

REACHING GOALS
THROUGH SECURITY,
DEVELOPMENT AND
HUMAN RIGHTS

Brasilia | 2006

REACHING GOALS
THROUGH SECURITY,
DEVELOPMENT AND
HUMAN RIGHTS



9th AMUN
AMERICA'S MODEL UNITED NATIONS

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PREFACE

The 9th AMUN: the quest and the achievement

by Eiiti Sato¹

I am very glad to address a few words to organizers and participants of the 9th edition of the Americas Model United Nations (AMUN). Among the many extension activities provided by the University of Brasilia I am sure that AMUN stands out by its importance as a rare pedagogic experience which develops our feelings regarding the perception that to be a good citizen in our own country we must be first a citizen of the world. To those who are observing international relations as a field of study AMUN is an instrument that helps to understand more accurately the real world of the international politics. In short, a practice like the UN modelling helps us to understand at the same time how important and how difficult is to live with the many differences between peoples, societies, and cultures.

As a matter of fact a more general lesson can be drawn from the recent history of international relations: we should see the quest for order and peace as a process, not as a search for a final answer. In a remarkably changing world this perception

¹ Eiiti Sato is the Director of the Institute of International Relations of the University of Brasilia, Director of the Brazilian Council of International Relations (CBRI) and member of the Steering Committee of the Americas Model United Nations.

seems particularly true. The world which emerged from the World War II was completely different from the world of the interwar years, and since the United Nations was founded many structural changes had happened in international scene. Europe and Japan regained their position as world powers. Decolonization process brought about tens of new nations in Africa and Asia, and later a group of new industrial countries has emerged while the Cold War was fading away. By the end of the 20th century a worldwide web became part of the everyday life, and technological development produced new opportunities as well as new problems for trade, environment, and welfare. These are only a few of the long list of significant changes affecting international relations.

Perhaps the words of Charles Dickens written in the opening of his novel *A Tale of Two Cities* to describe the social and political environment of the French Revolution are also perfectly suitable to describe our current world: *“It was the best of times, it was the worst of times; it was the age of wisdom, it was the age of foolishness; it was the epoch of belief, it was the epoch of incredulity; it was the season of light, it was the season of darkness; it was the spring of hope, it was the winter of despair ...”* In fact when we look at our turbulent world today it seems inevitable to have contradictory feelings about present and future. While the old century has finished with hope the new millennium has started with anguish and fear reinforcing the idea that the quest for order and peace is a continuous task to be pursuit by each generation rather than a final goal to be achieved. However, keeping such an attitude is not an easy task in a world of threats to international security, environmental problems, harsh trade disputes, and human rights violations. Effectively in such a world international cooperation needs a moral attitude which includes tolerance, good will, and courage.

In this way perhaps the finest product of an experience such as the UN modelling has to do with our moral attitude

towards the way we look at our responsibilities regarding the world we live in. Some of us are university professors and others are diplomats and public authorities, and all of us have been following a professional career alternating happy and unhappy moments. I think that as the years pass for us all, from time to time, we are tempted to think that the task of building a better world is too big and the time we have to do any significant improvement too short. As a consequence we tend to become sceptical, thinking as too idealistic any initiative or organization with any purpose other than fulfilling our short sighted everyday life necessities. In fact as we look at the turbulent world full of problems and misunderstandings, we are strongly tempted to pay more attention to our limitations rather than to our capacities and responsibilities. Some people say that aging is to be wiser and to be prudent, and to be wiser and prudent in their view means to avoid having dreams, and to avoid fighting for rightful purposes. In fact, what such people are doing is to hide their incredulity and scepticism behind a curtain of discouragement. The enthusiasm of organizers and participants of the Americas Model United Nations seems to be remarkably important because it brings fresh air to blow away our feelings of being powerless. It brings renewed energies to cope with the many sources of uncertainties and anguish of a turbulent world. Such an enthusiasm is important to remind us that even when we do not achieve our goals something important has been done. Life is a quest, and in the end perhaps the best moments we have in our memories are those in which we have shared dreams, hope, and enthusiasm. This is in fact what Winston Churchill had called “the finest hour” of someone. We do not know what kind of future is to come, and we cannot know if our knowledge and capacities will be enough to face successfully the challenges to come, but nature seems to be moved by a quite strange logic: “one’s finest hour” has to do much more with “quest” rather than with “achievement”. Congratulations

to all the organizers and participants of the 9th edition of the Americas Model United Nations.

Eiiti Sato
Director of the Institute of International Relations
University of Brasilia

THE DESTINY OF NATIONS AND THE DESTINY OF THE AMERICAS MODEL UNITED NATIONS

by Renato Cabral Dias Dutra¹

“The United Nations once dealt only with Governments. By now we know that peace and prosperity cannot be achieved without partnerships involving Governments, international organizations, the business community and civil society. In today’s world, we depend on each other”.

Kofi Annan, UN Secretary-General²

“[The] AMUN represents a small but important step in this direction, in creating the culture of international dialogue, trust and cooperation among different societies, nations, genders, races, and many other social divisions that we must now unite. We believe that this is possible and will continue to do so as long as there are enough dreams and energy in ourselves to promote change.”³

Narue Shiki, Secretary-General of the 1st AMUN

¹ Renato Dutra is a graduated student of International Relations at the University of Brasília and the Secretary-General of the 9th AMUN.

² Quote extracted from <http://www.wfuna.org/link/partnerships/index.cfm>.

³ SHIKI, Narue. *Introduction*. In: AMUN Agenda – a Study Guide for the 2002 discussions. 5th Americas Model United Nations. Brasília: 2002, p. 6.

