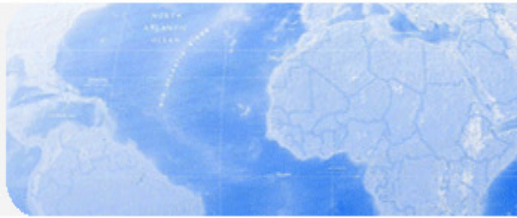




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The Environment in the Andean Community and Mercosur

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Abstract

The paper compares the processes of regional integration in the environmental policy-area of the Andean Community (CAN) and the Common Market of the South (Mercosur). South America is in various ways challenged by environmental strains such as climate change. The main issue discussed in the paper is how, and to what extent, has the regionalization of environmental policies and politics taken place in both blocs? As a secondary strand in the treatise, integration, or the lack thereof, is explained by drawing from key theories on regional integration developed in the European context and applied to South America. The author finds that integration in the area of climate change remains timid in both blocs. However, a juxtaposition of both cases reveals that at least in terms of environmental affairs, CAN has been more proactive. This departs from the conventional assumption that Mercosur is the most developed entity in the region in terms of integration agendas in various policy fields. Nevertheless both blocs have created insufficient regulations on the environment in spite of the inchoate strides made by CAN. This could be partly explained by the attitudes of various governments who still find few incentives to support robust supranational initiatives in the field of environmental protection.

Acronyms¹

AEA	Andean Environmental Agenda
APC	Andean Presidential Council
CAAAM	Andean Committee of Environmental Affairs
CAC	Commission of the Andean Community
CAMRE	Andean Council of Foreign Affairs
CAN	Andean Community
CAPRADE	Andean Committee for disaster prevention and attention
CMC	Council of the Common Market
CMG	Common Market Group
CMMAD	Council of Ministers of Environmental and Sustainable Development Affairs
COP	Conference of the Parties
DT	Declaration of Taranco
EC	European Commission
ECSC	European Coal and Steel Community
EEC	European Economic Community
EU	European Union
FTAA	Free Trade Area of the Americas
GATT	General Agreement on Tariffs and Trade
Mercosur	Common Market of the South
Mercosul	Common Market of the South ²
NAFTA	North American Free Trade Area
POP	Protocol of Ouro Preto

¹ These are the most commonly used acronyms; they are not necessarily based on English names.

² Following the Portuguese name of the bloc.

REMA	Special Reunion for the Environment
RBS	Regional Biodiversity Strategy
SAI	Andean Integration System
SGCAN	General Secretariat of the Andean Community
SGT	Sub Working Group
SM	Secretariat of the Mercosur
TA	Treaty of Asunción
UNASUR	Union of South American Nations
UNFCCC	United Nations Framework Convention on Climate Change
WTO	World Trade Organization

Abbreviations

art.	Article
c.i.	Cited in
e.g.	Exempli gratia
et al.	Et alii
f.	Following
fig.	Figure
ff.	Forth-following
ibid.	Ibidem
n.d.	No date
rf.	Refer to

Introduction

Since the creation of the European Economic Community (EEC) in 1957, this integration scheme has expanded fairly steadily in both breadth and depth. The European Union (EU) is now arguably the most developed integration-bloc in the world, it actively promotes its form of integration in other regions and serves as the “gold standard” of regional integration (Moxon-Browne 2010:121). Hence, many comparisons of regional integration schemes feature the EU as comparative referent.

Regional integration is frequently seen as a solution for a variety of problems, ranging from improving a state’s position within world trade, to ensuring ambitious developments in promoting peace and security. A variety of regional organizations aiming at achieving a multitude of diverse goals has thus been created. This phenomenon is to be observed in various parts of the world with the form of integration varying in structure and agenda.

Theories attempting to explain the process of regional integration have been introduced ever since the creation of the European Coal and Steel Community (ECSC) and have, since, been constantly modified, although thoughts on closer cooperation and integration within Europe (and the world as a whole) developed long before the founding of the ECSC; dating as far back as Kant and Rousseau. However, in the aftermath of World War II, integration as a means of preventing new wars has risen in importance³. Depending on the theoretical framework, the explanation focus of the theory employed differs starkly. However, most theories concerning regional integration share a common thread; they have been developed in the context of European Integration and European states. Attempts to apply those theories to other regions of the world, where the states may not yield the same features as European ones, are rather staggered and hence further examination appears necessary.

As a result, this paper aims to compare the processes of regional integration in the environmental policy-area of the Andean Community (CAN) and the Mercosur. Both regions are considered the most accomplished after the EU (Malamud & Schmitter 2007:4). South America is in various ways (e.g. melting glaciers, declining rain-forest and rising quantities of extreme weather phenomena) challenged by climate change. Further, given that the environment has already

³ E.g. Henry (1951) discusses the necessity of closer cooperation within (Western) Europe.

became an issue for the EU when Mercosur and CAN proceeded to integrate in the political sphere, it is interesting to examine how the two regions, in a challenging geographical space, have dealt with the same problem.

The main issue discussed in the course of this paper is the question of how, and to what extent, the regionalization of environmental policies and politics has taken place in both blocs? As a secondary topic, integration, or the lack thereof, shall be explained by drawing from key theories on regional integration developed in the European context. Thus, those theories will be applied to another region, South America, a subject which so far has not been accommodated sufficiently in existing literature. By doing so, this paper offers a valuable addition to the scientific community, as well as to policy-makers, concerning how a deeper understanding of regional integration in the Americas could be accomplished.

In order to achieve the above-mentioned aims, this paper shall firstly, examine the current state of research as well as methodological aspects concerning comparative regionalism studies. Secondly, CAN and Mercosur will be analysed before thirdly, the (non-)integration will be examined consulting the theories of European regional integration.

