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ECONOMIC INTEGRATION, DEVELOPMENT PLANNING AND SOVEREIGNTY; A LATIN AMERICAN VIEW

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Three concepts are always present when discussing problems of Latin American development: economic integration, development planning and national sovereignty. Despite its ambiguity the concept of sovereignty is still employed by politicians all over the world. Further, considerations based on national sovereignty have prevented the Latin American countries from reaching higher levels of integration or from having established a system of joint planning.

Discussion will first focus on Latin American integration as a part of the world's integration processes, giving the main political characteristics of economic integration on this continent. Next, problems of sovereignty and integration will be examined. Later the concepts of economic development planning and joint planning will be analyzed, especially as they relate to economic integration, national sovereignty and the Latin American experience.

Economic integration systems and development planning became an important international phenomenon only after the Second World War. In Latin America, however, integration systems and development planning have been practical realities only since the 1960's. The Multilateral Treaty of Free Trade and Central American Economic Integration (1958), the Treaty of Economic Association between Honduras, Guatemala and El Salvador (1960), the Montevideo Treaty (1960), and the General Treaty of Central American Economic Integration (1960) shaped the process which created Latin American economic integration.

The Latin American integration process has to be understood as a part of the efforts of Third World countries to reform the international

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economic system in order to effect a better distribution of the wealth. The members of an integration system pursue their own harmonious interdependence as opposed to off-balanced dependence which occurs under normal conditions. Similarly through their integration systems, the Latin American countries have sought a self-generating and self-perpetuating development which would allow them to be free of foreign dependence.

The integration systems among the developing countries are part of a larger political and economic ideology which is also manifested in measures such as nationalization of natural resources, regulation of foreign capital, technology, royalties, patents and transnational corporations. In addition, trade barriers protecting national goods are established, State support is given to national industrialization, development banks of national or regional character are created, and economic development planning is implemented. Economic integration systems, such as the Andean Pact, or Cartagena Agreement,¹ were designed to incorporate and regulate these kinds of economic mechanisms harmoniously, cognizant of their social implications.

Economic integration has been a solution to the old Latin American problem of disunity. Since the days of Simón Bolívar, at the beginning of the past century, the countries of this continent have aspired to a goal of unity.² The dream for a Latin American unity first emerged in a Hispano-Americanist ideal of unity at a political level among the Hispano-American countries. The failure of this effort gave rise to the idea of Pan-Americanism, whose aim was to achieve commercial and political coordination as well as economic cooperation among all the countries of the hemisphere, including North America. Pan-Americanism has been promoted by the Organization of American States and the Alliance for Progress. The Hispano-Americanist movement, on the other hand, has been promoted by sub-regional economic integration systems, such as the Andean Pact, the Central American Common Market, and the Latin American Free Trade

¹See I Inter-American Institute of International Legal Studies: Instruments of Economic Integration in Latin America and the Caribbean, 175-218 (1975) [hereinafter referred to as Economic Integration]. For a Spanish text see, *Compilación de Documentos Relacionados con el Acuerdo de Cartagena*, 67-94 (1975) [hereinafter referred to as *Compilación*].

²For a detailed analysis of the Latin American integration process as well as for further development of the ideas of "Pan-Americanism," see Vargas — Hidalgo, *The Process of Integration in Latin America*, 57 *Revista de Derecho Puertorriqueño* (1976). For a Spanish-English version of this article, see 15 *Comparative Juridical Review* (1977).

Association (LAFTA).³ This Sub-regionalism has had a tendency to accomplish at least some degree of economic coordination among countries in similar economic situations and, therefore, can be seen as a blend of the contradictions between Hispano-Americanism and Pan-Americanism. However, this synthesis should be considered as only transitory, since the ultimate goal is to establish a Latin American common market through the convergence of the Andean Pact, the Central American Common Market and the Latin American Free Trade Association.

This goal is farther away than was thought during the 1960's. For example, the Declaration of the Presidents of America (1967) resolved "to create progressively, beginning in 1970, the Latin American Common Market, which shall be substantially in operation in a period of no more than fifteen years."⁴ The time period, however, appears to be inaccurate since the processes of the Andean Pact, the Central American Common Market and the Latin American Free Trade Association have stagnated.

The Latin American economic integration movement, which has been attempted through systems of free trade associations, customs unions and common markets as well as sectorial and frontier integrations, has arisen principally by the initiative of the Latin American republics themselves. Nevertheless, especially at its very beginning, foreign influence has also played an important role. For instance, the example set by the European Economic Community had great impact in Latin America. In addition, the United States has prompted, through past positive action and by the way of a negative response of the Latin American countries to the United States foreign policy, economic integration. Latin America understood that economic integration was a necessary tool in order to establish its political and economic independence from the United States. In spite of foreign influences, the Latin American economic integration systems are *sui generis*. These systems are schemes intended to resolve specific problems of the Latin American economies. This is especially true with respect to the Andean Pact whose unique goals and mechanisms make it a remarkable case of integration effort.

³This study does not include the Caribbean integration process. Although the Caribbean region and Latin America are geographically near, they represent different cultural systems.

⁴Parts I and II, chapter 1, section 1-a. The Spanish name of this Declaration is "Declaración de los Presidentes de América." See the text of this document in 56 Dept. of State Bulletin 712-721 (1976); 2 Economic Integration, *supra* note 1, at 817-837; Spanish Version, *supra* note 1, at 35-53.

Latin American economic integration has been a difficult process. Dozens of declarations and agreements were the necessary road towards this objective.⁵ This difficulty is understandable considering the Latin American countries' sensitivity toward problems of national sovereignty. However, there is no justification for the unnecessary duplication of activities of organs such as S.E.L.A. (Latin American Economics System, created in 1975) and C.E.C.L.A. (Special Commission of Latin American Coordination, created in 1964).