All group experiences are based on cooperation and result in self-growth. I say this because I have always been motivated, by my family, friends, or teachers, to work with others as a team. The term “team” is, in this context, strong and fraught with meaning. There are three main incentives to teamwork: building *friendships*, *interests in the activity to be done*, and *dedication to reach a goal*. The present article examines the application of this triple perspective to the MUN experience and, more specifically, to the AMUN’s experience.

The Secretariat of the 9th Americas Model United Nations was very careful about choosing the most appropriate theme for the edition. The motto “destiNATIONS: reaching goals through Security, Development, and Human Rights” brings forward the very essence of this project and is a good metaphor of what the AMUN is about– a way to build a more *secure* and *equitable* world.

It is not a new thing that, in contemporary times, a new world order is being consolidated, a world with indefinite borders between internal and external affairs; a world ruled not only by institutions, state, and blocs, but ultimately by leaders⁴. Accordingly, as stated by Kofi Annan’s above, the United Nations deal today with a multiple diversity of actors, from governments to people, so that we all depend on each other to reach goals through security, development, and human rights. It is in this very point that MUNs, and particularly the AMUN, play such an important role in shaping leaders.

Before continuing, it is extremely important to distinguish between two perspectives of the AMUN’s mission: the educational side and the managerial one. Through the first one, participants and organizers fight to define the destiny of nations by pursuing the principles of the UN; through the second one,

⁴ NOGUEIRA, Maria Beatriz. *Models United Nations and International Decision Making*. In: An Agenda for the Future. 6th Americas Model United Nations. Brasília: UNESCO, 2003.

the main task is to define the destiny of the AMUN itself as a pioneering endeavor.

THE DESTINY OF NATIONS THROUGH AN EDUCATIONAL ACTIVITY

“Education can not be just important; it has to be a priority”

UNESCO’s philosophy⁵

The AMUN is, essentially, an educational project of the University of Brasília. Moreover, it is a project whose feasibility is due to two factors: (i) its students’ engagement and entrepreneurship; and (ii) the success of an alternative apprenticeship process, here expressed by a Model United Nations experience. Accordingly, decisions made by students are the most efficient way they have to allocate their assets efficiently. The results pursued are thus to enrich their administrative and academic skills, whether they participate in one board or another.

The organization of a Model United Nations conference takes months of planning and a strong commitment from all staff members, regardless of the size of the conference. Large or small, a well-organized conference can be a huge success. Good planning is the key to provide delegates with a memorable experience and to give them an accurate glimpse into the workings of the United Nations system.

If the main scope of the AMUN is to keep students aware of their necessities in educational matters in order to promote positive externalities for life, they need to bear in mind that the apprenticeship process requires from them new instruments

⁵ See www.unesco.org.br.

to understand many phenomena that surround reality, such as the diversified situations faced by members of managerial and academic boards of the MUN, the challenges faced by delegates during preparation, and the commitment of both groups to their civic position in society.

In this sense, *“the increasing development of Models UN activities in Brazil raises the standard of our own capacity, as a nation, to affect the international agenda”*⁶. In other words, it means that in a few years, MUN participants and organizers will define decision-making processes in different instances.

What is perceived ten years after the first AMUN⁷ is a remarkable shift in the scenario for this kind of activity, with its spread among university and high school communities, proving the important consolidation of MUNs, in Brazil, in terms of institutional culture and of personal entrepreneurship behavior. Accordingly, by doing that, the AMUN experience *“has been also an instrument in developing an effective epistemic community which helps the students to hold their responsibilities in the future with a more accurate perception of the world problems”*⁸.

Since its inception, the AMUN has unfolded an array of possibilities. Surely, when some students back in 1997 decided to employ their energy to disseminate the UN principles, they would never have thought that this initiative would have a spill-over effect and that this work would turn the mere exercise of the UN principles into a UN national culture among undergraduate students in Brazil. As mentioned above, in the ten years after the first AMUN, international relations have changed significantly.

But what makes an incipient culture become so

⁶ COSTA, Marina Moreira. *Building Bridges Across Nations*. In: Building Bridges Across Nations.

⁷ 9th Americas Model United Nations. Brasília: Fundação Alexandre de Gusmão, 2004, p. 25.

⁷ The first AMUN began to be organized in 1997.

⁸ SATO, Eiiti. *The AMUN Experience*. In: *Uniting People, Uniting Peoples*. 8th Americas Model United Nations. Brasília: Fundação Alexandre de Gusmão & Nações Unidas Brasil, 2005, p. 25.

dynamically designed throughout the years? Which are the reasons for the emergence of different kinds of MUNs and the AMUN's evolution throughout its editions?

Certainly, people respond to incentives, and this perception is also transferred to the projects they implement. Both participants and organizers are unexpectedly affected by an inexorable feeling that something is missing, what turns into passionate will to improve the MUN project as well as to undertake new projects, to explore new horizons and to do much more than is demanded from their personal, academic and professional lives⁹. The answers seem to be in these directions.

The AMUN's mission, in this perspective, goes beyond the simulation activity, and relies on the execution of its own principles as a means to serve not only to the United Nations or to the AMUN, but also to its organizers, participants and, ultimately, to nations. Pursuing the accomplishment of a more tolerant world through the principles of the UN Charter summarized by its Secretary General Kofi Annan as the "freedom from fear", "freedom from want" and "freedom to live in dignity" ¹⁰, all people involved in the project gain the opportunity to become leaders both in academic and administrative perspectives and to work in tune with the pursuing of a more secure and equitable future.

Reaching goals through Principles

In this sense, and to make the AMUN's mission a feasible reality, three core principles have been set forth for the AMUN experience. They are as follows:

⁹ NASCIMENTO, Raphael Oliveira. *Welcome Letter*. In: Building Bridges Across Nations. 7th Americas Model United Nations. Brasília: Fundação Alexandre de Gusmão, 2004, p. 24.

