

The Subregional Development Banks And The Expansion Of Socio-Economic Growth In Latin America: Current Issues And Future Prospects

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ABSTRACT

Sub-regional multilateral organizations are playing a rapidly increasing role in the suppliance of development finance and technical assistance to the countries of the Latin American ('LAC') region. Evidence is also to be found in the following two circumstances. Firstly, like reserve pooling institutions sub-regional multilateral organizations in general and international sub-regional banks in particular are helping countries of the region to mobilize financial resources for productive activities. Second, and even more significantly, sub-regional multilateral development organizations are helping the LAC countries to increase their role and level of integration in international capital and financial markets while also strengthening their internal capital markets. For instance, they are improving their funding conditions and issuing bonds in Latin American currencies. Jointly with global multilateral financial institutions, international sub-regional development banks are also supporting LAC countries in the current financial crisis by supplying liquidity. Therefore, for these and other reasons, the wealthier countries of the LAC region such as Brazil and Mexico have allocated and still continue to allocate increased resources to these organizations, and have also in several circumstances taken their views into consideration in their own action plans and programmes. However, though surprising, the wide and fast-growing role of sub-regional multilateral institutions in the international financial system has as yet received very little attention from an international legal perspective. The overall goal of this chapter is to fill this gap, and therefore to critically review the experience of LAC countries with international sub-regional development and financial cooperation. Starting from the premise that this experience has been one of the most successful in the developing world (though uneven in terms of country coverage and services provided), the paper will show that the Andean sub-region has been particularly successful in establishing sub-regional multilateral institutions in the fields of development and finance. Again, the paper will also indicate that development financing in the LAC region has been wider in scope than cooperation in monetary matters. In doing so, the paper will stress in particular that the two most successful sub-regional financial institutions, namely the Andean Development Corporation (CAF) and the Central American Bank for Economic Integration (CABEI) have shown the capacity to supply services to member countries in a timely way, with counter-cyclical effects and on a wider scale relative to other types of multilateral financing. Indeed, the genuine sense of ownership of these organizations by member states, preferred creditor status, and professional management is reflected in very healthy portfolios, even in the face of default by member countries. This is so even

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though the services of these institutions could be broadened to support also the growth and integration of the physical infrastructure and macro-economic policy coordination. Concerning its overall structure, this paper is divided into two main parts. In the first part, it will ascertain and critically discuss and evaluate, from an international legal perspective, the relative position of international sub-regional financial institutions within the LAC region, focussing both on their financial role and on how they provide a set of tools to channel financial resources, technical assistance and knowledge to countries of this region. In the second part, through a consideration of the structure and functioning of the CABEL and CAF the paper will elaborate recommendations and draw some conclusions about the international sub-regional institutions in the fields of development and finance that operate in the LAC region, and how they can better enhance sub-regional cooperation and promote collective action.

Keywords: Sub-regional financial institutions; the Andean Corporation of Finance (CAF); the Central American Bank for Economic Integration (CABEL); Multilateral development institutions.

1. Introductory Remarks.

The starting point of the following analysis is the idea that sub-regional multilateral institutions in the fields of finance and development, in particular sub-regional development banks (SRDBs), have their uses and roles. A discriminating view of these uses and functions is hindered by two essential ingredients of the environment in which such institutions currently operate. First, the growing interdependence of the sovereign states belonging to the same geographical region naturally leads to international cooperation and multilateralism in the running of foreign financial and economic policies to be considered as some sort of intrinsically positive thing.² International sub-regional institutions are, as it were, landmarks on the path to an innovation-driven economy, and not only in Latin America.³ Indeed this is evident if one considers that SRDBs are an innovative institutional tool to channel knowledge and finance to developing countries, as well as to generate knowledge on and supply technical advice and assistance for

² *Amplius* G. P. Sampson, 'Introduction', in G. P. Sampson, S. Woolcock (eds.), *Regionalism, Multilateralism, and Economic Integration: The Recent Experience*, (Tokyo: United Nations University Press, 2003), p. 3 ff.

³ For a good account of the role of SDBs in Africa and Asia see respectively AFRICAN DEVELOPMENT BANK GROUP, 'Review of Bank Group Assistance to the Sub-Regional Development Banks – Approach Paper', available at: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Evaluation-Reports/18854241-EN-REVIEW-OF-BGA-TO-SUB-REGIONAL-DEV.PDF> (last accessed on 2 January 2014); K. Bezanson, F. Sagasti, and F. Prada, *The future of development financing: Challenges, scenarios and strategic choices*, (Oxford: Palgrave, 2005), p. 12 ff; C. Tan, 'Financing for Sustainable Development: The Challenges Ahead for Asian Economies', in F. Bestagno, L. Rubini (eds.), *Challenges of Development: Asian Perspectives*, (Vita e Pensiero: Milano, 2010), p. 87 ff.

economic and social growth. Again, this is also clear if one pays attention to the fact that SRDBs are able to spread risk more efficiently compared to risk-averse private sector lenders because they are neutral to risk.⁴ Critical assessment of their performance is therefore hindered by the necessity not to strike at the principle for which they stand.

Secondly, SRDBs have generally been created, as their name suggests, as 'banks', i.e. as entities capable of accomplishing certain duties in the exclusive interests of their clients. They were not purported to take on the wider tasks and duties that they have achieved, as instruments for general trends in the running of international financial and economic relations. More specifically, the Latin American system of sub-regional multilateral banks was not conceived as a fully integrated and complex network of international financial organizations, capable of performing what is currently perhaps its main duty, the conduct of financial and economic relations between poor and wealthy countries of the LAC region. Operating in this sector, some SRDBs show, unsurprisingly, a number of documented and recently much known weaknesses such as a proneness to fashion, a proliferating bureaucracy, weak decision-taking capacity, and so on.⁵ Fully aware of these and other weaknesses, but needing sub-regional multilateral institutions to accomplish certain duties that it is no longer fashionable to accomplish via national foreign policies, LAC states, which are SRDBs' main clients, have major difficulties in setting up clear guidelines and general principles for the optimal distribution of such duties. Efforts are made to concentrate financial resources among the SRDBs that appear to have achieved relatively high efficiency, generally with only rather incomplete attention given to the nature of the duties to be achieved, and the ability of the institution in question to pursue them. Of special significance to this chapter is the political analysts' overall tendency to equate the case for increased internationalism in the transmission of development finance with the case for increasing the resources of a particular set of multilateral development institutions, the financial multilateral institutions belonging to the Inter-American Development Bank (IADB) group.⁶

This chapter mainly focuses on two sub-regional multilateral institutions which constitute close alternatives to the IADB group as sources of international development finance for the developing countries which are members of them. Both institutions correspond to the IADB in several noteworthy respects and issues. The questions that this paper tackles, and aims to answer, are as follows. What was the nature of the demand which led to the creation of these alternative sources of financing? To what extent was the nature of the demand reflected in

4 See S. Griffith-Jones, D. Griffith-Jones, D. Hertova, *Enhancing the role of regional development banks*, (New York: United Nations, 2008), p. 4 ff.

5 See S. Griffith-Jones, D. Griffith-Jones, D. Hertova, *op. ult. cit.*, p. 12 ff.

6 Further references can be found in F. Seatzu, 'The Role of the Multilateral Investment fund (MIF) in the Promotion of Foreign Private Investments in the Latin American and Caribbean Regions', in A. Tanzi, A. Asteriti (eds.), *Foreign Investment Law in Latin America: Problems and Prospects*, (Naples; ESI, 2014) (on file with the editors); F. Adams, 'External Financing for Development: The Role of the Inter-American Development Bank', (2005) 36 (3) *International Studies/Études Internationales* pp., 301-316.

the physiognomy of the institutions that were created, and what other factors influenced the way in which the demand was formulated? To what extent do the institutions in question have an ability to develop in response to the demand, and what other factors shape or hinder the pattern of this response? What measures are indispensable to strengthen sub-regional multilateral banks as agents towards development in the LAC region? For reasons that shall be clarified here, the last question will only be answered in the final paragraph.

The paper makes some attempts to critically assess and evaluate these institutions' efficiency. This is done even though an assumption could be made *prima facie* that the case for establishing alternatives to the IADB rests on the general perception that the IADB was inefficient, and that relative efficiency might thus be the essential criterion for their appraisal.⁷ However, such an assumption would contrast with the circumstance that the developing countries which often played a crucial role in the foundation of sub-regional multilateral banks in the LAC region did not wish to have additional channels for the flow of multilateral finance for the sake of choice⁸. This decision not to do so was made for reasons analogous to those which in the late 1960s and early 1970s led the same countries (which were heavily dependent on a single source of bilateral aid) to diminish this dependence by boosting the interest of other donor countries.⁹ On the contrary, as a survey of the evidence clearly shows, the main reason behind the creation of sub-regional multilateral banks in the LAC region was other than that - namely the LAC countries' willingness to accept the prescription of conditionalities (which are generally less strict than in global multilateral institutions) if these are prescribed by international sub-regional development institutions.¹⁰ In this approach, the IADB will only be used as a reference term of comparison where it is indispensable. Implicitly, the paper will make correlations. It needs to be emphasised here, however, that the goal of the paper is not to arrive at an assessment of international sub-regional multilateral banks by comparison with the IADB. Implicit conclusions on the institutions of the IADB group are merely incidental. They are relevant only because the existence of the IADB was very much in the minds of the people who created sub-regional multilateral banks in the LAC region, especially the Central American Bank for Economic Integration, and of the people who have been responsible for their subsequent growth. What is attempted in this paper is a narrowly focused analysis of the extent to which sub-regional multilateral development banks have succeeded in enhancing the work of international regional financial institutions by pursuing a complementary role.

⁷ On these issues, see among others R. Culpeper, *Crossroads or cross-purposes: Inter-American Development Bank at 31*, (Ottawa: North-South Institute = Institut Nord-Sud, 1990), p. 5 ff; F. Seatzu, 'Civil Society Participation in the Inter American Development Bank's Activities and Operations: Enhancing Democratic Accountability?', (2011-12) XVII *Spanish Yearbook of International Law*, p. 43 ff.

⁸ See also below paras. 3 and 4.

⁹ For a good account of these facts see A. Hira, *An East Asian Model for Latin American Success: The New Path*, (Aldershot: Ashgate, 2007), p. 61 ff.

¹⁰ See below para. 2. See also S. Griffith-Jones, ¶A. Bhattacharya, ¶A. Antoniou, *Enhancing Private Capital Flows to Developing Countries*, (London: Commonwealth Secretariat, 2003), p. 15 ff.

2. The Demand for Sub-Regional Multilateral Development Institutions.

The two organizations with which this chapter is mainly - but not exclusively – concerned, namely the Central American Bank for Economic Integration (‘CABEI’)¹¹ and the Andean Development Corporation (‘CAF’)¹² share at least two aims. These are, first, the mobilisation of resources from private capital markets and from official sources to make loans to developing countries on better-than-market terms,¹³ and, secondly, the suppliance of a wide range of complementary services, such as international public goods, to developing countries of the same region and to the international development community.¹⁴ Analogous statutory aims are contained in the articles of other sub-regional financial organizations such as the East African Development Bank (EADB)¹⁵ and the West African Development Bank (BOAD),¹⁶ serving African sub-regions.

Correspondingly, the statutory aims and ways of operation and functioning of the above mentioned sub-regional multilateral organizations share several features with the statutory purposes and ways of operation of the IADB. Apart from an almost universal tendency to develop a device of closer interaction with client-countries,¹⁷ which represents a contrast in emphasis rather than a difference of fundamental duty, the purposes and ways of functioning that are generally typical of sub-regional multilateral institutions are by and large the purposes and ways of functioning and operating of multilateral regional organizations as a class, rather than of organizations at the sub-regional plane.

These purposes, especially the allocation of financial resources in a timely manner, reflect what has been pointed out above as the functional element of the demand for sub-regional development organizations in the LAC region.

11 The act that established the CABEI was signed on December 13, 1960, and became effective on 8 May 1961. Constitutive Agreement of the Central American Bank for Economic Integration (CABEI), 32 (1960) (Guatemala, El Salvador, Honduras, and Nicaragua). Inaugurated formally on May 31, 1961, the CABEI opened its headquarters in Tegucigalpa, Honduras in September 1961. Central American Bank For Economic Integration (CABEI, 1991/92) XXXI *Annual Report*.

12 Agreement Establishing the Andean Development Corporation (CAF), 1968, in Venezuela, *Convenio Constitutivo de la CAF*, available at: <http://www.caf.com/view/index/asp?> (last accessed 2 January 2014).

13 See below respectively, paras. 3 and 4.

14 *Id.*

15 The East African Development Bank (EADB) was created in 1967 under the constitutive agreement of the then East African Cooperation between Kenya, Tanzania and Uganda. Following the breakup of the first East African Community (EAC) in 1977, the institution was re-founded under its own agreement in 1980. The text of the agreement as well as further information concerning its structure and operation are available on the institution’s official website at: <http://eadb.org/> (last accessed on 12 December 2013).

16 The Bank was established on 14 November 1973 by member states of the West African Monetary Union (WAMU). The original treaty focused on the development of member economies towards balanced development and on preparing economies for future West African economic integration. In 1994 it became the development arm of the West African Economic and Monetary Union (WAEMU/ UEMOA). The text of the agreement is available at the bank’s official website at: <http://www.boad.org/> (last accessed on 12 December 2013).

17 See S. Griffith-Jones, D. Griffith-Jones, D. Hertova, above n. 3, p. 3 ff.

The main difference between sub-regional multilateral organizations and other multilateral financial organizations, including regional development organizations, lies in what has been identified as the geographical element of the demand – the peculiar factors which lead to the establishment of such organizations at the sub-regional level. Therefore, the position occupied by a sub-regional development bank is determined by the intersection of two sorts of demand. On the vertical stem, as it were, there is what is essentially an economic demand for institutions which will have certain informational advantages about economic, political and cultural realities of member countries, over global institutions which, by design, accommodate a larger set of countries from different continents. On the horizontal offshoot there is what is fundamentally a political demand for organizations that will assert the multiplicity and the cultural variety of identities inside the LAC region.

The first of these demands is the main component of the institutional framework of the organization. The second is the main component of what would be usual for an organization with such an institutional framework for the countries which it aims to serve. A bank, to put it in its simplest terms, is a bank. There are various features that it has to possess: capital to make loans to clients on market competitive terms; the organizational structure to provide technical assistance and advice for economic development, and so on, if it is to operate as a real bank. SRDBs, like other banks, possess these features.

In the following paragraphs it will be demonstrated that there was not much of a search for originality in the drafting process of the articles of the Andean Development Corporation (CAF) and the Central American Bank for Economic Integration (CABEI) but rather a search for models and precedents. The originality is not in the creation of a new formula, but in the application of an existing formula at a different level scale. This point should be strongly stressed. SRDBs are not an original type of development institution. They are examples of an existing type of institution, which in the late 1960s was created to meet and address a new and fast-developing demand.¹⁸

Since SRDBs have various features which are typical of global financial organizations in general, it is useful to evaluate their utility in practice merely in the functional terms appropriate to institutions belonging to this category. From the perspective of poor countries, the case for sub-regional multilateral banks is sufficiently demonstrated by reference to their need for external financial sources, which in turn suggests that SRDBs should be assessed on the basis of their success in mobilising resources from private capital markets and from official sources to make loans on better-than-market terms.¹⁹ From the perspective of the developed countries, the case for sub-regional development institutions is well demonstrated by reference to the need for improved technical expertise in the appraisal of socio-economic programs and projects and to improve informational advantages about the economic, political and cultural realities of member countries. This in turn suggests that SRDBs should be assessed and evaluated by the rate of return on the

¹⁸ See below para. 2.

¹⁹ See, among others, R. M. Nelson, *Multilateral Development Banks: Overview and Issues for Congress*, available at: www.crs.gov (last accessed on 2 December 2013).

projects and programs that they sponsor, that is, by their operational record.²⁰

In the following paragraphs it will be pointed out that the SRDBs that operate in various parts of the LAC region have a very good record as catalysers of financial resources.²¹ Indeed SRDBs have been major sources of funding for all the economies of the region, in particular for relatively less developed countries. But the major success obtained in this respect by the Andean Development Corporation (CAF) and the Central American Bank for Economic Integration (CABEI) is due to specific historical and environmental circumstances outside the SRDBs' direct supervision.