Latin American economic integration can be defined as a joint enterprise of the Latin American countries which limits the individual national's sovereignty, and, based on common origin and historical perspectives, tries to achieve the economic and social development of the entire region and of each of its member countries. This concept requires some explanations.

The element of joint enterprise in economic integration implies the creation of a common framework of rules and institutions. This common framework limits the action of the States while, at the same time, it creates conditions for harmonious interaction. In this way, the State agrees to accept limitations on its sovereignty and freedom of action.⁶ Therefore, integration involves some degree of renunciation of the State's independence or autonomy, which is in keeping with jurisprudential usage.⁷ Let us call this "sovereignty."⁸ Thus, the integration process supposes some degree of limitation of sovereignty.⁹

In connection with the limitation of national sovereignty, it is necessary to distinguish three stages in the historical and juridical process of creating political-economic blocs among States. These stages are coopera-

⁵For a selected collection of these documents, see 1 & 2 Economic Integration, *supra* note 1.

⁶B. Moore, *Algunas Implicaciones del Experimento de Integración Europea*, in Romeo Almeida, Aldo Ferrer, et al., *Factores para la Integración Latinoamericana* at 77 (1966) (hereinafter referred to as *Factores*).

⁷C. Rousseau, *Derecho Internacional Público* 96-97 (3rd ed. 1966).

⁸See e.g. M. Akehuist, *Introducción al Derecho Internacional* 33-34 (1972).

⁹For a contrary position, see Allan-Randolph Brewer-Carias, *Los Problemas Constitucionales de la Integración Económica Latinoamericana* 52-58 (1968). The basis for his position is that sovereignty is a concept which regards the relations between States and not the relations between the State and the international entity of which it is a member. Brewer-Carias fails to notice, following his line of argumentation, that to form the international entity the State enters into relations with other States.

tion, integration and unification.¹⁰ Cooperation is characterized by a pact (which can be multilateral or bilateral) through which the parties agree to jointly carry out some purposes of common interest, while each party maintains its full sovereignty and freedom. This has been the Latin American situation especially during the Pan-Americanist period. Integration is the situation in which the States give up some of their sovereign prerogatives in order to establish a free trade area, a customs union, a common market, an economic union or complete economic integration. The degree of renouncement of sovereignty will vary in accordance with the object pursued. Unification is the fusion of States which maintain only some sovereign attributes, mainly of local character, and which adopt the same policy in all important matters.

The limitation of sovereignty in an integration process has the paradoxical effect of allowing member countries to increase their independence, because each State increases its bargaining power and decreases its external dependence by achieving the political, economic and cultural progress of its people. For this reason, in some countries there is consciousness of the existence of a "common sovereignty" with the other members of the integration process. This is the case with the Central American countries, with the exception of Costa Rica.¹¹ For instance, the Constitution of Honduras states that Honduras is a dis-integrated State of the Federal Republic of Central America. Therefore, it considers a return to a union with one or more States of the Old Federation to be an absolute necessity. In this respect, the Legislative Power is authorized to ratify treaties that partially or totally try to fulfill this purpose, provided that it is done in a just and democratic way.¹² The Constitution of El Salvador provides that since El Salvador is a part of the Central American Nation, it is obliged to support the total and partial reconstruction of the Central American Republic.¹³ Similar provisions are found in the Constitutions of Nicaragua¹⁴ and Guatemala.¹⁵ On the other hand, one attribute of sovereignty is that it allows its own limitations.¹⁶

¹⁰See *Factores*, *supra* note 6, at 46.

¹¹I. Saldarriaga, *Anotaciones sobre Algunos Problemas Jurídicos de la Integración Latinoamericana* 60 (1971).

¹²Const. Honduras, art. 9 (author's translation).

¹³Const. El Salvador, art. 10 (author's translation).

¹⁴Const. Nicaragua, art. 6.

¹⁵Const. Guatemala, art. 3.

¹⁶See, Nationality Decrees issued in Tunis and Morocco (French Zone) on November 8, 1921; Advisory Opinion, [1923] P.C.I.J., Ser. B. No. 4.

Apparently because of that paradoxical effect (increase of independence) and this juridical attribute (possibility to limit sovereignty) some authors,¹⁷ politicians,¹⁸ and jurists do not see any limitation of sovereignty in participation in an integration system. For instance, the conclusion of the "Roundtable on the Integration of Latin America and the Question of Constitutionality" (Universidad Nacional de Colombia, February 6-8, 1967),¹⁹ stated in reference to this matter that

[t]he attribution of competence of this kind to such organizations under conditions of equality and reciprocity, far from impairing or affecting in any way the national sovereignty proclaimed by all Latin American constitutions, is in itself a typically sovereign act, inherent in the joint exercise of sovereignty by various states for the common welfare of their peoples.²⁰

It is interesting to note that while one interpretation of the idea of sovereignty gave rise in the nineteenth century to the Latin American independence movement,²¹ another interpretation gives strength to the twentieth century Latin American economic integration movement. The first interpretation supported the political independence of the Latin American people; the second acted as a foundation for economic independence.

However, these considerations about sovereignty should not make us think that integration is a process in which only States can participate. In fact, it is possible for two or more integration systems to integrate themselves. This is the case with the Andean Pact, the Central American Common Market and L.A.F.T.A., which would eventually form the Latin American Common Market.

¹⁷See, e.g. B. Nun, *Integración Subregional Andina; Estudio sobre el Acuerdo de Cartagena* 20 (2d ed. 1971).

¹⁸See, e.g., the declarations of the President of Paraguay, Alfredo Stroessner, in the Sixth Meeting of the Assembly of Governors of the Inter-American Development Bank (April 26, 1965) cited in R. Pastor, *Cuenca del Plat; Aspectos Jurídicos e Institucionales de un Desarrollo Multinacional* 13 (Ediciones Depalmas (1969).