¹⁰ Kofi Annan's UN Millennium Report, 2000.

- *Civic protagonism*: commitment is the key-word. The AMUN works for social responsibility, for the integrity of people and for people themselves. Working in an environment that promotes and incorporates personal changes, new ideas, mutual respect and opportunities to all, actions have to foster the development of physical, intellectual, and moral abilities of all human beings. Thus, they can insert themselves in the social environment as agents that are capable of transforming society towards peace, development, and tolerance. This approach embraces this project in terms of providing individuals with means to act for security, development and human rights in a global framework. The vision is that one person can make the difference, since we are all responsible – individually and collectively – for our behaviors and actions, as well as for their outcomes;

- *Educational transformation*: the principles underscoring the AMUN work on strengthening academic mobility, international exchanges of excellence, researching on education systems and knowledge production, curriculum innovation, leadership, teaching development, and the defense of quality in higher education qualifications. Expanding knowledge of international issues and conflicts, as well as of national interests and motives through strengthening ability to negotiate and debate, it becomes possible to sharpen intellectual aptitudes and to learn about diplomatic behavior; and

- *Entrepreneurial initiative*: the AMUN embraces the pursuing of excellence in developing and improving leadership skills, as well as managerial aptitude to raise a conference from the beginning in accordance with the most recognized international quality standards. The entrepreneurship culture has to do with realizing the value of role-playing, the awareness to practice skills in researching and related to personal expression, cross-cultural understanding, creativity, and, finally, negotiation ability.

Accordingly, these principles are a code for gathering the four essential “learnings” for the 21st century of UNESCO’s Delors Commission: learning to know, learning to do, learning to live together, and learning to be¹¹. This perspective was summarized in the project for the 8th AMUN presented to the Steering Committee in September 2004 by the former Secretary-General Adam Jaime Muniz, when he affirmed the “[AMUN’s] objectives rely on providing the necessary bases for the attainment of personal, social, academic and professional growth of all those involved in [the] project under three pillars: knowledge, skills and values”¹². Remarkably, the aforementioned triple directive is a means to go beyond the four “learnings” in the sense that these principles translate them into the managerial and corporative approach, bringing coherence into a Model UN structure in the sense that it provides the two main boards with staff members acting in specialized activities, all of whom are included into the managerial and academic frameworks.

Comments on the assumption of “reaching goals”

Nine editions seem to have been scarce time to reach so many goals related to the accomplishment of the consolidation of the MUN culture in Brazil and to certify that the AMUN will play an important role in this endeavor. Indeed, it is a scarce time, but the standpoint here is the qualitative consideration of the initiative instead of its quantitative nature. Academically, MUN initiatives are unique opportunities to improve research aptitudes and skills, as well as a means for undergraduate students to publish articles. Administratively, MUNs serve to

¹¹ For more information see <http://www.unesco.org/delors/fourpil.htm>.

¹² MUNIZ, Adam Jaime. *Uniting People, Uniting Peoples*. In: *Uniting People, Uniting Peoples – 8th Americas Model United Nations*. Brasília: Fundação Alexandre de Gusmão & Nações Unidas Brasil, 2005, p. 29.

accurate entrepreneurial abilities in the logistical, marketing, managerial, and fundraising approaches. The leadership and protagonist roles played by the AMUN's delegates and staff members make all the difference, so that, suddenly, an official commitment to broadcast the aforementioned culture is set, and at this point its dissemination is the first step to carry out the ultimate goal of promoting peace, development and human rights, the core principles of the UN Charter.

In this sense, MUNs have their importance to help define the destiny of nations from an international relations perspective: firstly, the UN is a still relevant institution to define global issues and its principals and goals must be pursued as well. Indeed, all participants to a Model UN share the common view of this assumption; as a consequence, this initiative “*helps converge expectations and [...] strengthens multilateralism as a value, rather than an option*”¹³. In second place, MUN activities have the common mission of developing an educational project aimed at the promotion of the Purposes and Principles of the United Nations through the simulation of diplomatic fora. Notwithstanding the fact of being a role-play activity, MUNs are developed to deal with real situations, and the negotiation tools are to be used to achieve solutions to important and pressing issues. The destiny of nations is, therefore, also being shaped by the destiny of MUNs themselves,

THE DESTINY OF THE AMUN THROUGH ENTREPRENEURIAL ACTIVITY

The goals are somewhat like the ends, and the roads to them are based on principles, and both means and ends are defined

¹³ BORGES, João Marcelo. *Looking over Models UN*. In: An Agenda for the Future, 6th Americas Model United Nations. Brasília: UNESCO, 2003, p. 18.

in terms of what, how, and why the AMUN is an educational project. In addition, the mission composes a general framework in which all goals are included, and, accordingly, the accurate interaction among these three factors is what produces positive results in terms of academic and administrative production.

Accurate perception of the AMUN's evolution shows that it has grown in many ways in its administrative and academic boards. In the former approach, the main improvement was the increasing professionalism of the staff, which has underscored a full quality series of events in terms of logistics, financial managing and in establishing partnerships. The academic body, on the other hand, has shown through its prestigious academic production that it is capable of maintaining the Americas Model United Nations ahead of all similar events in Brazil and in Latin America. Focusing on both civic and entrepreneurial worries, the AMUN shapes its own formula to fulfill the general task of helping to define the destiny of nations.

