

**REGIONALISM A CATALYST TO GLOBALIZATION OR A CONSTRAINT: A SPECIAL
REFERENCE TO THE KASHMIR ISSUE IN INDIA****Koyel Roy¹, Sarbani Bhowmik², Anay Divayam³, Debroop Karmakar⁴, Julima Nasrun⁵, Pomita Dey⁶, Gourab Dutta⁷, Mehejuba Nazneen⁸**¹Assistant Professor, Amity University, Kolkata²Assistant Professor, Amity University, Kolkata³2nd Year, Amity University, Kolkata⁴2nd Year, Amity University, Kolkata⁵2nd Year, Amity University, Kolkata⁶2nd Year, Amity University, Kolkata⁷2nd Year, Amity University, Kolkata⁸1st Year, Amity University, Kolkata**EXECUTIVE SUMMARY**

The Global politics has been witnessing to an influx of regional cooperation schemes in the post 1980 period marking it as one of the most significant developments of the modern era. As a consequence, nations such as the United States, Canada, Japan and China, which had hitherto showed little interests in regionalism in the post-World War II period, have embraced regionalism with momentous enthusiasm in the Post cold war era. ¹What is the justification for this recent attraction in regionalism? At least four developments seem to have come together in the late 1980s to create a drive toward regionalism:

- Expansion of European integration;
- the downfall of Soviet Union;
- the change in US strategy; and
- Shifting perspectives on regional trade and foreign investment in the developing world.

Unlike the “locust years” of disillusionment in the 1970s, during which regional integrative activities declined in Western Europe (Euro-sclerosis) as a result of revival of nationalism², the late 1980s witnessed several new integration initiatives in Europe. The persistent expansion of the European Union in terms of scope, depth and geographical area is a significant achievement. This success has had a revelation effect, encouraging emulation of regional integration initiatives in other parts of the world. The collapse of Soviet Union is another incident which though unconnected with the expansion of European Unions, attracted nations toward regionalism. This led Eastern European and Baltic countries to grip democracy and capitalism. Western Europe entered into several regional economic arrangements

¹ In North America, a FTA between the United States and Canada was signed in 1989; this agreement grew into NAFTA when Mexico joined in 1994. Since 2001, china and Japan have been actively engaged in signing number of FTAs with ASEAN countries. In the post-2001 period, ASEAN+3(that is 10 members of ASEAN plus Japan, China and South Korea) has emerged as a significant regional cooperative arrangement in Asia. For various regional cooperative arrangements and initiatives in North east Asia, See Rozman, G(2004) Northeast Asia’s stunted Regionalism: Bilateral Distrust in the shadow of Globalization, Cambridge: Cambridge University Press.

² Clark, C. (1988) “Peace in Parts; Integration and conflict in regional Organization,” American Political Science review, 82(December)No.4:1424-1425.

with those countries to speed up their transition. Such moves amplified the appeal of regionalism as an instrument of economic development and political alteration.

However, the biggest catalyst behind the recent rush towards regionalism can be the decision of the United States to embrace regionalism in the post- Cold War era, as Bhagwati³ rightly argues, that the policy of United states been an imperative driving force for the intensification and success of “second regionalism”. The changed attitude of the United States towards regional integration, from active antagonism to broadly enthusiastic support, has both fostered regional integration schemes and abridged the diplomatic pressure for countries engaging in formation of regional schemes. The shift in US policy was partly driven by the annoyance with the slowness of the multilateral process and partly by its wish to gain increasing access to large regional markets.

The formation of the European single market by North American Free Trade Agreement (NAFTA) led to trepidation among developing countries that the major centers of economic powers- notably Western Europe and North America – may form trading blocs and pursue protectionist policies.⁴ Such policies would, many developing countries feared, prevent their effective participation in the global economy and hamper the prospects of their national development.⁵ In such a situation, their desires for economic development would perhaps be best realized through some kind of regional cooperative arrangements among themselves.⁶ The regional arrangements, many policymakers of these countries reasoned, would provide them more secure access to regional markets.

The developing nations also joined the bandwagon and Growth of regionalism collaboration among the developing countries appears to have been guided by what Ernst Haas⁷ called an “ideology of pragmatic anti-dependency” which seeks to encourage regional interdependence among the developing countries without delinking them from global system.⁸ Through increasing intraregional trade, the third world countries aspire to achieve “structural empowerment”⁹ and thus, hope to reduce their degree of dependency on the North and at the same time increase their collective bargaining in the global economy.¹⁰

One of the important goals of economic liberalization and trade liberalization policies in many developing countries is to attract foreign investment and technology. The success of these policies requires regional stability, which would make the region more attractive for foreign investors by reducing geopolitical risks. Policymakers in many developing countries believe that regional cooperative arrangements can help achieve such goals. Through regional cooperation, the developing countries also desire to help neighboring countries stabilize and prosper for altruistic reasons and to

³Bhagwati, J(1992) “Regionalism Versus Multilateralism,” *The world economy*, 15(September), No.5:535-555

⁴ Jagdish Bhagwati (1993:26), for instance, has predicted a fragmented world of four blocs: an augmented EC; NAFTA extended into Americas; a Japan centered Asian bloc; and a forth bloc of marginalized nations such as those of South Asia and Africa.

⁵Hveen, H. (1989) “The Mini-NIEO Alternative,” *World Futures*,26:269

⁶ Gilpin, R.(1987) *The Political Economy of International Relations*, Princeton, NJ: Princeton University Press :294

⁷Hass, E.B. (1990) *When Knowledge is Power: Three Models of Changes in International Organizations*, Berkeley: University of California Press:65

⁸⁸ Hass has constructed five world order ideologies – classical liberalism, managed liberalism, structural antidependency, pragmatic antidependency and ecotism- to explain various purposes and forms of collaboration among the nation-states. See Haas(1990; chapter 4, 225-226)

⁹ Mortimer,R.(1980) *The Third World Coalition of International Politics*, New York: Praeger

¹⁰ Hetnne, B.(1992)”Peace and development in the post cold-war era” : 198

avoid spillovers of unrest and population.¹¹ Thus, in the post-Cold War era, forming regional cooperation schemes and FTAs have become pragmatic goal for many developing countries.

