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**The Challenge of Governance in Regional Integration
Key Experiences from Europe**

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This paper is related to a study commissioned by the IADB, which will cover the European experience with governance in regional integration, with a focus on:

- 1) global governance and the constitutional process and
- 2) the problem of the management deficit in regional integration.

The study is being specifically drafted in order to try and make clear to what extent the European experience in regional integration may be of relevance in Latin America and the Caribbean.

The starting point of this reflection is the fact that too often, in international conferences, donor organisations are recommending to developing countries that they follow the example of the European Union (EU). This type of recommendation is counterproductive, or even dangerous when it results into an exercise of institutional engineering in trying to transpose the organisational and legal arrangements upon which the EU is based, without taking into account the specific European environment in terms of economic social and administrative development, the historical experiences upon which efforts in regional integration are based, and the culture of the different stakeholders in the process of integration.

Attempts at transposing the EU institutional and legal framework usually overlook the incremental nature of the European process of regional integration. Far from having followed a blueprint, European states have progressively set up their institutions and tools as they were deciding to integrate their markets and further develop common policies in a growing number of

areas. Furthermore they have not developed a set of once and forever valid solutions. While the treaties of Paris (1951) and Rome (1957) which form the basis of the institutional setting have been reformed – Single European Act (1986), Treaties of Maastricht (1992) Amsterdam (1997) and Nice (2001), Constitution for Europe (2004) – mainly in order to democratise these institutions and to extend the scope of common actions, a number of issues which are not settled by the treaties, but depend upon internal arrangements within and between the common institutions and management practices in the European Commission and European agencies, are to be constantly scrutinised and reviewed.

The EU is not only a success story, it is also a story of a number missed opportunities and of numerous gaps as well as of muddling through as much as successful planning and implementation. Addressing both successes and failures in European integration is far more valuable than only explaining what has been set up and how it works.

Understanding the reasons of the choices that have been made, but even more the conditions and environment in which this new regime of regional governance has been set up, is indispensable in order to assess to what extent European experiences may or may not be relevant to other attempts at regional integration (Section 1). European states have hence developed an unprecedented method for regional integration, based both on practical experience and on conceptual choices: the ‘Community method’. Analysing as well the organisational settings as the conceptual foundations of this Community method should help understanding to what extent it might be transposed in other regional settings and furthermore, to what extent it is possible to take only some elements of the Community setting while keeping the coherence that is probably at the roots of its success (Section 2). Focusing on the organisational and legal framework set up at the supranational level, is however misleading, as it neglects a very important part of the issues and solutions that have to be taken into account in order to make regional integration work. As a matter of fact, examining the organisational settings and procedures which have been established within the EU member states is as important as studying the supranational framework. This allows to understand both successes and failures in European regional integration, because regional integration can only be understood as a set of multilevel issues and solutions (Section 3). European regional integration is not only a set of success stories, and should not be looked at with the idea of merely transposing best practices. With enlargement and the adoption of a new ‘Constitutional basis’ in 2004, the EU faces a growing number of

challenges, some of which are not new, though increasing, some of which are on the other hand unprecedented. Here also, understanding the key issues in the governance of present day EU might be relevant to other regional settings, both by pointing out the specific character of these issues and by showing which methods are being used in order to try and address these challenges (Section 4).

1. Regional Integration as a Dynamic Process

The European Union (EU), as it is called since the treaty of Maastricht (signed in 1992) and the European Community (EC) – which is the politically speaking the same organisation while it differs from the EU in legal terms, and which was called the European Economic Community (EEC) before 1992 – has never been stable (in the medium term) in the sense that the number of states involved have increased from 6 to 25 while the scope of common actions has been very much developed and diversified. The basic elements of the institutional setting however had been settled since the beginning, i.e. since the establishment of the European Coal and Steel Community (ECSC) in 1952. In this sense the European experience demonstrates how flexible regional integration can be, and how flexibility is a condition of success, if – and only if – a number of basic features have been designed in order to cope with this flexibility.

