



UNITED NATIONS
UNIVERSITY
CRIS

Comparative Regional Integration Studies

UNU-CRIS Working Papers

W-2008/10

*THE ASSESSMENT OF REGIONAL GOVERNANCE:
PRINCIPLES, INDICATORS AND POTENTIAL PITFALLS**

*EDWARD BEST***

* Draft Chapter for forthcoming GARNET Handbook on *Monitoring and Analysing Regional Integration Processes*.

** Head of Unit, European Institute of Public Administration (EIPA), Maastricht.

Introduction

This paper aims to provide a set of parameters by which one may assess the quality of governance in systems of regional cooperation or integration.

Some preliminary conceptual clarifications are required since the terms involved are widely used in different ways. In the first place, the term 'region' is used here exclusively to refer to geographical areas involving more than one sovereign state. Some of the same governance issues are also posed for 'regions' in the sense of territories within a state (occasionally crossing state borders). However there are fundamental differences not only in terms of international law, but also regarding the levels at which legitimacy questions are posed. Whereas individuals within a sub-state region are normally expected to share the same cultural identity, one of the core governance challenges within an international region is precisely the management of interdependence and shared sovereignty where there is not the same degree of cultural homogeneity. In this respect the international region has more in common with a federal state than a sub-state region.

Second, 'governance' is used here in the normative sense associated with concepts of 'good governance' - that is, the *democratic quality* of the arrangements by which societies and groups of societies organize themselves. The first section discusses the kinds of principle and indicators involved in assessing governance in this sense, and the particular issues raised by their application to regional arrangements. It is argued that neither the traditional trinity of governance principles - transparency, accountability and participation - nor established sets of 'governance indicators' can be applied in a simple way. Both need to be specified and adapted in order to take into account the particular nature of regional arrangements, as well as the difficulties involved in comparison.

Three categories of good-governance principles are proposed as an alternative: correctness, openness and responsiveness. In this light, a catalogue of relevant principles and indicators is first proposed by which governance may be cautiously assessed in the case of regional *organizations*. Examples are given to highlight the challenges involved in taking formal mechanisms as indicators of underlying realities, the possibility of tensions between different principles, and the dangers of making comparative assessments on the basis of simple assumptions about the appropriateness of particular measures. This is then

supplemented by a list of principles and indicators which may serve as a basis for assessing *systems* of regional governance which, in the few cases that exist, involve common rules and multi-level institutional arrangements.

The paper comes to two main conclusions. On the one hand, in order to be analytically apt, assessment of regional governance needs to go beyond application of a universal 'check-list' of formal good practices, however helpful such lists may be in ordering the terms of comparison. It should aim at evaluating whether a particular regional arrangement incorporates, and has internalized, mechanisms to satisfy the underlying good-governance principles in ways which are appropriate to its real needs and circumstances. On the other hand, in order to be practically useful, assessment should aim at supporting processes of improvement which are driven internally as well as externally, in which case approaches involving self-assessment are likely to achieve the greatest results.

1. Governance Principles and Indicators

Governance

The word 'governance' has been used in five main ways in recent years (Best 2002). Two usages are purely descriptive. 'Governance' may be used as a simple verbal noun referring to the actions undertaken by a government. It is also employed as a catch-all term referring to all the mechanisms involved in managing any system. Beyond this are three broader usages.

The first is '*governance as more than government*'. The ways in which societies order themselves do not depend only on 'a functionally differentiated group of "governors"'. Governance also includes the multiple mechanisms of 'socialization and social control' by which human conduct is regulated (Finer 1970, pp. 4-6). Likewise, as was observed in international relations theory in the 1980s, international 'regimes' exist which involve both state and non-state actors, are based on common norms and procedures, and are followed even without the existence of an international authority with coercive powers. In this context, the concept emerged of 'governance *without* government' (Rosenau 1992).

A second broader usage - '*governance as networks*' - refers to a specific concept of policy management which has been seen to emerge following the undermining of traditional regulatory-bureaucratic approaches, and which can be contrasted with both hierarchy and market. It relies on policy networks which are based on trust, and which operate through negotiation between public and private actors (Rhodes 1997, 2000).

The usage followed here, which has been fed by both the above, refers to *democratic quality*. The term 'good governance' entered general usage in the area of development cooperation following a 1989 World Bank study on Sub-Saharan Africa. The United Nations Development Programme (UNDP) thus defined governance as 'the exercise of economic, political and administrative authority to manage a nation's affairs. It is the complex mechanisms, processes, relationships and institutions through which citizens and groups articulate their interests, exercise their rights and obligations and mediate their differences...Effective democratic forms of governance rely on public *participation*, *accountability* and *transparency*.' (UNDP 1997, p. 9, emphasis added) These three terms have tended to dominate the debate.

However, regional arrangements have additional characteristics. The delivery of results has an even greater importance for the maintenance of legitimacy in a regional context than in a national one. A somewhat broader set - accountability, openness, participation, *effectiveness* and *coherence* - was therefore proposed, for example, in the European's Commission 2001 White Paper on Governance (EC 2001) for the case of the European Union. Taking into account also the challenge of ensuring that institutional arrangements match real needs (and the dangers of incautious comparison), a complete list of general governance principles for regional arrangements may thus be openness, accountability, participation, effectiveness¹ and *appropriateness* (Best 2006).

These principles do not apply only to the public domain. Many of them, notably transparency, have also been developed specifically with regard to 'corporate governance'. Nevertheless, there are some essential differences between public and private organisations and relationships which need to be borne in mind when addressing different forms of regional interaction.

¹ In this perspective, 'coherence' may be subsumed in 'effectiveness'.

Indicators of good governance

A variety of 'Governance Indicators' and 'Good Governance Rankings' has emerged in recent years (see the overview provided by Besançon 2003). Among the most prominent examples are the indicators on Political Rights and Civil Liberties elaborated by Freedom House; the Corruption Perceptions Index of Transparency International; the Country Policy and Institutions Assessment of the World Bank; or the Worldwide Governance Indicators (WGI) of the World Bank Institute. The WGI measure the quality of governance according to six aggregate indicators: voice and accountability, political stability, government effectiveness, regulatory quality, rule of law, and control of corruption. These are all based on perception indicators (World Bank 2007).