Finally, from a policy coordination point of view, regionalism appears more practical and feasible than global cooperation. Balancing divergent interests and a coordination of policies is easier among relatively few partners than among a large number of member states at a global level as represented by GATT/WTO. Developing countries are also convinced that regional cooperation can build upon existing cultural, economic, or even security ties between neighbors. A global option does not present this dynamic.¹²

CONCEPT OF REGIONALISM

Regionalism can be understood by analyzing following three ingredients: identifiable geographical region, geographical proximity and an organization with a common sense of identity and purpose (economic, political, security/military, etc.) among the member states. There are many views of the whys and wherefores of joining the regional organizations. One of them is the efficiency of collective activities (Abbott, K., and D. Snidal 1998; Karns, M. P., and K. A. Mingst 2010, 6).¹³

According to Anthony Payne *regionalism* is 'a state-led or states-led project designed to recognize a particular regional space along defined economic and political lines'.¹⁴ Most of the literature on regionalism since 1990s refers to two main waves of regionalism identified as *old* and *new*. The first wave started in the late 1940s and ended in late 1960s and early 1970s (arguably due to the uneven distribution of benefits in regional trade agreements), the second part began in mid 1980s and in particular, the world trading system in 1990s has witnessed a resurgence of regionalist projects worldwide often referred to as 'new regionalism'. However, in order to understand what is new about regionalism one has to identify its differences from the old understanding. In contrast to classical regionalism, the new regionalism involves non-state actors, and is more open and more comprehensive.¹⁵

REGIONALISM AND THE UNITY OF INTERNATIONAL LAW

The Oxford Online Dictionary defines the term regionalism as 'the theory or practice of regional rather than central systems of administration or economic, cultural or political affiliation'.¹⁶ From a

¹¹ Schiff, M. and Winters, L. A. (2003) *Regional Integration and Development*, Washington D.C.: World Bank : 9

¹² Kishore, C. Dash, *Regionalism in South Asia* (2008) 3

¹³ Abbott, K., and D. Snidal (1998) 'Why States Act through Formal International Organizations.' *Journal of Conflict Resolution* 42 (1): 3-32.

¹⁴ Anthony Payne, 'Globalization and Modes of Regionalist Governance', in David Held and Anthony McGrew, eds., *The Global Transformations Reader; An Introduction to the Globalization Debate* (Polity Press, Cambridge, 2003). p. 213

¹⁵ The distinction between the 'old' and the 'new' regionalism according to Hettne is in the following respects: (a) Whereas the old regionalism was formed in a bipolar Cold War context, the new is taking shape in a more multipolar world order. (b) Whereas the old regionalism was created "from above" (that is by superpowers), the new is more spontaneous process "from within" (in the sense that the constituent states are themselves main actors). (c) Whereas the old regionalism was specific with regard to objectives, the new is a more comprehensive, multidimensional process. Björn Hettne, 'Global Market versus the New regionalism', in David Held and Anthony McGrew, eds., *The Global Transformations Reader; An Introduction to the Globalization Debate* (Polity Press, Cambridge, 2003), p. 362.; For detailed differences between the 'new' and the 'old' regionalism see, Björn Hettne, 'Globalisation and the New Regionalism: The Second Great Transformation', pp. 7-8.

¹⁶ Oxford Dictionaries Online, at <<http://oxforddictionaries.com/definition/english/regionalism?q=regionalism>>

geographical perspective it is certainly possible to note various regions, though the lines of separation are not always equally obvious. For purposes of this contribution, one may further recall, pointing to the dictionary meaning quoted above, that various forms of cooperation have been established in many regions, political as well as legal, and these can be termed systems of administration or may involve economic, cultural and political affiliations or associations. Forms of cooperation and the resulting affiliations or associations are most commonly legally organized via the conclusion of treaties.¹⁷

In the report on fragmentation finalized by Koskenniemi the study group distinguished three meanings for regionalism: a set of approaches and methods for examining international law; a technique for international law-making; and the pursuit of geographical exceptions to universal rules of international law.¹⁸ These three will be briefly recounted. The first meaning discussed by the report on fragmentation recalled that various orientations of legal thought and culture have expressed themselves in approaches or doctrines such as the Anglo-American, continental, Soviet, Third World, European, (Latin) American, African, Asian traditions or perspectives. The report considered that the influence that these have had lies precisely with the impact they (may) have had on the development of international law generally, and that rules developed in a regional context have precisely lost their geographical limitation and contributed to universal rules. Indeed, the report noted that there is a strong presumption among the members of our profession that international law itself is universal in character, that regionalism in this sense does not necessarily claim any normative content, and that in many cases the approach or perspective taken is not reflective of any 'regional' property in the geographical sense but rather of a certain 'convergence of interests, values and political objectives'.¹⁹

Considering the second meaning, the report notes that regionalism can be seen as a 'privileged forum for international law-making'. The idea behind this points to the likely homogeneity of interests, which ensures greater legitimacy and possibilities of enhanced efficiency and implementation at the regional level. According to the report various studies concerning theories of interdependence and international regimes have shown that it may be advantageous to govern through larger or regional units. Coming to a conclusion on this sense, the report again comments that regionalism perceived through the prism of cooperation and rational choice is to be seen from a functional perspective and to be approached as part of the problem of special regimes.²⁰

The report then continues to discuss a third meaning, with regionalism referring to two possible normative aspects: 'a rule or principle with a geographical sphere of validity or a regional *limitation* to the sphere of validity of a universal rule or principle.' The first is indicated to mean that a rule or principle would be binding only for states of a certain region, whereas the second amounts to a claim that states within a certain region would not be subject to the binding force of an otherwise universal rule or principle. The report suggests, among others, that there is very little support for drawing

¹⁷ A notable exception, at least initially, was the Helsinki Final Act, which was stipulated not to be eligible for registration under Art. 102 of the UN Charter. Conference on Security and Co-operation in Europe, Final Act, 1975, at 59 <<http://www.osce.org/mc/39501>>; Charter of the United Nations, UNCIO XV, 335.