¹⁹For the text, see *Roundtable on the Integration of Latin America and the Question of Constitutionality*, Inter-American Legal Studies (1968) (hereinafter *Roundtable*). Spanish version in *Mesa Redonda sobre la Integración de América Latina y la Cuestión Constitucional* (1967) (hereinafter *Mesa*).

²⁰*Roundtable*, *supra* note 19, at 27-28; *Mesa*, *supra* note 19, at 25-26.

²¹For a study of the interpretation of sovereignty as a cause of American independence, see J. Eyzaguirre, *Ideario y Ruta de la Emancipación Americana* (Editorial Universitaria 1967).

LIMITS ON SOVEREIGNTY

"[A] supranational system involves limitations on the exercise of sovereign attributes or rights of the State which do not require its consent. This is precisely the essential element and characteristic of supranationality."²² It is also possible that an integration system does not have supranationality. In other words, the State limitation of sovereignty does not necessarily imply that a supranational body has been formed. In this respect, the degree of supranationality possessed by the Andean Pact has been discussed in article 11 which provides that "[t]he Commission shall adopt its decisions with the affirmative vote of two thirds of the member countries."²³

Equality among States is the basis for their independence, and is one of the fundamental principles of international law, especially as stated in the United Nations Charter.²⁴ Integration limits the sovereignty of the members, but does not necessarily abolish it. In order to avoid the latter, it is necessary to maintain some relationship of equality among the parties. This need for equality has been established in some Latin American Constitutions which deal with the problem of integration and also in the Cartagena Agreement. Within the integration process, equality requires consideration of the different levels of development of its members. Therefore, if the differences in time periods, procedures or obligations among the parties are inspired by this concept, we still are facing a system with uniform means. The Andean Pact, for instance, established an exhaustive set of rules dealing with the conditions in Bolivia and Ecuador, which are the relatively less developed countries within the Andean group.

The recent Cartagena Agreement's crisis (1974-76) which culminated with Chile's withdrawal from the system in October 1976 shows how relevant the problem of national sovereignty is in understanding the functioning of an economic integration system. In fact, all the major causes of this crisis are related to the issue of sovereignty. Thus, the idea of national sovereignty was present in the increasing politicization of the system. Politicization is the process through which conflicting perceptions

²²Roundtable, *supra* note 19, at 37.

²³The same provision establishes some exceptions to this rule.

²⁴The United Nations establishes this principle in article 2, paragraph 1 of its Charter, and it is confirmed, in one instance, in this article 18, paragraph 1.

of the common interest within the integration system become more prominent. Member countries began to pay more attention to their particular economic interests, than to those of the Andean region as a whole; the parties thought that their national sovereignty allowed them to take this position. This attitude was most clearly shown by Chile, but it also affected, to a greater or lesser degree, the other members as well. Also, some members, especially Bolivia, thought that equality among States was violated since the distribution of benefits deriving from the integration system was not uniform. Further, the member countries used the idea of national sovereignty as a shield in order to avoid the internal implementation of the Cartagena Agreement's Decisions or the establishment of an Andean Court.

LEVELS OF ECONOMIC INTEGRATION

Criteria have been proposed to distinguish among different levels of integration. Particularly relevant is Balassa's distinction due to the importance it has had in Latin America.²⁵ Balassa states that economic integration

can take several forms that represent varying degrees of integration. These are a free-trade area, a customs union, a common market, an economic union, and complete economic integration. In a free-trade area, tariffs (and quantitative restrictions) between the participating countries are abolished, but each country retains its own tariffs against non-members. Establishing a customs union involves, besides the suppression of discrimination in the field of commodity movements within the union, the equalization of tariffs in trade with non-member countries. A higher form of economic integration is attained in a common market, where not only trade restrictions but also restrictions on factor movements are abolished. An economic union, as distinct from a common market, combines the suppression of restrictions on commodity and factor movements with some degree of harmonization of national economic policies, in order to remove discrimination that was due to disparities in these policies. Finally, total economic integration presupposes the unification of monetary,

²⁵See, e.g., *Instituto Interamericano de Estudios Jurídicos Internacionales, Problemática Jurídica e Institucional de la Integración de América Latina*; *Ensayo de Sistematización*, 8-17 (Provisional ed. 1967); *Factores*, *supra* note 6, at 47-49.

...fiscal, social, and countercyclical policies and requires the setting-up of a supra-national authority whose decisions are binding for the member States.²⁶

In the Central American Common Market the concepts of free-trade area, common market, and customs union have a somewhat different meaning.²⁷ Frontier integration, customs preferences,²⁸ economic community, and economic fusion²⁹ have also been distinguished. The goals of integration can also be economic, social, cultural, legal, military and political. Finally, distinctions can be made between vertical, sectorial or partial, and horizontal integration.³⁰

Balassa's distinctions among free-trade areas, customs unions, common markets, economic fusion and total economic integration have been criticized. For instance, Salgado³¹ contends that this distinction belongs to a free market or liberalist ideology corresponding to the early European view.³² Moreover, these formulae would apply towards economies such as those of Europe, but not to the less developed countries, which require at least some degree of coordination of policies in order to attain their development.

²⁶B. Balassa, *The Theory of Economic Integration* at 2 (1961). "Social integration can also be mentioned as a further precondition of total economic integration. Nevertheless, social integration has not been included in our definition, since—although it increases the effectiveness of economic integration—it is not necessary for the lower forms of integration. The removal of trade barriers in a free-trade area, for example, is an act of economic integration even in the absence of developments in the social field." *Id.* at 2n.3.

GATT defines the free-trade area and customs union in article XXIV, section 8, paragraphs a and b.

²⁷See, e.g., *General Treaty of Central American Integration*, Art. 1 and 2. For text, see 2 *Economic Integration*, *supra* note 1, at 385-97. See *Instituto Latinoamericano de Estudios Jurídicos Internacionales*, *Instrumentos Relativos a la Integración Económica en América Latina* 1-13 (1964) for a Spanish text.