Current state of research in comparative regionalism, the environment in Andean Community and Mercosur, and methodological approach

Although regionalism and its different facets have become increasingly important and diverse in the last few decades, “the role of comparison is underdeveloped in the field of regionalism compared to most other fields within social sciences” (De Lombaerde, Söderbaum, Van Langenhove and Baert 2010a:733). As De Lombaerde et al. consider the lack of a systematic debate on the fundamentals of comparison in the regionalism field problematic, they cogitate about this issue considering conceptual, theoretical and methodological aspects. Firstly, the conceptual ambiguity of the word region is examined. As a variety of definitions of the term ‘region’ can be found in the literature and given that subsequent definitions, e.g. of regional integration, derive from this fundamental one, providing a clear definition is an essential step in

any comparative regionalism study⁴. Building on Van Langenhove's (2003) concept of 'regionhood', which considers the differences between a region and a non-region, De Lombaerde et al. (ibid.) give a possible definition for regions: "One possibility is the notion of 'regionhood', which sees [...] macro-regions as non-sovereign governance systems between the national and the global level" (De Lombaerde et al. 2010a:740). This minimal definition suffices for the purpose of this paper. To avoid any ambiguity in the course of this paper 'region' shall, if not otherwise declared, stand for macro-region⁵ and the above given definition shall be valid. Employed synonymously shall be 'regional integration scheme', 'bloc', 'regionalism' and 'regional organization'.

Definitions of regional integration are probably even more manifold than those of the term region. For this paper, Haas' (1958:16) classical definition of integration as the process "whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations, and political activities toward a new center, whose institutions possess or demand jurisdiction over the pre-existing national states" (c.i.: Meyers 2007:507) shall suffice. On his part, Nye (1971:vii) differentiates between political integration (the formation of a transnational political system), economic integration (the formation of a transnational economy) and social integration (the formation of a transnational society). This paper shall focus primarily on the first sphere of integration as it examines environmental regional-level politics, policies and politics.

The CAN and the Mercosur will be compared as they constitute the two most relevant regions within the United Nations' Statistics Division (2011) geographically defined region of South America. Out of the 14 states in this geographical region⁶ eight feature in one of the two blocs⁷ with the remaining ones being members of others. However, out of the variety of organizations present in South America, the majority have members not limited to this geographical region only, which would not make their examination less interesting, but their incorporation into the

⁴ As the discussion shall not be repeated here, cf. Lombaerde et al. (2010a) and De Lombaerde, Söderbaum, Van Langenhove and Baert (2010b).

⁵ Van Langenhove (2003:26) distinguishes between region (e.g. the Flanders- part of Belgium), micro-region (e.g. the Euro-regions) and macro-regions (e.g. the EU).

⁶ Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Ecuador, Malvinas (Falkland Islands), French Guiana, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela (Bolivian Republic of).

⁷ CAN: Bolivia, Colombia, Ecuador and Peru; Mercosur: Argentina, Brazil, Paraguay and Uruguay.

research design more complex and hence be deferred, mindful of the restricted remit of this paper. For practical reasons this paper must be limited only to the given geographical region.

De Lombaerde et al. (2010a) also consider the methodological aspects of comparative regionalism with their debate mainly following the issues of case-selection and quantitative versus qualitative methodology⁸. The case selection has been “purposive” (ibid.: 747) meaning the basis has been relevance and the objective of this study.

A qualitative analysis of both regions, comprising of the institutions concerned with the environment, regional regulation developed, and regional environmental strategies and the provision of information on environmental aspects form the basis of this study. While the first items of examination are obvious points of analysis, the last one concerning the provision of information shall be seen as an indicator of the importance allocated to a policy field. The underlying assumption is that an entity accomplishing notable results in a policy area will seek to publish this information in a comprehensive and timely manner. Nevertheless, this shall only be a secondary consideration while the other points shall be the main focus of this study.

A third aspect De Lombaerde et al. (2010a) elaborate on is the pre-dominance of European integration and the respective theories. The European experience is often considered somewhat of a role-model for other integration processes and comparisons are often conducted either explicitly or implicitly against it (ibid.:742). This, and the fact that most theories were developed from the European context, may lead to other regionalisms being judged under the (implicit) “assumption that 'progress' in regional integration is defined in terms of EU-style institutionalisation [sic!]” (Breslin, Higgott and Rosamond 2002:11, c.i.: De Lombaerde et al. 2010a:743), which obviously has implications for the study of regionalisms. Although this paper aims at being non-Eurocentric, it cannot solve this problem but shall merely acknowledge this circumstance. The EU shall by no means be seen as a role model and references to it shall instead be portrayed as an alternative regional approach. In attempting to explain (non-)integration, ideas stemming from the European Integration theories shall be tested for the context of the given sample to contemplate whether they yield any value for this particular

⁸ Due to space constraints this paper may not offer a comprehensive rehearsal of the worthwhile debate, refer De Lombaerde et al. (2010a:744ff.).

matter. Results of this attempt may serve as the basis for future studies and for possible adjustments of existing or new theories.

Theorizing European integration has occurred since the beginning of the process and a variety of theories focussing on different aspects of the process have developed⁹. Although early Neo-Functionalists as Haas and Schmitter (1964), Dell (1966) and Nye (1970) examined integration in other parts of the world, no significant research has been conducted on this in the decades following. Whereas the European process remained in the scholarly debate, “[...] most scholars lost their interest in regionalism outside Europe due to the perceived lack of regional integration elsewhere.” (De Lombaerde et al. 2010a:733).

During the last two decades, as regionalisms outside Europe grew in number and importance, more studies have been done in this field. In their article, De Lombaerde, Mattheis and Vanfraechem (2010) examine how the Mercosur has been compared to other regional integration schemes. Comparisons between CAN and Mercosur have been made on the issues of presidential interventionism (Malamud 2003), their secretariats (Filadoro 2009), their 'integration achievement scores' (Feng and Genna 2003, 2004 and 2005), the success of the integration schemes (Mattli 1999) and the possibility of forming an optimum currency area (Dorrucci et al. 2002). Mercosur's integration in environmental policies have been examined by Blum (2000), who compared it to NAFTA¹⁰ and by Albergaria de Queiroz (2005)¹¹ who examined Mercosur, GATT/WTO¹², EU, NAFTA and FTAA¹³. Newell examines the applicability of the environmental justice concept for NAFTA, Mercosur and the FTAA. Similar studies for CAN appear not to have been conducted. With Tafur-Domínguez (2000) providing the only study regarding this topic, virtually no literature may be found for CAN. A slightly larger number of studies may be found for Mercosur however, publications of the blocs themselves will be an

⁹ The debate on European theories can, due to space constraints, not be portrayed in this paper. A very worthwhile overview over it has been presented by Eilstrup-Sangiovanni (2007). Additional contributions for the theories may be found for Neo-functionalism in Wolf (2005), for Intergovernmentalism in Bieling (2005), for Liberal Intergovernmentalism in Steinhilber (2005), for Supranational Institutionalism in Nölke (2005), for Social Constructivism in Risse (2003) and for the Multi-Level Governance Approach in Knodt (2005).

