA; it also set a precedent for a “new” regionalism in Latin America, one founded on a fear of economic exclusion from the hemispheric–global hegemon. The story of regionalism in turn becomes one of dis-integration.

... to the FTAA

Fear of exclusion is perhaps not a very original variation on the themes of either the “why do they do it?” regionalism question, or of hegemonic consent.¹³ So what is new about an FTAA that has yet to come into being?

As with the conversion of the US to regionalism, there is an authorized version of the FTAA story. It originates in the Enterprise for the Americas Initiative speech of President Bush in 1990, peaks early with President Clinton’s speech at the 1994 Miami Summit of the Americas, picks up again at the 1998 Santiago Summit, and then... and then, depending upon the optimism or skepticism of the teller and the date of publication, is either headed toward a cliffhanger ending, or is losing momentum. Told like this, the story rests on the knife-edge between inevitability and setbacks as the 2005 deadline rushes down.

Its speeded-up abbreviation of future time is one way in which the FTAA represents globalization in motion. In 1994, for whatever US domestic reasons, both the FTAA and 2005 became fixed as Latin America’s future history, one toward which it was largely willing to rush. With this sense of accelerating time to meet a ticking count-down, the FTAA had more going for it than the dynamic language customarily associated with free trade and fast tracks: it had *necessary* momentum.

The contrast with the more meandering subterranean regionalist discourse of process could hardly be more marked. Indeed, as Tussie and Labaqui begin their chapter by noting, the FTAA has outstripped the “self-propelling” logic of earlier processes of regional integration. Has it also outstripped the logic of “political will”?

While discussions of the FTAA are never complete without a disquisition upon the Hamlet of the piece – will the US do it, or won't it? – there is a case for saying that the FTAA has *already* happened *for the US*. The globalized high velocity of the FTAA project leapfrogged over the slow business of evolutionary convergence, presented its grand-slam vision of the future, and then – necessarily as well – ran out of momentum. As with other great Pan-American ideas, notably 1889's customs union, the FTAA had a blueprint for the future of the hemisphere. Like them, it will recede, but faster. For the US, 1994 *was* the FTAA.

For Latin American countries, which, as Richard Feinberg notes, did so much to propel the drive to a free trade future with the US, as momentum has run down, so two tendencies have emerged: to grab their share of the future now in bilateral agreements with the US; and, as the Special Summit of the Americas in Monterrey 2004 revealed, to test the will of a US whose own commitment to the “process” is patently dividing in the face of the preferential advantages to be had from those bilateral agreements.

Speed and then entropy find their corollaries in the other globalized aspect of the FTAA vision: its spatial dynamics. For the sake of simplicity, we can distinguish two views of them. Both are political, as can be readily seen in the following expression of the liberal-inclusive view: “With the southward expansion of North America in the form of NAFTA, ‘America’ is no longer an ambiguous concept with a smell of imperialism, but increasingly coincides with *the Americas* as a geopolitical reality.”¹⁴

From Alaska to Argentina, the FTAA would embrace – in the less generous variant, “enmeshes” – the continent in a super-regional whole around the harmonized standards of democracy and free trade.

Opponents of this scenario are many and various, but can be subdivided into two camps depending upon their view of US intentions. For those who see a dithering but well-meaning Hamlet, the fact that the FTAA “process” has set off a race – Chile first, then Central America, and on to Colombia and Peru – to sign bilateral free trade agreements with the US while it makes up its mind over the FTAA may be an unfortunate side-effect, but represents nothing that the conventional spatial model of hubs and spokes cannot handle. For those, on the other hand, who see a malign hegemon, the effect of the FTAA – before it has happened – has been to re-order and fragment Latin America. For some, this is a political “project” – the North Americanizing of Latin America into “post-Latin America.”¹⁵ For others, it is the result of a multi-track strategy in which the hegemon

gains more from sequential than simultaneous bargaining, a point which is not insignificantly a source of tension between the US and the one recalcitrant regional power, Brazil.

The debates about the “will” of the US are all too likely to rage on – can such a domestically divided actor have even a malignly coherent “project” for Latin America? Did it really acquire the FTAA in a fit of absence of mind? Will Latin America be abandoned at the next multi-lateral turn? But, under the surface, a distinctly globalized set of assumptions have now laid themselves under the discussion of regionalism in the Americas, extending beyond the global consequences of US action, or inaction.