These sets of indicators cannot be applied in a simple way to regional organizations. This is not due to any of the methodological issues which have been highlighted: the likelihood of a correlation of errors among the sources of the perceptions used; lack of comparability over time; sample bias; and insufficient transparency (Arndt and Oman 2006). The reason is mainly that they go beyond general principles and practices of good governance, and address dimensions which are specifically features of national political systems.

Governance in most regional arrangements - the European Union is the exception - has more to do with international regimes than with comparative politics. Regional arrangements cannot be assessed on exactly the same basis as national systems when it comes to political rights and processes even in the case of the EU. Regional organisations do not shape people's basic rights, duties and life choices in anything like the same way as state authorities, far less have any coercive powers. The primary level of citizens' identity lies at the national level, and the national level of government is relied upon to ensure proper controls on the regional process.

Good governance and international organizations

In parallel with the evolution of governance concepts and indicators, increasing attention indeed began to be given in the 1990s to international organizations, increasingly perceived as acting beyond the control, and even without the knowledge, of the millions of people

affected by their decisions. This debate has become dominated by the idea of 'accountability', in a way which is analytically and practically unhelpful.

The term 'accountability' has a strict sense meaning 'a relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgment, and the actor may face consequences' (Bovens 2007). This can take many forms. Grant and Keohane (2005), for example, identified seven discrete accountability mechanisms in world politics - hierarchical, supervisory, fiscal, legal, market, peer, and reputational - which involve different 'power-wielders' and kinds of cost to the actor being placed under account. It nonetheless represents a limited and applicable usage that will be used in the present paper. However, the term 'accountability' has swollen in usage over recent years - at least in English - to such an extent that it risks losing any useful meaning. This 'word which a few decades ago was used only rarely and with relatively restricted meaning (and which, interestingly, has no obvious equivalent in other European languages [...]) now crops up everywhere performing all manner of analytical and rhetorical tasks and carrying most of the burdens of democratic "governance"' (Mulgan 2000, p. 555, citing Dubnick 1998; Blagescu and Lloyd 2006).

A well-publicised example is the 'Global Accountability Report' produced by the One World Trust. Accountability is defined as 'the processes through which an organisation makes a commitment to respond to and balance the needs of stakeholders in its decision-making processes and activities, and delivers against this commitment.' This includes almost everything. Transnational organisations are assessed and ranked in terms of transparency, participation (both external stakeholder engagement and 'member control'), evaluation, complaint and response (internal and external). Moreover, this is applied to almost everyone. The Report compares Intergovernmental Organizations (IGOs) such as the UNDP or the Council of Europe, International Non-Governmental Organizations (INGOs) such as Christian Aid or the international football federation FIFA, and Transnational Corporations (TNCs) such as General Electric or Coca-Cola.² There are of

² http://www.oneworldtrust.org/?display=index_home.

course common principles and values of good governance which are relevant to almost any organization: transparency is an obvious example. Yet public bodies have specific characteristics, and security-related bodies inevitably have different realities: the fact that Interpol ranks lowest among the ten IGOs rated in the 2007 Report is not surprising.

A 'Committee on the Accountability of International Organizations' was created by the International Law Association (ILA) in 1996. Again, the 2002 recommendations of this Committee are in reality 'elements of good governance' for international organizations (Wouters and Ryngaert 2004, p.14). They do, nonetheless, provide an appropriate set of general principles to be used as a starting point when assessing the quality of governance of regional arrangements. These are:

- transparency in both the decision-making process and the implementation of institutional and operational decisions;
- democracy in the decision-making process or participatory governance;
- access to information open to all potentially concerned and/or affected by the decisions at stake;
- well-functioning of the international civil service;
- sound financial management;
- reporting and evaluation mechanisms.

Since then, several efforts have been made to establish a set of common principles in the context of global administrative law.³ Kingsbury et al (2005) proposed a set of 'Emerging Principles and Requirements' as 'doctrinal features of global administrative law', grouped under the headings of procedural participation and transparency; reasoned decisions; review; and substantive standards (proportionality, means-ends rationality, avoidance of unnecessarily restrictive means, legitimate expectations).

Esty (2006) has elaborated a fairly complete 'Global Administrative Law Toolbox' consisting of four main categories: controls on corruption, self-dealing and special interests influence (conflict of interest rules, inspections and audits, lobbying disclosure); systematic and sound rulemaking (published drafts with notice and comment, clearly identified

³ The pursuit of such global common features has been questioned: 'a universal set of administrative law principles, difficult in any event to identify, is neither welcome nor particularly desirable; diversity and pluralism are greatly to be preferred.' (Harlow 2006, 207).

decision-maker and process, documented decisions); transparency and public participation (hearings and other opportunities for public participation, public docket, structured fact-finding and option evaluation, access to information, metrics and measurement); and power-sharing (divided authority, review mechanisms, principles of derogation and declination).

These valuable studies have been taken into account in the list of principles and indicators offered below, which focus on specific governance challenges in regional arrangements.

Input and output

These general governance principles predominantly concern the nature of the input into decision-making and the management of resources, rather than the design, management or effectiveness of particular projects or policies. Caution is certainly required if one is to avoid the term 'good governance' being used to encompass all the different dimensions involved in making a regional arrangement work well, and thereby losing any specific meaning. By way of example, take a study on Performance Indicators for River Basin Organizations which enumerated 115 indicators to evaluate 37 'Good Governance Factors', grouped under the headings of coordinated decision-making; responsive decision-making; goals, goal shift and goal completion; organizational design; rule of law; training and capacity building; information and research; and accountability and monitoring (Hooper 2006).

At the same time, any assessment of governance must include some consideration both of relative efficiency in the use of resources, and of effectiveness in achieving results. The capacity of the arrangements to produce output must also be taken into account.

