

D/2

UNITED NATIONS CONFERENCE ON TRADE  
AND DEVELOPMENT

Geneva

# **Current problems of economic integration**

**The role of institutions in regional integration  
among developing countries**

*by Mr. Dusan Sidjanski*



UNITED NATIONS  
New York, 1974

## NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

TD/B/422

UNITED NATIONS PUBLICATION

*Sales No. E.73.II.D.10*

Price : \$U.S. 9.00  
or equivalent in other currencies)

## FOREWORD

In addition to their purely national efforts, many developing countries are attempting to consolidate their economic base by forming wider markets through programmes for mutual trade liberalization, co-ordinated industrial development and co-operative measures in other fields. At its second and third sessions, the United Nations Conference on Trade and Development (UNCTAD) gave particular attention to these matters, adopting declaration 23 (II) (concerted declaration on trade expansion, economic co-operation and regional integration) and resolution 48 (III) (trade expansion, economic co-operation and regional integration among developing countries) which provide a framework for action by the international community in support of initiatives taken by the developing countries with a view to trade expansion, economic co-operation and regional integration.

Building upon the foundation laid by the Conference, the Trade and Development Board provided by resolution 53 (VIII) (trade expansion, economic co-operation and regional integration among developing countries) for continuation of the work of the UNCTAD secretariat in this field and recommended ways and means of achieving the objectives set by the Conference.

As requested by these bodies, the secretariat has undertaken research aimed at finding practical solutions for specific problems affecting trade expansion, economic co-operation and integration efforts among developing countries. Pursuant to the resolutions of the Conference and the Board, the secretariat is publishing the results of its research work in the present series, entitled "Current problems of economic integration".

I hope that these studies will contribute to the attainment of the objectives set in this important field by the International Development Strategy for the Second United Nations Development Decade.

(Signed) Manuel PÉREZ GUERRERO  
Secretary-General of UNCTAD



*This study was written by Professor Dusan Sidjanski, Director of the Department of Political Science of the Faculty of Economic and Social Sciences, University of Geneva, at the request of the UNCTAD secretariat. The views expressed in it are not necessarily those of the UNCTAD secretariat. The terminology is the author's own.*

## CONTENTS

	<i>Page</i>
Abbreviations . . . . .	xii
Introduction	
Purpose of the study . . . . .	1
Method of work . . . . .	1
Relations between content and institutions . . . . .	3
Classification . . . . .	4
Aims of the regional groupings . . . . .	5
The situation at present . . . . .	6

## PART ONE

### Monographs

<i>Chapter</i>	<i>Paragraphs</i>	
I. Regional co-operation: Latin American Free Trade Association, Maghreb Group, Association of South-East Asian Nations . . .	1-75	11
A. Latin American Free Trade Association . . . . .	1-19	11
1. Institutions and agents . . . . .	1-13	11
(a) Main institutions . . . . .	1-6	11
(i) The Council and the Conference . . . . .	1	11
(ii) The Standing Executive Committee . . . . .	2	11
(iii) The Executive Secretary . . . . .	3-6	12
(b) Advisory bodies and specialized organs . . . . .	7-11	13
(i) Councils and Commissions . . . . .	7	13
(ii) Sectoral meetings . . . . .	8	14
(iii) Complementarity agreements . . . . .	9-10	15
(iv) Multilateral compensation agreement . . . . .	10-11	16
(c) National committees and professional organizations . . . . .	12-13	16
(i) National committees . . . . .	12	16
(ii) Professional organizations . . . . .	13	16
2. The decision-making process . . . . .	14-19	17
(a) Distribution of powers . . . . .	14	17
(b) The decision-making model . . . . .	15-16	17
(c) Scope of the instruments and settlement of disputes . . . . .	17-18	18
(d) External relations . . . . .	19	18

Chapter	Paragraphs	Page
B. Maghreb Group . . . . .	20-45	19
1. Institutions and agents . . . . .	20-37	19
(a) Main institutions . . . . .	20-27	19
(i) Conference of Ministers of Economic Affairs of the Maghreb Countries . . . . .	20	19
(ii) Permanent Consultative Committee of the Maghreb Countries . . . . .	21-23	19
(iii) Secretariat . . . . .	24-27	20
(b) Advisory bodies and specialized organs . . . . .	28-35	21
(i) Commissions and committees . . . . .	29-30	21
(ii) Specialized organs . . . . .	31-35	22
(c) National co-ordinating bodies and professional organizations . . . . .	36-37	23
2. The decision-making process . . . . .	38-45	24
(a) Distribution of powers . . . . .	38	24
(b) The decision-making model . . . . .	39-42	24
(c) Common instruments and their scope . . . . .	43	25
(d) External relations . . . . .	44-45	26
C. Association of South-East Asian Nations . . . . .	46-75	27
1. Institutions and agents . . . . .	46-60	27
(a) Main institutions . . . . .	46-49	27
(i) Ministerial Meetings . . . . .	46	27
(ii) The Standing Committee and the meeting of National Secretaries-General . . . . .	47	27
(iii) Lack of a permanent secretariat . . . . .	48-49	27
(b) Advisory bodies . . . . .	50-53	28
(c) National secretariats and professional organizations . . . . .	54-60	31
(i) National secretariats . . . . .	54-59	31
(ii) Professional organizations . . . . .	60	32
2. The decision-making process . . . . .	61-75	32
(a) Distribution of powers . . . . .	61-62	32
(b) The decision-making model . . . . .	63-67	33
(c) Scope of the instruments . . . . .	68-71	34
(d) External relations . . . . .	72-75	35
II. Regional integration: East African Community, Central African Customs and Economic Union, Central American Common Market, Andean Group . . . . .	76-216	37
A. East African Community . . . . .	76-109	37
1. Institutions and agents . . . . .	76-97	37
(a) Main institutions . . . . .	76-87	37
(i) The Authority . . . . .	76-77	37
(ii) The East African Ministers . . . . .	78-79	37
(iii) The Councils . . . . .	80-83	38
(iv) The Central Secretariat and the administrative services . . . . .	84-87	39

	Paragraphs	Page
(b) Advisory bodies and specialized organs . . . . .	88-93	40
(i) Advisory bodies . . . . .	88-89	40
(ii) Common services . . . . .	90-93	41
(c) The Legislative Assembly and the tribunal of the Community . . . . .	94-95	42
(d) Co-ordination at the national level and professional organizations . . . . .	96-97	42
2. The decision-making process, common instruments and external relations . . . . .	98-109	43
(a) Distribution of powers . . . . .	98-101	43
(b) The decision-making model . . . . .	102-106	44
(c) Common instruments and their scope . . . . .	107	46
(d) External relations . . . . .	108-109	47
B. Central African Customs and Economic Union . . . . .	110-145	48
1. Institutions and agents . . . . .	110-123	48
(a) Main institutions . . . . .	110-116	48
(i) The Council of Heads of State . . . . .	110	48
(ii) The Management Committee . . . . .	111-112	48
(iii) The General Secretariat . . . . .	113-116	49
(b) Advisory bodies and specialized organs . . . . .	117-121	51
(i) Advisory bodies . . . . .	117-119	51
(ii) Specialized organs . . . . .	120-121	52
(c) Co-ordination at the national level and professional organizations . . . . .	122-123	53
2. The decision-making process . . . . .	124-145	53
(a) Distribution of powers . . . . .	124-129	53
(b) The decision-making model . . . . .	130-139	55
(i) Origin . . . . .	130-133	55
(ii) The formulation stage . . . . .	134-135	56
(iii) The decision-making stage . . . . .	136	56
(iv) The implementation stage . . . . .	137-139	57
(c) Common instruments and their scope . . . . .	140-144	58
(i) Instruments . . . . .	140	58
(ii) Direct control . . . . .	141-142	59
(iii) Appeals . . . . .	143-144	59
(d) External relations . . . . .	145	60
C. Central American Common Market . . . . .	146-173	61
1. Institutions and agents . . . . .	146-162	61
(a) Main institutions . . . . .	146-151	61
(i) The Central American Economic Council . . . . .	146-147	61
(ii) The Executive Council . . . . .	148-150	61
(iii) The Permanent Secretariat . . . . .	151	63
(b) Advisory bodies and specialized organs . . . . .	152-158	64
(i) Advisory bodies . . . . .	152-155	64
(ii) Specialized organs . . . . .	156-158	65

	Paragraphs	Page
(c) Co-ordination at the national level and professional organizations . . . . .	159-162	66
(i) Co-ordination . . . . .	159	66
(ii) Professional organizations . . . . .	160-162	66
2. The decision-making process . . . . .	163-173	67
(a) Distribution of powers . . . . .	163-166	67
(b) The decision-making process . . . . .	167-168	68
(c) Common instruments and the settlement of disputes . . . . .	169-171	69
(i) Instruments . . . . .	169	69
(ii) Settlement of disputes . . . . .	170	70
(iii) Relations with the Organization of Central American States . . . . .	171	70
(d) External relations . . . . .	172-173	71
D. Andean Group . . . . .	174-216	72
1. Institutions and agents . . . . .	174-199	72
(a) Main institutions . . . . .	174-185	72
(i) The Commission . . . . .	176-179	72
(ii) The Board . . . . .	180-185	73
(b) Advisory bodies and specialized organs . . . . .	186-195	75
(i) Advisory bodies . . . . .	186-193	75
(ii) Specialized organ . . . . .	194-195	77
(c) Co-ordination at the national level and professional organizations . . . . .	196-199	78
2. The decision-making process . . . . .	200-216	79
(a) Distribution of powers . . . . .	200-202	79
(b) The decision-making process . . . . .	203-209	80
(i) Origin . . . . .	203	80
(ii) The formulation stage . . . . .	204-207	80
(iii) The Board-Commission dialogue . . . . .	208-209	82
(c) Common instruments . . . . .	210-214	82
(d) External relations . . . . .	215-216	84

# TABLE

Board budgets, 1971-1973 . . . . .	85
------------------------------------	----

## PART TWO Comparative analysis

Chapter	Paragraphs	
I. General patterns . . . . .	1-7	89
A. Latin American Free Trade Association, Maghreb Group and Association of South-East Asian Nations . . . . .	1-2	89
B. East African Community, Central African Customs and Economic Union, Central American Common Market and Andean Group . . . . .	3-7	90

Chapter	Paragraphs	Page
II. Comparison of structures . . . . .	8-51	92
A. Main institutions . . . . .	8-35	92
1. Latin American Free Trade Association, Maghreb Group and Association of South-East Asian Nations . . . . .	8-12	92
2. East African Community, Central African Customs and Economic Union, Central American Common Market and Andean Group . . . . .	13-35	94
(a) Intergovernmental institutions . . . . .	13-28	94
(b) Community institutions: the Board and the general secretariats . . . . .	29-35	97
B. Advisory bodies, specialized organs and common services . . . . .	36-45	99
1. Advisory bodies . . . . .	36-40	99
2. Specialized organs . . . . .	41-43	101
3. Common services . . . . .	44-45	101
C. Co-ordination at the national level and professional organizations . . . . .	46-51	102
1. Co-ordination . . . . .	46-48	102
2. Professional organizations . . . . .	49-51	102
III. Comparison of decision-making processes . . . . .	52-167	104
A. Latin American Free Trade Association, Maghreb Group, Association of South-East Asian Nations . . . . .	52-77	104
1. Distribution of powers . . . . .	52-53	104
2. Stages in the decision-making process . . . . .	54-62	105
(a) Origin . . . . .	54	105
(b) Stage of formulation . . . . .	55-56	105
(c) Decision-making stage . . . . .	57-62	106
3. Scope of the instruments and appeal procedures . . . . .	63-65	107
4. Examples or particular processes . . . . .	66-77	109
(a) Process of liberalization . . . . .	66	109
(b) Decision-making process in the industrial sector . . . . .	67-69	109
(c) Specialized organs . . . . .	70-73	111
(d) Compensation mechanism . . . . .	74	112
(e) External relations . . . . .	75-77	112
B. East African Community, Central African Customs and Economic Union, Central American Common Market and Andean Group . . . . .	78-167	114
1. Distribution of powers . . . . .	78-83	114
2. Stages in the decision-making process . . . . .	84-101	115
(a) Origin . . . . .	84-85	115
(b) Stage of formulation . . . . .	86-90	116
(c) Decision-making stage . . . . .	91-97	117
(d) The supervision and implementation stage . . . . .	98-101	119

	<i>Paragraphs</i>	<i>Page</i>
3. Scope of the instruments and appeal procedures . . .	102-116	120
(a) Form of the instruments . . . . .	102-107	120
(b) Direct effect of the instruments . . . . .	108-109	121
(c) Sanctions and appeal procedures . . . . .	110-116	122
4. Examples of particular decision-making processes . . .	117-167	124
(a) Customs union and common market . . . . .	117-127	124
(b) Industrialization and planning processes . . . . .	128-154	127
(c) Payment mechanisms . . . . .	155-157	134
(d) Specialized organs and common services . . . . .	158-160	135
(e) External relations . . . . .	161-167	136

### PART THREE

#### Conclusions

##### Chapter

I. General framework . . . . .	1-13	141
A. Orientation . . . . .	1-3	141
B. Allocation of responsibilities . . . . .	4-8	141
C. Decentralization and co-ordination . . . . .	9-13	143
II. National interests and the common interest . . . . .	14-39	145
A. Intergovernmental bodies . . . . .	16-25	145
1. Council of Heads of State . . . . .	17-18	145
2. Council of Ministers . . . . .	19-23	146
3. Committees of Representatives . . . . .	24-25	147
B. Community institutions . . . . .	26-39	148
1. Collective bodies or individuals . . . . .	27	148
2. Administrative machinery . . . . .	28-32	148
3. Autonomy of the community organ and machinery . . . . .	33-35	150
4. Common services . . . . .	36-39	150
III. Common problems . . . . .	40-68	152
A. Unanimity and majority . . . . .	40-47	152
B. Relations and consultation . . . . .	48-54	154
C. Location of the common institutions and services . . . . .	55-60	156
D. Financing of institutions . . . . .	61-65	158
E. Common and regional enterprises . . . . .	66-68	159
IV. The dynamics of regional integration . . . . .	69-91	161
A. Pre-take-off phase . . . . .	69-73	161
1. Bases to be laid in the Association of South-East Asian Nations . . . . .	69-71	161

	<i>Paragraphs</i>	<i>Page</i>
2. A draft Maghreb agreement . . . . .	72	162
3. Problems common to the Association of South-East Asian Nations and the Maghreb Group . . . . .	73	162
B. Periods of inactivity and efforts at renewal . . . . .	74-76	163
1. Period of inactivity in the Latin American Free Trade Association . . . . .	74	163
2. Difficulties of renewal in the Central African Economic and Customs Union . . . . .	75-76	163
C. Crisis as a dynamic factor . . . . .	77-89	164
1. Solidarity in the East African Community . . . . .	77-80	164
2. Crisis of growth in the Central American Common Market . . . . .	81-86	166
3. Dynamic development and institutions: the example of the Andean Group . . . . .	87	169
4. The dynamics of integration . . . . .	88-91	170

#### ANNEXES

I. Regional grouping statistics . . . . .	172
II. Organizational charts . . . . .	175

## ABBREVIATIONS

ACAMAR	Central American Shipowners Association
ADC	Andean Development Corporation
AELPALALC	Association of Latin American Entrepreneurs of LAFTA
AID	Agency for International Development (United States of America)
AILA	Association of Latin American Industrialists
ALAF	Latin American Railways Association
ALAIC	Latin American Association of the Tanning Industry (Curtiduría)
ALAIIE	Latin American Association of the Electrical and Electronic Industries
ALALE	See LAFTA
ALAMAR	Latin American Shipowners Association
ALICA	Latin American Association of the Canned Foods Industry
ALIPLAST	Latin American Association of the Plastics Industry
ASEAN	Association of South-East Asian Nations
ASINLA	Latin American Association of the Ship-Building Industry
ATLA	Latin American Textile Association
CABEI	Central American Bank for Economic Integration
CACM	Central American Common Market
CECLA	Special Committee on Latin American Co-ordination
CECON	Special Consultation and Negotiating Committee
CEIM	Maghreb Centre for Industrial Studies
CFA	African Finance Community
c.i.f.	Cost, insurance, freight
COCAAP	Central American Ports Commission
COCESNA	Central American Air Services Corporation
COMALFA	Maghreb Alfa Marketing Board
COMANOR	Maghreb Standardization Committee
CPCM	Permanent Consultative Committee of the Maghreb Countries
CTCA	Confederation of Central American Workers
EAC	East African Community
ECA	Economic Commission for Africa
ECAFE	Economic Commission for Asia and the Far East
ECLA	Economic Commission for Latin America
EDF	European Development Fund (of EEC)

EEC	European Economic Community
FAO	Food and Agriculture Organization of the United Nations
FECAICA	Federation of Industrial Chambers of Commerce of Central America
FECAMCO	Federation of Central American Chambers of Commerce
FEDEPRICA	Federation of Central American Private-Sector Enterprises
FEICADE	Federation of Central American Development Institutions
f.o.b.	Free on board
IBRD	International Bank for Reconstruction and Development
ICAITI	Central American Institute of Industrial Research and Technology
ICAP	Central American Institute of Public Administration
IDB	Inter-American Development Bank
ILO	International Labour Organisation
ILPES	Latin American Institute for Economic and Social Planning
IMF	International Monetary Fund
INTAL	Institute for Latin American Integration
LAFTA	Latin American Free Trade Association
NABANDINA	Common Tariff Nomenclature of the Andean Group, based on the Brussels Tariff Nomenclature (BTN)
OAS	Organization of American States
OCAS	Organization of Central American States
OECD	Organisation for Economic Co-operation and Development
OLAFABA	Latin American Organization of Alcoholic Beverage Manufacturers
OLAVU	Latin American Wine and Grape Organization
PROMECA	Central American Programme for the Promotion of Exports
SIECA	Permanent Secretariat of the General Treaty on Central American Economic Integration
UDEAC	Central African Economic and Customs Union
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNIDO	United Nations Industrial Development Organization

## INTRODUCTION

### Purpose of the study <sup>1</sup>

The purpose of the study is to analyse and compare the institutional structures, operation and decision-making processes in the following regional integration groupings among developing countries: <sup>2</sup>

(a) *In Latin America*: 1. The Latin American Free Trade Association (LAFTA); 2. The Central American Common Market (CACM); and 3. The Andean Group or Cartagena Agreement;

(b) *In Africa*: 1. The East African Community (EAC); 2. The Central African Economic and Customs Union (UDEAC); and 3. The Maghreb Group;

(c) *In Asia*: The Association of South-East Asian Nations (ASEAN).

The monographs and the comparative analysis will deal not only with defined formal structures but also with their practical development and their adaptation to specific regional situations. The purpose of this exercise is to stimulate exchanges of views between leaders of regional groupings and to encourage a common approach to the question of which institutional structures are the most appropriate for promoting economic integration.

### Method of work

This research is based on available publications and documents. In most of the studies compared, the stress is laid on the economic content of integration and its institutional aspects are given only marginal treatment. <sup>3</sup>

<sup>1</sup> The author wishes to express his gratitude to all those national, regional and international officials who helped him in the preparation of this study, for which he assumes full responsibility.

<sup>2</sup> For practical reasons, it was not possible to include in this study all regional or subregional integration groupings among developing countries. Thus organizations such as Regional Co-operation for Development and the Caribbean Free Trade Association have been omitted.

<sup>3</sup> See *Trade expansion and economic integration among developing countries: Report by the UNCTAD secretariat* (United Nations publication, Sales No. 67.II.D.27), chap. VIII, p. 63; and "Trade expansion, economic co-operation and regional integration among developing countries—Part two: Problems encountered and measures intended to overcome them. Report by the UNCTAD secretariat" (TD/B/AC.10/Add.1), chap. V. See also F. Kahnert, P. Richards, E. Stoutjesdijk and P. Thomopoulos, *Econ-*

(Continued on next page.)

In efforts at integration the main function of institutional structures is, of course, to provide support and a frame. On the integration process, however, they may act either as a brake or an engine. That is why their effectiveness has considerable importance for integration among developing countries.<sup>4</sup>

The study of documentary material was supplemented by research in the field from March to July 1971. This made it possible to bring the available information up to date, to check it and also to have interviews with the directors of regional institutions and with national officials. In all, 99 interviews took place at the headquarters of the organizations considered and in the capitals of the member countries.<sup>5</sup> Their duration was

(Footnote 3 continued.)

omic integration among developing countries (Paris, Development Centre Studies, Organisation for Economic Co-operation and Development (OECD), 1969); J. S. Nye, *Peace in parts, integration and conflict in regional organization* (Boston, Little, Brown & Co., 1971); K. W. Deutsch, R. Savage, R. Chadwick and D. Senghaas, *Regionalism, trade and political community* (in preparation); D. Sidjanski, *Dimensiones institucionales de la integración latinoamericana* (Buenos Aires, Institute for Latin American Integration -Inter-American Development Bank (INTAL-IDB), 1967). See also A. Etzioni, *Political Unification. A comparative study of leaders and forces* (New York, Holt, Rinehart and Winston, Inc., 1965); although concerned with the role of institutions, leaders and political forces from the comparative analysis angle, as its title indicates, Professor Etzioni's work does not examine any of the groupings forming the subject of the present study.

<sup>4</sup> The participants in the Bangkok Seminar on the Institutional Framework of Economic Integration Among Developing Countries corroborated the importance of the institutional framework in their conclusions: "The importance of an institutional framework in the process of regional co-operation and of economic integration is recognized. The institutional framework should correspond not only to the short-term objectives that led to its establishment, but should also be capable of stimulating action towards the attainment of the long-term objectives that the grouping sets for itself. It should be flexible enough to adapt itself to changing circumstances and needs." See UNCTAD "Report of the Seminar on the Institutional Framework of Economic Integration among Developing Countries" (Rapporteur: Mr. C. E. Gutierrez Luna, Central American Institute of Public Administration (ICAP) (TAD/EI/SEM.1/3), para. 70, p. 13.

<sup>5</sup> Distribution of interviews by organizations and functions:

Organization	Members of common institutions, secretary-general, officials	Governments and administrations	Specialized organs and common services	United Nations experts	Independent university experts	Total
LAFTA . . . .	4	1		1		6
Maghreb . . .	2			1		3
ASEAN . . . .	5	4	2	4		15
EAC . . . . .	11	6	4	5	6	32
UDEAC . . . .	7			1		8
CACM . . . . .	12	1	1	4	2	20
Andean Group.	6	2	3	4		15
TOTAL	47	14	10	20	8	99
	including:	including:	including:	including:		
	1 EAC minister, 1 member of the Board of the Andean Group, 4 secretaries-general and assistant secretaries-general and officials of various departments	3 ministers and appropriate officials	2 directors-general and appropriate officials	4 permanent resident representatives, United Nations Development Programme (UNDP) and Technical Assistance officials	Academic experts and former officials	

from half an hour to one hour per person questioned. To these should be added the numerous conversations that took place at Geneva with members of the Division for Trade Expansion and Economic Integration of the UNCTAD secretariat.

On the basis of this work, a first report<sup>6</sup> was drafted which served as a working paper for the Seminar on the International Framework of Economic Integration among Developing Countries, organized by UNCTAD at Bangkok from 17-26 January 1972. This Seminar was attended by 15 representatives from 12 countries members of the groupings studied, one community minister and 8 representatives of their secretariats (including 3 secretaries-general), 3 representatives of other United Nations bodies, 1 expert and 1 consultant.<sup>7</sup> The consideration of the monographs on the groupings represented made it possible to supplement the basic document.

General problems were clarified and the analysis of the decision-making process was improved as a result of further discussion. The provisional report was revised in the light of the additional information and the comments, ideas and experience made available by leading personalities of the regional groupings.<sup>8</sup> The present study is the outcome of this long process.

## Relations between content and institutions

From the institutional standpoint, the fundamental question is the relation between, on the one hand, the aims assigned to integration, its content and its problems, and on the other the form, capacity and efficiency of the institutions primarily responsible for operating the integration process. The problems that arise from this relationship, while they vary in their form, are much the same: adaptation of the institutions to common tasks, political and administrative modernization, reconciliation of national and regional interests, autonomy of decision of the common institutions, and the balance of power and advantages within the grouping.

Of course, it is not always politically possible to devise the most adequate institutional instruments. The importance of the institutional machinery has sometimes been played down in an effort to arrive at acceptable solutions. However, the experience of CACM in particular

<sup>6</sup> UNCTAD, document TAD/EI/Sem.1/1 and Add.1.

<sup>7</sup> Three groupings were represented at a high level: 1 community minister of EAC, 2 secretaries-general of EAC and UDEAC and 1 assistant secretary-general of the Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA), 3 directors of EAC, UDEAC and SIECA, respectively, and 1 official from EAC.

High ranking personalities from 12 countries members of 4 groupings (the 3 mentioned above and ASEAN); CACM: 1 minister, 1 deputy-minister (Honduras); 1 director (Guatemala) and 1 adviser (Costa Rica); UDEAC: 1 director (Gabon) and 1 presidential adviser (Cameroon); EAC: 1 planning official (Uganda); ASEAN: 2 assistant secretaries-general (Philippines and Thailand), 1 assistant director (Indonesia) and 5 officials (1 Indonesia, 1 Malaysia, 2 Philippines and 1 Singapore).

<sup>8</sup> The Secretary-General of LAFTA, the Secretary of the Permanent Consultative Committee of the Maghreb Countries and a member of the Board of the Andean Group submitted their comments in writing.

has shown that, although in the expansion phase of integration these deficiencies may be offset or masked by shared enthusiasm and the convergence of wills, they inevitably show up with the first difficulties. Institutional defects may, in certain cases, further paralyse an integration movement and underwrite the strength of the regional organization.

It is a commonplace today to assert that the objective of common development implies more than a mere regulation of trade: that it implies common actions and policies, initiatives and promotion efforts, a development strategy and development programming; in short, ampler and more active common duties which in their turn call for effective organization of combined powers and means and for permanent and competent administrative instruments.

### Classification

For purposes of comparison the seven groupings have been subdivided into two categories according to their degree of integration. The first category comprises three regional and subregional *co-operative* groupings: LAFTA, the Maghreb Group and ASEAN. The second is made up of four groupings which have reached a more advanced level of *integration*: EAC, UDEAC, CACM and the Andean Group.

It would clearly have been difficult, if not impossible, to make a broad comparison of organizations with such different aims and content. Without attempting to make this classification into a rigid distinction, we have based it on the distinction between *free trade areas* and other more advanced forms of union, i.e., *Customs unions*, *common markets* and *economic unions*.<sup>9</sup> Although the various types of integration form part of a continuous process ranging from loose co-operation to an advanced degree of integration, it has been demonstrated many times that the threshold between liberalization of trade and a customs union is a real dividing line entailing differences of structures and instruments. The form of the institutions, their size, their decision-making process and the scope of their activities vary so widely between co-operative and integrational organizations that no easy comparison is possible. This general point having been made, there is nothing to prevent comparisons between aspects, however limited, that are common to these two categories of organizations, particularly since, as time goes by, an organization may develop in one or other direction according to whether it is following the path of integration, disintegration or transformation. Nevertheless, whether in the shorter or longer term, the objective of both categories is integration.<sup>10</sup>

<sup>9</sup> According to B. Balassa these concepts may be defined as follows: (a) the free trade area implies the removal of quantitative restrictions and customs tariffs; (b) the Customs union unifies the tariffs of the countries within the area against outsiders; (c) the common market abolishes all restrictions on factor movements within the area; (d) the economic union provides for a certain degree of harmonization of economic, monetary, fiscal, social and counter-cyclical policies (see F. Kahnert *et al.*, *op. cit.*, p. 11).

<sup>10</sup> This consideration explains—if it does not entirely justify—the absence of the word “co-operation” in the title of this study.

### Aims of the regional groupings

The aims of the groupings studied reflect this distinction. In principle, LAFTA, the Maghreb Group and ASEAN aim at a liberalization of trade among their member countries in the more or less near future. The Protocols of Agreement (1964-1966) and the ministerial declarations made at the fifth Conference (1967) and the sixth Conference (1970) of the Ministers of Economic Affairs of the Maghreb countries and the ASEAN Declaration<sup>11</sup> (Bangkok, 1967) set forth general objectives that are often broad and sometimes imprecise: LAFTA, on the other hand, is pursuing its objective of establishing a free trade area reinforced by industrial complementarity agreements, with a view to the ultimate establishment of a common market. Having embarked on liberalization, LAFTA is at present going through a crisis of growth. Now that it has reached a ceiling in its method of liberalization by negotiated phases, it needs to get its second wind, which is inconceivable without the determined support of all its members, and in particular of the three countries with large domestic markets: Brazil, Argentina and Mexico.

The Maghreb Group and ASEAN, on the other hand, are as yet only in an initial, preparatory stage; neither of them is really underway. In the Maghreb Group, the draft agreement of December 1969, which has not yet been adopted, defines common objectives: preparation of a list of industries on which agreement must be reached, linear liberalization, harmonization of protective measures, establishment of a multilateral payments machinery and establishment of an integration bank. In the case of ASEAN, the objectives contained in the Declaration of Bangkok (1967) include acceleration of economic growth and social and cultural progress in the region, more effective co-operation for better use of agriculture and industry in the member States, and expansion of their trade. These broad and diversified goals have been only partially specified in the 121 recommendations adopted at the four ministerial meetings of ASEAN. These recommendations cover a large range of projects.

A United Nations team has been given the task of examining these projects and recommending a programme to the countries members of ASEAN. The team is working towards selective liberalization, supplemented by industrial co-operation agreements. Such a specific programme, if actually adopted by the member countries, would mean a genuine transformation of ASEAN.

In contrast, the four other groupings are pursuing in varying degrees a single general objective: the elimination of barriers to free movement in the area, the establishment of a Customs union leading gradually to an economic union, and the development and industrialization of the region. Despite this similarity, differences of conception emerge both in their specific objectives and in their means of implementation. In industrial development, for example, CACM has adopted a pragmatic approach in the form of a

<sup>11</sup> ASEAN, document ASEAN/DOC/1.



régime for integration industries and of a mechanism of incentives, whereas EAC and UDEAC have resorted to a general instrument, the transfer tax or the single tax. In addition, EAC is also aiming at harmonization of national development plans, while UDEAC has the ambitious objective of general development planning for the region, implying an equitable distribution of industrialization projects and co-ordination of national programmes. This global strategy has had to be abandoned for more limited and selective aims. The new orientation is not unlike the sectoral programming envisaged in the Andean Group. Difficulties and resistance have been met by three of these four subregional groupings—the Andean Group is still only at the very beginning of its existence—in their concerted industrial development. On the other hand, encouraging results have been obtained in the liberalization of trade, in Customs union, and in certain aspects of economic union—for example, the UDEAC monetary union—or of common services, particularly in EAC and CACM.

### **The situation at present**

Although the groupings have quite similar objectives, their present situations differ. On the whole, after an initial period either of inactivity following an initial measure of trade liberalization, as in LAFTA, or of experimental co-operation, the three co-operative groupings are preparing for a renewal of activity. Generally speaking, they are all looking for practical ways of relaunching active co-operation.

The situation of the integration groupings is more varied. UDEAC is to some extent, marking time while waiting for a resurgence of industrial development; this contrasts with the energetic take-off stage of the Andean Group. CACM and EAC, on the contrary, are attempting to find a way out of their crises. The intergovernmental institutions of CACM have been paralysed and freedom of movement has been partly interrupted by the armed conflict which broke out in July 1969 between Honduras and El Salvador. This crisis, which revealed the weakness of the intergovernmental institutions and machinery, led to a reappraisal and an attempt was made to strengthen the institutional framework and machinery. One of the aims of the Normalization Commission is to restructure the institutions in the light of the common experience. The conflict also revealed problems of substance which have been weighing on the region for some time and relate to equitable distribution of the benefits and costs of integration, balanced development of the region and fiscal receipts. These causes of imbalance were already troubling the countries members of EAC long before the Community was established in 1967. The advent of a new régime in Uganda early in 1971 has created a situation of tension with the United Republic of Tanzania, paralysing the intergovernmental machinery and preventing the three Presidents from meeting. However, an agreement guaranteeing the proper functioning of EAC was concluded in November 1971. Since then, the institutions have resumed normal operation, although the three Heads of State have not yet met within the supreme institution, the EAC Authority. These parallel crises raise the question of

the settlement of conflicts within regional groupings and put the solidarity and capacity of the regional institutions to the test. In both cases, they have demonstrated the importance and continuity of the community organs, the common services and the specialized bodies, which have not interrupted their activities.

**Part One**  
**MONOGRAPHS**

## Chapter I

### REGIONAL CO-OPERATION: LATIN AMERICAN FREE TRADE ASSOCIATION, MAGHREB GROUP, ASSOCIATION OF SOUTH-EAST ASIAN NATIONS

#### A. Latin American Free Trade Association

##### 1. INSTITUTIONS AND AGENTS

###### (a) *Main institutions*

###### (i) *The Council and the Conference*

1. LAFTA has two organs at the highest level: the Council of Ministers for Foreign Affairs and the Conference of Contracting Parties. The purpose of the Council of the Ministers, which was established in 1965, is to associate the political authorities with the work of LAFTA and, in this way, to give the Association a new political impetus. The Conference, consisting of representatives of the member States, is more a forum for negotiations than a directing body. It is, in fact, an enlarged and extended meeting of the Standing Executive Committee.<sup>1</sup> It continues to meet regularly, although its main negotiating functions have been considerably reduced.

###### (ii) *The Standing Executive Committee*

2. The Standing Executive Committee of LAFTA, composed of permanent representatives of the member States at the ambassadorial level, has become the keystone of the institutional system and emphasizes its intergovernmental character. Although it has certain community functions—under the Montevideo Treaty<sup>2</sup> it is responsible for supervising the

<sup>1</sup> See D. Sidjanski, *Dimensiones institucionales de la integración latinoamericana* (Buenos Aires, INTAL-IDB, 1967), p. 28; and G. Magariños, *Evaluación del proceso de integración de la ALALC* (Montevideo, LAFTA, 1969), pp. 21-23.

<sup>2</sup> Treaty establishing a Free Trade Area and instituting the Latin American Free Trade Association, signed at Montevideo, Uruguay, on 18 February 1960. For the text of the treaty, see United Nations, *Multilateral Economic Co-operation in Latin America*, vol. I, *Text and Documents* (United Nations publication, Sales No. 62.II.G.3), p. 57.

implementation of the Treaty's provisions—outwardly it is more a prolongation of the Conference or, as the case may be, of the Council of Ministers.<sup>3</sup> In the last few years, the Standing Executive Committee has become more of an administrative organ of the Association, and in that capacity it has to deal with many routine questions of minor importance. On the whole, its activities have tended to become more regular and more routine; and this is confirmed by two indications. Firstly, there has been little significant change in the composition of the national delegations for several years, their size (either in general or as regards the number of technical representatives) not having increased. There are not more than 60 members making up eleven delegations, or more like 50 when the particularly large delegation from the country acting as host to LAFTA is excluded, i.e. an average of 5 per delegation.<sup>4</sup> Secondly, certain permanent representatives (Colombia, Ecuador, Mexico, Peru) are also accredited as ambassadors to the Uruguayan Government, and therefore do not devote themselves exclusively to the work of the Standing Executive Committee, whose importance cannot have increased. On the other hand, the Committee continues to meet weekly and its four working parties also hold many meetings.<sup>5</sup>

### (iii) *The Executive Secretariat*

3. The Executive secretariat of LAFTA is a technical body which report, directly to the Standing Executive Committee and has only a small measure of autonomy. The Executive Secretary, the two Deputy Executive Secretaries and the various secretariat departments play a technical role in preparing for meetings of the Council and the Conference, and of advisory bodies and working parties. Since the Association has not been transformed, despite the efforts made in 1965-1966, the Executive Secretariat has remained fairly small. In 1971, counting two new officials, the total number of "professionals" provided for in the Association's budget was 27, including the three Executive Secretaries. To this total may be added several international civil servants who have been seconded from their organizations to work in the Association's secretariat.

4. (a) *By category*, the members of the secretariat are classified as follows: 1 Executive Secretary and 2 Deputy Executive Secretaries; 5 Directors of department; 7 heads of division (*Jefe del sector*); 2 co-ordinators

<sup>3</sup> Magariños, *op. cit.*, p. 21.

<sup>4</sup> In 1971, for example, the size of the delegations to the Standing Executive Committee was as follows: Argentina 7, Bolivia 3, Brazil 4, Chile 4, Colombia 5, Ecuador 5, Mexico 6, Paraguay 5, Peru 4, Venezuela 4 and Uruguay 13.

<sup>5</sup> The four working parties consider the following topics: I. Agricultural and industrial problems; II. Administrative problems; III. Trade matters; IV. Economic matters and special matters. The working parties, which are composed of members of the permanent delegations, are assisted by officials of the Association secretariat. Co-ordination of these working parties is the responsibility of the representatives of the member countries, who perform this function on a rotation basis. Through their co-ordinators, the working parties submit to the Standing Executive Committee periodic reports on their activities and any conclusions they have reached, for consideration by the competent organs. (See the programme of work of the Standing Executive Committee in LAFTA, *Síntesis mensual* (Montevideo), No. 80 (February 1972), pp. 88-89.

and 10 professionals. At the technical level, the general service staff comprise 16 chiefs of service and 1 press secretary.

(b) The division *by department and service* is as follows:

*Office of the Executive Secretary*—1 Executive Secretary and 2 Deputy Executive Secretaries, 1 co-ordinator, 5 professionals; 1 chief of service and 1 press secretary belonging to the general service staff;

*Administrative department*—1 director and 12 chiefs of service (general services);

*Trade policy department*—1 director, 3 heads of division and 1 co-ordinator;

*Industry department*—1 director, 2 heads of division and 3 professionals;

*Agriculture department*—1 director and 1 professional;

*Economic affairs department*—1 director, 1 head of division and 1 professional;

*Statistical service*—1 head of division and 3 chiefs of service (general services).

5. The increase in the size of the budgets (in U.S. dollars) reveals the development of the Association's resources: amounting to \$375,000 in 1962, of which \$265,000 came under the heading of staff costs, the budget rose to \$730,000 (\$550,000 for staff costs) in 1965 and \$798,000 (\$630,000 for staff costs) in 1966; then \$1,150,000 (\$939,000) in 1969. After a relatively rapid expansion over the first few years, there was only a slight increase in 1970, to \$1,222,000 (\$999,400), and in 1971, to \$1,297,000 (\$1,220,620).

6. After the period of rapid expansion between 1962 and 1966, the Association slowed down to a steady pace from 1966-1967 onwards. At the same time, the Executive secretariat ceased to play a directing role in the integration process. Once limits had been set to any expansion of LAFTA's functions, the Standing Executive Committee resumed its central supervisory and executive role and strengthened its hold over the Executive secretariat. In doing so, it acted far more as an intergovernmental body than as a community institution. The *Technical Committee*,<sup>6</sup> in fact, never materialized while the Executive secretariat's role was further restricted.

### (b) *Advisory bodies and specialized organs*

#### (i) *Councils and Commissions*

7. In LAFTA, these bodies have developed at the level of the Standing Executive Committee and of the Executive secretariat. At the highest level, there are three Councils (the Council for Financial and Monetary Policy,

<sup>6</sup> The Technical Committee was to have been an autonomous community body representing the interests of the region as a whole and composed of eminent Latin American personalities. It was to have been invested with executive powers and with powers of initiating proposals, and its functions were to have been to counterbalance the weight of national interests in intergovernmental bodies and to take charge of the Executive secretariat. It was to have been established in 1965 at the same time as the Council of Ministers.

the Council for Transport and Communications and the Council for Agricultural Policy). Their activities appear to be very much reduced at the present time, since only the Council for Financial and Monetary Policy has held meetings (twice) in 1970 and 1971. In addition, there are two separate Consultative Commissions, one consisting of employers and the other of workers, which were set up in 1966. While the second of these Commissions is not very active (two meetings before 1972), the Consultative Employers' Commission held its sixth meeting in April 1971 at Caracas, with the participation of the Executive Secretariat of LAFTA and about 60 representatives. The effect of the subdivision of the Commission into national delegations is to some extent offset by the role of the Association of Latin American Industrialists (AILA), which is active both inside and outside the Commission (their meetings follow each other or coincide). Lastly, various special meetings, such as the meetings of Customs directors, tax directors, stock-exchange representatives etc., were held in 1970 and 1971. At the technical-expert level there are eight Commissions (*Comisiones asesores*), including the Commission on Industrial Development, the Commission on Trade Policy and the Commission on Monetary Affairs. Consisting of one or two members from each country, the commissions and working parties meet on an average once a year. The Executive secretariat is responsible for preparing, co-ordinating and servicing the meetings. The aim is to make experts in various specialized fields in the member States available to the Standing Executive Committee and the Executive secretariat; in principle, these experts participate in the work of the commissions in their personal capacity, whereas the participants in the working parties are government experts. This initial distinction has since become blurred, since the non-government experts in the commissions behave in practice like national representatives.

#### (ii) Sectoral meetings

8. Representatives of the industrial sectors have been associated with advisory activities since 1962 through the sectoral meetings. These meetings enable the private sectors to compare their points of view, to contribute to the preparation of proposals and projects and to facilitate their adoption by intervening with their respective Governments. On average, between 10 and 17 sectoral meetings are held each year, with about 40 participants per meeting. In 1963, 327 industrialists took part in 7 meetings; in 1965 these figures rose to 660 and 17 respectively. For the same number of meetings (17) in 1968 and 1970, the total number of participants was 712. In 1971 there were 22 meetings and 732 participants. The main purpose of these meetings is to propose tariff concessions or complementarity agreements. The tariff negotiations having come to a halt the work of the meetings was concentrated more on complementarity agreements. In 1966, of 984 concessions recommended to Governments, 568 related to the national schedules and only 416 to complementarity agreements. In 1970, on the other hand, only 155 concessions concerned the national schedules as against 1,394 to be included in the complementarity agreements. The figures for 1971 were 5 and 747, respectively. Since 1968, a second trend has been the growing role of the professional associations in the organization and

preparation of the sectoral meetings (Latin American Association of the Electrical and Electronic Industries (ALAIINE), Latin American Association of the Carried Foods Industry (ALICA), Latin American Association of the Plastics Industry (ALIPLAST): of 17 meetings held in 1970, 6 were held under the auspices of the three Latin American professional associations and 11 were organized by the Executive secretariat. These professional associations will be responsible for organizing 8 of the 15 meetings that have been planned for 1971.<sup>7</sup> The results obtained from 133 meetings for 62 industrial sectors (1963-1970) and 155 meetings for 64 sectors up to the end of 1971 are as follows: of a total of 10,017 concessions recommended, 2,600 or 26 per cent were adopted; when the 1971 data are included, 2,953 concessions out of 10,797 were adopted, or 27 per cent.<sup>8</sup> In addition, several complementarity agreements were completed during these meetings and put forward as proposals through the Standing Executive Committee.

#### (iii) Complementarity agreements

9. The complementarity agreements were in line with industrial development prospects at the regional level. Until 1969, i.e., over a period of eight years, only seven agreements were signed, but further momentum was attained between 1969 and 1971 with the signature of 10 new agreements and consideration of about 20 draft agreements.<sup>9</sup> This increase tends to make up for the stagnation in the tariff field. Despite the momentum gained, the results obtained are modest. Moreover, the agreements are mainly between the large countries and the foreign industries established in those countries.

10. Most of the complementarity agreements are administered by a special committee or a board of directors. The administering body is composed of one titular representative and one alternate per member State. As in the example of the petrochemical industry (organized in accordance

<sup>7</sup> The functions performed by the secretariat include the following: preparation of the basic documents (list of products, agenda, etc.), provision of technical assistance and guidance for the meetings (the object being to avoid conflicts) and preparation of studies and drafts in various fields (origin, transport and trade policy). These functions of co-ordination and organization may be assumed in part by Latin American professional associations.

<sup>8</sup> See LAFTA, *Sintesis mensual* (Montevideo), No. 76 (October 1971), p. 444 and No. 81 (March 1972), pp. 161-164.

<sup>9</sup> The first seven agreements are concerned with punched cards, electronic valves, domestic appliances, products of the electronics, chemical and petrochemical industries and households good. Participation is restricted and mixed: three large countries are parties to the agreement on electronic valves but none of them is a party to the agreement on the petrochemical industry; two are parties to the agreements on punched cards and the chemical industry. (See LAFTA, *Sintesis mensual* (Montevideo), No. 67 (January 1971), pp. 21-46.) The ten new agreements concluded since 1969 are characterized by the predominant if not exclusive participation of the three large members (Argentina, Brazil and Mexico): six agreements with the participation of these three countries, and only three of them (phonographs, petrochemicals and air-conditioning) with that of two other countries (Uruguay and Venezuela), the remaining four agreements being exclusively between two of three large countries. Among the fields covered are glass, office equipment, the electronics industry, pharmaceuticals, etc.

with the "Protocol of complementarity agreement for the petrochemical industry" of 25 July 1968), the board of director takes decisions by a majority of two-thirds of its members. Its main functions are to supervise the implementation of the agreement and the execution of the liberalization programmes; to take any necessary measures to interpret the agreement and to settle disputes; to regulate the safeguard clauses and to study financing possibilities; and lastly, if necessary, to impose penalties in the form of suspension of the benefits of the agreement against parties not complying with the obligations it imposes.

(iv) *Multilateral compensation agreement*

11. On 23 September 1965, the Council for Financial and Monetary Policy approved an agreement between the central banks empowering them to open reciprocal credits. At its third meeting, it introduced some changes which, after approval by the Standing Executive Committee, came into force on 1 July 1968. According to the system in force, the credits are decided on bilaterally, and the resulting balances are cleared multilaterally every quarter. The Central Bank of Peru acts as the central agent (*banco agente*) while the Federal Reserve Bank of New York acts as its correspondent. After each clearing the debtor banks must transfer the appropriate amounts to the correspondent bank for the account of the central agent. This system is based on reciprocal credit agreements concluded between central banks.<sup>10</sup>

(c) *National committees and professional organizations*

(i) *National committees*

12. The countries members of LAFTA have set up national committees whose role is to formulate official positions in relation to LAFTA, to prepare the tariff negotiations and to follow up integration questions. As a rule, the committees come under the Ministries of Foreign Affairs and include representatives of other Ministries concerned, of the central banks and of the Chambers of Commerce, Industry and Agriculture. Thus, although they are inter-ministerial bodies, the committees are also spokesmen for the private sector, which through them can express its views.

(ii) *Professional organizations*

13. There are about fifteen professional organizations at the regional level, two of them are of the central type: AILA and the Association of Latin American Entrepreneurs of LAFTA (AELPALALC). The remaining organizations are sectoral or specialized organizations; they include the

<sup>10</sup> See INTAL, *La integración económica de América Latina. Realizaciones, problemas y perspectivas* (Buenos Aires, INTAL-IDB, 1968), p. 223; A. Prugue, *Siete años de acción de la ALALC* (Buenos Aires, LAFTA-IDB-INTAL, 1968), pp. 76-78; and INTAL, *El proceso de integración en América Latina 1968-1971* (Buenos Aires, INTAL-IDB, 1972), pp. 100-101.

Latin American Federation of Chemical Industries, the Latin American Textile Association (ATLA), the Latin American Association of Glass Producers, ALAINE, the Latin American Association of the Shipbuilding Industry (ASINLA), the Latin American Wine and Grape Organization (OLAVU), and other, more specialized, organizations, such as ALIPLAST, the Latin American Association of Pulp and Paper Manufacturers, the Latin American Association of the Tanning Industry (*Curtiduría*) (ALAIC), the Latin American Organization of Alcoholic Beverage Manufacturers (OLAFABA) and ALICA. In transport, two associations are active: the Latin American Shipowners Association (ALAMAR) and the Latin American Railways Association (ALAF).<sup>11</sup>

## 2. THE DECISION-MAKING PROCESS

(a) *Distribution of powers*

14. In LAFTA, it is the Council which takes the important decisions, while the Conference retains its role as a forum for negotiations. The Standing Executive Committee is responsible for preparing decisions and negotiations and may, in addition, exercise certain powers delegated to it by the Council or the Conference. Although the Standing Executive Committee has only limited powers of its own, it occupies a central place in the decision-making machinery. In the course of LAFTA's development, powers have become more concentrated in the permanent intergovernmental organ, which is assisted by the Executive secretariat and by various advisory commissions and meetings.

(b) *The decision-making model*<sup>12</sup>

15. Initiatives stem basically from the Standing Executive Committee and its members and, less conspicuously, from the Executive Secretariat. They may also originate from the consultative commissions or sectoral meetings (the latter have put forward many proposals). Where initiatives come from the sectoral meetings (particularly from the private sectors concerned) or from experts participating in working parties or commissions, they are always screened and possibly modified by the Standing Executive Committee, which then submits them to the Council or the Conference, or to the Governments concerned if the negotiation of complementarity agreements is involved. In certain specialized fields, the initiative may be taken by a professional association, such as, in the case of shipping, ALAMAR.

<sup>11</sup> See D. Sidjanski, "Grupos de presión y la integración latinoamericana", in *Relaciones de trabajo en el proceso de desarrollo económico y social*, International Institute of Labour Studies (International Labour Organisation (ILO)) (course of 16 lectures) (Buenos Aires, Editorial Sudamericana, 1968), pp. 81-117.

<sup>12</sup> Sidjanski, *Dimensiones institucionales...*, op. cit., pp. 55-65; see also LAFTA, *Síntesis mensual* (Montevideo), No. 84 (June 1972), pp. 381-382.

16. At the stage of study and preparation, the main role is played by the Standing Executive Committee, assisted by the Executive secretariat and various groups of experts. Through the Committee, Governments exercise continuing control over the whole process, the Executive secretariat having a purely technical function. The decision is taken either by the Committee, where it has its own or delegated powers, or by the Council and the Conference. In the second case, the Committee's role is to formulate proposals and make the necessary preparations. In the negotiation of the common or national schedules, which are considered by the Conference, Governments play the main role. At these three levels, unanimity—which can include abstention—is the general rule, for the treaty requires, except in certain cases, a two-thirds majority without opposition or negative vote.

(c) *Scope of the instruments and settlement of disputes*

17. This intergovernmental process results in instruments which take the form of *resolutions*. These are binding on the member States where they concern the fulfilment of commitments or on the institutions to which they are addressed, but in most cases they have the character of recommendations or protocols which must be ratified. In short, in this process, carried out by intergovernmental institutions, the member States have the maximum safeguards, which come into play either when the common instruments are adopted (veto) or when they have to be made obligatory.

18. LAFTA has instituted a flexible mechanism for the *settlement of disputes* which may arise between member countries. In the first stage, it is laid down that the parties involved in the dispute must engage in direct negotiation; in the second stage, should it prove impossible to find a solution by direct means, the question must be submitted to the Standing Executive Committee (thus following a long-established practice); in the third stage, an arbitration procedure is laid down.<sup>13</sup>

(d) *External relations*

19. In its relations with third countries and international or regional organizations, LAFTA is represented by the Standing Executive Committee and, in exceptional cases, by its Executive Secretary. The latter attends as an observer the sessions of the Commission of the Andean Group. Apart from this, it is the Standing Executive Committee which sends delegations to other organizations, concludes co-operation agreements (IDB), receives visits from representatives of Governments or

<sup>13</sup> The Protocol on the Settlement of Disputes was approved by the Council at Asunción in 1967. Signed by all the member countries, it entered into force in May 1971 with ratification by five countries (Brazil, Colombia, Ecuador, Mexico and Uruguay) which have just been joined by a sixth country (Paraguay), on 2 February 1972. Under the arbitration procedure, the three arbitrators are chosen by agreement between the parties from a list; in the event of disagreement, the appointment procedure is automatic.

organizations (European Economic Community (EEC), Organization of American States (OAS)) and participates in the meetings of the Economic Commission for Latin America (ECLA) and the Special Committee on Latin American Co-ordination (CECLA).<sup>14</sup>

**B. Maghreb Group**

**1. INSTITUTIONS AND AGENTS**

(a) *Main institutions*

(i) *Conference of Ministers of Economic Affairs of the Maghreb Countries*

20. As its name indicates, the Conference of Ministers of Economic Affairs of the Maghreb Countries is made up of the ministers of economic affairs of the member countries. Some 10 higher civil servants from the Maghreb countries also participate in the meetings to assist the ministers in the various fields of integration. In practice, the same officials and experts, in various capacities, usually take part in the work of the advisory commissions or specialized bodies. No specific frequency is laid down for the ministerial meetings, which usually last for several days.