Ten destinations for the Americas Model United Nations

The conception of perfectionism is based on the traditional position represented by the AMUN in the modeling culture. A prospective position on the future evolution of the AMUN can be defined as *destination* suggestions for the project in order to constantly improve its academic and administrative quality and to consolidate its position as one of core importance for the maintenance of the MUN culture in Brazil. Ten ideas for this new perspective are:

- To disseminate entrepreneurial behavior among members of the University of Brasilia's undergraduate community, encouraging and articulating the implementation of leadership skills;
- To continue to work in tune with the Millennium

Development Goals (MDGs), especially when defining the academic directive of each edition's project;

- To launch a sustainable academic and administrative basis for the forthcoming editions as a means to make the AMUN feasible during transition processes, i.e. the availability of initial budgetary resources to start the administrative works. This shall be done through the execution of, at least, a saving budget of 10% of the total raised amount;

- To spread a culture of cooperation among the AMUN's staff members, between them and conference participants, and among other MUNs;

- To maintain the academic excellence of the AMUN through the obligation of its members' participation in the university simulation club (CSOI) activities;

- To work in tune with other entrepreneurs of the University of Brasília, such as Junior Enterprises, to execute administrative duties like managing the website and making the accountability, for example;

- To gather efforts, despite the scarcity of time, to constantly improve the successful fundraising's strategies implemented in the previous AMUNs and work on the SWOT (Strengths, Weaknesses, Opportunities and Threats) general strategy;

- To maintain and innovate the online process of enrollment and database construction in order to facilitate future AMUNs' labors;

- To keep track of the international and institutional marketing as a means to spread the AMUN's prestige and bring more international delegates and Faculty Advisors; and

- To help restore the interest in MUNs among the International Relations community of the University of Brasília in the sense they voluntarily foster their interest in this enthralling culture, mainly through attending more CSOI sessions and attending MUNs as delegates, among others.

Suggestions have been made. From now on, it is up to the new leaders of the MUN community to take them forward and contribute to consolidate not only the MUN culture in Brazil, but also to forecast the possibility of reaching goals through the dissemination of the UN culture itself. For you it may seem to be an uncertain task, but the only thing you have to bear in mind is that even though MUNs and the AMUN are small steps towards this direction, they are important steps. It is not for nothing that Kofi Annan has affirmed that “*in today’s world we depend on each other*”. Defining destinations is always a great challenge, and only leaders can face and handle it successfully.

Renato Cabral Dias Dutra
9th AMUN’s Secretary-General

MODEL UNITED NATIONS IN BRAZIL: LOOKING AT THE FUTURE

By João Augusto Costa Vargas¹

If you hear two International Relations students chattering in a university hallway about “models”, chances are the words “delegation” and “position paper” are going to come up more often than “Bündchen” and “MacPherson”. Ever since the first AMUN, in 1998, Model United Nations (MUNs) have spread like wildfire through the Brazilian undergraduate community, crossing over to other areas such as Law and Economics, and becoming ever more sophisticated in both academic and administrative dimensions.

One very grave problem in Brazilian MUNs thus far has been that they are much too centered on the present. They rarely look to the past, as institutional memory is weak: records are not kept and experiences are not recorded for posterity. Until this is done on a fairly regular basis, every generation will have

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to reinvent the wheel².

Brazilian MUNs also have trouble looking to the future. Innovation and evolution tend to be haphazard, when not accidental. This article seeks to be a small contribution in this direction by examining two areas where some careful planning and inter-MUN cooperation could make important and necessary changes to the way MUNs have been conducted in Brazil. These areas are the Rules of Procedure and the MUN identities and integration.

RULES OF PROCEDURE

MUNs are not native to Brazil; they came to the country by way of students from the University of Brasilia who had participated in WorldMUN 1997, and who then organized the 1st AMUN in partnership with the Georgia Institute of Technology. Brazilian MUNs have their origin, therefore, in the United States, which has led to an interesting situation: while Brazilian MUNs have developed their own characteristics, much remains that was inherited from the United States and from the 1st AMUN, thanks to institutional traditions and academic inertia.

The Rules of Procedure of all Brazilian MUNs originated in the 1st AMUN, which had rules drafted with the aid of students from the Georgia Institute of Technology. This has given rise to two problems, which must be dealt with if the realism (and, thus, academic quality) of Brazilian MUNs are to improve. These involve the interpretation of the rules, and the rules themselves.

² At the University of Brasilia, the Centro de Simulações de Organizações Internacionais (CSOI) maintains a “MUN historical archive”, which is incomplete and not entirely up-to-date, and the 9th AMUN has initiated a Memorial Project.

Regarding interpretations of the rules, it is important to know that while the rules were successfully imported from the United States, their application and general use were not. Thus, one of the most disconcerting differences between American and Brazilian MUNs is the informality of debate in the former, as opposed to the long time spent on the Speaker's List in the latter. This is, of course, a reflection of cultural characteristics just as much as it is an inherited application of the rules. The result, however, is that informal, behind-the-scenes negotiations tend to be less dense in Brazil than in the United States, whereas speech and rhetoric tend to have a larger role. If this issue is not dealt with, Brazilian MUNs run the risk of becoming public speaking competitions or debating societies, as opposed to life-like simulations of multilateral negotiation³.

The second problem arising from the fact that Brazilian MUNs inherited their rules (with or without adding their own modifications) instead of writing them from scratch is that there has rarely been an effort to conform to the Rules of Procedure of actual international organizations: the rules are taken as a given, questioned in one aspect or another, but have never been rethought as a whole. As they approach their tenth year, Brazilian MUNs have reached a level of maturity at which it is unacceptable to use certain rules simply because "that's how it's always been done". To achieve greater realism and heighten the academic quality of the simulations, Brazilian MUNs need to go back to the sources (the United Nations Charter, the Rules of Procedure of the General Assembly and the Security

³ One can argue that this is already happening. Every committee, every party, and every closing ceremony in every MUN in Brazil is always full of people yelling "Vendido!" ("Sold out!") at each other. To be "sold out" is to sacrifice one's foreign policy in the interests of one's ego, to make overly dramatic speeches, to make a point of demonstrating one's knowledge of the most obscure rules of procedure. On the one hand, the endless calls of "Vendido!" are a manifestation of the easy camaraderie and informality that are an essential part of Brazilian MUNs; on the darker side, they are a sign that too often, what should be arenas of negotiation have become spotlights for posturing.