As for the time: the FTAA marks the obsolescence of a whole tradition of thinking, one transmitted from dependency theory into positive evaluations of the new regionalism, for which regional integration was an autonomously developmental learning process. If time has now run out for industrial modernization in the FTAA, its spatial dimension is apparent in the paradox of a continental integration whose effect is to disintegrate the continent. A new sub-regional dynamic of integration and fragmentation *is* clear both in the race of the peripheral regions away from their peripherality toward “integration” with the US, and in the intra-regional diffusion of bilateral free trade agreements.

Few cases of the latter are now more bewildering than Mexico, whose privileged membership of NAFTA has not prevented it from signing more such agreements than any other country in the world, with no sign of stopping as it sounds out membership of *Mercosur* to add to APEC. But then, the makers of NAFTA were no more interested in finding a definition of an economic region than the heretical Viner: NAFTA’s geographical conceptualization was so indeterminate that Singapore could consider joining.¹⁶

The emerging picture, then, is one of regionalism in the Americas both integrating and disintegrating on the continental level around the virtual FTAA. The “processes” of regionalist discourse no longer capture the globalized dimensions of this multi-diffusive dynamic, any more than evolutionism captured the *discontinuous* pattern of regionalism’s disappearances and revivals in the Americas.

Hence the adoption by this book of continental drift as a metaphor whose explanatory use lies upon its double sense: the slow movement of the continents to their present positions; *and* a drift which not even malign intentions control, in which there appears little choice but to go with the turbulent flow. There is convergence, and there is drift. On which should we set the emphasis? The answer depends to a degree on

the will of the US, but to a greater degree on whether the convergence and the drift are being “governanced.”

Governance rules the waves?

As we move from NAFTA to the FTAA, the question *who benefits?* tends to give way to the question *who governs?* Even for Brazil it is widely accepted that the FTAA would bring economic benefits – from greater foreign investment to better export performance from a traditionally (if not always) protectionist country in which the private sector is heavily taxed, a country indeed which exports less coffee than Germany. After NAFTA, *every state* in Latin America has something to benefit from free trade with the US. But after NAFTA too, governance is a worrisome problem. To see why, we need to return to NAFTA’s maximalist critics. Again too, though, we need to give a twist to the direction the criticisms have taken.

In other words, the criticisms of NAFTA’s institutional deficiencies, above all when compared with the EU, don’t show where NAFTA should go, but where it was very much interested in *not* going: to supranational governance. True, the 1994 peso crisis graphically demonstrated the risks for economic integration without political coordination. But the price was worth paying: NAFTA was about “unequal bilateral power,” not institutional pooling.

But was it about *maintaining* the asymmetry? As Gustavo Vega-Cánovas’ chapter argues, there is some scope for nuance here. Indeed, Vega-Cánovas’ discussion also occurs in a context of institutional criticism of what Anthony Payne calls NAFTA’s “rather frail dispute-mediation mechanisms,” or of the indefatigable Robert Pastor’s criticism that: “The style of NAFTA’s governance is laissez-faire, reactive, and legalistic.”¹⁷ For Vega-Cánovas, that is one point: what you see is what you get. Another, though, is that even frail institutions do not freeze asymmetry; they work towards equalization. As Carlos Rico has pointed out, at the start of NAFTA Mexico represented only 3 per cent of intra-NAFTA trade; with NAFTA it gained a voice which, while not as high as 33 per cent, was certainly higher than 3 per cent.¹⁸ To put the point in neorealist terms, relative gains matter to states – especially to weaker states.

But from a maximalist point of view, working toward equalization through institutions is not good enough. The grounds for this stance vary. Either the initial inequality of bargaining power is statically reflected in unequitable outcomes; or, inequality will increase as the stronger party makes greater use of, say, Chapter 11’s investment

mechanism against the Mexican government. Either way, legalistic economic governance can only paper over asymmetry; unequal integration remains just that.

The maximalist critical view, then, focuses on beginnings and ends. It misses what happens in the middle, in the governance process: politics. As Vega-Cánovas makes clear in his discussion of the sugar-fructose dispute between Mexico and the US, the case was “a continuation, in another forum, of an intense political struggle.”