(ii) *Permanent Consultative Committee of the Maghreb Countries*

21. Created by the first Conference of Ministers of Economic Affairs of the Maghreb Countries (Tunis, 29 September-1 October 1964) and established at Tunis since 1966, the Permanent Consultative Committee of the Maghreb Countries (CPCM) is made up of one representative per member country. The three representatives conduct their activities on a continuous and permanent basis at the headquarters of CPCM. They are higher civil servants having at least the rank of director in the national civil service, or an equivalent rank, in their country of origin. The representatives agree together on the steps to be taken within the framework of CPCM activities. Each representative may be entrusted with a particular co-ordination and research mission; he may be appointed to represent CPCM at meetings of the specialized Maghreb institutions or of national, regional and international economic organizations, or to make statements to information media or the Press. Any such mission is defined by CPCM. Lastly, each

<sup>14</sup> The purpose of CECLA is to enable the Latin American countries to formulate and maintain common positions vis-à-vis the United States of America and EEC, and within such international organizations as UNCTAD. For example, a special delegation from LAFTA took part in the twelfth extraordinary ministerial meeting of CECLA (Lima, 25 October-9 November 1971); at that meeting, the Latin American countries defined a common position with a view to the third session of the United Nations Conference on Trade and Development. The Lima Declaration (see *Proceedings of the United Nations Conference on Trade and Development, Third Session*, vol. I, *Report and Annexes* (United Nations publication, Sales No. E.73.II.D.4), annex VIII, F) contains a reaffirmation of the principles of UNCTAD but also guidelines for common action (see LAFTA, *Sintesis mensual* (Montevideo), No. 81 (March 1972), pp. 172-179).

representative is responsible for the necessary liaison between CPCM and the competent authorities of his country of origin.

22. The Presidency of CPCM rotates among the member countries and the President must hold the rank of minister. He is appointed by the Conference of Ministers of Economic Affairs of the Maghreb Countries and is responsible for supervising the execution of the tasks entrusted to CPCM by the Conference of Ministers. He presides at meetings of CPCM at least four times a year. He represents CPCM in dealings with the public authorities of the Maghreb countries, international organizations and third parties, and in all civil, administrative and legal acts. On behalf of CPCM, he receives any monies due to the Committee and commits it to expenditure. He presents the detailed report of the activities of CPCM and of its subordinate institutions to the Conference of Ministers, as well as quarterly reports on the management of the CPCM budget.

23. The Vice-President, who must be a representative of the same country as the President, takes the latter's place when he is unavailable and also, in consultation with the President, exercises certain of his prerogatives, including that of presiding over some of the frequent meetings of CPCM held at its headquarters.

### (iii) Secretariat

24. CPCM has an embryonic secretariat, headed by a Secretary appointed by the Conference of Ministers for a three-year term, which is renewable. He is directly responsible to the President. He exercises his functions under the authority of CPCM and within the framework of the decisions taken by the Committee. He provides secretariat services for the Conference of Ministers, sessions and meetings of CPCM and meetings of the specialized Maghreb commissions and committees. He is responsible for organizing the said meetings and sessions, and for securing and preparing all the relevant documents.

25. The Secretary is responsible, under the authority of the President or, in his absence, of the Vice-President, for paying any sums committed in conformity with the approved annual budget<sup>15</sup> and within the limits of the corresponding funds. He is also responsible for the recruitment, administrative organization and management of the staff. Nevertheless, the recruitment and dismissal of technical staff require a decision by CPCM. The administrative staff is placed under the authority of the Secretary.

26. The staff, the draft statute for which is being considered by CPCM, consists of one administrator, one accountant, one interpreter, one public information officer, one documents officer and four editors, as well as secretaries, shorthand-typists and clerks. The experts and technicians, who carry out their duties under the direction of the Secretary of CPCM, are selected from among candidates submitted by the representatives.<sup>16</sup>

<sup>15</sup> The annual budget of CPCM amounted to approximately \$U.S. 495,000 in 1972.

<sup>16</sup> Of six posts appearing in the budget, only one has been filled.

The other staff members are recruited by the Secretary as and when they are needed, and their distribution by nationality is pragmatic.<sup>17</sup>

27. At its present stage of organization, the Maghreb Group does not apply the principle of division of functions between the intergovernmental institutions and the secretariat. For the time being, the control of CPCM and its representatives over the Secretary and the secretariat is strong and, contrary to the practice in international organizations, leaves them only a limited amount of freedom of action.

### (b) Advisory bodies and specialized organs

28. Two categories of bodies can be distinguished: the commissions and committees, on the one hand, and, on the other, specialized intra-Maghreb bodies responsible for research or for managing certain common activities such as the marketing of a product, as, for instance, the Maghreb Alfa Board (COMALFA) and the Maghreb Centre for Industrial Studies (CEIM).<sup>18</sup> All these bodies were set up under the auspices of the Permanent Consultative Committee and are supervised by it.

### (i) Commissions and committees

29. There are at present some fifteen commissions and committees, as well as two sub-committees of the Statistical and National Accounting Commission. In addition, the Transport and Communications Commission is assisted by four committees and by the Maghreb Central Clearing House. The commissions and committees together cover the following fields: transport and communications, posts and telecommunications, industry, trade relations, statistics and accounting, tourism, pharmaceuticals, etc.

30. Generally speaking, these bodies have certain features in common: in principle, each country has one or two members per commission or committee (except three on the proposed Maghreb Committee on Employment and Labour), and the chairmanship rotates among the member States for one-year terms, except in the case of the Committee on Postal and Telecommunications Co-ordination, where the term is two years. Regular meetings are normally held once or twice a year, except in the case of the Committee on Postal and Telecommunications Co-ordination which meets biennially. The meetings are held in each of the Maghreb capitals in turn. Most of these commissions and committees have as yet no fixed headquarters, although fixed headquarters may well become necessary,

<sup>17</sup> CPCM Statutes, art. 11: "The Secretary shall be responsible for the recruitment administrative organization and management of the staff; nevertheless, the recruitment and dismissal of technical staff shall be subject to agreement by the Committee. The administrative staff shall come under the authority of the Secretary." Art. 12: "The Committee shall be assisted in its work by the technical staff of the Maghreb Centre for Industrial Studies and the Maghreb specialized Commissions and Committees".

<sup>18</sup> See H. Baghriche, *Aspects institutionnels de l'intégration économique du Maghreb* (Subregional Course on the Economic Integration of the Maghreb) (Tunis, Institut de développement économique et de planification, March 1969), p. 8.



mainly because of the increasing work-load. For example, the Transport and Communications Commission and two of its committees (Rail Transport and Road Transport) have established headquarters in Tunis and Algiers. These two committees have their own secretariats, though the secretariat of the Commission is provided by CPCM. The proposed Committee on Employment and Labour would also have a fixed headquarters, at Rabat, as well as a permanent secretariat. According to the draft Maghreb agreement on economic co-operation, however, this structure is likely to be changed.

(ii) *Specialized organs*

31. *The Maghreb Standardization Committee (COMANOR)*. Although it appears among these commissions and committees, COMANOR differs from them in that its structure is more complex and more autonomous, and that it is connected with CEIM. The Statutes of COMANOR,<sup>19</sup> which were adopted in July 1970, provide for three types of bodies: (a) the Board of Directors, the deliberative body of COMANOR, is composed of representatives appointed by the Maghreb countries; it elects its chairman for a one-year term, by a majority vote, and the chairmanship rotates among the representatives of the Maghreb countries; (b) the technical committees, established by the Board of Directors to prepare draft Maghreb standards; (c) the secretariat, consisting of a secretary and of technical and administrative staff forming an integral part of the CEIM personnel which functions in a continuous and permanent manner within that body. The secretariat is responsible for making proposals to the Board of Directors of COMANOR, for executing the Board's decisions and, in particular, for co-ordinating Maghreb co-operation activities in the field of standardization. It provides secretariat services for the Board of Directors and the technical committees.

32. The purpose of COMANOR is to promote the development and standardization of norms for industrial products in the Maghreb countries, with a view to increasing economic co-operation between those countries. It is responsible for adopting recommendations for Maghreb standards, for assisting specialized bodies in the Maghreb countries and fostering the basic and advanced training of Maghreb officials responsible for standardization matters. In addition, it co-ordinates the action of specialized Maghreb bodies in international organizations.

33. *The Maghreb Centre for Industrial Studies (CEIM)*. This Centre, which has its headquarters at Tangier, is mainly concerned with technical assistance and with the evaluation and study of development projects. It is governed by a Board of Directors and a Director. The Board of Directors is composed of two representatives per country, one of whom is responsible for permanent liaison between his Government and CEIM. The Board approves the work programme and budget of CEIM and the Director's

<sup>19</sup> The COMANOR Statutes, adopted in July 1970, have been supplemented by the draft statutes prepared in March 1972.

annual report. The Director, who is appointed by the Conference of Ministers, is responsible for the technical, administrative and financial management of CEIM. CEIM, which is a specialized and autonomous body, functions in liaison with and under the supervision of CPCM.

34. *The Maghreb Alfa Board (COMALFA)*. This Board, which is not currently active, has the task of marketing the alfa crop and has exclusive selling rights. An operational body, it investigates the international market and centralizes all orders, sales, information and documentation. COMALFA is governed by a Board of Directors consisting of two representatives per member country. The Board meets three times a year.<sup>20</sup> By a unanimous decision, it fixes each country's quota and establishes the floor price. COMALFA itself has no permanent central secretariat, but its Chairman is assisted by permanent secretariats in each of the member countries which maintain a documentation centre. The Chairman, who is appointed annually on the rotation principle, has considerable powers: he distributes orders in the light of the quotas allocated and of the customers' wishes and has full powers of investigation. The member countries undertake to assist him and to grant him facilities for carrying out his duties. Other functions, such as the invoicing and collection of sums due on sales, are not centralized but remain within the competence of each member country.

35. In the early stages, COMALFA functioned normally and was able to ensure substantial foreign currency earnings for the member countries which had encountered difficulties in marketing their production by reason of the deterioration in the prices for the product and of the use of less costly products by the European paper-making industry. However, in view of the steady shrinking of foreign markets, the Fifth Conference of Ministers of Economic Affairs of the Maghreb Countries (1967) decided in favour of the industrialization of the alfa sector, the technical planning of which was entrusted to CEIM.

(c) *National co-ordinating bodies and professional associations*

36. The machinery in the Maghreb Group is a simple one: as a general rule, the Minister of Economic Affairs in each country or an official appointed by him co-ordinates the work within the Ministry and between the various Ministries.

37. The only Maghreb professional association connected with economic integration, the Union of Maghreb Chambers of Commerce and Industry, is in process of formation. There are other associations—of magistrates, physicians, women and family organizations.<sup>21</sup>

<sup>20</sup> COMALFA is financed not only by contributions but also by earnings from services rendered, as in the case of CEIM and COMANOR. In the case of COMALFA, the operational costs which are met by the member countries are distributed in accordance with a special system *pro rata* to the quotas allocated, within a limit of 1 per cent of the f.o.b. value.

<sup>21</sup> Ch. Tnani, Tunisian representative to CPCM, "Les institutions maghrébines gouvernementales et non gouvernementales" in "Séminaire des experts maghrébins sur les techniques juridiques de la coopération maghrébine", Tunis, 27-30 January 1971 (mimeographed), p. 2.

## 2. THE DECISION-MAKING PROCESS

### (a) *Distribution of powers*

38. All decision-making powers are held by the Conference of Ministers of Economic Affairs of the Maghreb Countries, the keystone of the system. Although operating without a written statute, the Conference has decision-making powers with respect to the other institutions and the power of assessing and approving instruments submitted to it. This power of approval is in some cases limited, for important instruments must be approved by the Governments of member States. Despite this formal concentration of powers in the Conference, CPCM fulfils a basic function in actual practice: it prepares the Conference instruments, makes proposals and supervises the implementation of measures agreed upon by the Conference. In carrying out these duties, it is assisted by the advisory and specialized bodies. The duties of these bodies consist mainly in the co-ordination and harmonization of activities and standards, the exchange of technicians, documentation or information, research and the preparation of common decisions. The recommendations or suggestions of most of these bodies have to be unanimous. They are submitted through CPCM to the Conference of Ministers. The bodies in question are sometimes empowered to supervise the execution of measures decided upon by their boards of directors. They also have certain powers to carry out specific tasks and management duties. The activities of CEIM may be mentioned in this connexion, and also those of COMALFA, whose Board of Directors fixes the quotas and the floor price, and whose Chairman has important powers. In exceptional cases, the Committee on Rail Transport is even empowered to take certain executive decisions.

### (b) *The decision-making model*

39. On the basis of this distribution of powers, the general model of the decision-making process can be summarized as follows: on the initiative of the Conference, CPCM or a Government, the commissions, committees or sub-committees prepare recommendations which are addressed to CPCM. After consideration and, possibly, amendment, the latter body submits them to the Conference. At all these levels, unanimous agreement is sought. In practice, however, the distinctions and procedures appear less strict. In the first place, although the Ministers sometimes meet in restricted session, work is usually carried out in plenary, in the presence of other members of delegations, or in commission. In either case, the people present are often those who took part in the preparation of recommendations in the advisory commissions or in CPCM. Moreover, the participation of the latter body in the whole process of producing recommendations is effected through one of its representatives, who attends all the meetings for the purpose of assisting the participants and facilitating the interpretation of recommendations within CPCM. The Secretary of CPCM also takes part in these meetings.

40. In this way, CPCM follows a matter through its various stages from start to finish and holds frequent meetings before, during and after these preparatory discussions. It is also in a position to hold various consultations during this process: it can arrange special meetings, convene expert commissions or consult national administrations or international or regional organizations (UNCTAD, the Food and Agriculture Organization of the United Nations (FAO), the Economic Commission for Africa (ECA), the United Nations Industrial Development Organization (UNIDO), etc.). It can also establish an *ad hoc* commission to consider a particular item for submission to the Conference.

41. Needless to say, CPCM is not absent from the last stage of the process at the ministerial level. Within the three days preceding a meeting of the Conference of Ministers, it holds, under article 14 of its rules of procedure, an extraordinary meeting in the place where the Conference is to be held, in order to complete work on the documentation for the Conference, although all the components of the documentation have already been sent to the Maghreb countries.<sup>22</sup> The Conference agenda is a fairly heavy one since everything, unless an exception is made, must be approved by it, including the proposals by CPCM and the advisory commissions, and important action to be taken by the specialized bodies. For example, the work programme and budget of CEIM have to be submitted to the Conference for approval.

42. The adoption by the Conference of resolutions (recommendations, practical measures and approval of proposals) is subject to the unanimity rule. In practice, however the members of the Conference do not vote in the customary manner of international organizations; the Ministers try to reach a consensus and agree that resolutions which have been unanimously approved should be distributed. Any resolutions not receiving unanimous approval, on the other hand, are simply put aside.<sup>23</sup>

### (c) *Common instruments and their scope*

43. The instruments of the Conference take the form of a "Protocol of Agreement" (Tunis, 1964, Tangier, 1964, Tripoli, 1965 and Algiers, 1966) or of a "Declaration by the Ministers of Economic Affairs" (Ministerial Declarations of Tunis, 1967, and of Rabat, 1970). These texts set forth, on the one hand, general principles and commitments and, on the other, decisions on such matters as the establishment of commissions or other bodies, the carrying out of studies, etc. For example, the Ministerial Declaration of Tunis adopts a global integration strategy, instructs CPCM to prepare a draft Maghreb agreement on the basis of the principles embodied

<sup>22</sup> See M. El-Kasri, "Les méthodes de travail des conférences maghrébines", in "Séminaire des experts maghrébines...", *op. cit.*, p. 5.

<sup>23</sup> See A. Benslimane (Moroccan representative to CPCM), "Les actes des institutions maghrébines et leurs effets", in "Séminaire des experts maghrébines...", *op. cit.*, p. 4.

in the strategy, and lays down the work programme for all the Maghreb institutions. Protocols of Agreement and Ministerial Declarations do not require ratification but are simply signed by the Ministers representing the member States; they may be regarded as agreements concluded in a simplified form, except, perhaps, when they are concluded *ad referendum* and specify, like the Declaration of Tunis, that they are subject to approval by the Governments of member States. All these provisions are contained in resolutions which, formally speaking, can include decisions (establishment of Maghreb bodies and decisions approving their actions), recommendations, instructions and mandates (addressed to CPCPM and to other organizations). According to A. Benslimane, any action taken by the Conference of Ministers is, in practice, applied within the Maghreb bodies, despite the absence of any basic instrument defining competence and terms of reference.<sup>24</sup> The draft intergovernmental agreement is intended precisely to fill that gap and rationalize the Maghreb system.

#### (d) *External relations*

44. Within the Maghreb Group, the principal role is that performed by CPCPM, which, under its statutes, has a legal personality. "It shall be the duty of CPCPM, within the framework of instructions given by the Council of Ministers, to enter into any relations that may be necessary with international, regional and subregional organizations, with national and international economic organizations and with the Press. Any action to that effect shall be the subject of an agreement among the members of the Committee, who, on each such occasion, shall appoint a spokesman for that purpose."<sup>25</sup> The President represents the Committee in relations with the authorities of member States and with international organizations; and it is he, or failing him, the Vice-President, who represents the Committee vis-à-vis third parties and in all civil, administrative and legal acts.<sup>26</sup>

45. For example, a continuous relationship has been developed with UNDP on the subject of projects of regional significance. As regards EEC, the Conference decided at its meeting at Tunis in 1964 to increase contacts with a view to the co-ordination of positions vis-à-vis the Community, but the results of these efforts have been limited. In the case of relations with third countries, common action is largely restricted to studies which the Committee is asked to undertake.<sup>27</sup>

<sup>24</sup> *Ibid.*, p. 12. For more details on the form of resolutions, see the same report, pp. 3-10.

<sup>25</sup> CPCPM Statutes, art. 1, para. 3.

<sup>26</sup> CPCPM Statutes, art. 6, para. 2, and art. 7, para 2.

<sup>27</sup> The role played by COMALFA in the export of alfa to third countries could, assuming that the Board effectively resumes its activities, be an example of joint action in an important sector of Maghreb trade relations.

## C. Association of South-East Asian Nations

### 1. INSTITUTIONS AND AGENTS

#### (a) *Main institutions*

##### (i) *Ministerial Meetings*

46. In ASEAN, the annual meetings of Foreign Ministers of the member countries bring together some sixty participants.<sup>28</sup> Those present at the meetings usually include not only the Ministers themselves, the ambassadors accredited to the country where the meeting is being held, the national secretaries-general and some of their assistants, but also officials of the central bank and other technical ministries. At the third meeting, for instance, held on 16 and 17 December 1969 in Malaysia, the delegations of Singapore and Malaysia included officials from the ministries of finance, development or planning, transport and education. The members of the Standing Committee, of the national secretariats and of various commissions usually attend as well. The task of drafting recommendations and the report of the Foreign Ministers approving the report of the Standing Committee is entrusted to a drafting committee composed of about 20 members and established by the Ministers.

##### (ii) *The Standing Committee and the Meeting of National Secretaries-General*

47. The Standing Committee is composed of ambassadors accredited to the host country. The office of chairman of the Committee is held by the Minister of Foreign Affairs of that country or his representative. In the interval between the meetings of Ministers, the Standing Committee is empowered to take decisions. Its periodic meetings (8 to 10 per year) are preceded by a Meeting of National Secretaries-General for foreign affairs, whose functions are more continuous. In fact, the periodic meetings have been institutionalized—although the Declaration of Bangkok of 1967 made no provision for them—the member countries having realized that the meetings were essential to fill the co-ordination gap in the over-all structure.<sup>29</sup>

##### (iii) *Lack of a permanent secretariat*

48. The duties of a "permanent" secretary are performed jointly by the Meetings of National Secretaries-General and, in rotation each year,

<sup>28</sup> A case in point is the Third Ministerial meeting in 1969 when the number of participants was: Indonesia 15, Philippines 6, Singapore 10, Thailand 14 and Malaysia 16. The ministers for Foreign Affairs of Laos and the Republic of Viet-Nam also took part by official invitation.

<sup>29</sup> See UNCTAD, "Report of the Seminar on the Institutional Framework of Economic Integration among Developing Countries" (TAD/EI/SEM.1/3 and Corr.1), para. 25, p. 5.

by a secretary-general who is at the same time the national secretary-general of the host country receiving the ministers and the Standing Committee. In 1971, this dual function was discharged by the Under-Secretary of the Ministry of Foreign Affairs of Singapore, assisted by three members of his staff. Apart from his activities as Under-Secretary of State for Foreign Affairs and national secretary-general, he is responsible for the day-to-day work of ASEAN, the organization of meetings, communications and co-ordination.

49. The function of co-ordinating and reviewing the work of the various committees is performed in the Meetings of the National Secretaries-General. In the third year of ASEAN's existence the Meeting of the National Secretaries-General was instituted with the following terms of reference:

(i) To supervise the work entrusted to permanent and/or *ad hoc* committees;

(ii) To review all reports of the permanent and *ad hoc* committees and make observations and recommendations thereon for submission to the Standing Committee;

(iii) To co-ordinate the work of the permanent and *ad hoc* committees;

(iv) To identify and determine project priorities, when necessary, for consideration by the Standing Committee;

(v) To provide guidelines for relations with the United Nations and its agencies;

(vi) To deal with other ASEAN matters and submit reports and recommendations thereon to the Standing Committee;

(vii) To meet whenever deemed necessary or as called upon by the Standing Committee.<sup>30</sup>

#### (b) *Advisory bodies*

50. ASEAN has gradually built up a network of permanent and *ad hoc* committees. In the absence of a central technical apparatus, the main work of preparation is done in the committees and sub-committees with the aid of the Standing Committee, the Secretary-General and the national secretariats. There are now 11 Permanent Committees concerned with the following sectors: Commerce and industry (Manila); Science and technology, Food production and supply, including fisheries, and Tourism (all three at Djakarta); Finance; Communications, air traffic services and meteorology, and Mass media (all three at Kuala Lumpur); Shipping (Bangkok) and Civil air transportation (Singapore), as well as two new committees on Socio-cultural activities and Transportation and telecom-

<sup>30</sup> See the document submitted to the Bangkok Seminar by Miss Tang Ling Ling (Singapore), "Comments of the Representative of the Singapore ASEAN National Secretariat on the Study on Institutional Aspects of Regional Integration among Developing Countries by Professor Dusan Sidjanski" (mimeographed; English only), p. 2.

munications.<sup>31</sup> In addition, an Advisory Committee has been set up to give instructions to the United Nations Team on ASEAN Economic Cooperation and to supervise its work. The members of these committees are usually officials of the competent ministries and institutes. Some representatives of chambers of commerce or industry have recently taken part in the meetings of the Permanent Committee on Commerce and Industry. Officials of the national banks and planning institutes also sometimes attend, although these bodies are not associated with the work as closely as they might be and are not always represented by high-level staff. In the absence of a permanent secretariat, the number of meetings (one or possibly two a year) and their duration seem hardly adequate to ensure the continuity of the work. The effectiveness of the committees often depends in fact on the interest and energy of the chairman, the secretariat serving them and the support of certain of their members.

51. The *Permanent Committee on Tourism*, which is composed of directors-general of tourism of the member countries, meets twice a year. In the intervening period, many questions can be settled either by resident deputy representatives (counsellors of embassy at the headquarters of the Committee) or by correspondence. The distinguishing feature of this Committee is the existence of a secretariat, which has its headquarters in the country of the Chairman (still at Djakarta in 1971, and afterwards at Kuala Lumpur), who changes every three years. The secretariat consists of an Executive Director (the Chairman), an Executive Secretary and the administrative staff. The Chairman represents the secretariat, and directs its work in accordance with the policy established by the Committee, to which he submits reports and proposals. The Executive Secretary, appointed by the Chairman, has the full-time function of assisting the Executive Director and the Committee in their work, implementing their decisions and submitting progress reports to them. He may also propose changes in the execution of the policies laid down by the Committee. Lastly, he directs and co-ordinates the functions and work of the administrative secretariat. He is answerable to the Executive Director. The secretariat consists of about 10 persons, among whom there are three assistant secretaries responsible for market studies, research and special projects (at present only one assistant secretary is actually in office), an administrative director, a treasurer and general service staff. The secretariat budget is financed by the Indonesian Government. In spite of these resources and various projects and efforts (ASEAN tours, and ASEAN Tourist Year 1971), little has yet been accomplished.

52. Other examples which might be mentioned are the *Permanent Committee on Science and Technology*, whose current Chairman, in tenure of the office for two years, is at the same time Director of the Indonesian Institute of Science. Similar efforts are being made in meteorology, air services and air transport, and may well give rise to closer co-operation and possibly to the

<sup>31</sup> The location of these committees changes every three years, rotating among the member countries. Thus, in 1972, the Permanent Committee on Commerce and Industry was transferred to Singapore.

establishment of common services.<sup>32</sup> The 1969 agreement setting up a *Joint Fund* is an innovation in a system which relies entirely on national institutions and resources. The purpose of the Fund is to finance joint projects approved by the ASEAN Foreign Ministers. Its limited resources total no more than \$5 million, each country's initial contribution being \$1 million.<sup>33</sup> The Fund has not yet financed an operational project. The implementation plan has an original feature in that it provides for the establishment for each project of a joint management committee, whose members—one for each country—are appointed by the Standing Committee. The joint management committee assumes responsibility for the implementation and supervision of the approved project. Taking its decisions by majority vote, the committee is presided over by the representative of the country where the project is to be carried out. This function is at present being carried out by the Permanent Committee on Finance.

53. This structure of the committees will be put to the test as the activities of ASEAN increase. A specific example is provided by the problems encountered by the Permanent Committee on Commerce and Industry. This Committee, which considers the programme prepared by the United Nations Team, has to decide upon a series of long-term projects (establishment of a free-trade area, complementarity programmes, conclusion of global arrangements and the institution of payments machinery). The Committee has recently accepted the principle that the most effective way of meeting the needs of the region would be to establish a free-trade area among the member countries for selected commodities and for a limited period. Consequently, the Committee will be called upon not only to propose solutions and practical measures but also to consider the problem of implementing these measures and supervising their execution. If the proposals that the Committee is now formulating have produced such a considerable work-load, it is obvious that the application and supervision of these measures will undoubtedly bring up the problem of ASEAN's institutional system and, in particular, of the advisability of and need for a permanent secretariat. At the moment, a considerable part of this preparatory work will fall on the secretariat and competent minister of Singapore, which has just become host to the Permanent Committee on Commerce and Industry. The problem will not be tackled as a whole, however, until the basic decisions have been taken by ASEAN concerning its orientation and development.

<sup>32</sup> Other possibilities might be mentioned, such as research on the different qualities of rice and methods of cultivation in the Philippines; research on fisheries products, etc. There are, in fact, many reasons for close co-operation in science, technology and research. The recent split in MSA (Malaysia-Singapore Airlines), however, runs counter to this trend. Co-operation between central banks takes place within the framework of SEACEN, in which countries that are not members of ASEAN, such as Ceylon and Nepal, participate.

<sup>33</sup> These amounts are included in the budgets of the Ministries of Foreign Affairs and held at the disposal of the Joint Fund by the national banks.

### (c) *National secretariats and professional organizations*

#### (i) *National secretariats*

54. The national secretariats are responsible for co-ordination at the national level with the other secretariats and with the committees under their jurisdiction. They have a certain degree of autonomy, can present proposals, influence decisions and interpret the joint rules. Their form and size vary from country to country. In Thailand and Singapore, for instance, they are small, but the secretariat at Kuala Lumpur is somewhat larger.

55. The Bangkok secretariat consists of a secretary-general and his deputy, whose main function is to direct the Economic Department of the Ministry of Foreign Affairs. Where necessary, they can receive assistance from other ministries and institutions in their work connected with ASEAN. Nevertheless, early in 1972, during which year Thailand provided the Secretary-General of ASEAN, this additional work-load raised some problems regarding their capacity to carry out the growing tasks of ASEAN.

56. Directed by the Under-Secretary of the Ministry of Foreign Affairs, the secretariat at Singapore includes three of his staff; the work of co-ordination with other Ministries and institutions seems to be carried out effectively, thus compensating to some extent for the secretariat's small size. The work of the committees with headquarters at Singapore comes under the competent Ministries which have the duty of studying, co-ordinating and implementing the technical work of these committees.<sup>34</sup> Moreover, the same officials are very often members of or advisors to the ASEAN committees as well.

57. Unlike these two national secretariats, those of the Philippines and Indonesia are larger and more structurally elaborated. Both constitute a department or office of the Ministry of Foreign Affairs. At Manila, the secretariat consists of about five or six full-time officers (plus administrative assistants and secretariat staff), assisted by officials from other Ministries (Trade and Industry, Economic Affairs, Finance and Agriculture) and from public bodies. These officials constitute local panels of experts for each committee. In the case of the Permanent Committee on Commerce and Industry, for instance, the panel of experts is made up of officials from the Ministry of Commerce and Industry, the Planning Body, the Board of Investments, the Tariff Commission, the Central Bank, the Development Corporation, the Presidential Economic Staff and an officer from the Office of Economic Affairs of the Foreign Ministry.

58. The same principle is followed at Djakarta, where the national secretary-general is assisted by a deputy and four assistants, for economic affairs, social and cultural affairs, general affairs and research and planning. Their number is to be doubled so that about 20 full-time officials will be available, plus administrative staff. The national secretariat has set up

<sup>34</sup> Miss Tang Ling Ling, "Comments of the Representative of the Singapore ASEAN National Secretariat...", *op. cit.*, p. 3.

five working groups: commerce, industry, agriculture, shipping and tourism. Collaboration with other Ministries and government institutions is conducted through the medium of an Advisory Committee on which they are all represented. The Advisory Committee reaches decisions concerning the studies, reports and comments of the working groups; it works out official positions and carries out adjustments of various policies. The departments and Ministries are respectively responsible for specific projects. The national secretariat members—of whom there is always at least one on the Indonesian delegation—and the officials responsible for ASEAN affairs in various public bodies—who are at the same time members of the national advisory committee and of various ASEAN committees—form the nucleus of officials who are responsible, on a full-time or part-time basis, for ASEAN business.

59. It is difficult to gauge the efficiency of the individual secretariats because of the differences in administrative organization between them, and in the calibre of the administrative and technical staff.

#### (ii) Professional organizations

60. The ASEAN Tours and Travel Association was set up at Djakarta in March 1971. According to a Press release issued after the Fourth Ministerial Meeting, held at Manila in March 1971, the Ministers stressed the importance of active participation by the private sector in the work of ASEAN, in order to stimulate the vigorous development of commercial and industrial undertakings in the region.<sup>35</sup> The Confederation of Chambers of Commerce of the ASEAN countries could, since its consolidation, become a representative of that sector. Then the relationships of ASEAN with the various sectors would be carried out through the medium of the Confederation. The latter would co-ordinate projects and would then bring them before ASEAN.

## 2. THE DECISION-MAKING PROCESS

### (a) Distribution of powers

61. The powers of decision-making and recommendation are, in principle, concentrated in the Ministerial Meeting. The Standing Committee organizes the meetings, draws up projects for the Ministers, and is responsible for carrying out their instructions. Between Ministerial Meetings, it is empowered to take certain decisions.

62. The Meetings of Secretaries-General supervise the work of the committees, examine their reports and co-ordinate their activities. They also allocate priorities to projects for the Standing Committee, review other questions and submit reports and recommendations to the Standing Committee.

<sup>35</sup> See the joint Press release of the Fourth ASEAN Ministerial Meeting, Manila, 13 March 1971, para. 7.

### (b) The decision-making model

63. The general model of the decision-making process can be outlined as follows:

64. The initiatives and projects may originate from: (a) the Governments of member countries, their civil services or public organizations; (b) the private sectors of one or several members or from multinational enterprises; (c) the secretary-general of a national secretariat, on behalf of that secretariat; (d) the committees and (e) international bodies or agencies. These initiatives or projects vary in their degree of elaboration. For example, the payments union project submitted by the Philippines contained a definition of the main features of the proposed machinery. Projects are generally sent to the committees and sub-committees which then examine them. Nevertheless, although the private sector has the choice of two routes—through a national secretary-general or directly through a committee—an exceptional case arose in 1970. Three private organizations (Association for Development of Regional Investments, Ford Automobile and Business Community) submitted their proposals directly to the Foreign Ministers who agreed to entertain them but then referred them without comment to the relevant permanent committees.

65. The committees submit proposals unanimously in the form of reports or draft recommendations to the Meetings of Secretaries-General. The proposals are then reviewed by the national secretaries-general, who meeting as a rule in the capital which is the headquarters of ASEAN, adopt unanimous decisions regarding the desirability and substance of the projects. At the same time, the secretaries-general co-ordinate the various projects, establish priorities and draft a report for the Standing Committee. The latter reaches a decision on the basis of that report. It may decide to adopt a proposal, to amend it or to refer it to the permanent committees. Once a project has been approved, by joint agreement, with or without amendments, the Standing Committee then submits it to the Ministerial Meeting, whose decision must be unanimous. If it is referred to the committees, the project may, after some adjustments or amendments, take the same route.

66. Despite the preparatory and co-ordination work carried out by the national secretariats and the Meetings of Secretaries-General, a project is exposed in the course of this process to all sorts of changes. It may undergo modification or be the subject of reservations on the part of one or other body. Sometimes, too, agreement obtained at a certain level is already qualified by reservations which may thereafter be modified, confirmed or replaced by others. In principle, all the paths converge, through the Standing Committee, in the Ministerial Meetings. The process that has been described constitutes a general model which, with variations, covers most cases and particularly those of specific projects. The long-term programme prepared by the United Nations Team naturally gives rise to a special process, owing to its scope and complexity. Apart from the promotional role played by the United Nations Team, this process is characterized by the regular intervention of an Advisory Committee composed of planning officials



and economists of the member countries. Apart from this, although it does create an increased work-load, particularly for the Permanent Committee on Commerce and Industry, the process of working out an over-all programme for ASEAN follows the standard route.

67. While the Permanent Committee on Tourism and its secretariat seem to operate with a measure of independence within the framework of general directives given by the Ministers, the Joint Fund has to follow the general practice: projects are presented by the national secretaries-general to the Standing Committee and, through it, to the Ministers, for their approval. At this stage, however, the implementation and supervision of the project are entrusted to an intergovernmental management committee, which, exceptionally, but for reasons of efficiency, takes its decisions by a majority vote of the members present and voting.

#### (c) *Scope of the instruments*

68. This process usually culminates in recommendations, projects or agreements. By now, more than 120 recommendations have been formulated embodying about a dozen short- and long-term projects, the recommendations of which reflect various aspects considered by the relevant committees. To give an example, recommendation 35, advocating the establishment of a Joint Fund, was revised and restructured to become an agreement on the establishment of the ASEAN Fund, to which are appended regulations concerning the operation of the Fund. This agreement, like that on the mass media, was not made subject to ratification by the member countries but came into force upon its signature by the contracting parties. The agreement on the commercial rights of non-scheduled airlines, on the other hand, which was signed at Manila in March 1971, is to come into force as soon as not less than three signatory States have deposited their instruments of ratification. With respect to the problem of ratification, a guiding principle seems to emerge: procedural regulations are not subject to ratification but ratification is necessary where substantive regulations are concerned.

69. If a project is fully approved, the national secretariats help in its implementation. In this way, each national secretariat is responsible for administering various projects.<sup>36</sup> It is accepted that, if one country cannot for the time being participate in the implementation of a project, due to financial constraints, for instance, the other members are nevertheless entitled to proceed. The country in question can join the others once it considers it is ready to assume its obligations.<sup>37</sup>

70. The national secretaries-general are responsible for following up the implementation of projects in the relevant committees. At their periodic meetings, they draw up a progress report on the projects under their

<sup>36</sup> Generally speaking, there is a tendency for ASEAN projects to observe the following criteria: (a) be readily feasible; (b) produce quick results; (c) benefit every member country; and (d) require minimum financing.

<sup>37</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 58, p. 11.

charge. In addition, before the Foreign Ministers meet the Secretary-General of ASEAN calls the attention of the national secretariats to projects whose adoption has not been followed by implementation.<sup>38</sup>

71. Despite certain delays or difficulties of co-ordination, this process seems to be in keeping with the relatively modest level of ASEAN activities, at least at the formulation stage. The desire to undertake a more ambitious programme and the need to supervise the application of projects being prepared or executed, create new needs and raise the question of ASEAN's structure. In particular, the need to set up a permanent and effective administrative nucleus—or more than one—is becoming more specific and more urgent.<sup>39</sup>

#### (d) *External relations*

72. In the fourth preambular paragraph of the Declaration of Bangkok (1967), which is the basic document of the Association, the signatories declare that they are determined to ensure their stability and security from external interference. At their various meetings, the Foreign Ministers exchange ideas on political problems relating to the region and, in particular, on the possibilities of neutralization. The proposal to establish a neutral zone in South-East Asia envisages a joint guarantee by the Union of Soviet Socialist Republics, the United States of America and China.<sup>40</sup> More recently, in the joint Press release of the Fourth ASEAN Ministerial Meeting (Manila, March 1971), the Ministers referred to the necessity and value of close consultation and co-operation amongst their representatives at regional and international forums so that the members of ASEAN would always present a common stand. Consultation on problems affecting the region as a whole is increasingly taking root in the Economic Commission for Asia and the Far East (ECAFE), the United Nations General Assembly and UNCTAD.<sup>41</sup>

73. However, it is in relation to EEC and the effects of its enlargement on world trade that ASEAN is attempting to define a common position and present itself as a single unit. Following preparatory discussions in

<sup>38</sup> *Ibid.*, para. 59, p. 12.

<sup>39</sup> *Ibid.*, para. 28, p. 6: "Considering the present level of activity in ASEAN, the member countries regard the institutional framework of the Association as satisfactory and adequate. However, the Association is beginning to be aware of indications pointing towards a modification in the institutional framework, specifically with respect to the National Secretariats. It is expected that this problem will be studied intensively when a decision is taken by ASEAN on the recommendations of the United Nations Study Team which, if adopted, will expand the economic co-operation activities of the Association."

<sup>40</sup> These proposals by the five countries of ASEAN, which were formerly received with some coolness by the USSR, now seem to overlap with the Soviet project for a "collective security system" in the region and to be of interest to the Soviet Government (see *Le Monde*, Paris, 3 October 1972).

<sup>41</sup> Address by Mr. E. Maceda, Secretary of State for Trade and Industry and Head of the Philippine delegation, Manila, 13 March 1971, on the occasion of the Fourth ASEAN Ministerial Meeting.

March 1972, a first official meeting between an ASEAN delegation and the Commission of the European Communities took place on 16 June 1972.<sup>42</sup> After an examination of topics relating to trade and the future system of world trade relations, the head of the delegation stressed the usefulness of an institutionalization of the dialogue between EEC and ASEAN. Both parties felt it was desirable to set up a permanent organ. To this end, ASEAN has already established a special co-ordination committee (SCCAN) at Bangkok, together with a committee at Brussels (ABC) consisting of the ambassadors of the member countries. This example demonstrates that, when the need is felt, the members of ASEAN are ready to adopt institutional solutions which meet their requirements.<sup>43</sup>

74. Within ECAFE, ASEAN is gradually taking shape as a sub-regional grouping capable of contributing to the development of the region.<sup>44</sup> The United Nations Team has the task of examining projects in co-operation with an ASEAN *ad hoc* advisory committee (made up of high-ranking civil-servant economists from the member countries) set up to consider the Team's recommendations and to guide it in its work. The choice of projects to be executed, and decisions on priorities, are the responsibility of the ASEAN Foreign Ministers. At their meeting in March 1971, the Ministers reviewed the provisional report of the United Nations Team on ASEAN Economic Co-operation and gave instructions for the sectoral studies to be continued.<sup>45</sup> The basic decisions which may be taken in the light of this report may give subregional integration some substance.

75. The United Nations Team has defined the aims of economic co-operation and the techniques for implementing it in the fields of trade and industry (selective trade liberalization, introduction of modern large-scale industry, particularly through complementary agreements or "package deal" agreements which consist in allocating certain industries to one or other member countries); it has also submitted sectoral studies and projects (e.g., a forestry project). On the basis of these long-term programmes, negotiations can begin among the countries members of ASEAN with a view to the preparation of a basic treaty incorporating an institutional framework based on experience and requirements.

<sup>42</sup> The ASEAN delegation was led by the Minister of Trade of Indonesia.

<sup>43</sup> See joint Press release, Brussels, 16 June 1972.

<sup>44</sup> See the address by Mr. A. Malik, Minister of Foreign Affairs of Indonesia, Manila, March 1971, to the Fourth ASEAN Ministerial Meeting.

<sup>45</sup> See the joint Press release of the Fourth ASEAN Ministerial Meeting, Manila, 13 March 1971, para. 9.

## Chapter II

### REGIONAL INTEGRATION: EAST AFRICAN COMMUNITY, CENTRAL AFRICAN CUSTOMS AND ECONOMIC UNION, CENTRAL AMERICAN COMMON MARKET, ANDEAN GROUP

#### A. East African Community

##### 1. INSTITUTIONS AND AGENTS <sup>46</sup>

###### (a) *Main institutions*

###### (i) *The Authority*

76. The Authority is the sovereign body in which all the main powers of EAC are concentrated. It was provided that Heads of States members of the Authority should hold regular meetings three times a year. This has not always been achieved in practice. It was not achieved in 1969, for example. Moreover, since the crisis between Uganda and Tanzania, no official meeting has been held by the Authority or other intergovernmental bodies of EAC.

77. The meetings are attended by the Secretary-General (who keeps the records) and by the Ministers of the Community. The members of the Authority are entitled to request other persons responsible for Community services to take part in the meetings (chairmen and directors-general of the Corporations, Deputy Ministers, members of Councils, and officers of the Community). Unanimity is the rule for the voting procedure in the Authority. In fact, all EAC decisions are based on the goodwill of the Presidents of the partner States. It is specified in the procedural provisions that any member of the Authority may record his objection to a proposal submitted to the Authority, and, until his objection has been withdrawn, the proposal will not be discussed.

###### (ii) *The East African Ministers*

78. This is the most original body. The East African Ministers are nominated by the partner States and are appointed by the Authority.

<sup>46</sup> See I. Doimi di Delupis (née Detter), *The East African Community and Common Market* (London, Longman's, Green and Co., 1970).



They constitute the three members of the Committee of Ministers of the Community. The Treaty for East African Co-operation<sup>47</sup> provides that the State which nominates a Community Minister should grant him the status of Minister in its Government and allow him to attend, and speak at, meetings of the Cabinet (art. 51.6). In practice, the Community Ministers sit in their respective Governments, particularly when the latter are dealing with EAC affairs, but their permanent headquarters are at Arusha, the seat of the Community. They have a dual allegiance to their country and to the Community, and their role is all the more important as they often exert real influence at the national level. In addition to the Ministers, Deputy Ministers are appointed, by the Authority, to ensure that closer relations are maintained with the Community organ (it is sometimes said that the office of Deputy Minister has no useful part to play in the institutional system).

79. From the practical standpoint each Minister is responsible for a broad sector of the Community corresponding to the sphere of competence of the Council of which he is the Chairman. Each Minister has a Secretary—a senior East African official—to assist him and take charge of the services in his sector. The Ministers meet with the Secretary-General, if necessary with the presence of other Community officials, as often as is required.

### (iii) *The Councils*

80. Of the five Councils, two, the Economic Consultative and Planning Council and the Research and Social Services Council, have advisory functions. The Common Market Council, the Communications Council and the Finance Council have, on the other hand, some decision-making powers.

81. Apart from the Finance Council, which consists of the three EAC Ministers and the three Ministers of Finance of the member countries, the four other Councils are made up, in addition to the three EAC Ministers, of nine members (three per country) of ministerial rank. For example, the Communications Council comprises not only the three Community Ministers and the three Ministers of Communications but also two Ministers per country (Kenya: Ministers of Health and Tourism; Uganda: Ministers of Trade and Industry and of Planning; Tanzania: Ministers of Trade and Industry and of Agriculture). The same is true of the Economic Consultative and Planning Council which consists of the three Community Ministers, the three Ministers of Planning and six other Ministers (Kenya: Minister of Information—formerly responsible for planning—and Minister of Agriculture; Uganda and Tanzania: Ministers of Trade and Industry and of Finance).

<sup>47</sup> Signed on 6 June 1967 by Kenya, Tanzania (excluding Zanzibar) and Uganda. For the text of the Treaty, see *The Treaty for East African Co-operation* (Nairobi, Government Printer, 1967) or J. Brownlie, ed., *Basic Documents on African Affairs*, (Oxford, Clarendon Press, 1971), p. 63.

82. In addition to their members, meetings of the Councils are attended by officials of the various competent Ministries, the Secretary-General and the Counsel to the Community, the Secretary of the sector concerned and any other officer of the Community or of a corporation whose presence is required for the business under discussion. Under annex II to the Treaty, paragraph 7 (c), the Directors-General and Chairmen of the boards of directors of the corporations are entitled to attend, and speak, at, any meetings of the Communications Council which is conducting business relating to their corporation. As to the frequency of meetings, each Council holds at least four meetings per year. The Economic Consultative and Planning Council, for instance, met four times in 1970 to begin preparing the EAC five-year plan for (a) the General Service and Corporation Funds, and (b) co-ordination of the national plans of the partner States in industry, tourism, transport and communications. The Communications Council, for its part, has held 24 meetings in three years, each meeting lasting two days. It will be obvious that the frequent meetings of these five Councils, often attended by the same Ministers and other high-ranking personalities (e.g., Ministers of Trade and Industry and Ministers of Finance), have created certain problems: problems of travel, excessive workload, postponement of meetings, etc. In the light of these problems, which most economic integration groupings have to face, EAC has adopted provisions whereby the Councils are obliged at every sitting to set a date for their next meeting which can then be changed only with the approval of the three Heads of State.<sup>48</sup> As a result, the organization of the Councils' meetings has become more rational: the programme, agenda and venue can be established in advance. In addition, meetings of several Councils can be arranged in a single place, thereby making it possible for the participants to attend meetings of more than one Council. This form of organization means a great saving in time and resources and helps to counteract the drawbacks arising from the multiplicity of Councils in EAC.

83. These specialized ministerial-level Councils oversee the functioning of EAC and ensure co-ordination between Community and national affairs. They are essentially intergovernmental, despite the presence of the Community Ministers. The Community's point of view is represented by these Ministers, and by the Secretary-General, the Secretary and the members of the common services or Corporations attending the meetings.

### (iv) *The Central Secretariat and the administrative services*

84. Under article 63 of the Treaty, the Secretary-General is appointed by the Authority. As the principal executive officer of EAC, he is Secretary of the Authority and of the Committee of Ministers and the Councils and, at the same time, is head of the Community Service Commission. As such, he is responsible to the Authority for the general efficiency of the administrative service, for co-ordination of the activities of the Community officers and for the organization of the executive apparatus in general.

<sup>48</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 20, p. 4.

The Secretaries and heads of departments are answerable to, and must maintain close contact with, the Secretary-General, who may call a meeting of them at any time.

85. However, the three Secretaries are also responsible to the Community Ministers. In fact, each Minister exercises direction and control over one of the three secretariats which constitute the Community's Central Secretariat.<sup>49</sup> Thus these secretariats are subject both to the hierarchic control of the Secretary-General and the instructions given by the Ministers. Their duties and responsibilities are distributed according to the following principle: political instructions come from the Community Ministers, while operational and administrative activities are the responsibility of the head of the central administration. In practice, however, the distinction between political directives and administrative action seems difficult to maintain.

86. The number of officials and employees is considerable. For instance, the common administrative services (Central Secretariat with various secretariats and departments) consist of about 4,500 officials and employees. There is also, under this Community organization, a network of specialized research and operational services which in turn comprise about 3,500 officials and employees (see paras. 90-93 below). The Central Secretariat proper, for example, consists of 57 persons, the secretariat of the Common Market Council of 160 and the secretariat for finance and administration of more than 450 persons. Then there is the Customs and Excise Department which, including the transfer tax service, numbers 2,565 persons and the Income Tax Department with more than 1,070.

87. Such a large administration has also a large budget. The estimated expenditure for 1970/1971 amounts to 226,274,598 shillings (about \$U.S.31.7 million). This sum does not include investment expenditure which amounts to 74.5 million shillings (roughly \$U.S.10.4 million) for the same year.

#### (b) *Advisory bodies and specialized organs*

##### (i) *Advisory bodies*

88. One example of these is the Permanent Common Market Committee, which assists the corresponding Council; it consists of four to seven members per country and about ten members of the Common Market and Economic Affairs Division of the EAC Secretariat. A commission composed of representatives of the Ministries of Finance and Ministries of Trade and Industry, considers every application connected with the common external tariff and expresses opinions for the benefit of the Ministers of Finance.

89. Another example is the Planners' Committee set up by the Economic Consultative and Planning Council. This Committee, which is presided over by the Secretary of the Common Market and Economic Affairs Division of the EAC Secretariat, consists of three official repre-

sentatives of each partner State (one of whom must be a permanent/principal secretary for planning and economic affairs). It also includes the Secretaries of the other two divisions: Finance and Administration, and Communications and Research. The Committee, in its turn, has set up several sub-committees, e.g., for agriculture and for tourism. The first consists of a chairman and a secretary appointed by the Chairman of the Committee, three government representatives, one appointed by each partner State, and three officials of the Community. The secretariat services for the sub-Committee are performed by the Common Market and Economic Affairs Division of the EAC Secretariat. Similar sub-committees have been established for industry, statistics, and transport and communications. These advisory bodies, which have been created in response to a specific need, are composed mainly of government representatives.

##### (ii) *Common services*

90. The common services are undoubtedly one of the most original features of EAC, including, as they do, four large corporations concerned with railways, airways, harbours and post and telecommunications. These four corporations employ about 68,000 persons, divided as follows: railways, 50,000; aviation 6,000; harbours 5,000; and post and telecommunications, 7,000.

91. According to R. Ouko, the corporations enjoy some autonomy under the policy guidance of their Boards and the over-all control of the Communications Council and the Authority. Each corporation has a board of directors, usually consisting of a Chairman appointed by the Authority, a Director-General, also appointed by the Authority, and six members, three of whom are appointed by the partner States (one by each country) and the other three by the Authority. The board of directors of the Airways Corporation has eight members (apart from the Chairman and the Director-General), six of whom are appointed by the partner States (two each) and two by the Authority. The budget of each corporation is approved by its board of directors and is not submitted to the Legislative Assembly in the same way as the budget for General Fund services. This arrangement, which arises from their self-financing nature, gives them a certain amount of independence from direct political factors. Thus the corporations were able to carry out their operations with minimal disruption during the political crisis which beset the Community in 1971.<sup>50</sup> Nevertheless, despite this operational independence of the corporations, important supervisory powers are vested in the Authority. In Kenya and Uganda, the Legislative Assembly's membership is appointed; in Tanzania it is elected by the National Assembly.<sup>51</sup> Consequently, these functional bodies are not entirely sheltered from the effects of political disagreements at the highest level. The Harbours Corporation was without a Director-General for some time

<sup>50</sup> *Ibid.*, para. 50, pp. 13-14.

<sup>51</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 22, p. 4. Among the members of the Legislative Assembly there are not only parliamentarians but also academics and businessmen, particularly from Kenya.

<sup>49</sup> See R. Ouko (Kenyan East African Minister), "The Institutional Framework of the East African Community with special reference to the East African Common Market Arrangements" (mimeographed) (Arusha, 1971), para. 12, p. 4.

because no meetings of Heads of State had been held, and the Director-General's functions were performed by a committee of directors.

92. There are about twenty specialized common services in different areas of research (industrial, agricultural, health, etc.) and in operational sectors like the Directorate of Civil Aviation. They employ about 3,800 persons.

93. The East African Development Bank also has a Board of Directors and a Director-General appointed by the Authority in consultation with the Board. Besides the Chairman and Director-General, the Board consists of three directors and three alternate directors (one for each partner State). The Bank has an authorized capital stock of 400 million shillings (about \$U.S.56 million).