When it comes specifically to regional arrangements, however, the object of the assessment is not an individual project or policy, but how far the organization includes adequate mechanisms to assure planning, monitoring, evaluation and feedback. To the extent that a regional body exists mainly for the purpose of managing a small number of large-scale projects, there may of course be little difference. Yet the broader the scope of the activities conducted by a regional body, and the deeper the impact on the participating countries of

these actions, the more the focus will shift to an evaluation of organizational capacity rather than project management.

2. Governance Indicators and Regional Organizations

Based on the previous discussion, this section offers a cautious catalogue of indicators which may be applied to organizations of regional cooperation to assess the degree to which they live up to relevant core principles of good governance. These are summarized in Table 1.

Table 1: External Assessment of Organizations of Regional Cooperation: A Cautious Catalogue of Governance Indicators

Governance Principles	Possible Indicators	Risks/Qualifications
<i>Correctness</i>		
- sound financial management	- internal and external audit	
- efficiency in the use of resources	- management audits - benchmarking	- comparability
- respect for procedures and policies - prevention of fraud and corruption - prevention of conflicts of interest	- law - Code of Conduct - oversight committee - independent investigative unit - ethics committee - perceptions (survey)	- formal mechanisms are not monitored - abuse of immunities and privileges - lack of awareness
<i>Openness</i>		
- public access to documents - availability of details about decision-making processes	- range of documents made public - right to information - public records of positions - publicity of membership of advisory bodies/meetings - register of lobbyists	- confidentiality - informal decision-making in reality - confidentiality/ protection - rigidity
- possibility for citizens/actors to give meaningful input	- formal advisory bodies - internet consultations - hearings - response given to inputs (published information)	- lack of balance and/or representativeness - capacity to process inputs - lack of public interest
- public communication policy	- communication units - information and debate in media - public awareness (polls)	

Responsiveness		
- evaluation mechanisms	- impact assessment - results-based monitoring or similar	
- responsiveness to stakeholders	- regular policy review	

The principles are grouped in a way which differs somewhat from the traditional trinity of core governance principles, without going so far as to include all aspects of how a regional body operates. This partly reflects analytical considerations. The reasons for not relying on the term 'accountability' have already been noted. 'Transparency' is mainly a passive concept, referring to the removal of barriers for those who may have the initial knowledge and the interest to look or to ask for information, whereas the concept of openness recognizes the need to adopt active measures to communicate to people what is going on. 'Participation' needs to be looked at in terms of specific needs and risks in particular cases. This grouping also makes it possible to avoid spurious one-to-one relationships between principles and indicators. And it makes it easier to place each body in context and to assess what is 'appropriate' in each case.

Three groups of good-governance principles for regional bodies are thus proposed: correctness, openness and responsiveness.

- **Correctness** means the capacity of the body to ensure that resources are used only for the purposes intended, as efficiently as possible, and without abuse.
- **Openness** means that the body makes available documents and information to stakeholders and concerned parties in a proportionate and intelligible way,⁴ carries out meaningful consultations, and actively communicates what it does to the public.
- **Responsiveness** refers to effective planning, evaluation and feedback with regard to particular actions, as well as the conduct of regular review processes to ensure that programmes reflect the needs and preferences of stakeholders.⁵

⁴ With regard to decision-making in regional bodies, transparency goes beyond access to documents, also including, for example, intelligibility of voting and clarity of interests (Settembri 2005).

⁵ For further details on results-based monitoring and regional arrangements see UNDP (2002) for a general overview, and Nguyen and Wescott (2008) for the case of ASEAN. For impact assessment in the European Union, see http://ec.europa.eu/governance/impact/index_en.htm.

The main kinds of indicators are listed in the second column. The third column identifies some of the specific risks and qualifications which need to be borne in mind.

It is beyond the scope of this paper to discuss all the different indicators which may be used, together with their respective strengths and weaknesses. The rest of this section therefore offers a number examples from particular regional arrangements which highlight some of the main challenges and complexities involved. These have been selected in order to illustrate a) the challenges in taking the existence of formal mechanisms as indicators of governance practice; b) the way in which good-governance practices may spread internationally, as well as the dangers of incautious comparison; and c) the difficulties of dealing with possible conflicts between different good-governance principles.

Anti-corruption - the case of regional development banks

Prevention of fraud and corruption may be held to require special mechanisms in the case of regional organisations because, like global organisations, they have been at a distance from traditional mechanisms of accountability and control. This has been most important in those bodies in which most resources are managed, namely regional development banks. A set of principles emerged in the international financial institutions, which have progressively spread. The key elements at stake have been the guarantee of independent inspections, the development of effective investigation units, information disclosure, and the strengthening of mechanisms to ensure institutional integrity.

The pattern has been strongly shaped by the World Bank which in 1993 established the World Bank Inspection Panel, under pressure from the United States following revelations of systematic violations of World Bank procedures. Although it had no enforcement powers, its reports and recommendations had a considerable impact (Wouters and Ryngaert 2004, pp.17-19; Suzuki and Nanwani 2005). An information disclosure policy was initiated, an Oversight Committee on Fraud and Corruption was created in 1998, and a Department of Institutional Integrity was established in 2001.

In the Inter-American Development Bank, an Independent Investigation Mechanism was created in 1994. In 2000-2001 a new impetus took place for 'strengthening a systemic framework against corruption'. An independent Oversight Committee on Fraud and

Corruption would have responsibility. An Office of Institutional Integrity (OII) was established in 2004, with its mandate finalized in 2005, as secretariat to the Committee. An Ethics Committee was established in 2006 to interpret, implement and enforce the revised Code of Ethics. The Asian Development Bank (ADB) created an Inspection Function in 1995, replaced by an Accountability Mechanism in 2003. An Anti-Corruption Unit was created in the Office of the Auditor General in 1999, which became the Integrity Division in 2005. The African Development Bank (AfDB) did not move to adopt such an accountability mechanism until later. An Independent Review Mechanism was approved in 2004, comprising the Compliance Review and Mediation Unit as its focal point and an independent Roster of Experts. Operating Rules and Procedures were approved in 2006. This convergence of practice was formalized by the adoption in February 2006 of a Uniform Framework between the world's main development banks. A Joint International Financial Institution Anti-Corruption Task Force was established to work towards a consistent and harmonized approach to combat corruption in the activities and operations of the member institutions.⁶