The legalization of economic relations in regionalism, from this stance, is a gain for the weaker. It does not deny political struggle, but channels it; and it works to prevent cheating by the stronger. Both were motives for Canada when it insisted upon dispute resolution in its pre-NAFTA free trade agreement with the US.¹⁹ On any interpretation of Vega-Cánovas’ chapter, the scope for unilateral illegality has also greatly diminished with the NAFTA Chapters.

But has political asymmetry vanished? Clearly not, but the question is itself oddly apolitical insofar as it presumes that the weaker always expect to win. In specific cases, like the trucking one, the Mexican government made a political decision not to advance with the case; that is, to lose. More saliently still, Mexico also paid a price for the anti-dumping and countervailing mechanism – the US got the investor-state mechanism in return. As they see it being used by transnational corporations seeking redress against state environmental policies, the worst fears of the maximalists may seem to be confirmed.

Should they be? In Vega-Cánovas’ account, contrary to the expectations of both the critics and the US, the use of this latter mechanism has been limited, and has targeted Canada as well as Mexico.

Maximalists are not likely to be reassured: on their spectrum of beginnings and ends, precedents loom large. Indeed, more than institutional modeling, it is the thread of precedent which most links NAFTA to the FTAA in the minds of many observers and critics of regionalism in the Americas today. For both of them, NAFTA’s precedents are increasingly more important than the FTAA’s prospects. Those precedents, in turn, hinge on different interpretations of governance.

NAFTA’s negative precedents for hemispheric governance can be put as starkly as its refutation of hopes for non-asymmetrical integration: there will be no institutional governance beyond islands in the oceanic free trade drift like the dispute resolution mechanisms. The hegemon will not be the anchor in the drift. It will neither monitor nor enforce in the old stabilizing hegemonic way. Nor will it intervene in the old ways. Instead, its withdrawal from direct hegemonic rule will leave

vacuums into which individual states like Venezuela or Haiti will be left to spin, or from which entire sub-regions will seek to escape by re-magnetizing themselves with the US.

This implies a vastly altered landscape for Latin America, as well as for “bottom-up” versions of regionalism there. Latin America’s “rap-prochement” with the US entails chasing a US in retreat, much as Mexico pushed for NAFTA just as protectionism in the US was gaining the ascendancy. Mexico, indeed, is the leader of the pack in this landscape. The multitude of free trade agreements Latin American and Caribbean countries have signed with Mexico (Chile in 1992, Costa Rica and Bolivia in 1994; Colombia and Venezuela in 1995; Nicaragua in 1998; negotiations with Ecuador, El Salvador, Honduras, Guatemala, Panama and Peru in 1999; with *Mercosur* in 2004) do not represent integration based on intra-regional trade; they represent distant hopes of approximation to the US, whether or not through rule of origin-regulated trade triangulation. Further still, the Latin American side of the FTAA story is in many ways a response to Mexico’s “defection.”

But this is only half of the hemispheric picture. The US is not just closing its borders and retreating into the homeland. It is also, in Andrew Hurrell’s words in this book, “cementing a wide set of rules and disciplines that will shape Latin American markets in ways that promote US interests.” At issue is “the deeper regulatory coordination which is at the heart of recent regional integration.”²⁰ This “neoliberal constitutionalism” is where NAFTA’s other precedent comes into its own.

NAFTA’s governance precedent, to be exact. To get the measure of it we need to prise open the dutifully neutral economic governance language in which the issues and the “agenda” tend to be discussed. What does deeper regulatory coordination really entail? In much of the literature, it entails talk of gradually evolving, incremental rules; of a convergence around standards. The story is about the US “trying out” these new conventions because it was unable to “push them through” in multilateral fora.²¹

The skeptic might be forgiven for thinking that such are the political uses of governance language: they replace talk of US agency, let alone aggression, unilateral imposition, or hegemonic power.²² The regionalist might also note that, once again, the story heads off toward multilateralism, leaving behind the regions which are to serve as the “laboratory.”

Exceptions exist: Sheila Page talks of “unpleasant side payments” from deep integration, of “concessions” extracted by “larger, more powerful counterparts.”²³ The trouble for the skeptic, in fact, lies here: just *how* unpleasant can rules which are still in the realm of precedent be?