#### (c) *The Legislative Assembly and the tribunal of the Community*

94. The Legislative Assembly, which passes bills by majority vote and submits them to the Authority for its approval, is composed of the following members: Ministers and Deputy Ministers of the Community, the Chairman of the Assembly, the Secretary-General and the Legal Counsel of the Community, and 27 members of Parliament (nine from each country), appointed in accordance with such procedure as each partner State decides. It exercises general legislative control and also supervises EAC activities.<sup>52</sup> The purpose of the Assembly is to approve programmes, pass bills and exercise a measure of budgetary control. It discusses the affairs of the Community in meetings open to the public.

95. The Community tribunal provided for in article 32 of the Treaty has not yet been set up owing to the difficulties that have been encountered in finding competent members. It appears, however, that there is a move towards setting up the tribunal. Moreover, if disputes are not settled in the Councils, they are submitted to the Authority for arbitration.<sup>53</sup>

#### (d) *Co-ordination at the national level and professional organizations*

96. Co-ordination is organized mainly by the Office of the President in each country (formerly by the Ministry for Foreign Affairs or the Treasury), these Offices being the main organs for liaison with EAC, apart from the Community Ministries. Working groups and committees consisting

<sup>52</sup> R. Ouko, "The Institutional framework...", *op. cit.*, para. 51, p. 14. R. Ouko points out that there is also general legislative control in that the annual reports of the corporations are discussed by the Legislative Assembly which also passes bills affecting the corporations.

<sup>53</sup> There is also within the Community an appeals court for East Africa which is competent to reach decisions on appeals from the courts of the partner States according to the laws in force in each of the countries (art. 81 of the Treaty). The East African Industrial Court, composed of the Chairmen of the Industrial Courts of the Partner States, decides on complaints and appeals by officials and employees of the Community Services and Corporations (art. 85 of the Treaty).

of those responsible for the different Ministries participating in the Community Councils and committees (Ministries of Economic Affairs, Finance, Development and Industry and various public organizations, Central Banks, etc.) have been set up at different levels. It is the custom for ministerial advisers to meet before a committee or council of the Community is convened in order to discuss the agenda and prepare briefs for the Ministers. If necessary, a discussion is held with the Minister himself. In fact the number of persons dealing with Community affairs has for years been quite small. Co-ordination at the national level seems good on the whole, except in Uganda.

97. No professional organizations have been set up on a Community basis, their influence being mainly brought to bear at the governmental and ministerial levels, through which they endeavour to exert an influence on the Councils. Community Departments sometimes have informal contacts with certain national professional organizations. The lack of a network of professional bodies in the Community itself is due to structural differences in production and distribution in the partner States which would make cohesion between such organizations difficult. There is, however, one exception, i.e., the contacts and negotiations between the common services and trade unions, a recent example being the negotiations between the civil airlines and various trade unions.<sup>54</sup>

## 2. THE DECISION-MAKING PROCESS, COMMON INSTRUMENTS AND EXTERNAL RELATIONS

### (a) *Distribution of powers*

98. The main powers are concentrated in the Authority, which is responsible for the general direction and control of the Community, the corporations, the common services and institutions and the East African Development Bank. The Authority appoints the Ministers, the Secretary-General, the Directors-General of the corporations and of the Bank, etc. It may also give directions to the Councils, Ministers and corporations. The Authority takes the final decision in all matters, since, under article 59 of the Treaty, it must give its assent to Community measures and bills to give them binding force. Similarly, it is the Authority that gives final approval to the budget of the Community, and acts as appeal instance for the Councils and other institutions and the corporations. The Legislative Assembly has legislative and budgetary powers, but they are subject to the approval of the Authority. The Ministers (art. 51) assist the Authority in preparing its decisions, carry out its directives, and advise it. It is usually the Ministers who frame the Authority's decisions. Furthermore, the Ministers preside over the Councils in the Community and they are also the rapporteurs for Bills introduced in the Legislative Assembly. In that

<sup>54</sup> The East African Union in Uganda, a Tanzanian union and two Kenyan unions, one at the East African Community level.

capacity they frame draft decisions for submission to the Assembly or the Councils. They may also decide matters of general policy which do not have to be submitted to the Authority and they also exercise the powers delegated to or conferred upon them by the Authority. The Committee of Ministers concerns itself with conflicts of interest which may arise among the Ministers themselves or between the secretariat departments for which they are responsible on a day-to-day basis.

99. The Economic Consultative and Planning Council and the Research and Social Services Council assist the partner States in a consultative capacity and they also advise the Authority. Having no powers of their own, they work out and prepare proposals and studies. The same functions are performed by the other three councils, but these also have powers of their own. The Finance Council, for instance, considers and approves the draft budgets and investment programmes of the corporations, while the Communications Council exercises control over the corporations and approves the work programmes and plans proposed by their boards of directors, to which it may give directions.

100. It is the Common Market Council, however, which has the broadest and most substantive powers; article 30 of the Treaty provides that it shall be responsible for and review the functioning and development of the Common Market, settle problems arising from the implementation of the Treaty in connexion with the Common Market, consider complaints or matters concerning breaches of obligations in relation to the Common Market and, in this connexion, issue binding directives or make recommendations to partner States. As part of its supervisory powers, it has to take decisions concerning the application of measures provided for in the Treaty, such as the revocation of taxes, the lifting of quantitative restrictions, etc. Under article 20 of the Treaty it must determine the circumstances of any case put before it by a State, and decide, where appropriate, that the transfer tax should be revoked. Lastly, the Council performs a consultative role in trade and economic relations with other countries and organizations.

101. The Central Secretariat has the following functions: its Secretary-General is head of the common administration and also secretary of the Authority and of the Committee of Ministers; furthermore, he performs various services for the Council and other institutions. In addition, the secretariat keeps the functioning of the Common Market under continuous review and, in this connexion, presents its findings in the form of reports to the Council. Lastly, it performs numerous tasks, undertakes studies, and is responsible for collecting and disseminating information within the Community.

#### *(b) The decision-making model*

102. The process of decision-making follows a general model. The first step is often taken either by the partner States, which prepare proposals in their own civil services, or by the departments of the Secretariat. It can also, however, originate elsewhere: the Authority can, for instance, initiate

projects in the form of directives addressed to the Committee of Ministers and the Councils of the Community or to the corporations. The board of directors of a corporation can make proposals which are considered by the Communications Council and, if they have financial implications, by the Finance Council. Likewise, a group of officials of the Central Secretariat or of the national civil services, or one of the three secretaries or the Secretary-General, can initiate proposals. Lastly, requests or claims by individuals, particularly in the field of industrial licensing, can lead to decisions by the administrative authorities or, where necessary, by one of the Councils. The decision-making process can be set in motion in all these different ways.

103. The main part in drawing up proposals is played by the Ministers, the competent Councils and the departments of the Central Secretariat. For example, the Tourism sub-committee of the Planners' Committee submitted to the Committee a preliminary proposal concerning the study of contiguous zones on seas and lakes. In July 1970, the Committee considered the proposal and submitted it with a few minor amendments to the Council. In September 1970, the Council approved it in a more condensed form. The importance of the part played at this stage by the members of the committees and sub-committees and by the Secretariat should be noted. Approval takes place at a third stage: it is given at the level of the Councils and Ministers and then of the Legislative Assembly and the Authority. In the Councils, the major role is played by the partner States and the Ministers, who check the decisions very carefully since unanimity is required at each stage. The secretariat is active throughout the process, its role in the preparation of proposals being mainly technical. After proposals have been screened by the Councils, and especially the Committee of Ministers, a decision on them is taken by the Legislative Assembly. These decisions become binding after they have been approved and put into effect by the Authority.

104. This general decision-making model can be adapted to different circumstances. The Common Market Council, for instance, is the only body empowered to give directives to the partner States, and the decision-making process stops in the Council if agreement is reached. Where, however, the Council fails to agree, the Authority may take up the matter and address directives to the Council if it deems fit.

105. Although more autonomous, the decision-making process in the Corporations is also geared to the Community system. In the Harbours Corporation, for example, the programme is drawn up and, after approval by the Board of Directors, is submitted to the Communications Council. The final approval of the programme, permitting investments to be planned, is given by the Authority. Following these different stages and once the programme has received unanimous approval, the Corporation can submit requests to international financing agencies. The process seems protracted, especially since unanimity in the Council is not always easy to achieve. In cases of disagreement, however, recourse can always be had to the Authority. But this expedient is seldom used, and its main value is as a weapon or threat in the negotiations. In short, the process is essentially an inter-

governmental one. The Central Secretariat, which is inclined to remain in the background and has no great powers of initiative or other faculties of its own, seems ill-equipped to act as a counterweight to the intergovernmental negotiation aspect of the decision-making process, which largely depends on the goodwill of the partner States.

106. Although it appears simple, this decision-making process is in fact quite complicated, mainly because of the complexity of the institutional structures and the dispersion of powers among the various Councils. This dispersion slows down the whole process, particularly as the Councils, although they play an important part in the preparation of the decisions, have, on the whole, only limited powers of their own. With a few exceptions—which concern, in particular, the Common Market Council and the Communications Council—the main power is ultimately vested in the Authority.

#### (c) *Common instruments and their scope*

107. In EAC, the common instruments take the form of Community laws or acts which are passed by the Legislative Assembly, and approved and implemented by the Authority. They have the force of law in the partner States as soon as they are published in the *Official Gazette*.<sup>55</sup> They are binding on the partner States and persons residing in those States, the common services and the Community administration. The Authority may also address directives to Ministers and to the common services and other Community institutions. In special cases, the Common Market Council may issue directives which are binding on the partner States under article 30 of the Treaty; it may also make recommendations and express opinions. In principle, these common instruments are mainly addressed to the partner States and the Community institutions, although the Parliament of Kenya has stipulated that Acts of the Community in respect of matters referred to in annex X to the Treaty shall have binding force in Kenya. Community legislation can therefore be considered to have effects which are directly binding on the citizens concerned, and these effects could be amplified if multinational enterprises were brought under regulation. The Community has the dual characteristic, however, of mediate relations between Community bodies and the partner States and a tendency to create immediate relations through Community Laws and Acts. The direct relations—which are both numerous and important—are mainly connected with the common services and the corporations. Nevertheless, relations of the intergovernmental type are still important, as revealed, *inter alia*, by the fact that appeals to the Council are submitted by the partner States within the framework of the Common Market. The same system is adopted for the Tribunal.

<sup>55</sup> As pointed out by R. Ouko, one of the novel aspects of the Community is the fact that acts passed by the Legislative Assembly and approved by the Authority have the force of law in each member State and take precedence over national legislation where the latter is incompatible with them. (See Ouko, "The Institutional Framework...", *op. cit.*, para. 13, p. 4.)

As the Tribunal is not in operation, complaints or appeals are referred in practice to the Central Secretariat, to the Council, and if necessary, to the Authority. Moreover, there are direct sanctions and appeals corresponding to the direct relations between the corporations and individuals or enterprises.

#### (d) *External relations*

108. In EAC, negotiations on the admission of a third country to the Community or to a corporation may be conducted jointly by the partner States.<sup>56</sup> When an agreement was concluded with EEC, the negotiations were conducted jointly and the Arusha Agreement was concluded and signed by the partner States.<sup>57</sup> The main role in this process is played by the partner States, the Community Ministers and the Central Secretariat. The Common Market Council may also play a promotional role in establishing closer economic and trade relations with third countries or international organizations.

109. The accession of the United Kingdom of Great Britain and Northern Ireland—chief supplier to and chief customer of EAC<sup>58</sup>—creates a new situation; the enlarged EEC will supply more than half of EAC's imports and take more than a third of its exports. This position of privileged partner could even be enhanced if the export potential to the former Community of the Six was exploited. Thus, instead of a better distribution, EAC's trade is tending towards a major concentration on the enlarged Community. In these circumstances, one of the vital problems for the EAC countries will be to improve their future relations with the enlarged EEC, either by a revision of the Arusha Agreement or by accession to the Yaoundé Convention.<sup>59</sup> This means that external relations, i.e., the capacity of the EAC countries to present a united front to EEC, will constitute a test of regional solidarity, particularly since these relations are currently governed by pragmatic rules and approaches.

<sup>56</sup> In the negotiations for the admission of third countries (Ethiopia, Zambia) an *ad hoc* team was appointed.

<sup>57</sup> The first agreement of association with EEC was signed at Arusha on 26 July 1968 and the second was signed at Arusha a year later on 24 September 1969.

<sup>58</sup> In 1969, imports from the United Kingdom amounted to £70.9 million out of a total of £233.4 million (one-third of total imports), while exports from the EAC countries to the United Kingdom amounted to £52.9 million out of a total of £225 million (a quarter of the region's exports).

<sup>59</sup> Convention of Association between the European Economic Community and the African and Malagasy States, associated with that Community, signed at Yaoundé on 29 July 1969.

## B. Central African Customs and Economic Union

### 1. INSTITUTIONS AND AGENTS

#### (a) *Main institutions*

##### (i) *The Council of Heads of State*

110. The supreme organ of UDEAC is a Council of Heads of State which normally meets once a year and in which the Heads of States members of the organization necessarily participate (the required quorum is at least three Heads of State). The Council is presided over in rotation by one of the Heads of State. The ministers and experts who assist the Heads of State, as well as the Secretary-General of UDEAC, take part in these meetings.<sup>60</sup> The primary task of the Secretary-General is to report on each matter which is considered by the Council and to keep the records. The Council has wide powers and takes all its decisions by unanimous vote of its members. In some urgent cases, it may take decisions by correspondence and its President may decide to consult the members of the Council at their places of residence (see art. 8 of the Treaty establishing UDEAC).<sup>61</sup>

##### (ii) *The Management Committee*

111. Under article 11 of the Treaty, each State is represented on the Management Committee by the Minister of Finance or his representative and the Minister responsible for questions of economic development or his representative. The Treaty provides that meetings of the Committee shall not be held valid unless each State is represented by at least one Minister (art. 16), and this is also a condition of delegations being entitled to speak and vote. In practice, the participation of the Ministers is amply ensured. For example, at the session of the Management Committee held at Douala from 27-30 June 1970, the Ministers of Finance, the Ministers responsible for questions of economic development and the Ministers of Economic Affairs and Planning of the four member States were present. In addition, according to the Treaty, the members of the Committee may be assisted by up to four experts for each delegation.<sup>62</sup> In practice, the number of national experts who convene to prepare meetings of the Management Committee is tending to increase and varies between 6 and 10. Moreover, these meetings have led to the establishment of a Committee of Experts which, although not provided for in the Treaty, is becoming an important element of the machinery of the Union since it is responsible for examining all matters that are to be submitted to the Management Com-

<sup>60</sup> Confidential matters are dealt with directly by the Heads of State.

<sup>61</sup> Signed at Brazzaville in December 1964. For the text of the Treaty in French, see *Journal officiel de la République Gabonaise*, Libreville, 1 August 1965, p. 352. For an English text, see GATT, document L/2354.

<sup>62</sup> In accordance with the rules of procedure of the Management Committee operating costs are included in the budget of the General Secretariat for up to six persons per delegation (rule 25).

mittee. The Committee of Experts meets for 7 to 10 days before the Management Committee to prepare the meeting of the ministers and produce recommendations for their consideration. The Committee of Experts, whose composition may vary according to the topics to be considered, includes the technical advisers to the Presidents, budget directors, directors of customs, directors of statistical services and other competent officials. Because of the standing and competence of its members, its recommendations and proposals are seldom rejected by the Management Committee.<sup>63</sup> The Secretary-General and some of his assistants also participate in the meetings of the Management Committee.

112. The Committee, which is presided over by the Ministers of each State in turn, meets at least twice a year for two or three days. In practice, this frequency has been observed. The decisions of the Committee are taken unanimously; the draft agenda, however, may be amended by majority vote. Matters on which agreement cannot be reached are referred to the Council of Heads of State for settlement.

##### (iii) *The General Secretariat*

113. Under article 19 of the Treaty, the Secretary-General of UDEAC is Secretary of the Council of Heads of State and of the Management Committee. He is assisted by an administrative staff. The Secretary-General is appointed by decision of the Council for a three-year term, and though under the direct authority of the President of the Council in office, he enjoys a large measure of independence which is expressly guaranteed by the Treaty, for article 21 stipulates that the Secretary-General and the staff shall not seek or receive instructions from any Government or from any national or international body. They are to refrain from any attitude which might reflect on their position as international officials.

114. The Secretary-General is the head of the administration of UDEAC. Under the staff regulations (art. 9), he appoints officials (other than heads of division) and other staff members, and he is also responsible for terminating their employment. Under article 11 of the same regulations, the principle of an equitable distribution of posts among the member States must be observed for positions in the special category and in categories 1, 2 and 3. The regulations distinguish three types of employment: staff seconded from the civil services of the various member States;<sup>64</sup> staff under contract; and supplementary staff recruited by decision. Including those of the Secretary-General and the Assistant Secretary-General, there were 136 posts in the administration of the Union in 1971, of which 16 were vacant. The distribution of these posts by nationality was as follows: 12 Cameroonians, 5 Gabonese, more than 50 Congolese and more

<sup>63</sup> See M. Yondo (Cameroon), paper on the institutional framework of UDEAC presented to the Seminar on the Institutional Framework of Economic Integration among Developing Countries (Bangkok, 17-26 January 1972) (mimeographed; French only), pp. 8-9.

<sup>64</sup> National civil servants are, in principle, seconded for a five-year period but each State is entitled to recall a civil servant at any time. This practice threatens the continuity of the Union's civil service.



than 30 citizens of the Central African Republic, as well as 12 French (11 for technical assistance and 1 under contract). On account of the importance of Cameroon, it was agreed that the post of Secretary-General would always be filled by a Cameroonian. On the basis of this agreement, Mr. Tchanqué replaced another Cameroonian. The post of Assistant Secretary-General is, as a general rule, reserved for a national of Gabon, the smallest country of the Union but the one with the highest standard of living. The Director of the First Division is a Congolese, while the Second Division has no Director for the moment (this post was formerly assigned to Chad); the Assistant Secretary-General also acts as Director of the Second Division.<sup>65</sup>

115. The organization of the administration is simple: besides the General Secretariat proper, there are two Divisions, one for Customs, Taxation and Statistics, and the other for industrial harmonization and the harmonization of transport and telecommunications and of Social Legislation. The Divisions each have three departments, as is shown in the organizational chart in annex II to this study. The number of posts in the UDEAC Secretariat has already risen from 123 in 1969<sup>66</sup> to 144 at present, of which 22 have still to be filled (including a financial controller and a head of the administrative service who are to be recruited in the Central African Republic). It is expected that there will be a considerable requirement for permanent technical staff in the near future, particularly in the Second Division, whose industrial harmonization department has only 4 posts, of which 2 are at the technical level (one director of the department and one expert), and whose department of transport and telecommunications harmonization has 3 posts, including the director and one expert. In contrast, the First Division, has a staff of more than 70. The member States are aware of the situation and, at the meeting of the Management Committee in December 1971, the Secretary-General was asked to speed up the recruitment of a specialist in transport economics and a specialist in post and telecommunications matters. In the absence of qualified candidates in the member States, it is planned to recruit a foreign expert on a temporary basis.<sup>67</sup> This example illustrates the difficulty of recruiting qualified staff, a problem common to most of the integration institutions of the developing countries.

116. The operating budgets for the last six years have been as follows:

	Millions of CFA francs	Millions of U.S. dollars
1966 . . . . .	22.5	0.091
1967 . . . . .	267	1.08
1968 . . . . .	303.8	1.23
1969 . . . . .	278.9	1.06
1970 . . . . .	298.9	1.08
1971 . . . . .	350.6	1.26

<sup>65</sup> Yondo, *op. cit.*, pp. 8-9.

<sup>66</sup> See UDEAC, *Journal officiel*, fifth year, 1 April 1970, decision No. 14/69.

<sup>67</sup> Yondo, *op. cit.*, p. 9.

The budget for the financial year 1971 also includes 400 million CFA francs (\$U.S.1.44 million) for the equipment budget of the General Secretariat of UDEAC.

#### (b) *Advisory bodies and specialized organs*

##### (i) *Advisory bodies*

117. In UDEAC, both the Council of Heads of State and the Management Committee may set up commissions and working committees, and may decide upon their membership and powers. According to the Treaty and the rules of procedure of these two bodies, the role of the commissions is to provide information in their reports to the Committee or the Council, on the matters referred to those bodies. Their conclusions are for information only and cannot prejudice the Committee's decisions. By unanimous agreement of their members, the commissions may enlist the help of any persons who they consider may be able to provide them with information. In addition to the Committee of Experts, which occupies a central place and is becoming increasingly important because of its efficiency, several commissions have been established to study special questions. The UDEAC *Bulletin* mentions several meetings of commissions:<sup>68</sup> the Commission on the Free Movement of Persons, the Commission on the Harmonization of Labour and Social Legislation, the *ad hoc* Commission on the Harmonization of the Garment Industry in UDEAC and the Commission on the Harmonization of Postal Service and Telecommunications.

118. By way of example, reference may be made to a major commission set up in 1970 by an Act of the Council of Heads of State;<sup>69</sup> this commission was requested (a) to prepare, following a study by the General Secretariat of UDEAC, a detailed industrial development plan for the Union; (b) to follow the progress of work on the preliminary draft and the draft; (c) to adopt the report on the joint industrialization programme; and (d) to direct, where appropriate, the negotiations and activities with a view to the implementation of the proposals adopted. This commission consists of four representatives from each member State who may be either individuals or bodies and are appointed in their private capacity on the basis of their authority and competence by the President of the Council in office on the recommendation of the Head of State of the country they come from. In practice, each delegation is made up, as a rule, of a politician in whom the President has confidence, a planning official, a higher civil servant and a technician or engineer. As in the case of other commissions, the General Secretariat of UDEAC provides secretariat services for the commission.

119. Like the Council and commissions, the Management Committee may invite any qualified person to attend its meetings in an advisory capacity, but not to take part in its debates (art. 12 of the Treaty). In this

<sup>68</sup> See UDEAC, *Bulletin d'information*, No. 4, March 1971, p. 48 *bis*.

<sup>69</sup> UDEAC, Act No. 13/70 of 18 December 1970.

way, the Council or the Committee may allow the private sector or outside persons to hear its deliberations, without, however participating in its work. Such cases can arise when an entrepreneur or an industry submits an application for approval. Another example is the procedure which led to the building of the oil refinery at Port-Gentil as a community enterprise. On that occasion the foreign promoters were given a hearing. Subsequently, the Council also convened them and consulted some outside experts before taking a decision on the number (one or two) of new refineries to be installed. It is known that, at the request of Cameroon (Douala) and the Congo (Point-Noire), the Council decided, with the agreement of the experts, in favour of two refineries to be established in two separate countries. Finally, at their last meeting in December 1971, the Management Committee and the Council heard representatives of the economic sectors.

## (ii) *Specialized organs*

120. Among the specialized organs may be mentioned the Accounts Agency, which is under the direct authority of the general secretariat, the Inter-State Customs School, the Common Solidarity Fund and the Central Bank of Equatorial Africa and Cameroon. The countries members of UDEAC, together with Chad, form a monetary union in which the Bank operates as bank of issue for the member States and as a link between their monetary zone and the franc zone through a transactions account.

121. The Common Solidarity Fund, established under article 38 of the Treaty, was created to make compensating allowance for benefits derived from transit activities or a concentration of industries in the coastal States and to correct possible errors in the information on the country of consumption.<sup>70</sup> The Fund is financed through budget allocations. The proportion to be paid into the Fund and the percentages to be redistributed to the member States are fixed by the Council on the recommendation of the Management Committee. For example, the amount distributed annually by the Solidarity Fund was between 800 million and 1,200 million CFA francs (\$3.25 million and \$4.88 million) from 1960 to 1963; about 1,300 million CFA francs (\$5.27 million) in 1964 and 1965 and between 1,800 million and 1,900 million CFA francs (\$7.29 million and \$7.70 million) in 1966, 1967 and 1968. Those benefiting most from the Fund were Chad, before it withdrew from UDEAC in 1968, and the Central African Republic, which received a net contribution of almost 350 million CFA francs (\$1.42 million) in each year before 1968, and 450 million CFA francs in 1969 and 1970. Since 1969, the system based on Customs receipts has been replaced by payment to the Central African Republic of a lump sum derived from contributions by the three other members of the Union, which are fixed annually by the Council.<sup>71</sup> The Fund is an original example of a joint

<sup>70</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 34, p. 7.

<sup>71</sup> Yondo, *op. cit.*, p. 13. According to Mr. Yondo, it appears that the total of 500 million CFA francs for 1971 was distributed as follows: Cameroon, 200; Gabon, 150; and Congo, 150.

effort aimed at reducing the imbalances which can arise in a community of developing countries.

## (c) *Co-ordination at the national level and professional organizations*

122. According to testimony which has been collected, co-ordination at the national level in the countries members of UDEAC is good. The same people usually take part in the various meetings: the same Ministers, assistants, advisers, directors of Customs, etc. The heads of delegations consistently take a single line of action and a single position. This consistency of approach seems to be found among the UDEAC experts as well, who are practically always government experts.

123. Aside from the possibilities available to them through their Governments, the professional organizations may be called into consultation by the Council and the Management Committee which, as has been seen, may hear the organizations concerned and then deliberate in their absence. The same procedure of hearing and consultation may be used by the various commissions, as was the case with the textile interests. Organizations at the Union level are exceptional; an example is provided by the Chambers of Commerce of the member countries, which meet together regularly and have asked for the introduction of a common tax code within the Union.

## 2. THE DECISION-MAKING PROCESS

### (a) *Distribution of powers*

124. The function of the Council of UDEAC, the supreme organ of the Union, is to ensure the attainment of the objectives laid down in the Treaty. The Council directs and co-ordinates the economic and Customs policies of the member States; it has power of decision and has authority over the Management Committee. It takes the final decision in all matters on which the Management Committee has failed to reach a unanimous decision. The Council also adopts the budget and decides on tariff negotiations with third countries and on the application of the general tariff. It arbitrates any disputes which may arise between States with regard to the implementation of the Treaty. The President of the Council may take decisions, including decisions concerning the use of the budget and concerning the staff (decisions Nos. 1 and 2 of 1970). In practice, the Council's meetings are confined to the consideration of very important or confidential matters and action on matters referred to it by the Management Committee for arbitration.<sup>72</sup>

125. A novel feature is the transfer of some authority from the National Legislative Assemblies to the Council. Under article 9 of the Treaty, in

<sup>72</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 32, p. 7.



matters relating to economic, Customs and fiscal legislation, the decisions of the Council are taken under delegation of authority by the National Legislative Assemblies in accordance with the institutional rules of each State. In 1969, for example, the Council adopted Act No. 1/69, amending Act No. 8/65 establishing the Customs code of the Customs and Economic Union. By Act No. 6/69, it again amended the UDEAC Customs tariff; and by Act No. 1/70 it reduced Customs duties.

126. The Management Committee acts under authority delegated by the Council (art. 17).<sup>73</sup> The Management Committee is empowered to deal, *inter alia*, with the following matters: tariff and statistical nomenclature; the common external tariff; import revenue duties and turnover tax on imports; the single tax; Customs legislation and regulations; harmonization of domestic fiscal legislation; investment code; harmonization of industrial projects, development plans and transport policies; and consultations on social issues and on other matters of common interest.<sup>74</sup> In this capacity, it studies issues and adopts measures. In several matters, the Committee prepares decisions which it submits to the Council; it draws up the Customs and fiscal tariffs which the Council adopts (art. 30); it recommends to the Council the proportion to be paid into the Common Solidarity Fund and the percentages to be redistributed (art. 38); it makes proposals regarding the harmonization of domestic taxation systems (art. 42); and it has submitted for approval by the Council the draft investment code (art. 45).

127. The Committee also has certain powers of its own. Generally speaking, it carries out a preliminary examination of any non-confidential matter brought before the Council; it draws up the list of products subject to the single tax (art. 32); it exercises some control over the safeguard measures a State may wish to take and, where necessary, it takes in this connexion such measures as are required to prevent the diversion of traffic (art. 40). Lastly, as regards industrial co-operation, the Committee may, under article 55, decide on the single-tax rates to be applied to certain industries. Many of the Management Committee's acts, for example, concern companies which are subject to the single-tax régime. The Committee decides also on such matters as the establishment of commissions (decision No. 2 of 1970).

128. The General Secretariat is the executive organ of the Union. The Secretary-General has, on the whole, more powers of initiative and proposal, study and preparation, application and co-ordination than decision-making powers proper. The Treaty assigns him certain important tasks: he is responsible for dispatching current business in the Customs, fiscal or economic co-ordination spheres resulting from the application of the Treaty and for preparing the decisions to be taken by the Council or the Committee. Another duty of the General Secretariat is to further the achievement of the main objectives of the Treaty establishing UDEAC: the

<sup>73</sup> This delegation of authority is already largely provided for in the Treaty.

<sup>74</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 32, p. 7.

harmonization of the member States' industrialization and transport policies and the co-ordination of their development plans and fiscal systems.<sup>75</sup> The Secretary-General also plays a part in co-ordinating the work of the Unions' institutions and organs.

129. The Secretary-General, who is the king-pin of the Union, plays an active part in the conduct of its day-to-day affairs: he attends the meetings of the Council and of the Management Committee, for which he prepares documentation and decisions, as well as those of the Committee of Experts and the expert commissions. By his central position, his permanence and his virtual omnipresence, he fulfils a dynamic co-ordination role. For example, he receives from the member States draft decisions for inclusion in the agenda of the Council or the Committee; he studies them, co-ordinates them and gives his opinion on them; and he prepares texts of regulations and application decisions for submission to the Council and the Management Committee. With respect to Customs matters, he has the right, as have the member States, to initiate the preparation of acts and regulations for the Management Committee and has also a series of implementation functions. He is responsible for preparing and submitting the budget and for its execution. In performing his functions, he corresponds directly with the Heads of State of the Union, members of Governments and all public and private organizations.<sup>76</sup>

#### (b) *The decision-making model*

##### (i) *Origin*

130. The power of initiative lies with the member States or the inter-governmental institutions or with the General Secretariat of the Union. As far as the member States are concerned, initiatives can come from any individual or economic entity but, in order to reach the decision-making organs, they must first be examined and approved by one or other of the Ministries which is a member of the Management Committee of UDEAC.<sup>77</sup> Thus, initiatives from the private sector are not brought directly before Union institutions but are first screened by the national authorities. For example, an application for approval under the single-tax régime may be submitted by a national or foreign firm to the Ministry of Trade of a member State which, in turn, may transmit it with a favourable opinion to the Secretary-General for his consideration, conclusions and submission to the Management Committee.

131. The Secretary-General is allowed a broad measure of initiative. He can recommend measures for action by the Council and the Management Committee (in Customs matters, for instance), take the initiative in preparing the budget or draw attention to the non-implementation of

<sup>75</sup> See UDEAC, "Communication to UNCTAD" (mimeographed), April 1970, pp. 16-17.

<sup>76</sup> UDEAC, Act No. 2/65 of the Council of Heads of State, art. 2, para. g.

<sup>77</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 60, p. 11.

decisions or delays in their implementation (art. 33). Sometimes the Treaty establishes an obligation to act, as in the case of the single tax or the harmonization of plans and industrial co-operation. The Treaty provides that the general industrial development plan of the Union shall be submitted within one year after the entry into force of the Treaty (art. 57).

132. In this basic field, the initiative lies with the Secretary-General. Despite the mandatory time-table laid down by the Treaty, it has not proved possible to carry out this commitment in the absence of unanimity among the member States. To date, the general plan has not yet been drawn up. To compensate for this delay, the Secretary-General has taken the initiative in formulating a new strategy based on the joint development of certain sectors which exceed the capacity of the member States taken individually.

133. Naturally, other officials, such as national experts or ministers—acting either individually or jointly—make frequent use of their power of initiative. This is also true of the Heads of State, who are the source of some basic decisions.

#### (ii) *The formulation stage*

134. The General Secretariat has the responsibility for the formulation of decisions. Proposals for action emanating from the member States, inter-governmental institutions or the Secretary-General himself are first considered in the competent departments of the general secretariat. The latter studies them, gives its opinion on them and submits the relevant documentation to the member States one month before the session of the Management Committee. The national experts consider the documents and seek instructions from their respective Governments before attending the meeting of the Committee of Experts. During this phase, the Secretary-General or the Committee can obtain the advice of external or international experts—as in the case of the decision concerning the installation of oil refineries—and also the assistance of various *ad hoc* commissions.

135. In UDEAC practice, the Committee of Experts always meets just prior to meetings of the Committee and Council. It devotes several days to the preparation of the agenda and a search for satisfactory solutions. A feature of this formulation stage is the important part played by the Secretary-General and his services as well as by the national experts.

#### (iii) *The decision-making stage*

136. The proposals and other matters on which the experts give their approval are simply endorsed by the Committee or Council while those on which there was not agreement are referred to those bodies for decision. During this formulation process, the Secretary-General's views are not always accepted by the experts. Thus, a decision put forward by the Secretary-General may be rejected, in which case he can refer it directly to the Management Committee for its opinion. It sometimes happens that the experts themselves are divided on a project or opinion submitted by the Secretary-General. In these circumstances, the chances of it being brought before the Committee are increased. If the Committee then fails to agree

on the question, it may go round the circuit once again in the hope of a compromise, or be shelved, or be submitted to the Council. At all levels, the principle of unanimity is applied in reaching a decision. According to a well-known administrative practice, the problems which have been solved by unanimous decision of the experts are entered in list A, while the others appear in list B. Those in list A are merely endorsed formally by the Committee and thus end up either as acts and decisions of the Committee, or as proposals transmitted to the Council for decision. As for the items in list B, either the Ministers reach agreement on them, in which case they are treated in the same way as the list A items, or they still fail to agree, and the issues are submitted to the Council for settlement. It should be noted that, in addition to this normal decision-making process, there is another one: an act or decision can be taken *ad hoc* and unanimously by the Council or the Committee.<sup>78</sup> Between meetings, decisions can be taken by direct consultation of the parties concerned. The question being considered by the Secretary-General is communicated to the member States, which have two weeks in which to submit their opinion. If all four of them agree, the decision is taken. If there is disagreement, the Secretary-General submits the question, with a summary of the opinions, to the next session of the Council or Committee.<sup>79</sup>

#### (iv) *The implementation stage*

137. At the implementation stage, control is exercised by the General Secretariat, particularly in matters relating to the Customs Union. Examples of this are the checking against documents of the Customs declarations which are delivered to the Secretariat and the replies given to the questions addressed to it concerning the manner of implementation. If there is any difference of interpretation, the General Secretariat may impose its view by delegation of authority: it makes a tariff classification which constitutes a temporary decision for subsequent endorsement by the Management Committee. Throughout this process, the General Secretariat maintains direct contact with the Customs authorities. The Customs Union is UDEAC's most successful venture. Moreover, in this field, the Secretary-General is empowered to settle all questions involving the unity of Customs legislation and matters relating to the movement of goods. The Secretary-General can also take certain decisions to modify the lists of raw materials destined to enterprises in respect of which application of the single tax régime has been approved by the Management Committee.<sup>80</sup>

138. In the area of fiscal legislation, the General Secretariat follows up the Union's acts from the time of their publication and makes sure that they are implemented by the Governments and administrations of the

<sup>78</sup> *Ibid.*, para. 64, p. 12.

<sup>79</sup> Yondo, *op. cit.*, p. 12. In principle, lack of reaction by a member State is interpreted as agreement. In practice, however, the Secretary-General always regards silence as indicating disagreement, since unanimity is the best guarantee of implementation.

<sup>80</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 65, p. 12. According to the report, these are the only decisions which the Secretary-General may take.

member countries. If an act is not applied in a manner consonant with its content, and a decree, for example, changes its meaning, the General Secretariat contacts the national administration responsible by telephone and takes steps to secure review of the decree. In several cases, States have withdrawn or modified measures which ran counter to an act of the community (e.g. the payments for clearance, which were cancelled in Gabon). Another example of the same kind is provided by on-the-spot inspections made by the General Secretariat's inspection teams. These inspections affect companies subject to the single tax. This is an unusual instance of direct control organized by a regional institution.

139. Another important function of the Secretary-General concerns the budget of the General Secretariat. The Secretary-General prepares the budget and submits it to the Management Committee for its views and to the Council for adoption. He administers the budget and his signature is required for all budget operations. He submits the annual operating accounts for approval to the Council. Within the framework of the budgetary provisions, the Secretary-General is allowed a certain freedom of action: he may authorize transfers between chapters within a budget section or between headings within a budget chapter, up to a limit of 50 per cent of the relevant appropriation. Such decisions must be immediately communicated to the President of the Council.<sup>81</sup> As a result of these provisions, the budget is more manageable and can be more readily adapted to practical requirements.

### (c) *Common instruments and their scope*

#### (i) *Instruments*

140. In UDEAC, the Council of Heads of State and the Management Committee take decisions in the form of instruments (acts) which are binding and which have the force of law in the member States one clear day after receipt of the *Journal officiel* of the Union in the capital of each State (arts. 10 and 18). In the case of the emergency procedure, the decision becomes effective three full days after the arrival of its text.<sup>82</sup> The acts of the Council relate, as a rule, to general issues that are very important to the Union, such as the reduction of Customs duties.<sup>83</sup> The Management Committee may take certain general decisions, as well as some particular ones. Under article 40 of the Treaty (safeguard clauses) it may adopt measures, make recommendations and express desires. These two bodies may also give directives, instructions and mandates to the Secretary-General. On specific matters, the Secretary-General may also take decisions of a non-political nature, which are binding on those to whom they are explicitly addressed. As a rule, community acts have immediate effect in the countries of the Union and they may be addressed to enterprises as well as to member

<sup>81</sup> UDEAC, Act No. 2/65.

<sup>82</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 66, p. 12.

<sup>83</sup> UDEAC, *Journal officiel*, fifth year, 1 October 1970, No. 2.

States. (Only in exceptional cases are conventions—such as those on double taxation and mutual assistance in fiscal matters—subject to ratification.)

#### (ii) *Direct control*

141. These direct effects are accompanied by direct controls. In addition to the control of implementation mentioned earlier, there is an original example of an organized inspection at the community level. To reduce evasion and fraud, and to assist administrations which have no specialized tax surveyor at their disposal, UDEAC has set up an inter-State auditing team.<sup>84</sup> Under this act, enterprises subject to the single-tax régime, or operating in at least two States of the Union and taxed according to the real-profit régime, are subject to inspection by the members of this team. The latter operate throughout the Union, have access to the files kept by the States for each tax-payer, and, in the performance of their functions, have the same prerogatives as officials of the national tax administrations. They work in close co-operation with the national officials. On completing their inspection, the members of the team submit a report to their immediate superior. This report is then forwarded to the Minister of Finance of the State in which the enterprise under investigation is established. In all matters relating to fines and penalties, the Fiscal Department of the General Secretariat merely makes recommendations. If the fraud in question affects a single member State, the national procedure is followed. If, however, it affects more than one member State, the Management Committee determines the penalties.<sup>85</sup>

142. A similar system is applied in settling disputes in Customs matters. Fines are fixed by the courts or by the Management Committee. The common code imposes on the judge certain strict rules making it mandatory for him, if the offender refuses to pay the fine,<sup>86</sup> to inflict the full penalty. This encourages the offender to make a settlement.

#### (iii) *Appeals*

143. Appeals may be made to three institutions of the Union. Important disputes or disputes which cannot be resolved are settled in the last resort by the Council. In principle, when a member State brings a case before the Management Committee or the Council, the Secretary-General prepares the dossier with the help of the civil services of the member States. The dossier is examined by the Committee of Experts before being submitted to the Management Committee for decision. If the Committee fails to reach a unanimous decision, the dossier is submitted by the Secre-

<sup>84</sup> Management Committee, Act No. 98/66 of 10 June 1966.

<sup>85</sup> This auditing work is efficiently carried out and constitutes a substantial source of income which is divided among the member States according to the damage they have suffered (from about 190 million CFA francs in 1967, it appears to have exceeded 530 million in 1971).

<sup>86</sup> In the event of a refusal to pay a fine fixed by the Management Committee, it is the Secretary-General who appeals to the courts.

tary-General to the Council for final decision. If disagreement between the applicant State and the other members persists, the former may withdraw the case. UDEAC experience has shown that most disputes are settled amicably.

144. In establishing direct obligations and benefits, the Union has also provided a right of direct appeal, particularly in the case of approved enterprises, which may address themselves to the General Secretariat. Another example is the type of appeal open to enterprises under the convention on investment in the States of the Union (see art. 42 of the Treaty): enterprises have a right of appeal against an act withdrawing approval from them. According to the régime applied to the enterprise, the appeal is made either to the administrative authorities of the State in which the enterprise is established or to the Committee and the Council.

#### (d) *External relations*

145. As a corollary to the establishment of a Customs Union, UDEAC provides for joint negotiations with third countries. Thus, the powers of the Council include that of deciding on tariff negotiations with third countries and on the application of the general tariff. The Council's rules also provide that, when the Union is to be represented in bodies or conferences, the Secretary-General of the Union shall to inform the Heads of State, who convey their proposals to him, and he reports these proposals to the President of the Council, who makes the appointments. In practice, it is either the President of the Council or the Chairman of the Committee, or, more usually, the Secretary-General, who represents the Union on such occasions. However, when the question arose whether the Secretary-General should be given the power to approach international organizations directly with requests for technical assistance or other assistance of various kinds, the member States decided that the present level of integration of the Union did not justify such a permanent delegation of powers. Nevertheless, the Council of Heads of State delegates powers to the Secretary-General, on a case-by-case basis, for the execution of missions of that nature.<sup>87</sup> Thus, the recent request to UNDP by the Secretary-General was endorsed and supported by the member States. Like the other groupings, UDEAC, of course, maintains close relations with ECA, UNDP and UNCTAD, as well as with the European Development Fund (EDF) of EEC.<sup>88</sup>

<sup>87</sup> Yondo, *op. cit.*, p. 11.

<sup>88</sup> The States members of UDEAC are associated with EEC.

## C. Central American Common Market

### 1. INSTITUTIONS AND AGENTS<sup>89</sup>

#### (a) *Main institutions*

##### (i) *The Central American Economic Council*

146. The Central American Economic Council, an organ of CACM, is composed of the Ministers of Economic affairs of the member countries. Meetings of other ministers have sometimes been held, such as meetings of the Ministers of Finance, Labour, Agriculture and Transport. The predominance of Ministers of Economic Affairs is certainly one way of ensuring the participation of the main responsible officials, but it can place too strict a limitation on the number of participants. In the present crisis within CACM, the Ministers of Foreign Affairs have to act, since the matter is no longer the exclusive responsibility of the Ministers of Economic Affairs. In principle, the ministerial meetings take place every three months, and last from three days to a week. Between 20 and 30 people attend them, including deputy ministers and integration directors, ministerial assistants and advisers, representatives of the central banks and high officials, most of whom are members of the Executive Council. Members of the secretariat and representatives of other international or regional organizations also take part in the meetings. An unusual feature of the Council of CACM is the fact that the delegations include representatives of the private sector and of employers' professional federations (the delegation of Honduras, however, traditionally includes representatives of the trades unions). These representatives attend only in an advisory capacity, but their influence more than counterbalances the limitation thus imposed.<sup>90</sup>

147. Although the consultation of private interests was regarded as a positive factor, their presence is no longer regarded as desirable at the time of decision-taking. The Normalization Commission continues to hear the private sectors but excludes them from attendance at discussions which are to lead to decisions.<sup>91</sup> The decisions of the Economic Council are taken unanimously.

##### (ii) *The Executive Council*

148. Under the Economic Council comes the Executive Council, whose role is in principle more technical. It is composed of the vice-ministers of Economic Affairs<sup>92</sup> and the directors or deputy directors of the integration offices. Between 30 and 40 persons take part in these meetings, includ-

<sup>89</sup> See F. Villagrán Kramer, *Integración económica centroamericana. Aspectos sociales y políticos* (Guatemala, University of San Carlos de Guatemala).

<sup>90</sup> Sidjanski, *Dimensiones institucionales...*, *op. cit.*, pp. 104-105.

<sup>91</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 16, p. 3.

<sup>92</sup> The attendance of the Vice-Ministers was recommended to the Governments by the Central American Economic Council at its ninth meeting.

ing regular members, alternate members, assistants and advisors, representatives of SIECA and representatives of Central American, Latin American and international bodies. These meetings, which last from 8 to 10 days, are held about 10 times a year. In practice, the Executive Council holds its meetings at two levels, that of the regular representatives and that of the alternate representatives. Participation by the private sectors takes the same form and presents the same problems as in the Economic Council. Unlike the Economic Council, the Executive Council may take decisions by majority vote. Generally speaking, it is an intergovernmental filter for proposals emanating from the various members, or from SIECA, and it prepares the decisions of the Economic Council.

149. In order to ensure the functioning of CACM following the 1969 crisis, which caused the work of the two Councils to be suspended, the following meetings were held between June 1971 and July 1972: (a) eight meetings of the Ministers of Economic Affairs, three in the absence of Honduras, one in the absence of El Salvador, and four meetings at which the five Ministers were present, including a joint meeting with the Central American Monetary Council; as well as a series of bilateral meetings between Honduras, on the one hand, and Guatemala, Nicaragua and Costa Rica on the other; (b) 13 meetings of the Normalization,<sup>93</sup> including one special meeting and one meeting of the members of the Normalization Commission appointed by the Presidents; (c) eight meetings of the working party of vice-ministers members of the Normalization Commission; and (d) two meetings of the sub-working party of economic integration directors and one meeting of the technical group of the Normalization Commission.<sup>94</sup>

150. The task of the Normalization Commission is not only to ensure the resumption of CACM's normal activities but also to reform and improve its institutions. With that in mind, the Normalization Commission instructed the presidential representatives to prepare, in co-operation with SIECA, proposals for improvement of the institutional structures of CACM. At their eleventh meeting at SIECA headquarters (24-26 July 1972), the ministerial members of the Commission took note of the recommendations of the presidential representatives (who had met at SIECA headquarters on 13, 14 and 15 December 1971) that the Executive Council should become a standing organ and should function at SIECA headquarters. The Executive Council would be composed of persons appointed by the respective Governments for a minimum period of three years, who would have the status of regional civil servants and the duties specified in the Treaty establishing

<sup>93</sup> The Normalization Commission, established in June 1971, temporarily replaces the Central American Economic Council and the Executive Council. It is composed of two members from each country, the Minister of Economic Affairs and an eminent person appointed by the Head of State. Honduras, however, is not taking part in the Commission's work. Besides taking over the normal functions of the two Councils the Commission has to find solutions to the problems caused by the 1969 crisis and carry out a reform of CACM's institutions.

<sup>94</sup> See SIECA, *Carta informativa* (Guatemala), No. 127 (May 1972), pp. 21-22, and No. 130 (August 1972), pp. 1-3.

CACM,<sup>95</sup> as well as the additional responsibilities proposed by the presidential representatives. That proposal alone, in view of the fact that its intent is to convert an intergovernmental executive institution into a community one, is a substantial improvement on the existing institutional system.<sup>96</sup>

### (iii) *The Permanent Secretariat*

151. SIECA is directed by a Secretary-General (at present the post is vacant owing to the resignation of Mr. Castillo as a result of the common market crisis) and two Assistant Secretaries-General. The Secretariat is an important permanent and dynamic nucleus. Between 1966 and June 1971, the staff increased from 74 persons to 181. The number of technical experts and professional staff is estimated at from 50 to 55 persons. These figures do not include the five professional staff members of the Central American Programme for the Promotion of Exports (PROMECA) or the five others who work in the CACM offices, in Central America and in Europe. Nor do they include several experts from FAO, the ECLA Programme and OAS. Despite the changes that have taken place in the staff, there is a permanent nucleus of persons who, to all intents and purposes, are making a career in SIECA. Some continuity is thus ensured, concurrently with a certain amount of coming and going between SIECA, the national administrations and the private sector. In general, it may be noted that SIECA has a qualified staff capable of performing promotional, study and preparation functions, as well as executive and supervisory functions relating to the operation of CACM. A brief glance at the organizational chart and distribution of staff shows that some departments, and in particular the planning unit, the industrial development unit and the agricultural section, are too small. The activities concerned have been insufficiently developed for lack of resources. In the last six years, SIECA's budget, which is mainly financed by equal contributions from the five member States, was as follows:

1966:	\$410,000, or \$80,000 per member State
1967:	\$510,000, or \$100,000 per member State
1968:	\$610,000, or \$120,000 per member State
1969:	\$765,000, or \$150,000 per member State
1970:	\$825,000, or \$150,000 per member State
1971:	\$908,000, or \$180,000 per member State

The amount by which the budget exceeds contributions is covered by the sale of publications and obsolete equipment.

<sup>95</sup> General Treaty on Central American Economic Integration establishing the Central American Common Market, signed at Managua, Nicaragua, on 13 December 1960. For the text see United Nations, *Treaty Series*, vol. 455 (1963), No. 6543, p. 68.

<sup>96</sup> SIECA, *Carta informativa* (Guatemala), No. 130 (August 1972), pp. 3-4.

(b) *Advisory bodies and specialized organs*

(i) *Advisory bodies*

152. There are two main kinds of advisory bodies within CACM: on the one hand, permanent bodies or commissions and committees such as those set up in the agricultural sector, the joint meeting of directors of planning bodies, the Technical Telecommunications Commission, the Commission of Central American Port Authorities (COCAAP), etc. Their membership gives these bodies considerable influence, an example being the Co-ordinating Committee on Marketing and Agricultural Price Stabilization. After two meetings of the directors of cereals marketing and price stabilization organizations (August and October 1971) the Committee resumed its work at its meeting in November 1971.<sup>97</sup> Two meetings of its technical group were held early in 1972. COCAAP held a constituent meeting in March 1972 at which seven working parties composed of experts from national port undertakings were established.<sup>98</sup> In addition to the official representatives, representatives of the shippers (*usuarios*) and of the Central American Shipowners Association (ACAMAR) took part in the meeting.

153. The second type of body consists of working parties or *ad hoc* meetings which provide opportunities for consulting technicians and experts during the preparation or implementation of decisions. SIECA often convenes such bodies when it is preparing projects. They may also take place at the level of the Executive Council during the consideration of the projects.<sup>99</sup>

154. Thirdly, there are the conferences which SIECA can convene and at which both governmental representatives and representatives of the sector involved may participate. For example, SIECA convened the second Central American Textile Conference, the two sessions of which (Guatemala, 2 and 3 December 1971 and 20 and 21 April 1972) were attended by the integration directors, assisted by various governmental experts, by representatives of the Central American Technological Research Institute for Industry (ICAITI) and the Central American Bank for Economic Integration (CABEI), and by representatives of the industrial sector.<sup>100</sup> At the meeting to assess the shipping programme which was held at SIECA headquarters from 11 to 13 July 1972, the group of experts from regional organizations—including COCAAP, ACAMAR and the shippers—recommended to SIECA that a shipping division should be established within the Secretariat. That division would be responsible for the shipping programme in Central America: it would help to co-ordinate the activities of COCAAP, ACAMAR and the shippers and would maintain close co-operation with UNCTAD and ECLA.

<sup>97</sup> *Ibid.*, No. 122 (December 1971), pp. 2-3.

<sup>98</sup> *Ibid.*, No. 126 (April 1972), pp. 10-11.

<sup>99</sup> Sidjanski, *Dimensiones institucionales...*, *op. cit.*, pp. 116 and 129.

<sup>100</sup> SIECA, *Carta informativa* (Guatemala), No. 122 (December 1971), pp. 4-5.

155. In general, SIECA can, if it deems fit, invite to these three types of meetings experts from the private sector and from specialized, regional or international organizations.

(ii) *Specialized organs*

156. Some of the specialized organs may be regarded as official autonomous institutions for regional integration: these are the Monetary Council, CABEI, and the Clearing House. The *Monetary Council*, which consists of the presidents of the five central banks has set up a number of advisory or action committees and has its own executive secretariat. Throughout the crisis, the Monetary Council has continued its work, as have the other specialized and autonomous organs. It held a joint meeting with the Ministers of Economic Affairs on 6 and 7 July 1971. It even arranged for the signing of an agreement on the Central American Monetary Stabilization Fund, adopted in October 1969, which will be submitted to the member countries for ratification.