²⁸*Supra* note 22, at 8-10. With respect to the need of frontier integration, it can be considered that national boundaries frequently introduce an artificial barrier in an economic region whose development is impeded by the absence of a global treatment of its problems and its possibilities. Factores, *supra* note 6, at 35. (Author's translation).

²⁹*Supra* note 25 at 8, 15-16.

³⁰*Id.* at 8-20.

³¹G. Salgado, *Ecuador y la Integración Económica de América Latina*, at 12, 16-18 (1970).

³²For differences between European and Latin American integration systems, see, e.g., Moore, *Algunas Implicaciones del Experimento de Integración Europea*, Factores, *supra* note 6, at 73.

Referring to the case of Latin America, Salgado proposes these basic mechanisms in an integration system: (a) A program of liberalization of trade of goods and the establishment of a common external tariff; (b) harmonization of policies and common planning; and (c) common action. These three mechanisms should take into consideration the conditions of the less developed countries. He considers the abolition of restrictions on factor movements to be nonessential at the current stage of economic development of the continent. Therefore, he proposes a controlled orientation of integration. That is, more intensive participation of the States — and of the common framework — in the integration process, and less reliance on market methods. There are other authors who share similar ideas.³³

This kind of criticism was anticipated and accepted in some degree by Balassa. He states that

It has been widely accepted that a higher degree of government intervention is likely to be necessary in Latin American integration projects. This reflects the proposition that present-day underdeveloped countries need more state interference in economic affairs than do advanced economies, since in the former, market incentives are often not conducive to development. Nevertheless, the role of private enterprise is emphasized in most discussions of Latin American integration, and the sphere of government decision making may well diminish as development proceeds.³⁴

A few years later, Balassa strongly supported the need for planning in less developed countries.³⁵ He proposed to adopt a system similar to the French Planning Commissariat, to have some kind of governmental intervention in monopolistic industries in some cases, and to coordinate the activities of the organs of the State. Balassa alluded to development planning in an integration system of less developed countries when he stated:

If we accept the premise that development planning is beneficial to underdeveloped countries, we must also conclude that coordination of their plans through a customs union will be necessary in

³³*Id.*

³⁴Balassa, *supra* note 26, at 10. Referring to Europe, Balassa fervently adheres to the liberalist position, but even so he recognizes that "State intervention may be stepped up in some areas, such as regional development planning, and will also be required to deal with transitional problems."

³⁵Balassa, *El Desarrollo Económico y la Integración*, Mexico, Centro de Estudios Monetarios Latinoamericanos, 113-114 (1965).

order to avoid possible conflicts. This is to say that it would be necessary to create a supranational planning authority, and in any event that idea is not feasible unless there is pre-existing political unity. In my judgement, it would be more appropriate to compare national plans in order to avoid a duplication of investment decisions and thus clarify cost indicators and demand projections. The study of new activities and the development of long-term projections would help to achieve these objectives. For example, the possibilities of establishing paper and cellulose plants in Mexico, Brazil, and Chile would be profitably served by such study because longterm projections offer directions for the future expansion of national industries.³⁶

Summarily, an integration system in Latin America would require at least some degree of harmonization of national policies, and, in a more perfect scheme, coordination of national plans and joint planning.

Among the outstanding exponents of the liberalist ideal of integration are Maurice Allais,³⁷ M. A. Heilperin,³⁸ and Wilhelm Ropke.³⁹ Some of the most important supporters of a controlled position in an integration system are Maurice Bye,⁴⁰ Andre Philip,⁴¹ Pierre Mendes-France,⁴² P. Le Brun,⁴³ M. Pflimlin,⁴⁴ and also the "Club Jean Moulin."⁴⁵

Under close examination, the practice of Latin American integration shows that it has not adhered completely to the liberalist philosophy. For instance, LAFTA, which is supposed to be a free-trade association, estab-

³⁶*Id.* at 117 (Author's translation).

³⁷*Fondements Theoriques, Perspectives et Conditions de un Marché Commun Effective* in 1 *Revue d'Economie Politique* 56-123. (Special ed., Jan-Feb. 1958).

³⁸*Freer Trade and Social Welfare*, in 75 *Integrational Labour Review* 173-192 (Jan.-June 1957).

³⁹*Integration und Desintegration der Internationalen Wirtschaft*, in *Wirtschaftsfragen der Freien Welt* (Erhard-Festschrift 1957).

⁴⁰*Freer Trade and Social Welfare, Comments on Mr. Heilperin's Article*, 77 *International Labour Review* 38-47 (Jan.-June 1958).

⁴¹*Social Aspects of European Economic Cooperation*, in 76 *International Labour Review* 244-256 (July-Dec. 1957).

⁴²*La Republique Moderne* 133 (1962).

⁴³*Planification Democratique, Direction Moderne et Marché Commun*, (1962), cited in J. Hackett & A. Hackett, *Economic Planning in France* (2d imp. 1965).

⁴⁴*Enterprise* (July 14, 1962), cited in *Id.* at 331.

⁴⁵*La Planification Democratique*, in *Cahiers de la Republique*. (January-February 1962), cited in *Id.* at 332.

lished that contracting parties "shall endeavor to promote progressively closer coordination of the corresponding industrialization policies, and shall sponsor for this purpose agreements among representatives of the economic sectors concerned; and . . . may negotiate mutual agreements on complementary economies by industrial sector."⁴⁶ In addition, LAFTA's resolution 100 (IV)⁴⁷ constituted a program of coordination of economic policies. To achieve its ambitious objectives, the Andean Pact relied on market mechanisms, a program of joint planning, and special treatment for Bolivia and Ecuador, the less developed countries in the Andean region.