Take NAFTA's Chapter 11 which grants litigation rights to private individuals against states, the "single most significant legal development, which has taken place through the NAFTA." From a neutral governance view, the delegation of this exclusive state right to individuals may well fit within its model of state decentralization in a context of overlapping public/private regulatory networks. No doubt too, the case of Chapter 11 would be a *cause célèbre* did it relate to governance's most favored example, the environment. Instead, for precedent-worriers, it raises the prospect of a new circumvention of Latin America's historical non-interventionist principles. Will US companies sue state governments over illicit use of their technologies within their territories?

"Illicit use" begs questions of its own. Short-term followers of the FTAA who see Brazil as the villain of the piece tend to overlook how great a sticking point US pharmaceutical patents became in bilateral relations in the 1990s.²⁴ Brazil successfully joined forces with South Africa in 2004 on the issue of generic formulae for anti-retroviral HIV drugs. When huge royalties and ethical arguments collide, "illicit use" has its limits as a policy norm.

In practice, too, intellectual property right protection has significant social implications. Mexico is an example of a country awash not just with generically formulated cheap drugs, but also with pirated CDs, videos and DVDs. Crime syndicates control the latter "industry" – and tens of thousands of people depend for their livelihoods upon it. As in many other cases, the Mexican state regulates inefficiently, in an attempt to placate US companies (*it is* regulating), and buy off social disturbance (police raids are symbolic).

Two final monitory observations about this particular precedent may be made. First, US companies in diverse fields are feeling the pinch from the Internet. Would regulation in Latin America make up for some of the lost revenue?²⁵ The second observation returns us to an earlier one about the FTAA. As the costs of foreign technology continue to rise, whatever happened to technology transfer as a tool of development?

Precedents and questions: are they all we have to go on? To the degree that economic hegemony and governance have blended together, the picture *is* blurred. The confusion is about to deepen.

Democracy and governance in the Americas

While economic governance is drifting on to uncharted waters, isn't democratic governance in the Americas now an established fact? From NAFTA's Mexican "lock-in" to *Mercosur's* democratic conditionality

clause, wherever one sees regionalism in the Americas one also sees democracy. Not only are “attempts to spur democratization in prospective PTA [preferential trade agreements] members... largely unique to the contemporary wave” of regionalism in general.²⁶ But in the Americas, even if the democratic norm cannot be said to have been imposed by the US, the US has propelled democratization by clinching its essential connection with open markets. If we want to see regionalism as joining a benign global current, surely we see it in the FTAA’s twin principles of free trade and strengthened democracy and human rights.

Before we round up the usual critics, it’s worth giving weight to the response of gentle bemusement to this narrative. Diana Tussie and Ignacio Labaqui express it when they align US motives for the FTAA with the Wilsonian tradition of the “universal projection of the American dream – a vision of economic plenty in the context of political freedom.” As Gordon Mace writes, the narrative has an even longer pedigree:

What emerges is an almost perennial vision for the future of the Western Hemisphere built around certain key elements. Historically, the U.S. vision of an architecture of the Americas has been focused first and foremost on the establishment of a political regional system, a fact often overlooked, given the emphasis on economics and trade issues in contemporary literature.²⁷

Mace’s judgment is doubly good. On the one hand, the normativeness of US aspirations for the hemisphere should not be lightly ignored. On the other, though, there is in fact, from a historical perspective, little that is essential in the aspirations’ connection with free trade.

This, naturally, is the critics’ point of entry. As before, though, the critical tendency goes in different directions. For hard-liners, the conjunction of democratization and liberalization has opened new fault-lines within Latin America.²⁸ This, as any survey including Bolivia and Venezuela, and the more general rise of neopopulist politicians in Latin America will confirm, is a plausible claim. But what is to be done? For critical reformers, the answer lies with more democratization. Take the FTAA, as whom else but Robert Pastor does: “the FTAA should go beyond the questions of membership or suspension and propose ways to nurture the roots of democracy, particularly in its weak neighbors.”²⁹

Critics thus give us two contradictory prescriptions: the project is off to the wrong start; the project is unfinished. Both have something to commend them, but they also leave the way open for the third stance adopted by Laurence Whitehead in this book. Whitehead accepts both the region-wide consolidation of formal democracy and the role of international agencies, including the US, in achieving it. But thereafter the outlooks are cloudier. Democratizing momentum, indeed, appears often to have stopped with electoral democracy. Nor are the exhortations of regional governance institutions particularly heeded, even when made.