157. CABEI has two main organs: the Board of Governors, consisting of the ministers of economic affairs and the presidents of the central banks of the Central American countries, and a Board of Directors of five members, whose chairman is also President of the Bank. Originally, the five directors were to have acted as heads of department in the bank. In practice, they do not seem to have actually assumed these duties. CABEI has considerable assets, including an authorized capital of 60 million Central American pesos, 40 million of which were subscribed in equal shares by the five member countries. In addition, its present resources amount to 318.8 million pesos, including 39.5 million of its own capital and 279.3 million of funds from external sources.<sup>101</sup> The Board of Governors of CABEI last convened on 19 and 20 June 1970. Since then, the governors have not met, but the Board of Directors has continued to meet regularly and to discharge all its duties. By the end of 1971, CABEI had carried out 402 loan operations amounting to 284 million Central American pesos, divided as follows: 270 loans for a total amount of 95 million through the Ordinary Fund; 106 credits representing 165 million through the Central American Economic Integration Fund for the financing of infrastructural projects designed to strengthen the integration process; and 26 loans totalling about 24 million which were granted by the Housing Finance Fund.<sup>102</sup>

158. In addition to these two specialized integration agencies, there are several other specialized autonomous organs such as ICAP, ICAITI, the Central American Air Services Corporation (COCESNA), etc. All of these have been operating normally since the 1969 crisis. (For example, the fourteenth meeting of the ICAITI Board of Directors was held on 25 August 1970.) These organs co-operate with SIECA. ICAITI has carried out studies for SIECA and gives technical advice on the projects which

<sup>101</sup> In Central American pesos, the Agency for International Development (AID): 142.5 million; IDB: 61.3 million; European credits: 27.6 million; commercial banks in the United States of America: 30.5 million; Mexico: 6 million.

<sup>102</sup> SIECA, *Carta informativa* (Guatemala), No. 129 (July 1972), pp. 13-14.



SIECA has to study for the Executive Council. This co-operation is facilitated by the personal relations which exist between the directors of some of these institutions. For example, the governors of CABEI are the ministers who are also members of the Central American Economic Council of CACM.

(c) *Co-ordination at the national level  
and professional organizations*

(i) *Co-ordination*

159. Co-ordination at the national level is ensured by the Vice-Ministers of Economic Affairs responsible for integration matters, as in Guatemala, or by the directors of the office of integration, as in Costa Rica. Officials concerned in one way or another with integration matters meet at the Ministry of Economic Affairs and/or at the Ministry of Foreign Affairs. In addition, their directors and responsible staff are also members of the Executive Council, and take part, with the ministers, in the meetings of the Central American Economic Council. As integration concerns only a few officials (specialists or technical experts), there are no serious problems of co-ordination at the national level.

(ii) *Professional organizations*

160. A few broad sectors are covered by about a dozen of these associations. They include the Federation of Industrial Chambers of Commerce of Central America (FECAICA), the Federation of Central American Chambers of Commerce (FECAMCO), the Federation of Central American Private-Sector Enterprises (FEDEPRICA) and organizations concerned with sectors such as textiles, sugar, livestock and cotton. Some new associations have also been established: the Federation of Journalists, the Advertising Agencies of Central America and Panama, the Land Transport Organization, *Usuarios*, ACAMAR<sup>103</sup> and the Federation of Central American Development Institutions (FEICADE). Until quite recently, workers had some difficulty in setting up a regional structure. There is now a Confederation of Central American Workers (CTCA).

161. The two central employers' organizations (FECAICA and FECAMCO) play an important role in the intergovernmental institutions of CACM. Through their representatives, they take part in the meetings of the Central American Economic Council and the Executive Council, and in some of the work of the commissions and committees. Quite recently in the current crisis, moreover, these organizations spoke in favour of maintaining CACM and suggested to the Normalization Commission that they should be given direct access to it so that they could take part in the settlement of the crisis.

<sup>103</sup> ACAMAR, set up in 1970, held its fourth meeting in early 1972 at which it approved seven resolutions, several of which were addressed to governments, Central American institutions (SIECA, CABEI) and to international organizations (ECLA, UNCTAD). (SIECA, *Carta informativa* (Guatemala), No. 124 (February 1972), pp. 17-19.)

162. The Normalization Commission has decided to consult these organizations without associating them with its work. However, the representatives of the major employer's associations take part in the Commission's activities indirectly through their presidents' representatives, some of whom move in these circles. Nevertheless, some see an advantage in this situation because, compared with the ministers and other official participants, these representatives enjoy a large measure of independence and freedom. At the request of the Normalization Commission (sixth meeting, 19 and 20 November 1971) the representatives of the presidents prepared, with the co-operation of SIECA, a report recommending various improvements in the institutional aspects and the trade and industrial policy of CACM (meeting held at SIECA headquarters, 13-15 December 1971).

2. THE DECISION-MAKING PROCESS

(a) *Distribution of powers*

163. The *Central American Economic Council* directs integration, co-ordinates economic policies and takes decisions on problems which the Executive Council has been unable to solve. In practice, the Economic Council takes decisions on the many problems which are frequently referred to it by the Executive Council and SIECA. It decides, for example, on amendments to existing protocols or adopts new protocols. It therefore has considerable powers, since it rules on every important matter, takes the basic decisions and settles disputes which the Executive Council had been unable to decide. The Economic Council has general responsibility for the direction and co-ordination of activities and has primary responsibility for the promotion of integration.

164. The *Executive Council* has a central function of a much more technical nature, which consists in preparing resolutions for the Economic Council, in addition to exercising its own powers. All decisions of the Economic Council are prepared by the Executive Council and SIECA, the former serving as a kind of channel and filter between the Permanent Secretariat and the Economic Council. In addition to this filtering role, the Executive Council has powers of initiative and proposal; it may, for instance, prepare and negotiate new conventions or amendments to the basic rules and is empowered to take all sorts of initiatives on its own. Consequently, the Executive Council could become a driving force for integration.

165. The Executive Council may, in the course of its work, be required to make political choices. However, if it considers that it needs political instructions with respect to certain matters, it can always approach the Council of Ministers. It also has certain other powers of its own: it verifies the implementation of the Treaty and of other instruments such as the Protocols, interprets the common rules, takes any measures necessary to ensure the proper functioning of CACM and does preparatory work with a view to the establishment of the economic union, as well as performing any tasks



assigned to it by the Council of Ministers. As part of its supervisory duties, the Executive Council may, for example, authorize a member country to suspend the application of a general standard relating to the origin of goods, or may take decisions on matters such as the free trade in salt between Guatemala and El Salvador (October 1966). Thus, the Executive Council is empowered to adopt measures and take decisions on a wide range of subjects including, for instance, questions of origin, and questions relating to Customs exemptions and unfair business practices. It will be noted, therefore, that the Executive Council has some significant powers which it has not always exercised to the full. The potential role of the Executive Council has nevertheless been confirmed by the recommendation addressed to the Governments by the Central American Economic Council at its ninth meeting, inviting them to be represented on the Executive Council by Vice-Ministers. All the Governments, with the exception of that of Costa Rica, have complied with this recommendation.<sup>104</sup>

166. The functions of SIECA, on the other hand, are administrative and technical. It supervises the implementation of resolutions, treaties and instruments, prepares projects and studies in accordance with the instructions of the Councils and takes certain measures itself to ensure the proper functioning of the integration process. It is also responsible for organizing, preparing and servicing meetings of the two Councils and of the various working parties and commissions. Although SIECA may also interpret the Treaty, this is mainly the responsibility of the two Councils. In many cases, the Councils' decisions are based on the studies, opinions and reports of SIECA.<sup>105</sup> Experience has shown that SIECA is very effective as an organ responsible for making recommendations for action. Even in this field, however, the Treaty imposes narrow limits upon it and obliges it to follow a lengthy process of special protocols before it can undertake work in a new field. The chief weakness of SIECA, however, lies in its inability to ensure that joint decisions are applied and implemented.<sup>106</sup> Thus SIECA's role varies according to the matter dealt with and the stage involved: it is considerable in the technical field and at the formulation stage, but it is weaker at the implementation stage owing to the lack of clear-cut functions.

#### (b) *The decision-making process*

167. In CACM, instruments (acts) emanate from Governments and the Councils, and also from the initiatives of SIECA and the private sector. The process of preparation is begun on the basis of these initiatives. SIECA plays a central role at this stage, in co-operation with various bodies and experts. For example, there is close collaboration with ICAITI particularly

<sup>104</sup> SIECA, *Los órganos del Tratado general de integración económica centro-americana* (Guatemala, 1968), p. 25.

<sup>105</sup> For example, the SIECA report requesting free trade in rice, which was accepted by the Executive Council and put into effect by Costa Rica.

<sup>106</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, paras. 46 and 48, p. 9

as regards industrial development and the régime to be applied to integration industries. It is at this stage that the various advisory commissions play their part. SIECA also calls upon independent experts and experts from universities. The Executive Council refers the proposals for consideration by specialized commissions consisting of technical experts from national administrations, by working parties or by the alternate representatives, who may hold meetings as required. At this stage, the Executive Council may hold consultations with representatives of the private sectors, who may even be members of official bodies. Some decisions may be taken by the Executive Council itself, by a majority vote, while other questions and proposals are submitted to the Economic Council. In principle, if there is agreement in the Executive Council, the draft resolutions are endorsed by the Economic Council. Disputes at the Executive Council level and important matters are settled by the Economic Council.

168. The process does not end, however, with a decision by the Council of Ministers. Unlike other experiments in integration, CACM shows traces of a previous phase in the form of protocols which must be ratified by the national legislative assemblies. Similarly, the Economic Council may not modify Customs tariffs without the approval of the assemblies, and this explains why the process of Central American integration is so slow and difficult. The ratification of protocols by national parliaments, some of which are too dependent on the Governments, slows down whole process, especially since all important decisions, including those establishing protocols, are taken unanimously.

#### (c) *Common instruments and the settlement of disputes*

##### (i) *Instruments*

169. Within CACM, the common instruments (acts) of the Economic Council and the Executive Council usually take the form of resolutions and recommendations. The resolutions of the Council of Ministers contain directives and instructions to the community organs, or conventions and protocols, or decisions addressed to the member countries. These decisions, whether of the Economic Council or of the Executive Council, are usually enforceable. In certain cases, the Executive Council may issue general rules which are binding on all the member States. The protocols are the most important instruments, and they are therefore subject to ratification by the national parliaments. Although most frequently addressed to the member States, some acts may directly concern individuals. Such is the case when, in connexion with the régime for integration industries, the Executive Council fixes the level of prices within the Common Market for the products of an integration industry. Within this system SIECA does not itself have the power effectively to supervise the implementation of decisions, but it may express opinions, give advice or make recommendations. Furthermore, the penalties laid down to ensure application of the common standards and obligations are exceptional. In the case of the régime for integration industries, for example, the Executive Council may authorize import of the products manufactured by an integrated industry which does not fulfil

the obligations imposed under the régime. If a member country does not implement the decisions of the Executive Council or the Economic Council, the other member countries may ultimately resort to various kinds of reprisal.

(ii) *Settlement of disputes*

170. The two Councils successively adopted a set of rules of procedure for the settlement of disputes (March 1968).<sup>107</sup> The rules provide that the procedures to be applied for the settlement of disputes are firstly direct negotiations between the parties, then recourse in the first instance to the Executive Council, and in the second instance to the Economic Council and, lastly, recourse to the arbitral tribunal provided for in the Treaty. Up to the present, only the first procedure, that of direct negotiations between the parties, has been feasible, because the two Councils have not held any meetings since the 1969 crisis.

(iii) *Relations with the Organization of Central American States*

171. Under the Charter of the Organization of Central American States (OCAS), the Economic Council, the principal Central American economic integration body, has to submit an annual report on its activities to the Executive Council of OCAS, which brings the report to the attention of the Conference of Ministers of Foreign Affairs (arts. 17 and 18). Despite these structural ties, the development of these two organizations has been parallel, and they have co-operated only sporadically, at times when there was no rivalry or strain between them. OCAS differs from CACM in that it is a more flexible organization with broad policy objectives. It was established in 1951, but was modified in 1962 to make it better adapted to the problems of the region. Its main institutions are the following: the Meeting of Heads of State, the Conference of Ministers of Foreign Affairs, the Executive Council at the ambassadorial level, and the Secretariat. These organs co-ordinate the activities of eight councils (Legislative Council, Labour and Social Welfare Council, Public Health Council, Tourism Council, Cultural and Educational Council, Defence Council, Infrastructure Council and Agricultural Council), and a Court of Justice. Except for the Legislative Council, which is composed of three representatives from each national congress, the councils are composed of the competent ministers. Notwithstanding the existence of these institutions, OCAS has achieved only limited results because of its cumbersome intergovernmental procedures and its lack of real power with binding force on member States. The meetings of Heads of State and Ministers of Foreign Affairs have sometimes given rise to discussions of integration problems, as, for example, at the beginning of the 1969 crisis.

<sup>107</sup> Sidjanski, *Dimensiones institucionales...*, op. cit., pp. 104-105, 107, 117-118 and 121. See also SIECA, *La evolución y el estado actual del Mercado Común y sus posibilidades de funcionamiento a corto plazo* (The development and present situation of the Common Market and its short-term operating possibilities) (71/V/20/V-I), vol. I, pp. 25-26.

(d) *External relations*

172. Under resolution 44 (CEC) entitled "Institutional organization of Central American Trade Policy", the Economic Council co-ordinates and formulates trade policy with the help of the Executive Council and SIECA, especially as regards technical studies. In this field, the initiative may come from SIECA or from Governments. A common trade policy has become increasingly necessary as CACM develops into a Customs union with a common external tariff. Export promotion has also encouraged a certain amount of co-operation. For example, joint action has developed in the field of sugar exports, where close collaboration between the Federation of Sugar Producers, the Governments and SIECA has been established. This collaboration was made possible by the numerous contacts between SIECA and Governments and producers, and between Governments and their domestic producers. Joint meetings were then held, which have led to the elaboration of a common position.

173. PROMECA will play an important role in the promotion of exports from the countries members of CACM. On its proposal, a meeting of directors of national export promotion bodies took place in November 1971. To co-ordinate the national programmes, it was decided *inter alia* to hold annual meetings of the directors, to request PROMECA to submit proposals for the establishment of permanent machinery to co-ordinate the work of the common programme and the national organizations, and to support the CABEI project for the establishment of a Central American Fund for the financing and promotion of exports of products which do not form part of the traditional export trade.<sup>108</sup> CACM has also sought to apply a similar system in its contacts with third countries, including Panama and Mexico. In these preliminary contacts, SIECA played a role, particularly in relations with Panama, but the exploratory contacts with Mexico were mainly bilateral, despite the existence of the Joint Mexican-Central American Commission. However, in its relations with international organizations such as CECLA, the Special Consultation and Negotiating Committee (CECON), and United Nations agencies such as UNCTAD and ECLA, CACM generally presents a united front. At meetings of these organisations—and this was particularly true of the third session of the United Nations Conference on Trade and Development, at Santiago in 1972—a representative took the floor as the spokesman for Central America. In this process, the role of SIECA is important, as is shown by the activities of its representative at Geneva. Lastly, it should be pointed out that, although most of the treaties are concluded between member States, they include community clauses. Despite the existence of several instruments for co-ordination in the field of external relations, a concerted trade policy is still lacking in CACM.

<sup>108</sup> SIECA, *Carta informativa* (Guatemala), No. 121 (November 1971), pp. 15-18.

## D. Andean Group

### I. INSTITUTIONS AND AGENTS

#### (a) Main institutions

174. The Andean Group has no formal institution in which ministers meet, but regular meetings have been held since its establishment: three meetings of ministers of foreign affairs, three meetings of ministers of economic affairs and industry, three meetings of ministers of education, within the framework of the "Andrés Bello" Agreement,<sup>109</sup> and one meeting of ministers of health. These ministers considered matters connected with integration and issued certain directives. In this way, without forming part of the institutional system of the Andean Group, the meetings of ministers can approve certain activities, supplement them and give a new impetus or direction to integration. For example, at their third meeting, held at Lima from 19 to 21 June 1972, the Ministers of Foreign Affairs of the countries members of the Treaty (Cartagena Agreement<sup>110</sup>), with the active participation of the co-ordinator of the Board, carried out an appraisal of the integration process and defined common attitudes towards the outside world. They decided to meet at Lima every year in the month of June. Henceforth, therefore, their meetings will take place at regular intervals.<sup>111</sup>

175. The Cartagena Agreement provides for two main organs: the Commission and the Board (*Junta*).

#### (i) The Commission

176. The Commission, the main intergovernmental organ, is composed of principal representatives and alternates, i.e., two persons from each member country. In practice, those present at the meetings are far more numerous, and between 25 and 50 persons may take part. For example, the session held at Lima from 12 to 17 July 1971 was attended by 49 advisers

<sup>109</sup> The "Andrés Bello" Agreement was signed on 31 January 1970 by the countries members of the Andean Group and by Venezuela. With the object of accelerating the over-all development of its members, the Agreement aims to promote a better knowledge of the common cultural heritage and of particular cultural features of the member countries, to encourage effective defence of cultural and moral values and to unite efforts in the field of education, particularly with regard to science and technology. The institutions of the Agreement are the Meeting of Ministers of Education, the Board—an auxiliary technical organ—consisting of educational planning chiefs, and a permanent executive secretariat at Bogotá, the establishment of which was decided upon by the ministers at their third meeting, held from 27 to 30 March 1972. (See Andean Group, *Carta informativa oficial de la Junta del Acuerdo de Cartagena* (Lima), No. 11 (March 1972, p. 2; and J. J. Caldera, *Estudio sobre el Pacto andino* (Caracas, Cordiplan, 1971), annex, pp. 107-117.)

<sup>110</sup> Agreement on Subregional Integration, signed in November 1969 at Cartagena (Colombia), between Bolivia, Chile, Colombia, Ecuador and Peru. (See *Acuerdo de Integración Subregional* (Washington, D.C., IDB, 1969).)

<sup>111</sup> Andean Group, *Carta informativa oficial...*, op. cit., Supplement No. 12 (June 1972), "Third meeting of Ministers of Foreign Affairs".

besides the representatives: of these advisers: 3 from Bolivia, 3 from Colombia, 11 from Chile, 9 from Ecuador and 23 from Peru. The representatives of the States in the Commission are, in principle, the departmental heads and senior officials responsible for integration at the national level. They are accompanied by officials and advisers who regularly take part in integration work in the member countries. According to the Treaty, the Commission meets three times a year in regular session, and in special sessions when convened by the President at the request of a member country or of the Board.

177. Since its first session in November 1969, the Commission has held nine regular sessions and six special sessions up to August 1972, each session lasting from 5 to 10 days. The special sessions have become very important as a result both of their frequency and of the decisions adopted at them (e.g. the rules of the Economic and Social Committee, the common régime for foreign capital, the establishment of the councils, the minimum common external tariff, the rules of competition and the single régime for multinational enterprises).

178. A basic characteristic of the Commission is its voting procedure: in accordance with the general rule laid down in article 11 of the Treaty, the Commission adopts its decisions by a two-thirds majority.

179. This general rule admits of some important exceptions for which unanimous agreement is required: in respect of the matters listed in annexes I and II to the Treaty, the Commission reaches its decisions by a qualified two-thirds majority, on condition that no negative vote has been cast by a member country, as is the LAFTA procedure. In respect of matters listed in annex II, however, when a negative vote has been cast the matter is referred back to the Board, which, within two to six months, must resubmit its proposal to the Commission. The amended proposal can be approved by two-thirds of the member countries, provided there is no negative vote other than that of the country which previously opposed the proposal. Lastly, in respect of certain matters listed in annex III, an affirmative vote by one of the two smaller countries, Bolivia or Ecuador, is required. This special procedure, which offers an additional guarantee to the least developed countries of the Andean region, is in keeping with the aims and provisions of the Treaty (chap. XIII) which institutes preferential treatment in favour of Bolivia and Ecuador. It should be pointed out that, so far, the members of the Commission have in fact never voted. All decisions and measures have been adopted by a consensus of all the members.

#### (ii) The Board

180. The Board (*Junta*) of the Cartagena Agreement is a new departure in integration among the developing countries. As provided in the Treaty, it is a principal organ, just like the Commission. Essentially a community institution, it ensures collective control of the Andean Group's common organs and administration. Its members, who are three in number, must be nationals of a Latin American country. They are appointed by the Commission, by a unanimous vote, for a term of three years. Under articles 13 and 14 of the Agreement, they may act only in the interest of the subregion

as a whole and are collectively answerable to the Commission. The Treaty guarantees the independence of the Board.

181. The members of the Board must refrain from any activities incompatible with the nature of their duties and may not exercise any other professional office for the duration of their term as member of the Board. In addition, they may not seek or receive instructions from any Government or from any national or international entity. The three present members of the Board work together harmoniously and effectively and are complementary to one another: the Ecuadorian is an economist, the Colombian a lawyer (and politician) and the Chilean is an engineer. All three are persons of very high calibre. Each year, as in the case of the Swiss Federal Council, one of the three assumes the presidency or the office of co-ordinator. The collegiate nature and organic aspect of the Board are emphasized by the need for unanimity among its members. The Board may also, however, by unanimous decision, present for consideration of the Commission proposals incorporating several alternatives.

182. Among its other functions, the Board directs the Permanent Secretariat and the community administration (art. 15 (i)). To ensure duration and continuity, the Board may appoint permanent officials. It may also issue contracts for a limited period of two years or assign particular and specific tasks to experts.

183. At the moment, the community administration consists only of some 30 professionals and 60 to 70 general service staff. The professional and technical staff is organized in the following way. Under the authority of the Board, a Secretary/Director is responsible for external public and political relations. There are four main units: programming, economic policy, industry and legal affairs. The programming unit consists of a chief and seven other professionals, together with two technical assistance experts one from the United Nations and one from FAO; the economic policy unit also comprises eight professionals, its chief and seven assistants; the industry unit is made up of seven persons, i.e., its chief and six engineers; while the legal affairs unit consists of three lawyers and one economist, the latter being the nucleus of a technological group. Apart from these technical and planning units, which consist mainly of economists, engineers and a few lawyers, the administration also includes an administrative unit, a special services unit and an information unit.

184. To allow for the economic weight of the member countries and their degree of development, the Commission adopted by its Decision No. 4 the following scale of assessments for the member countries: Colombia, Chile and Peru, 28 per cent each; Bolivia and Ecuador, 8 per cent each.

185. The Board's budget for 1970 was fixed at \$U.S.1,250,000. This budget, which is quite modest in relation to the aims of the Cartagena Agreement and the activities of the Board, increased only slightly in the years 1971, 1972 and 1973. In fact, the increases over the preceding year were only \$250,000 in 1971, \$186,890 in 1972, and \$140,277 in 1973. While the Board's activities have been expanding considerably, the resources

made available to it have increased only slowly. The last three budgets have been divided by sections as shown in the following table.

Board budgets, 1971-1973  
(In United States dollars)

Section	1971	1972	1973 <sup>a</sup>
I. Direction and co-ordination . . . .	274,590	387,005	388,429
II. Technical activities . . . . .	704,805	715,699	813,518
(a) Programming . . . . .	(156,740)	(185,112)	(206,968)
(b) Economic policy . . . . .	(239,050)	(226,326)	(246,315)
(c) Industries . . . . .	(213,133)	(206,425)	(241,617)
(d) Legal affairs . . . . .	(95,887)	(97,836)	(118,618)
III. Administrative activities . . . .	494,605	581,254	622,200
IV. Office of the Andean Development Corporation . . . . .	—	2,932	3,200
ANNUAL TOTAL	1,500,000	1,686,890	1,827,167

<sup>a</sup> Andean Group, *Carta Informativa oficial...*, op. cit., Supplement No. 13 (August 1972), decision No. 52, pp. 1-2.

#### (b) Advisory bodies and specialized organs

##### (i) Advisory bodies

186. Within the Andean Group there are four types of advisory bodies or groups: the Economic and Social Committee, the Advisory Committee, the various councils, subregional and government experts, and, lastly a specialized body for fostering development: the Andean Development Corporation (ADC).

187. The purpose of the *Economic and Social Committee* is to associate employers' and workers' representatives with the activities of the community of member States. The representatives are directly elected by the workers' and employers' organizations, six from each country (three worker and three employer representations).<sup>112</sup> In consultation with the national employers' organizations and trade unions, the member countries establish national procedures to ensure genuine elections such as will make the Committee's membership as representative as possible. At the Committee's first meeting, held at Lima in March 1971, the members appointed as their Chairman the Secretary-General of Chile's National Federation of Metal-

<sup>112</sup> This number has just been modified by decision No. 55 of the ninth regular session of the Commission: "The Committee may meet with the participation of a minimum of eight workers' representatives and eight employers' representatives". (Andean Group, *Carta informativa oficial...*, op. cit., Supplement No. 13, August 1972).

lurgical Workers. Henceforth the Committee will hold its regular meetings 20 days before any session of the Commission at which questions of interest to the Committee are to be considered. The second meeting took place in October 1971. At both these meetings the Committee addressed recommendations both to member countries and to the Commission and Board.

188. Under article 19 of the Treaty, the *Advisory Committee* is the organ through which the member States maintain close ties with the Board. This Committee offers an institutional framework for such meetings of Government representatives in various sectors as are not held under the auspices of the Commission. The Committee has a dual function: it assists the Board in carrying out its work and, at the Commission's request, it analyses proposals by the Board which are to be submitted to the Commission.

189. *Seven councils* have been established, on the proposal of the Board, in accordance with Commission decisions Nos. 22, 36 and 39: the Planning Council, the Monetary Council, the Financing Council, the Fiscal Policy Council, the External Trade Council, the Tourism Council and the Social Affairs Council.<sup>113</sup> The purpose of these councils is to bring high-level representatives of the national institutions responsible for the formulation and implementation of development plans into continuous association in order to draw up and implement development plans and policies. The chief functions of the councils are to make recommendations to facilitate the harmonization and co-ordination of development plans, to assist the Board, at its request, in the preparation of its proposals in that field, to co-operate in the application of policy harmonization decisions and to co-ordinate the development plans adopted by the Commission and to keep the main institutions informed of them.

190. *The meetings of the Governors of the Central Banks* of the member countries take place regularly. At their second meeting, at La Paz in November 1971, it was decided to establish groups of experts to prepare a technical report on the purchase of ADC shares by the Central Banks and to study the harmonization of monetary policies and instruments.<sup>114</sup> The third meeting was held just prior to the 19-21 June 1972 meeting of the Monetary Council, which has decided to set up machinery for information and consultation on the monetary systems and parities in member countries.

191. Apart from these institutionalized consultation methods, the Board and the Commission are empowered to consult *experts* of various kinds: subregional experts, who are convened in their personal capacities and without any official mandate; national experts, who seem to be in an intermediate position; and government experts, who are official experts briefed by their administrations. Both bodies can also consult independent experts or international experts.

<sup>113</sup> The ministers of Foreign Affairs (third meeting, June 1972) recommended to the institutions of the Cartagena Agreement the establishment of a science and technology council and of a system of periodic meetings of the national authorities responsible for air transport.

<sup>114</sup> Andean Group, *Carta informativa oficial...*, op. cit., No. 14 (June 1972), p. 10.

192. As a general rule these consultations take place in working groups, *ad hoc* meetings or round-table meetings. At its meeting in July 1971, for example, the Commission convened an intergovernmental working group on the expansion of trade. The work of this group, which is composed of high-level government representatives, is co-ordinated by the Board, which will have to submit the group's report to the Commission. Having been convened by the Board, the group met on 8 and 9 June 1972 to examine the proposal that an export promotion system be established, a proposal which the Commission was to approve before the end of 1972.

193. In 1971, the following meetings were held or were planned: two meetings of national experts, one on NABANDINA (the Andean Group's tariff nomenclature based on the Brussels nomenclature), and the other on the preliminary draft concerning multinational undertakings; six meetings of subregional experts, two on commercial competition, two on harmonization of industrial promotion legislation and two on fiscal policy; and six meetings of government experts, one on the global strategy for development, one on trademarks and patents, and the other four on subjects already considered by the national experts (NABANDINA) and the sub-regional experts.

#### (ii) *Specialized organ*

194. ADC was established in February 1968 by six Governments, namely, the five members of the Andean Pact and Venezuela.<sup>115</sup>

195. The main functions of ADC include providing technical and financial assistance for the preparation and execution of multinational or complementarity projects, promoting the inflow of capital and technology, granting loans and providing guarantees of various kinds and promoting organizations for the modernization of enterprises. To achieve these objectives, ADC has an authorized capital of \$U.S.100 million, \$25 million of which have been subscribed in the following way: one "A" share in the amount of \$1 million per country, and "B" shares at the rate of \$4.5 million each for Colombia, Chile, Peru and Venezuela and \$500,000 each for Bolivia and Ecuador. The "B" shares are guaranteed by the Governments but may be subscribed by Governments, public or private institutions or even individuals. Provided there is a quorum of not less than four holders of "A" shares and of holders of other shares representing half the total value of such other shares, the General Meeting of shareholders takes decisions by a majority which must include not less than three holders of "A" shares and shareholders holding half the other shares represented at the meeting. The General Meeting defines policy, but decisions concerning the practical exercise of the Corporation's functions are taken by a Board of Directors consisting of eleven Directors elected for a period of three years. Decisions are taken by a simple majority of the Directors present. The Board of

<sup>115</sup> The difference in the number of members is due to the fact that the Corporation was established before the final signature of the Andean Pact. Venezuela took part in all the negotiations right up till then, but, at the last minute, was unable to join the Group.

Directors may delegate certain of its powers to the President and the Executive Committee of the Corporation. The Corporation is still in its initial stage. As regards its administrative organization, it already has 19 international officials, constituting a permanent technical staff, as well as a local general services staff of some 30 persons. The Corporation also frequently makes use of external advisers and experts. Although it is still in a formative stage, the Corporation has had 220 proposals and projects submitted to it. In January 1971, the Board of Directors selected 32 proposals. At its third meeting, in November 1971, the Board of Directors approved the negotiations with IDB whereby \$U.S.12 million will be made available for the 1971-1974 plan of operations.<sup>116</sup>

(c) *Co-ordination at the national level and professional organizations*

196. There are specialized bodies responsible for integration questions in most of the countries members of the Andean Group, as a result of the work carried out and the co-operation which has taken place in the context of LAFTA. Colombia has a foreign trade institute (INCOMEX), while Ecuador has just established an institute for external trade and integration; Chile and Bolivia have secretariats, the Executive Secretariat of LAFTA and the Technical Secretariat for Integration respectively; in Peru, there is a National Integration Office attached to the Ministry of Foreign Affairs. In its work, the Board maintains close contact with Governments through these national institutes or secretariats.

197. The LAFTA Executive Secretariat in Chile, for example, comprises about 80 persons, 25 of whom are highly qualified civil servants. This secretariat, which includes members of various ministries (foreign affairs, to which the Executive Secretariat is attached, economic affairs, planning and agriculture) as well as of ADC and the Central Bank, co-ordinates public-sector activities relating to integration. Its chief and assistant chief are the member and the alternate member respectively of the Andean Group Commission.

198. The national secretariat also maintains contacts with the private sector through consultations, groups and committees, so that it can prepare proposals with a view to the adoption of a national position. In most of the member countries, this is the system adopted: continuous contacts and consultations with the private sector, but decisions and action proper at the level of the responsible government officials. There is one exception, that of Ecuador, whose delegations include representatives of the private sector, which thus participates directly at the negotiating table.

199. Apart from these channels of approach through national Governments, professional groups also take part in the work of the Economic and Social Committee, which quite recently recommended that the Councils set up by the Commission (decision No. 22) should include certain repre-

<sup>116</sup> Andean Group, *Carta informativa oficial...*, op. cit., No. 9 (November 1971), p. 8.

sentatives of the private sector and of private groups in addition to the official members. Subregional structures are gradually taking shape, notably in the sectors most directly affected by sectoral programming such as paper and pulp, textiles, gramophone records, bicycles and glassware. The establishment of new organizations seems to provide confirmation of this trend. These include the Confederation of Metallurgists of the Andean Area (August 1971),<sup>117</sup> the Sub-regional Committee of Andean Constructors Companies, which has set up a co-ordination office at Lima and has asked the institutions of the Agreement to establish a Construction Council (November 1971),<sup>118</sup> and the Andean Road Transport Organization (April 1972).<sup>119</sup>

2. THE DECISION-MAKING PROCESS

(a) *Distribution of powers*

200. In the Andean Group, the distribution of powers is clearly established, the Cartagena Agreement regarding both the Commission and the Board as principal organs. The Commission has the main responsibility for general policy, for the co-ordination of national development plans and for the harmonization of economic policies. In these fields, as well as in approving physical integration programmes and the programme for harmonizing the external trade instruments of the member countries and also in establishing the terms of accession of new members, the Commission takes decisions by a two-thirds affirmative vote with no negative vote. The same requirements, but with the possibility of reconsideration, are laid down for the identification of products for the sectoral programme of industrial development, and for the approval of such programmes or of rationalization or specialization programmes (annex II and article 11 b of the Treaty). As a general rule, the absence of a negative vote, i.e., for all practical purposes, consensus, is required for standards and basic decisions, for amendments to the Cartagena Agreement, for the general programmes and for very important or politically delicate questions. On the other hand, the general requirement of a qualified two-thirds majority applies to decisions which, in principle, involve carrying out Treaty obligations, particularly in the field of liberalization, establishing rules for foreign capital or for multinational enterprises, adopting measures in various fields, setting up advisory bodies and working parties, defining certain rules and establishing regulations, etc. The Commission must also see to it that the obligations resulting from the Cartagena Agreement and the Montevideo Treaty<sup>120</sup> are harmoniously carried out, act on proposals by the Board and, in general, seek to solve problems of common interest.

<sup>117</sup> *Ibid.*, No. 6 (August 1971), p. 5.

<sup>118</sup> *Ibid.*, No. 9 (November 1971), p. 12.

<sup>119</sup> *Ibid.*, No. 12 (April 1972), p. 8.

<sup>120</sup> See foot-note 2 above.



201. The Board has three main functions: it drafts proposals for the Commission and prepares annual budget estimates; it supervises the implementation of the Treaty and of decisions of the Commission (e.g., art. 85, concerning rules of origin); it grants authorizations to member States intending to adopt safeguard measures (arts. 77 and 79); it undertakes studies and preparatory work and evaluates the results obtained by integration.

202. The central machinery of the Agreement consists of this *Board-Commission* tandem, the other bodies having essentially advisory functions. In fact, a proposal by the Commission is almost always to be found at the basis of decisions on important questions. More than twenty articles relating to basic matters provide for this procedure, whereby the Board proposes and the Commission decides.<sup>121</sup>

#### (b) *The decision-making process*

##### (i) *Origin*

203. The decision-making process is usually initiated by the Board within the framework of the obligations and time-table laid down in the Cartagena Agreement. Initiatives can also come from Governments in the Commission. They may be formulated by the Ministers of Foreign Affairs or other competent ministers during their meetings. Thus, at its ninth session, the Commission took up for consideration the proposals by the Ministers of Foreign Affairs concerning machinery for liaison with other countries or economic authorities.<sup>122</sup> Initiatives can also come from the Committees (e.g., the Economic and Social Committee), the Councils (the Monetary Council), the various meetings of national officials, experts or professional organizations. Whatever the origin of the proposals, they are considered and then formulated by the Board.

##### (ii) *The formulation stage*

204. The formulation stage is the Board's responsibility. By agreement with the Commission, the Board prepares an annual work programme which includes the drafting of various decisions or proposals. It can always consult the Commission at various points in this preparatory stage. This procedure has not often been used, especially since the Government experts express national viewpoints. The principal role at this stage is played by the Board, its permanent secretariat and the commissions and groups of experts. At the beginning of this process, the Board may commission a study by an *independent or international expert*. The round-table method can also be used for consulting international experts. These meetings are quite informal. Written records are not kept systematically; they are mainly

<sup>121</sup> Examples of articles providing for a recommendation to be made by the Board before the Commission takes final action include: articles 27, 28, 29, 33, 35, 36, 38, 39, 46-52, 66, 70, 74 and 89.

<sup>122</sup> Andean Group, *Carta informativa oficial...*, op. cit., No. 16 (August 1972), p. 11.

in the form of minutes, and a complete recording of the discussion is available. This preliminary work helps to give a general idea of the problem under consideration.<sup>123</sup>

205. Contributions are also made by *subregional experts* for whose assistance the Board makes specific application to Governments. At this stage, the main task is to delimit the problem and then to identify the possibilities and, in particular, the margins between the minimum and the maximum acceptable to Governments. Since, however, these subregional experts are not always civil servants, they are not necessarily aware of the Governments' positions. The main purpose of these meetings, which last two or three days, is to enable the technical experts to give their different views, the aim being to arrive at the formulation of a technical opinion on which the Board's proposal can be based. The Board's Staff co-ordinate these meetings, provide their secretariat and do the necessary preparatory work. They draw up the agenda, which can be supplemented by the experts, the aim being from the start of the meetings to identify the forms of possible agreement, to determine the meaning and concept of the problems involved and to establish priorities. The number of meetings held on a given problem depends on its inherent difficulties but also on the extent of agreement among the experts. The meetings generally conclude with the approval of a memorandum, addressed to the Board, containing the conclusions reached by the experts.

206. This preliminary work enables the Board to prepare an initial draft which is then discussed by the *committee of government experts*. At this point begins a process of discussion and negotiation, in which the delegations try to give maximum weight to their own views while the Board seeks to emphasize the regional interest. These meetings enable the Board to assess the possibilities of action and to obtain a conspectus of Government viewpoints. This information can be supplemented by visits of Board members or their representatives to the administrations of the member countries.

207. During these consultations, the Governments and their administration are asked to answer various questions and, in particular, to define their national positions. On the basis of all this information, the Board prepares its proposal. While agreement or disagreement among the regional or government experts may help it to adapt or amend its draft, the Board

<sup>123</sup> An example of this procedure was the meeting of jurists which was convened by the Board to consider the possibility of establishing a jurisdictional organ (see para. 214 below). Ten Latin-American specialists and academics took part, together with a judge from the Court of Justice of the European Communities and the assistant director of the Communities' legal department. A further example was the meeting at Lima, from 22 to 25 August 1972, of Board specialists and high-level experts to consider a programme of technological development. This meeting was attended by French, English, Canadian, Argentinian and Colombian university experts, as well as by experts from OAS, UNCTAD and the Latin American Institute for Economic and Social Planning (ILPES). The Board's representatives were an expert responsible for co-ordinating the work and other specialists, as well as the three members of the Board and its secretary-director (Andean Group, *Carta informativa oficial...*, op. cit., No. 16 (August 1972), p. 16).



retains full power to determine the proposal's final form. The procedure at this stage might be described as a dialogue with the national administrations at the technical level, but this is carried out under the direction of the Board, which is solely responsible for the formulation of its own proposal.

(iii) *The Board-Commission dialogue*

208. The real dialogue stage begins with the transmission of the proposal to the Commission. There are two possible situations. The first is when the proposal is based on a consensus of the government experts, as, for example, in the case of the list of agricultural products. In such a case, the Commission merely endorses the proposal. The other situation arises when the government experts have not been able to reach agreement. Negotiations then begin in the Commission. The method of negotiation seems to be realistic, frank, and, on the whole, efficient, each representative seeking to determine the possible margin of negotiation and agreement. For instance, the ninth session of the Commission, which opened on 10 July 1972, was suspended on 15 July by decision of the five permanent representatives so as to enable them to consult their Governments directly on the subject of the agenda items. These included in particular the proposal for a sectoral development programme for the engineering industry. It was probably in connexion with this proposal that the representatives felt the need to consult their Governments. It is not impossible, however, that some difficulties had arisen within the Commission.<sup>124</sup> The second stage took place from 17 to 20 August 1972 during which period it proved possible to reach agreement on the first sectoral Programme for the Development of the Engineering Industry (decision No. 57).<sup>125</sup>

209. Negotiations within the Commission are often supplemented by bilateral contacts between member countries, or between a country and the Board. Such contacts enable the Board to sound out the differences between the views of member countries and to amend its proposal if necessary. Under the Treaty, the Board has a negotiating weapon: its proposal can be amended by the Commission only by unanimous vote. In actual practice, the Board prefers not to be obliged to amend its proposal, and it therefore makes whatever changes it thinks may be needed of its own accord. It is at this stage that the qualified majority procedure shows its importance in bringing pressure to bear on hesitant States, thus facilitating the achievement of compromises by consensus. In their appraisal, the ministers of foreign affairs stated they were satisfied with the functioning of the institutional decision-making machinery in the Andean integration system (third meeting, June 1972).

(c) *Common instruments*

210. Under article 6 of the Cartagena Agreement, the Commission expresses its will in the form of *decisions*. These are binding instruments

<sup>124</sup> Andean Group, *Carta informativa oficial...*, op. cit., No. 15 (July 1972), p. 7.

<sup>125</sup> *Ibid.*, p. 11 and *ibid.*, Supplement No. 13 (August 1972), pp. 19-28.

(Acts) which may be either very general (e.g., decision No. 24, concerning the régime to be applied to foreign capital) or more limited (decision No. 16, approving a list of agricultural products). All these decisions are taken on *proposals* by the Board.

211. The Board can also pass *resolutions* when it is acting as a decision-making body, as, for example, in the context of the requirements concerning the origin of products (art. 83). Such resolutions are binding. In addition, the Commission can issue *instructions*, and can give the Board certain tasks to carry out. The Board, for its part, can *authorize* the adoption of safeguard measures. Both institutions can also make *recommendations* and express *views* and *opinions*.

212. As regards entry into force, in principle these instruments take effect immediately, as far as the member countries are concerned. In practice, however, to ensure that decisions are publicized in the required manner and within the prescribed time limits, they are circulated in the form of national decrees putting the decisions into effect. Although sometimes rather late in appearing, these decrees give the date of the decision as the date of entry into force. In the case of the rules for foreign capital, the decision was to enter into force when the instruments putting the rules into effect were deposited with the Board, and within the six months provided for in the Treaty. All the member countries have used decrees for bringing the decisions into effect except Ecuador, which has followed the parliamentary ratification procedure.<sup>126</sup>

213. Under article 23 of the Cartagena Agreement, the Commission's rules lay down procedures for the *settlement of disputes*: in the first place direct negotiations, then use of the Commission's good offices and, in the case of failure, the establishment of a Conciliation Committee. After having conducted an enquiry, the Conciliation Committee must submit a majority report to the Commission. If all these procedures fail to produce a settlement, the member countries can resort to arbitration as provided for by the LAFTA Protocol for the Settlement of Disputes.

214. At its special session in December 1971, the Commission recommended that the Board should carry out the necessary studies to enable it, before the last regular session in 1972, to make recommendations to governments with a view to the establishment of a jurisdictional organ. This organ would be responsible for settling any disputes which might arise as a result of the application of the Agreement, decisions of the Commission or resolutions of the Board.<sup>127</sup> In June 1972, a meeting of jurists was held at the headquarters of the Andean Group. As a result of its work, it was possible for the Board to compile useful documentation on the possibility of setting

<sup>126</sup> In November 1971, the Colombian Government issued Decree No. 1299, which was declared unconstitutional by the Supreme Court. The Colombian Government therefore issued regulations on foreign investment which were in keeping with the common rules approved by the Commission. At the same time, it announced that it would submit a Bill to Congress enabling it to validate the Cartagena Agreement and to obtain, *inter alia*, the power to apply the rules on foreign capital (Andean Group, *Carta informativa oficial...*, op. cit., No. 15 (July 1972), p. 5).

<sup>127</sup> Andean Group, *Carta informativa oficial...*, op. cit., No. 10 (December 1971), p. 5.

up a body to ensure unity of interpretation, supervision of legality and the settlement of controversies within the framework of the Cartagena Agreement.<sup>128</sup>

(d) *External relations*

215. With a view to establishing a common external tariff by 1980, the member States have undertaken not to alter unilaterally, during the various stages planned for the introduction of the common external tariff, any Customs duties levied against third countries. They have also undertaken to conduct consultations in the Commission before concluding tariff agreements with third countries. The Group is thus moving towards a common trade policy, especially since the Commission may, on the recommendation of the Board, change the rate of common Customs duties (arts. 66 and 68 of the Treaty).

216. In practice, the Andean Group has already established various types of external relations. Thus, through the President of the Commission, it has contacts with the Commission and the Council of the European Communities. In this connexion, the Commission, after studying the Board's report, intends to establish, if possible, a joint Andean Group-European Communities Commission. At their meeting, the Ministers of Foreign Affairs of the member countries supported this initiative of the Commission. The Commission has also sent a mission, headed by its President, to Japan. In relation to LAFTA, the Andean Group has taken a consistent position, worked out in prior consultations, which it is seeking to strengthen. Common positions have been adopted both on liberalization problems and on the complementarity agreements. The Andean Group intends to take joint action in various international forums. To this end, the ministers of foreign affairs recommended in June 1972 that, at its next regular session, the Commission should take up the subject of developing a common position of the member countries in the international field with a view to making the co-ordination machinery more operational and more effective. They laid stress on the joint responsibility of the member countries. In addition, the Board has been empowered by Commission decision No. 9 to negotiate and to enter into technical assistance agreements with the international organizations. In this connexion, as is known, the Board has already achieved some satisfactory results. There are various other examples of joint action: the ministers addressed a joint note, followed by separate notes, to the Secretary-General of the United Nations, to support the request for assistance submitted by ADC to UNDP; they recommended that the Andean institutions should draw up a programme for technical assistance between the member countries and should study the financing possibilities; they also decided to take co-ordinated action so that the member countries could have one representative for Latin America in IMF's Committee of Twenty. It is too early to say how the external relations of the Andean Group will develop and what form they will take. It is unfortunate, however,

<sup>128</sup> *Ibid.*, No. 14 (June 1972), p. 4.

that more specific institutional arrangements and procedures have not been worked out for elaborating and putting into practice the common trade policy which is the logical extension of the common external tariff. Nevertheless, the political will revealed and the practical results obtained, combined with the growing needs as integration progresses, are so many factors which indicate that, in the long run, the external relations of the Andean Group will have to be backed up by effective machinery.

**Part Two**

**COMPARATIVE ANALYSIS**

## Chapter I

### GENERAL PATTERNS

#### A. Latin American Free Trade Association, Maghreb Group and Association of South-East Asian Nations

1. The general pattern of the institutional structures and the distribution of powers in each of these three groupings is at first sight similar. The decision-making power is concentrated in the intergovernmental bodies which act unanimously: the Council of Ministers and Conference of Contracting Parties in LAFTA, the Conference of Ministers of Economic Affairs of the Maghreb Countries, and the ASEAN Ministerial Meetings. These main decision-making bodies are assisted by standing committees. Both the acts of the main institutions and the form and functions of the standing committees and secretariats emphasize the differences between the three groupings, which are due to their different levels of development: the Maghreb countries and ASEAN are at an initial stage, while LAFTA has reached the first stage of implementation. Consequently, the first two merely draw up proposals and adopt resolutions which are basically recommendations, whereas LAFTA also makes use of resolutions but these impose certain obligations. This is the general situation in theory, but the characteristic tendencies of the first two groupings have not prevented some of their recommendations from being put into effect. In contrast with ASEAN's Standing Committee, which has no organic structure, and with the Maghreb Group's Permanent Consultative Committee, the cornerstone of LAFTA is its Standing Executive Committee, which takes decisions, adopts some resolutions and sees that the Association functions satisfactorily. The differences are even more pronounced in the secretariats: LAFTA has a permanent staff but the other two groupings have virtually none; the Maghreb Group has only an embryonic secretariat and ASEAN has no permanent administrative machinery at all.

2. Around these institutional nuclei there are consultative committees and some specialized organs and mechanisms: the Maghreb Centre for Industrial Studies, the ASEAN Fund, and LAFTA's clearing agreements for trade and its complementarity agreements. Although fairly extensive, these consultative systems and ancillary mechanisms do not seem able to compensate for the structural inadequacies which can be detected in LAFTA and are obvious in the two groupings still at the formative stage.

**B. East African Community, Central African Customs and Economic Union, Central American Common Market and Andean Group**

3. More elaborate institutional systems have been set up where the objective is the creation of Customs and economic unions. Alongside the intergovernmental bodies, community structures have developed in the form of general secretariats and even of a major subregional body, the Board of the Andean Group. Their fuller powers—though as a rule strongly concentrated in the supreme organs, which act unanimously except in special cases—are distributed more practically in order better to ensure continuity of execution. Similarly, their joint decisions have a wider effect and more often become law at once. The increased obligations are matched by greater scope for appeal against joint decisions or for the settlement of disputes. Functions of this kind are rarely assigned to specialized bodies and are usually also performed by the principal institutions. Certain groupings, however, have dense systems of advisory commissions and specialized bodies: e.g., the specialized institutions of CACM and, in particular, the EAC common services. These experiments possess certain features in common but, despite the similarity of their objectives and content, have broad structural differences.

4. Only EAC and UDEAC are headed by a supreme organ composed of Presidents or Heads of member States, although the governments in the other groupings may of course convene a conference of heads of State from time to time. At the ministerial level, a comparison can be made between the Management Committee of UDEAC and the Central American Economic Council of CACM. The case of EAC and the Andean Group is scarcely comparable, however, since the latter has no formal ministerial council, and EAC's ministerial institutions are peculiar to itself, consisting of a group of East African ministers and five Councils composed of ministers of the Partner Governments, assisted by their advisers, but presided over by a Community minister.

5. Neither EAC nor UDEAC really have institutions comparable to the Executive Council of CACM, which is composed of vice-ministers or senior national civil servants, and frames and executes the decisions of the Central American Economic Council, supervises the operation of the common market and for that purpose takes certain decisions with the assistance of SIECA. In the other two groupings these functions are shared or performed in collaboration by the ministerial institutions and general secretariats. For obvious reasons, all four groupings have permanent secretariats.

6. The structure of the Andean Group is unusual and differs basically from that of the other systems, as the decision-making power is vested in two main bodies: an intergovernmental Commission and a joint Board. The Board, which is autonomous, directs the secretariat, presents proposals, takes certain decisions and supervises the implementation of the joint decisions. Since it has powers of execution and initiative, it is the driving force behind integration. The Commission maintains relations with governments, keeps in touch with the situation in the member countries, and has

the final say in the most important fields of action. Here, the cornerstone of the system is the Commission-Board tandem: the Board proposes and implements while the Commission takes the decisions. This is the only grouping in which an effective balance has been struck between the intergovernmental institution and the community institution. In all the others, the balance of power is tilted in favour of the intergovernmental institution.

7. While all the groupings have consultative bodies which make use of government experts, and, less frequently, of independent experts, only EAC has a legislative assembly that carries out legislative, budgetary and supervisory functions, final assent being given by the Authority. EAC is also the only organization whose statutes provide for a tribunal, although this has not yet been set up. Finally, except for UDEAC, which has a central bank, these subregional integration groups have financial institutions for the promotion of economic development.

## Chapter II

### COMPARISON OF STRUCTURES

#### A. Main institutions

##### 1. LATIN AMERICAN FREE TRADE ASSOCIATION, MAGHREB GROUP AND ASSOCIATION OF SOUTH-EAST ASIAN NATIONS

8. The ministerial bodies of these groupings differ in their constitution. On the one hand, there are the LAFTA Council and the ASEAN Ministerial Meetings which consist of Ministers of Foreign Affairs and, on the other, the Conference of Ministers of Economic Affairs of the Maghreb countries. These political organs meet once a year at the most. Because of this, they can operate efficiently only on two conditions: (a) the problems to be dealt with must be sufficiently important and specific for the Ministers not to lose interest or their willingness to take an active part in the meetings (there seems to be a lack of interest at present in LAFTA and in the Maghreb Group); and (b) sustained and effective support must be provided by other bodies in the preparation and implementation of decisions.