DEVELOPMENT PLANNING

Planning has existed in varied forms from the days of the early civilizations, as is shown with the case of the Inca's empire. But development planning is a new concept that has arisen only in the last few decades. The term "development planning" implies that the government has organized its decision-making processes so as to take account of all of the economic and social effects of each of its acts; the total program of action is a coherent one designed to achieve as rapid economic growth and social development as is consistent with other national goals.⁴⁸ Development planning involves the idea that progress can be directed at man's will and as such, it can be regarded as a recent elaboration upon the concept of progress which only originated in the nationalistic philosophy of the enlightenment; it is a modern idea that was not held either by the Greeks or Romans, nor by Medieval or Renaissance Europe.⁴⁹ Development planning appeared around the 1930's, when governments began to intervene in the economy after the crises and failures shown by the liberalist doctrine and the social pressures exercised by the peoples.⁵⁰ In

⁴⁶Montevideo Treaty Article 16. The Spanish name for this document is "Tratado de Montevideo." See 1 *Economic Integration* at 3-25. See Instituto Interamericano de Estudios Internacionales, *Instrumentos Relativos a la Integración Económica de América Latina* 177-201, for a Spanish text.

⁴⁷This resolution was adopted in the fourth regular session of L.A.F.T.A. (Bogota, Dec. 8, 1964). See 1 *Economic Integration*, *supra* note 1, at 99-116.

⁴⁸This concept has been formulated based upon the one advanced by E. Hagen, *Introduction*, in *Planning Economic Development* 1 (1963).

⁴⁹J. Bury, *The Idea of Progress: An Inquiry Into Its Origin and Growth* (1955).

⁵⁰Roel, *La Planificación Económica en el Perú* 11-14 (1968). R. Díaz, *Planeamientos Nacionales y Regionales* 175-176.

1928, the Soviet Union began to issue some plans which are the antecedents of its quinquennial ones.⁵¹ However, as recently as 1950, India was the first country to have comprehensive economic development planning.⁵² Development planning reached its apogee in Latin America only after the Charter of Punta del Este (1961),⁵³ which established the Alliance for Progress.

Planning is a specific form of economic policy. Hence, its success will depend on, *inter alia*, the technique employed, and the economic and social policy followed. With respect to the technique, it is necessary to acknowledge the great importance of obtaining reliable statistics.⁵⁴ This has been illustrated by the experience of the Organization of Economic Cooperation and Development during its task of applying the Marshall Plan in Europe.⁵⁵ But this technical improvement often implies the need for deep reforms. For instance, it is essential that the private companies publish their financial statements, that methods exist to prevent evasion of taxes, and that the quality of national accounts be improved.

Some economists consider planning to be incompatible with capitalist society. Others, like Greniewski, believe that it will merely differ in the means employed by the government to carry it out. In a socialist system the means for planning surpass the circumstances; whereas, in a capitalist system, the situation is the opposite.⁵⁶ Practice has rendered this discussion moot, since many countries with market economies have planning. Therefore, the debate should deal only with the efficiency of planning in socialist and capitalist systems.⁵⁷

Planning can be national and regional. Most of the authors employ the term "regional planning" to refer to planning carried out within a

⁵¹J. Tinbergen, *Central Planning* 46 (1964).

⁵²E. Hagen, *Introduction*, in *Planning Economic Development*.

⁵³For text, see 2 *Economic Integration*, *supra* note 1, at 791-794. 45 Dept. State Bull. 463-469 (1961). For Spanish text, see O.A.S. Doc. OEA/Ser. H/X.1 ES-RE-Doc. 145 Rev. 3; O.A.S. Doc. OEA/Ser. H/XII.1; *Ideario y Planificación de la Alianza para el Progreso* 315-330 (Editorial Norte-Sur, 1962).

⁵⁴H. Jaquaribe, *Coordinación de las Políticas Nacionales*, at 7-8.

⁵⁵Moore, *supra* note 6, at 94.

⁵⁶Roel, *supra* note 50, at 17.

⁵⁷For a general discussion on the theme, see John Hackett, A. Hackett, *Economic Planning in France* 334-338. For a discussion about the French situation regarding this point, see *id.* 338-354.

State's zones.⁵⁸ Since the Andean Pact pursues a system of joint planning, it is necessary to distinguish between national-regional and international-regional planning, the latter being carried out within an international area.

Many organizations, governments, and private groups have been assisting developing countries in the planning of economic development.⁵⁹ Among them are the United Nations,⁶⁰ the International Bank for Reconstruction and Development, the International Monetary Fund, the United States and other western governments, and some foundations, private consulting firms and universities (e.g., the Development Advisory Group of Harvard University). Some aid-giving institutions have exercised pressure on recipient countries to formulate overall plans and specific programs.⁶¹

As stated above, development planning was popularized in Latin America only after the Charter of Punta del Este (1961). This document states as a basic element for achieving economic and social development, that comprehensive and well-conceived national programs of economic and social development, aimed at achievement of self-sustaining growth,

⁵⁸See e.g., *Regional Development and Planning: A Reader*. (John Friedmann & William Alonso eds. 1964); *Regional Economic Planning; Techniques of Analysis for Less Developed Areas*. (Walter Isard & John H. Cumberland, eds.); Paris, European Productivity Agency of the Organization for European Economic Cooperation (1961).

⁵⁹With respect to the situation of Africa in this respect, see P. Streeten, *Aid to Africa; A Policy Outline for the 1970's* 123-129 (1972).

⁶⁰The United Nations Committee for Development Planning was established in March 1966 by the Economic and Social Council (E.S.C. Res. 1079 (XXIX), U.N. Doc. E/4155, July 28, 1965) for the purpose of formulating development plans. There is also the Centre for Development Planning, *Projections and Policies of the United Nations Secretariat* (created pursuant to General Assembly's resolution 1708 (XVI) *Planning for Economic Development*: U.N. Doc. A/5056, (Dec. 19, 1961), one of whose objectives is to "ensure a unified methodological approach and an optimum utilization of resources in work on projections and planning." Further the United Nations has published major studies on the subject of development planning.