Whitehead's stance is a corrective one, then, on a number of levels. As regards the US: if it is so committed to hemispheric human rights protection, why does it refuse to enter the jurisdiction of the Inter-American Court? As regards regional governance: why is the OAS largely side-lined from the supposedly unified project of the FTAA? And as regards Latin American countries: where, in the utopianism of the democracy and governance marriage, is there an appreciation of the depth of the governance crises within the vast majority of them? Regionalism as a discourse, I argued in Chapter 1, has suffered from a deficit; with their tendency to read reality off from acceptance of norms, many analyses of Latin America still suffer from a reality deficit. To the extent that projects like the FTAA generate the perception that the story of democracy and governance is over in Latin America, they mislead us not just about Latin America, but also about themselves. This, sadly, becomes all too apparent if we turn to Latin America's greatest crisis.

Governance and Colombia: the problem of collective regional inaction

Discussions of the Colombian crisis tend not to start with a little noticed, but important paradox: in comparative regional terms, Colombia is a strong state. Politically, it boasts a well-entrenched system of liberal democracy and considerable state capacity to carry out institutional reforms. Economically, its fiscal management has traditionally been prudent, with foreign debt under control and steady if not spectacular growth rates, the recession of 1999 notwithstanding.

Now compare the following: Bolivia has seen its president ousted in 2003, Ecuador has had coups d'état in 1997, 2001 and 2005, Peru has been first engulfed in the corruption scandals of the Fujimori regime, then given 90 per cent disapproval ratings to President Alejandro

Toledo, and Venezuela is in the throes of a cycle of coups d'état and mass civilian mobilization.

Colombia, that is, poses a challenge to the current wisdom that the roots of regional crisis lie in state failure. Indeed, while the rest of the sub-region worries about "Colombianization," no small part of the Colombian state's loyalty to the US in recent years can be put down to its desire to escape its unstable region. This double tendency is at the heart of the Andean region's dis-integration, and dramatizes the broader reflexes within Latin America since NAFTA.

From the viewpoint of Colombia's neighbors, as David Pion-Berlin discusses, not only is Colombia a major source of regional instability; under the mantle of Plan Colombia, it is also an exporter of instability to them. In terms of the war on drugs, as eradication produces results in Colombia, so too it does in Bolivia and Peru, as drug production and processing hop over there. In terms of Colombia's massive internal refugee crisis (affecting somewhere between 1 and 2 million people), population dispersment to neighboring Ecuador is a source of high tension. And finally, in terms of the war on terror, Ecuador, Venezuela and Brazil have all shown a marked reluctance to respond to overtures inviting them to classify Colombia's insurgents as terrorists. Brazil, where the Catholic theology of liberation still exercises a powerful grip, is a clear case where regional involvement in a crisis has been hampered by a perception that the crisis has been defined on US terms. At the same time, as Pion-Berlin shows, even Brazil has had no choice but to militarize its border with Colombia.

Is, then, Colombia an exception to the new hegemonic rule of withdrawal from intervention we sketched above? Certainly, as the legendary US\$3 billion price tag for Plan Colombia testifies, the US is paying to be involved in Colombia – and paying on its militarizing terms. The "social and economic aid" which was initially factored into the Andean Counter-Drug Initiative has quietly been relegated as, from 2002 on, US Congressional permission has been given to spread the Plan's military assistance from counter-narcotics onto counter-terrorist operations.

Yet, in other ways, Plan Colombia has conformed to its original design as an intervention-by-invitation. In 2003, the number of US military personnel actually in Colombia was 358.³⁰ The suspicion to which the Plan is thus open is not primarily of US imposition, but rather of creating a US presence which is arms' length. In other words, Plan Colombia was not refused by the US precisely because it offered it an opportunity *not* to engage in either the messy business of state

strengthening (the pejorative “nation building” of yesterday’s US discourse), or the larger mess of the region. The war on Iraq, of course, is likely to reinforce the US search for exits rather than entries in *all* regions.