¹⁸ Fragmentation Report, *supra* note 1, respectively at 103-105, paras. 199-204, 106-108, paras. 205-210, 108-112, paras. 211-217

¹⁹ European Society of International Law, 'Conference Paper Series' Conference Paper No. 3/2012 5th Biennial Conference, Valencia (Spain), 13-15 Sept 2012

²⁰ *ibid*

normative consequences from the concept of regionalism, other than might flow from the (proven) existence of a regional rule of customary international law. Basically, it will be this third meaning that is explored further in the present contribution. It is only when normative consequences are drawn from regionalism that any tension or conflict between regionalism and the unity of international law may be said to exist.²¹

Starting with the question whether international law is *one*, reference was made in the past especially to traditions or approaches such as Marxist or Soviet (opposed to bourgeois), Third World, Islamic, European, Latin American, Anglo-American (opposed to continental), Arab, Asian or African international law.²² Yet at the same time claims made in this respect did not amount to a rejection *in toto* of international law, but rather of specific norms related to specific fields.²³ In fact, in other respects states caught up in any particular ideology, religion or region tended to strongly affirm certain specific norms, especially those related to the protection of sovereignty, equality and territorial integrity, the principle of non-intervention, and the right of self-determination of peoples.²⁴

In effect, no state rejects the existence and binding character of international law,²⁵ and even those states that have shown particular disregard for (some rules of) international law under certain governments have not done so.²⁶ Suggestions by some, sometimes states, that certain states or regimes are rogue, or outlaws, or even part of an axis of evil,²⁷ have been put forward as part of a political or policy agenda,²⁸ and for specific purpose rather than as a general proposition that the states or regimes concerned would not be subject to the law or that international law would not be applicable in the relations with such states at all.²⁹

A less restrictive and more fruitful approach can be seen in the distinction made between primary and

²¹*ibid*

²² Cf. Brownlie, 'Problems concerning the Unity of International Law', in *International Law at the Time of Its Codification, Essays in Honour of Roberto Ago* (1987, Vol. I) 153, at 154-155, 159; Fragmentation Report, *supra* note 1, at 103-105, paras. 199-204

²³ In particular those rules that gave protection to foreign control over natural resources and foreign investments, and those that seemed to favour the markets of industrialized states. Cf. Wengler, 'La crise de l'unité de l'ordre juridique international' (translation Girard), in *Mélanges offerts à Charles Rousseau, La communauté internationale* (1974) 329, at 335-336

²⁴ E.g. Riedel, 'The Progressive Development of International Law at the Universal and Regional Level', in R. Wolfrum (ed.), *Strengthening the World Order: Universalism v. Regionalism, Risks and Opportunities of Regionalization* (1990) 115, at 117-118; Jennings, 'Universal International Law in a Multicultural World', in M. Bos and I. Brownlie (eds.), *Liber Amicorum for The Rt. Hon. Lord Wilberforce, PC, CMG, OBE, QC* (1986) 39, at 44-45, 49.

²⁵ M. Prost, *the Concept of Unity in Public International Law* (2012), at 115-125.

²⁶ Paradoxically one might put both Afghanistan under the Taliban government (1996-2001) and the USA under President Bush (2001-2009) in this category. Cf. G. Simpson, *Great Powers and Outlaw States, Unequal Sovereigns in the International Legal Order* (2004), at 319-348; P. Sands, *Lawless World* (2006), at 143-257

²⁷ National Security Strategy of the United States 2002, section V, at <<http://georgewbush-whitehouse.archives.gov/nsc/nss/2002/>>; National Security Strategy of the United States 2006, section III, V-VI, at <<http://georgewbush-whitehouse.archives.gov/nsc/nss/2006/>>; USA, President Bush, State of the Union, 29 January 2002, at <<http://edition.cnn.com/2002/ALLPOLITICS/01/29/bush.speech.txt>>. Cf. Simpson

²⁸ The ICJ pointed out that grounds provided by US authorities for intervening in another state for reasons of that state's domestic or foreign policy, ideology or armaments were '... statements of international policy, and not the assertion of existing rules of international law.' *Military and Paramilitary Activities in and against Nicaragua*, Merits, Judgment, ICJ Reports 1986, 14, at 109, para. 207.

²⁹ Cf. also Vidmar, Norm Conflicts and Hierarchy in International Law: Towards a Vertical International Legal System, in E. de Wet and J. Vidmar (eds.), *Hierarchy in International Law, The Place of Human Rights* (2012) 13, at 38-40

secondary rules, credited to a large extent to Hart.³⁰ Primary rules are in Hart's view concerned with the actions that individuals must or must not do, and secondary rules with those that specify how primary rules may be 'ascertained, introduced, eliminated, varied, and the fact of their violation conclusively determined.'³¹ According to Hart the latter category of rules is subdivided into rules of recognition that allow for the identification of primary rules, rules of change that allow identification of those that may introduce new or eliminate old primary rules, and rules of adjudication allowing for the determination of violations of primary rules and the application of sanctions.³²

In principle then it may be possible to argue that international law is unified, largely, through its secondary rules. A complicating factor with respect to the categories of primary and secondary rules is that international law lacks a centralized, higher authority empowered to make or change rules, to adjudicate or to determine the existence of violations, and to apply sanctions. This has led Hart to deny international law its unity and to put forward the proposition that international law, lacking even a basic rule of recognition, consists merely of a set or of sets of primary rules rather than being unified as a legal system. As Dupuy has noted, Hart fails to discuss such secondary rules as do quite clearly exist in international law, such as those related to the law of treaties and of international responsibility.³³ In the end the unity of international law cannot be negated and lies with the common understanding of the political communities in the world as to the nature and necessities of the international legal system, general agreement on the sources of international law and on the rules to determine violations and the permissible responses thereto.