For an exhaustive research in this matter, see *Annotated Bibliography of Major United Nations Publications and Documents on Development Planning, 1955-1968*, in 1 *Journal of Development Planning* 173-208 (1969); *Annotated Bibliography of Major United Nations Publications and Documents on Development Planning, 1969*, in 2 *Journal of Development Planning* 155-161 (1970).

⁶¹G. Papanek, *A Plan for Planning; the Need for a Better Method of Assisting Underdeveloped Countries on their Economic Policies*, 1 *Occasional Papers on International Affairs* 2 (July 1961).

be carried out in accordance with democratic principles.⁶² President Kennedy thought that planning should be the essence of the Alliance for Progress.⁶³ But before this Charter, the Latin American countries had already recognized the need for planning⁶⁴ and some of them had some experience in this regard. For instance, the Act of Bogota (1960)⁶⁵ established that "it is necessary to adequately prepare and execute plans and programs of development—within the monetary structures, in order to achieve success—using, in some cases the technical assistance of inter-American and international organizations."⁶⁶

Of more importance was the Montevideo Treaty (1960) which established the Latin American Free Trade Association (LAFTA). Its preamble recognizes that "the economic development should be attained through the maximum utilization of available production factors and the more effective coordination of the development programs of the different production sectors." Articles 16 and 17, for example, impose the need of coordinating the national development plans of the members,⁶⁷ however, these are weak provisions and this measure has never been effectuated through LAFTA. Thus Bolivia, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay, and Venezuela have reaffirmed the need for the organization to have that coordination;⁶⁸ this was one of the reasons for the creation of the Andean Pact.

⁶²Title II, Chapter I, paragraph 1. For a study of planning in the Charter of Punta del Este, see Roman Berro C., *Análisis de los Proyectos Aprobados en Función del Planeamiento*, in *Ideario y Planificación de la Alianza para el Progreso*, *supra* note 53, at 437-457.

⁶³Public Papers on the Presidents of the United States, John Kennedy (1962). See *Ideario y Planificación de la Alianza para el Progreso*, *supra* note 53, at 53.

⁶⁴See generally *Planning in Latin America*, in *Planning and Plan Implementation 20-42* (1967); Secretariat of the Economic Commission for Latin America, United Nations, Department of Economic and Social Affairs, U.N. Doc. ST/ECA/102; G. Salgado, *First Attempts at Planning in Latin America; Notes on an Experiment*; *Id.* at 43-67; F. Pedrao, *Problems of Urban Development and Regional Planning in Latin America* in 6 *Journal of Development Planning* 61-91 (1974) Committee of Development Planning, United Nations.

⁶⁵See *Ideario y Planificación de la Alianza para el Progreso*, *supra* note 53, at 43-51.

⁶⁶Chapter III, paragraph a, section II. (Author's translation.) With respect to international technical cooperation on planning, see *Id.* para. c.

⁶⁷R. Diaz, *Planeamientos Nacionales y Regionales*, *supra* note 50, at 174.

⁶⁸Nun, *Integración Subregional Andina: Estudio sobre el Acuerdo de Cartagena*, *supra* note 17, at 30.

On the other hand, some Latin American countries already had some experience with planning prior to 1961.⁶⁹ This is the case of Chile with the Promotion of Development Corporation (CORFO), a self-governing agency (the government did not undertake itself this task because of the unpopularity of planning within some political sectors),⁷⁰ which began its first studies in this subject in the 1950's. There had also been regional-national planning in the Northeast and the San Francisco Valley in Brazil, and in the State of Caldas and the Cacan Valley in Colombia. Development plans were formulated for these geographical areas. However, these efforts had only limited success due to the absence of coordination with the rest of the national economy.⁷¹

⁶⁹It was only after the Charter of Punta del Este that the countries of the Andean region involved themselves in comprehensive development planning. Peru began the institutionalization of planning with the creation, on August 25, 1961, of the Central Department of Studies and Programs ("Oficina Central de Estudios y Programas" OCEP), an agency in charge of this matter. Ecuador already had a planning agency, dependent on the Presidency of the Republic, and Bolivia had a National Planning Ministry (for criticism of this Bolivian Ministry, see e.g., James W. Wilkies, *The Bolivian Revolution and U.S. Aid Since 1952*, at 38-41 (Los Angeles, University of California Latin American Center, 1969)).

In Colombia the 1945 version of the Constitution stated that Congress had to establish national economic plans (art. 69, no. 4). A similar provision which also contemplates social planning was retained after the constitutional reform of 1968 (art. 76, no. 4). Only since 1950 have any real efforts been made in Colombia for developing national planning; in that year the International Bank for Reconstruction and Development drafted the first document that could be considered a "development plan" (Guillermo Perry R., *Desarrollo Institucional de la Planeación en Colombia* 36 (1973)). In 1959 the "Departamento Administrativo de Planeación Nacional y Servicios Técnicos" (DAP) was formed. In 1966 the "Departamento Nacional de Planeación" (DNP) was founded, see *Id.* at 1-38.

In Chile, Law No. 16.635—published on July 14, 1967—created the national planning agency: "Oficina de Planificación Nacional" (ODE PLAN). The main function of ODE PLAN is to formulate the National Plan of Development that must be proposed to the President of the Republic. ODE PLAN, through its office of International Technical Assistance, was concerned with the Andean region even before the Cartagena Agreement. By 1968 it had examined the promotion of interchange and cooperation in scientific and technological research among the countries of the Andean zone.

Venezuela, the last nation to adhere to the Andean Pact, created on December 5, 1958 the planning agency: "Oficina Central de Coordinación y Planificación (CORDIPLAN). In 1962 a process was initiated for greater participation on the part of the private sector in national planning, see D. Blank, *Political Conflict and Industrial Planning in Venezuela* in *Venezuela 1969, Analysis of Progress: Papers Prepared for a Conference held at Washington, D.C.* (Nov. 10-11, 1969) 84-106 (P.B. Taylor, Jr. ed. 1971).