The obvious point has to be reiterated that the existence of formal structures cannot be 'measured' as a sufficient indicator of good governance results. Most notable (at least in terms of publicity) was the experience of the World Bank itself. An Independent Panel was set up to review the work of the Department of Institutional Integrity, reporting in September 2007.⁷ The Asian Development Bank also came in for criticism in early 2008, with the UK withdrawing a commitment to provide more funds on the grounds that there had been a 'lack of significant progress on the reform agenda'.⁸

EU experience in this period demonstrated in a different way that formal external controls are insufficient. The existence of a Court of Auditors as a fully-fledged Community institution, and the European Parliament's institutional powers of budgetary control and

⁶ The African Development Bank Group, Asian Development Bank, European Bank for Reconstruction and Development, European Investment Bank Group, International Monetary Fund, Inter-American Development Bank Group and the World Bank Group. See <http://siteresources.worldbank.org/INTDOII/Resources/FinalIFITaskForceFramework&Gdlines.pdf>. The Asian Development Bank reproduces this text as part of its own Integrity Principles and Guidelines (November 2006) <http://www.adb.org/Documents/Policies/Anticorruption-Integrity/Policies-Strategies.pdf>.

⁷ http://www.independentpanelreview.com/Complete_Report.pdf.

⁸ *Financial Times*, 17 January 2008, 'ADB donors seek shake-up of oversight and staffing'.

discharge, did not prevent the failures in management which lead to the resignation of the European Commission in 1999. The reform of the Commission in the early 2000s thus emphasised an internalisation of controls and checks - the creation of a centralised Internal Audit Service (IAS) and Internal Audit Capabilities (IACs) within each Directorate-General, in tandem with a decentralisation of accountability within the Commission to Directors-General - as well as new steps in programming, codes of conduct and transparency.

Conflicts of interest

Good governance requires that regional organizations should have in place an effective policy to address the possibility of conflicts of interest among holders of public office at regional level: that is, going beyond regional civil servants, members of elected regional parliamentary assemblies, authorities appointed by governments to regional executive bodies, judges in regional courts, directors of regional banks and other financial institutions. Four kinds of mechanisms can be used to control possible conflicts of interest: laws; codes of conduct; registers and financial disclosure; and ethics committees. The existence or not of such mechanisms can be observed, and the contents and practices compared. Yet caution is required when drawing conclusions or making recommendations. By way of example, one may look at the EU. A study was carried out at the request of the European Commission in 2007, comparing practices in the EU Member States and the EU institutions (Demmke et al 2007). Clear differences could be observed between the institutions. The most developed 'infrastructures' concerning conflicts of interest were found in the European Commission and the European Investment Bank. There were no codes in the European Parliament or the European Court of Justice. None of the EU institutions had a powerful ethics committee. Overall the Parliament was found to have the weakest provisions. Yet, a number of caveats had to be made. First, one cannot make simple comparisons between what is necessary for a Bank and what is appropriate for a Parliament. Second, the existence of formal rules is not sufficient to guarantee good practice: what really matters is whether monitoring and control mechanisms are effectively applied in practice. Third, the existence of a greater number of formal rules may in fact be a

reflection of a greater underlying problem. Looking at the EU, it was observed that 'the situation in some of the new Member States is in an interesting contrast with the situation in most Scandinavian countries which have much fewer rules and standards in place but at the same time relatively low levels of corruption and bribery[...] more regulations do not lead to less corruption. Instead, it seems that more regulation is not required in those situations or countries where high levels of public trust exist.' (Demmke et al 2007, 109)

Immunities and privileges

Beyond financial bodies, regional organizations may also present special challenges for good governance in connection with immunities and privileges. These are often necessary to protect the independence (and conceivably even the safety) of those participating in delicate international negotiations, or members of regional parliamentary assemblies. However, they may also represent risks. Regional fora offer a variety of potential benefits for international cooperation and policy dialogue in combating corruption. However, they can also be seen to add to the problem. In the Americas, for example, it has been suggested that 'One of the most important elements in this policy dialogue agenda should be the elimination of immunity for high-level public sector employees, including national legislatures, and regional bodies such as PARLACEN.' (Parker et al. 2004, 42-43). To take only this example, the immunities and privileges of members of the Central American Parliament (PARLACEN) have long been a source of discussion, fuelled by incidents in which deputies were found to abuse them, as has the automatic membership of former Presidents and Vice-Presidents. The Central American Presidents, in their July 1997 Declaration of Panama outlining the reform of the Central American institutions, even proposed to limit these privileges and immunities to the provisions of the Headquarters Agreement, and to remove deputies' diplomatic status in the other countries. According to the Protocol of Reforms to the Constitutive Treaty of the Parliament finally adopted on 20 February 2008, the Parliament itself is to draw up procedures for suspending or removing privileges and immunities, and it is explicitly stated that the Parliament can withdraw immunity in response to a request from the national authorities of the deputy concerned. The former Presidents and Vice-Presidents remain.

Transparency and confidentiality

Transparency is not an absolute value. In its simplest sense it may lead to unintended consequences if not applied with thought. When it comes to decision-making processes, 'being publicly accountable is not necessarily the same as acting in public' (Auer 2007, 499). Quite apart from the question of legitimate confidentiality, an insistence on all formal negotiations being conducted in public could easily have the consequence that the real deals in sensitive cases would be reached outside the public chamber and, in addition, very possibly without the participation of some of the actors. The net result would thus be a drop in overall accountability in the proper sense of ensuring that actors' roles can subsequently be subject to political monitoring.

Moreover, there may be legitimate tensions between transparency and confidentiality. How far should a regional body be obliged to disclose the content of input received from governments or enterprises - or the names of those who have provided input to decisions? Although public confidence requires a reasonable level of disclosure, there are quite legitimate grounds for maintaining the confidentiality of sensitive public or commercial information.