COMMONWEALTH NATIONS

The 53 former territories which were once under the command of Great Britain³⁴ or the Commonwealth (formerly the British Commonwealth of Nations), have formed an inter-government organization for smooth operation of political and economic relations among them. They operate on an intergovernmental consensus of the member states, organized through the Commonwealth Secretariat and non-governmental organizations, organized through the Commonwealth Foundation.³⁵ Being world's one of the oldest political associations of nations the origins of the Commonwealth can be traced the era of British Empire a third of the nations of the world were ruled directly or indirectly by Britain. Many of these Nations became self-governing while retaining Britain's monarch as Head of State. They formed the British Commonwealth of Nations.

In 1949 the association we know today – The Commonwealth – came into being. Since then,

³⁰ J. Austin, *The Province of Jurisprudence Determined* (1861), Second Edition, at 119-129. See also discussion in H.L.A. Hart, *The Concept of Law* (1994), second edition, at 80-81

³¹ J. Austin, *The Province of Jurisprudence Determined* (1861), Second Edition, at 119-129. See also discussion in H.L.A. Hart, *The Concept of Law* (1994), second edition, at 94

³² J. Austin, *The Province of Jurisprudence Determined* (1861), Second Edition, at 119-129. See also discussion in H.L.A. Hart, *The Concept of Law* (1994), second edition, at 94-99

³³ Sometimes evidenced by application for membership in the United Nations, which according to Art. 4 of the Charter is open to peace loving states. E.g., application by the Republic of China (Taiwan), Letter 13 August 2007, A/62/193, Annex 1, available through <<http://www.un.org/en/documents/ods/>>.

³⁴ The London Declaration 1949: "free and equal members of the Commonwealth of Nations, freely co-operating in the pursuit of peace, liberty and progress"

³⁵ <<http://thecommonwealth.org/>> accessed on 1 July 2017

independent countries from Africa, the Americas, Asia, Europe and the Pacific have joined The Commonwealth. Membership today is based on free and equal voluntary co-operation. The last two countries to join The Commonwealth - Rwanda and Mozambique - have no historical ties to the British Empire.³⁶

Member states have no legal obligation to one another. Instead, they are united by language, history, culture and their shared values of democracy, human rights, and the rule of law. These values are enshrined in the Commonwealth Charter and promoted by the quadrennial Commonwealth Games.

Although the Commonwealth does not have a multilateral trade agreement, research by the Royal Commonwealth Society has shown that trade with another Commonwealth member is up to 50% more than with a non-member on average, with smaller and less wealthy states having a higher propensity to trade within the Commonwealth.³⁷ There have been various proposals for a Commonwealth free trade zone.³⁸ However many Commonwealth countries already participate in existing, regional integration projects, including the European Union (3 commonwealth states) and Caribbean Community (12 commonwealth states).

Some politicians in the United Kingdom have proposed that there should be a Commonwealth free trade zone,³⁹ with some suggesting it as an alternative to its membership in the European Union.⁴⁰ This faith in the unlimited trade potential of the Commonwealth has been labeled by The Economist as "the ultimate Eurosceptic fantasy".⁴¹ In addition, the EU is already in the process of negotiating free trade agreements with many Commonwealth countries including India and Canada,⁴² and currently has free trade agreements with others, such as South Africa.

EUROPEAN UNION (EU)

The European Union (EU) is an economic and political union of 28 member states that are primarily located in Europe. The EU operates through a system of supranational independent institutions and intergovernmental negotiated decisions by the member states. Institutions of the EU include the European Commission, the Council of the European Union, the European Council, the Court of Justice of the European Union, the European Central Bank, the Court of Auditors, and the European Parliament. The European Parliament is elected every five years by EU citizens. The EU traces its origins from the European Coal and Steel Community (ECSC) and the European Economic Community (EEC), formed by the Inner Six countries in 1951 and 1958, respectively. In the intervening years, the community and its successors have grown in size by the accession of new member states and in power by the addition of policy areas to its remit. The Maastricht Treaty established the European Union under its current name in 1993. The latest major amendment to the constitutional basis

³⁶<<http://thecommonwealth.org/our-history>> accessed on 1 July 2017

³⁷<https://thercs.org/assets/Uploads/Trading-Places-the-Commonwealth-effect-revisited.pdf>

³⁸Brent H. Cameron, 'The Case for Commonwealth Free Trade, Options for a New Globalization'

³⁹ <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmfaaff/114/114.pdf>

⁴⁰ <http://www.ukip.org/newsroom/news/508-why-the-commonwealth-matters-more-now-than-ever>

⁴¹ <http://www.economist.com/blogs/bagehot/2011/10/britain-and-eu-3>

⁴² <http://www.international.gc.ca/message.aspx?&mst=404>

of the EU, the Treaty of Lisbon, came into force in 2009.

The European Union is governed by seven institutions. Article 13 of Treaty on European Union lists them in the following order: the European Parliament, the European Council, the Council of the European Union (the Council); the European Commission, the Court of Justice of the European Union, the European Central Bank and the Court of Auditors.