⁷⁰E. Barros, *Planeamientos Nacionales y Regionales*, in *Aspectos Legales de la Asociación Latinoamericana de Libre Comercio*, *supra*, 168.

⁷¹B. Balassa, *The Theory of Economic Integration*, *supra* note 26, at 201.

OUTSIDE ASSISTANCE AND PLANS FOR DEVELOPMENT

Several international agencies dealing with Latin America have contributed to the strength of planning in this continent, particularly the Economic Commission for Latin America (ECLA) of the United Nations.⁷² In addition, the Latin American Institute for Economic and Social Planning (ILPES) of the United Nations has performed important work in this regard. ECLA together with the Inter-American Development Bank, and the Organization of American States, had jointly appointed a Committee of Nine, popularly known as the *nine wise men*, as the central element in the machinery to evaluate development plans.⁷³

During the 1960's and 1970's there were a number of inter-American resolutions specifying the role of planning in the development of the continent. For example, the Economic and Social Act of Rio de Janeiro (1965) stated that

National development plans should take into account the market expansion resulting from regional integration, in accordance with their own goals and objectives, in order to achieve adequate levels of employment, stimulate investment, increase technological capacity, and improve the conditions of cost, competition and productivity.⁷⁴

In the Declaration of the Presidents of America (1967) the relationship between integration and national plans is described as follows: "Economic integration is a collective instrument for accelerating Latin American development and should constitute one of the policy goals of each of the countries of the region. The greatest possible efforts should be made to bring it about, as a necessary complement to national development plans."⁷⁵

Despite increasing consensus on the need for planning in Latin America, the system has serious political,⁷⁶ administrative and technical prob-

⁷²E.C.L.A.'s studies concerning planning include: 1 Analysis and Projections of Economic Development, *entitled An Introduction to the Technique of Programming*, U.N. Doc. E/CN.12/363 (1955); *Economic Development Planning and International Cooperation*, U.N. Doc. E/CN.12/582/Rev.1 (1961).

⁷³E. Hagen, *supra* note 52, at 3.

⁷⁴Chapter V, section 30, *see* Economic Integration, *supra* note 1, at 813, for text. This document is resolution II of the Second Special Inter-American Conference (1965).

⁷⁵Part II, chapter I, section 1.

⁷⁶In connection with this point, *see* H. Jaguaribe, *supra* note 33, at 152.

lems. In addition, other elements "arising from external factors mainly related to instability, the limited development of foreign trade, and inadequate conditions of external financing, are impeding the attainment of planning targets in Latin America."⁷⁷

JOINT PLANNING

The real innovation of the Andean Pact is its reliance on the establishment of a joint planning regime, which must be achieved through a preliminary stage of harmonization of national policies and coordination of development plans.⁷⁸ This process is carried out simultaneously and in coordination with the formation of a regional market. Joint planning is reached and implemented by several states observing a common strategy of development. Joint planning differs from a process of coordination of national plans in that the plans are freely established by each State in accordance with its own economic and social policies; the national plans are eventually harmonized with the other States' plans. There are different degrees of coordination depending on the compatibility of each State's economic and social policies. In Latin America, these policies have traditionally been so deeply different that it is hardly possible to reach higher degrees of integration relying solely on coordination.

However, joint planning is a future task and an aspiration rather than a feasible program for the near future. In fact, joint planning in an integration system raises problems of supranationality since its effective application could involve limitations on the exercise of sovereign attributes or rights of the States which do not require their consent. Thus, it can meet with resistance from the national governments themselves. Joint planning is also subject to political, administrative and technical problems which the Latin American national plans encountered. Moreover, it implies a complex technical work involving the consideration of many variables. In addition, the process could be obstructed if the members do not give prompt and reliable information about the economic and political conditions in their countries. Although harmonization of national policies in the Andean Pact, (a first step towards joint planning), held much potential for higher forms of integration, it prevented further progress. Incompatible economic policies among the parties have stalled this ambitious project. Perhaps this was inevitable considering the highly unstable

⁷⁷Department of Economics and Social Affairs, *supra* note 56, at 28.

⁷⁸Art. 26, Cartagena Agreement.

political situation in the Andean region. Between 1969 and 1973 the Andean governments differed notably in their political orientations but, nonetheless, were able to find the way to pursue their integrative objectives. Since 1974 the parties have had even greater problems in reaching agreements until the situation evolved into crisis proportions in 1976. Thus in 1977, the Andean Pact is only in an initial stage of harmonization of policies. It is especially weak in the harmonization of plans where the Convention did not establish a priority system. Although the harmonization of policies has fallen far short of initial hopes, there has been enormous progress as compared to the situation prevailing before the Pact.

COORDINATION OF DEVELOPMENT PLANS

The process of coordination of development plans is almost nonexistent in 1977 and the slight achievements in this area are the result of the parties' piecemeal efforts on fulfilling Andean obligations, rather than an emphasis on a concerted program of coordination. This lack of coordination of plans prevailed in spite of the establishment of a Planning Council in 1970⁷⁹ in charge of stimulating this process. The Pact specifically considered as essential the harmonization of planning methods and techniques in order to carry out this process.⁸⁰ Nevertheless, no agreement was reached in this respect in spite of the delicate technical questions involved and the need for these developing countries to take advantage of their common experiences with respect to planning. However, the Andean Pact did adopt a resolution dealing with the permanent procedures and mechanisms necessary to achieve the harmonization of policies and coordination of plans.⁸¹

The Andean Pact established that the system of joint planning must begin within the industrial sector. To achieve this goal, the Convention created the Sectorial Programs of Industrial Development.

As of March 1977, the parties agreed upon the following: (1) A Decision dealing with products reserved to Sectorial Programs of Industrial

⁷⁹Art. 3, Cartagena Agreement. The Andean Council, the Monetary and Exchange Council, the Financing Council, the Fiscal Council, and the Foreign Trade Council were created by Decision 22. The Tourism Council was established by Decision 36, while the Social Affairs Council by Decision 39. The Farming Council was created by Decision 76.