¹⁰ North American Free Trade Area.

¹¹ A comparative study is not assessed in the article mentioned.

¹² General Agreement on Tariffs and Trade/World Trade Organization.

¹³ Free Trade Area of the Americas.

important basis of this paper¹⁴. Although completeness is problematic to achieve, this study reflects a review of the existing English, German, Spanish and Portuguese secondary literature concerning both regions and their action in the environmental field.

To sum up, this paper aims at comparing two regions within one geographical region in a policy area which has so far been virtually neglected. Comparative studies are still under-represented in regional integration studies in general within the given geographical region; however the quantity is even smaller. Whereas the Mercosur has served as a comparator in a variety of studies, CAN is rarely represented. Comparisons between the two regions are rare and in the environmental policy-area are non-existent. The purpose and justification of this paper is to fill in this gap and enhance understanding of both regions. The methodological problems discussed by De Lombaerde et al. (2010a) can understandably not be solved in the course of this short paper. However, they are acknowledged and will be duly taken into account. Expecting the environment to play a secondary role in either bloc and expecting European integration theories to yield limited explanatory value, the following sections will examine and compare CAN and Mercosur.

The environment in Andean Community and Mercosur

Having explored aspects that should guide the comparison, the following section considers the role of the environment in both regions and offers possible explanations for the marginal roles played, drawing from the theories of integration developed in the European context, before the methodological approach chosen for this study is reviewed.

The role of the environment in both regions

Firstly, the structure and decision-making modes of both regions will be briefly examined, before the institutions in the field of the environment, regional regulation and regional strategies and the

¹⁴ Although the results would doubtlessly be valuable, due to limited resources and time constraints, field research and interviews will not be conducted.

access to information, are examined in a deeper manner. After considering the sub regional organizations in greater profundity, conclusions will be drawn on the role of the environment in both regions.

Structure of the blocs and decisions-making modes

Emphasizing development, Bolivia, Chile, Colombia, Ecuador and Peru formed the Andean Pact in 1969, with Venezuela joining four years later, and Chile leaving in 1976¹⁵. By establishing the Council of Foreign Ministers, the Andean Court of Justice and the Andean Parliament, the integration process was strengthened in 1979. However, the process merely stagnated in the following decade with the exception of direct applicability of community norms from 1983 onward (SGCAN: n.d. a). New momentum was given to the process by amending the founding Cartagena Treaty by the Trujillo Protocol in 1996 which made the CAN a regional organization with international legal status (Tafur-Domínguez 2000:285). Additionally, it added political integration to the process and reshaped the institutional structure of CAN, which substituted the Andean Pact, by establishing the General Secretariat (SGCAN) and incorporating the Andean Presidential Council (APC) and the Andean Council of Foreign Affairs (CAMRE) into the Andean Integration System (SAI). The SAI now includes a variety of other institutions (rf. Annex), however, mentioned above are the most important ones (Lehmann 2004:139). In 2006 the CAN entered a deep crisis when Venezuela left the bloc.

The primary objective of the CAN is “[...] to promote the balanced and harmonious development of the Member Countries under equitable conditions, through integration and economic and social cooperation; [...]” (CAN 2001:Art.1). Whereas the APC guides the integration process, the CAMRE formulates the foreign policy and, together with the Commission of the Andean Community (CAC), the general integration policies. The CAMRE recommends and adopts measures that it forms together with the Commission the legislative branch of the CAN (Lehmann 2004:141). The CAMRE gives both non-binding Recommendations and binding Decisions. The Commission and CAMRE take measures to reach the fundamental objectives of the Treaties. However, the Commission is mainly responsible for trade and investments. The

¹⁵ For a more detailed résumé of CAN's history rf. Lehmann (2004).

executive and supranational organ is the SGCAN which acts in pursuit of community interests. The Councils are obviously intergovernmental and the Commission is rather intergovernmental than supranational¹⁶. The Andean Parliament is merely a deliberative and advisory organ, whereas the Andean Court serves as the judiciary. As Casas-Gragea notes, “a deeper analysis of both the Andean Integration System and its working dynamics shows us a sub-regional process that is essentially intergovernmental.” (Casas-Gragea 2006:11). This inter-governmentalism can be observed in the second bloc studied in this paper.

The Mercosur¹⁷ (Common Market of the South) was founded in 1991 by Argentina, Brazil, Paraguay and Uruguay. Venezuela officially joined the bloc in 2012. Preceding the signing of the founding Treaty of Asunción (TA) there were various endeavours of cooperation between the countries of the Southern Cone, mainly Argentina and Brazil (Lehmann 2004:91). Even though the relationship between the two bigger members of the bloc has always revealed intrinsic conflicts, cooperation agreements between them in the decade before Mercosur's establishment can be seen as the “direct precursor” (ibid.) of the bloc. Paraguay and Uruguay have properly been incorporated into those efforts through the TA, to which the Protocol of Ouro Preto (POP) has been amended in 1994 concluding the initial transitory phase establishing the institutional framework and judicial personality of the Mercosur (Mercosur n.d. a)¹⁸.

The Council of the Common Market (CMC), consisting of the Ministers of Foreign Affairs or Economy, meets biannually. The Council of Presidents of the member states constitutes the highest organ of the bloc. It guides the integration process, adopts decisions in order to achieve the aims outlined in the treaties and controls their implementation. Additionally, it may establish new organs and may take decisions in financial and budget issues. “In sum, the Council can influence all other organs, partly *de jure*, partly *de facto*.”(Lehmann 2004:97, translation C.K., emphasis in original)¹⁹. Serving as the executive organ, the Common Market Group (CMG) may make proposals to the CMC and has executive and administrative competences (ibid.). The Secretariat (SM) has few competences, but is, nevertheless, the only permanent organ and has

¹⁶ It consists of representatives of the member states and consensus in the sense of no negative votes (abstention is possible) are necessary. The Councils need consensus.

¹⁷ Or Mercosul (acronym according to the Portuguese name of the Common Market of the South).

¹⁸ For a more detailed résumé of Mercosur's history cf. Lehmann (2004).