With or without the US, the uncomfortable conclusion is that the region has not been able to mount a response to both its most overwhelming threat and to the world’s longest-running civil conflict. Pion-Berlin mentions some of those who have thrown their hat into the ring; others, from Mexico in 2004 to groups of friends from farther afield, could be mentioned. But the retreats have been as hasty as the “welcomes” by the Colombian state lukewarm. The Colombian crisis has failed to find anything approaching its Contadora equivalent. The primary modality of international intervention, from the US, has also deepened regional instability.

Such stark conclusions in turn challenge many regionalist hopes and assumptions – that regional integration spills over into security cooperation; that democratic states will pull together like good liberal institutionalists where they integrated together; that “governance” is a problem when state capacity is weak; that regional “hegemons” are the main source of regional tensions; or even that the hegemon is interested in managing regional disorder on any but its own disordering conditions.

Instead, the case of Colombia reinforces the tendency which Mexico’s regional security interest followed when it sold NAFTA to the US on the grounds that its drug problem was a negative externality – not a factor which should lead the US to identify it with a region which was already fearful of “Colombianization.” “Deep” integration with the US, in this light, is indeed not about integration, but about exits from the *other* region.

Security and governance in the Americas

9/11 cruelly demonstrated to the US that economic integration requires a security dimension. The subsequent war on terror also brought regionalism in the Americas into a new conjuncture with the global. The new context for the Americas is akin to a state of shock.

The story of the progress at the US borders from security to securitization which MacFarlane and Serrano take up in the last chapter is, then, a more than regional story. By the same token, the sudden catapulting of security to the fore of regionalism is a shock to the system of discourse outlined in Chapter 1. The argument that the current wave

of regionalism is “relatively benign” because “regional arrangements have seldom been used as instruments of power politics” is a pre-9/11 one.³¹

Open borders were a key symbol of the new open regionalism. For those with higher integrationist hopes, they also symbolized the new regionalism’s advance beyond the statism of the old – hopes which meshed with the ascendancy of the new post-Westphalian governance paradigm.

Thus, when 9/11 came and the borders closed, the governance structure of NAFTA – or, more precisely, the criticisms of its deficient governance structure – gained an urgent salience. In the words of Stephen Clarkson: “Under NAFTA, the already advanced level of integration between the United States and its two peripheral economies had been proceeding under conditions of political separation, without institutions for collective governance.”³² The view of NAFTA’s deficiency – “neither an institution nor a regime” – was widespread.³³ So what form would its governance take now that the US’ borders had acquired greater sovereign significance?

For the critical tendency we have followed through this chapter, the answer was self-evident: “a greater institutionalization of governance in the region.”³⁴ This once again is proving to be the road not traveled. The reason? Hegemonic governance, in the new patterns we have also been charting. Its distinctive emergence can be caught in the contrast between the non-appearance of new regional security institutions to coordinate responsibilities between the NAFTA three, and the thickening net of border regulations described by MacFarlane and Serrano. These treat terrorism as one more externality to be managed between partners, in line with both regionalist and governance prescriptions of self-regulation. In this view, terrorism is on a par with migration, drug trafficking, and the environment as an issue for transnational governance. The conveniences of this view for the US should by now be clear enough.

MacFarlane and Serrano also raise the issue of cultural identity, and it is no accident that they should do so in a chapter dedicated to security concerns. Those concerns are now very narrowly clustered around the US’ hard security agenda; not so long ago, they were both widely dispersed and inclusive, as can be seen if one goes back, for example, to a speech made by President Fox before the OAS in 2001. What were the top issues for regional security? The fight against transnational organized crime, the defense of democracy and human rights, environmental protection – and the fight against poverty.

Fox's speech was made on September 7; two days later, it was the human security agenda that was not to be. In the Special Summit of the Americas in Monterrey, held in January 2004, Venezuela proposed an inter-American fund to help poor countries in difficulties; Brazil, Peru and Panama proposed an alternative model of economic development to neoliberalism; Chile's President Lagos pointed out that "the number of poor people in Latin America today was unprecedented in its history."³⁵ The answer given by the Summit's Declaration comes out of a good governance manual: "each country has primary responsibility for its own economic and social development through sound policies, good governance, and the rule of law."