9. While the problems of starting integration seem to be absorbing the attention of the ASEAN Ministers at present, their activities are not always adequately prepared, for want of organs comparable to the standing committees of the other two groupings or to the LAFTA secretariat. In ASEAN, the Standing Committee of Ambassadors and the Meetings of National Secretaries-General, who serve only part-time on those bodies, are not able to do any substantial or continuous work, particularly as they have no permanent secretariat to call on. Such basic services are provided yearly in rotation by the national Secretaries-General. Even the more sustained contribution of the latter cannot compensate, however, for the absence of permanent common organs furnished with the appropriate resources. Even the examination of the programme prepared by the United Nations Team gave rise to problems owing to the resultant increase in the work-load of the Committee on Commerce and Industry and of the national secretariats. The situation is confused and provisional, since if any specific programme of action were approved, ASEAN would have to be restructured and permanent machinery established. Even during the current period of transition the preparation of studies and projects, the determination of

options and priorities, the co-ordination of the work of the different committees, and collaboration with teams of international technical specialists are all factors which militate in favour of the immediate establishment of a technically well-equipped central organ. Even if its formation was not the result of a general decision and it was only provisional, a technical body of this kind could make an effective contribution to the defining of projects and priorities in ASEAN.

10. Although still only preparing for the take-off of the integration process, the Maghreb countries at least have a committee which, though consultative and more modest than that of LAFTA, is nevertheless permanently available. Both are the supreme organs for the preparation of studies and co-ordination of activities and for the supervision of other bodies. The Standing Executive Committee also watches over the rather sluggish progress of trade liberalization. Despite their differences of power and function, the two committees follow much the same procedures: CPCM is bound by the rule of unanimity, while LAFTA's Standing Executive Committee permits the use of the veto.

11. Two other disparities should be noted. LAFTA has a Conference of Contracting Parties charged with the particular task of negotiating national and common schedules, which has no counterpart in the other two groupings. The Maghreb Group also lacks the permanent team for which its statutes provide. Unlike in the other groupings, its technical staff, which should be the backbone of the central secretariat, is directed by the Secretary, but is recruited and dismissed by CPCM. Its members, therefore, instead of being free of government influence, like any other international secretariat, have two masters.

12. The secretariat of LAFTA, on the other hand, is effective, but is too small in comparison with those of other groupings. After a period of expansion, it ceased to act as a driving force just then LAFTA first ran into difficulties, in 1966-1967, and its development stopped. The proposed Technical Committee could not be set up, while the Council of Ministers of Foreign Affairs is the outcome of a compromise. Meanwhile, the Standing Executive Committee has resumed its supervisory and executive functions and strengthened its hold over the secretariat, which is subjected to restrictions, and has taken on more minor administrative and routine tasks. In doing so it has encroached upon the functions of the secretariat while emphasizing its intergovernmental status. Thus the importance and role of the Executive Secretariat have been circumscribed, particularly by certain provisions in the rules of the Standing Executive Committee,<sup>1</sup> for want of a clear definition of its functions in the Treaty and of a sound institutional structure. This development should be studied by other regional organizations.

<sup>1</sup> See G. Magariños, *Evaluación del proceso de integración de la ALALC* (Montevideo, LAFTA, 1969), pp. 25-26; and D. Sidjanski, *Dimensiones institucionales de la integración latinoamericana* (Buenos Aires, INTAL-IDB, 1967), pp. 39-40.

2. EAST AFRICAN COMMUNITY, CENTRAL AFRICAN CUSTOMS AND ECONOMIC UNION, CENTRAL AMERICAN COMMON MARKET AND ANDEAN GROUP

(a) *Intergovernmental institutions*

13. The *presidential institutions*, the Authority in EAC and the Council of Heads of State in UDEAC, which meet once a year, offer more than one advantage. The leading role played by the Heads of State in the member countries means that decisions taken by them in concert give a political impetus to integration. Meetings of this kind at the highest level can also speed the decision-making process inasmuch as the Heads of State have the power rapidly to decide what attitude they will take. Moreover, these institutions ensure a broadness of view and effective execution, provided that power is not unduly concentrated in their hands. If, however, the concentration of power is excessive, as it is in EAC, the political conflicts tend to affect every level of the common structure, and the Authority therefore has to endorse virtually all community decisions and legislation. That is the general rule, from which the community budget is not exempt. This concentration of power results in an expansion of the functions and consequently of the influence of the presidential secretariats in the member countries.

14. Although these meetings may facilitate the achievement of rapid solutions and compromises, they are also apt to make certain procedures more rigid. At the present stage, it is difficult to conceive of a Head of State placed in a minority position; furthermore it is no easy task to convene the Presidents every time an urgent problem has to be settled. For this reason, the UDEAC Treaty allows urgent decisions to be taken by correspondence or by consultation at their place of domicile.

15. Informal meetings also may be held by the Heads of State of the Andean Group<sup>2</sup> and by those of the Central American countries under the terms of the Charter of OCAS.<sup>3</sup> Thus, the Central American Presidents met in 1968 and took certain decisions concerning the Common Market. Their personal representatives now sit on the Normalization Commission.

16. At the *ministerial level*, EAC has devised an unusual procedure. The three Community ministers have a dual function: they occupy their seats in their respective Governments, as members, in particular when Community business is discussed, but they reside at Arusha and perform permanent Community functions. They owe a dual allegiance to their countries and to the Community. The latter allegiance is important because of their collective duty to reach agreed decisions in the Committee of Minis-

<sup>2</sup> The "Declaration of Bogotá" by the Presidents of Chile, Colombia, Ecuador, Peru and Venezuela on 16 August 1966 was the origin of the Cartagena Agreement. It expressed their intention to undertake joint action to speed up the economic and social development of their countries and provides for the establishment of a joint commission to put the presidential decision into effect and a development corporation to carry out promotional and technical assistance work.

<sup>3</sup> See the note on OCAS in paragraph 171 of part one of this study.

ters. In the event of disagreement in the Committee on a question of direct concern to one of the Councils, each minister may maintain his position and is not subject to the rule of collective responsibility. The former allegiance is preserved by the close ties which they may have with their Head of State and their Government. It is thus possible for the Community Ministers not only to obtain and supply information without passing through intermediaries, but also to influence the behaviour of their Governments. For this very reason, however, they are also exposed to the direct influence of their Governments. The Committee of Ministers has acquired, on the whole, considerable influence in the management of the Community's affairs especially since the ministers not only preside over the Councils but also direct the three corresponding sectors of Community activity; (a) the Common Market Council and the Economic Consultative and Planning Council; (b) the Finance Council; and (c) the Communications Council and the Research and Social Services Council. One positive aspect is that the ministerial and intergovernmental Councils in which the national ministers predominate are presided over not by national but by Community ministers. In this respect, in particular, the Committee of Ministers and the specialized Councils differ from the ministerial bodies of other groupings. This peculiar structure is not, however, without some drawbacks. A latent conflict concerned not merely with the division of responsibility and the right of initiative but also with administrative control has brought the Community ministers into opposition to the Secretary-General. The reason for this is that the three secretaries heading the three secretariats are directed and supervised by their respective ministers, but are at the same time hierarchically subordinate to the Secretary-General. It is, admittedly, more a political control that the ministers reserve for themselves, but it may be asked how far this control—to ensure that political functions are properly carried out—extends. In exercising their permanent control, ministers may well be tempted to intervene in administrative matters in order to enhance their authority. This authority derives, incidentally, from the Committee of Community Ministers, which, although not a cabinet in the full sense of the term, tends to act collectively.

17. Although appointed "executive head" of the Community, the Secretary-General could well have difficulties, particularly with the minister in charge of the finance and administration sector.

18. Before EAC was established, the Secretary-General had been the main senior official and held some significant powers. New structures have been superimposed on these old rules and habits, and the Secretary-General is now surrounded by Community ministers. In the initial stages, the adaptation produced some friction. The predecessor of the present Secretary-General had a difficult task and, by the end of his term of office, was virtually isolated. The present situation will depend on the personalities and behaviour of the ministers and of the new Secretary-General, and on their capacity to work together in harmony. These vacillations within the organization are nevertheless a potential source of internal tension.

19. The Management Committee of UDEAC and the Central American Economic Council bring together the ministers of economic affairs and of



planning twice and four times a year respectively. The UDEAC Treaty makes this obligatory and specifies that a delegation may not vote in the Management Committee unless it includes at least one minister and that the meetings of the Committee are not valid unless each State is represented by at least one minister (arts. 11 and 16).

20. In practice, the number of ministers attending these meetings of the Management Committee often exceeds the Treaty requirement, since the ministers of finance or development sometimes join their colleagues responsible for economic affairs and for planning. The Management Committee may meet thus with additional participants if necessary.

21. The Central American Economic Council has also held meetings with other ministers concerned with integration, such as the ministers of finance, agriculture, public works, etc., thus foreshadowing a council of varied composition.

22. Although comparable with the ministerial councils of the other integration groupings, the Central American Economic Council differs from them by the fact that it is the supreme organ of CACM, while the Councils of EAC and the Management Committee of UDEAC occupy an intermediate position, having over them an institution composed of Heads of State.

23. At the government representatives level, the Central American Economic Council is assisted by an Executive Council composed of vice-ministers and of senior officials responsible for integration. This more technical body, whose work is organized in accordance with the criteria of importance or technicality and of its subject matter, is convened at more frequent intervals and forms an intergovernmental filter, particularly for the initiatives and activities of SIECA. In order to supervise the fulfilment of jointly assumed obligations, the Executive Council can adopt resolutions by majority vote.

24. The Executive Council has become highly important, particularly since 1966. Its membership has increased and its organization has become more structured. Thus, at its twenty-fourth meeting, in November 1966, the Executive Council adopted new organizational rules. To strengthen its structure, it decided to institutionalize the practice of holding meetings of alternates. The task of these meetings will be to consider and resolve problems relating to the common market, the negotiation of uniform import duties and any other matters which the Executive Council may entrust to them in the future.

25. The Executive Council has since been functioning at two levels: a general level and a technical level. At the same time, it has taken up some heavier tasks on the instructions of the Economic Council.<sup>4</sup> For example, the Economic Council recommended that, since the Executive Council would sometimes have to take decisions of a more political nature, the Governments should send representatives of vice-ministerial rank. Apart from the Government of Costa Rica, all the Governments have adopted

<sup>4</sup> Sidjanski, *op. cit.*, p. 106.

the practice of being represented by vice-ministers.<sup>5</sup> In the present crisis, these meetings at the vice-ministerial level have been replaced by "meetings of the vice-ministerial working group of the Normalization Commission". Although it has made certain changes, the Working Group has very largely retained the existing structures.

26. The EAC and UDEAC treaties do not provide for similar organs. In practice, the Permanent Common Market Committee performs a role of formulation and supervision in a limited field which is comparable in that respect to that of the Executive Council. Unlike the latter body, however, it has no decision-making power. The same is true of UDEAC's Committee of Experts, which sifts all the draft decisions on which the Management Committee and the Council of Heads of State have to act.

27. The supreme institution of the Andean Group, the *Commission*, is composed of senior national officials responsible for integration and foreign trade. As in the other three groupings, it dispenses in its deliberations with diplomatic protocol, the discussions being frank and the subjects dealt with specific. A distinctive feature of the Commission, as an intergovernmental decision-making body, is its voting practice, involving decisions by a qualified majority, with some important exceptions. In the case of basic standards, the general programmes and questions of political significance, there must be a qualified majority without any negative vote. This requirement amounts in fact to a consensus.

28. Although the Commission is the only governing body entitled to use the majority vote, its members have never actually voted to date, but have taken all their decisions by unanimous consent. Nevertheless, the existence of this majority rule helps to facilitate compromises more in keeping with the Community's interest, and a more rapid conciliation of views, without necessarily reducing them to the lowest common denominator.

#### (b) *Community institutions: the Board and the general secretariats*

29. The Board of the Andean Group has no equivalent in the other groupings. It is the main institution, a collegiate body whose independence of governments and vested interests is guaranteed by the Agreement, and it has the power of initiating action and taking decisions. Its political and technical level is high and it takes an over-all view of the interests of the subregion which, according to the President of the Commission, is unique.<sup>6</sup> It can therefore play an active part in negotiations by singling out objectively and impartially the common denominator between national and regional interests. It has built up a great fund of confidence among its member States. This confidence and the Board's technical competence are the foundation of its capability and its influence. Its collegiate structure is reflected

<sup>5</sup> See G. Fonseca and D. Ramírez, *Los órganos del Tratado general de integración económica centroamericana* (Guatemala, SIECA, 1968), p. 25.

<sup>6</sup> Conversation on 21 July 1971 with Mr. Juan Somavia, who was President of the Commission in 1971.

in the consensus of its three members, on which all its initiatives and actions are founded. In order to maintain its freedom of action, neither the Board nor any of its members attends meetings with government experts. It sends to such meetings officials who are not empowered to commit the Board, which alone can take the final decision. The Board considers drafts and opinions submitted to it, draws up its own proposal and exchanges views with the Commission and with the Governments. Jealous of its independence, it originally had great aims of monopolizing and centralizing most of the functions assigned to it under the Cartagena Agreement. In view, however, of the immensity of the tasks and the impossibility of dealing with them all, it established priorities and arranged for the collaboration of public authorities, experts and national and regional institutes. In performing its functions it relies on a dynamic and competent administrative nucleus which assists it in the planning, preparation and initiation of the common tasks.

30. The secretaries-general personally direct the administration of the other groupings. Their high quality, particularly in CACM and UDEAC, permits comparison with a distinctive feature of the Board, its characteristic collegiate form. In fact, the group directing CACM, which consists of a secretary-general and two assistant secretaries-general, could readily be made an institution in the tradition of close collaboration. If the position of the executive nucleus were strengthened, that transformation would enable it to overcome a lack of authority which became obvious during the current crisis in the absence of a secretary-general. The Secretary-General of UDEAC has wide powers of initiative, study and supervision of implementation, but his activities seem to be jealously watched by the member States.

31. A brief comparison of the administrative machinery will bring out the contrast between the embryonic initial staff of the Andean Pact (54 million inhabitants) consisting of about 100 persons in all, and the Community administration of EAC, a medium-sized grouping (33 million inhabitants) which has a staff of 4,482. It is quite clear that the Andean Group has too small a secretariat, considering the Group's objectives, the extent of its functions and, in particular, the need to supervise implementation throughout a vast and scattered area. This lack is not fully felt as yet, as, in this initial phase, the dynamism of the present team makes up for its numerical inadequacy. There is still a danger, however, which could become greater as time passes: lacking the means and resources for carrying out its vast range of duties, the Board could, in practice, see its powers whittled away. The influence and the traditional weight of government administrations could gradually make themselves felt wherever, owing to lack of means, the Board has been obliged to relinquish some of its Community powers to the benefit of intergovernmental institutions or national administrations. The grant of powers alone is not enough; the community institution must also be given resources commensurate with its tasks.

32. Between these two extremes are the secretariats of the two small groupings, UDEAC (9 million inhabitants) and CACM (15 million inhabitants), which total 120 and 180 persons respectively. It can obviously be

objected that these comparative figures bear no relation to the size of the areas served or to the magnitude and nature of the work. How is it possible to compare the common services of EAC, which comprise a Customs Department (2,565) and an Income Tax Department (1,070) with the national administrations for which they are a substitute? Similar difficulties arise if one attempts to compare the quality, technical level and efficiency of these systems. The senior levels seem on the whole to be competent, the main problems being the recruitment of staff at the intermediate levels and the development of a strong and durable administration.

33. However, the recruitment difficulties can also stem from the general lack of qualified personnel from which the less-developed regions are suffering. In such cases, the national administrations are hesitant, indeed reluctant, to part with certain competent officials even for limited periods. There may be more or less acute and jealous competition between the national administrations and the joint administration, with each of them trying to offer comparable conditions. Effective training of key staff is one of the essential factors for regional development.

34. In comparison with the co-operation agencies, the integration groupings possess community institutions that have greater independence and powers and carry more weight and the political leaders, ministers and even the presidents themselves play a more active and important role. They ordinarily act by unanimous agreement, but two exceptions to this rule have already been mentioned: the majority rule of CACM's Executive Council, and, even more important, the qualified majority rule of the Andean Group's Commission.

35. Apart from these levels, two EAC bodies—the Legislative Assembly and the Court (not yet set up)—have no equivalent in other groupings. The establishment of legislative assemblies in other groupings with different political systems might give rise to problems at the present stage of development; but a judicial body might become necessary with the progressive increase in activity at the regional level.

## **B. Advisory bodies, specialized organs and common services**

### **1. ADVISORY BODIES**

36. All the groupings have a system of advisory bodies composed of government experts that is designed to associate authorities in the national administrations with the study and drafting of joint instruments. At the highest level are the two EAC Councils (the Economic Consultative and Planning Council and the Research and Social Services Council) on which the Community and national ministers sit with purely consultative functions. These, however, are the exception. More numerous are the organs composed of senior officials in different sectors: for example, in LAFTA the Council on Financial and Monetary Policy and the Industrial Development Commission; the Transport and Communications Commission in the Maghreb Group; the ASEAN Committee on Commerce and Industry; the councils and

committees of planning directors in the four integration groupings, and the seven councils set up by the Andean Group Commission. In short, a fairly dense network of commissions and committees surrounds the principal institutions.

37. Although these bodies composed of official representatives are numerous and differ little from one grouping to another, the organs which bring together private interests are few, and far between. There are the LAFTA *Consultative Employers' Commission* and *Workers' Commission* (not currently functioning), and the *sectoral meetings*. These meetings, which are attended by industrialists from different branches of industry, are the novel and dynamic element in LAFTA. By making for closer relations between economic agents in Latin America (17 meetings in 1970 attended by more than 700 persons and 22 meetings attended by 732 persons in 1971), they enable the private sectors to exchange views, to play an active part in preparing and advancing projects (e.g., tariff concessions and complementarity agreements), and to facilitate the adoption of projects by approaches to their governments. The frequency of these meetings and the pace of their activities have increased despite the difficulties the Association is experiencing. They are, moreover, responsible for initiating most of the new complementarity agreements. This is an original example of an effective and appropriate association of the private sectors with joint activities.

38. The Andean Group has convened an *Economic and Social Committee*, comprising both management and labour. When it met at Lima in March 1971, this Committee addressed several recommendations to the Board and the Commission concerning the study of problems connected with wages and accidents (the Board), the establishment of a Social Affairs Council, which was set up in July 1971 by decision 39 of the Commission, and the inclusion of experts appointed by the employers' associations and trade unions in the councils responsible for the harmonization of economic policy and the co-ordination of development plans. The purpose of the Committee is to analyse the Board's proposals before they are transmitted to the Commission, to make its views known through recommendations addressed on its own initiative to the main institutions, and to assist them whenever they request its advice. The Committee adopts its reports and recommendations by a two-thirds majority vote of the members present. It held its second session in October 1971. Another original feature of the Andean Group is the distinction drawn between subregional experts, who are consulted in a personal capacity, and official or government experts.

39. In contrast to these forms of consultation, UDEAC and especially EAC do not in principle associate persons other than official experts with their work. These two groupings have no organs whose membership consists of representatives of the economic and social sectors. In the case of CACM, the private sector is closely associated with the activities of its institutions through various working parties.

40. This association of independent or private experts and of representatives of professional organizations or the private sector with the preparation and implementation of decisions, through advisory bodies

or *ad hoc* groups, is to be found, with some variations, in all the Latin American groupings. The other groupings resort to this form of consultation only very rarely, but the practice of consulting public administrations and government experts is well developed in them all.

## 2. SPECIALIZED ORGANS

41. These bodies are established for a twofold purpose: to support or complement the activities of the main institutions, as in the case of the complementarity and clearing agreements in LAFTA, or to decentralize certain functions and make them more specialized and autonomous, which is the purpose of the Maghreb Groups CEIM and COMALFA—whose operations are now limited; in ASEAN the Committee on Tourism reflects the tendency towards specialization while the Joint Fund provides backing.

42. The size of these bodies varies in the different integration groupings. They are small in UDEAC, which, in addition to an accounts agency, has a novel organ in the form of a Solidarity Fund whose purpose is to compensate for natural imbalances within the Union. On the other hand, UDEAC has no development institute, although this seems necessary for the planning it proposes to undertake. The position is the Andean Group is similar, on the whole, as it has very few specialized organs; for the preparation of its development strategy, for example, the Board has to call upon ILPES. Similarly, the Andean Group relies on ADC, whose aim is to promote the execution of multinational projects and modernization programmes. Similar financing and promotion organs have been set up in EAC (the East African Development Bank) and in CACM-CABEI.

43. These are the two groupings in which the most marked development of specialized organs has taken place: ICAP, the Monetary Council, ICAITI, and the *Clearing House*. However, the densest network is in EAC, where a score or so of specialized institutes and services cover such various activities as industrial, agricultural and forestry research, medical research, both general and specialized (malaria, leprosy, virus diseases and tuberculosis), veterinary research and specialized services and departments: meteorology, royalties, civil aviation and Customs duties. These are in the line of historical tradition in East Africa.

## 3. COMMON SERVICES

44. There are no common services in the co-operation groupings or in the recently-established Andean Group. They are rare in UDEAC, where the joint Central Bank seems to be encountering difficulties. In Central America, COCESNA is an example which might be followed in posts and telecommunications, COCAAP and, over the longer term, in electric power.

45. EAC, which has an extensive network of common services, is an exception. In addition to the numerous specialized institutes and organs,

other important activities in the Community are performed by common services or departments: the joint tax and Customs administrations, and the four major corporations for railways, aviation, ports, and posts and telegraphs, which comprise almost 70,000 persons. In short, activities in such essential areas as transport, communications and taxation rely on common services, which thus provide a firm base for solidarity and bar any possibility of disintegration. This is an original contribution to the integration experiment.

### C. Co-ordination at the national level and professional organizations

#### 1. CO-ORDINATION

46. The simplest form of co-ordination is that practised in the Maghreb Group where the Minister of Economic Affairs or rather one person designated by the Minister in each ministry of economic affairs carries out this function. The importance and structure of the national secretariats of the ASEAN countries range from the appointment of a national Secretary-General (Thailand) to the establishment of a department of ASEAN attached to the Ministry of Foreign Affairs (Indonesia). For lack of a common organization these national secretariats have dual functions, for they perform the same tasks at the national level and in ASEAN.

47. Co-ordination in the EAC countries is pragmatic, and is chiefly ensured by the presidential secretariats and by interministerial commissions and groups. Owing to the leading part played by the Heads of State in the integration of both EAC and UDEAC, co-ordination in the latter has taken a similar path although in a different manner. The similarity of the positions taken by the national delegations, which can be observed even among the experts, gives some idea of the co-ordination achieved by the UDEAC countries.

48. In the Latin-American countries co-ordination is more institutional. The members of LAFTA and the Andean Group have special bodies, national commissions, and departments or institutes for integration or foreign trade, and these are the bodies responsible for co-ordination at the level of LAFTA and the Andean Group. In the Central American countries there are departments and vice-ministers responsible for integration questions. All these bodies in the LAFTA, the Andean Group and CACM countries regularly consult the private sector and professional organizations are represented on some of the national commissions.

#### 2. PROFESSIONAL ORGANIZATIONS

49. The existence of regional professional structures is one indicator of the degree of integration attained. In principle, as regional activities, community powers and their effects increase, it may be assumed that national professional associations will decide to form regional organizations. How-

ever, this assumption is not altogether valid in the groups that have been studied.<sup>7</sup> It is not borne out in the Maghreb countries and ASEAN, where the lack of regional associations, except for the Confederation of Chambers of Commerce of the ASEAN Countries and the ASEAN Tours and Travel Association, reflects a low degree of co-operation. The situation in EAC and UDEAC is even more extreme: there are virtually no regional professional organizations in these communities apart from a few labour unions in the context of the EAC common services and meetings of chambers of commerce or of industry in UDEAC.

50. The parallel between the degree of regional activity and the number of regional associations is even more evident in the Latin American groupings. Of 15 associations in LAFTA, whether general, such as AILA, or sectoral such as ATLA, some play an active part in trade liberalization or the conclusion of complementarity agreements. Thus ALAINE, ALICA and ALIPLAST hold sectoral meetings, while ALAMAR, is co-operating with the executive secretariat in the preparation of a study on transport based on unitized methods of cargo handling and the use of containers. The financial aid which IDB is furnishing to ALAMAR is administered by the general secretariat of ALAMAR, while the Executive Secretariat of LAFTA plans and directs the technical work. The two secretariats jointly ensure co-ordination.<sup>8</sup> In CACM, the professional federations, such as FECAICA and FECAMCO, together with some 10 sectoral associations, are actively participating in the integration process.

51. In the Andean Group professional organizations are taking shape; and, as the different sectors are affected by joint decisions and programmes, they tend to establish organizations at the Andean Group level, particularly as the Board's policy is apparently to give priority to the proposals and views of subregional groupings. Sectoral programming is likely to hasten this process, which can already be observed in the textile sector, the pulp and paper industries, the glass industry, the metallurgical industry, and in other fields which are affected or will be affected by joint decisions, such as the road transport sector.<sup>10</sup> Lastly, the establishment of such groups may also stem from an attempt to reorganize production or distribution at the regional level, or more simply from the need for information, for a minimum of co-ordination or for joint defence of their interests.

<sup>7</sup> There are more than 300 socio-economic groupings in the European Communities (see J. Meynaud and D. Sidjanski, *Les groupes de pression dans la Communauté européenne*, (Brussels, Institute for European Studies, Free University of Brussels, 1971).

<sup>8</sup> See LAFTA, *Síntesis mensual* (Montevideo), No. 73 (July 1971), pp. 346 et seq.

<sup>9</sup> The Confederation of Metallurgists of the Andean Area, which was set up by the Congress of Metallurgical Industries (Santiago, 16-22 August 1971). (See Andean Group, *Carta informativa oficial de la Junta del Acuerdo de Cartagena* (Lima), No. 6 (August 1971), p. 5.)

<sup>10</sup> Andean Group, *Carta informativa oficial...*, op. cit., No. 12 (April 1972), p. 8.

### Chapter III

## COMPARISON OF DECISION-MAKING PROCESSES

### A. Latin American Free Trade Association, Maghreb Group, Association of South-East Asian Nations

#### 1. DISTRIBUTION OF POWERS

52. The difference noted between ASEAN and the Maghreb Group on the one hand and LAFTA on the other in their aims, degree of effective co-operation and institutions is reflected also in their powers. The former two groupings have only the power to make proposals and recommendations—except for certain measures taken by the specialized bodies—whereas LAFTA may also take binding decisions. Moreover, the distribution of powers in LAFTA is outlined in the Montevideo Treaty and the additional protocols, whereas in the other two groupings the approach is pragmatic and by successive stages (declarations, agreements or protocols of agreement). Thus the Conference of Ministers of Economic Affairs and CPCM, and the ASEAN meetings of Foreign Ministers or of national secretaries, have no specific function; nor has the LAFTA Executive Secretariat.

53. In ASEAN and the Maghreb Group, all projects and proposals must as a general rule be approved by the Conference or the Ministerial Meeting. Preparation, study and co-ordination are the responsibility of CPCM and the Secretary in the case of the Maghreb Group, and of the Standing Committee, the Meeting of National Secretaries-General and the Secretary-General in the case of ASEAN. In both associations they are assisted by a network of commissions and advisory committees. Between the Meetings of Ministers, the Maghreb and ASEAN Committees are empowered to take decisions on certain matters. In LAFTA, the powers are less concentrated at the top, and better distributed and co-ordinated. Thus, alongside the Council of Ministers, the Conference continues to act as a tariff-negotiating body. The Standing Executive Committee has, in addition to its function of drafting decisions, a certain decision-making power of its own in questions of implementation and supervision, as well as powers delegated by the Council or the Conference. Its executive secretariat also services the main institutions, participates actively in the drafting

of decisions, prepares studies (e.g., the study on containers), and organizes sectoral meetings and meetings of commissions and working parties. Although the Executive Secretariat thus has a certain amount of indirect influence, it is closely supervised by the Standing Executive Committee, which, in practice, occupies a central place in the decision-making process.

## 2. STAGES IN THE DECISION-MAKING PROCESS

### (a) Origin

54. Proposals generally come from the Governments, which make them either directly or through intergovernmental bodies or advisory commissions composed of government experts. It is rare for proposals to come from the private sectors which can, however, address themselves to the ministries of economic affairs in the case of the Maghreb Group or pass through the national secretariats in the case of ASEAN. In one exceptional case, some private-sector organizations submitted their proposals directly to the ASEAN foreign ministers. It should be noted that CPCM, the secretaries-general and the Standing Executive Committee are the main channels for transmitting proposals and projects. One difference between LAFTA and the other groupings is that in LAFTA proposals come mainly from private sectors participating in sectoral meetings<sup>11</sup> and sometimes directly from the Executive Secretariat itself, although the latter also has the possibility of introducing some of its ideas through the consultation machinery or even through certain members of the Standing Executive Committee.

### (b) Stage of formulation

55. In the preparatory stage the leading part is played by the permanent institutions, i.e., CPCM and the Secretary in the case of the Maghreb Group and the Standing Executive Committee and the Executive Secretariat in the case of LAFTA. These bodies establish guidelines, obtain opinions from the commissions and committees, and draft proposals in proper form, modifying them where necessary. In ASEAN, where there is no central organ, the process is less determinate, since it lacks a general framework, continuity and continuing technical support. The national secretaries, the commissions and committees, and the Secretary-General therefore all play a role, but the chief part appears to be taken by the meetings of national secretaries who supervise and co-ordinate the work of the commissions, submit comments and recommendations to them, establish priorities and submit various projects and proposals, together with their recommendations, to the Standing Committee. Thus these meetings of national secretaries, followed by meetings of the Standing Committee, and the meetings of the Standing Executive Committee and CPCM are the main sources or channels of projects submitted to the ministerial institutions.

<sup>11</sup> See above for the example of an initiative due to ALAMAR.

56. If there is a certain similarity between these various processes, this is due not only to the central organs of the Maghreb Group and LAFTA, but also to the relatively small number of persons involved, in the three associations, at different levels and stages in the preparation of joint decisions. This nucleus of participants is strengthened, where appropriate, by other official or professional organizations: the United Nations Team in ASEAN, UNDP in the Maghreb Group and regional professional organizations in LAFTA.

(c) *Decision-making stage*

57. Although as a general rule the final choice and approval are vested in the ministerial bodies, the organs or meetings preparing the decisions exercise an undeniable influence at this vital stage. Proposals unanimously recommended by a committee and by the meeting of national secretaries and accepted and then transmitted by the Standing Committee of Ambassadors to the Meeting of Foreign Ministers have every chance of being approved.<sup>12</sup>

58. In Maghreb practice, CPCM—represented by one of its members—and the Secretary attend all the sessions they have prepared and follow the process closely at the frequent meetings. In addition, in accordance with rule 14 of its rules of procedure, CPCM holds a special meeting during the three days preceding the Conference of Ministers, in the same place where the Conference is to be held, in order to finalize the Conference's documentation, all the elements of which have previously been sent to the governments.<sup>13</sup> At the actual decision-taking phase, CPCM and its secretary are present at the Conference of Ministers, which has a heavy agenda. It has to approve not only the proposals of CPCM and the committees, but also the measures, work programmes and budgets of specialized bodies such as CEIM.

59. This part is played in LAFTA by the Standing Executive Committee and the Executive Secretariat, the former exercising continuous inter-governmental control and the latter fulfilling a technical and administrative function. In the final stages of this process, in which the governments participate through their representatives in the Standing Executive Committee, the Council often merely gives formal approval to the draft resolutions or agreements unanimously recommended by the Standing Executive

<sup>12</sup> See the document presented to the Seminar on the Institutional Framework of Economic Integration among Developing Countries (Bangkok, 17-26 January 1972), by Miss Tang Ling Ling (Singapore), "Comments of the representative of the Singapore ASEAN National Secretariat on the study of institutional aspects of regional integration among developing countries by Professor Dusan Sidjanski" (mimeographed), p. 6.

"From past experience, a recommendation formulated by a Permanent Committee reflecting the views of all delegates of the Permanent Committee is normally approved by the Foreign Ministers in the same form."

<sup>13</sup> See El-Kasri, "Les méthodes de travail des conférences maghrébines" in "Séminaire des experts maghrébines sur les techniques juridiques de la coopération maghrébine". Tunis, 27-30 January 1971 (mimeographed), pp. 5-6.

Committee. At this final stage, however, LAFTA differs from the other two groupings in that the process does not necessarily terminate in the Council, since decisions can be taken both by the Conference and by the Standing Executive Committee.

60. The procedure is undoubtedly an important aspect of the decision-making process: in principle all advisory organs formulate their opinions or reports by a consensus of their members. In the Maghreb Group and ASEAN, unanimity is customary in CPCM, the Meeting of National Secretaries, the Standing Committee and at the ministerial level. In practice, these bodies do not vote like international organizations, but try to reach a consensus. Projects which do not receive unanimous approval are shelved or postponed to a later meeting.

61. When projects are being selected in ASEAN, priorities are established according to the following criteria:

- (a) Feasibility for immediate implementation;
- (b) Quick yields in fruitful results;
- (c) Benefits accruing to all participating members;
- (d) Minimum financing; and
- (e) Furtherance of the objectives of ASEAN.<sup>14</sup>

62. The procedure in LAFTA is slightly different: resolutions are adopted by a two-thirds majority without opposition. In other words, this procedure gives a veto to any one of the 11 members. In practice, therefore, a consensus is the general rule, although abstentions are allowed.

### 3. SCOPE OF THE INSTRUMENTS AND APPEAL PROCEDURES

63. In passing through the various stages, a project is subject to all kinds of changes; it may be amended or it may be the subject of reservations in any organ. In ASEAN, for example, an agreement reached at one level can be subject to reservations which may later be modified, withdrawn or even strengthened or replaced by other reservations. This would seem to indicate a certain lack of co-ordination, continuity and consistency which is to some extent offset by the work of the national secretariats and the committees. In the two other groupings these defects are attenuated by the action of the permanent bodies and by intergovernmental consultations. Where, as in the sectoral meetings, experts from the private sector take part, sudden changes can be avoided through continuous co-ordination between the Standing Executive Committee, the execution secretariat and the professional organizations. From observing these processes the empirical rule can be drawn that the more difficult it is to reach a compromise between divergent positions, the vaguer and less precise the resulting instrument is likely to be. ASEAN and the Maghreb Group

<sup>14</sup> See UNCTAD, "Report of the Seminar on the Institutional Framework of Economic Integration among Developing Countries" (TAD/EI/SEM.1/3 and Corr.1), para. 59A, p. 11.



tend to state general principles rather than specific objectives, whereas in LAFTA the resolutions tend to be vague because consensus has to be reached among 11 members. The requirement for unanimous agreement of such a large number of participants often leads to compromises reflecting the lowest common denominator.

64. To facilitate comparisons, a distinction can be made between internal instruments addressed to the organs and which are binding in the three groupings, and instruments which are intended for the member States. The first are *decisions* to establish commissions or consultative bodies, or instruments containing *instructions* and *directives* from the Council or Conference of Ministers to other bodies, particularly the Standing Executive Committee or CPCM. Instruments of the second type which are adopted in the three groupings are *recommended agreements* and *protocols*. In the Maghreb Group, *protocols of agreement* and *ministerial declarations* are not subject to ratification but are signed by the ministers and sometimes approved by the Governments. In ASEAN *recommendations* are the general rule, although a few *agreements* have also been concluded: in principle, when a recommendation is approved by all the member countries, its implementation becomes mandatory upon all members. If a member decides to abstain, its abstention is recorded in the text of the recommendation (examples of agreements: the agreement establishing a Joint Fund which required only the signatures of the member States to bring it into force, and the agreement on the commercial rights of non-scheduled air services which requires the deposit of instruments of ratification. Whereas the forms and requirements may vary in the Maghreb Group and ASEAN, LAFTA applies the more cumbersome procedure of requiring every protocol to be submitted for ratification by member States. This difference is largely offset by the existence in LAFTA of resolutions with binding effect, which are rare in the Maghreb Group (the Committee on Rail Transport) and in ASEAN (the management committees of the Joint Fund).<sup>15</sup> The resolutions of the main institutions, and of the Standing Executive Committee in particular, are binding where they concern liberalization or where they are intended to secure the fulfilment by member States of their commitments. In LAFTA, moreover, the process has been made more effective in certain cases through the conclusion of agreements directly between public institutions, such as Central banks, agreements whose implementation is facilitated by the issuance of administrative instructions.

65. The practical difference between ASEAN and the Maghreb Group on the one hand and LAFTA on the other is also reflected in the situation with regard to penalties and appeal procedures, which do not exist in the first two groupings and are still far from perfect in LAFTA. The difficulty is that a member State which has not carried out its commitments can veto any measure which the others might wish to take against it.

<sup>15</sup> The management committees of the ASEAN Joint Fund have not yet been set up. Their functions are at present being performed by the Permanent Committee on Finance.

To remedy this deficiency, LAFTA has developed flexible machinery for the settlement of disputes which provides, successively, for direct negotiation, appeal to the Standing Executive Committee and, lastly arbitration.

#### 4. EXAMPLES OF PARTICULAR PROCESSES

##### (a) *Process of liberalization*

66. Since it has no automatic procedure, LAFTA, which is the only group carrying out liberalization measures, conducts tariff negotiations on the basis of national schedules and a common schedule. In the case of the national schedules, the national committees or secretariats undertake consultations, study the suggestions of the sectoral meetings and prepare proposals. Contacts between Governments then take place, but the schedules are generally exchanged only in the Conference, which is the forum for inter-governmental negotiations aimed at reaching an unopposed two-thirds majority agreement. Despite the participation in this process of the sectoral meetings,<sup>16</sup> and hence of those directly concerned, it has not been possible to overcome all its shortcomings. These include—besides difficulties which on several occasions have paralysed the machinery—the cumbersome nature of the procedure (which calls for the multilateralization of bilateral negotiations); the lack of specific obligations (which leads to liberalization primarily in the marginal sectors); the minor role played by the Executive Secretariat and even by the Standing Executive Committee; and the fact that the results tend to reflect the lowest common denominator. The process for negotiating the common schedule is not fundamentally different from that adopted for the national schedules: the more active role played in it by the Standing Executive Committee, assisted by the secretariat, has not prevented crises such as the present one from arising. LAFTA's experience has prompted the members of the Andean Group to establish an automatic mechanism for liberalization and a virtually automatic one for the establishment of the common external tariff.

##### (b) *Decision-making process in the industrial sector*

67. The present mechanisms offer few points of comparison. In the absence of any operational bodies, a *Joint Fund* has been created in ASEAN. So far as the granting of funds is concerned, the decision-making process follows the general pattern: it starts with a request for funds from a member State, which transmits the request through its national secretariat to the Standing Committee. The latter, with the assistance of the national secretaries, submits the request for approval to the Foreign Ministers. The question is at what point a competent technical body (e.g., a committee of expert economists), capable of helping to evaluate and select the projects, could

<sup>16</sup> See part one of this study, paragraph 8, which refers to the sectoral meetings in LAFTA.



intervene in that process. More attention has been given to technical aspects at the implementation level: the members of the joint management committees may be experts; the fact that decisions can be adopted by a majority of the members present and voting ensures more effective operation of all these bodies; and the committees will be responsible for preparing annual forecasts for the ministers and for submitting quarterly reports on progress in implementation to the Standing Committee. The selection of projects and the study of these reports are new functions for which appropriate institutional and technical capacity is lacking.

68. CEIM and COMANOR, which have independent machinery but are supervised by CPCM, have their own decision-making process, which nevertheless fits into the general framework. COMANOR, for which CEIM acts as secretariat, has a number of technical working groups for the preparation of recommendations, which, after being adopted by a majority in the Board of Directors, are transmitted through CPCM to the Conference of Ministers for final approval. The work programme and budget of CEIM, whose main functions are research, assistance and project evaluation, are prepared by its Director, who submits them every year, with the comments of CPCM, to the Board of Directors. After they have been approved by the Board of Directors, they are submitted by CPCM to the Conference for approval, following which they come into force. The Director, appointed by the Conference, is responsible, under the authority of the Board of Directors, for the technical, administrative and financial management of CEIM. Thus, despite its functional autonomy, CEIM works in continuous co-operation with CPCM and must have its programme and budget approved by the Conference of Ministers. This system is reminiscent of the structure of the EAC common services, which are all ultimately subordinate to the supreme body.

69. In LAFTA, *complementarity agreements* are the mechanism for industrial development by branch or sector. The halting of the liberalization process has given a new impetus to this sectoral form of co-operation, particularly as most of the projects have their origin in the sectoral meetings.<sup>17</sup> These dynamic bodies propose draft agreements which are incorporated in the record signed by industrialists of the countries interested in concluding them. After this first phase, the draft is submitted to the Standing Executive Committee, which rules on its compatibility. At this point, government representatives in the Standing Executive Committee take over the negotiations on behalf of the Governments concerned; the agreement is then signed by those Governments and put into effect by decree. Although they at first lacked a proper structure, some agreements now have their own administering bodies. The Special Committee or the Board of Directors decides by a two-thirds majority vote on the measures to be taken or the solutions to be adopted. Functional autonomy is strengthened by a greater decision-making capacity and by improved guarantees

<sup>17</sup> See, in part one of this study, paragraph 8 (on sectoral meetings) and paragraphs 9 and 10 (on complementarity agreements).

of fulfilment of common obligations, and—what is an exception in LAFTA—sanctions in the form of suspension of benefits may be imposed by the body administering the agreement.

### (c) *Specialized organs*

70. While there are very few specialized organs in LAFTA, whose member countries co-operate either at the inter-American level (IDB, ECLA, OAS bodies) or at the subregional level, they promise to be a useful instrument in the other two associations, although they proceed in a somewhat unsystematic way. Examples of such bodies are ASEAN's Permanent Committee on Tourism and COMALFA and the Committee on Rail Transport of the Maghreb Group.

71. Although the Committee on Tourism has a permanent team headed by an Executive Director and an Executive Secretary, it conforms to the general pattern in ASEAN: firstly, it prepares draft recommendations which, through the national secretaries and the Standing Committee, are submitted to the Foreign Ministers for their approval; secondly, the recommendations thus formulated, calling, for example, for the organization of a tourist year, are submitted to the Committee for implementation. Although it is too early to assess the Committee's contribution, it is already clear that this body, like others, is beset by uncertainty, because of the system of rotation of headquarters which is applied in ASEAN at all levels.

72. The two Maghreb bodies introduce a new element in the decision-making process. The Committee on Rail Transport may take unanimous decisions which are applicable one month following their transmission to the Chairman of the Transport and Communication Commission, to the networks concerned, to CPCM and to the Ministers of Transport. The Committee's conclusions are formulated as suggestions, however, if their implementation would have major financial implications for the budgets of the networks, or would entail changes in the administrative and economic system of the Maghreb countries; in all other cases they take the form of decisions. This process is outside the normal pattern, even though CPCM is kept informed; it is the Directors-General of the railways and the Ministers of Transport who participate in taking the decisions and in supervising their implementation.

73. The substantial powers given to its Board of Directors and Chairman are a particular feature of COMALFA, which appears to be barely functioning at present. COMALFA has exclusive responsibility for the marketing of alfa, and the Board of Directors unanimously determines each country's quota and fixes the floor price. In respect of contracts concluded by COMALFA, the Chairman allocates the orders so far as possible in accordance with the customers' wishes and within the quota limit set for each country. Marketing sales, distribution of quotas, the fixing of floor prices and the supervision of these operations are thus the responsibility of a specialized body, whose decision-making processes only rarely follow the usual model. The statutes of COMALFA were approved by the Ministers of Economic Affairs at their meeting from 25 to 27 May 1965 at Tripoli;

and its rules of procedure provide that any disputes will be submitted to CPCM for arbitration. These are the principal links with the Conference and CPCM, since the Board of Directors of COMALFA appoints its own Chairman and approves its budget on the Chairman's proposal. Being soundly conceived COMALFA at first produced good results. However, following the contraction of the foreign markets, the fifth Conference of Ministers of Economic Affairs of the Maghreb Countries adopted a new approach aimed at the industrialization of the alfa sector.

#### (d) *Compensation mechanism*

74. Only LAFTA has a compensation mechanism in the form of an agreement between the central banks, for LAFTA has actually embarked on trade liberalization. This mechanism is interesting from two angles: the particular process which led to the conclusion of the agreement; and the operation of the mechanism. In the stage of preparing decisions, the main role has been played by the Council for Financial and Monetary Policy, the Executive Secretariat and the consultative commissions. The process started when the demand for services in the trade-payments field prompted the secretariat to convene a meeting of about 80 representatives of commercial banks in the member countries. With the assistance of the Executive Secretariat, these representatives formulated suggestions on the payments problem. After screening by the Commission on Monetary Affairs, these suggestions were examined by the Council for Financial and Monetary Policy, which submitted them to a group of central bank experts for study. The conclusions of this group were considered by a meeting of commercial banks and then by the Commission before being submitted, together with various comments, through the Standing Executive Committee to the Council for Financial and Monetary Policy. This process, which started early in 1965, ended with the approval given by the Council for Financial and Monetary Policy in September 1965. The following characteristics should be noted: the process took place outside the main institutions, the essential role being played by the Council and the Secretariat, assisted by private bankers and the Commission on Monetary Affairs; in view of the membership of the Council (presidents and managers of central banks), the Standing Executive Committee played only a minimal part; and, lastly, mention should be made of the speed with which the central banks set up this mechanism. As regards the operation of the agreement, the balances of the reciprocal credits between central banks are cleared every quarter through the Central Bank of Peru and its correspondent, the Federal Reserve Bank of New York. This multilateral compensation, operated in this simple manner, has provided, in the present trade situation, an effective solution to the payments problem.

#### (e) *External relations*

75. In ASEAN, the process of co-ordination and consultation is essentially pragmatic, particularly in the various international forums, including the United Nations. Consultations with a view to presenting a

common front are more systematic at the ECAFE level; on the other hand, relations with the United Nations Team are of a special character, the Team acting as a technical consultant to ASEAN, moreover the enlargement of EEC has caused the members of ASEAN to undertake various joint representations and to attempt to define a common position and policy. The exercise of these functions, responding to needs that are both urgent and shared, gave rise to institution of two co-ordination mechanisms, one at Bangkok and the other at Brussels. In addition, ASEAN has proposed that the dialogue with the Community should be institutionalized in the form of a permanent liaison organ. In their relations with third countries, the members of ASEAN are gradually establishing better co-ordination, in some sectors according to need. This is a significant step forward in their co-operation.

76. In the other two organizations, external co-ordination is still somewhat loose, although it is based on permanent bodies, such as CPCM, the Standing Executive Committee and the Executive Secretariat. In the Maghreb Group, CPCM, whose role is mainly one of study and preparation, does not seem to play an active part in relations with EEC, UNDP and ECA. The situation is much the same in LAFTA, although the Executive Secretariat sometimes represents the Association as an observer, particularly at the meetings of the Commission of the Andean Group. Although the Standing Executive Committee maintains certain contacts, the co-ordination of relations between the Latin American countries and the United States of America, the United Nations, UNCTAD and EEC is undertaken outside the Association by CECLA,<sup>18</sup> with the assistance of the Latin American Groups meeting in New York, Geneva and Brussels. In these three groupings, the degree of co-ordination in external relations is, on the whole, unequal. In the case of LAFTA, the co-ordination is ineffective or is ensured by outside bodies such as CECLA; in the Maghreb Group it is limited to research work; while in ASEAN it is tending to develop and take on an institutional form. In external relations, therefore, ASEAN has reached a more advanced stage than the other two associations even though the latter have, on the whole, fuller institutional structures.

77. These five examples of specific processes, which have just been surveyed, vary from one association to another. In ASEAN and the Maghreb Group, however, they are based on a pragmatic and fragmentary approach, which makes them appear as pointers—in line with practical possibilities—to more systematic co-operation in the future. In LAFTA, on the other hand, they form a logical part of the system of trade liberalization, for which they act as supplementary and supporting instruments, examples being the multilateral compensation mechanism and the complementarity agreements.

<sup>18</sup> The Executive Secretary of LAFTA is responsible for liaison with CECLA.

*Intergovernmental*

**B. East African Community, Central African Customs and Economic Union, Central American Common Market and Andean Group**

**1. DISTRIBUTION OF POWERS**

*(C1)*

78. With the exception of the Andean Group, these groupings reveal, on first examination, a considerable concentration of powers in their supreme institutions; the Authority, the Council of Heads of State and the Central American Economic Council. The distribution is relatively simple in UDEAC and CACM. In UDEAC, although the essential powers are vested in the Council, the Management Committee is empowered to deal with questions referred to it by the Council. Under the Treaty establishing UDEAC, the Management Committee has delegated powers, particularly in matters connected with the Customs Union. In addition, it prepares draft decisions for consideration by the Council. The Secretary-General, for his part, has important powers of initiative, implementation and co-ordination and is responsible for promoting policies in the industrialization and transport fields.

79. The distribution in CACM is similar. As in the case of UDEAC and EAC, the Economic Council directs and determines integration policy, co-ordinates it, takes basic decisions and arbitrates disputes. As in the case of UDEAC, the Executive Council plays a central role, but in CACM it has a number of powers of its own to which may be added tasks which the Economic Council may entrust to it. Apart from its right of initiative and its role as a filter, the Executive Council takes measures to ensure that the Treaty and the joint decisions taken are implemented and that the integration process proceeds smoothly. It co-operates, in its work, with SIECA, whose powers are less clearly defined. In practice, SIECA supervises the implementation of common rules and decisions, organizes meetings at various levels, prepares projects, drafts reports and carries out various tasks and duties that may be entrusted to it by the two Councils.

80. In EAC, on the other hand, the distribution is much more complex. A central role is performed by the Community ministers, who represent the Community in the Governments and the Governments in the Community. These ministers, the link between the Community and the Governments, play an active part in preparing Community instruments within the Committee of Ministers but also have departmental responsibilities in the Central Secretariat and are responsible for the administrative supervision of both the general services and the common services. These functions of the Community ministers encroach upon the administrative functions of the Secretary-General, who, as general administrative head, provides the secretariat for meetings and for the Community machinery. Despite his key position, the Secretary-General appears to have lost something of his powers of initiative except for his technical activities in fields requiring a considerable amount of preparatory work, such as the planning and industrialization sectors.

81. The Community structure is still further complicated by the existence of five councils with unequal powers: some of them have actual powers

(Common Market, Finance and Communications), while the others have only consultative functions (the Economic Consultative and Planning Council, the Research and Social Services Council). These intergovernmental institutions, in which ministers in the different governments have the dominant role, all have powers of initiative and are responsible for drawing up proposals, but the first three can also take certain decisions and executive measures. Although the Communications Council carries out over-all supervision of the corporations, it is the Common Market Council which has the most significant executive and supervisory powers to ensure the effective functioning of the Common Market. It can issue directives which are binding on the Partner States and can adopt mandatory decisions and measures. In this complex system, the legislative and budgetary functions are assigned to the Legislative Assembly. The latter adopts the community's laws and budget, which are not executory, however, until they have been approved by the Authority.

*(C2)*

82. The Andean Group differs from the other groupings in that there is clear and balanced division of powers between the Commission and the Board. The Board is responsible for research, for making proposals and for preparatory work as well as for execution and management. In the case of decisions that are important or of general scope, the commission has to act on a proposal submitted by the Board. The Andean Group machinery is thus endowed with more autonomy and with more important powers and functions than the secretariats of the other three groupings, and is thus in a position to play a major dynamic role.

83. This is because the Cartagena Agreement establishes a satisfactory balance between the community machinery and the intergovernmental organ, which are the two basic institutions. Their functional co-operation, encouraged by the Board, is the keystone of the Andean system.

**2. STAGES IN THE DECISION-MAKING PROCESS**

**(a) Origin**

84. In EAC and UDEAC, the initiative can come from Heads of State and Community ministers. It can also come from departments of the secretariats, particularly in technical fields or where the Treaty establishes obligations or lays down time-tables for common action, as in the case of the establishment of the customs union in UDEAC. As a general rule, common decisions originate in the official and public sectors; the private sector can make its views known through the Governments.

85. In CACM, the power of initiative lies not only with the ministers and councils, but also with SIECA and private sectors as well. Although the corresponding entities can also take initiatives in the Andean Group—e.g., Ministers of Foreign Affairs meeting outside the Group institutions—the distribution of powers in actual practice differs from that in the other groupings: the prime mover towards integration is essentially the Board, which submits proposals based on the commitments and time-tables laid down in

the Cartagena Agreement. In exercising its power of initiative, the Board can act either alone or in consultation with Governments and experts.

#### (b) Stage of formulation

86. Although the principle of consultation is applied everywhere, its practice varies from grouping to grouping. The differences are mainly due to the institutional structures or to the types of experts consulted: governmental or private.