The main feature of the evolution of the ECSC/EEC/EC/EU system is that it has been constantly growing. It is true however that it remained stable in its membership from 1951 to 1972, i.e. in the founding years which enabled to go through the whole of the foreseen transition periods. This stability however was not planned, it had been due first to the hesitations of Great Britain who did not want to join the experience before some results had been achieved, and later to the opposition of France to British participation from 1962 to 1969, due mainly to the positions the French President, General De Gaulle. He feared that British participation might endanger the French leadership in the process of integration, and he considered that the United Kingdom's ties with the United States of America as well as its traditional openness to world trade might tend to water down the project of continuing economic and political integration into a mere free trade zone that would tend to include the entire Commonwealth and maybe the USA.

This was expressed by the idea that European integration had to be *deepened* before the EEC could be *enlarged*. It is a view that keeps being repeated over time, but since the early seventies – i.e. since the end of the transition phase of 12 years which had been foreseen for setting up the common market which was at the heart of the EEC – both deepening and enlargement have been pursued successfully. According to circumstances it might seem that the priority was at certain times put upon deepening (1956-58, *Treaty of Rome establishing the framework of the EEC* , 1965-70 *finalising the Common market and EC institutional setting*, 1992 *Treaty of Maastricht establishing the framework of the EU, citizenship and monetary union*, 1997-1999 *extending the scope of the EU [Treaty of Amsterdam] and finalising the economic and monetary union*) or on enlargement (1973 *Denmark, Ireland and the United Kingdom*, 1981 *Greece*, 1995 *Austria, Finland and Sweden*). As a matter of fact, both processes have really been going hand in hand, to the extent that 1986 was both the year of enlargement to Portugal and Spain, and of the adoption of the Single European Act which paved the way for the finalisation of the internal market on 1 January 1993, and 2003-2004 the years of enlargement to ten new member states and drafting the Constitution for Europe.

For the sake of clarity, it is worthwhile to examine separately the progressive enlargement of the EU and the deepening of integration, but without ever forgetting the fact that there was no contradiction between these two processes. Contrary to what has been feared from time to time, enlargement has never led to a reduction of the scope of common actions. Two techniques have helped in this.

- First, each enlargement has been accomplished with transition periods. While participation in the institutional setting is always complete from the day of accession of a new member state, the constraints and advantages linked to common policies are being implemented progressively, as had been done by the founding member states, who had foreseen a transition period of 12 years between the entry into force of the Treaty of Rome (1 January 1958) and the full opening of borders for the free movement of goods, persons, services and capital (1 January 1970 – the customs union having been achieved on 1 July 1968, i.e. one and a half year ahead of the deadline that had been put in the treaty.

- Second, while the principle is that a new member state cannot select, and has to accede to the entire *acquis* – i.e. all the treaty clauses, the policies that have been established and the

legislation that has been adopted before its accession – there has always been flexibility in order to accommodate specific concerns. Transition periods have been different from one member state to another, from one policy field to another. For instance, the transition for the application of full freedom of circulation of labourers to Portugal was not the same as for Spain, whereas they both became members of the European Community on the same day. This has to be understood in the light of both the presence of about a million of Portuguese in France even before Portugal joined the EC, and of the fact that Portuguese decolonisation in Africa would probably bring an important number of immigrants to the European part of Portugal. In some cases, exemptions have also been foreseen. The main exemptions to signal have been the 'social protocol' adopted together with the Treaty of Maastricht in 1992, in which the United Kingdom did not want to participate, the non-participation (at least in a first period) of Denmark, the UK and Sweden in the monetary union, and the non participation of Ireland and the UK in the Schengen system, which allows for the suppression of border controls on persons within the EU.

It has to be stressed once again that transition periods and exemptions only apply to policies and rules of integration, not to the institutional setting. The only important exception to this principle is the European Central Bank and the System of European Central Banks: only member states who participate in the European Monetary Union (EMU) (which is embedded in the European Community) are participating in these institutions. As an example which confirms the rule, one may quote the fact that all member states participate in meetings of the Council of ministers that examine the performance of the members of the EMU who are bound by very strict rules applying to their economic and budgetary policies.