¹⁹ German original: “Insgesamt kann der Rat [] teils *de jure*, teils *de facto* alle anderen Organe beeinflussen.”.

significance for general administration. Depending on the issue area, ministerial meetings have been established under the CMC and the Sub Working Groups (SGT) have been established under the GMC²⁰. Decision-making within the organs of the bloc is through consensus, meaning the absence of dissenting votes. Hence, every member has a veto-power and there is virtually no supranationality (ibid.:98f.). The Parliament of the Mercosur merely has a consultative and opinion-stating character however it does have the competence to approve the budget (Mucundramo Irachande, Batista de Almeida & Augusto Vieira 2010:220). Nevertheless, its overall significance is rather low.

Institutions in the environmental field

In the Andean community several committees consisting of representatives of national organizations aiming at the harmonization of national policies and accompanying the development of community programmes without yielding any real competences in decision-making have been introduced (Lehmann 2004:145). One of these is the Andean Committee of Environmental Affairs (CAAAM) created by Decision 435 in 1998. Its tasks consist of proposing strategies for the sustainable management of natural resources, supporting the Commission of the Andean Community and SGCAN in designing the Andean Environmental Action Plan, including promoting its execution, and finally the proposing of a detailed regional strategy for biodiversity. Furthermore, it recommends and promotes cooperation-mechanisms for developing internal environmental policies and solving regional problems (SOCICAN 2009:4). However, the CAAAM has no actual decision-making competences and it is not listed in the scheme of the Andean Integration System (rf. Annex) which may indicate a rather marginal position within the system. Decision 529 created the Andean Committee for disaster prevention and response (CAPRADE) which entails coordination and the promotion of regional policies on the issues ensuring the open exchanging of experiences. Some notable successes have been achieved in risk assessment, information, capacity building and the establishment of a multi-stakeholder approach in pilot projects (EuropeAid n.d.).

²⁰ Rf. Annex for a scheme of the institutional framework of Mercosur.

Decision 596 from 2004 created the Council of Ministers of Environmental and Sustainable Development Affairs (CMMAD). Its task is assisting the Andean Commission and the Andean Council of Foreign Affairs and other organs of the SAI “in the definition, harmonization, coordination and approval of community policies in the environmental and sustainable development field” (CAMRE 2004:Art.2) and it coordinates the work of the CAAAM and the Committee on Generic Resources. Its most notable action has been the Paracas Declaration, issued at its first meeting, which among other issues entrusted the CAAAM to review the Johannesburg Summit follow-up plan and to design the Andean Environmental Agenda (AEA) 2006-2010.

Mercosur established an institution for the environment one year after the founding of the bloc. The REMA (Special Reunion for the Environment) was a temporary conference created in 1992 consisting of representatives of the member states that in 1995 had been upgraded to a proper Sub Working Group (SGT) of the Common Market Group. Its tasks were the formulation of recommendations assuring adequate protection of the environment in the frame of the regional integration process to the CMG for approval. It had to identify political and legislative asymmetries that affected competitiveness.²¹ The REMA produced 9 declarations of which one has been formally adopted as resolution 10/94 'Guidelines in Environmental Affairs' by the CMG. It expresses concern for environmental affairs, calls for the harmonization of environmental legislations and an overall drive for the reduction of pollution and an evaluation of the environmental impacts of potential environmentally dangerous activities (Cândido Rocha, Lorensi do Canto & Cardoso Pereira 2005:151). Before the creation of the REMA, each SGT assessed harmonization of environmental legislation within their respective sectors (Mucundramo Irachande et al. 2010:209ff.). Through CMG-resolution 20/95 the REMA has been transformed into the SGT6 'Environment' and become an inherent part of the institutional structure of Mercosur.

With its members coming from national authorities, the SGT6 meets regularly, however often, its agenda remains virtually unchanged, little evolution occurred and initial tasks as the Information System and the Green Seal remain to be discharged (Mucundramo Irachande et al. 2010:212). As

²¹ For discussions on the linkage of competitiveness, environmental regulations and comparative advantage cf. Hochstetler (2003:2) and Devia (1998a:86ff., 1998b:27f).

Blum contends, “the focus in establishing this working group has continued to be preventing barriers to the free trade because of inconsistent environmental regulations.” (Blum 2000:445). Its activities in terms of harmonization have not led to stronger environmental protection; instead “[...] the politics of Mercosur have meant harmonization downward in practice [...]”(Hochstetler 2003:17). Harmonization in Mercosur must not be understood as creating a single legislation but rather establishing common criteria against which national authorities can adopt their legislation. Should a member lack legislation in a certain area, it can be persuaded to adopt a new one to guarantee equal conditions of competitiveness (Cândido Rocha et al. 2005:153). Once all the member states have achieved a given target, the issue is declared harmonized. There is no competence for the SGT6 to establish regulations on its own, nor does it have competencies in impact assessment, or any involvement in assessments for substantial infrastructural projects (Hochstetler 2003:13). As a result of its limited importance, SGT6 is not the major focus-point for environmentalists in the region (ibid.:15). In the opinion of Newell the “weakness [of the environmental institutions in terms of their formal powers] are compounded by the fact that the dispute resolution process of Mercosur is unavailable for environmental disputes.” (Newell 2007:242).

With the aim of attributing political direction to Mercosur's environmental agenda, and of implementing the later discussed Framework Agreement, the regular gathering of Specialised Meeting of the Environment Ministers was established in 2004 and under SGT6 several ad hoc groups, e.g. on biodiversity, have been created (EC 2007:14). However, there is no indication that any of these have produced significant results.

Regional environmental regulation

Although climate change is considered one of the most urgent issues in the Andean region, as glaciers are recede and the meteorological phenomena continues to strike more frequently and momentously (IDEA 2011:8), the (amended) Cartagena Treaty barely acknowledges environmental issues, although they were largely considered in the early stages of the negotiation process (Tafur-Domínguez 2000:287). The Treaty merely states that “[...] in a concerted effort: [...] Activities for the use and preservation of natural resources and the environment” shall

be carried out (CAN 2001:Art.3d) and that “the Member Countries shall undertake joint actions to make better use of their renewable and non-renewable natural resources and ensure the conservation and improvement of the environment.” (CAN 2001:Art.128).