In the case of regional development banks, transparency has emerged relatively recently. Transactions with member governments were traditionally treated as private and confidential, an approach reflecting expectations both of 'the confidentiality of the banker-client relationship and governments' sovereign authority over national development policy' (Nelson 2001, p.1836). Disclosure policies emerged in the 1990s, with some common rules and priorities following the model of the World Bank, as well as some divergences. They have continued to evolve in the 2000s, sometimes amid criticisms from newly-active regional organizations of civil society. The Inter-American Development Bank's current Information Disclosure Policy, for example, provides for restrictions on the availability of documents in order 'to ensure the effective functioning of the Bank and the need to avoid material harm to the business and competitive interests of the Bank's clients'. Although the restrictions are to be applied in a way which respects 'the basic principle that information concerning the Bank and its activities will be made available to the public in the absence of

a compelling reason for confidentiality', the scope of the restrictions is fairly broadly defined. These include '[i]nformation which is identified by the government of a member country, a private sector client, the donor of a trust fund or co-financing resources administered by the Bank, or by the Bank itself as confidential or sensitive', as well as most kinds of operational documents 'if the borrowing member country concerned objects to such disclosure', and 'legal documentation pertaining to Bank-financed private sector projects'. In addition, most internal documents will be kept confidential in order 'to preserve the integrity of the deliberative process and to ensure that there is an open and free exchange of ideas within the institution's governing bodies'.⁹

Debates as to how far regional bodies should go in disclosing information may also reflect a tension between different elements of good governance - for example, between a public right to documents and the protection of individual data. The perhaps predictable tension between the two principles came to a head in the EU in late 2007. Under the 2001 'Regulation on Public Access to Documents', the Council, Commission and Parliament 'shall refuse access to a document where disclosure would undermine the protection of: (a) the public interest as regards: public security, defence and military matters, international relations, the financial, monetary or economic policy of the Community or a Member State; (b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data'; or the protection of commercial interests, including intellectual property, court proceedings and legal advice, or the purpose of inspections, investigations and audits, 'unless there is an overriding public interest in disclosure'. Access to internal documents shall also be refused if disclosure would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

In principle, all documents of the institutions should be accessible to the public. However, certain public and private interests should be protected by way of exceptions. The institutions should be entitled to protect their internal consultations and deliberations where

⁹ The IDB's Disclosure of Information policy dates from 1994. The current policy was introduced in 2003 and last amended in 2006. See Board of Executive Directors of the Inter-American Development Bank, *Disclosure of Information Policy. Final amended version*. GN-1831-18, 7 August 2006. Available at <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=784916>.

necessary to safeguard their ability to carry out their tasks. In assessing the exceptions, the institutions should take account of the principles in Community legislation concerning the protection of personal data, in all areas of Union activities.' (recital 11)¹⁰

The protection of personal data in the Member States has been the subject of EU measures since 1995. A Regulation was adopted in December 2000 on the protection of individuals with regard to personal data.¹¹ This established the office of European Data Protection Supervisor (EDPS) as well as confirming the obligation for all EU bodies to apply the rules to themselves.

The case which brought the tension between transparency and data protection to a head arose in the context of an infringement proceeding initiated by the European Commission. In 1996 a German company (*Bavarian Lager*) importing beer into the UK launched a complaint against the British Government on the grounds that the rules governing the sale of imported beers in British pubs restricted the sale of their products in ways which breached the provisions of the Treaty. The European Commission began investigations; a meeting was held with the UK authorities and the European Brewers Confederation which the plaintiff was not able to attend; the rules were modified and the Commission dropped the case. A first challenge by the company to have access to the documents was dismissed by the Court of First Instance. The company then went to the European Parliament to oblige the Commission to disclose the identities of all those present. In 2004, the Commission refused, invoking the Community Regulation. In May 2004 the company (supported by the European Data Protection Supervisor) initiated an action for annulment of the Commission Decision. In November 2007, the Court of First Instance ruled against the Commission. It argued that the exceptions to the principle of access to documents must be interpreted restrictively; that they concern only personal data that are capable of actually and specifically undermining the protection of privacy and the integrity of the individual; and that in the case in question 'the Commission ruled in the abstract on the effect which

¹⁰ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, Art. 4. *Official Journal* L 145 of 31 May 2001.

¹¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. *Official Journal* L 8 of 12 January 2001.

disclosure of the document concerned with names might have on its investigative activity, without demonstrating to a sufficient legal standard that disclosure of that document would actually and specifically undermine protection of the purposes of investigations.¹² The case went to appeal (still pending at the time of writing). In April 2008, however, the Commission also proposed a modification to the 'privacy exception' in the 2001 regulation on access to documents which went some way in the direction of transparency

'Names, titles and functions of public office holders, civil servants and interest representatives in relation with their professional activities shall be disclosed unless, given the particular circumstances, disclosure would adversely affect the persons concerned. Other personal data shall be disclosed in accordance with the conditions regarding lawful processing of such data laid down in EC legislation on the protection of individuals with regard to the processing of personal data.'¹³

Although this case concerned a different context (investigations for infringement proceedings) and the events took place under different circumstances, it set off a wave of new pressures on the Commission to disclose the business interests involved in the 'expert groups' which advise it when it prepares legislative proposals. Although an expert group register has been on the Commission's website since 2005, the identities of those participating is not public (ALTER-EU 2008). The Commission has continued to take steps under the 'Transparency Initiative' launched in 2006, which has led, in addition to a voluntary register of lobbyists, to new disclosures of information with regard to beneficiaries of the Common Agricultural Policy, and a draft Code of Conduct for Business Representatives (under public consultation in early 2008).

Based on these cases, some general observations may be made regarding principles and practices.

First, there are no absolute or universal practices regarding *openness*, even if one accepts that it is the exceptions and not the rule that have to be justified. A maximalist application

¹² Judgment of the Court of First Instance of 8 November 2007 - *Bavarian Lager v Commission*, Case T-194/04, *Official Journal* C 315 of 22 December 2007.

¹³ *Proposal for a Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents*, COM(2008) 229 final, 30 April 2008, proposed new Art. 4(5).

of transparency may have perverse effects, while there may be tensions between particular principles which need to be resolved according to the individual issues involved.