The characteristics of countries involved in enlargement (see table 1) are very different in terms of size (both population and territory) and wealth, but also in terms of language and culture. The latter element makes for an obvious difference (at first sight) between Latin-America and Europe, but differences in demographic, geographic and economic terms might lead to interesting comparisons. However, there is no equivalent in Europe of the asymmetries which are to be found in terms of size of territory and population, as well as economic structure between Brazil on one side, and Spanish speaking countries on the other. The striking element in the history of European integration is that each successive enlargement – with the sole exception of the accession of Austria, Finland and Sweden in 1995 – has deepened the heterogeneity of EU membership. One central question in 2004 is whether the last enlargement, to 10 new member

states, presents a genuinely new challenge or just a repetition of past experiences, in terms of overall numbers of member states, but even much more, due to the fact that eight out of them were integrated into the soviet sphere of influence and had a centralised plan economy during forty years. Clearly only time will tell. The issue of a possible accession of Turkey in the two thousand tens or twenties presents the same type of question mark, with a far bigger weight on the cultural side.

Table 1 List of enlargements

Date of accession	Countries	Population in millions in 2003	Date of accession	Countries	Population in millions in 2003
1952	Belgium	10,4	2004	Czech Republic	10,2
1952	France	59,6	2004	Cyprus	0,8
1952	Germany	<i>(West only : 66,0) 82,5</i>	2004	Estonia	1,4
1952	Italy	57,0	2004	Hungary	10,2
1952	Luxembourg	0,4	2004	Latvia	2,3
1952	The Netherlands	16,2	2004	Lithuania	3,4
			2004	Malta	0,4
1973	Denmark	5,4	2004	Poland	38,2
1973	Ireland	4,0	2004	Slovakia	5,4
1973	United Kingdom	59,0	2004	Slovenia	2,0
1981	Greece	11,0	2007 ?	Bulgaria	7,8
			2007 ?	Romania	21,8
1986	Portugal	10,4	200- ?	Croatia	4,4
1986	Spain	40,7			
			2014-19 ?	Turkey	70,2
<i>(1990)</i>	<i>(Reunification of Germany)</i>	<i>(+ 16,5)</i>			
			?	Albania	3,4
1995	Austria	8,0	?	Bosnia Herzegovina	3,8
1995	Finland	5,2	?	Macedonia	2,0
1995	Sweden	8,9	?	Serbia - Montenegro	10,7
			?	Norway	4,5
			?	Switzerland	7,3
			?	Etc ?	

Sources (for the population) : Eurostat, Statistiche in breve, Tema 3 – 20/2003

The fields covered by integration have also been increasingly differentiated and varied. The scope of integration was limited to one specific market – coal and steel – during the first years of the experience (1952-58), and then extended to all aspects of market economy. It included as well establishing a free trade area, a customs union and a common market (negative integration) as a growing number of common policies (positive integration). These policies started as “accompanying policies” aimed at correcting market failures or at protecting specific economic

interests, but since 1992 (treaty of Maastricht) and even more since 1997 (treaty of Amsterdam) they include areas that have no link with economic issues (area of security, liberty and justice). One might argue that this was already earlier the case with foreign policy, or conversely that the latter is not solid enough to be understood as a real area of integration. It is often said that integration started with areas that were not sensitive to claims on sovereignty (economic) and only recently extending to the core functions of sovereign states (money, police, foreign affairs, defence). This view may easily be contended: a customs union touches also upon one of the hard core sovereignty issues, and it had been foreseen in the Treaty of Rome, which entered into force on 1 January 1958. Quite remarkably, the transition period eventually was shorter by 18 months to the period which had been foreseen initially. More than insistence on sovereignty v. low politics, the EU experience shows that agreement on integration has been easier – from 1958 onwards – in those fields where there were either no significant oppositions of interests between member states, or when it was sufficiently clear that integration would result in a positive sum game. This match between the nature of interests at stake, the diversity of participating country, and the institutional and legal setting is quite remarkable on the whole in the European experience, and certainly much more relevant to other experiences of regional integration than the specific elements of policies and governance.