Council, the official French and Spanish translations of these, and the official Portuguese-language Rules of Procedure of the OAS, among others) and rewrite the Rules of Procedure from scratch.

This would obviously be a troublesome effort, both for the organizers, who would have to draft the new rules, and for the delegates, who would have to learn them. Nevertheless, it is possible, and many recent innovations point in this direction. For instance, many committees of the TEMAS have adopted entirely new Rules of Procedure, as did the Commission on Sustainable Development of the III UFRGSMUN⁴. Both the form and (to a lesser degree) the content of the Rules of Procedure adopted by the 8th AMUN's Security Council were based on the real Provisional Rules of Procedure of the Security Council. These are all cases of innovation in Rules of Procedure which, while they have not been taken far enough, signal the possibility of a dramatic shift in the current approach.

The turning-point may have been reached with the unprecedented decision by the 9th AMUN and the IV UFRGSMUN to prepare common Rules of Procedure for both models. These new rules have not been created from the ground up; they are, in fact, a wide-ranging revision and clarification of the conventional rules. However, the process of drafting common Rules of Procedure means that the necessary “rules paradigm shift” in Brazilian MUNs will not need to be taken by a single MUN; it can be the result of collaboration, which, as the AMUN-UFRGSMUN experience has shown, results in more coherent, understandable, and rational rules⁵.

⁴ TEMAS is a MUN organized by the students of the Pontifícia Universidade Católica de Minas Gerais. The UFRGS Model United Nations is organized by the students of the Universidade Federal do Rio Grande do Sul.

⁵ A final note on the need to rethink Rules of Procedure refers to Portuguese-language MUNs: inaccurate terminologies abound, as direct translations are too often made from English

MUN IDENTITIES AND INTEGRATION

Another interesting factor in the evolution of MUNs in Brazil has been the means by which they have constructed their identities. We can speak of three main phases to this process, each distinguished by the predominance of a certain type of identification. These phases, however, obviously each possess aspects of all three kinds of identification, and their borders are blurry and overlapping. Nevertheless, the division is useful to examine how MUNs in Brazil have changed over their time.

The first phase was characterized mainly by **language-based** identities: the AMUN was in English and the MONU-PUC was in Portuguese. Aside from geographic factors, language was the main criteria to distinguish one MUN from another. As long as there were only two large university-level MUNs in Brazil, this kind of distinction seemed more than adequate.

As more MUNs began to appear, however, a second phase began, marked by the predominance of **institution-based identities**: each MUN was associated to a particular university. How a given university's delegates performed at MUNs across the country would directly influence how their own MUN was perceived by others.

Over the past two years, we can say that a third phase of MUN identity construction is beginning to show itself. It is distinguished by the attempts at creating **brand names**, that is, by identifying certain characteristics with the MUN itself. The TEMAS has clearly been the front-runner in this sense, not only because of the specific theme that unites all of the committees in each of its editions, but also because it took the step of inviting

technical terms. This is not only evident in the presence in the Rules of Procedures of terms that are absent from the parliamentary procedures of Portuguese-language bodies, but especially in the notorious translation of General Assembly "committees" into "comitês"; the term used by Brazilian diplomats is "comissões", based on the official Spanish "comisiones" and French "commissions".

students from other universities to join the staff⁶.

Is this “brand name” era of MUNs represented by TEMAS a positive one? On the whole, it would seem so. Brands imply specialization and efficiency; the tendency is that some MUNs will become known for their historical committees, others for their simulation of conventional United Nations bodies such as the General Assembly and the Security Council, still others for their legal and juridical committees, and so on and so forth. This kind of diversification will offer more choices and options for delegates, hopefully increasing the appeal of MUNs for students across Brazil. Moreover, by setting institution-based identities (partially) aside, and allowing potential staff members to “pick and choose” where they want to work, people will tend to find possibilities more in tune with their academic interests, leading to greater participation in both quantitative and qualitative terms.

How can this process be helped along, then? Specialization will take care of itself; already, certain models are known for the quality of certain types of committees. What needs active commitment is the (to use an economic analogy) liberalization of labor migration: allowing students from other universities to participate in models.

There are three potential obstacles to achieving this. The first and most problematic is the role of the institutions themselves. Each model has a particular relationship with the university where it came about, with varying degrees of faculty oversight and interference, financial aid, and institutional support. Some universities will be more open than others to the possibility of bringing in collaborators from other institutions. Those which are reluctant to do so will have to be persuaded: opening up the doors will not only allow for greater academic

⁶ The MONU took similar steps before the TEMAS. Unlike the MONU, however, the “foreign” directors from the TEMAS were largely from universities that already had their own MUNs.

quality, but will also encourage the participation of more delegations from other universities.

The second problem is the question of compatibility: it has to be easy to go from one model to another. This is where “standardization” can play a big role: the foremost example of this practice is the adoption of common Rules of Procedure by the AMUN and the UFRGSMUN (see above), but more is required. Things like the role and relations between assistants and directors, the ways in which governmental correspondence is used, interpretations of controversial rules, and the sections of the Study Guide, are all little things that, if standardized, at least partially, would make the move from one MUN to another much less traumatic (for both staff and delegates).