Likewise, it is worth stressing that there are sound reasons for speculating that the operational records of the Central American Bank for Economic Integration (CABEI) – focusing mainly on power, infrastructure, energy, and water – compare rather favourably with those of the IADB – which concentrate on social services and on support to the public sector and civil society.²² Meanwhile the CAF, which has placed wider emphasis on the public sector, has guaranteed itself against 'failure' largely by preferentially operating in the same areas of intervention as the IADB, therefore partially undermining the case for its foundation as a distinct organization. But while these criticisms, if substantiated, may have some validity, they do not represent a definite appraisal, because they leave out the geographical element of the demand, namely the case for founding development finance institutions at the sub-regional level in the LAC region. This demand has four basic ingredients, all of which have an essential bearing on the operation and functioning of such institutions. First, the functional element of the demand is to some extent changed by the level at which it is formulated. Reference has already been made above to the overall tendency of the SRDBs to stress socio-economic integration, and it is argued below that there are other respects in which SRDBs differ inherently from other global financial organizations, including also regional multilateral development banks, irrespective of the peculiar sub-regional contexts in which they work. Secondly, the geographical component of the demand, the fulfilment of the role which is part of what is expected of all sub-regional development institutions, has to be linked to the specific capabilities and structures which SRDBs have. This tends to be considered initially as the assertion of the exclusive aspects of identity, a demand both for an increased quantity of external financial resources and for wider powers to choose the uses to which such financial resources are put. However this leads, thirdly, to maintenance of the inclusive aspects of identity, the recognition of specific internal features which differentiate the LAC region as an identified entity.²³ The demand for the accomplishment of this task has a feed-back

²⁰ Incidentally, evidence of this approach is found in several documents by the SRBs that are available at the official web pages of the main institutions.

²¹ See also F. Prada, *World Bank, Inter-American Development Bank, and Subregional Development Banks in Latin America: Dynamics of a System of Multilateral Development Banks*, (ADBI Working Paper Series No. 380, September 2012), available at: <http://www.iadb.org/intal/intalcdi/PE/2012/12263.pdf> (last accessed on 3 December 2013) who stresses that: 'though both the IDB and SRDBs have expanded their net outstanding loans to the region those of the SRDBs have grown at a faster pace'.

²² See recently F. Seatzu, above n. 6, p. 45 ff.

²³ On the peculiar features of the LAC region, see among others Centro Latinoamericano para la Competitividad y el Desarrollo Sostenible (CLACDS) del INCAE y el Instituto para el Desarrollo

consequence, fourthly, on the character of the functional demand, in the form of a presumption that the operational policy of the institution will diverge in specific and noteworthy respects from the operational procedures and policies of other multilateral development organizations. As these elements of the demand for sub-regional multilateral organizations in the LAC region commend different criteria for their assessment and evaluation from those that are generally applied to global financial organizations in general, they need to be considered in a little more depth.

SRDBs are in an intermediate position on what has been described here as the vertical axis, or stem, of multilateral financial organizations as a category. Wealthy countries, looking for organizations through which to give technical assistance and direct financial resources to poor countries, are naturally inclined to look first at the universal or regional level, where as a group they may wield paramount influence over policy elaboration. For example, in the late 1960s and early 1970s the fact that the periodical replenishment of the resources of the IADB was the first to receive the attention of wealthier countries in discussions of the allocation of financial aid to multilateral development organizations is not simply the outcome of chronological accident.²⁴ This was the obvious point on which to focus their efforts, and it is likely that they would still have had first call even if other multilateral financial organizations had been in operation for longer. Nevertheless, poor countries wishing to keep control over the selection of initiatives and projects to be sponsored are likely to believe first in terms of national organizations, which may be required to work in harmony with government policy.²⁵ However, poor countries are also oriented toward organizations that will allocate external financial resources, so they must move some way towards the level that the rich countries favour.²⁶ It is the mix of these two requirements, the necessity for external financial resources and the necessity to keep supervision over their distribution, that constitutes the functional demand for the foundation of multilateral sub-regional development organizations at the sub-regional level.²⁷

Among SRDBs, the Andean Development Corporation (CAF) and the Central American Bank for Economic Integration (CABEI) are a special category, in that they seem to maximise both the agglomeration of poor countries' interests

Internacional de la Universidad de Harvard, *Centroamérica en el siglo XXI: una agenda para la competitividad y el desarrollo sostenible: bases para la discusión sobre el futuro de la región*, (Banco Centroamericano de Integración Económica: AVINA, 2000); P. Pennetta, 'Consideraciones sobre los procesos de integración regional en Europea y América Latina', (2013) 15 *Cultura Latino Americana. Annali*, p. 181 ff; M. Schelhase, 'The Changing Context of Regionalism and Regionalization in the Americas: Mercosur and Beyond', in T. M. Shaw, J. Andrew Grant, S. Cornelissen (eds.), *The Ashgate Research Companion to Regionalisms*, (Farnham: Ashgate, 2011), p. 175 ff.

²⁴ References are found in E. Alphantery, 'Introduction', in D. Turnham, C. Foy, G. Larrain (eds.), *Social Tensions, Job Creation and Economic Policy in Latin America*, (OECD: Paris, 1993), p. 13 ff.

²⁵ On the issue, see I. M. D. Little, J. M. Clifford, *International Aid: The Flow of Public Resources from Rich to Poor Countries*, (New Jersey: Transnational Publisher, 2006), p. 53 ff.

²⁶ *Ibidem*.

²⁷ Accordingly, see D. Titelman, 'Subregional Financial Cooperation: The Experiences of Latin America and the Caribbean', in J. A. Ocampo (ed.), *Regional Financial Cooperation*, (Batimore: Bookings Institution Press, 2006), p. 215 who stresses that: '... countries eligible to receive resources have more say and decision-making power to influence the policies and instruments of such institutions than of global institutions'.

and the ability to provide financial aid in the service of those interests. This is especially true for the CAF, which has been extremely active and is currently providing support to ‘multilaterals’,²⁸ supplying capital to commercial companies to start operations in other countries, and acquiring equities from companies to support their growth.²⁹ Moreover, the CAF is also currently enlarging its original sub-regional focus and it has started supplying financing to other countries such as Argentina, Brazil, Costa Rica, Panama, and Uruguay.³⁰ Furthermore, the CAF is investing heavily in creating additional capacity to work with new clients and more countries.³¹ That is to say, the SRDBs come as close as possible to the resource-mobilising capacity of universal and regional development organizations without sacrificing, and possibly even strengthening, the poorest countries’ ability to supervise how the aid funds are allocated and employed.³² Even though they may include wealthy countries among their members, so the argument runs, the massive aggregation of poor countries’ interests, in an institutional framework in which these interests will be overriding while the interests of wealthy countries will be of secondary importance, is likely to redress the unattractive imbalance of power that is an intrinsic characteristic of relations between wealthy and poor countries in general. The nature of this demand reveals the need for the careful scrutiny of decision-taking procedures in such organizations, together with that of other issues involved in the handling of the relationship between wealthy and poor countries within this peculiar institutional framework.

The assumption that SRDBs at the sub-regional level will always be effective as intermediaries between poor and wealthy countries may be erroneous for at least two reasons. The first is that multilateral development organizations like the World Bank are potentially better at providing services, especially when these are linked to their global nature.³³ Secondly, and finally, this would be false, even though SRDBs have been deeply involved in the sub-regional sphere at various levels. In the following paragraphs, some cases will be illustrated in which SRDBs operating in the LAC region have run into major difficulties in supporting their poorer members’ interests.³⁴ Nevertheless, the existence of this assumption remains compelling as a determinant of the position of SRDBs on the horizontal axis, or offshoot, of sub-regional economic organizations. As the main task of SRDBs is to structure and finance projects with limited guarantees, the assertion of sub-regional identity in exclusive terms takes the physiognomy of a claim to wider sub-regional autonomy in the supervision of the utilization of financial resources. In other words,

28 See also J. Santiso, *The Decade of the Multilaterals*, (Cambridge: CUP, 2013), p. 239 ff.

29 See below paras. 3 and 4.

30 See below para. 4.

31 *Ibidem*.

32 See F. Prada, above n. 20.

33 See S. Griffith-Jones, D. Griffith-Jones and D. Hertova, above n. 3.

34 On this issue, see also F. Prada, above n. 20, p. 14 who, after having stressed at the outset that: ‘There is enough anecdotal and systematized evidence about how dysfunctional the multilateral development banks (MDB) system in the LAC region can be’, concludes by stating that: ‘For each example of collaboration between these institutions, there are several examples on how they duplicate efforts, engage in costly and ineffective interventions, and support initiatives and projects with politics in mind instead of applying an adequate project evaluation, among other valid concerns.’

the establishment of an SRDB is essentially the achievement of political resistance against the wealthier countries and the Inter American Development Bank (IADB) and World Bank's leadership in the economy of the LAC region.³⁵ Evidence is to be found in the history of the CABEL, which is deeply influenced by the history of Latin American opposition to the World Bank's dominance in Latin America.³⁶ It is also evident in the efforts made by other SRDBs like CAF and FONPLATA to differentiate themselves, in both the conditionalities and approaches to credit risk measurement,³⁷ from global and regional multilateral banks operating in the LAC region,³⁸ and in the enduring competition of these SRDBs with the IADB and World Bank. That this competition/opposition is less evident between the IADB and the FONPLATA is a sign of the latter's narrow scope of intervention,³⁹ not of its strength and openness, as the IADB stands in this context as a symbol for much of what poor countries resent in the ordering of international development finance, and SRDBs stand as an emblem of what poor countries occasionally qualify as the fight against neo-colonialism.

There are two noteworthy anomalies in the formulation of this demand. The first is that SRDBs, as multilateral development agencies, need financial resources, and the financial resources in question are widely under the wealthy countries' supervision.⁴⁰ SRDBs are therefore largely dependent on the wealthy countries' good attitude if they are to achieve the means with which to accomplish that mission of resistance to the wealthy countries' leadership that is part of what is expected of them. This incongruity is not becoming any weaker. The history of the Caribbean Development Bank ('CDB') shows that in certain cases it may be in the wealthy countries' political interests to give poor countries such a 'channel', even if it clashes with other policy interests, although the dimensions of the 'channel' are likely to be rather meticulously indicated.⁴¹ This seems to be the reason why the CAF has regularly provided, and plans to continue providing, financing for

35 Accordingly, K. Sarwar Lateef, *The evolving role of the World Bank: helping meet the challenge of development*, (Washington: World Bank, 1995), p. 10 ff; C. Weaver, *Hypocrisy Trap: The World Bank and the Poverty of Reform*, (Princeton: Princeton University Press, 2008).

36 On this issue, see N. Birdsall, J. Williamson, B. Deese, *Delivering on Debt Relief: From IMF Gold to a New Aid Architecture*, p. 60, also for a good resumé of the efforts made by the CABEL to give debt relief to the poorest countries of the region like Honduras and Nicaragua without help from the international community.

37 See also A. Krishna Dutt, J. Ros, *Development Economics And Structuralist Macroeconomics: Essays in Honor of Lance Taylor*, (Cheltenham: Edward Elgar Publishing, 2003), p. 419, who stresses that SRDBs generally impose conditionalities which are less strict than in global institutions. See also M. Boås, 'Governance as multilateral development bank policy: The cases of the African development bank and the Asian development bank', (1998) 10 (2) *The European Journal of Development Research*, p. 117 ff.

38 See F. Prada, above n. 20, p. 15 who stresses that: 'since SRDBs are neutral to risk, they are able to spread risk more efficiently compared to risk-averse private sector lenders'.

39 In fact, the primary objectives of FONPLATA include providing financial support for pre-investment studies and technical assistance. More information on the structure and functioning of FONPLATA is available at: <http://www.fonplata.org/> (last accessed on 2 January 2014).

40 See para. 3.

41 See J. A. Ocampo, above n. 25, p. 208 ff, also stressing that: 'CAF at present also offers governments and government bodies development bank services for special financing of physical infrastructure and integration projects'.

projects to enhance human development and integrate marginalized groups (such as indigenous people).⁴²

The second anomaly is more complex to solve. Because the nature of the functional demand for SRDBs needs organizations of a special kind, the poor countries are liable to find themselves taking over an organization structure which was established on different ideological grounds, and even more importantly than that, which often lacks sufficient skills to provide services to them and is unable to establish institutional criteria and guidelines for connecting its mission to its activities at the country and sub-regional level. Therefore it is far from clear that an SRDB is an appropriate tool for the assertion of sub-regional identity in exclusive terms.⁴³ Indeed, there is a chance that the biases that an SRDB has acquired from “mission creep” will draw it into struggles to identify itself with organizations on the global plane with which it has deeper affinity and thus wider ability for coordination,⁴⁴ rather than into stricter co-operation with other organizations operating at the sub-regional level.⁴⁵ If this trend is corroborated, as it appears to be by the circumstances that are set out below, it can be interpreted as evidence that the sub-regional nature of the organization is sketchily developed, or sidetracked by the provision of an external scheme or vulnerability to extraneous restraints.

The most accessible way of understanding these anomalies is to start with the dispute over the exclusive aspects of identity, as described above, and proceed to the debate over the inclusive aspects of identity. In the following paragraphs, reference will be made to the tensions faced by the SRDBs to find ‘sub-regional’ solutions, i.e. characteristically Andean, or Caribbean, solutions to sub-regional issues and problems of the LAC region. It is not always evident that such solutions exist, and it is only on very few occasions that the problem that the solution is aimed at is specific to the sub-region in question. However, the explicit need to describe problems in sub-regional terms, and to search for solutions which in some sense express the ‘heritage’ of the sub-regional identity, is not only evident, but also often essential to the case for creating international organizations operating at the sub-regional level.⁴⁶ But this was not deemed necessary for the establishment of the Pacific Alliance that, unlike sub-regional development institutions operating in the LAC region such as Mercosur,⁴⁷ Unasur⁴⁸ and Alba,⁴⁹ pursues the main (and

42 *Ibidem*, p. 208 ff.

43 See below para. 5.

44 See below paras. 2 and 4.

45 See below paras. 2 and 4.

46 Accordingly, see F. Prada, above n. 20, p. 14 who also maintains that SRDBs: ‘need to find comparative advantages and differentiation from other MDBs, other sources of financing (e.g., domestic and international capital markets), and other development institutions (e.g., bilateral donors, private foundations, and social responsibility and non-government institutions)’.

47 Treaty Establishing a Common Market, Mar. 26, 1991, Ar.-Braz.-Para.-Uru., UN Doc. A/46/155 (1991) (hereinafter the ‘Treaty of Asunción’ or the ‘Establishing Treaty’).

48 The Constitutive Treaty is available at the official UNASUR website: <http://www.unasursg.org/> (last accessed on 2 January 2014).

49 The Bolivarian Alliance for the Peoples of Our America - Peoples’ Trade Treaty (ALBA-TCP) is an international cooperation institution based on the idea of the social, political and economic integration of the countries of Latin America and the Caribbean. The denomination “Bolivarian” refers to the ideology

different) goal of attracting investment and creating export platforms for the global market.⁵⁰

The unique nature of this demand poses a question that is difficult to handle in terms of operational policy. At the macro-economic level at which international multilateral development organizations operate, the striking feature of inter-subregional comparisons is the extent to which they reveal affinities rather than diversities⁵¹. Some of these affinities, notably the institutional implications of operating in one of the world's largest export markets, are intrinsic to the situation in which poor countries of the LAC region currently find themselves. Other affinities, for instance, in the fields of taxation and monetary policies,⁵² arise not from the situation in which poor countries find themselves, but from the narrow range of tools available for solving widely divergent problems⁵³. It may be pointed out here that sub-regional differences in the type of issues and problems to be solved require alternative instruments for their solution. However, this would paradoxically undermine the case for sub-regional development organizations. If alternative instruments are required, then it would follow that the countries' diversities would be better identified by a multilateral development organization working at the regional or universal level, within an institutional and normative framework of comparative analysis. The reason for this is that the range of tools available is, indeed, very restricted. In selecting from a restricted range of established tools, in a situation in which it is held that there is one tool which is in some objective sense more appropriate than other tools for the specific problem under examination, what is needed is comparative experience as a guideline criterion for selection, and a multilateral universal or regional organization is more likely to have this experience than a sub-regional development organization.⁵⁴ Just to make the point clearer, satisfactory validation that the IADB has overall been unsuccessful in developing approaches to project appraisal that have validity in the Latin American context would bolster the case for an allocation of resources in (few) multilateral financial organizations of regional scope such as the IADB, or eventually in multilateral financial institutions of global scope like the World

of Simón Bolívar, the 19th century South American independence leader born in Caracas who wanted the continent to unite as a single "Great Nation." Created originally by Cuba and Venezuela in 2004, it is associated with socialist and social democratic governments seeking to consolidate regional economic integration based on a idea of social welfare, bartering and mutual economic aid. The nine member countries are Antigua and Barbuda, Bolivia, Cuba, Dominica, Ecuador, Nicaragua, Saint Vincent and the Grenadines, Venezuela and Saint Lucia. Suriname was admitted to ALBA-TCP as a guest country at a February 2012 summit. The text of the agreement is available at the ALBA's official website at: <http://www.alba-tcp.org/en> (last accessed on 12 December 2013).