87. In EAC, projects are developed in the Councils, with the active participation of the Community Ministers and of departments of the Central Secretariat. In principle, the competent Council in which an initiative is introduced establishes committees and sub-committees or refers it to standing committees—such as the Permanent Common Market Committee—composed of government experts and of officials of the Central Secretariat. These advisory bodies study the projects and prepare proposals which gradually rise up through the various levels, if they are approved by the experts or government representatives, until they come back to the Council. The process is a slow one. The technical quality and coherence of the proposals and of the views expressed by the participants, particularly the Government experts, deserve to be mentioned.

88. In both UDEAC and CACM, the secretariats play a more active role. They can initiate, study and prepare projects in co-operation with groups or committees of experts and with the help of commissions and specialized organs. In UDEAC, for example, the Secretary-General gives his opinion on every dossier that he prepares and studies and this opinion is transmitted to the Committee of Experts, the Management Committee and even the Council. The general principle is followed of seeking a consensus at all these levels, although, to avoid paralysis, disagreements at one level can be submitted for decision to the next higher level. If an opinion or project of the Secretary-General is not unanimously accepted by the experts, it can be referred to another authority. In some cases, it is possible to request the views of international or foreign experts. The role of SIECA is just as central and active. In addition to conducting consultations, SIECA can obtain technical advice from specialized bodies such as ICAITI during this stage. Thus, the Executive Council rules on applications in connexion with the integrated industries on the basis of a SIECA report which includes an ICAITI opinion on the technological and economic aspects of the application.<sup>19</sup>

89. In addition to these resemblances, certain differences between the two groupings should be noted: in UDEAC, only government experts are, as a general rule, associated with this formulation process; their action just prior to meetings of the Council and of the Management Committee has a direct effect on the ultimate decisions. CACM has two distinctive features: both official and private experts are consulted by SIECA. SIECA

sometimes organizes conferences in which representatives of the Governments, of regional and international organizations and of the private sector take part. Thus, the textile industry was represented at the Second Central American Textile Conference, while ACAMAR and the shippers (*Usuarios*) took an active part in the meetings held to assess the shipping programme. At a later stage, when the Executive Council is considering a project, it organizes in its turn a series of official consultations in the form of working groups, which are reminiscent of the work of the UDEAC Committee of Experts.

90. The Andean Group is developing consultation on a pattern close to that of CACM, while strengthening the role of the Board. The latter retains control at the formulation stage, during which it can carry out various consultations: it can consult independent or international experts convened in round-table meetings which enable it to identify the various possible approaches and concepts; and it can consult subregional experts who, though often belonging to national administrations, participate in the consultations in their individual capacity. On the basis of the various technical views expressed, a more accurate idea can be obtained of the areas of possible agreement among the member countries, ideas can be clarified and priorities can be outlined. These meetings also prepare the consensus among the experts and constitute an informal apprenticeship process for the national administrations. On the basis of this work, the conclusions of which are recorded by the community administration in a memorandum, the Board prepares its feasibility study. Then begins the formal process of consulting government experts and employers' and workers' representatives in the Economic and Social Committee. These give their views in an advisory capacity, while the government experts begin *de facto* pre-negotiations. During this formulation stage, the Board can also consult directly the Commission, the Governments or their administrations. Although it takes due account of the opinions thus obtained, which enable it to adjust its sights, it is still, in the last analysis, solely responsible for the proposal it presents to the Commission. The fact that the proposal is usually the result of a consensus of its members emphasizes the collegiate nature of the Board and gives the proposal more weight. Nevertheless, under the Cartagena Agreement, the members of the Board may, if they all see fit to do so, submit alternative proposals which they have unanimously accepted. This procedure is designed to avoid both paralysis of the body which is the prime mover towards integration and imposed decisions.

#### (c) Decision-making stage

91. This stage has, in fact, already begun in the meetings of government experts. As a rule, projects that have been unanimously approved by these experts encounter no obstacles at the decision-making stage. In EAC, this stage is divided into several levels: firstly, that of the Councils, of which there are two kinds: the consultative Councils, that have power only to make proposals, and the Councils with decision-making powers. Councils which have decision-making powers under the Treaty can either

<sup>19</sup> Sidjanski, *Dimensiones institucionales...*, *op. cit.*, pp. 130-131.

reach a unanimous decision or, if there is disagreement, submit the matter to the Authority for arbitration. These Councils sometimes constitute machinery for the consideration and preparation of common instruments which they submit, through their chairmen (Community ministers) to the vote of the Legislative Assembly and, lastly, the assent of the Authority.

92. A similar process, though rather simpler in form, is to be found in UDEAC and in CACM: the Management Committee and the Executive Council play a role at this stage. They are empowered to produce acts or joint measures and, in the event of disagreement on some matter, they can submit it to the Council of Heads of State of UDEAC or to the Central American Economic Council. In other cases, the Management Committee and the Executive Council filter the projects put forward by the secretariats and submit them in the form of proposals to the supreme institutions, which take the final decision. In UDEAC, the agreement of the experts is formalized by inclusion of the decision in list A, which is simply endorsed by the Management Committee or the Council of Heads of State. UDEAC also possesses an original emergency procedure, whereby decisions can be taken by direct personal consultation at domicile or by correspondence.

93. A common feature of all three processes is the application of the unanimity rule at all phases of the decision-making stage, with one exception: a majority is sufficient in the Central American Executive Council for certain decisions relating to supervision of implementation. Although this rule is quite common at the ministerial or Head-of-State level, CACM has a distinctive feature: the decisions taken are frequently in the form of a protocol which must be ratified by the parliaments of the member countries. This feature, to be found only in CACM, indicates that, in this respect, that grouping is lagging behind the other integration groupings.

94. In the Andean Group, the Commission acts on proposals made by the Board. In this unusual structure, negotiations take place simultaneously between the member Governments and between Governments and the Board. The process of consulting subregional and governmental experts has enabled the Board to discern the extent of agreement among the Governments. As in the case of the other groupings, if the government experts agree, the Commission simply approves the proposal. Although a consensus among the experts makes it easier to adopt decisions, the Board may, if it so desires, submit proposals which are not based on a unanimous agreement among the representatives of the national administrations. This freedom of action is all the greater in that these official consultations are carried out through the intermediary of the Board's own staff, who do not have authority to commit the Board.

95. The negotiations within the Commission, in which the Board takes part, are often supplemented by bilateral contacts. During this process, the Board can, if it sees fit, modify its initial proposal to take account of positions which have been exposed and to facilitate adoption of its text. The Board's negotiating strength vis-à-vis the Governments is based on its technical competence, on the coherence of its projects and the extent to which they express the interests of the region, and on the confidence

which Governments have in it. In addition to these factors, the Treaty includes a safety device: the Commission may not amend or reject a Board proposal except by a unanimous vote. Paradoxically, unanimity is used in this case to strengthen the position of the community institution.

96. Unlike the other groupings, the Andean Group has opted for a qualified majority procedure as a general rule in respect of basic and programme decisions so as to guarantee the relatively unimpeded functioning of the intergovernmental institution responsible for taking important decisions. The Presidents of the Commission have wisely sought to avoid the necessity of voting by always aiming at a consensus, but the fact that decisions can be taken in many cases by a qualified majority encourages Governments to accept compromises more readily.

97. This decision-making process differs from the model in the other three groupings, which is markedly intergovernmental in character. The Board assumes the role of prime mover that is clearly laid down in the Cartagena Agreement; it has a considerable freedom of initiative and autonomy. Furthermore, the whole formulation process is carried out under the Board's responsibility, although in consultation with subregional, international and governmental experts. Once formulated, a proposal by the Board carries a great deal of weight, especially since it is protected against hasty amendment or rejection by the unanimity requirement imposed on the Commission by the Treaty. In addition, the qualified majority which is all that is required for many decisions makes it possible to reach a balanced consensus more rapidly and is also a protection against some possible excesses. This mechanism, based on a balance between the subregional body and the intergovernmental body, is not found elsewhere in the integration arrangements among developing countries.

#### *(d) The supervision and implementation stage*

98. In this stage, the Secretaries-General perform supervisory functions in co-operation with other institutions. In EAC, the Secretary-General maintains continuous supervision and submits appropriate reports to the Common Market Council. The latter, which has supervision and control responsibility in the same field, can take measures to ensure that the common rules are applied. Moreover, in this complex system, the Authority exercises over-all supervision of all the machinery and institutions and of the common services.

99. The situation is no more clear-cut in CACM, where the Executive Council and SIECA share the task of supervision. Both institutions supervise the implementation of the Treaty, the protocols and the resolutions, but only the Executive Council is empowered to take measures necessary for the effective functioning of the Common Market. In practice, SIECA and the Executive Council co-operate closely at this stage as in the earlier stages, but the Executive Council and, in case of difficulties, the Economic Council, are the only bodies with decision-making powers. For example, on the basis of a report by SIECA, the Executive Council ruled against the 80 per cent duty on the selling price of

alcoholic beverages which had been imposed by Costa Rica. The Executive Council decided, at its twenty-second meeting, that these duties were not compatible with the provisions of the General Treaty. Consequently, it recommended to the Government of Costa Rica that it should reform its system of taxes on alcoholic beverages.<sup>20</sup>

100. In UDEAC, the division of powers between the secretariat and the Management Committee seems more clearly established. Thus the Committee is responsible for supervising the application of the safeguard clauses and for taking such measures as are required to prevent the diversion of traffic (art. 40 of the Treaty), while the secretariat has supervisory responsibilities with respect to the Customs Union. It carries out a documentary check of declarations and the manner in which they are used. In the field of fiscal legislation and of the single tax, it ensures that the common instruments are implemented, and can make on-the-spot checks. This direct control by a community institution—performed by secretariat inspection teams—constitutes an exception.<sup>21</sup>

101. In this regard also, the Andean model differs from those just described. Responsibility for supervision is vested in the Board, which sees that the Treaty is applied and that the decisions of the Commission are carried out (art. 15a of the Treaty). For example, it supervises the application of the rules of origin laid down by the Commission in accordance with its proposals. In the Andean Group, the division of functions is clearly established, and this further confirms the primary role played by the Board alongside the Commission.

### 3. SCOPE OF THE INSTRUMENTS AND APPEAL PROCEDURES

#### (a) *Form of the instruments*

102. Under various forms and titles, we find what are, on the whole, similar instruments. To different degrees and in a variety of ways, all four groupings provide for both general and special instruments with binding force. Thus there are the *community laws and acts* in EAC, in which, however, the Common Market Council is also empowered to address binding directives to the partner States to ensure that the Common Market functions effectively. This exception, taken in conjunction with the example of the corporations, brings out the fact that there is no executive power in other areas of EAC activities.

103. In UDEAC, the *acts*, which have the force of law, emanate not only from the Council of Heads of State but also from the Management Committee. The Council promulgates, as a rule, acts of general scope and also acts on questions of great importance to the Union such as the reduction

<sup>20</sup> See SIECA, *Carta informativa* (Guatemala), No. 53 (March 1966), p. 9 and No. 60 (October 1966), p. 13.

<sup>21</sup> See in part one of this study (paras. 124-145) the section on the decision-making process in UDEAC.

of Customs duties. The Management Committee is chiefly concerned, apart from a few general decisions, with special decisions such as safeguard measures. In addition, a point which should be emphasized, the Secretary-General is also empowered to take certain special *decisions* of an executive nature which have a binding effect.

104. The situation is similar in the Andean Group, where the Commission takes *decisions* and the Board passes *resolutions*, both types of instrument having a binding effect. The board also grants authorizations, particularly in the case of resort to the safeguard clauses. Although the entry into force of decisions is, in principle, automatic, it sometimes takes in practice the form of national decrees which reproduce the text of the decision as, for instance, in the case of the rules for foreign capital. The date of entry into force is that specified in the joint decision.

105. CACM diverges here from the other three groupings: the *resolutions* of its councils can be binding of implementation or control measures of an enforceable nature, or Central American Economic Council instructions to the Executive Council or to SIECA are involved. In the case of important decisions, however, the instrument used is the *protocol*, which requires ratification by the member States. This is an instrument which is hardly suited to the functioning of a common market for, by increasing the safeguards given to the member countries, it slows down and restrains the process of integration.<sup>22</sup>

106. There are two features common to these four groupings, as well as to the three associations (LAFTA, the Maghreb Group and ASEAN), which are worth noting: all the higher bodies have the power to issue *instructions, orders or directives* to the other bodies; and use is also made of various forms of non-binding instruments such as *recommendations, suggestions and opinions*.

107. The publication of such instruments is either decentralized, as in CACM and the Andean Group, whose member States are responsible for both publication and dissemination, or, as in EAC and UDEAC, through the medium of an *Official Gazette*, published by the Secretary-General. In economic integration groupings, where common activities and instruments tend to proliferate, the existence of an official gazette can be a factor making for clarity and effectiveness.

#### (b) *Direct effect of the instruments*

108. Experience shows that, as the integration of a community progresses, the common instruments gradually begin to have a direct effect on undertakings and transactors. This tendency, which has been noted in

<sup>22</sup> Sometimes, because of the delays which frequently occur in the ratification procedure, the content of a protocol is no longer appropriate, at the time of its entry into effect, to the situation it was designed to meet. Consequently, CACM requires some means and decisions which will enable it to react promptly to changing situations and to establish a longer-term approach.



the form of sectoral meetings in LAFTA, is even more marked in integration groupings. The situation is clearer in some groupings, however, than in others. The tendency is observable in the Andean Group, where the development of sectoral programming in particular should help to reinforce it. Although they mainly concern the partner States, the instruments of EAC affect citizens directly, since they have the force of law in the member countries. EAC activities in connexion with the transfer tax—and the same applies to the single tax in the case of UDEAC—have a direct effect on the undertakings concerned. By definition, the *common services* and the *corporations* establish a direct relationship with users, as witness, for example, the taxes levied by a common service or the operations of the Railways Corporation. Moreover, the common services and the corporations carry out a number of operations (loans, acquisition of property, building) which bring them into constant contact with undertakings and individuals. In addition to these various external relations there are internal relations with their own staff, who constitute a large group of wage-earners.

109. In Central America also, the effect varies according to the particular field involved. In particular, there is a direct effect on integrated undertakings and transactors which are affected by the various incentives applied in CACM. In this connexion, the Executive Council is empowered to fix price levels for the products of the integrated industries. The situation in this respect appears clearer in UDEAC: important and general decisions of the Council are often addressed to member States (e.g., a decision to lower the common external tariff) but most of the Committee's instruments and decisions and those of the Secretariat have a direct effect on specifically designated commercial or industrial undertakings. Direct relations also take the form of direct supervision.

#### (c) *Sanctions and appeal procedures*

110. There is generally no provision for organized sanctions except in the form of a decision authorizing member States to suspend certain effects or action called for under the common rules. Thus, in CACM, if a State fails to implement a resolution of the Executive Council or of the Central American Economic Council, the other member States may have recourse to various measures of reprisal or retaliation such as suspending free trade in certain products of particular interest to the State in question. Such is the principle, but there are several exceptions. In CACM, if obligations under the integrated industries régime are not fulfilled, the Executive Council may authorize the import of products which are manufactured by the defaulting integrated industry. An even more direct sanction is provided for in articles 12-14 of the Protocol to the Central American Agreement on the Equalization of Import Duties and Charges (*Protocolo al Convenio centroamericano sobre equiparación de gravámenes a la importación*). According to article XIV of the General Treaty, if the Executive Council becomes aware of an "unfair trade practice", it is empowered to fine the consignee of the goods an amount of \$100 per gross kilogramme and 100 per cent *ad valorem*. The sanction is applied by the Government of the country

into which the goods have been imported and can be imposed directly on the undertaking, company or individual to whom the goods are consigned.<sup>28</sup> These are rare examples of exceptional cases in which the CACM system provides for sanctions with a direct impact on undertakings and individuals.

111. In EAC itself the general system is applied. The Common Market Council and, if necessary, the Authority address binding recommendations or decisions to the member country which has infringed a common market rule. The corporations also have an elaborate system of penalties. Their statutes contain provisions relating to offences. There are, for example, the provisions of part XI of the statutes of the Post and Telecommunications Corporation and part X of the statutes of the Harbours Corporation, in which breaches and violations are defined and the corresponding penalties are laid down. Thus, passengers who alter or forge train tickets are liable to fines not exceeding 2,000 shillings or a term of imprisonment not exceeding one year (art. 73). The authorities of the Harbours Corporation can apply a broad range of sanctions in the exercise of their function of supervision of harbours: they can detain a ship which has not paid the dues imposed or they can impound goods (arts. 44 and 48). These statutes also lay down a number of sanctions, fines and penalties for various offences. Sanctions are also prescribed for employees who commit abuses or misdemeanours: the unauthorized use of radiocommunications equipment, etc., gives rise to a fine or to terms of imprisonment (art. 97); under articles 92, 93 and 94 on the rules relating to electro-magnetic energy and to the use and sale of equipment, the accused can apply to the Director-General for the case to be referred to the Court of Appeal, the constitution of which is governed by article 95. All these examples reveal the existence of a developed legal machinery similar to that to be found in the member countries. In fact, in various areas of community activity (corporations, services or departments), EAC constitutes a unique example, both as regards the number and size of the sectors covered and from the technical legal angle.

112. Although UDEAC, like the other groupings, has neither sanctions against member States nor a broad system of penalties such as exists in EAC, it nevertheless offers an original example of a common system of control and sanctions in the Customs field and in that of auditing the accounts of undertakings subject to the single-tax régime and the régime of taxation based on real profits. In these two areas, direct inspection is carried out by the Customs department and the inter-State auditing team respectively. In both cases, these inspections are carried out by community officials acting in co-operation with the national officials. Furthermore, provision is made for fines and, in the event of refusal to pay, penalties are imposed either by the Management Committee or by the national authorities or courts.

113. Only the Andean Group does not provide for any form of direct sanctions, the definition and application of sanctions remaining decentralized and entrusted to the member States. Presumably, however, the

<sup>28</sup> Sidjanski, *Dimensiones institucionales...*, op. cit., p. 119.



development of integration in different sectors will, in the future, make it possible to apply various sanctions to undertakings, groups or individuals. This conclusion is based on the experience of the other groupings examined above.

114. Various appeal procedures exist in the four groupings: the most common case is where a member State lodges an appeal with the inter-governmental institution, sometimes through the secretariat. This is quite a widespread system. It is applied, for instance, in EAC, whose Court of Appeal, however, has not yet begun to function. As in most of the groupings, appeals or disputes which have not been resolved at a lower level are submitted to the next higher instance and, if necessary, to the supreme organ. Similarly, if a dispute occurs between the Board of Directors of a Corporation and the Communications Council, the Authority is called upon to settle the matter. In the two Latin-American groupings, the settlement of disputes commences with direct negotiations, passes through the common institutions and may even culminate in arbitration.

115. In UDEAC, undertakings have, by way of exception, a right of appeal in connexion with the application of the single tax. Direct appeal procedures also exist in EAC, as a counterpart to the obligations and sanctions imposed on individuals or companies by the corporations and common services. We have already seen (in paragraph 111 above) an example of recourse to the Court of Appeal.

116. From the foregoing, two conclusions emerge: appeal procedure is not highly organized and the function is seldom entrusted to a specialized body. In principle, a member State may appeal but not the persons or undertakings directly affected. On the whole, the organization of this function is lagging behind the general level of integration in these four groupings.

#### 4. EXAMPLES OF PARTICULAR DECISION-MAKING PROCESSES

##### (a) Customs union and common market

117. In principle, liberalization, the establishment of a Customs union and the operation of a common market are governed by the general decision-making processes. In EAC the principal role is assigned to the Common Market Council, which, assisted by the Central Secretariat, supervises the operation of the trade machinery, issues *binding directives* if a partner does not fulfil its obligations, and supervises the application of the transfer tax, which it can if necessary suspend. The Council is the body which makes proposals to the Partners and suggests amendments or adjustments of the existing machinery. These functions are exercised in accordance with the general pattern. In practice the Council is assisted by the Common Market Standing Committee, composed of officials of the competent ministries and of EAC, which prepares reports on disputes and violations of the treaty and recommends measures. On the basis of this material the Council reaches decisions (e.g., on the restrictive practices of a shoe factory in Tanzania, 1968-1970).

118. The keystone of UDEAC is its Customs Union, which operates in accordance with the general model. Now that it is established, however, it is governed by an automatic process supervised by the Central Secretariat. This applies to the control of documents and declarations, the distribution carried out by the accounting agency, and the inquiries into undertakings subject to the single tax. In its managerial capacity the Secretariat plays the leading part in co-ordinating the activities of the national administrations and supervising the operation of the system. In case of disputes or non-implementation, the Secretariat uses the normal channels to the Management Committee and, if necessary, to the Council.

119. The situation is different in CACM, which is not a full Customs union, since it has as yet no common external tariff,<sup>24</sup> but which by the eve of the 1969 crisis had almost completely liberalized trade. In both liberalization and the gradual introduction of the common external tariff the general pattern was applied pragmatically. One effect of the crisis was to suspend the operation of this trade mechanism. Pending a general solution, the Normalization Commission—an *ad hoc* body—is trying to facilitate the restoration of trade between the member countries. At present this process is being carried out in the Normalization Commission, outside the institutional framework, among four member countries (Honduras being absent), in the meetings of Ministers of Economic Affairs (five or four countries being represented), and in *ad hoc* meetings between Honduras on the one hand and Guatemala, Nicaragua and Costa Rica on the other. At their meeting, on 25 August 1971, the ministers of economic affairs of the four countries laid the foundation for a normalization of trade relations between their countries by bilateral and multilateral means.

120. In the first place, free trade was maintained among four countries, following its suspension by Honduras and the three Central American countries, with the exclusion of El Salvador. On 12 April 1972, for example, the Governments of Nicaragua and Honduras signed a document laying the foundations for the conclusion of a bilateral trade agreement.<sup>25</sup>

121. Contacts between Honduras and El Salvador since June 1972 seem to indicate the likelihood of a resumption of normal relations between the two countries. This situation has had an impact on trade flows in CACM. Between 1960 and 1968, these flows increased from 32.7 million Central American pesos to 258.3 million pesos in 1968, an annual growth rate of 30 per cent. The trade reached the level of 297.4 million pesos in 1970 but only 275 million pesos in 1971, a decrease of 7.5 per cent. According to estimates, normal functioning of the common market, including Hon-

<sup>24</sup> At its ninth meeting, in March 1972, the Normalization Commission considered the preliminary draft of the Protocol to Ensure Flexible Management of the Central American External Tariff, prepared by the vice-ministerial working group (*Protocolo para manejar en forma flexible el arancel centroamericano de importación*). At its eleventh meeting, in July 1972, the Normalization Commission approved the draft and instructed SIECA to prepare a final version of the Protocol for signature by the Governments. (See SIECA, *Carta informativa* (Guatemala), No. 126 (April 1972), p. 2 and No. 130, (August 1972), p. 4.)

<sup>25</sup> SIECA, *Carta informativa* (Guatemala), No. 126 (April 1972).

duras, would have made it possible to reach a level of at least 350 million pesos.<sup>26</sup> The re-establishment of free trade and structural reorganization are the chief tasks of the Normalization Commission.

122. The Andean Group offers the example of a programme of automatic liberalization by stages, the final date for which has been fixed at 31 December 1980. For the benefit of Bolivia and Ecuador, the liberalization process has been speeded up to ensure that all their products will have duty-free entry by the end of 1973. On the other hand, these two countries will not begin to free products from the other three countries until 1976. This process is to be completed by 1985.

123. The process is based on the following general machinery: the Board proposes and the Commission decides, all the decisions being prepared by meetings of subregional and governmental experts. Another feature of the Andean Group's method is a strict time-table for the various stages of liberalization. Since 1 January 1971, decision No. 29, proposed by the Board and adopted by the Commission, has freed 62 Bolivian products and 49 products from Ecuador. This measure has stimulated trade in the products concerned: for example, Peruvian imports of tin ingots from Bolivia, which had been worth only \$U.S.36,494 in 1969, tripled in 1971 to a value of \$U.S.98,545. Moreover, as provided in the Treaty, the three countries (Chile, Colombia and Peru) have since April 1970 removed all duties and restrictions on the products in the first *tranche* of LAFTA's common schedule, while Bolivia and Ecuador are liberalizing these products in accordance with the LAFTA provisions.

124. As a result of the first automatic reduction of Customs duties, 700 products from the three countries were completely freed and a total of 800 is reached if products originating in the two less-developed countries are added.<sup>27</sup> This liberalization has already produced some tangible results not only through its actual effects but, in particular, by the expectations it has aroused: in three years, trade increased by 170 per cent to reach a level of \$U.S.100 million.<sup>28</sup>

125. This progress does not seem to satisfy all the countries. As the Bolivian Minister of Foreign Affairs pointed out at the third meeting of ministers of foreign affairs, decisions such as No. 24 on rules for foreign capital and No. 46 on uniform rules for multinational enterprises make it more difficult to attract investment. These difficulties are not offset by other advantages such as those resulting from the increase in trade. Purchases of Bolivian products by other countries members of the Andean Group have not even reached \$U.S.100,000. Hence the necessity, according to the Bolivian Minister, to take frank and joint action to overcome the existing obstacles

<sup>26</sup> Statement made by Mr. R. Mayorga-Cortés on 18 January 1972 to the newspaper *Prensa Libre* (see SIECA, *Carta informativa* (Guatemala), No. 123 (January 1972), pp. 8-9).

<sup>27</sup> Andean Group, *Carta informativa oficial...*, *op. cit.*, No. 15 (July 1972), pp. 3-4.

<sup>28</sup> *Ibid.*, Supplement No. 12 (June 1973), "Third Meeting of Ministers of Foreign Affairs", statement by the Co-ordinator of the Board, p. 7.

and to grant the two less-developed countries advantages more substantial than those proposed by the Board under the industrialization programme.<sup>29</sup>

126. The same machinery is applied for the establishment of the common external tariff, which can be amended in accordance with the general model (art. 66 of the Treaty). The common external tariff, application of which should begin in 1976, will be fully established by 1980 except as regards Bolivia and Ecuador which will be allowed a further delay until 1985. A first meeting of subregional experts on the external common tariff of the Andean Group was held from 7 to 9 March 1972. The participants examined the basic assumptions, methods and work programme adopted for the preparation of the tariff which the Board is to submit to the Governments for consideration in 1973. They also considered the aims of the tariff and its links with the process of harmonizing economic policies that is called for in the Cartagena Agreement.<sup>30</sup>

127. Apart from CACM, the integration groupings present similar features in their method of dealing with these matters.

#### (b) Industrialization and planning processes

128. It is precisely in this field—the most promising one—that integration among the developing countries has encountered the most difficulties. To promote balanced industrial development, EAC applies a transfer tax in the partner States which are less developed industrially. Under this compensation system, the Common Market Council issues directives for the application of the tax by a partner State, and a partner State may request that the tax be revoked. This mechanism is supplemented by an industrial licensing system designed to improve the siting of new industries. In practice, however, EAC has made no progress in industrial planning and siting. The proposal by the Economic Consultative and Planning Council that an industry-siting committee be established has met with opposition from the partner States.

129. The industrial licensing laws, which have been in force since 1952-1953, have not helped to improve the distribution of industry. Moreover, for a variety of reasons, licences have been granted to competing industries in the partner States. The present situation is one of excess capacity in some industries (chiefly in the textile sector) far beyond the requirements of the market and the needs of rationalization. This situation has led the Industrial Licensing Council to suspend the issue of licences for a certain period. The laws that have been in force for the last 20 years are, moreover, to be replaced in 1973.

130. The EAC institutions have taken steps designed to remedy the situation and improve the present system.<sup>31</sup>

<sup>29</sup> *Ibid.*, statement by the Bolivian Minister of Foreign Affairs, pp. 19-20.

<sup>30</sup> Andean Group, *Carta informativa oficial...*, *op. cit.*, No. 16 (August 1972), p. 16.

<sup>31</sup> See R. Ouko, "The institutional framework of the East African Community with special reference to the East African Common Market arrangements" (mimeographed), Arusha, 1971, pp. 8-9.

131. In 1970, the Council took an important decision whereby a five-year development plan for EAC is to be prepared. A Permanent Planning Committee has been set up to help to co-ordinate national plans and study problems of multinational industry siting and programming. The Permanent Committee comprises several sub-committees which conduct research and prepare proposals. One sub-committee supervises the preparation of the five-year programme of expenditure by EAC and the corporations. The process is relatively simple. On the basis of questionnaires addressed to departments and to the corporations, the Common Market Council and Economic Affairs secretariat prepares a draft for consideration first by the sub-committee and then by the Permanent Committee before it is transmitted by the Economic Consultative and Planning Council to the Finance Council. This programme should lead to a better harmonization of development policies and programmes and a rationalization of requests to the international organizations for assistance and grants.

132. A further example is the Industrial Sub-Committee, which has met four times since December 1969 and selected the multinational industries on which analytical studies are to be made (iron and steel, motor vehicles, chemicals, petrochemicals and pharmaceuticals, fertilizers, textiles, etc.). It has subsequently considered, in succession, the possibilities of establishing an East African corporation, criteria for the siting of multinational industries and the proposal to establish an East African industrial consulting centre. When these various projects have been drawn up, they will follow the usual route through the Permanent Committee to the Economic Consultative and Planning Council. This process involves a long journey through sub-committees, committees and councils, the production of numerous reports and a continuous transmission to and fro of the various proposals. The process is therefore slow and appears to impose a heavy burden on the Central Secretariat.

133. Several sectors (motor vehicles, chemicals, iron and steel) have been selected for investigation. A firm of consultants has already studied the prospects for establishing these industries and agreements have been concluded for feasibility studies on these projects. These studies are nearing completion.<sup>32</sup>

134. Industry is the key area for the future of EAC. Economic development and improvement of the links between intra-regional trade and international trade largely depend on the establishment of industry on a regional scale. Moreover, it is obvious that scattered industries operating only within the limits of the national markets can only slow down industrial progress. In the absence of a common industrial siting policy, based on the experience of the licensing system, it is likely that industrial fragmentation will become more marked and that small production units will operate at a higher unit cost. All these factors make the introduction of regional planning and industrial siting an urgent matter, particularly in view of the time required for industrial investment to mature. An additional time-

<sup>32</sup> *Ibid.*, p. 12.

limit is imposed by the duration of the Common Market itself, which is to expire in December 1982, at which time it will have to be renegotiated. Consequently, 1974 appears to be the last possible moment for setting up a regional planning and industrial siting machinery.<sup>33</sup>

135. Industrial planning in UDEAC is provided for in the Treaty, article 57 of which gives the Secretary-General the task of preparing a general industrialization plan after consulting the ministers responsible for planning in the member States. In carrying out this task, the Secretary-General may enlist the help of research bodies approved by the Management Committee. This ambitious task has not, however, been carried out successfully: a draft industrialization plan has been prepared but it has not been accepted by the member States.<sup>34</sup> In attempting to define a new strategy, the Secretary-General takes the view that, at the present juncture, instead of approaching the problem of the general industrialization plan from the angle of industrial programming made up of projects to be distributed equitably, it is preferable to use the approach of identifying and making a detailed study of a few industrial complexes of regional scale in their capacity, financing and management.

136. This change of approach was apparent in Act No. 13/70 of 18 December 1970. Programming will henceforth be concerned with industrial complexes which are regional in their capacity, have Community financing

<sup>33</sup> This is the opinion expressed by R. H. Green, Economic Adviser to the Treasury of the United Republic of Tanzania, in his paper "East African Economic Integration: benefits, costs, priorities", presented to the Research Seminar of the East African Community, held at Kampala in June 1972.

<sup>34</sup> According to Mr. El Hadj Ahmadou, President of the Council of Heads of State in 1970, the policy of harmonizing development and transport plans has not yet produced the expected results. It appears that these development problems entail enormous difficulties when factors have to be weighed and purely national interests limited to a level compatible with the common interest. In the industrialization policy, the initial definitions have not given satisfaction. There is no doubt that the complete harmonization plan, though intellectually attractive, was too theoretical, since it was unable to withstand the first difficulties (see UDEAC, *Bulletin d'Information*, No. 4 (March 1971), p. 30). The Secretary-General referred in a note entitled "Towards the definition of a new strategy" (*Pour la définition d'une nouvelle stratégie*) to the failure of a general programming policy. This failure can be attributed to the lack of a firm will to co-operate, political determination being in his view, an essential prerequisite for the success of any regional integration. The fact remains, however, that there are still some major problems to be overcome, the most important of which seems to be the definition of a strategy. The experience of most regional groupings amply reveals the impossibility of inducing everybody to accept a distribution of industries based on the traditional criteria of the location of raw materials and the volume of the external market. Similarly, the actual requirements of industry show clearly that not everything in a region can be integrated. These considerations have led the Secretary-General to propose a new strategy. In fact, it has not proved possible to distribute industries according to the criteria mentioned or to the criteria volume of existing investment, comparison of benefits granted and desirability of compensating for the less-developed situation of one State of the Union. In practice, the same industries have appeared virtually throughout the Union: five breweries, four cement plants, two glass works, textile industries in each country and about 20 clothing firms (see the document presented to the Seminar on the Institutional Framework of Economic Integration among Developing Countries (Bangkok, 17-26 January 1972) by Mr. M. Diop (Gabon), "*L'intégration économique dans l'UDEAC*" (mimeographed; in French only), p. 14).

and operations and manufacture not only finished but also intermediate products. For the formulation of this plan the Council of Heads of State has instructed the Secretariat to contact the international organizations and to request their co-operation and participation in research. The Council has appointed a commission of very high-calibre to prepare the detailed plan on the basis of a study by the Secretary-General, to continue the research, adopt the report on the programme and direct negotiations for the execution of the approved projects. It is clear that in this preparatory process the Secretariat and the Commission will be called upon to play a leading part.

137. While planning is still only in its initial stages, the single tax mechanism has already stood the test of time. An industry is approved by the following process: first it seeks approval of the application to it, in respect of its production, of the investment code and the single-tax régimes. For this purpose it submits an application to the Secretariat with all relevant particulars (activities, supplies, staff, production programme, investment, financing, and marketing). The application is addressed to the Secretariat (second division) by the Government of the member country in which the undertaking has its headquarters. The Secretariat considers the matter and comments upon it. It can also study the undertaking's markets and make estimates. This preliminary work is then embodied in an opinion of the Secretariat indicating whether the Directing Committee can approve the application to the undertaking of the requested régime. The Committee has the dossier examined by experts and decides whether to grant or refuse the undertaking's request. The whole procedure takes from three to six months.

138. There have been delays in the co-ordination of plans and joint programming in CACM also. Among the reasons most frequently adduced are the eclipse of the national plans, which have declined in importance in the last four years (the planning office in Nicaragua was abolished and then re-established), and the fact that, contrary to expectations, the integration of the Joint Planning Mission into SIECA has considerably reduced its function as an organ for research and the preparation of medium-term programmes. The fact is that, on the whole, SIECA is too preoccupied with urgent short-term problems to be able simultaneously to carry out longer-term studies. Consequently an effort is being made in the field of infrastructure and physical integration: a regional investment plan for transport and communications during the period 1975-1980 is being prepared. Nevertheless, the absence of a general development framework is being increasingly felt, especially since the various instruments adopted pragmatically have failed to give the expected results.

139. The procedure for the integrated industries is the following: individuals or corporations submit their requests to SIECA accompanied by a report on the economic and technical aspects. The request is submitted to the Executive Council, which decides whether it is consistent with the aims of the Integrated Industries Régime and with the General Treaty. If, in principle, this decision is affirmative, the Council asks ICAITI for a technical opinion and SIECA for an economic and legal one. In the light

of these opinions, which carry a great deal of weight, the Executive Council then takes a decision by majority vote and defines the conditions of the régime. When this preparatory stage has been completed, the Governments are invited to approve the project in the Economic Council, and it is then subject to the ratification procedure. Once the régime is in force, SIECA sees that it is applied. Thus the general pattern, with all its ponderous safeguards, is also followed for integrated industries. This instrument was to have made possible substantial industrial development at the Central-American level but, in fact, the results obtained have been marginal since the Integrated Industries Régime has been utilized neither frequently nor in full.<sup>35</sup>

140. For this as for other purposes the Andean Group has adopted a bolder and more effective method which merits study by other groupings. Nevertheless this experiment, which is still in its infancy, should be observed before any lessons are drawn from it. The general process is applied to the co-ordination of national plans. However, it seems that, while the Board takes due account of the importance of planning administrations and national plans, its main endeavour will be to foster, with the Commission's agreement, organic and continuous co-operation in the form of meetings of directors of planning, together with effective co-ordination in pursuit of the Group's aims. The activities of the main institutions seem more specific where they concern sectoral industrial development programmes. At the Board's instance, the Commission defined the method at its meetings in July 1971 and adopted guidelines and time-tables for the various sectors. In accordance with the concept of the common institutions, the programmes should be sufficiently broad to facilitate a rational and equitable distribution. They should also be suited to fairly rapid programming, which could be carried out in a year. Thus the motor vehicle and iron and steel sectors have had to be reserved for a later stage. The programmes will cover first the mechanical engineering, electronics and telephonic sectors, and also, if feasible, the paper and pulp industry.

141. In outline, the process consists of five stages:

(a) A primary stage consisting of stocktaking and survey, in which the Board defines the terms of reference and the method of work, of preparatory work and of a first meeting of government experts to advise on the various points. A report is then submitted on the existing situation and on the national attitudes in the particular sector. At this stage, the Board begins to sketch in the outlines of a regional and national strategy.

(b) The second stage is devoted to preparation of the sectoral strategy and a general analysis of production structures. It begins with a second meeting of government experts which should succeed in producing conclusions concerning the strategy.

(c) The third stage is the preparation of a feasibility study: a detailed study of the productive structures and of the siting of activities, together

<sup>35</sup> See *Current problems of economic integration: The distribution of benefits and costs in integration among developing countries* (United Nations publication, Sales No. E.73.II.D.12), p. 75, annex I, paras. 71-76.

with the definition of institutional structures. The Board has full responsibility for this stage.

(d) The fourth stage consists of bilateral consultations with the member countries on the feasibility study, and discussions at a third meeting of government experts.

(e) On the basis of this work and in the light of the views expressed on the feasibility study, the Board is then able, at the fifth stage, to prepare its proposal and submit it to the Commission. In accordance with this procedure, the Commission has fixed time-tables for 1971/72.

142. Despite the pessimists, the Andean Group has successfully passed its first test: the first joint sectoral industrial programme was adopted by the Commission, on the proposal of the Board, at the ninth session, which ended on 20 August 1972.<sup>36</sup> Decision No. 57, which apportioned mechanical engineering production among the member countries, had the following aims: (a) greater expansion, specialization and diversification of industrial production; (b) optimum use of the available resources; (c) increased productivity and the effective use of production factors; (d) benefiting from economies of scale; (e) equitable distribution of profits.

143. To achieve these aims a process of product selection was carried out. The product list actually includes the greatest possible number of products, excluding those that require in-depth study. Certain products were regarded as excluded from consideration, either because they were already being manufactured in at least three member countries or because they called for only a relatively simple technology. The programme allocates production units to each country. These consist of groups of products that are similar in their nature, use and the technology required, due allowance being made for other factors such as the dimension or critical mass (external economies, technological adaptation and specialization). Some products have been allocated on an exclusive basis, while others are assigned to two or three countries. The programme provides for a total production in the Andean Group of \$U.S.284.76 million by 1980.<sup>37</sup>

<sup>36</sup> See Andean Group, *Carta informativa oficial...*, op. cit., No. 16 (August 1972), p. 1.

<sup>37</sup> *Ibid.*, p. 4. The estimates for demand and production are as follows (in millions of United States dollars):

Country	Demand		Production in 1980
	1972	1980	
Bolivia . . . . .	34.25	87.28	34.63
Chile . . . . .	142.00	358.30	71.57
Colombia . . . . .	108.33	267.24	73.49
Ecuador . . . . .	45.07	114.93	37.18
Peru . . . . .	143.68	357.00	67.89
Andean Group . . . . .	316.55*	797.37*	284.76

\* Demand per country includes the production allocated to several countries. Consequently the total is not equal to the sum of the country demands.

144. The following time-table has been adopted for the implementation of this programme: information on existing production and plans for the installation of production units must be submitted to the Board within two years by Chile, Colombia and Peru, with production to begin three years after the plans and projects for the installation of new units have been lodged. Production should thus begin five years—or at most six years—after the approval of decision No. 57 (20 August 1972). For Bolivia and Ecuador this time-limit is extended by one year.

145. On 20 September 1972, the beneficiary countries will have a free market for all the products allocated to them, since the other countries are to abolish all taxes affecting products covered by decision No. 57. If the beneficiary country does not submit the required plans or begin production within the specified period, the products allocated to it will automatically benefit from the liberalization programme.

146. Decision No. 57 also fixes the common external tariff to be applied to imports from third countries of products covered by the sectoral programme, one year before the beginning of production or, if production is already under way, once the Board has registered this fact and notified the other member countries accordingly.

147. The common external tariff is to play a central guiding role. To this end, it sets minimum conditions for development of production of the items allocated to the various countries and, at the same time, indicates the levels of efficiency that production in the member countries should reach. The common external tariff will be gradually reduced by the Commission, on the proposal of the Board, so as to combine adequate protection with the need for maximum stimulus to the efficiency and competitiveness of Andean Group industries.

148. The Board has prepared a document entitled "The foundations of the sub-regional development strategy" which launched the process of formulation of the development strategy.

149. At its meeting at Lima from 3 to 5 April 1972, the Planning Council tackled the problem of defining a global strategy for development at the regional and national levels. It decided that national planning organizations should be responsible, in co-operation with the Board and its staff, for organizing the dissemination and discussion of the Board's document, which is to constitute the basis for all the studies, and that they should assemble comments from the interested parties.

150. In this way, definition of the development strategy will come about as a result of active participation by the acknowledged leaders of the private sector, the universities, trades unions, professions and various other sectors of activity.

151. The Planning Council has scheduled four stages for the formulation of the development strategy: (a) distribution of the Board's document; (b) discussion at the national level; (c) presentation of comments and recommendations to the Board; (d) multilateral discussion of the comments and recommendations made by the various countries and the fixing of further stages in the elaboration of the regional strategy.

152. The programme, thus laid down up to October 1972, includes visits of Board experts to the member countries in May and June 1972.

153. Various subjects will be considered during this preparatory stage: the general orientation of development, the role of integration, enlarged space and physical integration, the role of agriculture, the role of technology, priorities in the co-ordination of economic policies and a list of projects regarded as strategically important.

154. This list of activities indicates that, despite all the difficulties involved, the Andean Group is so far keeping to the schedule laid down.

#### *(c) Payment mechanisms*

155. Payment mechanisms vary from grouping to grouping. A monetary union and a single central bank are to be found only in UDEAC, since the currencies of Central and Equatorial Africa belong to the franc zone. Nevertheless, centrifugal forces aiming at greater national autonomy have recently appeared in UDEAC. Consequently, a reorganization of the present machinery seems likely. In accordance with this trend towards monetary autonomy the East African countries instituted independent monetary policies and independent central banks after the collapse of their monetary union in 1965. The flexible machinery set up by the Treaty no longer seems to meet the actual requirements. It provides for harmonization of policies, regular meetings of the governors of the central banks and co-ordination of monetary and balance-of-payments policies. The partner States have also undertaken to permit payments and transfers related to trade; any controls they have to establish must be consistent with the aims of ECA and not hamper the functioning of the Community institutions and organizations. In the spring of 1971, Tanzania was obliged to establish strict exchange controls to halt a capital outflow. In conformity with the Treaty, this measure was so devised as not to damage trade within EAC. Nevertheless, policy and co-operation problems are at present a central concern in EAC, which is attempting to find a durable solution to them together with effective machinery.<sup>38</sup>

156. CACM has a more effectively structured machinery, based on the Monetary Council and the Clearing House. The latter settles balances at regular intervals multilaterally among the central banks. The governors, however, are members of the Monetary Council and co-ordinate monetary policies. This system is still functioning normally despite the present crisis. In July 1971, the ministers of economic affairs held a joint meeting with the Monetary Council. In this exceptional situation, one of the first acts of the Normalization Commission was to invite Costa Rica to modify its exchange controls so as not to impede intra-regional trade.

157. The Andean Group has as yet no machinery operating outside the LAFTA multilateral clearing system. Nevertheless, the Cartagena

<sup>38</sup> The quarterly meetings of the governors of the central banks could, in the future, play a more active role in monetary co-operation.

Agreement stipulates (chap. XII) that, in order to expedite achievement of its goal, the Board shall present to the Commission proposals on the following matters: private and public savings, double taxation, financing of intra-regional and external trade, circulation of capital, strengthening of the LAFTA clearing system, the possible establishment of a regional clearing house and of a system of reciprocal credits, and creation of a common reserve fund. The Andean Group has also set up a monetary council of its own and has arranged for periodic meetings of the governors of the central banks. The Agreement therefore provides for a fairly complete range of action and machinery.

#### *(d) Specialized organs and common services*

158. CABEL, the EAC Development Bank and ADC all have a considerable degree of autonomy in their decisions, which are taken by majority vote in their boards of directors or governing councils. This autonomy is mainly intended to protect them from political influence and problems and to ensure that they shall have the highest technical competence. The advantages of this formula are obvious and have enabled these organizations to remain unaffected by the crises in EAC and CACM. Nevertheless, this combination of autonomy and financial power could lead them to practise a policy of their own not necessarily co-ordinated with that of the main institutions.

159. ICAITI and the many common institutes and services in EAC have autonomous processes adapted to their research or management activities. The most striking and original example, however, is that of the four EAC Corporations, which are public services in four main communications and transport sectors employing about 70,000 persons: the Posts and Telecommunications Corporation with 7,000 employees, the Harbours Corporation with 5,000 employees, the Airways Corporation with 6,000 employees and the Railways Corporation with over 50,000 employees. This is a unique case in the recent history of regional integration. These common services were established during the colonial era, but were maintained after independence by the Partner States of the Community. With the Customs and Excise Department, the Income Tax Department and some twenty Institutes, they are the solid foundation and the cement of the Community. Quite apart from their work, which, being real and effective, contributes to a certain equalization of profits their resources, structures and operations are so inextricably linked together that any government would be very reluctant to withdraw from them. In other words the Corporations and services, which continue to function normally in the present crisis, form solid links between the partners in the Community.

160. The structures and operational methods of the four Corporations are similar. For example, the Railways Corporation operates in principle autonomously under the Treaty and the Community's laws, although the Authority is responsible for its general policy and controls its activities. The Authority can give directives of a general nature to the Communications Council. The Council, in its turn, has to study the information and reports



supplied to it by the Board of Directors, to which and to the Director-General it gives general directions concerning the policy of the Corporation; it considers and approves the development plan and the associated loan programme, major alterations in tariffs and wages, or legislative proposals submitted to it by the Board of Directors. While the Authority and the Communications Council approve and control general policy and important decisions, the Board of Directors and the Director-General have charge of the operation and management and the day-to-day running of the Corporation. The Director-General is, in fact, the chief executive: he manages the Corporation, directs its operations and prepares its programme, budget and reports. He conforms to the directives given by the Board of Directors, the body which defines the Corporation's policy and is responsible for its implementation. The process is based, on the whole, on the general model, although it aims at a considerable degree of management autonomy: proposals and draft decisions emanate from the Director-General and from the Board of Directors. For general policy issues, development plans and expenditure exceeding 5 million Kenyan shillings, the approval of the Communications Council must be obtained. As a result, the process is rather slow, especially as a decision by the Communications Council requires unanimity. This unwieldy procedure affecting the common services sometimes makes it difficult for the corporations to function effectively, even though problems encountered by the Communications Council can be referred to the Authority. The affairs of the corporations take on in this way a political dimension. Although this machinery may have the advantage of a logical construction, it has sometimes hampered the effective functioning of the Corporations. For example, differences of opinion arose concerning the purchase of locomotives; pending unanimous agreement, the Government of Kenya decided to go ahead, thus creating a *fait accompli* which was subsequently regularized. Tanzania took a unilateral decision, outside the framework of Community action, in connexion with the construction of a rail-link with Zambia. Despite these divergencies and some difficulties,<sup>39</sup> the corporations form a practical and solid framework for EAC.

#### (e) External relations

161. The degree of co-ordination of external relations is a measure of the unity of a regional grouping vis-à-vis the outside world. The frequently pragmatic approach adopted in these relations leads to several variants. The situation in EAC appears to be considerably complicated by the participation of a number of agencies: governments, councils, Community ministers, the Secretariat and departments. When the agreement with EEC was being concluded, the final stage took place at the level of the Authority and of the Heads of State who signed the agreement. In addition to the member States, the Community ministers and the Secretary-General

<sup>39</sup> The Airways Corporation has experienced major technical and financial difficulties which have given rise to fears that it might break up.

play a role of prime importance in EAC relations with other international and regional organizations. The corporations, for their part, establish direct contacts with international organizations when they need technical assistance or financial resources.<sup>40</sup> Such transactions must nevertheless be approved by the Communications Council (by the Finance Council, where necessary) and by the Authority.

162. The situation appears clearer in UDEAC, where the main institutions conduct tariff negotiations, as a logical result of the establishment of a Custom union. The grouping is represented at international conferences by the President of the Council of Heads of State, the Chairman of the Management Committee, or, more usually, by the Secretary-General. In the case of requests for technical assistance, the Secretary-General must obtain the Council's authority in each individual case.

163. CACM is in an intermediate position, pending the development of a common trade policy, co-operation between the Governments and SIECA is continuing despite the crisis. SIECA is particularly important as a preparatory, co-ordinating and informing body. PROMECA is opening a new channel of active co-operation in external trade promotion.

164. Following a proposal by PROMECA, the directors of national export promotion organizations met in November 1971. They decided to hold annual meetings and to set up co-ordinating machinery. Another original feature of CACM is that, in international conferences and organizations, a single spokesman presents the position of the member countries. Lastly, trade agreements concluded by the member States contain a Community clause. These factors will help in the establishment of a common trade policy, one of the main tasks in reviving CACM.

165. The Andean Group is gradually setting up various mechanisms: a joint commission with EEC and relations with other organizations. However, the recent decision establishing a common régime for foreign capital gives the Andean Group a common image abroad. In this matter, the decision-making process follows the general pattern. Article 52 of the rules for foreign capital lays down the following machinery: the Commission acts on proposals by the Board concerning the treatment of foreign capital, industrial property, production systems and technology marketing systems, and on proposals for regulations deemed necessary to ensure more effective implementation of the common régime for foreign capital. Within this context, the Board's function is to prepare and present proposals, to supervise the application of the régime and of the relevant regulations, and to collect statistical and other information concerning the régime.

166. With the increase in the activities of the Andean Group, the latter's institutions will have to establish or strengthen external relations mechanisms. The ministers of foreign affairs have already recommended (June 1972) that the co-ordinating machinery be strengthened, to facilitate the achievement of common positions, and that a programme of mutual

<sup>40</sup> The Railways Corporation, for example, is negotiating a large loan from IBRD.



technical assistance and financing proposals should be worked out. The ministers also took action, in the form of a joint note followed by separate letters to the Secretary-General of the United Nations, to support the request made by ADC. In addition, missions have been sent to EEC and to Japan. These actions prove that the member countries wish to assert themselves as an entity in the economic and trade fields.

167. Despite the differences which exist between the integration groupings, they have some points in common which result logically from the establishment of Customs unions. There are differences in the practical functioning of these instruments, which may take a more organic and more centralized form as, for instance, in UDEAC and in the embryonic machinery of the Andean Group. External relations can take the dynamic form of joint promotion and financing of exports from the region.<sup>41</sup>

---

<sup>41</sup> CABEL project for the establishment of a Central American fund to finance and promote non-traditional exports.

### **Part Three**

## **CONCLUSIONS**

## Chapter I

### GENERAL FRAMEWORK

#### A. Orientation

1. All these integration experiments reveal the limitations of a pragmatic approach and the need for a general framework. In the case of CACM, where machinery was established as circumstances permitted, lack of co-ordination and even some contradiction is apparent between various instruments (e.g., between the integrated industries régime, the special régime and the tax incentives régime). This situation illustrates the absence of a general framework which would ensure more harmony between the objectives of the various instruments and the manner in which they are operated. Here, as in most of the other integration experiments, a common concept and strategy for the development of the region are lacking.