Last but not least, an almost constant feature of European integration has been and remains the lack of agreement between countries involved on the *finalité* of integration. In the French language *finalité* is mainly understood as meaning what is its use, whereas in the English language it points to the ultimate stage to be reached by European integration: a Federal state, a confederation or an international organisation, and to its ultimate borders: should Turkey or even Russia be included, etc. The second set of issues has never been answered, because since the mid fifties there were divergences upon the answer between member states. The French pragmatic conception of *finalité* has always predominated, because the approach of some countries to these issues has been changing overtime (France, Spain or even the UK are typical examples). This is due to the fact that public opinion and political elites are often quite divided upon these issues within a growing number of member states, and finally because most actors in integration tend to think that time passing, their option will reveal itself as the only realistic one. This feature of European integration is fundamental for its relevance to other experiences, far more than understanding the implications of neo-functionalist theory, which may have a good ex-post explicative value, but does not present ready made solutions for new experiences. However,

the lack of agreement upon the *finalité* should not be exaggerated: once the United Kingdom decided to join the European Communities and to leave the European Free Trade Area (EFTA) that it had set up as an alternative with a number of European countries not participating in the Communities, the core agreement common to all Member States is that the EC/EU is more than a free trade agreement and customs union, and that it necessarily has some kind of political dimension.

European integration is a dynamic process, which has always been expanding until now. In terms of governance, the issue to be examined is whether and how the institutional and legal settings and their implementation have been adapted to this dynamism, to what extent they have been fostering dynamism or impeding it. There is no clear-cut answer to this question. As far as legal instruments are concerned it may be quite easily demonstrated that the choice of normative instruments (regulation, directive, decision etc.) and especially the instrument of the directive, have been adapted to this dynamism. This goes together with an appropriate judicial system, the major feature of which are on one side the possibility for the Commission to go to Court independently, and the possibility for national courts to address questions for preliminary rulings. The latter are essential to the functioning of the network of European and national courts, and have been most effective due to the techniques used by the European Court of Justice, which draws upon a big number of different member states' experiences in judge made law. For the Institutional setting, the advantages of an independent Commission with a monopoly on formal policy initiative, as well as the flexibility of majority voting in the Council – when available – are also common knowledge. A far more intense discussion in view of the possibility to transpose this setting to other regional experiences is however still lacking to my view.

2. The “Community Method” as The European Solution to Regional Integration

Article I-1 of the Constitution for Europe states:

“Establishment of the Union

“1. Reflecting the will of the citizens and States of Europe to build a common future, this Constitution establishes the European Union, on which the Member States confer competences to attain objectives they have in common. The Union shall coordinate the policies by which the Member States aim to achieve these objectives, and shall exercise on a Community basis the competences they confer on it.

“2. The Union shall be open to all European States which respect its values and are committed to promoting them together.”

The draft which was adopted by the European Convention in June 2003 used the expression “in the Community way” instead of “on a Community basis”. This was an attempt to mirror the French expression “*sur le mode communautaire*” proposed by the Convention’s President Valéry Giscard d’Estaing. ‘Community method’ was the usual expression until the European Convention. At any rate both expressions are telling for more than “on a Community basis”, and it is most useful using them in order to describe the genuinely European solution to Regional Integration as developed since the early nineteen fifties. The Community method is made out of four elements, which are inseparable in order to understand the achievements of the EEC/EC/EU.

1. Pooling of sovereignties/powers/competences is the first response to the issues of trying to work together at a regional level. The European Coal and Steel Community, established in 1951, was based on pooling together natural resources (coal and steel) which were considered at the time as the major resources for industrial development. Pooling meant that in theory each country remained the owner of its own resources, but that they established a management mechanism involving the six governments, albeit separate from them, in order to regulate the very specific coal and steel market. This very tangible type of pooling was later on extended to the far more diffuse elements which were considered as the basis of market economy as well on the side of outputs (goods and services) as inputs (labour and capital), with the same idea of a shared mechanism in order to set up the common market, by abolishing barriers to movement of inputs and outputs, and a system for managing the common market. Pooling sovereignties is a rather abstract concept, derived from the more substantial idea of pooling resources. It has an important symbolic value, because it implies that sovereignty is not lost, but simply shared, and thus nation-states remain while cooperating together.