50 See S. Ramirez, 'Regionalism: The Pacific Alliance', (2013) *Americas Quarterly*, available at: <http://www.americasquarterly.org/content/regionalism-pacific-alliance> (last accessed on 3 December 2013).

51 See E. Adrian Calcano 'Latin American Geoeconomics: A Continent Divided', available at: <http://conamp.org/2013/05/latin-american-geoeconomics-a-continental-divide-the-economist/> (last accessed on 3 November 2013).

52 *Ibid.*

53 *Ibid.*

54 On this issue, see also the remarks of Roy Culpeper, *The Multilateral Development Banks: Titans Or Behemoths?*, (Boulder: Lynne Rienner Publishers, 1997), p. 107 ff.

Bank.⁵⁵ In practice, nevertheless, it is hard to identify the differences that would give rise to such a claim. Indeed, this is a loose claim, but it is a claim that several political news analysts and business commentators would accept on the grounds of their own acquaintance.⁵⁶ Such questions do reappear in analogous forms in other regions of the globe (and especially in Africa), which may indicate that the macro-economic level of policy elaboration may, in real terms, be an erroneous level at which to draw comparisons.⁵⁷

The fact remains that policy decisions are adopted at the macro-economic level.⁵⁸ At this level there is the necessity, if not to ascertain anomalies, at least to create them, so that the suggested solution may gain political consideration in regional or sub-regional terms; hence the frequent references to 'sub-regional' solutions, even by those who are most intransigent in their application of universally established directions.⁵⁹ Moreover, although when considered in isolation these problems may be all-encompassing, they appear above all in social and political emergencies that can require special further measures to make the application of known techniques attainable. A notable case is that of one of the organizations under consideration in the present work, the Andean Development Corporation ('CAF'), which sees the addition of peculiar Latin-American items to a substantially unmodified institutional framework. If this analysis of the nature of the demand for sub-regional development organizations in general and SRDBs in particular is correct, the troublesome outcome that follows is that there are no guiding criteria for the transformation of such organizations' operational procedures and policies. Confronted with economic issues and problems, they are required to develop a distinctive style for the settlement of these issues and problems, and style is an item that clearly falls outside the scope of economics in which the staff of such organizations are usually trained. Fundamentally, the demand for SRDBs is a cultural demand.⁶⁰ Indeed, it is a demand that naturally leads to the elaboration of a substitute to the westernised intellectual world class by which several poor countries of the LAC region are indirectly governed.⁶¹ This is also indirectly confirmed by the history of the CAF and the CABEI. However, their history clarifies neither the meaning nor the content of the alternative that SRDBs are aiming to provide. Through the provision of efficient services in the financial sector and the competition of the RDBs in the profitable lending business that they partly substitute, SRDBs ultimately aim to give their contribution in the development of political self-awareness within the different areas of the LAC

⁵⁵ *Ibidem*, p. 114 ff.

⁵⁶ For a good resumé of these approaches to multilateral global and regional cooperations in the fields of development and finance, see among others S. Griffith-Jones with, D. Griffith, J. D. Hertova, above n. 3.

⁵⁷ References can be found in C.A. Sims, *Macroeconomics and Reality*, (Oxford: OUP, 1990), p. 137 ff.

⁵⁸ On the subject, see among others W. M. Corden, *Keynes and the Others: Wage and Price Rigidities in Macro-Economic Models*, (Oxford: Oxford Economic Papers, 1978), p. 159 ff.

⁵⁹ On this issue, see S. Griffith-Jones, D. Griffith-Jones and D. Hertova, above n. 5.

⁶⁰ See J. A. Ocampo, J. Kregel, S. Griffith-Jones, *International Finance and Development*, (London, New York, 2007) p. 93, who stress the importance of the SRDBs in supporting regional strategies.

⁶¹ On this issue, see recently S. M. Borras Jr., J. C. Franco, S. Gómez, C. Kay, M. Spoor, 'Land grabbing in Latin America and the Caribbean', (2012) 39 *The Journal of Peasant Studies*, p. 845 ff.

region.⁶²

Indeed the tools of innovation that a SRDB is given are limited.⁶³ This is so even though a SRDB is generally able to efficaciously detect sub-regional issues and problems. Such efficacy is well documented by the history of SRDBs such as the CAF and the CABEL, which have taken the lead in the LAC region to make financial resources accessible to countries in financial depression, for instance through the creation of precautionary funding options such as their grant facilities and through interaction with multi-donor funds, such as Haiti's reconstruction fund, as well as via technical cooperation funds under their administration.⁶⁴ However, in doing so an SRDB is expected to find itself working at the cutting edge of the typically socio-economic issues and problems which most poor countries share. The SRDB may ascertain characteristically sub-regional explanations to common problems, but in doing so it is likely to find itself exposed to the allegation that it is applying 'political' parameters, and this will lessen its functional strength as a handler of the mobilisation of external financial resources. It can attempt to strengthen the coherence of the region where it operates, in particular through supplying global credits and lines of credit for channeling resources to a variety of projects in the productive sector, but in doing so it will often be hindered by its functional unwillingness to declare its ultimate political mission. The SRDB may submit claims to the wealthier countries' resources on behalf of the region where it works, but the utility of this claim will be compromised by the necessity to keep the wealthier countries' good will. These are the dilemmas an SRDB is faced with in its search for an alternative to compliance with the current international economic order. They are also the dilemmas that all poor countries are faced with when they seek financial resources for the betterment of their own situation.

II The Central American Bank for Economic Integration ('CABEL').

3.1. The Central American Sub-Unit.

As already stated above, one of the aims of this paper is to detect the factors influencing the establishment and development of the two sub-regional multilateral organizations on which it is mainly focused, examining and critically evaluating the effectiveness of their responses to such factors. Both organizations are to a large extent affected by the broader regional environment, namely the LAC environment. Nevertheless, the Andean Corporation of Finance ('CAF') and the Caribbean Development Bank ('CDB') appear to possess a distinct set of sub-regional socio-environmental factors. In both organizations the interplay of these two sets of socio-environmental forces is what makes the organization a driving force of sub-regional aspirations that are channelled or counterbalanced by the

⁶² Incidentally, evidence of this is that SRDBs are controlled entirely (or mostly) by developing countries themselves. On the issue, see F. Prada, above n. 20, p. 10 ff.

⁶³ See J. A. Ocampo, J. Kregel, S. Griffith-Jones, above n. 59, p. 94 ff.

⁶⁴ See also below paras. 3 and 4.

constraints of the sub-regional context. In Central America there is no such single set of social and economical factors⁶⁵. The category of Central American nations is currently merely a nominal one: the term has no proper meaning or content.⁶⁶ The organization called the 'Central American Bank for Economic Integration ('CABEI')' therefore lacks the ordinary guidelines by which the development of a sub-regional development bank would be expected to be governed. Indeed, it is doubtful that 'sub-regional' is the most appropriate adjective in this circumstance. The result, as explained below in greater depth, is that the CABEI has found it generally hard to infer any self-evident task from the meaning of its title, as the Andean Corporation of Finance has been prominently able to do. Its situation is such that it is likely mainly to operate as a bank in Central America.⁶⁷ To develop as a Central American development bank would require it to obtain further specific Central American features, and such features are hard to determine.

In the Andean and Caribbean sub-regions, sub-regional multilateral organizations

have developed along similar paths, and there has been a noteworthy level of interaction between the two processes. There has thus been a tendency towards increased co-operation, especially among the Andean countries, and this has led to the rationalisation of the structure of the bodies working throughout the sub-region.

In Central America, mainly due to the striking differences among the countries,⁶⁸ the 'sub-regional' cooperation followed a different pattern that lacks a clear structure and does not involve long-term strategies. So the CABEI was established not in one environment, but in several. The fundamental issue it had to respond to was not: "How to cater to this socio-economic environment", but: "which of these socio-economic environments should be catered for." For an agency, and more precisely, for a bank that lends money, the allocation of which may be readily quantified, this issue is bristling with difficulties: an organization exclusively involved in research, for example, may allocate its effective resources to its foremost area of interest/concern, while keeping a few side projects ticking over as an allowance for the peculiar interests of its peripheral members. Self-evidently a bank that 'pursues customer happiness' as its statutory aim can hardly do this. There is no sort of 'quasi-capital' that it may set aside for activities of secondary importance. The choices that lay before the CABEI when it was founded in 1960 by the Republics of Guatemala, El Salvador, Honduras, Nicaragua and

65 On the peculiarities of the Central American sub-regions, see recently Pedro Vuskovic, Economic Factors in the Evolution of Central American Societies, in R. R. Fagen, O. Pellicer de Brody, A. Aguilar Zinser (eds.), *The Future of Central America: Policy Choices for the U.S. and Mexico*, (Stanford: Stanford University Press, 1983), p. 36 ff.

66 For a fuller discussion of this issue, see R. Lee Woodward, *Central America, A Nation Divided*, (Oxford: Oxford University Press, 1999), p. 20 ff, who also stresses the potential of the Central American states for political union.

67 See XVIIth Ministerial Conference Of The San José Dialogue, Guatemala, 26 March 2001, 7363/01 (Presse 121), available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/07363.en1-communiqué.doc.html (last accessed on 13 June 2014) also stressing the need of a transformation and modernization of the CABEI.

68 See also R. G. Williams, *States and Social Evolution: Coffee and the Rise of National Governments in Central America*, (Chapel Hill: University of North Carolina Press, 1994), p. 20 ff.

Costa Rica were reasonably broad. The area where it started its operations in the early 1960s contained 2.6 million people, at that time approximately a third of the size of the overall Latin American population.⁶⁹

The CABEI area contains seven countries which have gone through different historical stages and political experiences during the 20th century;⁷⁰ it has been characterized by struggles for power that often took the form of revolutionary movements seeking to overthrow authoritarian governments.⁷¹ The substance and heterogeneity of its traditions is mirrored in social structures that may well not be acquiescent to the Western-derived ordinances that overshadow all current development arguments.⁷² If this feature makes Central American development rather questionable, the chance that the problem will be solved is also to be found in Central America, in the existence of Costa Rica as at least one country which has developed without acquiring the social implications connected with labour organisation, incentive devices, and so on of the Western capitalist technological axis.⁷³

In recent years, at least one circumstance has brought Central America to the fore in international relations: several countries of this area, such as Nicaragua and Guatemala, are afflicted by poverty to an extent that is almost unknown elsewhere.⁷⁴ So two of the three broad lines of separation in the contemporary world, the economic and the ideological, intersect and interact in a situation where the third fracture, along lines of race, is also present.⁷⁵ The tough challenge of economic growth is most powerful in Central America, and that challenge is to be seen in the unstable background of political controversy.

There is one additional broad feature of the Central American context that differentiates it from that of the majority of the other Latin American sub-regions. Not many Latin American sub-units are in a neo-colonial situation, in the general meaning of the term, i.e. in a situation where almost all the strategic sectors of the economy are under direct or indirect foreign supervision. As a result of the Central American Free Trade Agreement ('CAFTA')⁷⁶, which contains in Chapter 10 (the investment chapter) what has been called a 'legal framework of domination',⁷⁷

⁶⁹ See F. Lehoucq, *The Politics of Modern Central America: Civil War, Democratization, and Underdevelopment*, (Cambridge: CUP, 2012), p. 12 ff.

⁷⁰ See L. Zanatta, *Storia dell'America Latina contemporanea*, (Bari: Laterza editore, 2010), p. 121 ff.

⁷¹ *Ibidem*.

⁷² *Ibid.*

⁷³ See C. Meléndez Chaverri, *Historia de Costa Rica*, (San José: Editorial Universidad Estatal a Distancia, 1979), p. 15 ff.

⁷⁴ See F. Kinloch Tijerino, *Historia de Nicaragua*, (Managua : Instituto de Historia de Nicaragua y Centroamérica, Universidad Centroamericana, 2005), p. 13-40.

⁷⁵ On the issue, see J. Orange, 'Racism in Central America', available at: <http://www.basearticles.com/Art/243953/281/Racism-in-Central-America.html> (last accessed on 3 November 2013), focussing in particular on racism in Central America against the Indigenous Population.

⁷⁶ The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA/DR) entered into force between the United States and Costa Rica on January 1, 2009, between the United States and the Dominican Republic on March 1, 2007, between the United States and Guatemala on July 1, 2006, between the United States and Honduras and Nicaragua on April 1, 2006, and between El Salvador and the United States on March 1, 2006.

⁷⁷ See R. L. Moreno, 'Neocolonialism In Central America: An Analysis', available at: <http://www.>

it appears that international investors do generally have more powerful rights in Central America than, for instance, in South America and the Andean sub-region.⁷⁸

The environment within which the CABEI has to evolve thus lacks definition in one fundamental respect: it lacks a comprehensive set of relations with the developed countries that would supply the framework within which the organization could operate at the sub-regional level as a financial intermediary.⁷⁹ In terms of more specific decisions, the heterogeneity of the area is also a stumbling block to operational choices. First, the individual countries of the sub-region are indeed rather different, ranging from well established countries like that of Costa Rica to weaker and economically much less developed countries like Nicaragua and Guatemala. Secondly, the areas are different in terms of international relations. For some of the smaller countries, such as El Salvador, there is the further problem of isolation. At the other extreme of the sub-region, there is one relatively compact group of countries that is a natural focus for the attentions of any sub-regional organization. Thirdly, levels of development change significantly. In Costa Rica, Central America has a model nation that has a model of sustainable development that is concurrent to those of the Western economies like the US. On the opposite side, in Belize and Honduras, there are areas that the development process has hardly touched. And in the middle of the range, Nicaragua dominates, sophisticated in its poverty.

The environment of Central America is therefore modeled by its size and divergence, and these features are mirrored in a strangely difficult synergy of economic, political, cultural, and social issues. However, it is also an environment which is rapidly shifting, and here too the Central American situation, or situations, should be separated from that of the other sub-regions of the LAC.

From these historical developments, it is possible to detect two issues that were relevant to the constitution and development of the CABEI. First, the pattern of relations between developing and developed countries was in a way more obvious in Central America than elsewhere,⁸⁰ since it was not altered by the paralysing presence of a single or few powerful nations – unlike in other sub-regions of the LAC such as the South American and Andean sub-regions. Therefore the premise was never challenged that the organization must pursue the broad participation and support of the developed countries, and in this regard it keeps itself different

cispes.org/media/el-salvador-watch-newsletter/neocolonialism-in-central-america-an-analysis-by-raul-moreno/ (last accessed on 4 November 2013).

⁷⁸ References can be found in R. L. Moreno, *op. ult. cit.*

⁷⁹ But see the CABEI's new development finance strategy which is based on the establishment of two trust funds allowing donor contributions to be combined with CABEI's own commitments to supply: (a) a group of targeted risk mitigation instruments applicable to infrastructure projects and (a) debt and equity financing, as well as targeted risk mitigation for renewable energy projects. On the issue, see S. Sheppard, *Reforming*

multilaterals, available at: [http://www.globalclearinghouse.org/infradev/assets%5C10/documents/Reforming%20the%20Multilaterals%20-%20Sheppard%20\(2009\).pdf](http://www.globalclearinghouse.org/infradev/assets%5C10/documents/Reforming%20the%20Multilaterals%20-%20Sheppard%20(2009).pdf) (last accessed on 2013).