Thus, the treaty alone appears insufficient to analyse the environmental policies of the CAN. Aspects of the environment have been introduced to CAN progressively since the 1980s (Molano Cruz 2007:577) with the legislation mainly stemming from Decisions of the CAMRE and the CAC. Decision 182 (CAC 1983) introduced the target of preserving the environment and asked member states to establish mechanisms to encourage the rational use of soil, forests, flora and fauna and for the stricter management of watersheds (ibid.:Art 15). Additionally, environmental education programmes shall be established as well as agreements between the members for closer cooperation in environmental affairs and for the protection of maritime areas against contamination, as well as the conservation of biological resources.

Decisions 328 and 436 form the basis of the Andean Agricultural Health System which serve as one of several community policy instruments for proclaiming environmental protection constituting fundamental elements of protecting animal and plant health (Tafur-Domínguez 2000:307f.). In addition to trade rules concerning these products, the harmonization of plant and animal health policies shall be achieved by measures given in Decision 454 (ibid.).

Serving as “the center piece of environmental regulation” (ibid.:305) Decision 391 on Genetic Resources from 1996 regulates access to genetic resources aiming at establishing conditions for equal participation of the Andean Countries, laying foundations for recognition and valuation of genetic resources and their by-products and guaranteeing sustainable use of those resources and conservation of biological diversity (CAC 1996:Art.2). Throughout the Decision various references are made to the preservation of the environment and the abstention of harmful actions related to genetic resources. Additionally, it strengthened the rights of the native community, taking into consideration their generational knowledge, as well as making state-authorization for access obligatory.

Only a few Decisions on the matter have been adopted in the last few years. Decision 733 from 2010 aims at strengthening the technical capabilities concerning the control of pesticides and can

thus be considered as an update of Decision 436, whereas Decision 713 from 2009 modifies Decision 591 on Disaster-prevention and attention.

New aspects have only been introduced by Decision 699 since 2008, calling for the creation of a system of environmental indicators and setting its guidelines. In 2010, Decision 729 was passed, creating a regional programme for the protection of biodiversity in the Amazon region. A strategy for water resources was introduced in 2011 by Decision 763 and a project for adaptation to climate change in cooperation with the Federal Republic of Germany was approved by Decision 762 in the same year. Although some Decisions with a primary focus on the environment have been made, overall it appears limited in terms of the new content introduced, the overall concern for this field visibly rather marginal.

Mercosur's primary objectives are the establishment of a common market, including the free movement of goods, services and production factors, as well as the abolition of internal customs duties and non-tariff restrictions, meanwhile establishing a common external tariff and trade policy as other important objectives (CMC 1991:Art.1). The co-ordination in various sectoral policies may have been agreed upon, however in reality environmental policies are not mentioned among the examples given in Article 1. The TA only mentions the environment in the preamble in the sense that it is understood that the objective of Mercosur must be achieved by preserving the environment, among other aspects. As Blum asserts, “an analysis of the environmental aspects of MERCOSUR's Treaty of Asunción is simple – there are none” (Blum 2000:443) since there had been a greater concern for potential restriction to trade stemming from environmental regulations (ibid.:444).

However, other declarations containing the environment have been issued. The Declaration of Canela, since 1992, signed by the Mercosur members and Chile prior to the Rio Conference, highlighted the need for international cooperation and considered important issue areas in terms of environmental protection. Additionally, it demanded that environmental costs resulting from production should be considered in commercial transactions (Neves da Cunha 1998:39), whereas the Declaration of Taranco (DT) from 1995, issued at a reunion of the Environmental Ministers, expressed the need to harmonize environmental legislation and, going beyond the GATT-WTO agreement, the production and process methods yielding environmental consequences (Tussie

and Vásquez 2000:196). Further, the environment has been an issue in treaties of the EU (1995) and in Canada (1998) in the form of cooperation agreements to protect it (SM 2002:14).

The SGT6's primary tasks are the proposition of harmonization efforts and the elaboration, or abolition of, regulations depending on whether they are just or present non-tariff restrictions to trade. Further, it should contribute to the establishment of adequate competitiveness between member states, as advancing environmental regulations may result in the loss of comparative advantages, as well as the elaboration of the implementation of ISO 14000 regulations and their impact on competitiveness. In addition, other tasks include the development of a judicial instrument, an environmental information system and a green label. But these have all been unsuccessful thus far. A judicial instrument in the form of an additional protocol to the Treaty of Asunción, which had been the principal task of SGT6 (Devia 1998a:98), has not yet been developed. Brazil, which had comparatively higher national standards on environmental matters, pushed for an ambitious document, which has already been scaled down due to the resistance of certain member states, showing first and foremost that they prefer settling for the lowest common denominator (Hochstetler 2003:17). After one year of revision, in 1997, the proposal was given to the CMG, which demanded some fundamental changes and returned it to SGT6, which in turn, gave it back in 1999. At this time Mercosur experienced a deep crisis and the development strategy adopted in its aftermath focused primarily on economic growth, side-lining environmental issues. When the document was returned once more to the SGT6, and given back in 2001, the CMG adopted a far less comprehensive and obligation-free Framework Agreement on the Environment (ibid.:17ff.). The agreement, ratified another three years later, reaffirms Mercosur's commitment to the principles of the Rio Declaration and to cooperation in environmental issues (EC 2007:14). This "declaration of intentions" (Mucundramo Irachande et al. 2010:214) does not represent a binding legal framework without movement toward a common or supranational environmental policy. In 2004, the CMC adopted an additional protocol to the Framework Agreement concerning cooperation and assistance in environmental emergencies. Although legislative proposals on a variety of topics are published (EC 2007b:56) no other noteworthy decisions have been adopted since.

Regional strategies and the access to information

The Andean Committee of Environmental Affairs has been entrusted to update and strengthen the Regional Biodiversity Strategy (RBS) approved by Decision 523 (CAMRE 2002a:Art.2). Additionally, it is responsible for developing an Action Plan and a Portfolio of Projects (ibid.:Art.3). The RBS portrays various lines of actions responding to distinct objectives and describes the expected outcomes (SGCAN 2005:50ff.). However, an evaluation of the actual implementation of the actions is unattainable.

Thus, Decision 523 has been translated into some more precise projects. Another more tangible and directly applicable one is Decision 436 which regulates registration and controls the use of chemical insecticides for agricultural purposes (CAC 1998b).