Second, *participation*, as a criterion of good governance, cannot be assessed in terms of the number of formal bodies and mechanisms which exist. One predictable risk is that well-organised private interests will have more influence than diffuse public-interest associations, especially if the former can provide the kind of state-of-the-art technical expertise which neither the regional body nor the public-interest associations may possess. In order to redress the balance, regional bodies (like national governments - and often with external support) may encourage and provide material support for the work of regional trade-union bodies and 'organized civil society'. Quite apart from the obvious risk of apparent collusion, bodies which depend on this kind of support may actually enjoy limited representativeness and end up acting in defence of their own institutional interests. In the EU context, the specific principle of representativeness is indeed seen as an essential part of the general principle of (good) participation (Obradovic and Alonso Vizcaino 2006).

Third, the most importance indicator of good governance in these respects is not the existence of formal rules or fora, but the fact that an appropriate system exists by which problems can be effectively addressed. This will vary according to the nature of the regional arrangement in question and the administrative culture of the participating countries. Formal mechanisms may not be enough - or may not be necessary - but internalization of the norms and practices is essential. Beyond this, the minimum standard is to make available to stakeholders and concerned parties sufficient and appropriate information, in a timely way, to permit both meaningful ex ante consultations as well as ex post political control by national parliaments, civil-society organizations and the public. In the case of deeper regional integration processes, this may mean the empowerment of autonomous regional bodies to exercise legally-binding control (a Court of Auditors, a Court of Justice, a Parliament, an Ombudsman).

3. Assessing Regional Systems of Governance

Evidently, the considerations in the previous sections are applicable to all regional bodies. However, assessments of good governance in regional settings need to distinguish between various kinds of regional arrangement.

Most regional organizations are qualitatively distinct from international organizations, and not only in their level of membership, even when the particular area of functional cooperation which is involved may appear to be entirely technical. By way of example, the Institute of Nutrition of Central America and Panama (INCAP) in Guatemala is, on the one hand, a sub-regional centre within the Pan American Health Organization (PAHO), which in turn serves as the Regional Office for the Americas of the World Health Organization (WHO). On the other hand, it is part of the multi-dimensional web of cooperation under the umbrella of the Central American Integration System (SICA), which aims to consolidate and deepen a system of sub-regional governance based on social, economic, political and cultural ties.

Beyond this, there are important differences between the governance of a regional organization and its interaction with stakeholders and affected actors, on the one hand, and a regional system of governance, on the other. The evaluation of a regional body, as of any other organization, must be made in relation to its objectives, the expectations of its stakeholders/clients, and the specific challenges of the particular regional context. Those expectations and challenges will be qualitatively different according to whether the regional body is assessed in terms of its performance in the management of functional cooperation (for example, a transnational infrastructure project) or in terms of its role within a multi-level system involving the adoption and enforcement of binding common rules and limitations on the exercise of sovereign rights (for example, a common commercial policy). The distinction is of course neither absolute nor simple, The assessment of governance in both cases includes the evaluation of regional organizations' internal practices and relations with stakeholders and affected actors. Some regional organizations are both responsible for functional cooperation and involved in rule-making (for example, the European Commission). There are some forms of regional interaction which fall between the two (for example, the Organisation for Economic Cooperation and Development (OECD) or the kind of non-binding policy coordination known as the open method of coordination in the

European Union). Some bodies are only susceptible of assessment in terms of internal management and regional rules (for example, regional Courts of Justice). Finally, one could argue that it is a matter of degree. The same criteria and indicators are involved. They just matter more according to the material amounts involved and/or the relative impact of the rules in terms of national discretion (Esty 2006).

Yet this varying degree of impact means precisely that there are some essential differences to be taken into account when it comes to thinking about good governance requirements. It would be inappropriate to evaluate the management of a regional organization of purely functional cooperation on the basis of whether or not the region had a parliamentary assembly with legislative powers. It would be equally inappropriate to look at a system of deeply-integrated multi-level governance only in terms of the transparency of the executive body's accounts, important as that is. In addition to evaluating correctness, openness and responsiveness of the regional bodies involved, an assessment of systems of regional governance needs to consider to what extent the institutional system matches the specific needs of the historic reality involved.

Regional institutional systems need to be able to manage the level of difficulties which are likely to emerge in the specific regional and historical context, which means having both a sufficient problem-solving capacity and local legitimacy. In addition to factors normally beyond a region's control such as international economic trends, the nature and intensity of those challenges will be shaped by the degree of ambition of the formal agreements (a customs union will create very different challenges compared to a free trade area) and the underlying realities of relations between the participating countries: for example, the distribution of adjustment costs, differences in relative power and/or levels of development, historical patterns of cooperation and conflict, mixes of cultural identity and local rivalries (Best 2006). Good regional governance in this perspective means what is 'appropriate' to the stability conditions of the particular regional integration process. This is not coterminous with universal governance principles; it may change over time; and comparisons with other regions should be made with great caution. The formal existence of particular kinds of regional body (such as a 'parliament') does not in itself say anything about the quality of the system in practice.

In terms of methodology, assessment of the quality of governance in a genuine regional *system* also means that one cannot look only at one particular organization but must try to evaluate the interaction between two or more bodies in terms of the formal rules, informal practices and actual results. This is perhaps analogous to the challenge of measuring the aggregated impact on regional integration of a wide range of sectors while still monitoring the outputs at individual project and program level (Nguyuen and Wescott 2008, 114).

Things become all the more complicated in cases of deep integration - certainly in the European Union - given that the very rationale of the whole system may be contested in some respects: there is no universally-accepted set of norms and expectations against which anything can be 'objectively' evaluated. Again, the 'bottom line' of good-governance assessments is not whether a system has one kind of formal arrangement or another. Indeed the formal reproduction in one region out of context of a particular institutional arrangement found elsewhere may prove inappropriate and even counter-productive (Best 2006). The issue at this level is whether the system provides a stable general framework over time for the negotiation of individual actions - and, if necessary, the re-negotiation of basic rules - between participating countries with divergent preferences but an underlying commitment to the regional project.

The following questions, in addition to the principles outlined above, may help draw up appropriate indicators in particular cases.