The agenda, then, shrinks – but not without stirrings of resistance. The free trade "bar" of economic integration is raised – but Brazil openly opposes the FTAA. In keeping with this book's overall stance, we shall resist the temptation to end by speaking predictively of turning points. The US, for the bilateral preferential reasons mentioned, is winning already, and may indeed not be too unhappy with Brazil's "mothballing" of the FTAA. Brazil itself has also already placed its bets: not just on *Mercosur*, less on a Europe whose agricultural subsidies pose the limits to the interregional dalliance, but with China. Brazil builds missiles with China, shares a technology transfer program with China, and has cast 92 per cent of its votes in international fora with China since the time of military rule.³⁶

Clearly, then, America is no longer "all the world" for at least one power in the Americas. Continental drift, after all, is the theory which tells us how land breaks away. It also, however, pictures continents as resting on a deep-lying plastic substratum. That deeper foundation has not broken in the Americas, but it is drifting too.

Notes

- 1 This is the "exclusive" definition of a region adopted by Barry Buzan and Ole Waever, *Regions and Powers The Structure of International Security* (Cambridge: Cambridge University Press, 2002), p. 80 – one, however, that raises more problems in their area of security complexes.
- 2 Sekiguchi Suelo, "Introduction," *Road to ASEAN-10 Japanese Perspectives on Economic Integration* (Tokyo: Japan Center for International Exchange, 1999), p. 3: "Among the new entrants [to ASEAN]... Myanmar's military dictatorship targets economic stability and development, Vietnam's official aim is to construct a socialist market economy, and Cambodia remains politically unstable..."
- 3 The "regional cooperation" of Central and Latin America's military dictatorships remains, for obvious reasons, an understudied theme.

- 4 David R. Mares, *Violent Peace: Militarized Interstate Bargaining in Latin America* (New York: Columbia University Press, 2001), p. 45.
- 5 Thomas E. Skidmore and Peter H. Smith, *Modern Latin America* (New York: Oxford University Press; 2nd edition, 1989), p. 349.
- 6 See Guy Gosselin and Jean-Philippe Thérien, "The Organization of American States and Hemispheric Regionalism," in Gordon Mace, Louis Bélanger, and contributors, *The Americas in Transition: The Contours of Regionalism* (Boulder: Lynne Rienner, 1999), pp. 175–93. They conclude that "it would be easy – and tempting – to overestimate the OAS's accomplishments."
- 7 This paragraph draws on Jaime Serra, "Ten Years of NAFTA," presentation at El Colegio de México, May 2004.
- 8 Osvaldo Sunkel and Michael Mortimore, "Transnational Integration and National Disintegration Revisited," in Björn Hettne, András Inotai and Osvaldo Sunkel (eds), *The New Regionalism: Implications for Global Development* (Basingstoke: Palgrave), pp. 54–88.
- 9 Robert A. Pastor, *Toward A North American Community: Lessons from the Old World for the New* (Washington, DC: Institute for International Economics, 2001), pp. 29, 30. Just how internally solidaristic, as opposed to committedly liberalizing the EU is, receives an interesting treatment in Alberta Sbragia, "The European Union as Coxswain: Governance by Steering," in Jon Pierre (ed.), *Debating Governance: Authority, Steering, and Democracy* (Oxford University Press, 2000), pp. 219–36. On her interpretation, the "deep" structural function of the funds is to *limit* further redistribution.
- 10 Fox also proposed an EU social cohesion fund for the FTAA, to be paid for by 5 per cent cuts in defense spending. See *The Economist*, April 28 2001.
- 11 Jean Grugel, "Latin America and the Remaking of the Americas," in Anthony Payne and Andrew Gamble (eds), *Regionalism and World Order* (Basingstoke: Macmillan, 1996), p. 142.
- 12 Grugel, "Latin America," p.140; Gamble and Payne, "Conclusion," *Regionalism and World Order*, p. 254.
- 13 Although the question of the rationality of motives remains open for economists who point out that some of the countries seeking inclusion in the FTAA already enjoy either tariff exemptions or special preferences from the US, as in the Caribbean Basin Initiative.
- 14 Björn Hettne, "Regionalism, Security and Development: A Comparative Perspective," in B. Hettne and A. Inotai (eds), *Comparing Regionalisms: Implications for Global Development and International Security* (Basingstoke: Palgrave, 2001), p. 33.
- 15 Grugel, p. 139, quoting A. Varas.
- 16 Stephan Haggard, "The Political Economy of Regionalism in Asia and the Americas," in Edward D. Mansfield and Helen V. Milner (eds), *The Political Economy of Regionalism* (New York: Columbia University Press, 1997), pp. 33–4.
- 17 Anthony Payne, "Globalization and Modes of Regionalist Governance," p. 212; Pastor, p. 30. See also p. 74.
- 18 Carlos Rico, Comments delivered at the conference "Competing Regionalisms in the Americas," Mexico City, March 14–15 2002.
- 19 Haggard, "Political Economy of Regionalism," p. 36.