2. The “Institutional triangle” is typical of the Community way and comprises two elements. The institutions of the Community represent a mix between the agency model which has served for the establishing of some international organisations of a very technical nature such as the Universal Postal Union for instance, and the democratic model, which has been typically used for regional organisations such as the Council of Europe, or the Organisation of American States. The agency model used for the institutions of the ECSC has however also been influenced by the

French concept of “administration de mission”, which has some links with the model of US federal autonomous agencies. Hence three institutions: the Council of Ministers, that enables direct influence of member states governments in the institutions; the European Parliament, which enables a democratic influence in the decision making procedure through the representation of national Parliaments until 1979, and through direct election since then; and the Commission as an independent agency, whose members are appointed by governments, but for a fixed term without possibility of recall, and with the duty to foster common interests. More importantly even, the Commission is the sole institution that may formally take an initiative – usually resulting in a normative text of legal value, regulation, directive or decision – and has the right to withdraw its proposal if it sees that there is a risk that the final decision will not be geared towards the common interest, but simply be an aggregate of separate national interests. In order to avoid the possibility of a single government taking the others in hostage by vetoing a decision, a system of majority voting in the Council is being used as far as possible. In the perspective of other experiences in regional integration it would be wrong to insist too much on majority voting, as is done in the European context at present. Majority voting only works one confidence has been established between participants in the system, as the European experience with the so-called Luxembourg compromise shows, which basically consisted in deferring from 1970 to 1987 the application of majority voting mechanisms that had been foreseen in the EEC treaty.

3. Neo-functionalism and spill over effects in the incremental evolution of integration are also very characteristic of the “community way”. These terms are referring to the very pragmatic approach of Jean Monnet and his team when they proposed the European Coal and Steel Community as a way forward towards the ultimate goal of “United States of Europe”, much more than to the theoretical reconstruction of Ernst Haas. Some members of Monnet’s team might have been influenced by functionalist theories of international relations which existed at that time in the United States; they were certainly very much influenced by the experience that Monnet had acquired in coordinating allied logistics during World Wars I and II. The functionalist theories are mainly based on the idea that integration between sovereign states can be achieved through creating common interests in specific sectors, which result in de facto solidarities. This idea is at the roots of the Schuman plan, by which on 9 May 1951, France proposed to Germany and other countries the pooling of their coal and steel resources. The same is true of the idea of spill-over, i.e. that integration in one sector has consequences on another sector, creating thus a demand for more integration. The best recent illustration of neo-functionalism in action is the link that the

European Commission established successfully under the chairmanship of Jacques Delors, between achieving the Internal Market and establishing a monetary union. The same example shows also the limitations of neo-functionalism, which cannot force a government to abandon what it sees as being at the core of sovereignty if it does not want to, as demonstrated by the cases of the UK and Denmark. Their governments agreed to the Maastricht treaty only because they were exempted from automatic participation in the monetary union. Neo-functionalism as a pragmatic approach based on sectorial interests – as opposed to ideological approaches based upon an artificial will of achieving political integration – has been a key reason for the successes of European integration and might prove very appealing as a method for regional integration elsewhere. Clearly it has limitations if there are no sufficient sectors of common interest between the countries seeking some form of integration.

4. The last element of the Community method is that integration is achieved through law as a prominent tool. Without going into details three elements have to be pointed at as being the major features of the EC system in this respect. The first is that a specific series of legal instruments – different from classical international agreements – have been designed in order to try and combine homogeneity or rules throughout the EC with flexibility in their detailed implementation when necessary. Whether this has always been achieved may be discussed, but there are enough sectors where it may be rather easily demonstrated. The second element is the existence of an independent court at European level which is not only accessible to governments if they wish so – as in the classical setting of international relations – but which is also accessible to non governmental actors: the Commission as a representative of the common regional interest, and the economic actors or even individuals who are the final addressees of common rules and decisions. The third and probably most important element of the EC legal system is based both upon a specific tool established by the EEC treaty – the possibility for any national court to have a “dialogue” with the ECJ through the mechanism of preliminary rulings – and the case-law of the ECJ which, through the principles of direct effect and primacy, has enabled the national courts to be the real warrants of the respect of EC law by member states’ governments. In view of other experiences of regional integration – including NAFTA – it seems that this highly important feature might be one of the most difficult to reproduce. Its success is indeed based upon a highly developed system of independent courts and very expert legal profession and also upon a series of specific elements of judicial procedures within member states, which have taken a very long time to establish. In practice, the legal culture of most member States of the European Union – be it

based on English type common law, on French type codified civil law and judge made administrative law or on German-Italian type codified civil law and partly judge made constitutional law (Spain, for instance being influenced by both) – is far less formalistic than it is perceived by non-specialists, and probably far closer to Canadian and US-legal cultures than to those of Latin America.