The distribution of competences in various policy areas between Member States and the Union is divided in the following three categories:

- Exclusive competence
- Shared competence
- Supporting competence

ASSOCIATION OF SOUTHEAST ASIAN NATIONS(ASEAN)

The Association of Southeast Asian Nations (ASEAN) is an international organization. On 8th August 1967, Malaysia, Thailand, Indonesia, Singapore, and the Philippines formed the ASEAN. At that time, communism was growing in Vietnam, and these five countries were also facing problems inside their countries. In this background, these five countries created ASEAN as a show of common display of cooperation. In short, the purpose of the organization is political and economic cooperation.

In 1976, ASEAN countries held a conference in Bali. After this, these countries started closer economic cooperation. But, by the mid-1980s, the activities of the ASEAN had slowed down. By 1991, Thailand proposed a free trade area. The ASEAN countries meet annually to discuss many matters.

Originally there were only five members of the ASEAN. Brunei joined the ASEAN on 8 January 1984. Vietnam joined the ASEAN on 28 July 1995. Laos and Myanmar joined the ASEAN on 23 July 1997. Cambodia became a member on 30th April 1999. Some other countries, such as East Timor may soon join ASEAN.

The ASEAN Free Trade Area (AFTA) is a trade bloc agreement by the Association of Southeast Asian Nations supporting local manufacturing in all ASEAN countries. The AFTA agreement was signed on 28 January 1992 in Singapore.

When the AFTA agreement was originally signed, ASEAN had six members, namely, Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand. Vietnam joined in 1995, Laos and Myanmar in 1997 and Cambodia in 1999. AFTA now comprises the ten countries of ASEAN. All the four latecomers were required to sign the AFTA agreement to join ASEAN, but were given longer time frames in which to meet AFTA's tariff reduction obligations.

The primary goals of AFTA seek to:

- Increase ASEAN's competitive edge as a production base in the world market through the elimination, within ASEAN, of tariffs and non-tariff barriers; and
- Attract more foreign direct investment to ASEAN.

The primary mechanism for achieving such goals is the Common Effective Preferential Tariff scheme, which established a phased schedule in 1992 with the goal to increase the region's competitive advantage as a production base geared for the world market.

SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC)

The South Asian Association for Regional Cooperation (SAARC) is an economic and geopolitical organization of eight countries that are primarily located in South Asia or the subcontinent. The SAARC Secretariat is based in Kathmandu, Nepal. The combined economy of SAARC is the 3rd largest in the world in the terms of GDP (PPP) after the United States and China and 5th largest in the terms of nominal GDP. SAARC nations comprise 3% of the world's area and contain 21% (around 1.7 billion) of the world's total population and around 9.12% of Global economy as of 2015. SAARC also home to world's 3rd & 7th largest Economy of world in GPP(PPP) & GDP(Nominal) terms respectively as well as World's fastest growing major Economy, that is India. India makes up over 70% of the area and population among these eight nations. All non-Indian member states shares borders with India. During 2005-10, the average GDP growth rate of SAARC stood at an impressive 8.8% per annum, but it slowed to 6.5% in 2011 largely because of economic slowdown in India, which accounts for nearly 80% of SAARC's economy. But driven by a strong expansion in India, coupled with favorable oil prices, from the last quarter of 2014 South Asia once again become the fastest-growing region in the world. As of 2015 foreign exchange reserves of SAARC nations stands at USD 411 billion.

The SAARC policies aim to promote welfare economics, collective self-reliance among the countries of South Asia, and to accelerate social development in the region. The SAARC has developed external relations by establishing permanent diplomatic relations with the EU, the UN (as an observer), and other multilateral entities. The official meetings of the leaders of each nation are held annually whilst the foreign ministers meet twice annually. The 18th SAARC Summit was held in Kathmandu from 26–27 November 2014.

SAFTA was envisaged primarily as the first step towards the transition to a South Asian Free Trade Area (SAFTA) leading subsequently towards a Customs Union, Common Market and Economic Union. In 2012 the SAARC exports increased substantially to US\$354.6 billion from US\$206.7 billion in 2009. Imports too increased from US\$330 billion to US\$602 billion over the same period. But the intra-SAARC trade amounts to just a little over 1% of SAARC's GDP. In contrast, in ASEAN (which is actually smaller than SAARC in terms of size of economy) the intra-bloc trade stands at 10% of its GDP.

EURASIA ECONOMIC UNION (EEU)

The Eurasian Economic Union (EAEU or EEU) is an economic union of states located primarily in northern Eurasia. A treaty aiming for the establishment of the EEU was signed on 29 May 2014 by the leaders of Belarus, Kazakhstan and Russia, and came into force on 1 January 2015. Treaties aiming for Armenia's and Kyrgyzstan's accession to the Eurasian Economic Union were signed on 9 October 2014 and 23 December, respectively. Armenia's accession treaty came into force on 2 January 2015. Kyrgyzstan's accession treaty came into effect on 6 August 2015. It participated in the EEU from the day of its establishment as an acceding state. The Eurasian Economic Union has an integrated single market of 183 million people and a gross domestic product of over 4 trillion U.S. dollars (PPP). The EEU introduces the free movement of goods, capital, services and people and provides for common transport, agriculture and energy policies, with provisions for a single currency and greater integration in the future.

The union operates through supranational and intergovernmental institutions. The supranational

institutions are the Eurasian Commission (the executive body), the Court of the EEU (the judicial body) and the Eurasian Development Bank. National governments are usually represented by the Eurasian Commission's Council.

In force since 2012, the multilateral CIS Free Trade Zone Agreement establishes a free trade area between the Eurasian Economic Union, Ukraine, Uzbekistan and Moldova. Russia's economic development minister stated that the Turkish economic minister, Nihat Zeybekci, put forward an initiative for closer cooperation with the Eurasian Economic Union, including the formation of a free trade zone between the union and Turkey.