2. Care must be taken, therefore, to avoid community institutions being absorbed in day-to-day activities and routine tasks. To this end, integration schemes can comprise a dynamic community institution plus small but highly specialized permanent or *ad hoc* units capable of giving continuing thought to the common orientation and strategy (examples: the programming unit in the Andean Group and the United Nations Team in ASEAN). Such mobile units could help to adapt common functions in the light of experience and would constitute an innovating factor in the administrative structures.

3. Within the general framework, the powers of the community institution must be defined precisely so as to avoid their being whittled away by intergovernmental institutions, as in the cases of LAFTA, CACM, UDEAC and EAC. Experience shows that the weight of the governments of member States tends to cause a gradual shift towards intergovernmental formulas at the expense of the community institutions. It is essential therefore that community institutions should be set upon firm foundations.

#### B. Allocation of responsibilities

4. The comparative study has made it possible to identify certain lines of conduct of which only the most important are listed here. The

machinery for regional integration must comprise, as in the Andean Group and UDEAC, basic principles and clearly defined aims which can be given practical application by the common institutions in accordance with the rules laid down. In all but a few exceptional cases the basic texts must be basic statutes, not detailed regulations. The institutions will then enjoy within the general framework a degree of independence enabling them both to define and apply common policies.

5. As in automatic liberalization, obligations can usefully be programmed on the basis of calendars and time-limits providing for progressive commitments. It is also essential to avoid an excessive concentration of powers at the top, as in the EAC Authority. Preferably, specific powers should be assigned to each level in the institutional hierarchy. Thus the Council of Heads of State might take responsibility for basic decisions or general directives and also for political arbitration or conciliation; the Council of Ministers would be entrusted with political or other very important decisions, while the community institution would have power not only to initiate action, arrange for studies and make proposals, but also to take decisions itself on questions of execution and supervision and on technical matters.

6. Depending on the degree of integration, the real needs and the political circumstances, it may be in the community's interest to set up specific jurisdictional bodies and institutions in which parliamentarians participate in democratic control and in certain legislative and budgetary functions as in EAC's Legislative Assembly. A certain parallelism may, in fact, be noted between the degree of integration, the growth of various kinds of demand at the regional level and the extent of the autonomy and decision-making capacity of the community institution, on the one hand, and the appearance of autonomous jurisdictional organs, on the other.

7. Eminently political conflicts cannot, of course, be settled except by intergovernmental institutions or even the supreme institution. Likewise, difficulties at the level of ministerial councils must be referred to the councils of heads of State. Nevertheless, a vast range of disputes call for an autonomous jurisdiction: difficulties between the community institution and a member State or governmental institution, problems connected with the application of the common rules, appeals by individuals or companies against decisions or sanctions, conflicts between officials and the community administration, etc. These are all matters requiring technical solutions and not simply political compromises. In this connexion, it is significant that the Andean Group is already considering setting up an Andean court. As in the past, when modern societies were being formed, the constitution and the progress of the enlarged communities will lead to the application of the principle of the division or specialization of functions.

8. Experience shows the need to ensure that there are appropriate joint, but clearly distinct, ways of recording action corresponding to the powers vested at these various levels. In fact, the scope and effectiveness of the instruments adopted must be commensurate with the aims: outmoded instruments such as the CACM protocols, that require ratification, do not meet the requirement where decisions must have directly binding effects

capable of following the rapid evolution of economies that are in the process of development and integration. A definition of certain categories of acts might clear up the confused situations that exist in LAFTA and CACM between resolutions which are mere recommendations and those which are mandatory. Specialized action corresponds to specialized functions.

### C. Decentralization and co-ordination

9. The decentralization of certain specialized functions is typical in varying degrees of all the groupings whose aim is co-operation or integration. There is just a beginning of decentralization in LAFTA with its system of bilateral compensation agreements, in the Andean Group with ADC and in UDEAC with a branch of the Accounts Agency; but there is more functional decentralization in the Maghreb Group, ASEAN, CACM and EAC. This method, which has stood the test of time, achieves better results where technical activities are concerned, because it protects them from the hazards of political interference. It does, however, raise problems of co-ordination.

10. While co-ordination between PROMECA and SIECA may be cited as an example, the relations between SIECA and other bodies, including CABEL, are different, the more so as the Bank is a financial power in its own right. To improve co-ordination, inter-institutional meetings are held periodically.<sup>1</sup>

11. Similar problems may arise in other groups, including particularly EAC, where development planning, which is only in its infancy, leaves the field free for action by the East African Development Bank and other common services. Despite the fact that the Authority controls the corporation, the common services and the EAC institutions, there does not appear to be any common concept which animates and directs the common activities. At the action level, however, the Communications Council, which occupies a central place among the corporations, carries out an important co-ordinating function.

12. ADC appears to be better fitted into the Andean programming. On the whole, it takes supporting action in the framework of regional development. To strengthen these links, the ministers of foreign affairs of the countries members of the Andean Group recommended, at their third meeting (Lima, 19-21 June 1972), that the representatives of their countries to ADC should request a study on the application of a financing system. This financing system would serve for feasibility studies and help in the establishment and development of the industries provided for in the sectoral programmes, particularly in the two less-developed countries of the region.<sup>2</sup> The very fact that it is incorporated in the Andean programming

<sup>1</sup> e.g., the meeting of 8 and 9 January 1971. (See SIECA, *Carta informativa* (Guatemala), No. 3 (January 1971).)

<sup>2</sup> See Andean Group, *Carta informativa oficial de la Junta del Acuerdo de Cartagena* (Lima), Supplement No. 12 (June 1972), "Third Meeting of Ministers of Foreign Affairs", p. 33.

system may cause ADC some difficulties if its sixth member, Venezuela, should not join the Andean Group.

13. The co-operation groupings also face problems of co-ordination. In LAFTA, with its decentralized structure, the Standing Executive Committee and the Executive Secretariat ensure co-ordination satisfactorily for the present; but the weakness of the central machinery in the Maghreb Group might hinder control of the commissions and the specialized organs. Since ASEAN has no permanent secretariat, any increase in its activity will certainly aggravate the lack of co-ordination.

## Chapter II

### NATIONAL INTERESTS AND THE COMMON INTEREST

14. Every international and regional organization is faced with the problem of striking a proper balance in managing national interests in the service of a common cause. The motivation of the common cause is either an endeavour to accomplish together what no country is able to do separately or the greater advantages that can result from joint action, particularly in the fields of economic development and planning. Thus, common action is capable not only of strengthening the real degree of economic sovereignty of each country but also of increasing the effective level of economic independence. If the gains could be assessed in terms of power, it would be noted that the capacity of each member State to exercise its rights is increased by integration far more than when it seeks to exercise its rights individually.<sup>3</sup>

15. The national interests and the common interest, which supplement and mutually sustain one another, are represented by two kinds of institutions: intergovernmental institutions and community institutions which, from different angles, are, in the last analysis, pursuing similar aims.

#### A. Intergovernmental bodies

16. The object of these institutions is to enable governments to play an effective part in an organization's decision-making and operation. They may do so in different ways and to different degrees at the stages of preparation, decision and execution. Their role will also vary according to the importance of the participants: that is, whether they are presidents, ministers, ambassadors or officials.

#### 1. COUNCIL OF HEADS OF STATE

17. The advantages of an institution at the highest level have been brought out: political impetus and the power to decide or arbitrate. These

<sup>3</sup> See R. H. Green, *East African Integration: benefits, costs, priorities*, Dar es Salaam, June 1972, pp. 7 and 9.

advantages can, however, become drawbacks if the concentration of common powers in this paramount Council is excessive and if there is a danger of political tensions having too direct a repercussion on the other institutions and even on the technical work of a regional community.

18. The Council of Heads of State should, preferably, concentrate its action in a few main areas: defining the direction that the community is to take, giving an impulse to the common effort, taking basic, key or vital decisions, settling difficult questions or acting as final arbiter and, especially, opening new paths and enlarging the spheres of activity of the regional community. In carrying out these functions, the Council should apply the principle of the division of labour and appreciate the relative importance and technicality of the matters to be dealt with.

## 2. COUNCIL OF MINISTERS

19. In the case of the Council of Ministers, which is found in all the groupings except the Andean Group, a first question arises: of what ministers is it composed—the ministers of foreign affairs, as in LAFTA and ASEAN; or the ministers of economic affairs as in the Maghreb Group, CACM, EAC and UDEAC?

20. It would be desirable for the Council of Ministers of Economic Affairs to be able to convene periodic meetings of other ministers concerned with integration; as activities progress in the different sectors (communications, transport, research), the ministers concerned could be called upon to play a more important part.

21. The problem in LAFTA and ASEAN is quite the reverse: should the circle of ministers be enlarged to include the ministers concerned with technical fields, and more particularly the ministers of economic affairs? There are several reasons for doing so: as economic co-operation becomes more of a reality it requires more technical ability. Moreover, the revival of ASEAN and its co-operative projects will encourage its member governments to seek an effective solution. The participation of specialized ministers and their assistants in the decision-making process will ensure that the decisions taken are technically sound and facilitate a consensus. The political head of a sector will be prepared to take risks more readily, and to involve himself or stand surety for common measures. The efficiency of the decision-making process will be greatly enhanced as a result.

22. EAC offers an original type of institution: the Committee of Community Ministers. The Ministers carry out Community duties although they are at the same time members of national Governments. Their presence in government councils has many advantages: they obtain information directly from and furnish information directly to the Government and they can "sell" Community ideas to their Governments, which are thus in a position to adopt them more rapidly. In short, the Committee Minister is able, through his privileged position, to further the Community cause. Because of his position, however, he is also subject to influence by his Government, although he receives his mandate from and is responsible to the Authority alone.

23. It is argued by some that the problem of dual allegiance is not peculiar to the EAC Community Ministers but is inherent in any international organization. Practically speaking, this is true. Nevertheless, this is one of the rare cases in which persons in responsible positions have officially two titles at once—Community and national—and a collective and Community responsibility at the highest level. Are they in fact closer to the national standpoint or to the Community standpoint? This question can be answered only by empirical study. Meanwhile, the impression obtained from a limited amount of observation is that the Community Ministers have an obligation to defend the common interest, particularly in view of their responsibility to the Authority and that, in practice, they effectively uphold the common interest, particularly since this does not necessarily conflict with the interests of the national Governments. In the long term, these two interests tend to coincide and to constitute one of the bases of the Community. In the last analysis, it would seem that the direct contacts which the Community Ministers have at the governmental and presidential levels can further the functioning and development of the Community, despite their dual allegiance.

## 3. COMMITTEES OF REPRESENTATIVES

24. The membership of these committees, like that of the Council of Ministers, must correspond to their practical purpose. They may therefore include representatives of other ministries whose participation may improve the preparation and supervision of certain measures. Four different cases have been studied; the Standing Executive Committee of LAFTA, the Committee of Experts of UDEAC, the Executive Council of CACM and the Commission of the Andean Group, the last three of which do not meet regularly. The membership, permanence and methods of the Standing Executive Committee have contributed to the paralysis of LAFTA, particularly since the Committee has taken over some of the Executive Secretariat's administrative and routine functions.

25. Furthermore, the government officials and experts on these committees tend to control the decision-making process. In this way, they may replace ministers or others at the policy level, without always having precise responsibilities. To the extent that the entire process is not counter-balanced by the existence of a community institution and by effective political control, there is a danger that national officials or technicians may replace those who hold real responsibility and a consequent risk of establishment of parallel powers. Although it is often necessary for projects submitted to the decision-making bodies to have the support of government experts,<sup>4</sup> it is pointless, or indeed harmful, to allow them effective control of the decision-making process in a regional community.

<sup>4</sup> See UNCTAD, "Report of the Seminar on the Institutional Framework of Economic Integration among Developing Countries" (TAD/EI/SEM.1/3), para. 72, p. 13.

## B. Community institutions

26. The main function of these institutions is to identify the common interests of the region. Their structure and role are designed not only to help to reach compromise solutions furthering common aims, but also to provide the region with competent personnel.

### 1. COLLECTIVE BODIES OR INDIVIDUALS

27. Two practical solutions have been adopted in the various communities: the first and more common is the creation of the post of executive secretary or secretary-general (LAFTA, EAC, UDEAC, CACM); the second, still rare, is the establishment of a community body consisting of a team such as the Board of the Andean Group and the Commission of the European Communities. A community body offers several advantages. This administrative team formula seems better adapted to the harmonization of development plans and the preparation of joint programmes or joint economic policies and the fate of the common venture does not depend on the competence and personality of one official alone, since the collegiate body guarantees more institutional continuity. It may, however, have its drawbacks if the members of the community organ do not work well together. A number of intermediate solutions are applied in practice: for instance, the secretary-general or the executive secretary may be assisted by one or more deputies, as in the case of CACM. The solution chosen depends, of course, on the political circumstances and the degree of integration, but also on the importance and volume of the institution's work.

### 2. ADMINISTRATIVE MACHINERY

28. Whatever the solution adopted, it will not prove satisfactory unless supported by well-organized administrative machinery. At the Seminar on the Institutional Framework of Economic Integration Among Developing Countries, held at Bangkok in January 1972, the leaders of the regional groupings stated that "To achieve the objectives of the groupings, it is essential for them to be provided from their inception with a full-time permanent secretariat of high technical capability or its equivalent. Permanent secretariats or their equivalent should be adequate to assist in the elaboration of common or regional action programmes; the preparation of projects; the control and evaluation of their implementation; and in servicing negotiations."<sup>5</sup> A competent and adequate administrative infrastructure is an intrinsic part of the over-all concept of development and modernization.

29. Nevertheless, permanent secretariats, even of high technical competence, still raise quite a few problems. In the first place, they have difficulty in recruiting highly qualified technical staff, who are usually scarce

<sup>5</sup> *Ibid.*, para. 74, p. 13.

in developing countries and are always coveted by the national civil services. Experience has shown, however, that although these difficulties may be genuine they are not insurmountable. SIECA, for instance, has succeeded in setting up a sound technical service as has the Board of the Andean Group, the administrative infrastructure of which seems inadequate having regard to its tasks. EAC has a satisfactory staff at the higher levels; LAFTA mainly suffers from understaffing, while UDEAC has, in addition, a considerable turnover of staff.

30. The nucleus of technicians is normally composed of permanent officials. If valid and lasting solutions are to be found, the regional administration must offer competitive salaries and working conditions,<sup>6</sup> and set merit and direct recruitment above the rules of geographical representation and governmental support. Rules calling for the allocation of positions of responsibility among the member countries—as applied in UDEAC, EAC and the corporations<sup>7</sup>—may make it more difficult to recruit officials of high calibre.

31. Thus, owing to a lack of senior officials in the Second Division of UDEAC, the preparation of the industrialization plan and the harmonization of transport services and of posts and telecommunications are making no progress. The Management Committee asked the Secretary-General in December 1971 for some specialists in these fields. On the other hand, the presence of able senior staff in the Division of Customs, Taxation and Statistics very largely explains the progress made in these sectors.<sup>8</sup>

32. In general, a qualified staff helps to ensure the competence and dynamism that is essential to any community institution. With highly qualified personnel, the common institutions and organs will be able to develop not only into models of efficient management but also into instruments for innovation and adaptation to new methods. Whenever new methods are introduced, such as the rationalization of budgetary choices, systems analysis in the use of computers, techniques of quantification or economic analysis, or general plans or sectoral programmes, these common institutions, assisted by groups of experts, will help to test them and introduce them gradually into the national civil services.

<sup>6</sup> *Ibid.*, para. 75, p. 13. This paragraph states that, in order to recruit highly qualified personnel, the terms and conditions of service must be sufficiently attractive.

<sup>7</sup> As stated earlier, the posts of secretary-general, deputy secretary-general and heads of division in UDEAC are distributed on the basis of an agreement among the member countries. In EAC, a gentlemen's agreement provides for application of the principle of rotation of the post of secretary-general and distribution by countries of the director-generalships of the corporations: air transport and posts and telecommunications (Uganda), railways (Kenya) and harbours (Tanzania). Other posts are sometimes reserved for a particular member country. See A. Kiapi, "Legal accommodation of national interests in regional economic integration: some observations on the East African Community", 1971, Universities Social Sciences Conference, Makerere, 14-17 December 1971, pp. 14-15.

<sup>8</sup> See M. Yondo (Cameroon), paper on the institutional framework of UDEAC, presented to the Seminar on the Institutional Framework of Economic Integration among Developing Countries (Bangkok, 17-26 January 1972) (mimeographed; in French only), p. 11.

### 3. AUTONOMY OF THE COMMUNITY ORGAN AND MACHINERY

33. The participants in the Bangkok Seminar came to some clear conclusions: with the progressive intensification of the co-operation process, a more active advocacy of the common interest vis-à-vis the national interests becomes necessary. As economic integration advances, it becomes essential either to strengthen the powers of the common secretariats or to establish a collective regional body. These common institutions should enjoy the fullest confidence of the Governments of the member States and be vested with powers broad enough to enable them to carry out an effective dialogue with the intergovernmental policy-making bodies. Thus, the common institution should be vested with powers of initiative, of taking binding decisions and of supervising their implementation. The procedures leading to decisions by regional or common bodies and their subsequent implementation should be clear and specific so as to avoid confusion and duplication of effort.

34. In short, the conclusion is that the authority of the community institution is based on the confidence it inspires and the competence it possesses. While it is necessary to give it specific responsibilities in the framework of the integration process, it is equally essential to endow it with real powers of initiative and decision.

35. Experience has shown that it is important to give the administrative machinery clearly defined powers. Even if it is small, the permanent machinery can be effective if it is free from governmental interference and political pressure. It must therefore have an adequate degree of independence conferred by security for its staff and freedom for its technical activities. Moreover technical autonomy means that the administrative machinery is subject hierarchically to one community organ only, as in the case of the Andean Group. Study of the various groupings shows that the autonomy of their administrative services and of the organs which govern them is one of the factors that determine their administrative and technical efficiency.

### 4. COMMON SERVICES

36. For their maintenance and support, all the integration groupings save UDEAC, have set up an integration bank (CACM), a development bank (EAC) or a development corporation (Andean Group). The purpose of these institutions is to stimulate new regional economic activities and to correct certain existing imbalances. The past history of CABEI has shown, however, that the policies pursued by a body of this kind will not necessarily correct the increasing inequalities and, furthermore, that they raise the problem of fitting its operations into a common development strategy.

37. The specialized organs and common services also help to distribute benefits more equitably. In EAC, for instance, a score of specialized bodies such as the centres for industrial, agronomic, forestry, fishery and meteorological research, and, in particular, the four large corporations, combine

in some measure at least to offset the economic and commercial advantages mainly enjoyed by Kenya.<sup>9</sup> These institutions and services are rare in UDEAC and the Andean Group but are gradually being developed in CACM, and a similar trend is emerging in the Maghreb Group and ASEAN.

38. As one of the main objects of integration is to give a region greater real independence and bargaining power, greater efforts are being made to co-ordinate external relations. They are directed towards two goals: the harmonization of general positions vis-à-vis third parties, particularly in trade policy; and the joint promotion of the region's foreign trade, an example being the activities of PROMECA in CACM.

39. It is clear that integration in the developing countries is firmly directed towards the implementation of joint policies and measures. Consequently, the institutions cannot confine themselves to regulation or supervision but must promote and co-ordinate the development of the region and exchange views on an equal footing with external authorities and national governments. Since they are not vested with powers comparable to those of the entities with which they have to deal, the common institutions derive their authority from their competence, their technical ability and their efficiency.

---

See the studies by professor A. Hazlewood, especially "Economic Integration in East Africa", in *African Integration and Disintegration* (Oxford, Oxford University Press, 1967), pp. 69-114; see also P. Robson, *Economic Integration in Africa* (London, George Allen and Unwin Ltd., 1968), pp. 112-114 and 126-146; and Green, *op. cit.* pp. 15-18.



### Chapter III

## COMMON PROBLEMS

### A. Unanimity and majority

40. Unanimity is the rule in most co-operative and integration groups. Although the purpose of the rule is to obtain as much support as possible from all members, unanimity applied without discrimination at all levels of an organization exposes it to many dangers. The comment made by the Executive Secretary of LAFTA is particularly instructive: unanimity often becomes a major obstacle to positive action by the Association. The constant need for complicated deals, and the arduous efforts to arrive at a compromise indispensable for decision, often lead to immobility and obscure the text of resolutions. Thus a compromise is often reached at the expense of precision and in favour of a confused text which is difficult to interpret.<sup>10</sup>

41. Application of the unanimity rule has other drawbacks also: the slowness of the decision-making process and the fact that each member is able to paralyse the process by using its veto. Consequently, there is a certain contradiction between these constraints and the need for an effective decision-making machinery in a modern economy, especially as this rule is still applied in several regional groupings that have reached an advanced degree of integration (CACM, UDEAC and EAC). Although the Executive Council of CACM takes its decisions by majority vote, unanimity is required for all important decisions in the Economic Council. This unanimity requirement, combined with the necessity for ratification by the member States, renders the decision-making process a slow and inadequate one. It is not unknown for this slowness to produce such a time-lag that, when the decision comes into effect, the situation has changed to the extent that the decision applied is no longer in keeping with the actual circumstances.

42. It has been noted that, in UDEAC, the unanimity rule in the Council sometimes has the drawback of delaying the settlement of certain matters. As long as a single member State does not agree, the decision is not adopted. The matter has to come repeatedly before the Council

<sup>10</sup> See G. Magariños, *Evaluación del proceso de integración de la ALALC* (Montevideo, LAFTA, 1969), p. 22.

until unanimous agreement is reached.<sup>11</sup> A similar repetition of procedure also occurs in EAC at all levels. In both groupings, this has effects, which, according to the matter involved and the viewpoint taken, can be regarded either as delays or as maturing periods.

43. Nevertheless, the existence of the veto has not in practice prevented the functioning of these institutions. This, according to some authorities, implies the existence of a considerable measure of goodwill making it possible to find acceptable compromises and to bear the losses resulting from a common decision without recourse to the veto. EAC would not be able to operate if the use of the veto was the normal outcome in the case of issues on which interests diverge. In fact, until unanimous agreement is reached on the policy to be adopted, the only alternative to withdrawal is the *status quo* or inaction.<sup>12</sup> In all the examples of integration, analysis of the cases where no decision was reached is just as significant as that of actual decisions.

44. At the present stage of integration among developing countries, there are few examples of the use of majority rules such as those in the Executive Council of CACM and, in particular, in the Andean Group. Even in the latter case, the members have preferred to seek a consensus. Nonetheless, the existence of the majority rule, however limited, has the merit of clarifying the situation and of making easier the drafting of compromise solutions that are accepted by all. Basic decisions of major importance usually require general agreement. For executive functions, for less important or secondary decisions, for technical decisions or for measures which merely give effect to unanimous decisions, the adoption of various forms of majority rule should be considered. The two criteria of technicality and executory effect would improve adaptation of the rules to needs and prevent invariable and indiscriminate application of the unanimity rule.

45. It may be noted here that the specialized organs are already developing more functional procedures, particularly where activities covered by general decisions and programmes are concerned. In practice, the functioning of these bodies poses far fewer problems, although the unanimity requirement may, as in the Councils of EAC, make the work of the corporations more cumbersome.

46. Efficient procedure is an additional guarantee of the proper functioning of these bodies. Thus the participants in the Bangkok Seminar concluded that, in the decision-making process, the following basic principles should be taken into account: unanimity or consensus with regard to the important policy decisions; majority rule in the case of administrative and operational actions, as well as in the case of action taken by the management bodies of specialized regional and common institutions.<sup>13</sup>

<sup>11</sup> Yondo, *op. cit.*, p. 14.

<sup>12</sup> Green, *op. cit.*, p. 8.

<sup>13</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 78, p. 14.

47. From this standpoint, a distinction is made between important policy decisions of a grouping (major options, programmes and strategy, basic standards constituting key decisions) and administrative and management decisions. This distinction is beginning to be applied even in the co-operation groupings.

## B. Relations and consultation

48. As integration progresses, relations within the system tend to become more fluid and diversified. Common institutions establish direct relationships not only with the competent government departments but also with various types of experts, professional associations and even economic and social bodies.

49. In all the groupings, relations with official experts and administrations are to a greater or lesser degree organized, ranging from *ad hoc* meetings or contacts to permanent commissions and organs. Relations with the private sector and the professional associations, which vary from one grouping to another, may develop through an economic and social committee (as in the Andean Group), sectoral meetings (LAFTA) or through participation in the work of the institutions (as in CACM).

50. Although UDEAC and, in particular, ECA have reached a high degree of integration neither of them has given birth to many regional professional organizations. The chief reasons for this seem to be the differences in the economic and political structures of the member States; the fact that the common institutions have not only not encouraged the creation of such organizations, but have shown themselves reluctant to practise a policy of consultation; or perhaps simply the absence of any real need, the existing professional organizations being satisfied with their possibilities of access to the national Governments.

51. *Direct relations* are established with integration industries (CACM) or approved industries (UDEAC), and also with the users of various common services or the clients of various institutes and specialized organs (EAC).

52. In this way, a dense network is progressively built up of links forged by co-operation and solidarity, which in their turn support the regional system. One of the most significant aspects of these relations is the consultation of experts, which may be classified in the following categories:

(a) Consultation of *independent experts*—that is, experts without permanent official or private ties.

(b) *Personal consultation of national experts*. This method has already been tested, particularly in EEC, in CACM and in the Andean Group. Its advantage is twofold: first, the experts, not bound by instructions from their administration, express their views more freely and seek technically useful solutions; secondly, the technical opinions thus obtained may influence subsequent developments, particularly since the same experts are often consulted at a later stage in their official capacity.

(c) Consultation of *government experts*: these are experts representing the national Governments by which they are generally employed. They are therefore under instructions to defend a more or less well-defined policy or position. They also have authority to commit their Governments up to a certain point. If they have already been consulted in their personal capacity, there is no reason why at this second stage they should not sometimes have to give opinions differing from those they previously expressed in their own name.

(d) Consultation of ("multilateral" and "bilateral") *international experts*. This method is tending to spread, particularly in regional groupings. Such experts are often seconded or recruited by certain organizations (United Nations, FAO, IDB, etc.) and made available to the regional groupings. This is the most common procedure. Others consist of close co-operation, such as that established between ILPES and the Board of the Andean Group in connexion with regional programming. The example of the United Nations Team which prepares joint projects in ASEAN is significant. The Team's future, however, is now problematical; when its work is done, its integration in a high-level permanent secretariat competent to absorb it might be considered. In other groupings, such as EAC and UDEAC, multilateral or bilateral experts seconded by public or private bodies discharge important functions. Their presence raises the question of the "Africanization" of the higher and technical staff. In fact, when such persons are available, they are generally snapped up by national civil services or private firms. The situation is rather similar in UDEAC in regard to several experts made available by France. Although it is desirable to derive full benefit from the work of multilateral and bilateral experts, the question of finding a proper replacement and of further training for senior regional staff remains.

(e) Consultation of *professional experts* members of national or regional professional or trade associations. The more closely common decisions affect specific interests, the more the representatives of these interests endeavour to organize themselves in order to counterbalance and influence the regional power. The sectoral meetings of LAFTA reveal other reasons for such consultations: to obtain information, to find support and to exert pressure on national Governments, if necessary, through the professional or trade associations. In that way such consultations are a means of associating economic and social forces with integration.

53. These advantages are not obtained without certain risks. As long as the regional bodies confine themselves to consultation, reserving for themselves exclusive power to make the final decision, this form of contact and collaboration is efficient and useful. Problems arise, however, when the professional bodies assume too much importance and try to penetrate the machinery and have a say in the final decision. This tendency, which is rare, may be observed in the Councils of CACM, where professional organizations may speak but not vote. This practice is no longer followed by the Normalization Commission which, although in fact it includes personalities from the private sector as presidential representatives, has introduced a new principle: the Commission and SIECA consult the experts

and arrange hearings but no longer follow the practice of direct participation in the decision-making process.<sup>14</sup> This new approach corresponds to the conclusions of the Bangkok Seminar on this point: The active co-operation of private entrepreneurs, autonomous public entities, trade unions and other professional associations, with the activities of regional groupings is important. To this end, suitable arrangements to enable common regional organs to consult with them and be fully familiar with their views should be made when warranted. Such consultative arrangements could in certain cases provide a framework within which they could be actively associated with common endeavours.<sup>15</sup>

54. In some meetings an official delegation may include a representative of a professional or trade organization. To judge by experience, it is useful to open the doors wide to consultation; but care must be taken that the representatives of employers', workers', and other organizations do not take part in the actual decision. This question becomes acute only when the regional grouping directly affects certain occupational sectors by its activities and impact. At the beginning of a process of integration the problem is the opposite: the requirement then is to interest some of the most important organizations in and to associate them with regional activities.

### C. Location of the common institutions and services

55. The location of the headquarters is another problem. In LAFTA, the headquarters have been established in one of the small countries. Both the Standing Executive Committee and the Executive Secretariat are installed at Montevideo. Meetings of the other organs, the Council, the Conference and the consultative commissions, are held in each country in turn. The Maghreb Group has its principal seat at Tunis; the headquarters of the committees and specialized organs are distributed among the member countries except those which, having no secretariat of their own, follow the order of rotation observed by the Heads of State. ASEAN has avoided the problem for the time being by applying the principle of rotation both to the post of secretary-general and in the commissions.

56. The system of geographical distribution has been put into effect in all the integration groupings except the Andean Group, which for the moment has no specialized organs apart from ADC. Its headquarters appear to have been chosen on the basis of the criterion of a centralized position. Similarly, there is a concentration of UDEAC institutions at Bangui. Only the Accounts Agency has two sub-agencies, one at Brazzaville and the other at Pointe-Noire. The new Interstate Customs School

<sup>14</sup> See D. Sidjanski, *Dimensiones institucionales de la integración latinoamericana* (Buenos Aires, INTAL-IDB, 1967), pp. 139-142. In this study, the author took a similar view opposing the participation of professional organizations in the decision-making process, which belongs to the political institutions, and advocating various forms of consultation.

<sup>15</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 73, p. 13.

for training intermediate-level staff opened in late 1972 at Bangui. Thus, the capital of the least-developed country in the Union has been chosen as the headquarters of the common institutions.

57. In CACM, the principle of balanced distribution has been observed. CABEL and the Clearing House have their headquarters at Tegucigalpa, ICAP and the Monetary Council are at San José, SIECA and ICAITI are at Guatemala City and OCAS at San Salvador. The specialized organs and common services in EAC are even more widely distributed: while the services of the General Secretariat and the Assembly are concentrated at Arusha, Tanzania also has other research institutes (medical research at Mwanza, fisheries research at Amani), and the Harbours Corporation at Dar es Salaam. Nairobi is the seat of the Railways and Airways Corporations, the Directorate of Civil Aviation, the Meteorological and Income Tax Departments and several research institutes (industry, tuberculosis, etc.); the Customs and Excise Department is at Mombasa. The Posts and Telegraphs Corporation and the East African Development Bank are at Kampala, and two research institutes are also in Uganda. In this way EAC has a balanced distribution of its common institutions and services.

58. On the basis of these examples, the participants in the Bangkok Seminar reached the following conclusion: "In order to assure a close involvement and a direct stake of all member countries in the integration process, common institutions, i.e. permanent secretariats, specialized bodies, common services, etc., should be distributed among the States, provided their efficient operations are not adversely affected. The less developed member countries should receive priority consideration for their location."<sup>16</sup>

59. Only ASEAN, which is in a process of transformation, has not yet made a choice and continues to apply the principle of general rotation. This is possible until such time as the Association undertakes co-operation at the practical level but, even during the period of preparation, this temporary solution nevertheless makes work difficult. The first step, therefore, should be to remedy this deficiency. Various criteria might be used to govern the choice of site, if ASEAN should decide to establish the nucleus of a permanent secretariat: a central geographical position, especially in view of the distances between the member countries; preference to medium-sized and small countries; and consideration of accessibility, communications and available administrative infrastructure.

60. On the other hand, the distribution of the headquarters of the committees and specialized organs could be retained. It would be preferable, however, to replace the triennial rotation of headquarters by a fixed distribution. With the expansion of ASEAN activities, these moves will raise problems of cost and efficiency, especially since the committees will tend to acquire a permanent nucleus and to surround themselves with specialists. While the distribution should endeavour to ensure a measure of compensation, it should also take account of such factors as locally available facilities,

<sup>16</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 86, p. 14.

experience gained in a particular field (rice research in the Philippines), the co-operation network and other advantages. Thus, the committees concerned with major ASEAN activities should be situated near the permanent secretariat, if not in the same place (e.g., the Committee on Commerce and Industry). A different problem arises in the case of committees with more autonomous activities, such as the Committee on Tourism. In conclusion, the rotation principle could still be observed in the case of meetings of the Council while those of specialized organs and committees should take the requirements of efficiency more into account.

#### D. Financing of institutions

61. The system adopted by most of the international and regional organizations is that member States contribute to the budget of the institution. These contributions may be equal, or different—proportionate to the economic capacity of each country. In the latter case, criteria similar to those applied by the organizations of the United Nations system or LAFTA could be adapted to the needs of other regional groupings. The system used in ASEAN, in which there are no common budget or fixed contributions, will no longer be viable once substantial and continuous activities are undertaken or the decision has been made to set up a permanent institutional structure.

62. At the other end of the scale is the expedient adopted by EAC of establishing a common tax service to collect all the contributions, cover the requirements of the common services, and distribute the remainder among the member countries. EAC possesses in this a unique feature which places it in a position of independence by reason of its self-financing. The Community is responsible—through the Income Tax and Customs and Excise Departments—for collecting these taxes and the transfer tax. After having deducted the cost of collection, which is lodged in its General Fund, and the allocations provided for by the annual budget, the Community distributes the balance among the member countries. Under this system, the Community has an independent budget approved by the Committee of Community Ministers and the Finance Council, adopted by the Legislative Assembly and promulgated by the Authority. This original formula, despite the requirements for the budget to be voted unanimously, revealed its advantages during the political crisis of 1971-1972.<sup>17</sup>

63. However, between these two modes of financing—intergovernmental and community—there is a wide range of intermediate mechanisms. Thus, the common or approved industries can contribute a percentage of the profit on their joint sales resulting from the promotion and intervention of regional bodies (e.g., COMALFA). The establishment of a common external tariff or a common levy may make it possible to finance the com-

<sup>17</sup> See R. Ouko, "The institutional framework of the East African Community with special reference to the East African Common Market arrangements" (mimeographed), Arusha, 1971, pp. 17-18.

mon operating or capital budget, any balance being distributed among the member countries. Specialized organs with independent budgets sometimes cover part of their expenditure by income from the services they have provided (e.g., industrial research institutes such as ICAITI).

64. From this angle, EAC too constitutes an original case which might serve as a model: the corporations operate with their own budgets which are submitted for approval only to their own Boards of Directors. Moreover, for their capital investment, they have recourse to national and international loans.

65. While the solution of State contributions may be regarded as an indispensable minimum for any permanent organization, the other systems give the common institutions more budgetary independence and more stability. The conclusions of the Bangkok Seminar are along the same lines: "In order to strengthen the regional and common institutions and ensure their continued operations, an independent source of finance for them should be sought in the form of, *inter alia*, a percentage of Customs revenue or a share in the profits from common or regional undertakings".<sup>18</sup> This trend seems to be strengthened by the principle of establishing a relationship between the services and benefits provided by a community, on the one hand, and the levies that finance its budget, on the other.

#### E. Common and regional enterprises

66. Common enterprises constitute a tool of integration and development. Although they are provided for in more than one grouping, this formula has seldom been used. The régime for integration industries in CACM has been applied only rarely. In UDEAC, considerable use has been made by the private sector of the rules for enterprises subject to the single tax, but they have also made possible the establishment of community enterprises such as the refineries, with mixed participation (foreign investors and member States, in equal proportions). The formula is a flexible one: although it requires the approval of the Council of Heads of State it does not necessarily involve the participation of all the member countries. Moreover, it allows Chad, a former member country, to take part also. Engineers and qualified regional staff (particularly Gabonese and Cameroonians) work side by side with foreign technicians, while the lower level staff is recruited locally. Much wider use of this formula seems likely, particularly in the sectors defined by the new strategy.

67. In 1972, the Andean Group adopted (decision No. 46) a single statute for multinational enterprises and a regulation on capital for the region. To be covered by the statute, an enterprise must have a capital not less than 60 per cent of which has been subscribed by nationals of two or more member countries. This shareholding majority must be reflected at the level of the direction and management of the company. The objective

<sup>18</sup> UNCTAD, "Report of the Seminar...", *op. cit.*, para. 80, p. 14.

must be of regional importance and adapted to the sectoral development programmes. By thus eliminating the economic and legal obstacles to the activities of regional enterprises, the countries members of the Andean Group have sought to facilitate the achievement of such objectives as balanced development, better use of resources, the execution of projects exceeding the capacity of a single country and, in general, the implementation of regional programming.<sup>19</sup>

68. It will be seen from these examples that community or regional enterprises can constitute a useful tool for economic and social integration at the level of research, production and distribution structures.<sup>20</sup> The examples illustrate the various potential advantages offered by these formulas which, according to need, can cover certain activities in the private sector or the public sector as well as mixed companies. Various types of incentives or facilities granted within the framework of a regional programme can stimulate the development of these community or regional enterprises.

<sup>19</sup> See Andean Group, *Carta informativa oficial...*, *op. cit.* (Lima), No. 10 (December 1971), pp. 3-4.

<sup>20</sup> See *Current problems of economic integration: The distribution of benefits and costs...* (*op. cit.*), p. 79, annex I, paras. 85 *et seq.*

## Chapter IV

### THE DYNAMICS OF REGIONAL INTEGRATION

#### A. Pre-take-off phase

##### 1. BASES TO BE LAID IN THE ASSOCIATION OF SOUTH-EAST ASIAN NATIONS

69. To launch the integration process, the first step is to define, on the basis of the work of the United Nations Team and the Advisory Committee and in the light of recommendations and experience, specific *objectives* and *priorities*. Once the content and the strategy of integration have been defined in this way, the next step is to establish *appropriate institutions* capable of carrying out the programme.<sup>21</sup> It is obvious that the adoption of a selective liberalization programme, supplemented by sectoral or global agreements on regional industrialization, will require for its execution (implementation and control) far more than a mere strengthening of the national secretariats. It will probably be necessary to develop a central nucleus—or several nuclei—or else, according to a mixed formula, a central nucleus supported by several centres of specialized activities. Experience shows that the competence of such a structure is a factor contributing to development and to the success of regional groupings.

70. This need to adapt the common institutions to practical requirements has already been felt in the relations between ASEAN and EEC. The members have stated that they are ready to adopt institutional solutions that meet their requirements. What will be needed, therefore, is a technical instrument for research and for working out common positions, a mechanism for continuous consultation of the members and, lastly, a decision-making mechanism and a common negotiating organ. Thus, incentives arising both from a renewal undertaken within the Association and from external requirements seem to be impelling ASEAN to look for permanent and efficient common institutions capable of meeting these requirements.

<sup>21</sup> The participants in the Bangkok Seminar took note of the fact that the Association is beginning to be aware of indications pointing towards a modification in the institutional framework (UNCTAD, "Report of the Seminar...", *op. cit.*, para. 28, p. 6).

One essential condition is that the objectives established should be consistent with the instruments designed to attain them.

71. The present delay in ASEAN may constitute an advantage inasmuch as lessons can be drawn from the experience of integration processes already under way. For example, in so large and so densely populated a region, the question of the choice between a collective community organ of three members and a secretary-general assisted by deputy secretaries-general would deserve detailed consideration in the light of the agreed objectives. Whatever the solution adopted, it should be based on a solid infrastructure. The specialized organs could be given operational responsibilities and their own technical machinery to meet their needs and the requirements of their work. One last example: although the Joint Fund has set up management committees, it remains handicapped by the unwieldiness of its decision-making machinery. Without dwelling on the shortcomings of this machinery, the approval of projects, instead of being reserved for the Council of Ministers, could be entrusted to a board of directors acting within the framework of the previously established objectives and priorities. Such a decentralization of decision-making would contribute to increased efficiency.

## 2. A DRAFT MAGHREB AGREEMENT

72. Although the Maghreb Group has reached a more advanced stage than ASEAN, as the latter is at present, it is nevertheless marking time: its draft agreement has not yet been adopted. The draft agreement postpones the study and establishment of common institutions and tends *a priori* to concentrate all responsibility in a Council of Ministers of Economic Affairs. Two solutions could be considered for the immediate future: institutional provisions could be added to the draft agreement; or a greater freedom of choice could be left to those who draft the supplementary provisions by referring in the draft to "the Council or body designated in the institutional provisions". Thus either the institutions corresponding to the economic content of the integration process would be defined at the present time, or predetermination of the Maghreb structures could be avoided by concentrating all the powers in the Council. Guidelines for the deconcentration of functions, the allocation of tasks and the distinctions to be made according to subject matter and importance could be taken into consideration.

## 3. PROBLEMS COMMON TO THE ASSOCIATION OF SOUTH-EAST ASIAN NATIONS AND THE MAGHREB GROUP

73. ASEAN and the Maghreb Group at present face a number of common problems, the solution of which will depend to a large extent on the capacity of the *community institution* and the *central administrative machinery*, surrounded by a greater or lesser number of centres of activity distributed throughout the region. In both cases the status, autonomy, technical capacity and staff of this nucleus will be of decisive importance.

It is also essential that these institutions should be given a solid basis for the financing of their budgets. Finally, as regards the intergovernmental institutions, consideration should be given to ensuring greater participation by the competent ministers. Applying the proposed distinctions, the operational rules could be based on the experience of various existing bodies (technical bodies such as COMANOR and the management committees of the ASEAN Joint Fund, etc.). These two groupings, particularly ASEAN, are clearly preparing to enter an active phase which will be decisive for the future of their regional integration.

## B. Periods of inactivity and efforts at renewal

### 1. PERIOD OF INACTIVITY IN THE LATIN AMERICAN FREE TRADE ASSOCIATION

74. In view of the stagnation affecting LAFTA, the question may be asked whether it is merely a period of inactivity, a chronic crisis or an impasse. The results achieved by the Association are, of course, far from negligible: it has succeeded in stabilizing—and even slightly increasing—*intra-regional trade*, a number of industrial agreements have been concluded and, above all, the habit of co-operating and comparing views has become established among Latin American Countries. Furthermore, it was the very shortcomings of LAFTA that led to the creation of the Andean Group. But the continuing difficulties and the periodic crises which have prevented LAFTA from moving forward and acquiring a new impetus raise the fundamental question whether this is a good method for developing countries, and whether LAFTA does not need a radical transformation in order to resume its course. The question arises whether the Action Plan,<sup>22</sup> which is an initial answer is, in fact, an adequate one. This Plan consists mainly of a broad and complex series of studies designed to establish new foundations for LAFTA. These would involve, in particular, a programme of liberalization and harmonization of Customs instruments and of industrial and agricultural development policies. Although this plan is a new test, the positive and negative aspects of LAFTA constitute a lesson on integration.

### 2. DIFFICULTIES OF RENEWAL IN THE CENTRAL AFRICAN ECONOMIC AND CUSTOMS UNION

75. After the crisis of 1968 and the withdrawal of Chad, UDEAC made good progress with its Customs Union. In contrast, there was a considerable lag in industrial and transport planning. It has not proved possible to implement the programme laid down by the Treaty and all this development activity has been paralysed. The recent switch from a global strategy to a sectoral and selective one promises to give a new impetus to

<sup>22</sup> See LAFTA, *Sintesis mensual* (Montevideo), No. 82 (April 1972), pp. 234-237.



this fundamental function of UDEAC. A committee has been appointed to draw up, in co-operation with the secretariat, the joint industrialization programme. The result of this work will be a first test of UDEAC's effectiveness and dynamism; the second test will be the implementation of the programme drawn up, the efforts made in the sectors selected and the results obtained by the community enterprises. In this respect, there is still a gap in the institutional system: the lack of a development and financing institute comparable to those of other integrational groupings.

76. UDEAC is also behind in the development of a transport and communications infrastructure. Moreover, although it has a model Customs Union and a well-designed institutional framework, its secretariat has insufficient technical personnel and financial resources to carry out effectively all the functions assigned to it by the Treaty. Moreover, to accomplish these increasing tasks more effectively, the Union will have to modify the general unanimity rule. Although it is justified at the level of the Council of Heads of State, which is responsible for basic and vital decisions, unanimity is pointless at the level of the Management Committee and the other preparatory bodies, which act in accordance with the Council's directives and within the framework of the programmes that it establishes. Lastly, UDEAC encountered at the start difficulties which have so far prevented it from tackling the main problem: joint development.

### C. Crisis as a dynamic factor

#### 1. SOLIDARITY IN THE EAST AFRICAN COMMUNITY

77. The crisis affecting EAC was ended in October 1971 by an agreement between Tanzania and Uganda which was designed to normalize the functioning of the Community. Political tension revived during the summer of 1972 and almost developed into open conflict, but a new agreement was reached in October 1972. Although political in origin and not aimed at the Community, the crisis revealed both the solidarity of the common scheme and the shortcomings of its institutions. The paralysis of all the intergovernmental meetings, at the level both of the Authority and of the Councils and committees, could not be overcome by bilateral contacts between Governments or between common institutions and national administrations. Although the network of corporations and common services was only slightly affected, thus highlighting the structural interdependence of the members of EAC; and although the central services continued to deal with common business and to pursue their research, all decisions relating to the new activities were suspended; furthermore, the difficulty of adopting the budget in those circumstances, despite the community system, threatened the entire activity of EAC.

78. Though EAC has made considerable progress with the Customs Union and in the area of movement of goods, it is lagging behind in the areas of movement of persons, monetary policy and, above all, agricultural and development planning. Although preparation of the programme pro-

viding a framework for the Corporations and the common services is going ahead, economic planning and harmonization of national plans are still in the early stages; preliminary work has been done on development of tourism, multinational enterprises and the siting of new industries. Despite this slow progress, it is clear that EAC is entering upon a decisive phase, as industrial development appears to be a key factor for the future of the Community.

79. Concerning the institutions: the slowness of the decision-making processes is due to several factors. The first is the complexity of the institutional structure, the growing number of organs and committees, and a certain rigidity and unwieldiness in the administrative procedures. The second factor is the unanimity rule applied at all levels, which slows the preparation of decisions by prolonging efforts to reach a compromise. This approach often leads to ineffective compromises, and even to deadlocks and postponement. Though necessary in the case of basic decisions and general directives by the Authority, unanimity becomes an impediment to progress at the level of the ministers and officials. A more flexible arrangement in accordance with the distinctions proposed would therefore help to increase the efficiency of the common institutions. A third factor which may contribute to the complexity of the process is the ambiguity which arises with a two-headed central administration affected by the tensions between Community ministers and the Secretary-General. A further factor is the limited independent decision-making power given to the Councils and the Committee of Ministers. At the end of the long process, proposals become decisions which frequently take the form of mere recommendations. Of course, the consensus achieved in the Consultative Councils may make up, at least in part, for this lack of binding force. The fact nevertheless remains that this inadequacy in decision-making and executive power reduces EAC's effective capacity.

80. The concentration of final decision-making powers in the Authority has led some to propose a wider distribution of decision-making capacity. The Authority, it is true, often merely gives its assent to decisions submitted to it by the Community ministers and the Councils; nevertheless, this dependence on the Authority exposes EAC to delays and even to the risk of action being blocked. This is why consideration has been given to the possibility of a greater delegation of the Authority's powers—according to the distinctions by subject matter and by importance—both to the Committee of Community Ministers and to the Councils; the Authority could in addition give them the executive powers which they need. At the moment, the majority of the Acts or decisions passed by the Legislative Assembly must receive the assent of the Authority. Might it not be possible, applying the criteria of importance and technicality, to give the Legislative Assembly final authority to adopt certain Acts? Another possibility would be to establish a rule or practice whereby an Act of the Legislative Assembly would automatically come into force unless vetoed by the Authority. A similar system could also be applied to certain categories of decisions of the Councils and the Committee of Community Ministers. To allow for the resulting increase in the work and responsibility of the Councils, which



are at present purely advisory, consideration should be given to granting them effective powers commensurate with their tasks. Without resorting to formal changes, EAC has made a few modifications in the light of experience. Thus, to ensure that the Councils function more effectively, it has already regrouped and rationalized their activities. Furthermore, to counterbalance these intergovernmental or ambivalent elements, the Secretary-General might perhaps be given greater powers of initiative, supervision and administrative control; in short, more autonomy. Others have suggested that the organization, channels of communication and decision-making processes should be simplified in order to obtain more effective mechanisms. All have agreed that these reforms are necessary in order to be able to undertake, with the best chances of success, the new tasks of joint development. When the Treaty establishing EAC comes up for renegotiation, around 1980, the member countries and the common institutions could improve the existing machinery, having regard to the common effort being made in the areas of planning, development and social activities.

## 2. CRISIS OF GROWTH IN THE CENTRAL AMERICAN COMMON MARKET

81. The armed conflict of June-July 1969 between El Salvador and Honduras sparked off a major crisis affecting the institutions and the whole concept of CACM. CACM has left unsolved certain major problems: the less favourable situation of the less-developed countries (Honduras and Nicaragua), balance-of-payments disequilibria, losses of tax income, absence of common policies in industry, agriculture, currency, infrastructure and the social field and delay in the establishment of a capital market and free movement of persons. All these acute problems have merely served to highlight the defects in CACM's machinery, with the result that a choice now has to be made between accepting the break-up of the grouping or overhauling its structure.

82. The 1969 conflict had many consequences, the suspension of all relations between El Salvador and Honduras; the halting of integration; paralysis of the intergovernmental institutions (Central American Economic Council and Executive Council) and difficulties in the functioning of SIECA.<sup>23</sup> While SIECA has resisted these setbacks, the specialized organs, such as CABEL, ICAITI, ICAP, the Monetary Council and the Clearing House, have continued to operate normally. Moreover, the Monetary Stabilization Fund was set up during the crisis and work in the field of agricultural prices continued.

<sup>23</sup> The absence of the Secretary-General has weakened the role of SIECA in this crisis and has caused a certain irresolution and demoralization among its staff. The extraordinary meeting of Central American Ministers of Economic Affairs, held on 1 December 1972, put an end to this situation of uncertainty and elected a new Secretary-General of SIECA in the person of Mr. Roberto Mayorga-Cortés.

83. After several attempts,<sup>24</sup> the Ministers of Economic Affairs, except the Minister from Honduras, set up in June 1971 a Commission for the Normalization of Relations in CACM.<sup>25</sup> It is composed of two members from each country, one being the Minister of Economic Affairs and the other being a person appointed by his country's President. These presidential representatives are distinguished by their influence with their President and also by their individual eminence, their key position in the economy of their country and their new and far-reaching outlook. The purpose of this Commission, which replaces the CACM Councils, is to re-establish, with the assistance of SIECA, the normal functioning of CACM and to strengthen and intensify the process of integration. Unlike the Economic Council, the Commission is empowered to adopt its resolutions by majority vote if it cannot reach unanimous agreement. Moreover, its resolutions aiming to secure a normalization of relations in CACM are binding on all the member countries. The object of these measures has thus been to make its action more effective. The first test was its resolution No. 1, by which it invited Costa Rica not to levy the new exchange surcharge on Central American products. This resolution has been fully applied by the Central Bank of Costa Rica. The Commission has also adopted various measures aimed at re-establishing normal trade flows.<sup>26</sup>

84. It is clear that if a new start is to be made, a restructuring of the machinery and institutions of CACM will be necessary. The time seems to have come to rationalize and recast the experience and knowledge gained by CACM. If it is decided to work towards a new basic treaty,<sup>27</sup> the new structure will have to include not only the key elements such as the Customs union and harmonized, if not common, economic policies, but also two kinds of innovations: (a) a broadening of the field of action to include the agricultural and social sectors; the establishment of a common trade policy including both a common external tariff that can be modified by the common institutions, a promotion and defence policy and a CACM external

<sup>24</sup> In December 1969 the five Ministers of Foreign Affairs met at Managua and decided: (a) to set up a bilateral Group (El Salvador and Honduras) to work towards a peaceful settlement; (b) to set up an *ad hoc* committee of economists and jurists to make proposals for reforming CACM; (c) to convene meetings of the Ministers of Economic Affairs to arrive at a *modus operandi*. A *modus operandi* was worked out but was rejected at the end of 1970. After this failure, the Honduran Government published Decree No. 97 confirming the suspension of the Common Market. The crisis worsened despite many official and private declarations in favour of Central American integration.