The final problem is mostly hypothetical at the moment: the creation of a small cadre of people who run all the MUNs in Brazil. While it’s hard to imagine that these people would have all of the free time required, this is a threat to be taken seriously, as constant renovation of staff is essential for MUNs to evolve and avoid stagnation. An ideal world is one in which everyone who wants to be a staff member can do so, and not have his place taken by a veteran who is on the staff of four different models. To avoid this, a “limits rule” of some kind could be agreed upon by the main MUNs: each year, no one would be allowed to be on the staff of more than three models or more than two models of the same level (high school/undergraduate).

CONCLUSION

Brazilian MUNs have come a long way since the 1st AMUN. Left to their own devices, they have gained a level of academic complexity and sophistication that could scarcely be imagined even four or five years ago. Nevertheless, it is important that all MUNs recognize that the things that they can accomplish

working together are immeasurably greater than those they can accomplish on their own. This article demonstrated two dimensions where coordination and collaboration can contribute to a much richer and deeper MUN experience; there are many others, not included here due to space constraints.

The most important thing to keep in mind, however, is that MUNs must remain in constant communication. The inter-MUN dialogue that began at the bar of the Hotel Jaraguá in December of 2005 and was continued in Belo Horizonte during the second TEMAS must not be allowed to fall silent or fade away. The Secretariat of the 9th AMUN therefore hopes that this year's Parallel Activities will serve to keep the conversation alive, and that many issues, including the ones raised in this article, can be discussed in a fruitful and productive fashion.

João Augusto Costa Vargas
Deputy Secretary-General for Academic Affairs

REACHING GOALS THROUGH SECURITY, DEVELOPMENT AND HUMAN RIGHTS: UN REFORM AND HUMAN SECURITY

by Bruna Vieira de Paula¹

The United Nations (UN) was established on October 24, 1945, in the aftermath of World War II, when representatives of 50 countries met in San Francisco at the United Nations Conference on International Organization to draw up the United Nations Charter. At the time, 51 countries committed to safeguarding peace through international cooperation, multilateralism and collective security².

This audacious and challenging enterprise was based on three pillars: security, human rights and development. Indeed, according to the Charter, the United Nations were gathered

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² See: <http://www.un.org/Overview/brief1.html>. Poland, which was not represented at the Conference, signed the Charter later and became one of the original 51 member States.

*“to save succeeding generations from the scourge of war”*³, *“to reaffirm faith in fundamental human rights”*⁴, and *“to promote social progress and better standards of life in larger freedom”*⁵.

However, much has changed and happened since the creation of the United Nations. The Cold War has come to an end. Nevertheless, the very nature of war has changed. Nowadays, most conflicts are within States, rather than between States. Interstate conflicts have been replaced by vicious ethnic, religious or political squabbles within countries in which civilians are deliberately targeted⁶, so that even low levels of conflict generate a disproportionately high degree of insecurity, underdevelopment and violations of human rights. Just in the 1990s, the UN completed more peacekeeping missions than ever before. Moreover, there are almost 25 million internally displaced persons in the world, nearly one third of whom are beyond the reach of United Nations assistance, in addition to the current 12 million existing refugees⁷.

Furthermore, political and economic liberalization facilitated the international flow of goods, services, finance, people and information. Yet more than one billion people still live below the extreme poverty line of one dollar per day, and 20,000 die from poverty every day. HIV/AIDS has killed more than 20 million people worldwide, and infected other 40 million. In addition, small networks of transnational non-state terrorist actors have proven how vulnerable both developed and developing States are⁸. And, although important work has been done on these and other issues, especially by the United

³ Preamble of the Charter of the United Nations.

⁴ Ibid.

⁵ Ibid.

⁶ The proportion of civilian victims in conflict compared to soldiers climbed from 5 percent during World War I to over 90 percent currently.

⁷ WILKINSON, Ray. Children. In: *Refugees*. Vol. 1, n. 122, 2001. p. 9. Commission on Human Security. *Human Security Now*. New York: CHS, 2003. p. 2. See UN Doc A/59/2005. p. 4.

⁸ See UN Doc A/59/2005. p. 4.

Nations, today's challenges are far greater than the organization is ready to meet. The UN needs to be reformed.

Nonetheless, it is important to bear in mind that the principles of the UN Charter are as important today as they were when it was created. It is the way that the UN delivers its objectives and aims that has to move with the times⁹. Furthermore, this change of the organization cannot be effective if it comes in a fragmented way, from those dealing with security, those dealing with human rights, and those dealing with development.

This idea was further developed in the report of the UN Secretary-General entitled "In larger freedom: towards development, security and human rights for all". The report deals with reforming the UN, by strengthening security, development and human rights. It states that the notion of larger freedom, which was first coined by the UN Charter, comprises the idea that development, human rights and security are interrelated and interdependent. Therefore, if one earns enough to live well, but lives in an atmosphere of armed conflict, and has no say in how his or her country is run, he or she is not truly free. Thus, not only are human rights, security and development all essential, but they also reinforce each other. In order to live in larger freedom, one must have freedom from want, freedom from fear and freedom to live in dignity¹⁰.

This notion is also illustrated by the new concept of human security. This concept first appeared in the context of research for peace in the 1980s, but came into widespread use internationally when the United Nations Development Program (UNDP) launched its Human Development Report entitled "New dimensions of human security" in 1994. This concept of security includes not only the perspective of States sovereignty, but also the human element of it, by equating security with

9 See: <http://www.un.org/reform/about-unreform.html> . Last visited on May 12, 2006.

10 See: UN Doc A/59/2005.

people and development¹¹. Human security brings together the human elements of security, human rights and development, by complementing state security, strengthening human development and enhancing human rights¹².