GLOBALIZATION AND REGIONALISM

Globalization has various definitions, yet, thanks to its multi-level character, it is necessary to render its most important aspects, at least. In any case, it is a process, in which the importance of the transnational and international companies within the economy of particular states is growing, and the shares of the direct foreign investments and imports are going up. However, it is also a manifestation of an accelerated economic dependence of nations within the world system, which is mediated and amplified by the mass media and transport (Kottak: 1996)⁴³. A logical consequence of this are changes in many aspects of the social existence of nations, states. Then, the economic globalization is a process, in which law, market and politics limit the autonomy of national subjects, because the development of economy and legislature also involves changes in politics.⁴⁴

Some definitions of economic globalization also account for regionalism, a developing phenomenon, transforming itself gradually from its geographical significance into institutional: so, called new regionalism. This regionalism is characterized by the development of entirely new ways of the international labour division and by the interconnecting of economic subjects both within and beyond the particular geographic region. As a consequence, the economic globalization is reflected in the harmonization of the economic cycles, in the convergence of the rate of interest and the security rates in the stock exchange, all this having been enabled by the revolution of information technologies. (Brittan: 1996). However, the process of the economic globalization can be explained more concisely, that is, as a process of a relative contraction of time and space, let us say, that, when comparing time and space, time takes precedence over space, whose importance decreases. (Oi: 2005⁴⁵). All this favours the renaissance of regional cooperation and a regionalism based on attributes that are entirely different from the previous development of geographical regionalism. Globalization is another stage of the deepening specialization which profits from monopolistic mastering of particular technologies, and, thanks to that, also the implementation of diminishing returns, naturally, when using the comparable advantages of available resources: of raw materials, technological, qualifying or institutional (the functioning of the public administration, tax conditions, the flexibility of the labour market).⁴⁶

The mutual relation between globalization, multilateralism and regionalism has gone through profound changes in the last decades. These changes are often interpreted as a way towards a new world trade order. They are closely connected to parallel changes in world politics and societies. In the economic

⁴³Kottak C, 'Mirror for Humanity' (Ph. 1996)

⁴⁴Dr. Irah Kuèerová, 'A Response to Gradual Globalization: Regionalism'

⁴⁵Oi C. J, 'Corporate Restructuring and Social Security in China's State Owned Enterprises in *Managing Globalisation*' (NU of Singapore, 2005)

⁴⁶Supra Note. 44

field, they, however, seem to be most significant and rapid. As a matter of this fact, they are often misunderstood and misinterpreted. Even though modern economic analysis suggests that society can benefit from interaction between globalization and liberalization in the long run, general feelings are often negative. Based upon stressing the negative effects they can induce, reforms needed to face globalization often lack public (and subsequently) political support.

Regionalism represents a worldwide dynamic of market integration, which went through profound changes closely connected to the waves of globalization as well. Initially regionalism was namely understood as a regional form of protection from the forces of globalization and trade liberalization – Manuela Spindler (2002, p. 3)⁴⁷ explains the substance of “*old regionalism as a kind of protection against forces of globalization and competition, which represented efforts on national protectionism at a regional level and has usually been associated with the protectionist provisions of the so-called embedded liberalism*”. Old regionalism has spread across the world economy namely since 1950’s and, however, it gave birth to some of the most impressive cases of integration groupings (European Union, European Free Trade Association, Association of Southeast Asian Nations, Andean Community and many others) it limited itself in three main aspects.

A subsequent upsurge of globalization changes the quality of regional integration markedly. Since globalization decreases the influence of states on the economic environment, utilization of region-wide economic potentials and maximization of immediate gains from mutual trade is seen as the way to increase one’s own competitive positions in a globalized world. The qualitative shift in regionalism is, however, closely connected also to the changes induced by globalization at the national level. New and outward-oriented regionalism can firstly promote the necessary structural and economic reforms at national level, and secondly encourage progress in multilateral fora. Both aspects are, however, empowered by globalization and its challenges. Together with Tussie (2003, pp. 112–114)⁴⁸ we can assume that:

- New Regionalism is being driven more by markets and less by policy, which results from the fact that globalization changes the balance between state (regulation) and market (free competition);
- from the institutional-building point of view, regional integration can additionally become a force, which is able to overcome resistance towards deregulation and opening at the national level, which seems to be the only reaction to globalization and further boosts it;
- New Regionalism bridges the traditional division between developed and developing countries, as there is a certain shift in North-South Regional Trade Agreements (RTAs) from non-reciprocal trade preferences towards reciprocal cooperation on the basis of complex RTAs (namely in the US approach, however, recently also in that of Japan and EU);
- New Regionalism is more diverse in its geographical coverage and becomes truly a global phenomenon (through the increase of transregional arrangements, which connects partners from different macro-region of the world economy);

⁴⁷Spindler M, ‘New Regionalism and the Construction of Global Order’ WorkingPaper 93/02. (Warwick, Centre for the Study of Globalization and Regionalization, 2002)

⁴⁸Tussie D, ‘Regionalism: Providing a Substance to Multilateralism?’ (2003)

- new forms of regionalism, especially bilateral (between only two countries) and bioregional (between an RTA and another country or group of countries) agreements, do not tend to create trade blocks as they are usually transregional and intended to diversify trade relations.

Moreover, globalization influences regionalism quantitatively; as openness is seen as the only answer to the challenges of global competition both in developed and developing countries, regionalism spread out as a tool of countries' integration into the regional and global economy. Even more importantly, however, globalization changes the quality of regional integration markedly. The new logic of regionalism is thus more often seen in the efforts to increase national and regional competitiveness in globalized world economy. Subsequently, regionalism's flexibility, comprehensiveness and broader scale of economic liberalization (which increases the economies of scale and support investment, innovation and technological progress) are the main effects, by which regional integration can promote competitiveness. As such open and outward-oriented regionalism can hardly be compared with its previous waves – the same applies for its interactions with globalization and multilateralism.