⁸⁰ Incidentally, this is the reason why, as pointed out by V. Bulmer-Thomas, *The Economic History of Latin America Since Independence*, (Cambridge: CUP, 2003), p. 294: 'CABEI channeled funds for regional infrastructure to all countries, with the weaker members (Honduras and Nicaragua) receiving a disproportionately large share of all loans'.

from the Inter-American development bank, with only the United States on the aid-giving side. Secondly, and finally, the entanglement of the developed countries in Central America had led to an extensive amount of research into the issues and problems towards which the financial assistance was directed,⁸¹ and not merely to some original mechanisms and structures for the transmission of financial assistance and technical aid such as the Ordinary Fund, the Central American Fund for Economic Integration, the Housing Fund, and the Social Development Fund. Thus, in the essential mission of a sub-regional development organization, the CABEI had either to accept or to overcome a heavy burden of conventional *savoir faire*.

In its early years the CABEI seemed inclined to take the traditional view. Indeed, the first impression was that the representatives of developing countries on both the Board of Governors and the Board of Directors were even more attached to the ideas and projects at that time in fashion – such as the creation of regional highways connecting the major production, distribution, and consumption ports and points and the integration of telecommunications throughout the sub-region – than were the representatives of the developed countries.⁸² It may be suggested here that the explanation lies in the complexity of establishing a sound identity for such an organization within the heterogeneity of the Central American sub-region. Other reasons are undoubtedly possible. However it will be seen that the most obvious of these disappear when the physiognomy of the CABEI is considered from a comparative perspective alongside the other sub-regional multilateral organizations of the LAC region in their different environments.

3.2. The Origins of the Central American Bank for Economic Integration ('CABEI').

Formal discussions of the possibility of establishing a Central American development bank began in the early 1960s, under the aegis of the Central American Common Market (CACM).⁸³

The source of those debates was also important. CACM was itself a regional organization,⁸⁴ and it was primarily conceived as an economic organization

81 Indirectly, this is confirmed by R. Cevallos, 'The Central American Bank for Economic Integration', (1995-1996) 4 *Tul. J. Int'l & Comp. L.*, p. 261 who acknowledged that: '.... in a short period of time, the CABEI created a solid infrastructure for the integration and development of the region'.

82 For further references on the CABEI's initiatives in these fields see R. Cevallos above n. 80, p. 253, n. 44.

83 The CACM was founded by Honduras, Guatemala, Nicaragua, and El Salvador (and later joined by Costa Rica) with the signing of the General Treaty of Central American Economic Integration ('*Tratado General de Integración Económica Centroamericana*') in Managua on December 15, 1960. For a thorough examination of the CACM within the context of the historical patterns of development in the Central American sub-region see W. R. Cline, E. Delgado, V. Bulmer-Thomas, *The Political Economy of Central America since 1920*, (Cambridge: CUP, 1987). See also L. W. Tuuer, *Doing Business In Latin America And The Caribbean*, (New York, N.Y.: AMACOM, American Management Association, 1993), pp. 161- 62.

84 In 1991, the five Central American republics and Panama signed the Protocol of Tegucigalpa to the 1962 Charter of the ODECA establishing the current institutional framework, the Central American Integration System (SICA). On the subject, see recently R. A. Sánchez Sánchez, *The Politics of Central*

which was formed in response to the demand by member countries to cooperate with each other to attract industrial capital and transform their economies.⁸⁵ In other words, the idea to create a Central American development bank arose in an institutional structure,⁸⁶ rather than in direct debates among representatives of sovereign countries; moreover, that institutional structure was a structure that gave access to the developed countries from the beginning,⁸⁷ which meant that this was an exclusively economic project.⁸⁸ In contrast, the proposal to establish a Latin American development bank evolved from a lengthy list of attempts by the Latin American countries, and it was finally made possible by the initiative of the Joint Commission which was set up in 1967 to address sub-regional problems and issues.⁸⁹ Why the proposal for a Central American development bank emerged in a distinct manner from either of these is thus evident from the preceding observations on the Central American environment.

As such debates proceeded, the talks leading to the establishment of the Central American bank progressed expeditiously. From the initial proposal to the signing of the constitutive agreement of the organization was a period of only just over one year.⁹⁰ With the Inter-American bank and the International Bank for Reconstruction and Development ('World Bank') already in existence and fully in operation, precedents had been set for the structure and aim of such organizations that seem to have been widely accepted by the CABEI's founders. The debate revolved around the main issue, namely the areas where the financing should be concentrated.⁹¹ Accessory issues that arose were for the most part (directly or indirectly) related to the problem of how to counterbalance the necessity for external support (i.e. new capital) against the need to give the new organization a Central American vocation. In this respect, the position of Costa Rica, as a country that was both developed and Central American, was bound to be essential.

The pattern of membership which finally emerged, with Costa Rica substantially dominant among the sub-regional members, looks natural enough thanks to the decision to create the CABEI as a source of, and mechanism for, financing the integration and growth of the Central America sub-region.⁹²

American Integration, (Abingdon: Routledge, 2009), p. 138 ff.

85 See also G. Peraza, 'The Central American Common Market', in N. Lacasse, Louis Perret (eds.), *Le libre-échange dans les Amériques: (une perspective continentale)*, (Montréal: Wilson & Lafleur, 1994), p. 297 ff; J.P., Rudolph, 'Investment possibilities in the Central American Common Market', (1971) 3 *Case Western Reserve Journal of International Law*, p. 37 ff.

86 The Central American Bank for Economic Integration (CABEI) therefore was created as an institution of the Central American Common Market (CACM).

87 See above n. 56.

88 On the economic character of the project, see also Art. 8 of the Constitutive Agreement which states that: '... the bank's operations should be based exclusively on technical, financial and economic criteria; consequently, criteria of a political character relating to any member state should not influence the same.'

89 See also J. Rivera, *Latin America: A Socio-cultural Interpretation*, (New York: Irvington Publisher, 1979), p. 221 ff.

90 See R. Cevallos above n. 80, p. 253 ff (providing a detailed history of the origins of the CABEI).

91 See R. Cevallos above n. 80, p. 253 ff.

92 Article 2 of CABEI's establishing agreement provides that it shall: "promote the economic integration and the balanced economic development of the Central American countries."

Nevertheless, in the chronological account that follows, it will be seen that there were occasions when a rather different membership pattern looked possible in theory, for instance when the CABEI amended its constitutive agreement to include extra-regional partners.⁹³ This pattern would have resulted in an altogether different organization. While this cannot be said in absolute terms, it is clear that the reason why this alternative was not pursued may be attributed to the acknowledgment of the precedents set in the creation of other multilateral development organizations both at international, universal and regional levels. We have come full circle, although the circle was modelled by precedents that were not always the most appropriate for dealing with the peculiarity and broad heterogeneity of the Central American sub-region.

In the 1980s, when Central America experienced heavy indebtedness in Nicaragua and El Salvador, CABEI activities received little attention and assistance from other multilateral development institutions, including the Inter American development bank and the World Bank.⁹⁴ As a result, the CABEI was substantially unable to sponsor the projects that were most indispensable at that time to Central America. This was also because the few resources that the CABEI obtained were generally bound by special conditions that curbed the scope or employment of funds – an issue that heavily hindered the implementation of a sound and coordinated integration action program.⁹⁵ Additionally, intra-regional trade declined, and barriers were once more raised by some countries.⁹⁶ Moreover, the CABEI was unable to repay the debt granted to it by private and public foreign investors, as its members regularly defaulted or delayed payments as a result of war, critical local economic conditions, and natural disasters such as El Salvador's 1986 earthquake.⁹⁷

However, this situation partially changed during the 1990s when the CABEI made successful efforts to improve its reputation in the international arena by making prompt payments of its obligations⁹⁸ and also efforts to transform itself into the financial instrument *par excellence* of the integration and development of the whole Central American sub-unit.⁹⁹

During the 2000s the CABEI confirmed this evolutive trend, in particular by enhancing operations that mainly focused on sovereign borrowers. Naturally enough, this led to several debates in and outside the organization on the borrowing capacity of CABEI clients and the sustainability of the CABEI's business model, including the issue whether the borrowing capacity of CABEI clients would turn out to become a limit for the sustainability of the CABEI's business model. However, these debates did not have many (or any) practical consequences, since the Central American countries were able to increase their absorptive capacity

93 See R. Cevallos, above n. 80, p. 257.

94 See R. Cevallos, op. ult. cit., p. 257.

95 *Ibidem*.

96 *Ibid*.

97 *Ibid*.

98 See also R. Cevallos above n. 80, p. 257, who stresses the CABEI's role as a Credit Guarantee Facility for the Central American sub-region.

99 *Ibidem*.

as their internal economies grew significantly during that period.¹⁰⁰ There was therefore room to manoeuvre, so much so that the CABEI became able to devote a large quantity of its financial resources to Central American countries on a scale comparable to the IADB and World Bank.

From 2010 to the present, the CABEI has expanded its scope of operation to the private sector in such a manner that investments in this area currently absorb 25% of the organization's total commitments per year (i.e. US \$300 million).¹⁰¹ Moreover, it has also been actively involved in the sub-regional sphere at several other levels, for instance on the financial aid front of countries in financial distress through grants and technical cooperation funds,¹⁰² as well as in the adoption of the best internationally recognized practices of social responsibility and best environmental practices in order to minimize the direct negative impact of its facilities on the natural environment and its immediate surroundings.¹⁰³

3.3. The Structure of the Central American Bank for Economic Integration (CABEI).

The foundation of the CABEI started a trio of corresponding organizations assisting the three sub-territorial units of the LAC region that contain some of the LAC's least developed countries. Its founders seem to have been perfectly aware of this aspect of it as one of a family of organizations. Inasmuch as it was the first of the three to be set up, they might and in fact did draw on several precedents for the settlement of such technical issues as emerged. The allotment of subscriptions among members, for example, was debated at length and discussed wholly in terms of already existing criteria.

The main source of these precedents was IADB, with certain modifications and additional features which had been found attractive in the financial institutions of the World Bank group. In terms of operational policies and principles, the CABEI possesses powers broadly similar to those of the IADB; nevertheless, in its membership and capital structure it is rather different from both the IADB and the World Bank.

The extent to which the articles of the CABEI's constitutive agreement were elicited from precedents has had some bearing on their relevance in the drafting of policy. First, it is significant that the striking features of the articles were subject to fewer discussions before the CABEI was founded, and there was less argument over their interpretation than was the case in the IADB. Secondly, because most of the features of the CABEI were inferred from existing archetypes, they have not figured distinctly in the organization's public presentation of itself as a Central American organization. Features that were publicised in the IADB as innovations were accepted in the CABEI as tried and reliable solutions to well acknowledged problems. When the staff of the IADB stresses its physiognomy

100 See L. Zanatta, above n. 69, p. 233 ff.

101 References can be found at the CABEI's official webpage at: <http://www.bcie.org/?cat=1137&title=Funds%20and%20Trust%20Management&lang=e> (last access on 2013).

102 *Ibidem*.

103 *Ibid*.

as a Latin American organization, they mean that it is an organization specifically tailored to Latin America's needs. When the staff of the CABEI does so, they mean that it is a family of corresponding organizations - where Central American people are in control. The latter statement is considered below in more detail.

Lastly, the work that led to the drafting of the CABEI's constitutive agreement resulted in a document of noteworthy technical cleverness and high significance that was indeed a sound and feasible model for other multilateral development banks working both at regional and sub-regional levels.¹⁰⁴ It may be true that there are not many legal uncertainties concerning the articles, especially those of the IADB. The articles of the CABEI are quite straightforward and clear, and it seems likely, from such evidence as can be inferred from the organization's relatively long record, that it will further evolve along the lines that its articles indicate. As shown below, the same could also be said about the articles of the Andean development bank and of the Caribbean development bank, the two other sub-regional financial organizations that are currently (and successfully) working in Latin America.¹⁰⁵

Perhaps this last observation is the most significant of all. Indeed this chapter/paper maintains that it is through the accomplishment of a prescriptive task that the long-term meaning of SRDBs has to be assessed, and that the accomplishment of this task is partially conditioned by the development of a congruous 'tone'. In the following analyses of the Andean development bank and the Caribbean development bank, it is shown that the development of a tone has been a by-product of the search for a mission and character. In the case of the CABEI, the need for such a quest may be hidden by the occasional false transparency with which the organization is described in its articles. To this extent, there is no room for further attempts at innovation.

Moving on to other issues such as membership and voting rights, it is worth observing that, according to Art. 4 of the CABEI's constitutive agreement as amended to encompass extra-regional partners, membership is currently open to any country belonging to the Central American Integration System ('SICA'), to countries of different regions,¹⁰⁶ and also to 'any public international law organization with an international scope of action and having a juridical personality' (i.e. to any international intergovernmental organization).¹⁰⁷ Indeed if sub-regional institutions are defined respectively as those in which membership is open to, and at the same time limited to, states in named sub-continental areas,¹⁰⁸ it would appear that the CABEI should not longer be classified as a truly sub-regional development institution.¹⁰⁹ But this is not so if a sub-regional development bank is qualified as

104 Accordingly, see J. A. Ocampo, D. Titelman, 'Subregional financial cooperation: the South American experience', (2009-2010) *Journal of Post Keynesian Economics*, p. 249 ff.

105 For a "positive feedback" of the work and operation of the sub-regional development banks of the LAC region, see among others F. Prada, above n. 20, p. 10 ff.

106 See Art. 4, lett. A of the CABEI Constitutive Agreement which states that: 'The non-founding regional members shall be subject to the same legal framework'.

107 CABEI Constitutive Agreement, art. 4, lett. A.

108 On the issue, see J. Syz, *International Development Banks*, (Leiden: Oceana Publications, 1974), p. 8.

109 CABEI Constitutive Agreement, Art. 35.

any multilateral development organization that typically includes only borrowing nations, regardless of whether its membership is open to States from outside the territory in which financing activities are allowed.¹¹⁰

An analysis of the various groups of member states in terms of voting power generally provides indications of where the real weight of the organization lies. In the case of the CABEL, the indications are both numerous and clear. Voting rights are undoubtedly biased in favour of the Bank's founding member countries, as suggested in particular by Art. 4, section B, lett. a) which states that: '... capital with voting rights shall be composed of a series of 'A' shares allocated to founding member countries and a series of 'B' shares allocated to the non-founding members and the non-regional members'.¹¹¹ Moreover, this is also confirmed by Art. 4, section B, lett. b) which, after stating that: 'The Bank's authorized capital shall be five billion United States of America dollars (US \$ 5,000,000,000.00)', tersely provides that: 'Of the authorized capital, the founding countries shall subscribe to, in equal parts, two billion five hundred and fifty million dollars ... through 'A' series shares, and there will only be two billion four hundred and fifty million dollars ... available to the non-regional members and to the non-founding regional members through 'B' series shares'. Therefore nearly 50% of voting shares are held by only four countries (namely: the Republics of Guatemala, El Salvador, Honduras and Costa Rica, the four founding member countries),¹¹² on a flat rate, compared with 11% in the IBRD, and 3.2% in the IADB.¹¹³ This figure is a compromise. Especially Costa Rica and Honduras wanted a figure much higher than that of the IADB. Indeed, this was so in order to have sufficient voting strength to permit them to bring about the adoption of the projects perceived as the most strategic for the implementation of a development programme of the Central American sub-region. The compromise that was finally reached, as will be shown below, guaranteed that the economically weakest countries of the CABEL's founding group (Guatemala and El Salvador) had some increase in voting power, but it left the de facto dominant position of Costa Rica and Honduras in the Central American sub-region substantially unaltered. However, decisions on most issues and topics are taken by simple majority,¹¹⁴ which means that it would always be possible for the economically weaker countries of the CABEL's founding group to mobilize a blocking coalition.

3.4. The Purpose and Functions of the Central American Bank for Economic Integration (CABEL).

110 See also Art. 4, para. 3 of the CABEL Constitutive Agreement, in the part which states that: 'The 'A' y 'B' series shares are nominative and shall bear the name of the respective country or international organization that is their holder'. For a fuller discussion of these issues, see J. Syz, above n. 85, p. 8.