The Andean Environmental Agenda appears to be next to the RBS as the most important publication by CAN²² in terms of environmental policy. Whereas other publications appear to be more of educational/informative character, the AEA serves as a guiding framework that defines the priorities for action in environmental management on a regional level and it promotes the coordination between environmental authorities, agencies and civil society organizations to ensure their implementation. (SOCICAN 2009:1, translation C.K.²³).

Following the four core issues of Biodiversity, Climate Change, Water Resources and Disaster-prevention, the AEA has to guide the actions of environmental institutions and facilitate coordination and harmonization between member states. Besides the issues mentioned and the cross-cutting ones (rf. Annex) the agenda identifies lines of action and specific actions for the given time-frame. Additionally, it states possible partners (SGCAN 2007:5ff.). Responsibility for the execution of these actions lies with the CAAAM, the Committee on Genetic Resources, the SGCAN and the partners mentioned. It is the CAAAM's task to inform the Council of Ministers of Environmental and Sustainable Development Affairs who adjust the issues on the progress being made.

²² Publications to be retrieved on <http://www.comunidadandina.org/ingles/biodiversity.htm>, retrieved May 20, 2011(SGCAN n.d.-c).

²³ Spanish original quotation: “[...] como un marco orientador que define las prioridades de acción a nivel regional en materia de gestión ambiental y promueve el trabajo coordinado entre autoridades ambientales, agencias de cooperación y organizaciones de la sociedad civil para lograr su implementación.”

Although the agenda was for 2006-2010 only, there has been no succeeding one yet, but its design is underway (SGCAN n.d. b). However, there are no evaluations of the implementation of the actions and no reports on adjustments of the agenda to be found. Even the 2009 'hoja informativa'²⁴ (SOCICAN 2009) fails to provide new information. In fact no Decisions after 2004, no news related to environmental affairs, nor publications after 2007, feature in it.²⁵ Thus, it appears as if progress in this field has stalled in the last few years. Despite the absence of new information, it must be noted that there is, contrary to Mercosur, easily obtainable information provided.

Assessing regional strategies developed by Mercosur is difficult due to the absence of obtainable information. Nevertheless, one may hypothesize that if regional strategies such as CAN's AEA were developed, it would be mentioned or would feature in Mercosur's publications. Generally, the access to information on Mercosur's SGT6 is limited as well, particularly as virtually no official publications concerning the environment are available, with the ones displayed merely representing a rudimentary overview over Mercosur's environmental policies (SM 2002) or a collection of the Declarations and Agreements on the issue (SM 2006). Additionally, SGT6 is not included on the website of Mercosur²⁶, while SGTs are. This correlates with the cardinal importance they show for the integration project. The absence of environmental issues on the representation and of the publications of Mercosur can be interpreted as a sign of the low importance the topic represents to the bloc. Trade and commerce represent the *raison d'être* of Mercosur and as it intended to develop quickly some issues have been marginalised, the environment being one of them (Cândido Rocha et al. 2005:147). The majority of literature on the issue was published in the early years of Mercosur's interest in the environment, reflecting the expectations attributed to it. However, the decline of attention to the matter in the last decade reflects the decreasing level of importance of the environment issue within the bloc.

²⁴ Informative Paper.

²⁵ See note 22.

²⁶ <http://www.mercosur.int>, retrieved June 10, 2011.

Conclusions on the role of the environment in both regions

The Andean Community has produced various Decisions concerning the environment. It has established institutions and a considerable amount of strategies and plans, however, the European Commission noted in 2007 that “environmental issues [] rank relatively low on the regional and national political agenda when it comes to practical action” (EC 2007:52). Based on the examination of this study this conclusion appears to have been as valid then as it is today. Although the last decades have, in general, witnessed significant progress in environmental issues, there appears to have been a stand-still in recent years.

Additionally, institutions established for environmental issues do not yield any decision-making power; serving only to assist the main organs and operate under their command. Consequently, they are not listed as organs of the SIA. Given the composition of those organs, formed by representatives of the member states and consensus as decision-mode, the regionalization of policies in this field has been rather intergovernmental. Even though the harmonization of national policies is often a rehearsed aim and projects have been planned, there are no evaluations of the actual progress attainable. However, extensive efforts have been made to provide educational information on the effects of climate change and environmental dangers. CAN has made considerable progress in environmental issues but it seems to have entered into standstill mode. The intergovernmental process renders the development of new regulations susceptible to member state views.

Mercosur's environmental organ has a limited agenda and is institutionally weak as, in order to be binding, all proposals must be approved by the CMC which frequently place other issues over and above the environment as priority (Hochstetler 2003:13). Other policy fields are more important and the environment has been sidelined as environmental policies are largely driven by the conflict of regulation versus non-tariff barriers and competitiveness.

After Mercosur's crisis, the process seems to have lost impetus even more and albeit frequent meetings of the relevant organs there is no trace of any significant progress. Although a study commissioned by the CMG (2008) acknowledges the need for integrated environmental policies in order to prevent environmental damages and urges for further integration in the environmental field, the issue remains subordinated to trade policies.

The examination of the Andean Community and Mercosur shows that environmental policies mirror similar levels of importance in both blocs and has reached a similar level of development. Both blocs mention the environment within their founding treaties however they fail to give any details with CAN at least urging joint actions. Both blocs never developed a basic judicial framework. It took Mercosur several years to develop the Framework Agreement which, in its final version, merely re-states previous commitments. A series of Decisions laid out the basic principles of CAN's environmental policies.

The issue of the environment was introduced during the founding of the blocs, roughly at the same time. Ever since, little progress has been made and the larger part of this progress has been within the first decade. Both blocs established institutions for the environment. The CAAAM however is not even mentioned as a part of the Andean Integration System (SIA) whereas the SGT6 presents an established part within Mercosur. Still, in both blocs they have no legislative function and only develop recommendations to present those to the respective organs of the blocs. The environmental institutions consist of representatives of national authorities and have no executive competence or oversight over policies and their implementation. Within both blocs, reunions of the Ministers of Environment have been established to provide more guidance to the process but remain based on the previously given examination, it does not appear as that they have achieved this.

CAN has produced various Decisions relating to environmental aspects, however, with a few exceptions when specific strategies and action plans were adopted, they largely appear to be a formulation of goals and principles as opposed to direct regulations. This level of activity seems to be higher than Mercosur's, whose primary aspects of environmental considerations and Decisions prioritise competitiveness. Whereas in CAN the legal principle of direct effect and the pre-eminence of community law is established, this is not the case in Mercosur (Malamud 2010a:643), where states have to adopt legislation according to agreed upon targets.