There are changes in the depth of integration, as some coalitions concluded on the creation of customs union or on a common market, instead of creating free trade zones that had been the most wide-spread. In addition, the member bases of the integrating countries are expanding, actually in all regions. "However, together with the shift of the motives and goals of regionalism under the conditions of globalization, it is also possible to trace certain formal changes... of completely different forms of the regional economic integration. "Next to sub regionalism, known as generally deeper integration of some states that also participate in other integration activities (a typical example is the Benelux inside the EU, the EU in the Baltic Council), there are trans-regionalism and inter-regionalism establishing themselves. A convincing example of trans-regionalism is the functioning of the APEC, which is a kind of integration associating states from various regions of the world economy. The development in Europe gives evidence of trans-regionalism least by means of the relations with the ACP Group of States, with some Latin American countries such as Chile or Mexico – see the MEFTA project. Besides, the TAFTA plan for a transatlantic free trade zone between the EU and the U.S. corresponds to trans-regionalism. Another progressive change in the international relations is the appearance of internationalism, consisting in the integration activities between two independent integration organizations, i.e. bilateral negotiation. In the past, the particular associations negotiated with each state separately, but, in the last years of the 20th century, there was a significant change, as the negotiators became the representatives of the particular associations. An example is the negotiation between the EU and Mercosur, the ASEM platform – that is the Asia-Europe cooperation between the EU and the ASEAN, the association agreement between the EU and the Gulf Cooperation Council (GCC). It is apparent from the lines above that the world is being interconnected more and more, and not only because of the traditional international trade and the trade with intellectual property, but especially because of the transactions of capital, and information channels. From this point of view, the traditional organization structures are confronted with intervention from outside. Therefore, the protection of the public interests, and the obligations of the public sector towards the economic subjects have to undergo transformation, so as to keep up with the globalization challenges. A possible approach is regionalism in conceived as the

strengthening of regional resistance in an open economy.⁴⁹

THE END - ARTICLE 370 OF THE INDIAN CONSTITUTION

Article 370 of the Indian constitution gave special status to the region of Jammu and Kashmir, allowing it to have a separate constitution, a state flag and autonomy over the internal administration of the state.

The article was drafted in Part XXI of the Constitution: Temporary, Transitional and Special Provisions. The Constituent Assembly of Jammu and Kashmir, after its establishment, was empowered to recommend the articles of the Indian constitution that should be applied to the state or to abrogate the Article 370 altogether. After consultation with the state's Constituent Assembly, the 1954 Presidential Order was issued, specifying the articles of the Indian constitution that applied to the state. Since the Constituent Assembly dissolved itself without recommending the abrogation of Article 370, the article was deemed to have become a permanent feature of the Indian Constitution.

This article, along with Article 35A, defined that the Jammu and Kashmir state's residents live under a separate set of laws, including those related to citizenship, ownership of property, and fundamental rights, as compared to resident of other Indian states. As a result of this provision, Indian citizens from other states could not purchase land or property in Jammu & Kashmir.

On 5 August 2019, the President of India Ram Nath Kovind issued a constitutional order revoking the 1954 order and making all the provisions of the Indian constitution applicable to Jammu and Kashmir. Following resolutions passed in both the Houses of Parliament, he issued a further order on 6 August declaring all the clauses of Article 370 to be inoperative.

In addition, the Jammu and Kashmir Reorganisation Bill was passed in both the Houses of Parliament, which proposes to divide the state of Jammu and Kashmir into two union territories to be called Jammu and Kashmir and Ladakh.

The clause 7 of the Instrument of Accession signed by Maharaja Hari Singh declared that the State could not be compelled to accept any future Constitution of India. The State was within its rights to draft its own Constitution and to decide for itself what additional powers to extend to the Central Government. Article 370 was designed to protect those rights. According to the constitutional scholar A. G. Noorani, Article 370 records a 'solemn compact'. Neither India nor the State can unilaterally amend or abrogate the Article except in accordance with the terms of the Article.

Article 370 embodied six special provisions for Jammu and Kashmir:

1. It exempted the State from the complete applicability of the Constitution of India. The State was allowed to have its own Constitution.
2. Central legislative powers over the State were limited, at the time of framing, to the three subjects of defence, foreign affairs and communications.

⁴⁹Supra Note 44

3. Other constitutional powers of the Central Government could be extended to the State only with the concurrence of the State Government.
4. The 'concurrence' was only provisional. It had to be ratified by the State's Constituent Assembly.
5. The State Government's authority to give 'concurrence' lasted only until the State Constituent Assembly was convened. Once the State Constituent Assembly finalized the scheme of powers and dispersed, no further extension of powers was possible.
6. Article 370 could be abrogated or amended only upon the recommendation of the State's Constituent Assembly.

Once the State's Constitutional Assembly convened on 31 October 1951, the State Government's power to give 'concurrence' lapsed. After the Constituent Assembly dispersed on 17 November 1956, adopting a Constitution for the State, the only authority provided to extend more powers to the Central Government or to accept Central institutions vanished. Noorani states that this understanding of the constitutionality of the Centre-State relations informed the decisions of India till 1957, but that it was abandoned afterwards. In subsequent years, other provisions continued to be extended to the State with the 'concurrence' of the State Government.