3. Regional Integration as a “Multilevel” Issue

Political science literature, and more recently legal literature on European integration is using the expressions ‘multilevel government’ or ‘multilevel governance’ since a number of years in all possible ways, sometimes ‘ad nauseam’. While dispute on definitions and concepts might go on indefinitely in this field, the concept ‘multilevel’ is indeed relating to a very important reality, well known as well to academics as to a number of practitioners, but often overlooked by those in charge of designing systems of governance of regional integration and of making it work. This is specially true in the case of institutional reform in the EC/EU dynamic process, for the simple reason that attention almost always focuses on the international treaties which are the legal tool for the common framework. This easily results in the idea – that is shared by a number of politicians and practitioners at both supranational level and national (or even sub-national) level – that in order to progress on governance issues in European integration, it is not only necessary to concentrate on European institutions and procedures – this is not to be disputed – but also that it is sufficient to do so, while as a matter of fact both the common European institutions and procedures and those of the member states have to be taken into account and reformed if needed. Taking seriously the idea of a multilevel governance means that at least three aspects have to be considered. The European experience is not very satisfactory in this respect: indeed, a number of interesting lessons may be drawn from this unsatisfactory experience, which translate both in terms of institutional design (understood as the establishment of institutions and procedures) and in terms of training of the relevant actors.

As a first aspect, experience in the EC/EU as a whole as well as at Member States’ level shows that the never-ending adaptations of the system of governance, that are necessary in order to respond to the dynamism of the integration process, have to proceed both at the level of European Institutions and at Member state level. However well designed the founding treaties or

the specific European sector legislation may be, they are in danger of remaining mere blueprints if the necessary adaptations are not being made in national – and sub national – governmental institutions (political institutions and public administration) in terms of organisation and procedure. Adopting the necessary national legislation is a necessary element, but not sufficient if that legislation is not implemented and enforced in due time, in good faith, and efficiently. Amongst the many issues at stake, the link between a careful ex-ante expression of a given national position in European decision making and the smooth ex-post implementation of the relevant legislation or decision is the best illustration of this issue of multi-level government. It is common knowledge in European institutions that the British or the Danish governments, which show rather little enthusiasm towards the idea that integration and common action is necessarily better than isolated actions, are demonstrating very good performances in applying common policies, even if they do not correspond to the optimum of their wishes. This might be explained to a certain extent by a specific culture in law-obedience, but it does not account for the fact that far more euro-enthusiastic governments of countries which share the same type of culture score worse when it comes to implementation. Studies show that systems of coordination and of voicing organised interests in due time are at least as important if not more than “culture” which might be very ill-defined. This element to my view is extremely important in order to counteract hasty judgements that tend to explain that latin-american culture would not be adapted to institutions, procedures or structures which have been designed in Europe. As a matter of fact, with the increase of the number of EU member states, the diversity of national systems is providing a growing number of relevant experiences, which may be as valuable if not even more, as the experience with European institutions at supranational level.

A second aspect to take into account is the ‘dark side’ of the European experience which might be particularly interesting and maybe relevant, namely the bad consequences of focusing attention merely on the institutional architecture and competences of the common regional institutions : since more than two decades, European governance issues are identified by politicians and to some extent by the literature with the so-called ‘democratic deficit’ of the European Union. Comparing the issues at European and national level shows that if deficit there is in this respect, it would more accurate to identify it as a ‘deficit in legitimacy and accountability’ of the European Union, and sometimes in a ‘deficit in communication’. The idea of a ‘democratic deficit’ of the Union disregards the multilevel issue in that legitimacy and accountability cannot be pursued only at one level – European or national – but need to be

addressed at both. The European experience not only shows that there is no easy solution to these type of issues, which have been at the centre of the European Commission's "White book on European governance", but also that any isolated attempt at solving the question by institutional engineering at the European level is deemed to fail.