111 CABEL Constitutive Agreement, Art. 4, section B), par. 3.

112 See also Article 4, B, lett. h) of the CABEL Constitutive Agreement which provides that in the event of capital increase, at least 51% of the subscribed capital shall be held by the founding countries of the bank.

113 On the issue, see J. Syz, above n. 107, p. 34.

114 See e.g. Art. 14 of the Constitutive Agreement which embodies the principle that 'each Governor has one vote'.

The statutory purpose of the CABEI is: 'to promote the economic integration and the balanced economic and social development of the founding countries' in the Central American sub-region'.

This definition of the bank's purpose strongly resembles the corresponding definitions in the equivalent articles of the IADB¹¹⁵ and of the African development bank ('ADB').¹¹⁶ Moreover, and of even greater importance, the definition suggests that the founders of the CABEI have a generous view of the development process. In the case of the IADB (and perhaps even more so in the case of the ADB), serious attempts were made to translate this view into the articles of the constitutive agreements by inserting the notions of 'social progress'¹¹⁷ and 'social development'.¹¹⁸ Nevertheless, in the peculiar situation of the mid-1960s it was difficult - if not impossible - to translate these notions into a plan of action: this is further confirmed by the history and operation of these multilateral regional institutions.

With the foundation of the CABEI, the broad view was reiterated, though in partially different terms. Economic development was presented in legal statements as economic growth, advancing a more pragmatic and operative approach that would bypass considerations of the values both of tradition and of fairness.¹¹⁹ As a result of this approach, the far too vague notions of 'social progress' and 'social development', were not included as such in the CABEI's establishing treaty, and they were replaced by the more operative and articulated concepts of 'economic integration' and 'balanced economic and social development'. These were used as catchwords for the comfort of the founding countries that were willing to build up an effective and fully operational organization able to supply financial aid as well as technical assistance to the developing countries of the Central American sub-region. Clearly, the assumption was that this approach would in some way be more feasible. For developed countries, 'feasible' indicates 'not requiring assistance'. For developing countries, among several other things, it indicates being 'in a stronger bargaining position to obtain more assistance'.

In fulfilling its mission, the CABEI is required to attend to only those programmes and projects that are specifically mentioned in Art. 2, para. 1, lett. a) to j) of its Constitutive Agreement. The premise is way too clear and evident: only the programmes and projects indicated may effectively contribute to the balanced growth of the sub-region as a whole. However, it is interesting that no reference is made to a duty upon the governing bodies of the bank to pay special regard to the

¹¹⁵ Agreement establishing the Inter-American Development Bank, 8 April 1959; 389 UNTS, 5593, Section. 1.

¹¹⁶ Agreement establishing the African Development Bank (adopted 17 May 1979, entered into force 7 May 1982) 1276 UNTS 501, art. 1.

¹¹⁷ ADB Constitutive Agreement, above n. 112, Art. 1, lett. a).

¹¹⁸ IADB Constitutive Agreement, section 1.

¹¹⁹ See Art. 2 of the CABEI Constitutive Agreement, above n. 9, which, after having stated that: 'The Bank's objective shall be to promote the economic integration and the balanced economic and social development of the founding countries', provides that: 'To achieve its objective, the Bank will attend the following programs and projects: a) Infrastructure for the completion of existing regional systems or those that compensate for disparities in basic sectors, which hinder the balanced development of Central America'..

needs of the less developed member countries of the Central American sub-region. There is no mention at all, neither in Art. 2, para. 1, lett. a) to j) nor elsewhere in the constitutive agreement. But perhaps the existence of such a duty can nevertheless be inferred from the purpose definition, as well as from the reference in Art. 2, par. 1, lett. a), to a generic duty of the bank to eliminate any disparity that could hinder the balanced growth of the sub-region as a whole. Moreover, the CABEI's tasks also include the promotion of public and private investment, the provision of assistance in the co-ordination of national policies, especially in foreign trade, and the provision of technical assistance in the preparation of projects and programs.

Financial resources are clearly indispensable for the CABEI as it is not allowed to be in deficit. Under the CABEI Agreement, the amount of the initially authorized capital (\$16 million) is denominated in US dollars, without any reference to the gold value of this currency. This implies in particular that, in the event of a change in the dollar price of gold, the value of the capital of the bank will also vary in relation to gold. The bank's subscribed capital is subject to certain restrictions according to the CABEI Constitutive Agreement. This also suggests that, in principle, the proceeds of bank loans can only be used for procurement in founding member countries.¹²⁰ However, this provision is unlikely to prove as unduly restrictive as it might appear at first sight. This is because the Board of Governors is implicitly allowed to make exceptions.¹²¹ The CABEI's ordinary capital resources (OCR) are broadly delineated as the pledged amount of the warranted capital stock achieved through borrowings, funds obtained in reimbursement and revenues arising from guarantees and loans.¹²² Unlike what has been established for other international multilateral organizations, such as the IADB and World Bank, the CABEI's capital stock has been divided into a stated number of shares that do not have a stated par value.

3.5. The Organisation and Management.

The highest authority of the organization is the Board of Governors, on which each member is represented by a governor and an alternate governor. The large majority of the governors are, without distinction, the ministers of economic affairs or the Presidents of the Central Banks (or persons acting on their behalf) of their respective countries.¹²³ The Board of Governors usually meets once a year.¹²⁴ Certain powers are reserved to it, and may not be delegated.¹²⁵ These include questions related to the increment of the authorized capital, the determination of the capital reserves (upon the proposal of the Board of Directors), approval

120 CABEI Constitutive Agreement, Art. 7, in the part in which it provides that: 'The capital, capital reserves and other resources of the Bank, or administered by it, shall be used for achieving the objective set forth in article 2 of this Agreement'.

121 CABEI Constitutive Agreement, Art. 11, lett. l).

122 CABEI Constitutive Agreement, Articles 4, B, lett. a) and 6.

123 CABEI Constitutive Agreement, Article 19.

124 Article 13 of the Constitutive Agreement which also states that: 'In addition, the Board of Governors may hold an extraordinary meeting when it so decides or when convoked by the Board of Directors'.

125 CABEI Constitutive Agreement, Art. 11.

and modification of the regulations for the Bank's organization and administration, designation of the external auditors of the Bank who are to give an opinion on the annual financial statements, amendments to the constitutive agreement, and decisions on the distribution of the Bank's net assets in the event that it terminates operations. One interesting feature of the functions of the Board of Governors is the explicit power to consider and decide on issues raised by the Board of Directors, by a Director, by the Executive President or by the Controller on decisions which, in their judgment, contravene provisions of the Constitutive Agreement or resolutions of the Board of Governors.¹²⁶

The overall functioning of the organization is under the control of the Board of Directors.¹²⁷ There are up to nine directors, five of whom are elected at the proposal of the respective founding members and the remaining four are elected by the governors representing non-regional members.¹²⁸ The voting procedure contains the usual safeguards to ensure an even distribution of voting power. Any modification of the regulation for the election of the Directors of the Founding States shall require a three-fourths majority of the total votes of the members, including the favourable votes of four Governors of the Founding States.

A remarkable feature of the CABEL is the extent to which the Board of Directors takes an active role in policy drafting. The directors reside in Tegucigalpa (Honduras), where obviously enough their energies are devoted full-time to the bank's business.¹²⁹ As a result, the bank is not controlled by the President to the same extent as the IADB, or the International Bank for Reconstruction and Development ('World Bank'). Confirmation is found in Art. 20 of the CABEL's Constitutive Agreement which tersely provides that: '... the President shall conduct the administration of the Bank under the direction of the Board of Directors'. From such evidence as the governors' speeches at the annual meetings, it is clear that the directors most active in policy elaboration are those with the strongest voting power (i.e. the Directors from the founding states).¹³⁰ This state of affairs was clearly perceived by the non-founding countries, and they obtained several allowances, such as an increase in the number of directors to curb the strength of the Directors of the founding member states. The executive head of the organization is the President, who is chosen by the Governors from a list of three candidates, and selected on the basis of a contest. The President is the highest-ranking officer in the administration management of the Bank and the Bank's legal representative,¹³¹ and he has to be a national of a founding member state.¹³² His term of office is five years.¹³³ The President is granted relatively broad room for manoeuvre for staffing the organization, and is only required to pay attention to the need to select staff from a wide geographical area within the Central American region. It is most likely that this is the reason why an embryo of staff was built up quickly. The structure of the

126 CABEL Constitutive Agreement, Art. 11, para. 1, lett. j).

127 CABEL Constitutive Agreement, Art. 15.

128 CABEL Constitutive Agreement, Art. 16.

129 CABEL Constitutive Agreement, Art. 18.

130 CABEL Constitutive Agreement, Art. 19, para. 2.

131 CABEL Constitutive Agreement, Art. 20, para. 1.

132 CABEL Constitutive Agreement, Art. 20, para. 2.

133 CABEL Constitutive Agreement, Art. 20.

organization's staff was initially kept light and flexible, and after a few years it was rationalised according to the specific needs of the CABEI's activities as they had arisen through practice. Currently, the core of the organization is the Steering Group which is responsible for the preparation and follow-up of the Annual Meeting and any other business.¹³⁴ Research services are provided by Working Groups that are appointed by the Annual Meeting on an ad-hoc basis to research and prepare specific topics that currently engage the Club and to develop relevant information and documentation,¹³⁵ and technical services are supplied by Sherpas that are appointed by each Member to serve as transmitter contacts between the Secretariat and the Member institutions.¹³⁶ Moreover, the organizational structure is complemented by an external body, the Compliance Office, which is responsible for the effective application throughout the organization of the policies and procedures in force concerning the prevention of money laundering and terrorism financing in order to prevent the CABEI from being used as a tool for such aims.¹³⁷ Additionally, since its foundation the CABEI has promoted effective communications through its Secretariat.¹³⁸

3.6. The Operation and Functioning.

While the bank's constitutive articles grant it some margin of manoeuvre in its spectrum of activities, they provide a fairly terse explanation of the type of operational policy that it is expected to advance. Although the bank's overall aim is to enhance the economic development of the founding member countries, it is not so restricted in its current activities, for it may lend to any member, and to any regional or other international organization involved in the Central American region's growth. The bank may lend to any private or public entity established in Central American countries.¹³⁹ It may also make direct loans, guarantee loans in which it participates, or invest in equity.¹⁴⁰ When the borrower is not a member government, the CABEI may request a government guarantee, but it is not obliged to do so.¹⁴¹

Nevertheless, the CABEI's operating rules and principles are set out in some detail. They are summarized in the requirement that the organization 'shall be based only on sound banking practices'.¹⁴² It thus follows that the bank shall finance 'exclusively' those programs or projects that are technically feasible and economically sound.¹⁴³ The bank is required to give precedence to programs and

134 Further references are found in the CABEI's official webpage at: <http://www.idfc.org/Who-We-Are/governance.aspx> (last accessed on 29 October 2013).

135 *Ibidem*.

136 *Ibid*.

137 Further information is available at: <http://www.bcie.org/?cat=1427&title=Compliance%20Office&lang=en> (last accessed on 29 October 2013).

138 *Ibid*.

139 CABEI Constitutive Agreement, Art. 7, lett. f).

140 CABEI Constitutive Agreement, Art. 7, lett.h) to j).

141 CABEI Constitutive Agreement, Art. 7, lett. i).

142 CABEI Constitutive Agreement, Art. 8, para. 2.

143 CABEI Constitutive Agreement, Art. 8, para. 1.

projects that will advance sub-regional co-operation, and to the smaller Central American countries, although this has not been indicated in the Constitutive Agreement. Guidelines are aimed specifically at guaranteeing that the CABEI does not put its resources at risk. The Constitutive Agreement does not hold the bank to a fixed rate of interest or period of amortisation. The conditions of lending shall be linked to the specific circumstances of the loan, but it is not made evident whether this implies an assessment of the project to which the loan is allocated.

Since its earliest times the organization has relinquished an all-embracing statement on loan policy.¹⁴⁴ However, the document gives a clear enough idea of the bank's main concerns, if not of its overall policy. Paramount among these is what can be described as a belief that in the long term the effectiveness, creditworthiness, and accomplishments of the CABEI will essentially depend on the lengths to which it pursues sound development banking rules and principles. Its commitment to 'sound banking principles' would thus appear to give it a more natural inclination towards the manufacturing industry.

3.7. Special Funds.

The question of special funds has been treated as a matter of primary importance since the bank's establishment. This is because to a significant extent Art. 6 of the CABEI's Constitutive Agreement expressly provides as follows: 'Without prejudice of what has been indicated in the preceding paragraphs, there will exist within the Bank, but as an independent and separate net worth from the general net worth of the Bank, the following funds, namely the Social Benefits Fund, the Special Fund for the Social Transformation of Central America and the Technical Cooperation Fund'.

In so far as this attitude is reflected in the CABEI's Constitutive Agreement, what was envisaged were four multilateral funds only available 'for specific purposes' in the bank's operations. Nevertheless, in the deteriorating aid climate of the 1980s¹⁴⁵ the incorporation of such funds in the bank's structure would have required far more forceful pursuit than was deemed appropriate by the CABEI's drafters. In the event, the bank was granted the power to create a special fund, the so-called the CABEI-HIPC Special Fund, for soft lending out of its own resources, and the power to accept from other sources the administration of trust funds, provided that these are aimed at serving the specific purpose and come within the functions of the bank. Thus, from the outset it was assumed that special funds would have limited and specified purposes. The other possibility had been closed off at an early stage: it would have endowed CABEI with a general purpose fund modelled on the International Development Association ('IDA') as a key element in the bank's ordinary operations..

Once the CABEI started its operations, the need for special funds was perceived more clearly, and the pursuit of such funds became one of its major

¹⁴⁴ Further references are found in the CABEI's official webpage at: <http://www.idfc.org/Who-We-Are/governance.aspx> (last accessed on 29 October 2013).

¹⁴⁵ On the issue, see R. A. Sánchez Sánchez, *The Politics of Central American Integration*, (Abingdon: Routledge, 2009), p. 8 ff.

concerns. The question was also debated by the Board of Governors and the Board of Directors in several of their meetings. The special fund for social transformation (FETs) was formally constituted at the end of 1999 as part of the CABEI's overall strategy in supporting the social development and productivity of the Central American countries.

More specialized funds, which operate with their own resources, were also established in order to deal with the changing needs of Central America. Such funds include the Central American Fund for the Common Market, the Economic and Social Development Fund for Central America, the Fund for Technical Cooperation, the Regional Fund for Conversion of Foreign Debt, the Microprojects Fund, and the Poverty Relief Fund.¹⁴⁶

Perhaps it is significant that the CABEI was more successful in granting special contributions for technical cooperation.¹⁴⁷ The bank has received contributions for technical assistance from the Inter American Development Bank (IADB),¹⁴⁸ UNIFEM (part of UN Women) and more recently from MASHAV, Israel's Agency for International Development Cooperation in the Ministry of Foreign Affairs, which has signed a technical cooperation treaty with the CABEI.¹⁴⁹ The overall amount available from such sources for technical cooperation was US \$ 158.2 thousand according to the CABEI's Annual Report of 2012,¹⁵⁰ but there is no reason to believe that this sum might not be increased whenever this is indispensable. Clearly, therefore, one reason why the bank encountered little difficulty in establishing a technical cooperation fund was that the sums involved were relatively modest. Nevertheless, it is reasonable also to maintain that a further factor was that the rationale for a technical assistance fund was straightforward, whereas the creation of other special funds raised issues of principle involving the bank's multilateral status and concerning its preferred presentation of itself as primarily a banking organization.

3.8. Prospects.

Fifty years and more of operations are indeed a sound basis on which to assess the appropriateness of the CABEI for the needs it was created to satisfy. It is thus possible to make an assessment of its performance. Some of the major difficulties encountered by the CABEI have already been considered in detail in

146 See R. Cevallos, above n. 80, p. 257 ff.

147 On the subject, see Eduardo Gudynas, 'An Introduction to Regional Financial Institutions in Latin America', available at: <http://www.cipamericas.org/archives/1475> (last accessed on 3 December 2013) who also stresses that: 'In 2006, the bank disbursed \$1.647 billion, along three strategic operational lines: integration, globalization, and poverty.'