According to the UN Secretary-General, Mr. Kofi Annan, human security *“in its broadest sense, embraces far more than the absence of violent conflict. It encompasses human rights, good governance, access to education and health care and ensuring that each individual has opportunities and choices to fulfil his or her potential. Every step in this direction is also a step towards reducing poverty, achieving economic growth and preventing conflict. Freedom from want, freedom from fear, and the freedom of future generations to inherit a healthy natural environment – these are the interrelated building blocks of human – and therefore national – security”*¹³.

As the only universal organization with a mandate to address security, human rights and development, the United Nations is especially responsible for these issues. Therefore, when reforming the UN, particular attention must be given to its three pillars and their linkages.

SECURITY AND UN REFORM

The United Nations Security Council (UNSC) is the UN body responsible for safeguarding international peace and security in the world. However, it still reflects the global power structure of 1945, when many of the countries existent today were still colonies. Therefore, it is not representative of

¹¹ See: <http://hdr.undp.org/reports/global/1994/en/>. Last visited on May 14, 2006.

¹² Commission on Human Security. Op Cit. 7. pp. 2-4.

¹³ Kofi Annan. “Secretary-General Salutes International Workshop on Human Security in Mongolia.” Two-Day Session in Ulaanbaatar. 8-10 May 2000. See Press Release SG/SM/7382. p. 4.

today's realities and of the current UN membership. First, the five main World War II allies remain permanent members and, thus, may veto any Council resolution, which frequently makes the UNSC undemocratic and sometimes ineffective. Second, notwithstanding the ten elected members of the body, it lacks an equitable geographical distribution of seats and is seriously unrepresentative. Nevertheless, although there is widespread agreement that there is a need to expand the Security Council, views remain divergent with regard to modalities for enlargement, particularly regarding the size of the Council and categories of its expanded membership.

Reform proposals also include the need of improving the Council's working methods and procedures, such as rules of procedure, so as to improve accountability and transparency. Further measures are also necessary to increase the involvement of States not members of the Council in order to enhance the effectiveness and legitimacy of its decisions. For more than ten years, the UN General Assembly has discussed the Council's reform, but little has been achieved.

DEVELOPMENT AND UN REFORM

The Economic and Social Council (ECOSOC) is the central forum for coordinating international economic and social issues in the UN. Over the years, several efforts have been taken to modernize and improve ECOSOC's working methods, adapt its agenda to changing circumstances and introduce greater coherence in the activities of the different intergovernmental bodies. However, these reforms have had little impact on the Council¹⁴.

¹⁴ ROSENTHAL, Gert. The Economic and Social Council of the United Nations – Na Issues Paper. New York: Friedrich-Ebert-Stiftung, 2005. pp. 23-24. Available at <http://www.globalpolicy.org/socecon/un/reform/2005/02ecosocfef.pdf>. Last visited on May 15, 2006.

There is a need to increase its political relevance. First, there has been a relative lack of focus of its responsibilities and functions, since there is a tension between two of its primary responsibilities: introducing greater coordination to the UN system and offering policy guidance. Furthermore, there is an ambiguous relationship, and sometimes an overlapping of mandates, between ECOSOC and the other main organs of the UN, particularly the General Assembly. Third, ECOSOC lacks efficient and significant control over its operational activities. Fourth, there is a relative inability of ECOSOC to gain direct influence on policy-making at the national level; the main domestic actors tend to shift to other international organizations, such as the World Trade Organization and the Bretton Woods institutions. Sixth, it has deficient working methods, such as rules of procedure, which tend to be excessively formal. Moreover, there is the question of membership. There are arguments in favor of a smaller Council, which would facilitate negotiations and debates, but others state that the membership of the ECOSOC is already too limited¹⁵.

HUMAN RIGHTS AND UN REFORM

Human rights is perhaps the area in which the UN reform has advanced furthest. Nonetheless, there is still much to be done.

Until the beginning of 2006, the UN Commission on Human Rights (UNCHR) was the main UN human rights body. However, the Commission had several shortcomings which prevented it from effectively addressing human rights violations in the world. First, it was excessively political; selectivity and

¹⁵ Ibid. pp. 16-33.

double standards hampered its works, which were increasingly undermined by procedural tactics and block voting, preventing the UNCHR from addressing specific issues or serious human rights violations in many countries. Second, it was too large for constructive negotiations (53 member States) and held only one session per year. Furthermore, it allowed membership of States with extremely poor human rights records. Finally, although human rights is one of the three pillars of the UN, it did not have a central place within the UN hierarchy, as security and development have, since it was subordinated to the ECOSOC¹⁶.

Therefore an UN Human Rights Council was created, in replacement of the UN Commission on Human Rights, as a subsidiary organ of the General Assembly¹⁷. It is responsible for promoting universal respect for the protection of all human rights for all and consists of forty-seven members elected through equitable geographical distribution and which shall uphold the highest standards in the promotion and protection of human rights. Furthermore, the Council shall meet regularly throughout the year and have no fewer than three sessions every year¹⁸. However, there is concern whether the new Council will retain active NGO participation and there are no guarantees that it will not be excessively political.

REACHING GOALS THROUGH SECURITY, DEVELOPMENT AND HUMAN RIGHTS

¹⁶ Amnesty International. *Meeting the challenge: Transforming the Commission on Human Rights into a Human Rights Council*. Amnesty International, 2005. pp. 2-8. Available at [http://web.amnesty.org/library/pdf/IOR400082005ENGLISH/\\$File/IOR4000805.pdf](http://web.amnesty.org/library/pdf/IOR400082005ENGLISH/$File/IOR4000805.pdf) . Last visited in May 15, 2006.

¹⁷ See UN Doc A/60/L.1 and A/RES/60/251.