Table 2: Systems of Regional Governance: Some Basic Parameters for Assessment

Principle	Indicators
Compliance by governments	- payment of contributions - implementation of rules
Dispute resolution	- formal mechanisms; number and length of cases - informal mechanisms; number and length of cases
Public support for regional bodies	- public opinion surveys - participation in regional elections
Societal integration	- number and strength of transnational associations - perceptions of shared interest and identity

4. Perspectives and Processes

Finally, three points can be made in general terms about how best to put this approach into practice. The first point should be self-evident but seems to require reiteration. A conscious effort must be made in every case to ensure that indicators are appropriate to the particular regional project and reality, and do not reflect assumptions which are specifically linked to the experience or preferences of other regions. This suggests the desirability of some form of independent third-party evaluation which makes explicit the assumptions which are being made by the parties concerned, and subjects these to scrutiny. This is all the more important when indicators are being established in relation to interregional cooperation arrangements, the needs and interests of which can themselves easily be allowed to shape definitions of regional needs (Girvan 2008, Best 2008).

Second, as noted in the collection of studies by De Lombaerde et al (2008), regional arrangements across the globe are weakened by a lack of adequate administrative and technical resources, as well as of interest and commitment on the part of key actors, public and private. The establishment of indicators must obviously take into account what is realistic in particular circumstances, and aim to support processes of capacity-building.

The third point concerns precisely the underlying rationale of assessment exercises themselves, in terms both of methodology and objectives. Independent external assessment is of course required if the main rationale is to come up with an objective evaluation of the merits of a regional body with regard to continued external funding and support, generally accompanied by suggestions for improvement.¹⁴ However, the more a governance assessment aims to support that process of improvement, the more it should take the form of a guided self-assessment. To take an appropriate example, the Common Assessment Framework (CAF) was developed within the Innovative Public Services Group of the

¹⁴ One example is the Program Assessment Rating Tool (PART) which is used by the U.S. Office of Management and Budget, together with Federal agencies. This aims to rate performance (effective, moderately effective, adequate, ineffective) on the basis of a series of Program Performance Measures, and to make recommendations in the form of Program Improvement Plans. This has been applied to international bodies to which the US contributes, for example the International Atomic Energy Agency (IAEA). See <http://www.whitehouse.gov/omb/expectmore>.

European Public Administration Network (EUPAN) in order to promote Total Quality Management (TQM) in public-sector organisations, taking into account the different characteristics of such organizations, by means of self-assessment. It was first launched at the 1st European Quality Conference in 2000. The revised version currently in use was adopted in 2006.

The aim is to facilitate diagnosis and improvement within a public organization as well as 'bench learning' - as compared to 'benchmarking' - between public organizations. There are nine criteria (and 28 sub-criteria). Five of these deal with the 'Enabler' features of an organization: leadership, strategy and planning, people, partnerships and resources, and processes. The other four focus on 'Results': citizen/customer-oriented results, people results, society results, and key performance results. Measurement takes place by a 'scoring system', which should be carried out with the assistance of experienced external assessors, for all phases of the 'Plan-Do-Check-Act (PDCA)' cycle. This scoring has the aim of providing information, measuring progress, and identifying good practices.¹⁵

In 2006, the CAF began to be applied in the institutions and bodies of the European Union, starting with the European Court of Auditors (ECA), and subsequently in the European Police Office (Europol) as well as in two services of the European Commission. Although application of the CAF to regional bodies is still at an early stage, the first results suggest that this kind of approach can accommodate also the specific kinds of interactions and challenges at regional level.

Conclusions

This paper has discussed how assessments of governance in regional contexts may be made in meaningful and useful ways. Good governance is understood in terms of the democratic quality of regional arrangements. These principles have traditionally been summed up as transparency, accountability and participation. Although it cannot meaningfully include all dimensions of an organization's work, however, the concept of regional governance should also encompass the underlying capacities of regional bodies to manage resources correctly

¹⁵ http://www.eipa.eu/files/File/CAF/Brochure2006/English_2006.pdf

and to evaluate results effectively. A distinction also needs to be made between different kinds of regional arrangement. It is not the same thing to assess the governance quality of regional organizations, in terms of their internal practices and interaction with their stakeholders, partners and affected parties, as to evaluate a regional system of governance, in which regional bodies go beyond functional cooperation and are involved in the adoption of common rules.

It is therefore argued that neither the traditional core principles nor established 'governance indicators' can be applied in a simple way to regional arrangements. It is more appropriate to group governance principles according to correctness, openness and responsiveness. A tentative catalogue of principles and indicators can be offered, but formal indicators need to be treated with considerable caution. These are not always matters of absolute value. There are some basic tensions between principles as well as challenges for comparability. Common lists of indicators provide a means to describe a particular arrangement but do not necessarily constitute a basis for evaluating its appropriateness in good-governance terms.

The existence of formal instruments does not guarantee practical results, and may not necessarily indicate higher standards in reality. What matters is whether the arrangements provide adequate mechanisms to ensure a high standard of performance in each of the three underlying meta-principles proposed - in the regional arrangement's own terms, and with a view to a process of improvement.

In this respect, assessment exercises themselves may play a role. External objectivity is required to ensure impartiality especially with regard to funding decisions. However, a high degree of involvement on the part of the actors under consideration, in the form of supervised self-assessment, may help ensure that the exercises are focused on internal improvement and learning, rather than on external judgement and ranking.