148 See See D. Tussie, *The Inter-American Development Bank*, (Lynne Rienner Publishers, 1996), p. 19.

149 References are in 'The CABEI and Israel's MASHAV sign a Technical Cooperation General Agreement', available at: <http://www.bcie.org/?art=1533&title=CABEI%20and%20Israel%20MASHAV%20sign%20a%20Technical%20Cooperation%20General%20Agreement&lang=en> (last accessed on 3 December 2013).

150 CABEI, Annual Report 2012, available at: <http://www.bcie.org/uploaded/content/category/1905796452.pdf> (last accessed 3 December 2013)

the above paragraphs. Here we are concerned with a more general question: to what extent has the ideal type represented by the CABEI demonstrated itself to be effectively tailored to the specific needs of the sub-region where it operates?

The conclusions to be drawn from the above paragraphs can be summarized very succinctly. Undoubtedly the CABEI is a bank, and is not to be condemned for trying to achieve a high standard in being what it is, that is for financing 'exclusively' those programs or projects which are economically sound and technically feasible.¹⁵¹ But it is not in any significant sense Central American, and in any case there are some uncertainties as to whether the term 'Central American' in this institutional framework has any true and operative meaning. If it is not Central American, as a development institution is the CABEI at least an institution of the developing countries? The evidence provided above suggests that it is, and that the influence of the developed countries is not so overwhelming that the CABEI's perception of the development process is a limited perception, entirely drawn from the developed countries' experience rather than from the developing countries' perceived needs and ambitions.

It would be wrong to attribute these features of the institution to the position adopted by particular countries. Such features are rooted in its capital organization and in its statutory tasks and functions. If the CABEI is an ideal type, by the same token it is not specifically tailored to the Central American situation. To find a particularly Central American role for itself the CABEI will therefore have to choose the particular features from a range of functions that will give it coherence in a Central American environment. This is in any case the most natural way, due to the diversity and complexity of the Central American sub-region. We shall choose four functions from the list, as suggested by the CABEI's Constitutive Agreement, but it should be pointed out that this list is not a complete one:

- (a) financial support of projects which help sub-regional integration and growth;
- (b) special focus on the overall position of the smaller Central American countries;
- (c) leadership in sub-regional policy issues, such as the development of a telecommunications network;
- (d) exploitation of its developed membership as a tool for increasing the flow of aid to the sub-region.

Looking at the projects which enhance sub-regional integration and economic growth in Central America reveals that the CABEI's biggest contribution was to the member countries' infrastructure that connects highways with major ports, cities and airports.¹⁵² These projects helped lower tariffs, advanced socio-economic growth, and brought the Central American countries into stricter

¹⁵¹ See above para. 5.

¹⁵² See R. Cevallos, above n. 80, p. 257.

connection with each other. The CABEI also financially sponsored the construction of ports that boosted the sub-region's bargaining role vis-a-vis shipping companies which charged extra fees when they considered port conditions to be unsuitable.¹⁵³ In this context, the countries most frequently supported by the bank were Honduras and Costa Rica. On wider policy issues, the CABEI has already adopted some initiatives. However, two elements prevent it from integrating those initiatives into a coherent whole. The first is the extent to which the CABEI has placed the main emphasis on project finance and project appraisal. The second is its unwillingness to recognize that discussion of policy issues commits it to a political function.

As far as the smaller countries are concerned, the CABEI has already demonstrated a tendency to direct its projects, and likewise, its technical cooperation, in such countries. Moreover, it has also shown an overall propensity to become involved in macro-economic country programs and activities which normally lead it into a situation where political considerations are topmost.

That the CABEI will further develop and consolidate as a tool for social and economic change and structural reform in Central American countries seems more natural, due to the circumstance that it is an aid-giving organization. But the struggle between the dogma of assistance and the dogma of sound banking principles makes it uncertain whether the CABEI will always pursue such a course with eagerness. Moreover, from a legal point of view, the bank is potentially subject to influence from its debtors as much as any other international or national lending agency. Furthermore, this is because - over time - CABEI has lost some of its autonomy as a result of its necessity to borrow directly from outside sources.¹⁵⁴

To develop a functional convergence along these lines would go a long way towards giving the CABEI the innovative role that it requires if it is to evolve as a key point in the strategies of development of Central American countries. In particular, the development of such functions would give the CABEI a specific claim on the developed countries' resources, as distinct from the wider claim of multilateral development institutions in general. However, a more complex question is whether such a role would facilitate the development of a set of characteristically Central American responses to the developmental challenge. Clearly that question cannot be answered in detail here. But to give such a response is precisely that creative act which is the core political mission of a sub-regional development institution. To attempt to clarify the CABEI's role in advance means to provide a premise as to what should be the conclusion that derives from the sub-regional bank's operational practice and political approach.

Nevertheless, in general terms we can recommend a line of investigation that could suit the purpose, though it is a line of investigation whose realization is almost certainly forbidden by the CABEI's traditional *modus operandi* and internal structure. In some Central American countries, notably in Guatemala and Honduras, there is growing distrust of the relevance of the US/EU experience to Central American's traditions and present situations.¹⁵⁵ There is the long-term

¹⁵³ See R. Cevallos, *op. ult. cit.*, p. 257.

¹⁵⁴ *Ibidem*.

¹⁵⁵ On the US influence on Guatemala see inter alia H. Hey, *Gross Human Rights Violations: A Search for Causes. A Study of Guatemala and Costa Rica*, (The Hague: Kluwer Law International, 1995), p.

uncertainty that a healthy questioning of established practice may turn into a harsh veto of all that the US/EU still have to offer. If the CABEI could operate as a bridge between the two patterns of approach, applying the questions currently posed by Central American politicians and academics to the evolved experience of US/EU developed societies, then both Central American and the US/Western Europe could gain. The fulfillment of such a role would be very close to the ambitions that the notion of sub-regional development banks sprang from. Nevertheless it would be distant from the role that comes naturally to the type which has finally evolved. In the broad perspective of what is likely to occur in Central America now and over the coming years, it is difficult to attribute to the CABEI the historical significance attached to it by its drafters and by its current proponents.

4. The Andean Development Corporation ('CAF').

4.1. The Andean Sub-Unit.

Integration is not a new concept to Andeans. The nations of Bolivia, Colombia, Chile, Ecuador and Peru signed the Andean Pact Treaty, the Cartagena Agreement, in 1969. This led to the establishment of the Andean Community ('Comunidad Andina' or 'CAN'), previously known as the 'Andean Pact',¹⁵⁶ as soon as they realized the opportunity of a closer sub-regional bloc. While these countries are sometimes generically considered as belonging to the LAC region, they have their own peculiar characteristics that differentiate them from their Latin American neighbors and make the countries in the region less homogenous than they might seem at first sight.¹⁵⁷

After the agrarian reforms in Ecuador in 1964 and 1973 and the reforms of the 1952 revolution in Bolivia, the Andean countries¹⁵⁸ enjoyed relative stability, though only for a few years, in particular as a result of the external support from the Alliance for Progress.¹⁵⁹ But most of the economic reforms were only partly (or badly) enforced due to the political environment, and this led to the negative economic outcomes that became clear in the late 1970s with excessive borrowing, large budget deficits and inflationary peaks.¹⁶⁰

Andean economies have traditionally been focused on mining industries, an element that renders the sub-region defenceless against the unstable international

14 who also stresses that: 'US influence in Guatemala decreased at the time that gross human rights violations escalated'.

156 Andean Sub-regional Integration Agreement, May 26, (1969) 8 *International Legal Materials*, p. 910 ff.

157 References are found in J. M. Leñ Li, *Regional Integration Process in South America: Analysis of Institutions and Policies under the EU Framework*, (Hamburg: Diplomica Verlag, 2001), p. 10.

158 By "Andean Countries" we refer to the countries that are currently members of the CAN (Andean community of nations).

159 A. Stenman, Maj-L. Follér, *Alternative Developments in the Andean Region 2018-2028*, (School of Global Studies, University of Gothenburg, 2008), p. 6 ff

160 See Å. S., M. L. Follér, *op. ult. cit.*, p. 6 ff.

commodities markets.¹⁶¹ Since the late 1980s, when neoliberal programs and policies indicated mining as a national financial strategy, the Andean countries were not only defenceless towards the increases in the prices of their mining resources, but they were also confronted with more worrying internal issues such as governance and instability problems. In addition, there was the need for socio-economic growth (in particular the multiplication of socio-economic activities), and the absence of democracy, and political participation.¹⁶² Ecuador above all was hit by a severe economic crisis in 1998–99, and as a result of this it has suffered currency depreciation and fast growing inflation that was further aggravated by a serious crisis of the whole banking sector.¹⁶³

These factors contribute towards clarifying the relentless underdevelopment during that period. After being heavily hit by the recession of the 1980s and the worldwide crisis of the mining sector in the 1990s, an attempt was made to expand the sub-region's exports. The main evidence of this is the approximately 3% recovery in the Gross Domestic Product in the year 2000.¹⁶⁴ Income produced during the 2000s enhanced these economies' ability to import their technology and capital needs, without generating excessive debt.¹⁶⁵ Exports continued to be fundamental to the region's economies. In addition to mining resources, which all of the Andean countries exported, and bananas, exported mostly by Honduras and Costa Rica, the region began exporting cotton, sugar, meat, and other products, making these countries less economically vulnerable and less dependent upon a single product. Real GDP growth was on average 1.6 percentage points higher between 2000 and 2010, compared to the 1990s.¹⁶⁶ There was also some level of experimentation with manufactured products and some level of industrialization was obtained.¹⁶⁷ Indeed industrial development boomed in the 2000s, followed by moderate growth levels since 2010. Furthermore, since 2000 the financial services sector has grown both in the services supplied and in the tools being adopted.

161 See L. Hinojosa, *Mining economies, mining countries: What mining delivers for development in Andean countries?*, (University of Manchester, SAS - London, Dec. 7th 2007), available at: http://www.sed.manchester.ac.uk/research/andes/publications/conferences/Hinojosa_Presentation_SAS_London.pdf (last accessed on 9 December 2013).

162 L. Hinojosa, *op. ult. cit.*, p. 6 ff.

163 Amplius A. Solimano, 'Governance crises and the Andean region: a political economy analysis', CEPAL, Santiago, Chile. February 2003), available at: <http://www.cepal.org/publicaciones/xml/2/12092/lcl1860i.pdf> (last accessed on 12 December 2013).

164 ANDEAN COMMUNITY, 'Andean Community: Development and Prospects', available at: <http://www.comunidadandina.org/en/Documents.aspx?id=80&title=andean-community-development-and-prospects&accion=detalle&cat=4&tipo=DOC> (last accessed on 9 December 2013).

165 On this issue, see also M. Bird, 'An Andean Hierarchical Market Economy?: Ollanta Humala, New Developmentalism, and an Institutional Turn in Peru', Paper presented at the annual meeting of the SASE Annual Conference 2012, M.I.T., Cambridge, MA, Jun 28, 2012, available at: http://citation.allacademic.com/meta/p567627_index.html (last accessed on 12 December 2013).

166 See L. G. Andrian, 'Terms of Trade and Fiscal Sustainability when the Sovereign Exploits a Natural Resource', available at: <http://www.inesad.edu.bo/bcde2013/papers/BCDE2013-17.pdf> (last accessed on 9 December 2013).

167 See also the Andean Community's official website (<http://www.comunidadandina.org/en/Logros.aspx>) sub 'Principal Results of Andean Integration' stressing that: 'About 80% of intra-Community trade is in manufactured products'.

Notwithstanding the relative political stability in the Andes at the establishment of the Andean Community, civil unrest and armed conflicts swept through the region during the late 1990s and early 2000s. Recent economic initiatives cover the heterogeneity of economic initiatives and exports, including the improved employment of natural resources and the modernization of infrastructure.¹⁶⁸ Only in recent times has industrialization achieved the consideration it merits.

The first attempt at market integration in the Andes came under the auspices of the Andean Common Market, which is more commonly known as ANCOM.¹⁶⁹ The ANCOM was aimed at structuring the economic development of the sub-region by stimulating the region's growth and intra-regional exports.¹⁷⁰ The ANCOM's main objectives were the establishment of a customs union, internal trade liberalization, the enactment of a Common External Tariff (CET), and the development of sectoral programs of industrial development (SPIDs). The ANCOM's traditional dispute resolution procedures are considered by some to be the only part of the integration effort that has remained functional for a certain length of time.¹⁷¹

The establishment of an Andean Tribunal of Justice ('ATJ') and the replacement of the import substitution approach to Andean integration with a policy favouring free trade and economic liberalisation - a change reflected in renaming the Pact as the 'Andean Community' - further contributed to the integration process in the Andes. More recently the judicial activity of the ATJ has also boosted integration among Andean member countries: since these events the ATJ has become the third most active international court, with over 1700 rulings by the end of 2009.¹⁷²

Are these changes effectively beneficial to the sub-region? To understand the possible answers to this question, it is indispensable to consider the economic history of the sub-region and its integration effort in order to assess how these neo-liberal ideas affect the Andes and the future role of the CAF.

4.2. The Integration Movement: Andean Common Market.

A. History and Aims.

The ANCOM was the first attempt towards creating sub-regional economic

168 The Andean Community, 'REGIONAL INDICATIVE PROGRAMME 2004-2006', available at: http://eeas.europa.eu/andean/rsp/rip_0406_en.pdf (last accessed on 9 December 2013).

169 Agreement on Subregional Integration (The Cartagena Agreement), signed May 26, 1969, 8 I.L.M. 910 (1969).

170 Amplus T. F. O'Leary, 'The Andean Common Market and the Importance of Effective Dispute Resolution Procedures', (1984) 2 *Int'l Tax & Bus. Law*. 101, available at: <http://scholarship.law.berkeley.edu/bjil/vol2/iss1/5> (last accessed on 9 December 2013). See also S. Horton, 'Peru and ANCOM: A Study in the Disintegration of a Common Market', (1982) 17 *Texas International Law Journal*, pp. 39, at 44)

171 Amplus T. F. O'Leary, above n. .

172 References are found in K. J. Alter, Laurence R. Helfer, 'Legal Integration in the Andes: Law-Making by the Andean Tribunal of Justice', (2011) 17 *European Law Journal*, pp. 701-715.

integration in the Andes.¹⁷³ The sub-region's integration was officially opened on May 26, 1969, by an international treaty drafting a comprehensive blueprint for integrated growth, the so-called 'The Cartagena Agreement'. The Commission, a decision-making body composed of one plenipotentiary from each member country,¹⁷⁴ and the Junta, an organ composed of three independent members who may be from any Latin American country, were assigned the task of boosting the course of socio-economic integration.¹⁷⁵

Integration was a slow process which commenced with the early stages of the United Nations Economic Commission for Latin America ('ECLA')'s existence.¹⁷⁶ Since its foundation ECLA has correctly perceived that simply allowing market forces to direct Latin America's development would be unsuccessful. Therefore it held that the various governments would have to intervene, both at national and sub-regional levels, to direct the progress of their economies. This approach emphasized the 'dynamic' quality of economic growth.¹⁷⁷

In June 1969 the Cartagena Agreement was ratified by Bolivia, Chile, Colombia, Ecuador and Peru and it gave birth to the CACM. The determination to boost the pace of integration in the Andes was a response to various circumstances, including: the decline in the price of Andean exports outside the sub-region, and recent support of the integration process by the United States after its initial distrust.¹⁷⁸ Venezuela joined the Cartagena Agreement in 1973 but withdrew in 2006 after Colombia and Peru concluded free trade agreements ('FTAs') with the United States. Chile withdrew in 1976, affirming the existence of economic incompatibilities. In 1993 four members (except Peru that was temporarily suspended) established a free trade area. In 1995 the members adopted a common trade tariff to be imposed in dealings with non-member countries.¹⁷⁹ In 2006 the Andean Free Trade Area became wholly operational after Peru was fully incorporated.

B. Achievements and Failures of the Andean Common Market.

In general, the ANCOM was an attempt to structure the socio-economic growth of the Andes. One of the major achievements of integration was the establishment of a milieu of confidence and an institutional framework among the

173 See K. C. Kearns, *The Andean Common Market: A New Thrust at Economic Integration in Latin America*, *Journal of Interamerican Studies and World Affairs*, (1972) 14 (2), pp. 225-249.