- 20 Ibid., p. 25. Haggard's illuminating account traces the origins of this regulation back to the success of the US chemical and pharmaceutical industries in raising their complaint "about inadequate intellectual property protection in the developing world" to the second Reagan administration when it was in need of building an anti-protectionist coalition against Congress. See pp. 35–6.
- 21 See, for example, Victor Bulmer-Thomas, "Trade Relations in the Americas," in Victor Bulmer-Thomas and James Dunkerley (eds), *The United States and Latin America: The New Agenda* (Institute of Latin American Studies, University of London, 1999), p. 91: "If US views on these sensitive issues prevail within the proposed FTAA, there is much more chance that they will be adopted globally within the WTO. Thus, the FTAA – from the US perspective – can be seen as a pioneer in US efforts to shape the next generation of WTO agreements."
- 22 See Nicola Phillips, "US Trade Strategies and the FTAA Process," *Focal Point* (Canadian Foundation For The Americas) 3 (1) (January 2004), 3: "the increasing prioritization of bilateral agreements arises from their much greater utility in serving key US priorities: obtaining access to services markets in exchange for some exports but, at the same time, avoiding significant concessions on agricultural subsidies or modification of domestic laws on trade remedies (particularly anti-dumping); entrenching a range of disciplines in such areas as intellectual property rights and investment rules; and initiating changes to legal and regulatory structures in partner countries in order to enhance their congruence with US trade and investment interests."
- 23 Sheila Page, *Regionalism among Developing Countries* (Basingstoke: Macmillan, 2000), pp. 503, 506.
- 24 See Monica Hirst, "Strategic Coercion, Democracy, and Free Markets in Latin America," in Lawrence Freedman (ed.), *Strategic Coercion: Concepts and Cases* (Oxford: Oxford University Press, 1999), pp. 153–62.
- 25 The Byrd Amendment, for example, proposes that US companies be the beneficiaries of US government fines on trading partners.
- 26 Edward D. Mansfield and Helen V. Milner, "The New Wave of Regionalism," *International Organization* 53 (3) (Summer 1999) p. 607.
- 27 Gordon Mace, "The Origins, Nature and Scope of the Hemispheric Project," p. 26.
- 28 Grugel p. 157 remarks that "to talk of liberalization and democracy as sections of the same agenda can... be misleading," but takes the criticism backwards: democratization was a trend in Latin America before the new regionalism.
- 29 Pastor, p. 185.
- 30 This and the following figure come from the Center for International Policy's Colombia Project.
- 31 Mansfield and Milner, p. 621. They do add "so far."
- 32 Stephen Clarkson, "The View From The Attic," in Peter Andreas and Thomas J. Biersteker (eds), *The Rebordering of North America: Integration and Exclusion in a New Security Context* (New York: Routledge, 2003), p. 83.
- 33 Payne, p. 214.

- 34 Thomas J. Biersteker, "The Rebordering Of North America?," in Andreas and Biersteker, p. 154.
- 35 Gordon Mace, "The Uncertain Future of Inter-American Co-operation After the Monterrey Summit," *Le Soleil*, January 20 2004.
- 36 Interview with Vamireh Chacón by Norma Domínguez, March 20 2003. Available at <http://nuevamayoria.com/ES/ENTREVISTAS/030320.html>

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