References

- ALTER-EU (Alliance for Lobbying Transparency and Ethics Regulation in the European Union) (2008) *Secrecy and corporate dominance - a study on the composition and transparency of European Commission*. Brussels.
- Arndt, C. and Oman, C. (2006) *Uses and Abuses of Governance Indicators*. Paris, OECD.
- Auel, K. (2007) 'Democratic Accountability and National Parliaments: Redefining the Impact of Parliamentary Scrutiny in EU Affairs'. *European Law Journal* 13 (4), 487-504.
- Besaçon, M. (2003) 'Good Governance Rankings: The Art of Measurement'. *World Peace Foundation Reports* No.36, Cambridge MA.
- Best, E. (2002) 'Transparency and European Governance: Clearly Not a Simple Matter'. In: V. Deckmyn (ed.) *Increasing Transparency in the European Union?* Maastricht, EIPA, pp. 91-117.
- Best, E. (2006) 'Regional integration and (good) regional governance. Are common standards and indicators possible?' In: P. De Lombaerde (ed.) *Assessment and Measurement of Regional Integration*. London and New York: Routledge, pp. 183-214.
- Best, E. (2008 forthcoming) 'The European integration process: An example for other regions?' In: Ott, A. and Vos, E. (eds.) *Fifty Years of European Integration*. The Hague: TMC/Asser.
- Blagescu, M. and Lloyd, R. (2006) 'Assessing accountability of global and regional organisations'. In: P. De Lombaerde (ed.) *Assessment and Measurement of Regional Integration*. London and New York: Routledge, pp. 215-231.
- Bovens, M. (2007) 'New Forms of Accountability and EU Governance'. *Comparative European Politics* 5, 104-120.
- De Lombaerde, P., Estevadeordal, A. and Suominen, K. (2008) *Governing Regional Integration for Development. Monitoring Experiences, Methods and Prospects*. Aldershot, Ashgate.
- Demmke, C., Bovens, M., Henökl, T., van Lierop, K., Moilanen, T., Pikker, G. and Salminen, A. (2007), *Regulating Conflicts of Interest for Holders of Public Office in the European Union. A Comparative Study of the Rules and Standards of Professional Ethics for the Holders of Public Office in the EU-27 and EU Institutions*. Study for the European Commission, Bureau of European Policy Advisers, carried out by the European Institute of Public Administration, in co-operation with the Utrecht School of Governance, the University of Helsinki and the University of Vaasa. Available at http://ec.europa.eu/dgs/policy_advisers/publications/docs/hpo_professional_ethics_en.pdf [1 May 2008].
- Dubnick, M. (1998) 'Clarifying accountability: an ethical theory framework'. In: Sampford, C. and Preston, N. (eds.) *Public Sector Ethics*. London, Routledge, pp. 68-81.
- Esty, D. (2006) 'Good Governance at the Supranational Scale: Globalizing Administrative Law'. *The Yale Law Journal* 115, 1490-1562.
- EC (European Commission) (2001) 'European Governance: A White Paper'. COM (2001) 428, Brussels.
- Finer, S.E. (1970) *Comparative Government*. Harmondsworth, Penguin.
- Girvan, N. (2008) "'Learning to Integrate": The Experience of Monitoring the CARICOM Single Market and Economy' In: De Lombaerde, P., Estevadeordal, A. and Suominen, K. *Governing Regional Integration for Development. Monitoring Experiences, Methods and Prospects*. Aldershot, Ashgate, pp. 31-56.
- Grant, R. and Keohane, R. (2005) 'Accountability and Abuses of Power in World Politics'. *American Political Science Review* 99 (1), 29-43.

- Harlow, C. (2006) 'Global Administrative Law: The Quest for Principles and Values'. *European Journal of International Law* 17 (1), 187-214.
- Hooper, B.P. (2006) *Key Performance Indicators of River Basin Organizations*. Institute of Water Resources, US Army Corps of Engineers.
- Kingsbury, B., Krisch, N. and Stewart, R. B. (2005) 'The Emergence of Global Administrative Law'. *Law and Contemporary Problems* 68, 15-61.
- Mulgan, G. (2000) ' "Accountability": An Ever-Expanding Concept'. *Public Administration* 78 (3), 555-573.
- Nelson, P.J. (2001) 'Transparency Mechanisms at the Multilateral Development Banks'. *World Development*, 29 (11), 1835-1847.
- Nguyen, C. and Wescott, C. (2008) 'Results-Based Monitoring of Regional Integration and Cooperation in ASEAN'. In: De Lombaerde, P., Estevadeordal, A. and Suominen, K. *Governing Regional Integration for Development. Monitoring Experiences, Methods and Prospects*. Aldershot, Ashgate, pp. 103-124.
- Obradovic D. and Alonso Vizcaino, J. M. (2006) 'Good governance requirements concerning the participation of interest groups in EU consultations', *Common Market Law Review* 43, 1049-1085.
- Parker, N., Berthin, G., de Michele, R. and Mizrahi Y. (2004) *Corruption in Latin America: A Desk Assessment*. Americas' Accountability Anti-Corruption Project, Casals and Associates, Inc.. Washington D.C., U.S. Agency for International Development (USAID).
- Rhodes R.A.W. (1997) *Understanding Governance. Policy Networks, Governance Reflexivity and Accountability*. Buckingham & Philadelphia, Open University Press.
- Rhodes R.A.W. (2000) 'The Governance Narrative: Key Findings and Lessons from the ESRC's Whitehall Programme'. *Public Administration* 78(2), 345-363.
- Rosenau, J.N. (1992) 'Governance, order and change in world politics'. In: J. N. Rosenau, and E.-O. Czempiel (eds.) *Governance without government: order and change in world politics*. Cambridge, Cambridge University Press, pp. 1-30.
- Settembri, P. (2005) 'Transparency and the EU Legislator: Let He Who is Without Sin Cast the First Stone'. *Journal of Common Market Studies* 43 (3), 637-54.
- Suzuki, E. and Nanwani, S. (2005) 'Responsibility of International Organizations: the Accountability Mechanisms of Multilateral Development Banks'. *Michigan Journal of International Law* 27, 177-225.
- UNDP (United Nations Development Programme) (1997) 'Reconceptualising Governance' *Discussion paper 2*. Management Development and Governance Division, New York, UNDP.
- UNDP (2002) *Handbook on Monitoring and Evaluation for Results*. Washington, UNDP.
- World Bank (2007) *A Decade of Measuring the Quality of Governance. Governance Matters 2007. Worldwide Governance Indicators, 1996-2006*. Washington D.C., The World Bank.
- Wouters, J. and Ryngaert, C. (2004) 'Good Governance: Lessons from International Organizations'. *Working Paper No. 54*, Institute for International Law, Katholiek Universiteit Leuven.