174 Cartagena Agreement, *supra* note , art. 6.

175 See Timothy F. O'Leary, 'The Andean Common Market and the Importance of Effective Dispute Resolution Procedures', (1984) 2 *Int'l Tax & Bus. Law*, p. 101, available at: <http://scholarship.law.berkeley.edu/bjil/vol2/iss1/5> (last accessed on 9 December 2013).

176 See Timothy F. O'Leary, *op. ult. cit.*

177 *Ibidem.*

178 See U.S. Direct Investment in South America's Andean Common Market, Department of Commerce: Report to the Congress, (New York: U.S. General Accounting Office, 1977).

179 For further references on these issues see 'Andean Community (CAN)', available at: http://mea.gov.in/Portal/ForeignRelation/Andean_Community_February.2013.pdf (last accessed on 9 December 2013).

Andean countries that enhanced intra-regional commerce.¹⁸⁰ Although in ANCOM the share of intraregional trade is lower than in MERCOSUR,¹⁸¹ intra-subregional trade in manufactured goods grew around 20 percent per year between 1990 and 1997.¹⁸² Nearly 14 percent of the total trade of the countries was intraregional.¹⁸³ In Colombia, for instance, intraregional commerce represented one fifth of its total trade in the 1990s. However, in the case of the Bolivarian Republic of Venezuela – whose exports are dominated by oil and account for roughly half of total ANCOM exports – less than 5 per cent of the country's total exports were directed to other Andean countries by 2006.¹⁸⁴ With all that said, other projects, such as trade talks between ANCOM and Mercosur, which culminated in an agreement in 2002, and FTAA negotiations, as well as the implementation of a Social Agenda and of a sustainable-development policy, were indeed much more successful than the increase in intraregional commerce had been.¹⁸⁵

The ANCOM also stimulated intraregional exports and the region's growth. The UNCTAD estimated that between 2000 and 2006 a significant and growing share of ANCOM countries' commerce (about 30 percent) has been with other Latin American countries. This suggests that a wider regional treaty (such as the proposed Union of the South involving all South American countries) would already be able to count on considerable trade among the members.¹⁸⁶

4.3.1. The Structure of the Andean Development Corporation (CAF)

A. History and Development.

The CAF was founded in 1969 within the framework of the Andean Community of Nations as a source of, and tool for, financing the integration and development of the sub-region.¹⁸⁷ Its overall purpose was to supply a centralized mechanism to coordinate the goals of the Andean Community, although it was restricted to only the financial aspects of those efforts. Article 3 of its Establishing Agreement provides that it shall: '... foster the sub-regional integration process'.

180 See ANDEAN COMMUNITY, 'Andean Community: Development and Prospects', available at: <http://www.comunidadandina.org/en/Documents.aspx?id=80&title=andean-community-development-and-prospects&accion=detalle&cat=4&tipo=DO> (last accessed on 10 December 2013) stressing that: 'Tariff reduction and the prohibition against the application of para-tariff measures to trade within the subregion have boosted trade between Member Countries significantly beyond their worldwide exports, particularly since 1990 when Andean economic opening started'.

181 See UNCTAD, REGIONAL COOPERATION AND TRADE INTEGRATION AMONG DEVELOPING COUNTRIES, available at: unctad.org/en/pages/PressReleaseArchive.aspx? (last accessed on 3 December 2013).

182 *Ibid.*

183 See UN, Latin America and the Caribbean in the World Economy, (New York: Cepal, 2003), p. 165 ff.

184 See UNCTAD, above n. 146, p. 9.

185 See Regional Strategy: Andean Community of Nations: 2002-2006, available at: http://eeas.europa.eu/andean/rsp/02_06_en.pdf (last accessed on 9 december 2013).

186 See UNCTAD, above n. 161, p. 9.

187 Agreement Establishing the Andean Development Corporation, (1969) 8 (5) *International Legal Materials*, pp. 940-958.

It also states that: ‘To this effect, within a sense of rational specialization and an even distribution of investments within the area, taking into consideration the necessity for effective action in favour of the relatively less developed countries and with adequate coordination with the organization in charge of the sub-regional integration, it shall foster the better use of the opportunities and resources which the area of action offers, through the criterion of production and service enterprises and the expansion, modernization or conversion of the existing ones’. Article 4 highlights areas on which its financing should focus, including the preparation and execution of multinational projects, the attraction and mobilization of external resources, the organization of enterprises, their expansion, modernization and rehabilitation in order to improve their efficiency and competitiveness. Other highlighted areas include the identification of investment opportunities, the acquisition and disposal of movable and immovable property, the promotion of trade inside the sub-region and with non-subregional countries, the promotion of social development and the financing of research and development, the support of the whole spectrum of the business sector and lastly, the enhancement of regional competitive participation in the globalization process.¹⁸⁸

During the 1970s the CAF successfully demonstrated that a subregional development organization may operate efficiently even without any industrial-country shareholders and without recourse to concessional funding.¹⁸⁹ In this regard, it is noteworthy that the CAF has done so on a scale comparable to that of the main supranational development organizations like the IADB and the financial institutions belonging to the World Bank Group. Moreover, it is also noteworthy that it has done so notwithstanding the serious economic problems that afflicted some of its main borrowing members.¹⁹⁰

In the 1980s Andean countries experienced a structural balance of payments deficit, military dictatorship and violent social conflicts especially in Bolivia, Chile and Colombia.¹⁹¹ During the ‘lost decade’ the CAF and local governments did not obtain much support from other international financial institutions and, as a consequence, the CAF often lacked the financial resources to support all the projects

188 See V. Rubio Vega, ‘The Andean Development Corporation (CAF): Continuity, Scope, and Role in Regional Long-Term Development Lending’, available at: <http://www.balsillieschool.ca/people/veronica-rubio-vega> (last accessed on 12 December 2013); A. Fairle Reinoso, ‘Regional Financial Cooperation: An Andean Perspective’, available at: http://www.pecc.org/resources/doc_download/449-regional-financial-cooperation-an-andean-perspective (last accessed on 12 December 2013).

189 Amplus Jose Antonio Ocampo, above n. 80, p. 60 ff. See also A. Fairle Reinoso, above n. 189, p. 10 who stresses that: ‘The CAF is currently the leading source of multilateral financing of the Andean countries, having approved during the last ten years over 40% of the total resources approved by multilateral agencies’.

190 Amplus Jose Antonio Ocampo, op. ult. cit., p. 60 ff.

191 See L. Kühnhardt, *The Global Proliferation of Regional Integration*, (New York: Berghan Books, 2010), p. 93 ff. See also O. Dabène, *The Politics of Regional Integration in Latin America: Theoretical and Comparative Explorations*, (New York: Palgrave Macmillan, 2009), p. 182, who also stresses that: ‘With a chronic deficit of infrastructure, aggravated since the 1980s by underinvestment, market integration has always been bumping into serious limitations’. See also; J. L. Suarez Mejias, *Integración y supranacionalidad en la Comunidad andina proceso decisorio, sistema jurisdiccional y relación con los derechos nacionales*, (PhD thesis, Universidad Complutense de Madrid, 2006).

that the Andean region required.¹⁹² The few financial resources that the CAF could obtain were generally tied to special conditions that restricted the availability or employment of funds - a factor that hindered the implementation of a coherent integration program in the 1980s and 1990s. Furthermore, internal socio-political issues and problems in each country of the Andean sub-region and conflicts among them further compounded the problem. Intra-regional commerce significantly decreased, and barriers were once more put in place by some countries.

B. Organizational Framework.

The CAF is an internationally recognized juridical institution that is governed by its own establishing treaty and by-laws.¹⁹³ Its organization is divided into three main bodies: the Shareholders' Assemblies (Regular or Special), the Board of Directors and the Executive President. The Regular Assembly of Shareholders (equivalent to the Board of Governors of the World Bank and IADB), possesses the most authority in the CAF since it can, among other things, increase, reduce or restore corporate capital and dissolve the Corporation.¹⁹⁴ It is comprised of shareholders or their representatives.¹⁹⁵ The Regular Assembly meets at least once a year; the requisite quorum for its meetings is at least four Series 'A' shares and fifty percent of the other shares.¹⁹⁶ The Special Assembly can deal exclusively with the issues expressly covered in the Notice calling it.¹⁹⁷

The Board of Directors is composed of eleven members, five of whom are elected for a period of three years by the holders of Series 'A' shares, five by the holders of Series 'B' shares¹⁹⁸ and one (and its Alternate) by banking and financial institutions of the subregional shareholders of the CAF.¹⁹⁹ The Directors are responsible, among other things, for the CAF's ordinary functioning, the definition of its policies including the financial, credit and economic policies of the Corporation, the administration of the CAF structure, the approval of the assets and liability of credit operations, the granting of guarantees for the subscription of shares and securities in general (underwriting) and the setting of its reserves.²⁰⁰

The Executive President, an international officer, is the legal representative of the Corporation. He/she is elected for a period of five years.²⁰¹ Designated by

192 See A. F. Reinoso, above n. 189, p. 11, who also stresses that: Although the 1980s were characterized by the rationing of the international credit and by high interest rates, in the context of external debt, the CAF was the only source of financing in an extremely adverse international context'.

193 See CAF Establishing Agreement, Art. 1 which states that: 'The CAF is a legal entity of public international law and is subject to the provisions contained in the present instrument' (emphasis added).

194 CAF Establishing Agreement, Art. 14, lett. a) and b).

195 CAF Establishing Agreement, Art. 11).

196 CAF Establishing Agreement, Art. 16).

197 CAF Establishing Agreement, Art. 14, para. 2.

198 CAF Establishing Agreement, Art. 24, lett. b).

199 CAF Establishing Agreement, Art. 24, lett. c) provides that: 'Director referred in lett. (c) shall be elected pursuant to internal rules approved by the shareholders of the institutions mentioned above, in which expressly is recognized the principle of alternability, by reason of the nationality of the Directors'.

200 CAF Establishing Agreement, Art. 27, lett. g).

201 CAF Establishing Agreement, Art. 32 also provides that: 'The Executive President may be re-

the Directors, the Executive President participates in the Board of Directors' meetings without voting, and supervises the CAF's administration and legal representation.²⁰² Moreover, according to Art. 37 of the Establishing Agreement, the Executive President also selects the personnel, and informs the Board of Directors at its next meeting of any action adopted, as well as the powers, obligations and remunerations fixed in accordance with the budget.

C. Finances.

The CAF started its operations with two million dollars divided into Series 'A'²⁰³ and Series 'B' shares, in addition to Series 'C'.²⁰⁴ In 2009, CAF allocated over USD 9.1 billion of new funding, which is a 15% rise compared to 2008.²⁰⁵

At least fifty percent of the contributions are made in US dollars, with the exception of the first installment which shall be paid in full in US currency according to the Establishing Agreement.²⁰⁶ The CAF may participate in overseas capital markets. In the past, the Corporation has placed bonds, certificates of investment, and certificates of deposit in U.S. dollars and local currencies in both American and European markets. Currently, the CAF is preparing new issues to increase its presence in the world market.²⁰⁷

On 24 October 2005, CAF amended its Establishing Agreement to include extra-regional partners who shall make contributions in U.S. dollars.²⁰⁸ More recently, at an extraordinary meeting held in Caracas, Brazil was made a full member of the CAF after signing a treaty to increase its capital in the organization to US \$190 million.²⁰⁹ Andean interests in the CAF still amount to the majority of

elected and shall remain in office until his replacement takes over'.

202 CAF Establishing Agreement, Articles 31, 35 and 38.

203 In 2005, shareholders approved a reform to permit any country within Latin America and the Caribbean to become an A shareholder (CAF Establishing Agreement, Article 59).

204 CAF Establishing Agreement, Art. 5) Authorized capital had increased from \$3 million to \$5 million by January 2002. See also the Declaration of Santa Cruz de la Sierra. Special Meeting of the Andean Presidential Council', available at: <http://www.comunidadandina.org/en/TreatiesLegislation.aspx?id=54&title=declaration-of-santa-cruz-de-la-sierra-special-meeting-of-the-andean-presidential-council&accion=detalle&cat=3&tipo=DO> (last accessed on 13 December 2013).

205 Further information is available at the CAF's official website (<http://www.caf.com/es>) (last accessed on 13 December 2013).

206 CAF Establishing Agreement, Art. 8, para. 2. See also CAF Establishing Agreement, Art. 8, para. 3 which provides that: 'The remaining fifty (50) percent of the other installments may be paid in local currency, by the subscribers corresponding to each country, provided that total convertibility and maintenance of the value of the said currency is guaranteed to the satisfaction of the Corporation, and upon prior approval by the Board of Directors, in relation to United States of America dollars in accordance with the weight and the law in force on the date of entry into force of this Agreement'.

207 Further information is available at the CAF's official website (<http://www.caf.com/es>) last accessed on 13 December 2013).

208 On 24 October 2005, a protocol amending the Agreement was signed; it entered into force on 9 July 2008. Pursuant to that Protocol, the Agreement was opened to accession by other countries. Both for the text of the 2005 Protocol and the list of the other amendments to the CAF Establishing Agreement see the CAF's official website)

209 For further information on this issue see Fernando Sánchez, Brazil becomes full Andean

the CAF's shares, though a percentage of its shares are allowed to be acquired by extra-sub regional members.²¹⁰

The CAF made strong efforts to increase its credibility in the international arena by making timely payments of its debts. Additionally, the debt balance has been decreasing moderately, but steadily, in the last few years and at the end of 2013 had decreased by 2.6 percent from the previous fiscal year.

D. Operations and Funds.

The CAF's establishing agreement, although giving the bank some latitude in its spectrum of activities and operations,²¹¹ provides a terse explanation of the type of operational policies and procedures that CAF was expected to develop.²¹² While its overall purpose is to enhance the socio-economic growth of the less developed countries of the Andes,²¹³ it is not so restricted in its present functioning, for it can lend to any country, and to any sub-regional or other international entity involved in the sub-region's socio-economic growth.²¹⁴ It can lend to any private or public company operating in member states. It can make guarantee loans in which it participates, direct loans, or invest in equity.²¹⁵ When the borrower is not a member government, the CAF may ask for a government guarantee, though it is not compelled to do so according to its establishing agreement. Additionally, the CAF boosts funds for activities mainly in the international financial sector.²¹⁶

Nevertheless, the bank's operating principles are set out in some detail. They are summarized in the requirement that the CAF must follow sound banking principles in its activities.²¹⁷ Specific projects like infrastructural projects in

Development Corporation member, available at: http://infosurhoy.com/en_GB/articles/saii/features/economy/2009/12/11/feature-01 (last accessed on 13 December 2013).

210 See also the CAF Establishing Agreement, Art. 3, lett. i) which provides that: 'The Corporation may transfer the shares, securities, rights, and commitments which it acquires, offering them in the first place to public or private entities of the sub-region and, in the event of lack of interest on their part, to third parties interested in the economic and social development of the same'.

211 Financial support might be provided in a wider range of manners than other MDBs, including to: 'emit bonds or debentures, act as a guarantor of any type, provide collateral for obligations, and grant guarantees in share issues' (CAF Constitutive Agreement, Art. 4).

212 CAF Constitutive Agreement, Art. 5, para. 2.

213 CAF Constitutive Agreement, Art. 3. See also CAF Constitutive Agreement, Art. 2 which provides that: 'The Corporation may establish ... agencies, offices or representation as deemed necessary for the carrying out of its functions in each of the participating countries and thereout'.

214 CAF Constitutive Agreement, Art. 4, lett. i) clarifies that: 'The Corporation may transfer the shares, securities, rights, and commitments which it acquires, offering them in the first place to public or private entities of the Subregion and, in the event of lack of interest in their part, to third parties interested in the economic and social development of the same'.