A third aspect is that for a very long time, there has been a lack of focus on implementation and on member States when trying to solve governance problems in the EU/EC : some authors, like Metcalfe call this the 'management deficit' of the EU. The change has come only in the mid nineteen nineties, when the European Commission on one side started to integrate the idea that it was not sufficient to establish the legal framework for the internal market, but that the market had to be at least monitored if not regulated, and that this was demanding far more action an national level, and thus changing the nature of the work of the Commission itself. The Commission had been designed and had functioned during decades as an institution whose main role was to draft legislation on the one side, while prosecuting those governments which did not comply with common legislation on the other. It started also acting with a different set of tools in order to ensure cooperation between different public actors – and sometimes private actors – , a far more demanding job in terms of the skills necessary for effective functioning of its agents. In the same time, the prospect of enlargement to States which did not have a fully fledged market economy forced the European Commission to take into account the effective capacity of implementation of common rules and policies and not only the formal transposition of legal rules. Both processes have been far from being conducted in a perfect way and it often still too early to assess their successes and failures, but they might be very interesting and relevant for other experiences of regional integration.

4. Key Issues of Contemporary European Governance and Proposed Solutions

If the three previous sections of this paper are being accepted as good premises for understanding European integration from an American regional integration perspective, it becomes useful to try and have a more detailed look at the key issues which are on the agenda of the European Union, and at the solutions which are being more or less officially proposed to solve these issues. The purpose of such an exercise would be to go beyond the usual

retrospective study of European integration for the purpose of drawing lessons that might be relevant for other regions.

In general terms, it is probable that the key issues that European integration are facing now are also relevant to Latin America, i.e. :

1. Keeping an efficient and democratic system for decision making with an ever-growing number of Member States
2. Enhancing co-ordination without creating a federal type of power allocation
3. Differentiating integration according to policy fields

However, examining the main solutions proposed by politicians, practitioners and academia, it might appear that some are too specific to Europe or too little developed to be worthwhile even being looked at (the EU pillar structure; European Monetary Union and the Common Foreign Security Policy?), while others may or may not be relevant (enhancing representative democracy, reinforcing the capabilities of Council of Ministers, keeping a powerful and efficient Commission, giving stability to the European Council, increasing transparency and accountability, developing the open method of co-ordination, establishing European 'regulatory' agencies).

Once the most relevant issues and types of solutions are identified, the easy way is to try and describe what is proposed in the proposed Constitution for Europe, in official documents like the European Commission's White Book on Governance, or in European Council conclusions (like the Lisbon Strategy for instance). An easy but misleading way: behind the technical jargon or fashionable phrases, the realities would need to be scrutinised in depth before finding out that comparisons of best practices or institutional devices are based on too differing contexts. This does not mean that none of the solutions proposed in Europe could be interesting for Latin America: what would be most interesting to discuss, is how those solutions are able to match the real problems encountered on this side of the Atlantic, i.e. which are the processes that have been used or will be used in order to develop and implement those solutions.

In order to present just one example, it is probably far more interesting from a Latin American perspective to understand the project, the whereabouts, and the proper dynamic of the European Convention 2002-2003, and how it interacted with its political and social environment, than to try and go in any detailed analysis of the institutional innovations put forward by the Convention. The following elements have to be underlined in this perspective:

1. The European Convention had been established with a rather ambiguous mandate, namely to propose reforms, and possibly alternatives, that would help overcome some general issues identified by the European Council, such as the consequences of enlargement from 15 to 25 or more member States on the efficiency of common institutions and decision making procedures, trying to clarify the distribution of powers between EU institutions and Member states, trying to overcome the 'democratic deficit' and trying to simplify the treaties that establish the EC and EU. The possibility of drafting a 'Constitution' was only mentioned as a vague hypothesis. The Convention eventually showed much boldness in delivering a fully fledged Draft Treaty establishing a Constitution for Europe, designed to replace the existing treaties, instead of a mere series of recommendations; but it also showed much realism in limiting the scope of proposed innovations and in avoiding to change anything in the distribution of powers between the EU and its member states: none of the existing EC/EU powers was given back to member states, and a very small number of increases of EU powers were only proposed in full agreement with all governments of EU member states.