⁸⁰Art. 26, Cartagena Agreement.

⁸¹Decision 22. Article 29 of the Cartagena Agreement established that this Decision had to be taken "by December 31, 1970, at the latest."

Development,⁸² (2) A Sectorial Program of Industrial Development covering a number of metal-working operations,⁸³ and (3) A Sectorial Program of Industrial Development covering the petrochemical industries.⁸⁴

Compared with the Cartagena Agreement's goals, these agreements were an extremely limited accomplishment. The approval in August 1972 of the Sectorial Program covering the metalworking sector represented two years of negotiations.

The adoption of the program was facilitated by the fact that it required comparatively lesser investments than other industrial sectors, and a technology which had already developed to some extent, although in varying degrees, among the Andean countries. The approval of the program had been delayed precisely because of these different degrees of industrial infrastructure, which gave occasion to another situation of conflict between national interests and integrative goals. Ultimately, Peru and particularly Chile accepted far lesser allocations than their infrastructures would deserve, so as to revitalize the integration system. The system needed the political support of President Allende and General Velasco Alvarado. This effort showed Venezuela, which had been vacillating, that it could become a member of an effective economic scheme.

Once the Commission approved the program covering the metal-working sector, the Board proposed programs dealing with the petrochemical, automotive and chemical fertilizer industries. These three projects were simultaneously considered by the Commission⁸⁵ which appointed

⁸²Decision 25.

⁸³Decision 57. See 16 Grupo Andino 19-26 (annex 1972). This Decision stated that the parties had to submit to the Board technical information concerning existing production or feasibility studies concerning new production units which have been assigned to them (art. 4). It has been thought that Decision 57 will represent by 1980 a production of US \$300,000,000 and employment for 110,000 new workers. See 38 Grupo Andino 1, 3, 4, 5 (1974).

Decision 57 has been modified by Decision 57-a (eighth period of the Commission's special meetings, Sept. 4-9, 1972). See 17 Grupo Andino 1-2 (annex 1972), for text.

For comments on this Sectorial Program see D. Furnish & W. Atkin, *The Andean Group's Program for Industrial Development of the Metalworking Sector*, in 7 Law. Am. 61 (1975); M. Guerrero, *La Programación Conjunta del Desarrollo Industrial Subregional y el Primer Programa Sectorial de la Industria Metalmeccánico*, in 12 Derecho de la Integración 35-53 (1973).

⁸⁴Decision 91. See 48 Grupo Andino 1-32 (annex 1975), for text.

⁸⁵See, e.g., 36 Grupo Andino 3 (1974); 43 Grupo Andino 2 (1975); 48 Grupo Andino 2-8 (1975).

intergovernmental ad-hoc committees.⁸⁶ In fact, since May 1974⁸⁷ the debate about these programs occupied an important part of the discussions among the parties. Finally, in August 1975 the petrochemical program was approved, but the Andean countries were unable to agree upon the approval of the other programs. The main reason for this discord was the fact that the Sectorial Programs involve allocations in the industrial sector, on which all the parties believe development depends. Also, the member countries were extremely sensitive to considerations of equity and harmonious benefit.

The automotive program was in an advanced stage of discussion, but in the end a decision was not reached. However, the Commission in August 1975⁸⁸ was able to allocate the final products and vehicles for each country. The automotive program had encountered serious problems due to Venezuela's desire to obtain 60 percent of the investment on the basis of its share of the car market, while Colombia's intentions were to apportion investment by population since it is the most populous country with 33.82 percent of the Andean population. The case of the automotive industry showed how politically delicate the function of the Board proposing decisions to the Commission had become. In fact, its proposal for a Program in the automotive industry was attacked by some States as damaging their bargaining position. This criticism had some important negative effects during the Commission's discussions.⁸⁹

Since July 1975, efforts have been made at the highest political level to reactivate the Sectorial Programs of Industrial Development.⁹⁰ In December 1975, the Board made its Proposal 69 concerning a Program for the electronic and telecommunication industries,⁹¹ a matter which has yet not received sufficient attention from the parties.

The Sectorial Programs of Industrial Development require enormous amounts of investment and a rapid development of technology. In view of the economic condition of the Andean countries, it is highly questionable

⁸⁶36 Grupo Andino 3 (1974).

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⁸⁸See 48 Grupo Andino 2 (1975).

⁸⁹O. Amare, *Interés Nacional y Control de Decisiones en un Proceso de Integración* in 18 & 19 *Derecho de la Integración* 40.

⁹⁰See 47 Grupo Andino 7 (1975); 48 Grupo Andino 9-11 (1975); 51 Grupo Andino 15 (1975); 52 Grupo Andino 5 (1975).

⁹¹See 52 Grupo Andino 3 (1975).

whether these States can put into practical operation several programs in a short-term period. Further, the success of the Sectorial Programs depends on the accomplishment made in other areas of the integration effort. In fact, they are part of a unitary scheme and the delay or non-implementation of a single mechanism has a general effect. The Sectorial Programs would require the effective and homogenous application of Decision 24 on foreign investments, of the Andean multinational enterprises and of uniform anti-trust laws, among many other incidental matters. The Andean Pact's goal to establish several of these Programs at once emphasizes this requirement. Even in the metal-working program, where there is some basic industrial infrastructure, the parties have experienced significant delays in implementation of the program due to the irresponsible attitude of these parties, as well as the consequences of problems resulting from internal economic structures.⁹²

In accordance with Article 47 of the Cartagena Agreement, the Commission could have approved programs until December 31, 1975. However, that time period has passed without the parties having a consensus, except for the metal-working and petrochemical industries. The problem of the Sectorial Programs must be understood in relation to the crises faced in other aspects of the Convention, such as the disputes concerning foreign investment, the Common External Tariff and the Liberalization Program.

⁹²53 Grupo Andino 17 (1976).