<sup>25</sup> See the Statutes of the Commission in SIECA, *Carta informativa* (Guatemala), No. 117 (July 1971), pp. 2-6.

<sup>26</sup> The first joint meeting of the Ministers of Economic Affairs of the five countries and of the Monetary Council was held at the beginning of July. One significant event was the decision concerning exchange and balance-of-payment problems which was taken with four countries voting in favour and Costa Rica stating its reasons for abstaining. (See SIECA, *Carta informativa* (Guatemala), No. 117 (July 1971), pp. 9-10.)

<sup>27</sup> In the present situation, it would be better to take advantage of the opportunity to rebuild the whole system rather than tinker with it. The approach adopted should rapidly lead to defining the objectives, principles and framework of the common action, the timetable for the implementation of specific measures and the composition and terms of reference of the common institutions.

relations policy; the establishment of a compensation system to correct imbalances and to ensure a better distribution of benefits, and effective development and infrastructure programming to provide a framework for the activities of CABEL and the Central American enterprises; (b) a transformation of the institutions in the light of experience and having regard to the new objectives: the Central American Economic Council could, by institutionalizing the practice, include other competent ministers; assisted by an intergovernmental body, it should also have support from a strong community institution with regional responsibilities.<sup>28</sup> This solution raises two questions: the position of the Secretary-General in this structure and the number of members. As the executive head and hierarchic chief of the common administration, the Secretary-General should form part of the Commission, the community organ. Moreover, the number of members of the community institution should not exceed five, to ensure that it can perform its regional task efficiently.<sup>29</sup>

85. In accordance with the stated principles, both the intergovernmental institutions and the community bodies should have real decision-making powers commensurate to the tasks assigned to them. In particular, the community institution (Commission) should have, in co-operation with its secretariat (SIECA), recommendatory, executive and supervisory powers. The important common decisions of a general character adopted by the Central American Economic Council should be based on community proposals. In general, the restructuring could make use of the experience and the approaches described in this study. Two obstacles would have to be overcome: the unanimity requirement in the Economic Council and the protocol ratification procedure. The unanimity rule could be confined to basic or vital decisions. The cumbersome protocol procedure should be abolished, except in the case of acts adopted outside the frameworks laid down by the General Treaty or by basic decisions. If it should be considered advisable to institutionalize the Presidential meetings, this new structure should have a certain degree of flexibility: the Presidents could lay down broad guidelines, settle vital questions and give an impetus to the integration process. In addition, arrangements should be made to set up a judicial body for settling conflicts, to establish certain operational, programming and research agencies, and to create a more autonomous means of financing the institutions.

86. Following the meeting of the Ministers of Economic Affairs and Finance in December 1972, a restructuring machinery was established: proposals by SIECA or by Governments will be considered by a high-level committee responsible for CACM and will then be submitted for decision

<sup>28</sup> This is the solution proposed in *Dimensiones institucionales...*, op. cit., pp. 145-148. This solution is a clearer one than that originally suggested by the Presidential representatives whereby the members of the Executive Council would be appointed for a period of at least three years and would have the role of regional leaders and powers specified in the General Treaty, or additional powers.

<sup>29</sup> See *Dimensiones institucionales...*, op. cit., p. 145 et seq. See also SIECA, *Aspectos institucionales de la Comunidad económica centroamericana*, Study No. 11 (Guatemala, October 1972).

to the meeting of Ministers of Economic Affairs and Finance and Presidents of the Central Banks. Since the present crisis came about largely because the instruments were inadequate to deal with the real problems and needs, it can be solved only by transforming CACM and giving it a strong fresh start. In this way, a crisis of growth, causing a threat of complete break-up, can lead to progress.

### 3. DYNAMIC DEVELOPMENT AND INSTITUTIONS: THE EXAMPLE OF THE ANDEAN GROUP

87. The Andean Group has drawn on the experience acquired by the regional integration groupings to devise a dynamic system. First, it has made itself a framework which establishes its main lines of action and fixes its aims and principles but does not encumber it with too detailed and flexible a set of regulations. Secondly, the main components of the structure are being put in place according to a time-table which, by making commitments in advance, gives a clear prospect from the outset and creates a climate of security in which the social and economic activity can progress. Furthermore, the Group is endeavouring to strike a balance between the instruments of the enlarged market and those for development programming. This parallelism has been respected, for the Andean Group has embarked not only on liberalization but also on the introduction of common regulations and statutes and the definition of the first sectoral programme for the development of industry. The Andean Group seems to be passing its first test satisfactorily. For its development strategy it has appropriate institutional machinery whose efficiency is due to a balanced representation of national and common interests. While the balance is sound, it is nevertheless constantly threatened. The disproportion between the increasing volume of the Board's work and its limited resources and small administrative staff may cause a shift, of the real powers to the intergovernmental institution. Should this happen, the member States, their civil services and public institutions and their representatives and experts could again assume a predominant role at the expense of the community institution. The development of integration and of common responsibilities must be accompanied by a strengthening of the facilities at the disposal of the Board. In addition to this internal effort, action is required in the field of external relations. Despite a certain convergence or co-ordination in this field, institutional machinery is lacking. For this reason, the Ministers of Foreign Affairs have recommended to the institutions of the Andean Group the establishment of appropriate machinery. This is one example of the dynamism of the integration process, where the successful discharge of prescribed tasks creates new needs that, in their turn, can give rise to institutionalized solutions. The interplay of all these factors appears to give great vitality to the Andean Group, which is opening a new path for regional integration. In several ways, this experiment, which is only in its initial stages, is proving to be significant.

#### 4. THE DYNAMICS OF INTEGRATION

88. The dynamics of integration involves above all two interdependent factors: the dynamics of the integrated sectors and the dynamics of the regional institutions.

89. Integration, once started, should cause a genuine take-off. Efficient functioning of the integration machinery in some strategic areas should generate the need for co-operation in related and complementary sectors. If this basic concept is correct, the success of economic integration depends essentially on a development strategy covering key sectors, promotion of the region's external trade, a rational policy for joint use of external assistance and the establishment of common services.

90. In this process, the institutions play a vital role, as they provide the framework, the support and the means for joint action. Hence the importance of the institutional structures, of their administrative and technical capacity, of their ability to guide and take charge of the common enterprise, of their efficiency, and their ability constantly to adapt themselves to social requirements and changes. All these are examples of factors which give an institution its own dynamic impact.

91. Institutions produce by their action effects which spread and increase, both inside and outside the region. In particular they forge numerous links of co-operation among political leaders, officials and experts, among social and economic transactors and among professional or trade organizations, so that regional solidarity is progressively developed. As this solidarity becomes active it produces shock waves which support the common endeavours of the institutions. These are only some features of an integration process which relies on the harmonious and cumulative effects of the dynamics of development and the dynamics of institutions. Where these interdependent factors give each other support, we come closer to the dynamic model of regional integration.

#### ANNEXES

ANNEX I  
Regional grouping statistics

Country	Population				Trade				Gross national product		
	Area (millions of km <sup>2</sup> )	Total (millions of in- habitants) 1970	Annual growth rate (%) 1963-1970	Density per km <sup>2</sup> 1970	Total imports c.i.f. (\$ million) 1970	Total exports f.o.b. (\$ million) 1970	Exports to members of grouping <sup>a</sup>		Total (\$ million) 1970	Annual growth rate (%) 1960-1970	Per capita (\$) 1970
							f.o.b. (\$ million) 1970	As percentage of total exports			
<b>I. Co-operation groupings</b>											
<b>A. LAFTA</b>											
Argentina . . . . .	2 777	23.2	1.5	8	1 685	1 773	366	20.6	25 420	4.2	1 095
Bolivia . . . . .	1 098	4.9	2.6	4	165	227	20	8.8	916	5.6	187
Brazil . . . . .	8 511	92.8	3.2	11	2 849	2 739	303	11.1	34 600	6.0	373
Chile . . . . .	757	8.9	2.4	12	931	1 247	152	19.2	7 385	4.4	830
Colombia . . . . .	1 139	21.1	3.2	18	844	724	53	7.3	6 606	5.2	313
Ecuador . . . . .	284	6.1	3.4	21	247	218	17*	7.8*	1 602	5.1	263
Mexico . . . . .	1 972	49.1	3.5	25	2 461	1 402	93	6.0	33 180	6.8	676
Paraguay . . . . .	407	2.4	3.2	6	64	64	24	37.5	580	4.7	242
Peru . . . . .	1 285	13.6	3.1	11	619	1 044	65	6.2	5 917	5.1	435
Uruguay . . . . .	177	2.9	1.2	16	233	233	29	12.9	2 363	1.4	814
Venezuela . . . . .	912	10.4	3.6	11	1 713	2 691	137	5.1	9 580	4.7	921
<i>Total LAFTA</i>	<i>19 319</i>	<i>235.4</i>	<i>2.9</i>	<i>12</i>	<i>11 811</i>	<i>12 362</i>	<i>1 259*</i>	<i>10.2*</i>	<i>128 149</i>	<i>5.4</i>	<i>544</i>
<b>B. MAGHREB</b>											
Algeria . . . . .	2 382	14.3	3.8	6	1 257	1 009	17*	1.7*	4 180	1.8	292
Morocco . . . . .	445	15.5	2.0	35	684	488	23*	4.7*	3 341	4.0	215
Tunisia . . . . .	164	5.1	2.5	31	306	181	9	5.0	1 225	4.2	240
<i>Total MAGHREB</i>	<i>2 991</i>	<i>34.9</i>	<i>3.4</i>	<i>12</i>	<i>2 247</i>	<i>1 678</i>	<i>49*</i>	<i>2.9*</i>	<i>8 746</i>	<i>2.9</i>	<i>251</i>
<b>C. ASEAN</b>											
Indonesia . . . . .	1 903	121.2	2.8	64	893	1 009	49	4.9	12 600	3.3	104
Malaysia . . . . .	333	10.4	3.4	31	1 525	1 762	8	0.5	3 837	6.3	369
Philippines . . . . .	300	36.9	3.0	123	1 210	1 119	63	5.6	10 230	5.7	277
Singapore . . . . .	1	2.1	2.3	395	2 461	1 554	14	0.9	1 970	6.9	938
Thailand . . . . .	514	34.4	3.1	67	1 293	710	106	14.9	6 510	8.1	189
<i>Total ASEAN</i>	<i>3 051</i>	<i>205.0</i>	<i>2.9</i>	<i>67</i>	<i>7 382</i>	<i>6 154</i>	<i>240</i>	<i>3.9</i>	<i>35 147</i>	<i>5.3</i>	<i>171</i>
<b>II. Integration groupings</b>											
<b>A. EAC</b>											
Kenya . . . . .	583	11.2	2.9*	13	441	304	87	28.6	1 582	5.2	141
United Rep. of Tanzania .	940	13.3	2.6	14	317	259	21	8.1	1 332	5.2	100
Uganda . . . . .	236	9.8	2.5*	40	171	278	34	12.2	1 297	5.2	132
<i>Total EAC</i>	<i>1 759</i>	<i>34.3</i>	<i>2.6*</i>	<i>19</i>	<i>929</i>	<i>841</i>	<i>142</i>	<i>16.9</i>	<i>4 211</i>	<i>5.2</i>	<i>123</i>
<b>B. UDEAC</b>											
Cameroon . . . . .	475	5.8	2.2	12	245	233	3 <sup>b</sup>	1.2 <sup>b</sup>	990	5.3	171
Central African Rep. . .	623	1.6	2.3	2	41	33	7 <sup>b</sup>	17.0 <sup>b</sup>	200	0.0	125
Gabon . . . . .	268	0.5	1.3	2	86	123	6 <sup>b</sup>	7.0 <sup>b</sup>	309	5.0	618
People's Rep. of the Congo . . . . .	342	0.9	2.1	3	60	38	3 <sup>b</sup>	5.0 <sup>b</sup>	233	5.5	259
<i>Total UDEAC</i>	<i>1 708</i>	<i>8.8</i>	<i>2.3</i>	<i>5</i>	<i>432</i>	<i>427</i>	<i>19<sup>b</sup></i>	<i>4.4<sup>b</sup></i>	<i>1 732</i>	<i>4.5</i>	<i>197</i>
<b>C. CACM</b>											
Costa Rica . . . . .	51	1.7	3.2	33	317	231	69 <sup>b</sup>	21.8 <sup>b</sup>	921	6.4	542
El Salvador . . . . .	21	3.5	3.8	158	214	228	61 <sup>b</sup>	28.5 <sup>b</sup>	1 008	5.8	288
Guatemala . . . . .	109	5.2	3.1	46	284	298	65 <sup>b</sup>	22.9 <sup>b</sup>	1 844	5.5	355
Honduras . . . . .	112	2.6	3.4	22	221	171	54 <sup>b</sup>	24.3 <sup>b</sup>	681	5.1	262
Nicaragua . . . . .	130	2.0	3.7	15	198	175	50 <sup>b</sup>	25.2 <sup>b</sup>	832	6.8	416
<i>Total CACM</i>	<i>423</i>	<i>15.0</i>	<i>3.5</i>	<i>34</i>	<i>1 234</i>	<i>1 103</i>	<i>299<sup>b</sup></i>	<i>24.2<sup>b</sup></i>	<i>5 286</i>	<i>5.9</i>	<i>353</i>

Regional grouping statistics (continued)

Country	Trade										
	Population				Exports to members of grouping <sup>a</sup>				Gross national product		
	Area (millions of km <sup>2</sup> )	Total (millions of in-habitants) 1970	Annual growth rate (%) 1963-1970	Density per km <sup>2</sup> 1970	Total imports c.i.f. (\$ million) 1970	Total exports f.o.b. (\$ million) 1970	Exports to members of grouping <sup>a</sup>		Total (\$ million) 1970	Annual growth rate (%) 1960-1970	Per capita (\$) 1970
							f.o.b. (\$ million) 1970	As percentage of total exports			
D. ANDEAN GROUP											
Bolivia . . . . .	1 098	4.9	2.6	4	165	227	2*	0.9*	916	5.6	187
Chile . . . . .	757	8.9	2.4	12	931	1 247	17*	1.4*	7 385	4.4	830
Colombia . . . . .	1 139	21.1	3.2	18	844	724	56*	7.7*	6 606	5.2	313
Ecuador . . . . .	284	6.1	3.4	21	247	218	25	11.5	1 602	5.1	263
Peru . . . . .	1 285	13.6	3.1	11	619	1 044	21	2.0	5 917	5.1	435
Venezuela . . . . .	912	10.4	3.6	11	1 739	2 637	64	2.4	9 580	4.7	921
<i>Total ANDEAN GROUP</i>	<i>5 475</i>	<i>65.0</i>	<i>3.0</i>	<i>12</i>	<i>5 545</i>	<i>6 097</i>	<i>185*</i>	<i>3.0*</i>	<i>32 006</i>	<i>4.8</i>	<i>492</i>

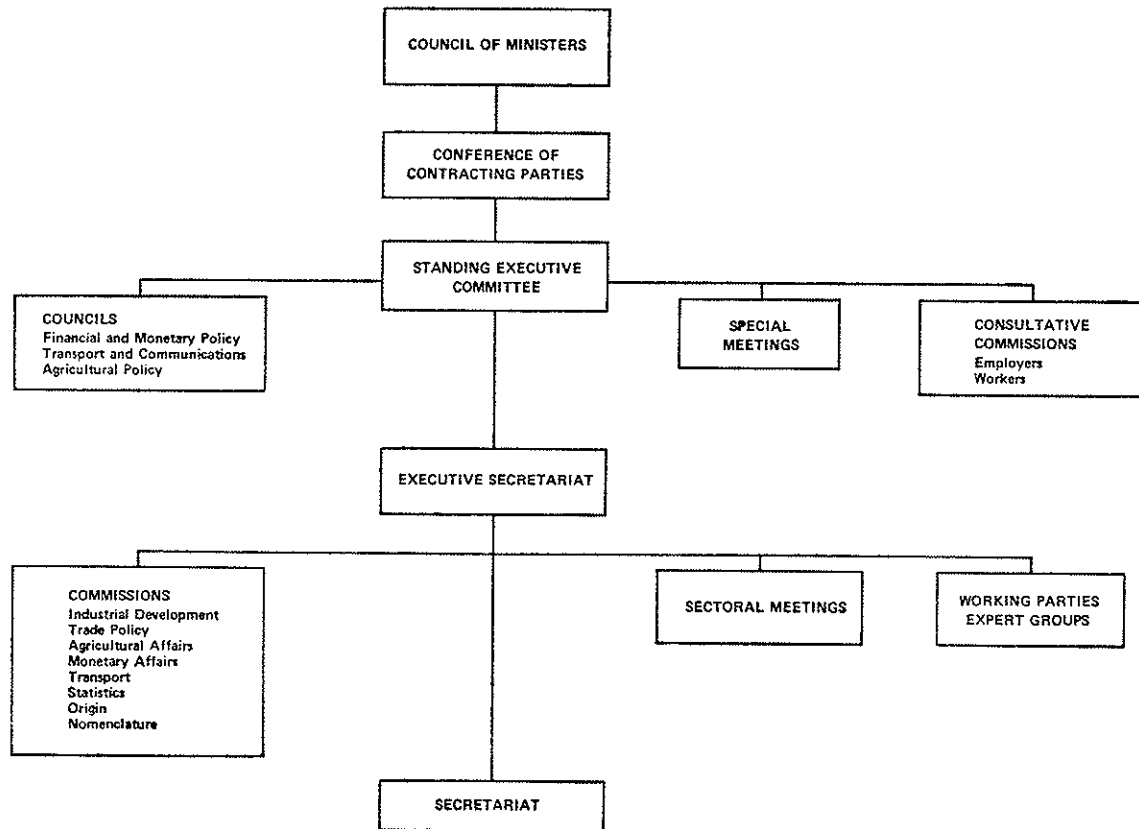
Sources: United Nations, *Statistical Yearbook, 1971*, and *Monthly Bulletin of Statistics*, September 1972; IBRD-IMF, *Direction of Trade, Annual 1966-1970*; EAC, East African Statistical Department, *Economic and Statistical Review* (Nairobi, December 1971); INTAL, *La integración Económica de América Latina* (Buenos Aires, 1971); UDEAC, *Bulletin d'Information*, Nos. 8E and 9, 1972; AID, Office of Statistics and Reports, *Estimates of Gross National Product* (Washington, D.C., 1 April 1972).

\* Estimate.

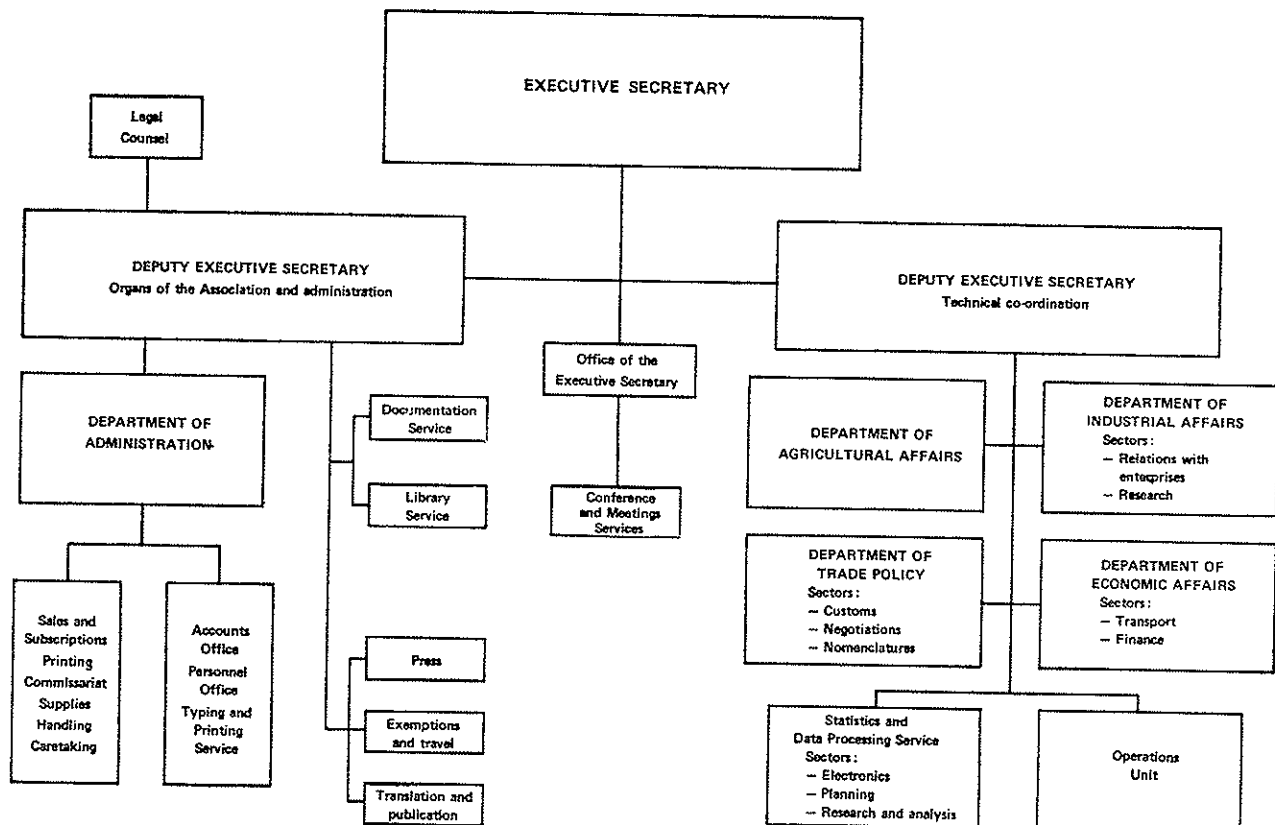
<sup>a</sup> The statistics of intraregional trade are far less accurate than the total trade statistics, since account must be taken of unrecorded frontier-zone trade, contraband and unsatisfactory evaluation methods. The intraregional trade figures are therefore only indicative and too much importance should not be attached to the annual variations.

<sup>b</sup> Intraregional imports.

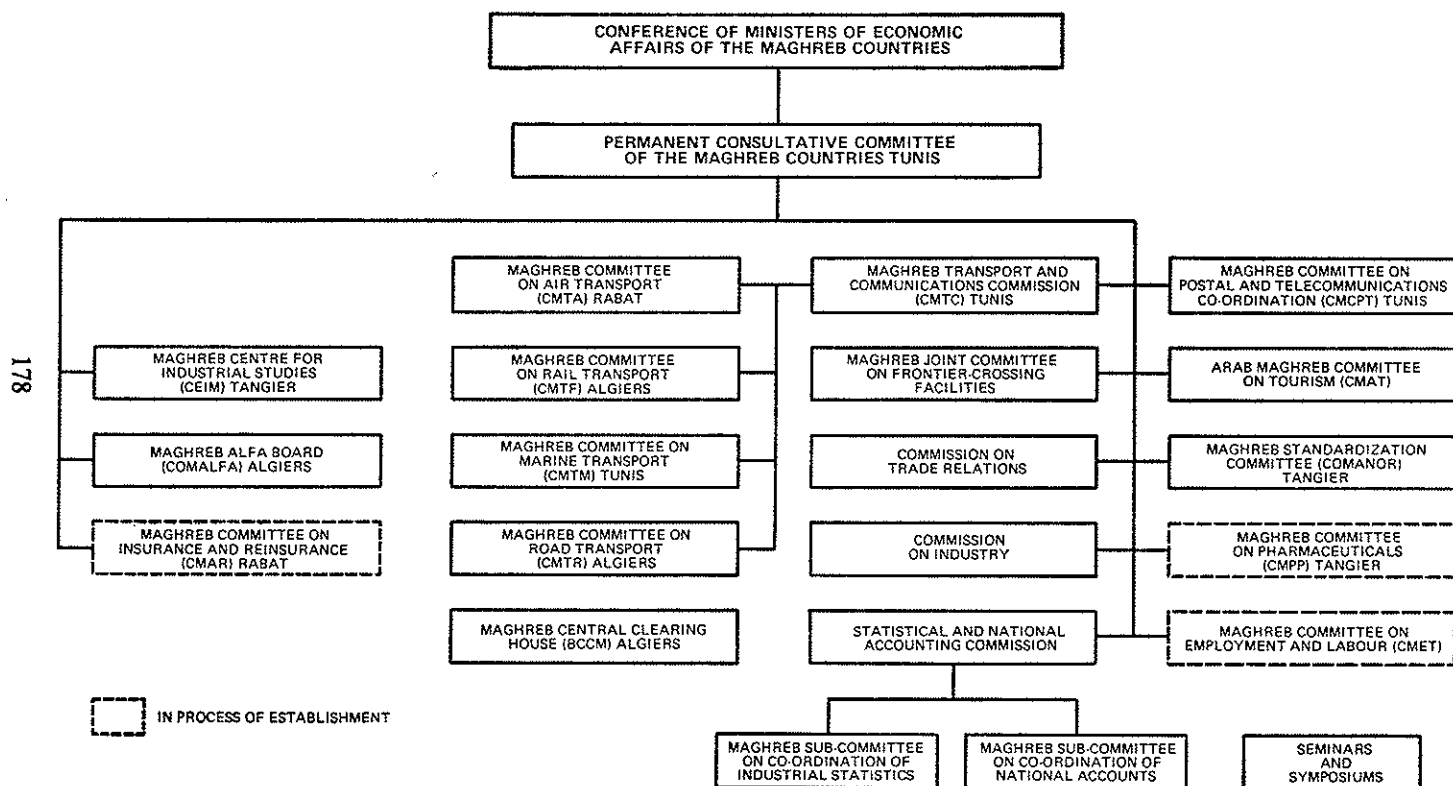
1. Latin American Free Trade Association  
General organization chart



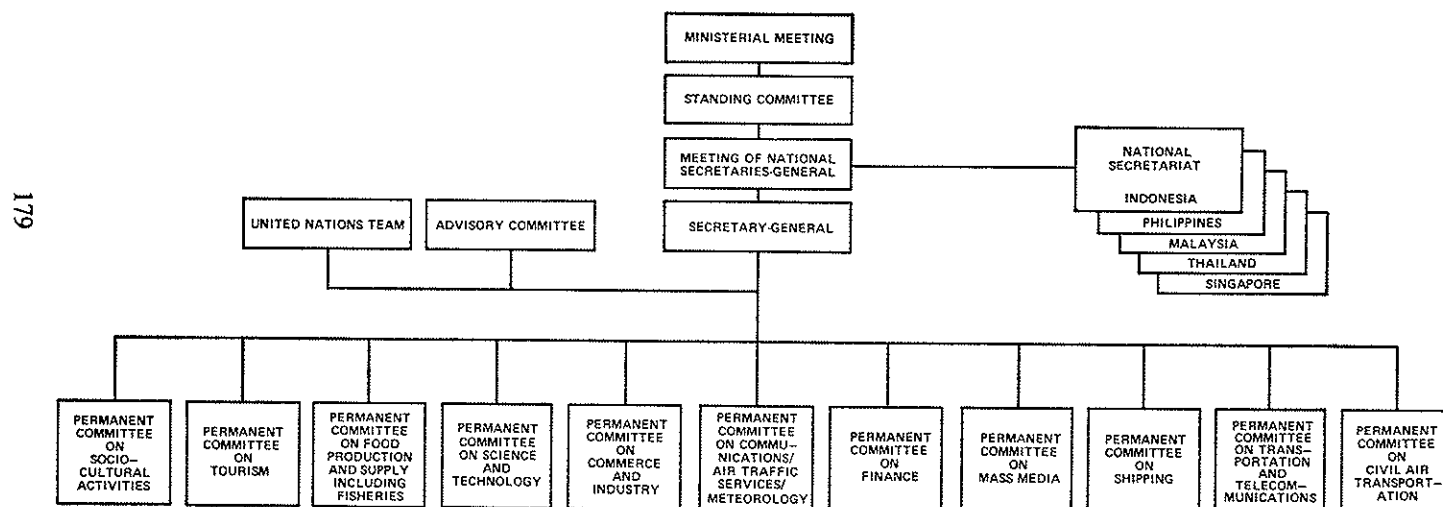
2. Latin American Free Trade Association  
Secretariat organization chart



### 3. Maghreb Group

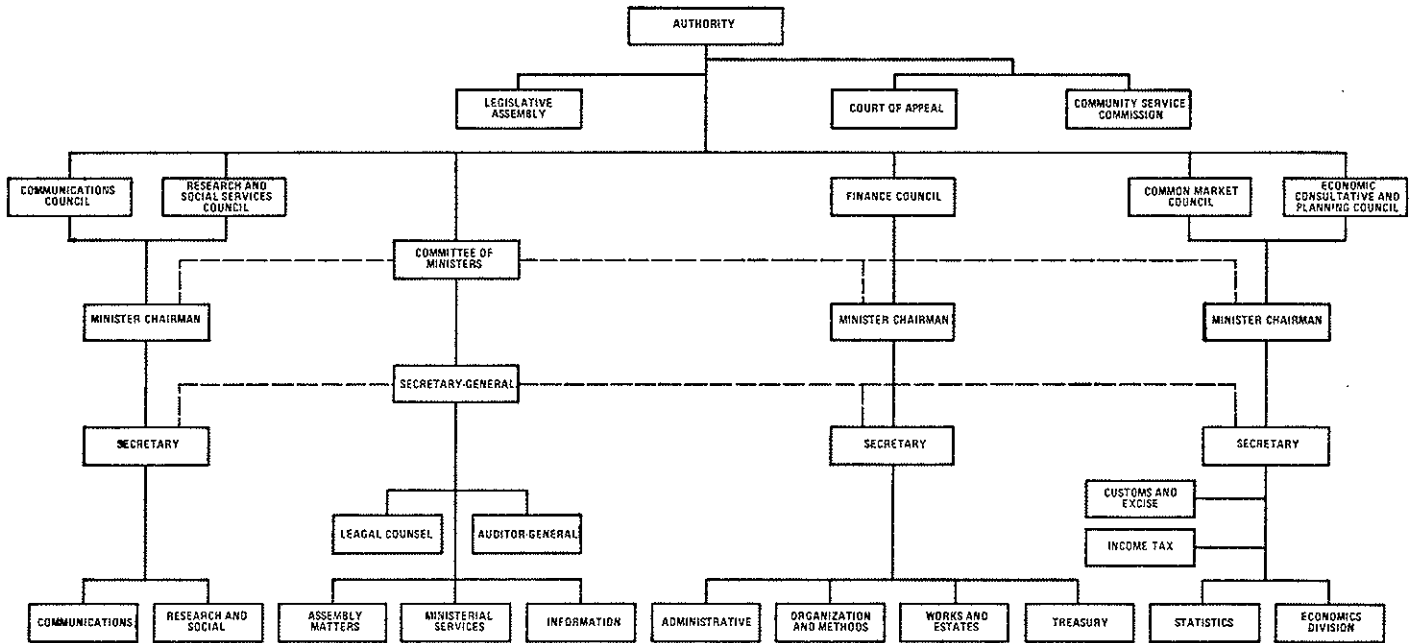


### 4. Association of South-East Asian Nations Institutions

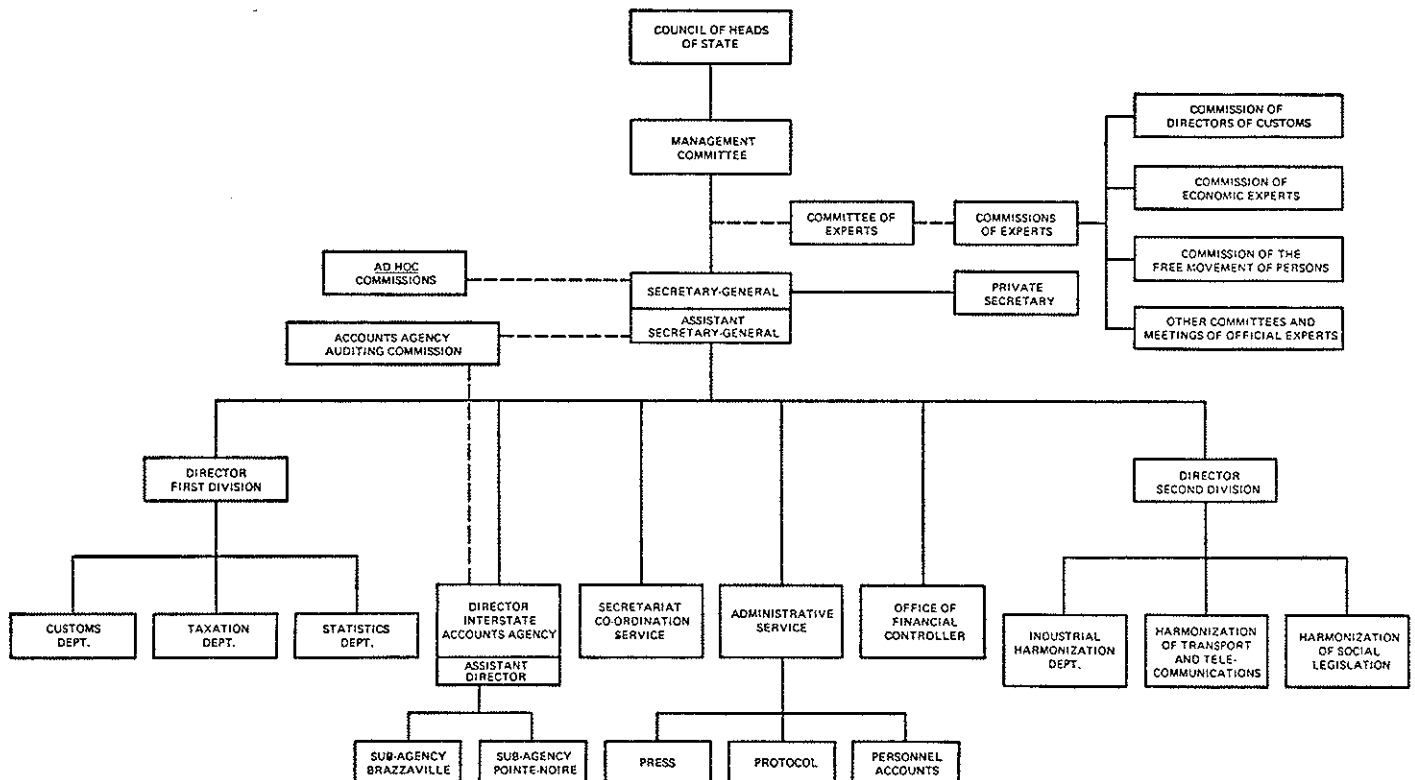




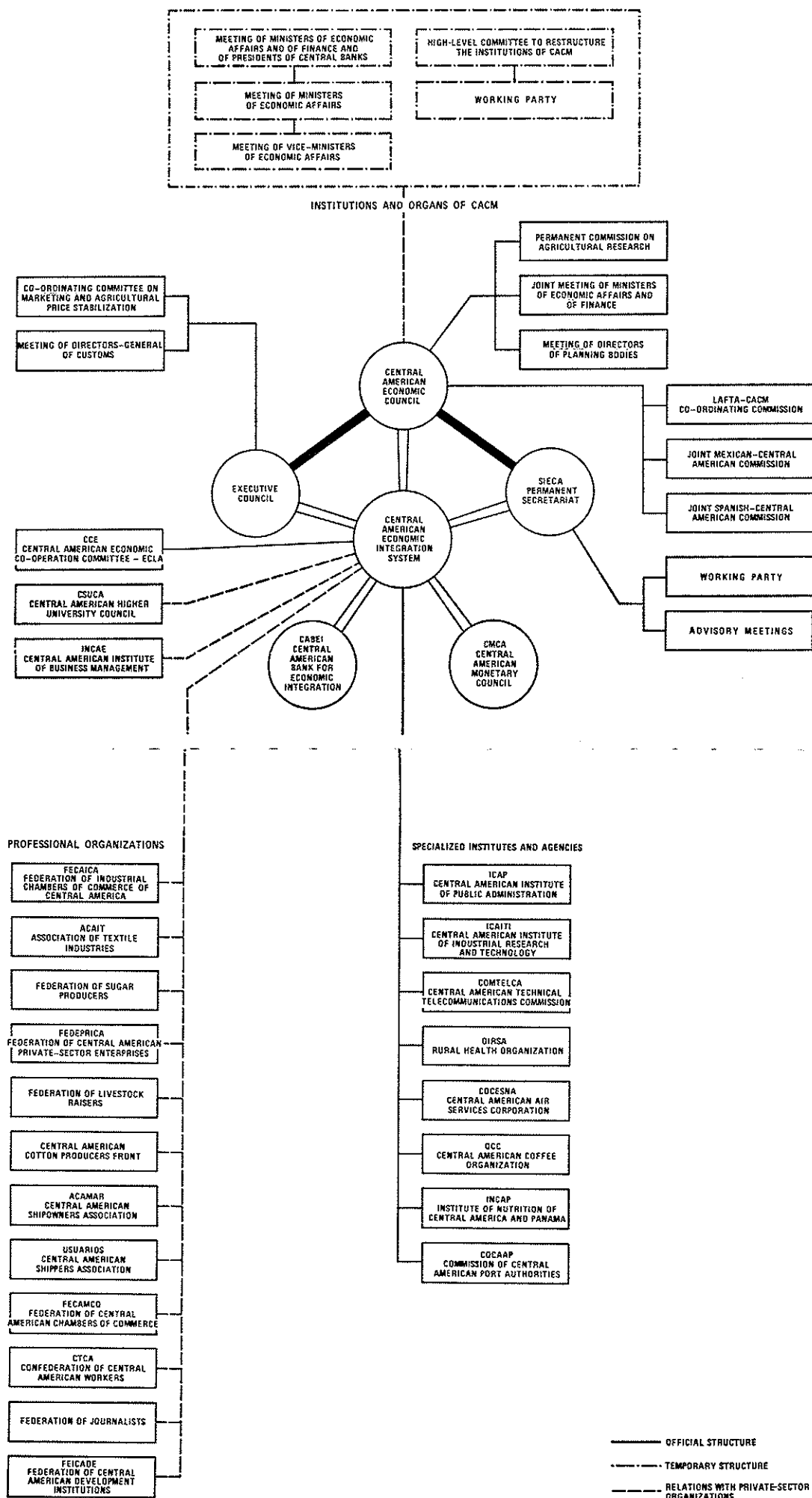
## 5. East African Community



## 6. Central African Customs and Economic Union

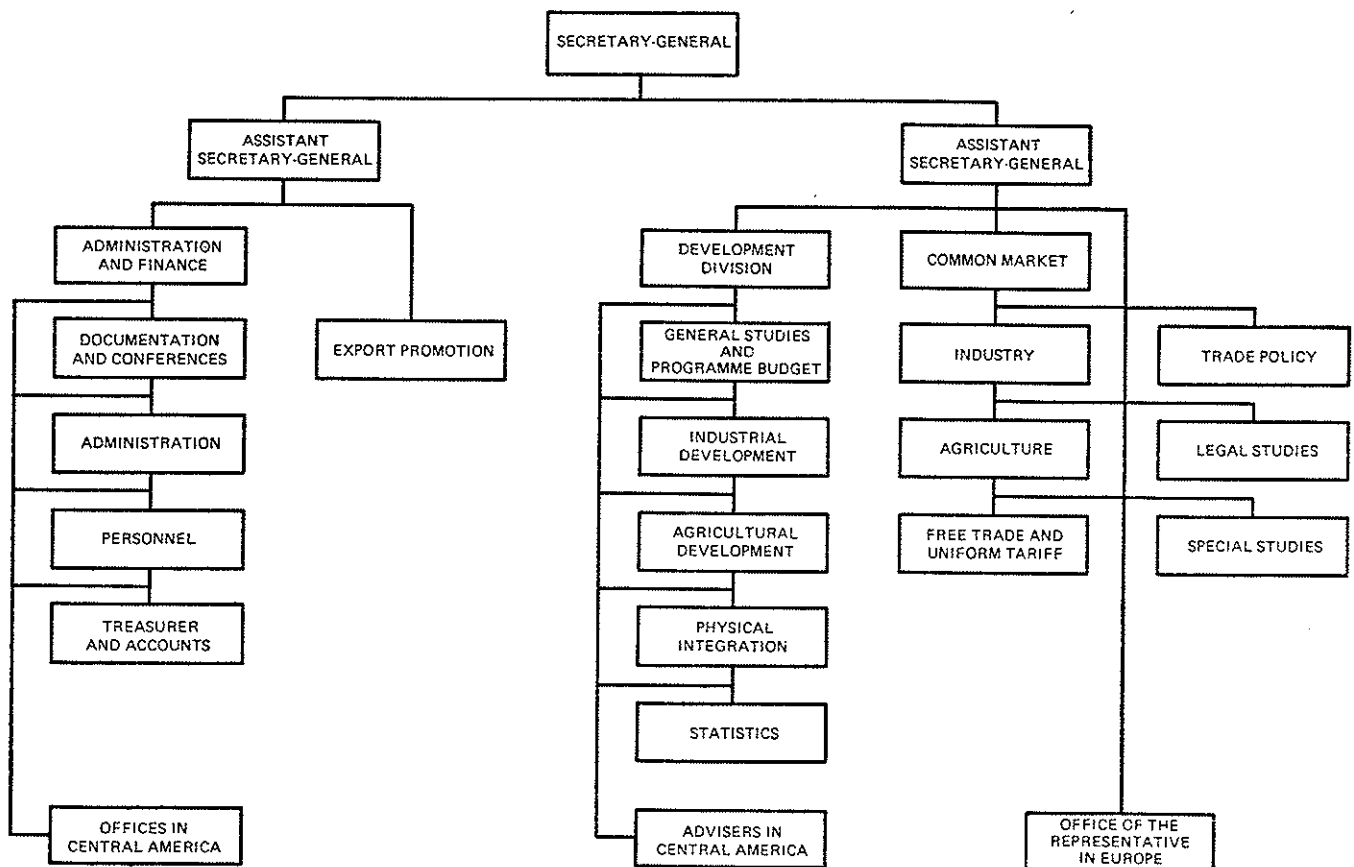


**7. Central American Common Market**  
**General organizational chart**  
*(Temporary institutions and organs)*



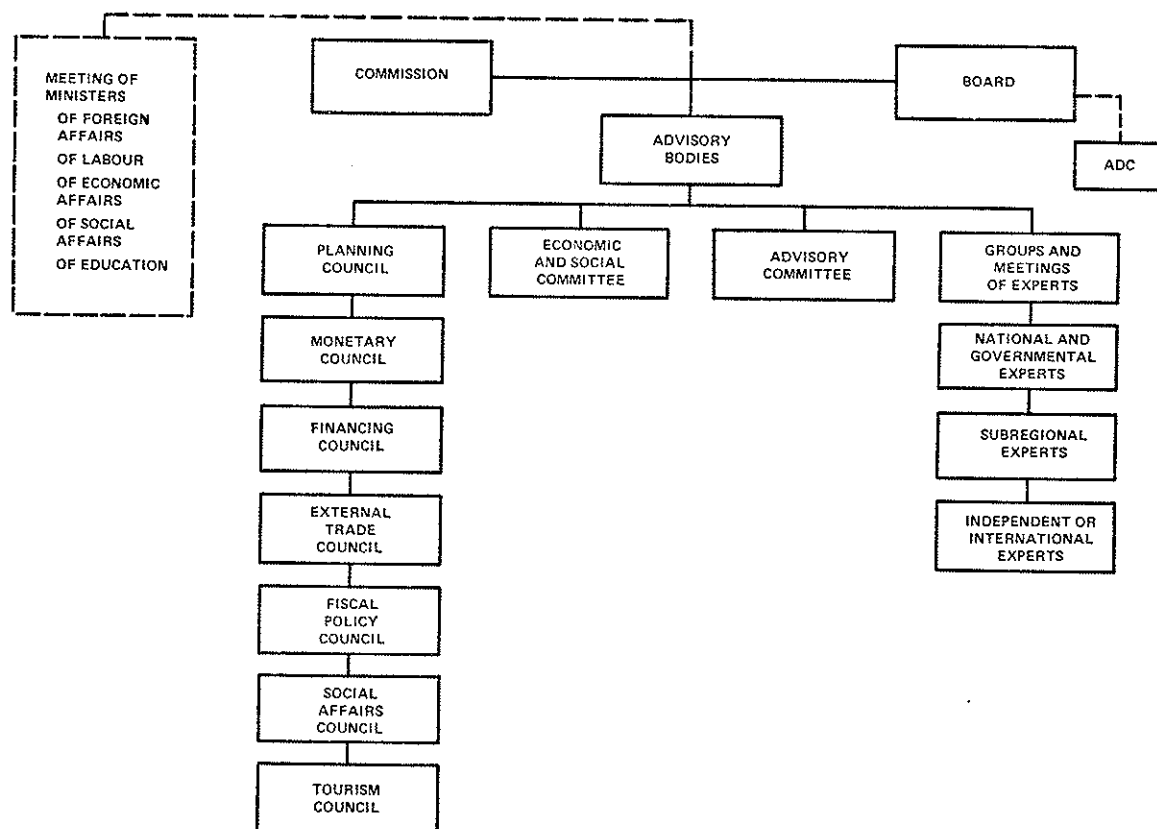
# 8. Permanent Secretariat of the General Treaty on Central American Economic Integration

184

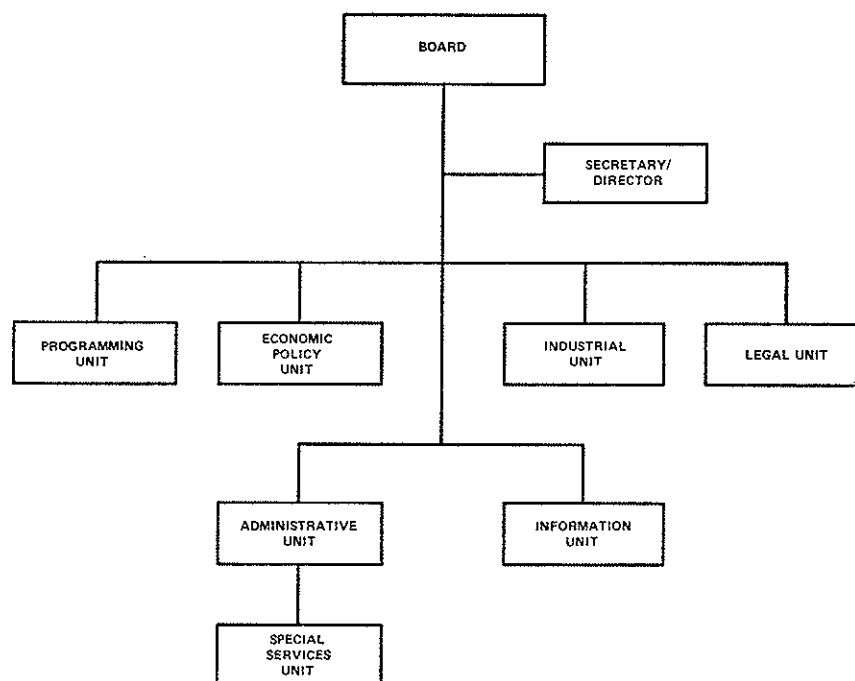


## 9. Andean Group General organizational chart

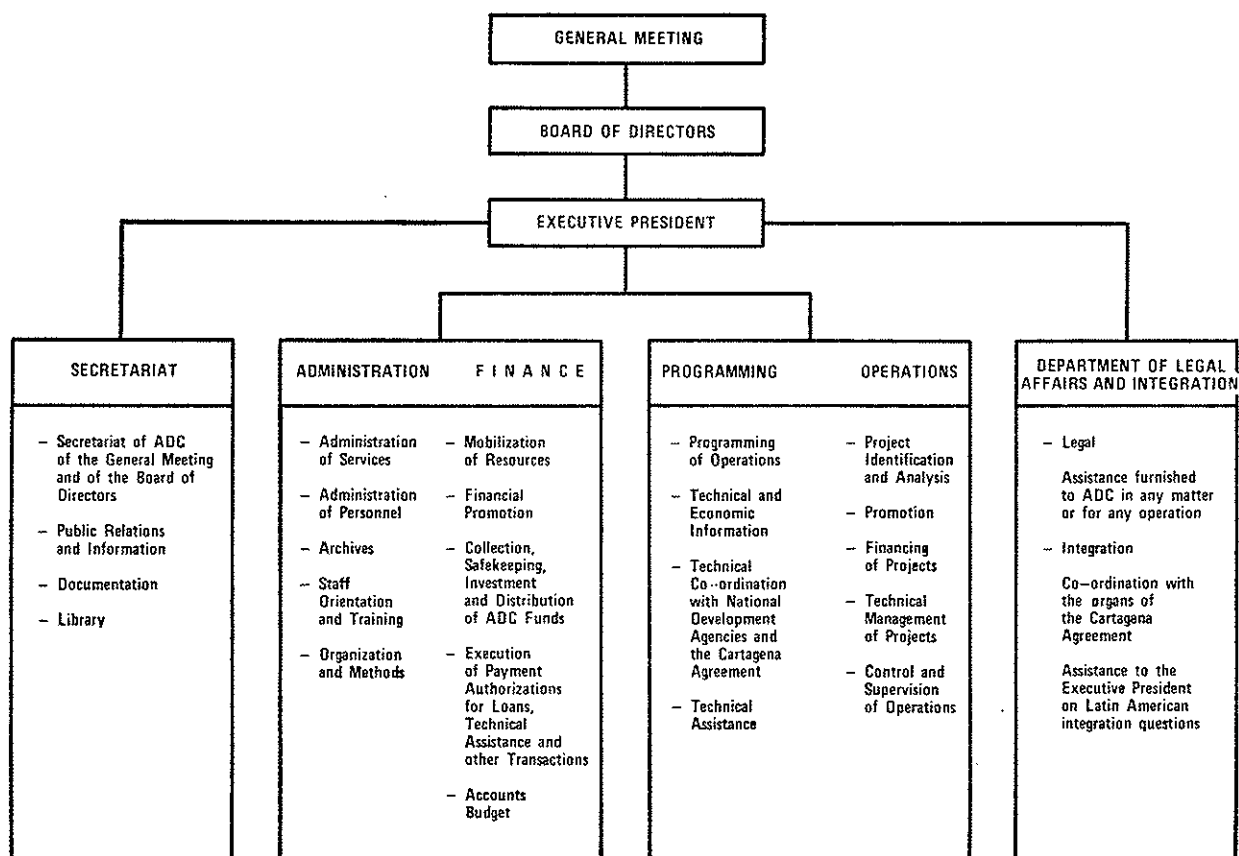
185



10. Andean Group  
Organizational chart of the Board



11. Andean Development Corporation



---

### كيفية الحصول على منشورات الأمم المتحدة

يمكن الحصول على منشورات الأمم المتحدة من المكتبات ودور التوزيع في جميع أنحاء العالم. استعلم عنها من المكتبة التي تتعامل معها أو اكتب إلى : الأمم المتحدة ، قسم البيع في نيويورك أو في جنيف .

#### 如何购取联合国出版物

联合国出版物在全世界各地的书店和经售处均有发售。请向书店询问或写信到纽约或日内瓦的联合国销售组。

#### HOW TO OBTAIN UNITED NATIONS PUBLICATIONS

United Nations publications may be obtained from bookstores and distributors throughout the world. Consult your bookstore or write to: United Nations, Sales Section, New York or Geneva.

#### COMMENT SE PROCURER LES PUBLICATIONS DES NATIONS UNIES

Les publications des Nations Unies sont en vente dans les librairies et les agences dépositaires du monde entier. Informez-vous auprès de votre libraire ou adressez-vous à : Nations Unies, Section des ventes, New York ou Genève.

#### КАК ПОЛУЧИТЬ ИЗДАНИЯ ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ

Издания Организации Объединенных Наций можно купить в книжных магазинах и агентствах во всех районах мира. Наводите справки об изданиях в вашем книжном магазине или пишите по адресу: Организация Объединенных Наций, Секция по продаже изданий, Нью-Йорк или Женева.

#### COMO CONSEGUIR PUBLICACIONES DE LAS NACIONES UNIDAS

Las publicaciones de las Naciones Unidas están en venta en librerías y casas distribuidoras en todas partes del mundo. Consulte a su librero o diríjase a: Naciones Unidas, Sección de Ventas, Nueva York o Ginebra.

---