215 CAF Constitutive Agreement, Art. 4.

216 See Veronica Rubio Vega, above n. 188.

217 See also S. Griffith-Jones, 'Governance of the World Bank', available at: http://stephanygj.net/papers/Governance_of_the_World_Bank_Paper_prepared_for_DFIG.pdf (last accessed on 12 December 2013) who states that: 'The basic 'finance co-operative' model of the World Bank was also followed in the creation of the *CAF*' (my emphasis).

developing states of the sub-region must be a priority for the Corporation.²¹⁸ Indeed the CAF is required to give priority to projects that will enhance sub-regional co-operation, and to the less developed states of the Andes. Guidelines are laid down for ensuring that the CAF does not put its capital resources at risk.²¹⁹

The CAF's establishing agreement does not commit the institution to a fixed rate of interest.²²⁰ The terms and conditions of lending shall always be related to the specific circumstances of the loan as it is evidenced by the fact that full in-country missions during project preparation are indispensable.²²¹ However, it is not wholly clear whether this leads to an assessment of the project to which the loan is directed. In practice, nevertheless, the CAF adopted a variable amortisation period which averages 14 years.²²² Since its early years, the bank's loan approval procedure has turned out to be less formal and much faster than either of the other MDBs, the World Bank and the IADB, which also operate in the Andes as financial intermediaries.²²³ Moreover, several officials in borrower governments have affirmed that the Corporation is willing to by-pass most formal procedures entirely in cases of urgent need by a government, and that a loan may start being disbursed in as little as a month or 6 weeks if this is indispensable.²²⁴ In terms of sectors, the CAF has shown strong interest in transport, infrastructure,²²⁵ environment and agriculture, as evidenced by the loans it made especially during the 1998/99 crisis.²²⁶ Its commitment to sound banking rules and principles would appear to

218 CAF Constitutive Agreement, Articles 3 and 4.

219 On the issue, see also V. Rubio Vega, above n. 188, p. 8 who stresses that: 'CAF's business management is divided into two broad functions: client relationship management and financial management. Internally the institution is constantly debating within two positions: assuming the "risk" of development – because by definition it is a risk – while trying to get the best credit risk rating possible in the international markets, in order to offer attractive financing terms (CAF Senior Executive, personal interview, October 4, 2012)'.

220 On the issue, see K. Michaelowa, C. Humphrey, C. Strong, 'The Business of Development: Trends in Lending by Multilateral Development Banks to Latin America, 1980-2009', (November 16, 2010). CIS Working Paper No. 65. Available at SSRN: <http://ssrn.com/abstract=1709988> or <http://dx.doi.org/10.2139/ssrn.1709988> (last accessed on 13 December 2013) who also stress that: 'By the late 1990s, the CAF had established a clear and widening superiority in annual lending commitments in the Andes'. See also K. Michaelowa, C. Humphrey, 'Shopping for Development: Multilateral Lending, Shareholder Composition and Borrower Preferences', available at: http://www.academia.edu/3045558/Shopping_for_Development_Multilateral_Lending_Shareholder_Composition_and_Borrower_Preferences (last accessed on 12 December 2013) who also indicate that: 'CAF loans are still usually (but not always) less expensive than private sources for government borrowing'.

221 See also K. Michaelowa, C. Humphrey, above n. 215 who indicate that: 'The World Bank generally requires at least four full in-country missions during project preparation, compared to two or three for the IADB and frequently just one for the CAF (World Bank and IADB operations staff and borrower government interviews)'.

222 See K. Michaelowa, C. Humphrey, *op. ult. cit.*, p. 145.

223 See K. Michaelowa, C. Humphrey, *op. ult. cit.*, p. 145.

224 See K. Michaelowa, C. Humphrey, *op. ult. cit.*, p. 145.

225 See recently the Andean Development Corporation's \$50 million loan for the modernization of Bogota's El Dorado airport. References are found in T. Peters, 'Andean Development Corporation approves \$50M loan for Bogota airport', available at: <http://colombiareports.co/andean-development-corporation-approves-50m-loan-for-bogota-airport/> (last accessed on 12 December 2013),

226 See K. Michaelowa, C. Humphrey, *op. ult. cit.*, p. 145 ff.

indicate that it has a stronger preference for the private productive sector.²²⁷ The way in which this preference has effectively worked out can be better elucidated in terms of a report on the CAF's development.

E. The Role of the CAF in the Andes.

The CAF has consistently followed the normative framework under which it was created.²²⁸ Over time, it lost some of its autonomy (but not efficiency) as a result of its necessity to borrow directly from outside sources of financing (i.e. public and private sources of capital in the form of credit lines, bond issues and bank loans).²²⁹ In order to acquire financial resources, the CAF generally had to meet certain lender requirements, such as agreements to support particular industries and to acquire technology and capital goods from certain countries.²³⁰ In an attempt to escape such restrictions, especially conditional agreements, the CAF gradually restrained itself from seeking credit from governmental bodies and public aid agencies. While this approach is commendable in theory, the instability of the sub-region during the last decades caused also private creditors to impose restrictions affecting political decision-making in the sub-region.²³¹

During its relatively long history, the CAF's Assemblies of Shareholders have experienced negative political influences that have hindered its mission.²³² Representing their different countries, the Assembly of Shareholders frequently forgot the purpose of the CAF and instead often favored their respective governments.²³³ However, the participation of extra-regional partners mitigated political influences in the Assemblies of Shareholders' decision-making.

F. The Current Status of the CAF.

227 The CAF supplies long-term credit to commercial entities for the purchase and construction of assets (such as machinery, civil works, and equipment) for the acquisition of goods and services, as well as credit lines for working capital, that can be employed, for instance, to get raw material. References are found in the CAF's official website at: <http://www.caf.com/en/areas-of-action/productive-and-financial-sectors/private-sector> (last accessed on 20 December 2013).

228 But see C. Humphrey, 'The business of development: Borrowers, shareholders, and the reshaping of multilateral development lending', available at: http://etheses.lse.ac.uk/587/1/Humphrey_business_of_development.pdf (last accessed on 20 December 2013) who after having recalled that: 'In a 2009 magazine interview, CAF President Enrique García stated that developed countries would never be allowed to have more than 15% of shareholding power' stressed that: 'This policy is not in the Constituent Agreement or CAF regulations, but is evidently an unwritten rule followed by the organization's shareholders when considering new members'.

229 *Amplius C. Humphrey, op. ult. cit., p. 65 ff.*

230 *Amplius C. Humphrey, op. ult. cit., p. 65 ff, p. 194 ff.*

231 *Amplius C. Humphrey, op. ult. cit., p. 66 ff.*

232 *Amplius C. Humphrey, op. ult. cit., p. 65 ff.*

233 *Amplius C. Humphrey, op. ult. cit., p. 64* who also stresses that: 'The voting rules of the bi-annual Shareholders' Meetings as well as the composition and voting rules of the Board of Directors were written to ensure that the A shares of Bolivia and Ecuador gave those countries significant voice, despite their lower contributions. Most notably, either country could veto any changes to the CAF statutes or structure of the Board of Directors'.

During the 1980s, Andean countries felt the adverse consequences of internal conflicts and the international economic conditions of the 1970s. The CAF's negative performance in the 1980s was the result of internal crises, lack of foreign funds to capitalize the Corporation, lenders' conditions in the international market, and the difficulties to access international capital markets.²³⁴

In the early 1990s, the CAF decided to address these issues by strengthening minimal financial tool innovation as well as supplying services not available to the IADB and World Bank.²³⁵ It started focusing on the main sectors of concern such as the establishment of the loan programs that help finance local government investment without raising the contingent liabilities of the national government, enhanced corporation efficiency, and a reduction of administrative, financial and operative expenses. Currently, the CAF keeps its main focus on enhancing and financing each country's private sector, promoting the strength of local currencies and a more efficient exchange.

The CAF has a newfound optimism that is based on several factors. First, the sub-region has experienced the liberalization of commerce and major changes in the social and political arenas. Second, the CAF has punctually serviced its debt, even during its toughest times. Finally, the CAF's administration is committed to the long-term needs of the sub-region and the need for it to maintain an active role with respect to financing and coordination.²³⁶ Many of the weaknesses identified in the 1980s have been, or are in the process of being, corrected. Extra-regional agreements, especially with the European Union (EU), have provided a positive trend toward the globalization of trade and financial services.

The CAF is also trying to meet the financial necessities of the private sector through the acceleration of loans at more attractive rates and maturities.²³⁷ Additionally, the CAF has also gained a strong position in the emission of securities. It has participated in European and US capital markets by issuing bonds and certificates of investment. The CAF continually prepares new issues to reaffirm its presence in local and international markets. Aggressive loan recovery programs have also been enforced. Since the 1990s, the commitment to the collection of past due loans has helped improve the CAF's operations.

Lastly, wider operating efficiency has been achieved. Internal restructuring has taken place by splitting tasks by areas of specialization. New personnel management programs were enforced to boost the selection and training of employees and to improve their benefit plans. Changes have been introduced to speed up the decision-making process and the execution of plans.

234 Amplus C. Humphrey, *op. ult. cit.*, p. 64 ff.

235 Amplus C. Humphrey, *op. ult. cit.*, p. 185 who also stresses that: 'For example, the MHCP uses the CAF as a deposit-taking institution to manage its liquidity issues'.

236 See C. Humphrey, *op. ult. cit.*, p. 196 who stresses that: 'The CAF was always close to the country'.

237 See C. Humphrey, *op. ult. cit.*, p. 196 who also stresses that the CAF has a credit rating well above that of any of its' members, who are all borrowers, despite serious problems in these borrowing countries.

4.3.2. Final Remarks.

Torn by natural disasters and conflicts, the Andes is a sub-region that is currently revitalizing its steadfast aim to become integrated. The modernization of infrastructure is underway, new political leaders with a positive view of the future are in charge, and social unrest has significantly diminished.

Much has changed for the Andes. There is general optimism that although the years ahead will be challenging, they will also bring new growth and opportunities. The political leaders of the sub-region wish to develop new economic programs and policies and depart from the traditional patterns of import substitution and protectionism that previously ended in more damage than benefits to the sub-region. Andean countries want to integrate further and establish a united front. The Andean Community will have the unenviable task of establishing policies that deal with such issues as the movement of labor and capital, and uniting the countries that, at the same time, will be competing for investment capital.

The CAF's role will be essential if it can keep on strengthening its role and status in a way that is autonomous from external leverage. Its monitoring and analysis of the sub-region's economies may help aid these countries to bypass monetary growth that produces inflation and currency overvaluation, and hinders their competitiveness in international capital markets. At a microeconomic level, the CAF can supply financing for sub-regional companies in order to encourage development and socio-economic growth, boost production, and reduce expenses. Through its credit policies, it may enhance the transfer of technology, competition and the efficient utilization of resources. The CAF cannot provide regulations on local economies, but it can stimulate growth and development while operating as a 'watchdog', ever prompt to warn member countries of imminent difficulties and prevent major financial and economic troubles in the Andes.

5. General Conclusion.

A major aspect of this work has been the strength of the specific circumstances that have given different features to each of these two major organizations with corresponding institutional frameworks. One conclusion that arises is that it is hard to generalize about them. Conclusions which aim to be of overall validity for the sub-regional development institutions that operate in the LAC region as a category must be viewed with considerable skepticism. The main conclusions of this work, both in prescriptive and explanatory terms, are to be ascertained in the substantive paragraphs, and are relevant merely to the specific institutions in question. Yet the demand for the establishment of these organizations, whose expression is illustrated in paragraphs 1 and 2, was analogous in each case. The features of that demand are described in paragraph 2. If the demands are analogous and the responses are partially different, the possibility should be explored that sub-regional development institutions are partly failing to meet the demand for which they were founded.

It is worth observing that of the two organizations the one which seems

to come closest to meeting the demand which led to its foundation is the CAF. To a large extent, this impression is the result of the CAF's fast speed and great flexibility in granting loans, an issue that has already been stressed above.²³⁸ But it is also thanks to the CAF's specific ability, whose manner reflects the circumstance that it was itself an innovation when it was established. The CAF added to the well-tested institutional formula of sub-regional identity the original ingredient of *Andean* sub-regional identity. That identity had been shaped by a long succession of historical events.

There are, of course, areas of operation available to all three sub-regional development institutions that operate in Latin America (CABEI, CAF and FLAR) which provide the opportunity for better clarification of sub-regional identity, and therefore a more evident justification for the foundation at the sub-regional level of alternatives to organizations which already operate at the international, universal and regional levels. Such areas of operation are indicated above, but it is useful here to stress a point that has been made frequently in the substantive paragraphs. The precise working out of a more characteristically sub-regional approach is an issue for each individual organization. The formula implicit in the phrase 'sub-regional development bank' is indeed generic. There is no narrower version of that formula which has an intrinsic validity in the Central American or Andean units. The addition of the ingredient of sub-regional identity is fundamentally an issue of subjective appreciation within a wide range of choice. Potential areas of operation are therefore ascertained in paragraphs 2, 3 and 4 of this work, but the appropriate tool of operation within those areas is not.

Although in theory there is a broad range of choice, in practice it is partially reduced by the restraints within which some sub-regional development institutions like the CABEI operate in Latin America. These restraints arise from conflicts of interest between the developing member countries, which formulate the demand, and developed member countries, which supply the financial and technical aid through which the demand may be met. Sub-regional development institutions like the CABEI often tend to maintain that they may only work in the thin area over which these two sets of interests are the same. If both developed and developing states have an interest in the defense and growth of sub-regional development institutions, there are two courses of action accessible to them. Either they may try to enlarge the area over which their interests are the same, or they may identify selected interests which may be prejudiced in the pursuance of the common goal.

It is most doubtful that the first course will be enacted. Developing countries consider sub-regional development institutions as a means of having wider control over the allocation of financial and technical aid to them. Developed countries generally consider sub-regional development institutions as a tool for making their own supervision of resources less evident, while maintaining some power over how the resources are used and over the pattern of economic and financial relations which developed countries provide. More simply, developed countries often consider sub-regional development institutions as a tool for

making their own position as aid-givers less evident, while developing countries consider sub-regional development institutions as a tool for puzzling the aid-givers more effectively. It is hard to see how these two interests can be adjusted.

The second course of action is therefore the one to be examined. Both categories of countries uphold the usefulness of establishing financial institutions at the sub-regional level, even though there may be some uncertainties as to how reliable such statements may be on the grounds of the evidence given here. Each category of countries has one specific resource that it may yield in the interest of strengthening such institutions. Developed countries have financial resources, and developing countries have sovereignty. It is in these two areas that sacrifices can be made. Sacrifices in these two areas are likely to merge, since in practice both types of sacrifice involve a diversion of resources from one path to another. From the developed countries' perspective, allocation of increased resources to sub-regional development institutions is hindered by the conviction that there are other multilateral paths that are much more 'efficient', which respond more adequately to the developed countries' demands. So for the developed countries it comes down to a choice between sub-regional development banks and the IADB and the World Bank. From the perspective of developing countries, allocation of increased decision-taking responsibility to sub-regional development institutions is hindered by the fear that this would affect their special relationships with specific bilateral donors, and possibly result in a decrease in the absolute amount of aid. So for the developing countries it comes down to a choice between sub-regional institutions and their current bilateral programs. Putting these two views together, questions may be raised about the institutional device of the transmittal of financial resources from developed to developing countries.

If there is some sort of limitation on the overall amount of financial resources, how should resources be allocated between sub-regional institutions, regional development banks and the IBRD? And what should the relation be between sub-regional development institutions and bilateral aid programs? The answer to the first question is in the hands of the developed countries. The answer to the second is in the hands of the developing countries. The CAF has succeeded in persuading the developed countries of the Andes of its practical utility as an alternative to the IADB. Once established, as the result of a particular set of historical events, it quickly consolidated such a role for itself. An accelerating force behind its foundation was the idea that sub-regional institutions as a category had an overall utility.

There are two grounds for which developed countries could try to support sub-regional development institutions. They might consider that the tasks performed by the IBRD could be more usefully achieved on the sub-regional plane, on the assertion that at this level there will be a better perception of local necessities and obstacles; or they might consider that there are certain further tasks, apart from those performed by the IBRD, for which sub-regional institutions are better suited, such as the enhancement of sub-regional integration. Even if the latter perspective is held, and this is the view that is more commonly expressed in developed countries' official declarations, the fact is that developed countries must deal with structurally rather analogous organizations at the universal and the regional levels. Thus what is

at stake is merely the proportional allocation of the developed countries' financial resources between the universal, the regional and sub-regional levels.