Additionally, CAN developed several strategies for the preservation of the environment, whereas the only obtainable publications of Mercosur on the topic are summaries of the little that has been done on environmental issues. In the case of Mercosur the lack of the provision of information goes beyond the absence of publications as the environment has no representation on

Mercosur's website. Information on regional environmental policies is only provided via the Secretariat for Environment and Sustainable Development of Argentina. With CAN, on the other hand, all the information is provided by the bloc itself. This difference can be interpreted as the different value this topic yields for the blocs.

Several issues, such as the establishment of an environmental information system and protocols for cooperation in disaster prevention and assistance, can be found in both blocs. Apart from those few similarities, issues seem to vary according to the rationale of their environmental policies.

To sum up, both blocs developed policies on environmental affairs, but have lost momentum in the last years. Although the topic has been marginalised in either bloc, and both appear to be equally ineffective in developing regional policies, it seems as if CAN is further in developing them as it issued several strategies for the preservation of the environment, whereas Mercosur's actions in this field scarcely go beyond issues concerning competitiveness. This appears to be the rationale of Mercosur's environmental policy, while CAN's underlying theme is sustainable development. Thus, CAN has a more intrinsic urge to develop environmental policies. However, institutionalisation remains low and the regions remain intergovernmental, with very scarce traces of supranationalism. As a result every decision must be made through the consensus of all member states.

The marginalised role of the environment and contemporary integration theories

Given this, intergovernmentalism, one of the theories of European Integration automatically appears to be the likeliest to have explanatory value. Nevertheless, this section shall examine how the rationales of all the grand theories of integration may be applied to the examined cases²⁷.

Neo-functionalism considers integration as a process characterized by spill-overs from one field to another. It follows the logic that integration in one field leads to the necessity to integrate in other fields in order to achieve the goals of the first field. This logic entails ongoing integration

²⁷ The debate of European integration theories cannot be repeated in this paper. For basic literature cf. Note 9.

as well in sectors that were not previously envisioned. However, this logic is challenged once integration does not proceed. This is true for the examined blocs, and within those not only limited to the environmental field. The initial goals of the blocs, e.g. the establishment of a common market in Mercosur, have not been achieved and there is no strong sense of spill-overs to other policy fields. As Malamud (2010b:19) notes, neo-functionalism's logic does not apply to the case of Mercosur. Examining CAN and Mercosur, Haas and Schmitter (2007:9) note that initial actions need to aim at solving a concrete problem and that trade liberalization alone is insufficient for spill-overs to occur. Given the structure of both blocs, integration in environmental aspects only occurs where the member states' presidents deem it necessary. So while neo-functionalism provides marginal reasons to explain the weak environmental drive in CAN and Mercosur more could be understood from the ideologies and praxes that guide the actions of leaders in the region.

Intergovernmentalism focuses on the primacy of the nation-states pursuing their own national interests. Regional policies and integration result from domestic policies and the interests of national governments. The addendum of liberal Intergovernmentalism modifies the theory by considering the inner-state interest formation through various actors, which are subsequently bargained upon in international negotiations. Given the decision modes in existence in both blocs, all the member states need to agree to develop common legislation. Could this be tenable as an explanation for what is unfolding in CAN and Mercosur in the field of the environment? Responding to this requires a deeper evaluation of the socio-political regimes of these countries the governments of which remain critical in directing the lot of states. Within some of the countries in the regions studied social movements are critical in national debates on issues that can also relate to the environment, as has been the case for CAN (Peru, Bolivia) and also Mercosur (Brazil, Argentina). But the specific degree to which these internal contestations are transcribed into regional intergovernmental bargains remains moot.

The last few years have seen growing polarisation and centrifugal tendencies on the continent (Maihold 2007:2). Venezuela's departure from CAN further aggravated the blocs internal crisis (Malamud 2006:1), whereas Mercosur entered a deep crisis at the beginning of the millennium following Argentina's and Brazil's economic crises. Although both blocs appear to have survived their crises, fundamental conflicts between the member states are still present. The small

Mercosur member states consider the bloc as only beneficial to Argentina and Brazil (Peña 2007:7).

This general evaluation can be applied to the environmental sector as well. The development of an Additional Protocol in Mercosur resulted in a far less ambitious framework agreement. During the elaboration, Brazil, which accounts for the most comprehensive and detailed environmental regulations, pushed for a broad agreement, whereas Paraguay and Argentina urged low regulation, corresponding to their national level of regulation. The same problem surfaced in CAN. The negotiations at the 16th Conference of the Parties (COP)²⁸ might have been used (due to the universalism of the negotiations in their reference to the environment) as a proxy for environmental issues in the region. The memorable intention of Bolivia to block the final agreement due to it not being ambitious enough (Vaquer 2010) could be repeated in regional negotiations, especially given Bolivia's recent intention of passing the 'Law of Mother Earth,' aiming at granting nature the same rights and protections that are granted to humans (Senett 2011). Consequently, having witnessed Bolivia's position in the COP16 and given the intergovernmental structure of the bloc, an ambitious member state with ambitious environmental legislation might actually create difficulties in developing regional environmental policies. Further, interesting in the frame of the COP16 is that member states entered their contributions individually,²⁹ not as a bloc, primary evidence of this being the EU. On the other hand it is fundamental to note that the preparation of a common position for the 1992 Rio conference was an important starting point in the initial generation of environmental policies in Mercosur. This is not surprising as propositions³⁰ by the states vary substantially and furthermore as there is no supranational organ that could represent the entire bloc.

Independent of the fact that some environmental activism from the civil society has taken place, as for example is the case of the 'hidrovía' water superhighway project where coalitions of non-governmental organizations have successfully urged for the total withdrawal of the project

²⁸ Annual conference of the parties to the United Nations Framework Convention on Climate Change (UNFCCC).

²⁹ The contributions of the member states in the Period 2009-2011 have been examined and can be obtained at <http://unfccc.int/documentation/documents/items/3595.php>, retrieved June 22, 2011.

³⁰ The UNFCCC of 2009 and 2011 have been examined, as they present evidence some of the limited contributions yielding submissions of all member states from at least one of the blocs. However, further examination of contributions is highly advisable.