The state of Jammu & Kashmir's original accession, like all other princely states, was on three matters: defense, foreign affairs and communications. All the princely states were invited to send representatives to India's Constituent Assembly, which was formulating a constitution for the whole of India. They were also encouraged to set up constituent assemblies for their own states. Most states were unable to set up assemblies in time, but a few states did, in particular Saurashtra Union, Travancore-Cochin and Mysore. Even though the States Department developed a model constitution for the states, in May 1949, the rulers and chief ministers of all the states met and agreed that separate constitutions for the states were not necessary. They accepted the Constitution of India as their own constitution. The states that did elect constituent assemblies suggested a few amendments which were accepted. The position of all the states (or unions of states) thus became equivalent to that of regular Indian provinces. In particular, this meant that the subjects available for legislation by the central and state governments were uniform across India.

In the case of Jammu and Kashmir, the representatives to the Constituent Assembly requested that only those provisions of the Indian Constitution that corresponded to the original Instrument of Accession should be applied to the State. Accordingly, the Article 370 was incorporated into the Indian Constitution, which stipulated that the other articles of the Constitution that gave powers to the Central Government would be applied to Jammu and Kashmir only with the concurrence of the State's constituent assembly. This was a "temporary provision" in that its applicability was intended to last till the formulation and adoption of the State's constitution. However, the State's constituent assembly dissolved itself on 25 January 1957 without recommending either abrogation or amendment of Article 370. Thus, the Article has become a permanent feature of the Indian constitution, as confirmed by various rulings of the Supreme Court of India and the High Court of Jammu and Kashmir, the latest of which was in April 2018.

CONCLUSION

Today's world economy has been significantly different from its previous developments. Namely globalization must be seen as the principal driving force of its changes. Based upon the analysis of its Political Economy, globalization markedly influences the tools used by the nation states to govern their economic environment. As a matter of both economic and political changes at the end of 1980's, open-oriented economic policies motivated by the clash for global competitiveness, started to be applied more broadly (which contrasts markedly to the post-war developments in most world religions). With the overall openness, trade liberalization became even a stronger importance and as a matter of this fact, it must be seen as the most influential tool of global economic governance, today. In ever-complex global economic relations, both globalization and economic liberalization are however multi-dimensional phenomena, the effects of which differ on various levels of decision making. Especially for the liberalization efforts, multidimensionality has become a principal approach that enables us to study the internal complexity of the whole process. Most effective tool of external openness has always been a unilateral approach based upon individual commitments of states to eliminate trade barriers on its borders. With upsurge of uncertainties of the global world, the decreased dynamics of unilateral approach had to be fostered by the multilateral efforts, in the post-war period. Being strongly supported by the increase of transactional trade and financial flows, GATT/WTO created legal-based and transparent policy toward free trade worldwide. Yet, also its pace started to be complicated by various factors, within which namely the increased membership and diversified interests must be emphasized. It was thus no surprise that being challenged by the structural reforms and new competitive threats, states slowly slipped towards new tools of market opening after the 1980's – regionalism got an unprecedented pace. Subsequent situation in the world thus led towards a complex system of rather resistant national states, market opening region-based RTAs and worldwide-consensus driven multilateral institutions.

Facing the new reality, economic theory started to seek new approaches to the mutual interaction within this complex system – the dilemma approach was exchanged by seeking for the conditions of positive coexistence of various dimensions of the system. Once again, globalization studies played a crucial role here, as globalization was seen as a reason for profound changes that economic liberalization as a tool of economic policy has gone through. Both multilateral and regional liberalization firstly expanded their scope and deepened their governance. Moreover, being the response to the same challenge, both processes started to be more complementary to each other. New Regionalism – an outward-oriented, open and globally driven upsurge of new forms of market integration –took main step in this respect.

Yet, there are still many concerns about the sustainability of the new multi-dimensional governance based world trade system. They are mainly induced by the unprecedented pace of regionalism which leads toward mutual proliferation of various trade and investment regimes and by the concerns about the position of developing countries that cannot simply compete with the key players of the world economy. From the WTO's point of view, these concerns reflect in ever more sophisticated transparency mechanisms, which should force the RTAs' parties to provide the multilateral forum with complex information about the regimes they provide. From the regional point of view, no coherent movement towards single approach towards the complementary issue can be observed. On the other hand, the most progressive features of the New Regionalism (based upon openness and competition driven market

integration) seem to implicitly lead towards better compatibility with multilateral efforts. As such, namely these trends in regionalism (so far typical namely for South East Asia and Pacific, North America and selective RTAs in Europe and Latin America) must be especially fostered. Only then the extraordinarily fragile vision of global economic governance based upon a multi-dimensional perception of the mutual influences between multilateral and regional ways of liberalization may prevail. Being sophisticated by the increased transparency and outward-competitiveness seeking measures, it should be able to answer the main challenges of the 21st century more effectively than the fragmented global system so far.⁵⁰

The economic globalization makes qualitative changes in the conditions of the international relations by a higher openness of the economies, by institutional standardization and by changing the role of the state in economy. The business, capital and information interconnection of the world strengthens the competitive pressure, which the states try to challenge by the increase of regional cooperation. There are various motivations for outsourcing. Above all, we can point out the pressure on the increasing of effectiveness, the tax optimization of the companies, a closer approach to the consumer market, the environmental aspects, and the expansion to foreign markets. On one hand, regionalism strengthens the regional relations; on the other hand, it uses the possibility of cooperating with distant regions. Regionalism is a purposeful approach of the states in the globalization era – a new regionalism, aiming to maximize the positives of multilateralism. The regional dimension remains an important aspect, but not always only as a geographical term. Therefore, trans-regionalism and inter-regionalism are developing in reaction to the challenges of globalization.⁵¹

⁵⁰‘Globalization, Multilateralism, Regionalism: from dilemma to multi-dimensionality’, Article has been worked out within the framework of the Czech Science Agency Project “Regionalism and Multilateralism: Foundations of the New World Trade Order?” No. 402/07/0253, and the Research Plan of the Faculty of International Relations “Governance in Context of Globalised Economy and Society” No. MSM6138439909

⁵¹Supra note 44