2. This combination of boldness and realism was without any doubt the result of the leading role in the Convention of experienced politicians from several different member states, who had personal experience both in national and European institutions. They made sure that the Convention remained in touch with reality and acknowledged the limits beyond which member states government were not ready to go.

3. Contrary to the usual intergovernmental conferences, where diplomats and experts of EC law were dominating the decision making procedure, the European Convention was composed of a great majority of experienced parliamentarians, coming both from national parliaments and from the European Parliament. This allowed to make a number of changes in the institutional setting, procedures and instruments, designed to make the EU's functioning easier to understand to citizens, who are more accustomed to the functioning of their national political institutions.

4. The Convention’s composition (2 representatives of Parliament and 1 of the Executive for each state, plus a good number of members of the European Parliament and two European Commissioners) and its working procedures (intensive use of electronic communication for proposals, specialised working groups, and very tightly organised plenary sessions, without any votes, and decision-making by consensus only) allowed both to include representatives of candidates countries without any discrimination, while acknowledging the different weights of countries and institutions.

The fact that the Convention’s proposal included a specific system of qualified majority voting, or a permanent President for the European Council, or a Foreign Minister for the EU is probably far less relevant than the process itself, although it might attract more attention in the future

Table 2 Issues and solutions in contemporary European Governance

Key Issues	Proposed solutions (source of proposals in footnotes)	Major elements	Relevance to other regions
1. Keeping an efficient and democratic system for decision making with an ever-growing number of Member States	- Enhancing representative democracy ¹	- Extension of powers of Parliament	Medium
	- Reinforcing the capabilities of Council of Ministers ²	Extension and “democratisation” of majority voting in the Council of Ministers	Low
	- Keeping a powerful and efficient Commission	- Numbers of Commissioners and powers of the President	Low
	- Giving stability to the European Council	- A Permanent President	Low
	- Increasing Transparency and accountability	- Reorganisation of the treaties	Medium

¹ Constitution for Europe

² Treaty establishing a Constitution for Europe, see http://europa.eu.int/constitution/index_en.htm

Key Issues	Proposed solutions (source of proposals in footnotes)	Major elements	Relevance to other regions
2. Enhancing co-ordination without creating a federal type of power allocation	- Open Method of Co- ordination ³ - European (“regulatory”) Agencies ⁴	- Common objectives, exchange of best practices and peer review - use of soft law instruments - complementary competences - specific bodies for some policy fields, at arms’ length from the European Commission	Medium Medium
3. Differentiating integration according to policy fields	- Pillar structure - EMU and CFSP - Open Method of Co- ordination - Enhanced cooperations	- differentiation of procedures, instruments and institutions according to fields - opting-in clauses	High High

Table 2 is trying to recapitulate the major key issues and proposed solutions in order to discuss their potential relevance to regional integration in America, and can therefore only be presented as extremely tentative. The discussion during the ELSNIT conference has helped in identifying those aspects of issues and solutions that might come out as relevant if further work were to be undertaken; the indications in the right hand column remain however mere hypothesis, as they would need further detailed examination in order to get clarified. The hypothesis here is based upon the elements of proposed solutions in the EU context, and not on the relevance of the issues.

If it turned out that this table were to really reflect the relevance of present day discussions about European governance, it would reinforce the need to concentrate comparative work with practical goals upon the analysis of processes as they have evolved over the last decades rather

³ Lisbon Strategy : PRESIDENCY Conclusions - Lisbon European Council - 23 And 24 March 2000, see http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.en0.htm

than trying to go into the details of the EU solutions to problems which, if sometimes similar to those of Latin-American countries, are embedded in a totally different context.

Florence, 25 November 2004

⁴ See 'The Agencies of the European Community, History, How do they function, Activities': http://europa.eu.int/agencies/index_en.htm

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