(Newell 2007:242), domestic demand for environmental regulation appears generally to be low. While in Brazil the environment has moved higher on the political agenda and public interest has visibly increased (Eitze and Ryan 2011), those topics yield little significance in Columbia (Wieland 2007), Peru (Rosenberger 2007), Argentina (Chico, König and Löhmann 2011) and Uruguay (Elsner and Steffen 2011). Bolivia, while demanding for strong protection of the earth in international fora, employs little effort domestically to address any of these urgent domestic environmental problems (Käss and Klemp 2011). Although this evaluation is incomplete, it can be noted that domestic demands in a few member states and resulting interests of the member states in international bargaining would not suffice to develop strong regulations in an intergovernmental institutional setting.

Generally, South American states tend to be reluctant to transfer sovereignty to a higher level. As there has been no major bargaining leading to pooling or the delegation of sovereignty Malamud (2010b:19f.) concludes that Intergovernmentalism alone is not appropriate in the case of Mercosur. This conclusion can also be extended to CAN.

Supranational Institutionalism considers the emergence of a transnational society which needs supranational governance for its facilitation and regulation (Malamud 2010b:18). In this sense, supranational institutions foster integration. Filadoro (2009) considers Mercosur's secretariat as weak providing merely administrative tasks and having a smaller budget and staff than the strong SGCAN (De Lobaerde, Mattheis & Vanfrechem 2010:175f.). The latter entity publishes more documents, which also applies with the environment. However, there has been no indication of any notable involvement of either secretariat on environmental issues. Arbitration organs could rule in favour of integration. However, an obvious necessity is that the arbitration organ is called upon. Environmental disputes have arisen in both blocs. Uruguay and Argentina had a dispute over Pulp Mills on the River Uruguay (Galizzi 2007:606) in which Argentina argued that in the authorization process during the construction of the Uruguayan government did not consider environmental impacts. Colombia and Ecuador argued over Aerial Herbicide Spraying (Galizzi 2008:627) in which Ecuador stated that sprayings by Colombia targeted at illicit coca and poppy plantations in the border region with Ecuador and these had damaged Ecuadorian ecosystems and adversely affected the health of its citizens. Both cases have, however, not been taken to the arbitration mechanisms of the blocs but instead to the International Court of Justice. In Mercosur,

a few cases in which the environment was a peripheral issue and one case in which it was a central part were pending with the Mercosur arbitration. Nevertheless, a pro-environmental decision in the latter case has since been overruled in favour of free trade (Correia Lima Macedo Franca 2010:239). Overall, it can be concluded that the arbitration of institutions are unlikely to foster environmental integration as they are not used to arbitrate environmental conflicts. Furthermore, Mercosur proved that the environmental issue is only secondary to other priorities.

More recently Social Constructivism has become more influential in the study of regional integration. As the underlying logic of this theory involves interests, norms and the identities of actors and individuals on all levels, deeper case studies of all member states are inevitable in order to properly assess the validity of this theory. Expectations towards the regional level would be created, which does however appear unlikely given that the demand for environmental policies appears to be limited on all levels at present. Deeper case studies are not possible beyond the kernel of this paper, but further research in this domain is highly recommended.

Overall, it can be concluded that the only theoretical approach yielding value for explaining integration, or the lack thereof, is intergovernmentalism at this point. Supranationality is virtually absent in both blocs.

A critical review of the methodological approach and proposed future research avenues

This paper set out to examine first and foremost how two regions, in a large geographical region, have assessed the same policy issue, the environment. As a second aim, it strove to explain the reason for (non-)integration in this field by drawing from the European theories of regional integration. This study accomplished the first aim and presented the first comparison of environmental policies in both regions. In doing so it also delivered the only recent analysis of CAN's environmental policies in the last decade. However, the secondary aim has been only partially been achieved. Although explanatory factors concerning the regional environmental policies and politics have been presented and it has been reasonable, though not conclusively proven, which of the grand theories might be applicable or not, deeper case studies of each

member state is advisable. Those case-studies could also include reflections on the role played by international organizations, including the United Nations and the national institutions of the blocs' member states at the regional level.

Yet, due to the constraints of the framework of this paper, those case studies could not be conducted in sufficient depth and as a result the application of the theories could not be done in a sufficiently succinct manner. Nevertheless, this study could provide sufficient reason to determine which theory is most applicable and should thus be examined in a follow-up study. As a limitation, this paper faced the problem of explaining an issue which has merely occurred superficially while integration theories in general have typically aimed at explaining the issues which have occurred.

A future study could possibly involve a different methodological approach. As the access to information, especially in the last decade, has been problematic, interviews might be a possible solution. However, the limited resources of this study have not proven to be a viable approach. Additionally, a future study could include a larger number of regions. This paper acknowledged the problems of comparative integration studies, as described earlier, and urges for a deeper consideration of the member states within those as they seem, at present, to be insufficiently incorporated in comparative integration studies, especially non-European focused ones.

Conclusion

This paper examined the regionalization of environmental policies and politics within the Andean Community and the Mercosur. By doing so it contributed to studies of regional integration other than those of the European Union.

The initial expectation that integration in this area remains low has now been confirmed. However, comparing both cases it can be noted that at least in terms of environmental affairs, CAN has achieved more overall, contrary to the initial expectations stemming from the image that Mercosur is frequently given as the example of a bloc that has developed farthest, after the EU.

Both blocs have created insufficient regulation on the environment. Initial indications of progress have ceased and consequently few achievements have been made in the last few years. No further integration is to be expected from the environmental sphere and, vice-versa, no progress in environmental protection is to be expected from the integration of the schemes.

Given the almost exclusively intergovernmental structure of both blocs, the only integration theory applicable to these cases is Intergovernmentalism. The strong influence of the presidents of the member states leads to the blocs being frequently described as inter-presidential arrangements (Molano Cruz 2011:40, Malamud 2010a:643). Due to the low domestic demand for integration and, at least in some of the states, for environmental regulation, a change of this situation appears improbable. However, deeper case studies of the member states are advisable to examine the regional policies more thoroughly.

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Annex



Fig. 1: Institutional Structure of the Andean Integration System (SGCAN n.d.-d).



Fig. 2: Structure of the Andean Integration System (SGCAN n.d.-d).