¹⁸ See UN Doc A/RES/60/251. In addition, the members shall fully cooperate with the Council and be reviewed under the universal periodic review mechanism during their term of membership.

In order to build a world in larger freedom, it is necessary to sustain collective action and multilateralism and to find common ground. It is indispensable to reduce poverty and promote prosperity for all. It is essential to provide effective collective security and guarantee concerted action against all threats to international peace and security. It is fundamental to guarantee the rule of law, democracy, and the full respect of human rights. All of these are at the heart of the UN Charter¹⁹.

Therefore, in order to reach goals through security, development and human rights, action is needed at several levels. First we need comprehensive and deep cooperation among States. Second, regional and international organizations need to coordinate collective action, particularly, the UN, which, despite being the only universal organization mandated to address these three issues, needs reform to do so effectively. We also need an active civil society and conscious individuals.

Human rights cannot be enjoyed without security, security cannot be enjoyed without human rights, and none of them can be guaranteed without development. Unless all of these three interdependent issues are mutually advanced, none of them will be successful.

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¹⁹ See: UN Doc A/59/2005. pp. 53-59.

FOLLOW-UP TO THE DURBAN DECLARATION AND PROGRAM OF ACTION: EVALUATING GLOBAL EFFORTS TOWARDS THE ELIMINATION OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

*By Juliana de Moura Gomes, Fernanda Baldo Guimarães e
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INTRODUCTION

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa in 2001, represents a breakthrough for the discussion of discriminatory behavior, by pointing out new victims of such treatment. It was the first World Conference

against Racism that took place after the apartheid regime, and that intended to deal not only with racial discrimination, but also with prejudice against migrants and minorities as a whole, as well as trafficking in people and so forth.

The Conference itself had some troubled issues, such as the discussion about “Zionism” as being a form of racism, defended by the Islamic bloc, and also, the African and Caribbean countries’ insistence that the developed world should ask for forgiveness and pay reparations due to slavery. In addition, Israel and the United States withdrew from the Conference. However, compared to the former two Conferences about Racism, the Durban one was quite successful, as it opened a new perspective in the discussion of the discrimination debate.

The most shocking episode came three days after the Conference ended, when one of the most outrageous acts of terrorism took place in the United States, on September 11th. The Durban Conference, alongside with the Rio and the Vienna Conferences was one of the most important international events that took place on a period of reasonable peaceful coexistence.

Due to new priorities for States in the context of the fight against terrorism, some important decisions and proposals assumed in the Durban Programme of Action were not even put on the political agenda of States and international organizations. Five years after the Conference, it is time to evaluate what has been improved and what needs to undergo profound changes on the fight against racism, racial discrimination, xenophobia and related intolerances.

The goal of this guide is to analyze and go through what were the main topics discussed during the Conference and, considering those odd events, what has really changed five years later.

HISTORY AND FRAMEWORK OF THE QUESTION

It is not an easy task to precise historically when acts of discrimination, xenophobia and intolerance first began. Examples of discriminatory behavior from ancient times, however, can be found in literature, artwork, and other records.

Since the beginning of social organization, the ethnocentric thought has been present, once it was also a way to create the society's identity, valuing its culture and its people. When ethnocentrism is exacerbated and the "other" assumes the characteristic of worse, we have also xenophobia, which may lead to discrimination. Take the Mediterranean ancient societies, for instance. For a long period of time, they had been ethnocentric, attaching great importance to themselves and treating other peoples as barbarians, giving room to xenophobia and discrimination. Both the Greek and Roman Empires had slavery-based economies, allowing the genuine Greek and Roman to engage themselves into cultural and intellectual activities¹.

Furthermore, slavery has been present in a wide range of societies throughout time. In Medieval Europe, non-Christians were captured and sold as slaves. Then on the 17th century the Anglican Church enslaved Irish Catholics. In Eastern Europe, slavery based-economies were also present at that time. The Roma people that inhabited Romania were kept as slaves for over 5 centuries. Since the 8th century, the Arab world has also traded in slaves². One cannot forget colonization, which still has effects in several countries, especially in Africa. While they were still colonies, a large quantity of the resources from African countries were shipped away, leaving severe cases of abuse of the native populations in their wake, as is the case of the Lorenzo

¹ HELD, D. and MCGREW, A., GOLDBLATT, D. and PERRATON, J. *Global Transformations: Politics, Economics and Culture*. p. 292-293.

² *Ibid.*, p. 292-293.

Marques workers in Mozambique³, forced to work in the most inhuman conditions. Even after the independence of some countries, the side effect of years of colonization remained, as is the case of the apartheid regime in South Africa and even the conflicts between Tutsis and Hutus in Rwanda, the Democratic Republic of Congo, and Uganda.

Not only are blacks the target of such actions. Ethnic and religious differences may be a starting point to discrimination and intolerance. The war in Bosnia was motivated by the tensions among Serbs (Orthodox Christians), Croats (Catholics) and Bosnians (Muslims), where 250,000 people died in the name of ethnic cleansing⁴. One cannot forget the ultimate example of the age-old European persecution of the Jews, the Holocaust, where 6 millions were exterminated⁵.

Prejudice, discrimination, and intolerance not only happen under a racial, religious or ethnic pretext, but they are also present as far as gender is concerned. Anthropologically speaking, women and men have had different roles, since ancient societies. Throughout time, mainly in the Western world, the gap between the male and the female role in society has increased. Until little time ago, women were neither allowed to vote nor to work, and even nowadays women are paid less than men. Sexual arrestment and abuse are contemporary violations that women still face.

Furthermore, the physically and mentally disabled have come a long way through when the issue is prejudice. There were primitive peoples that used to kill the offspring born with any kind of disabilities. In modern days, people with some kind of disability have to deal with a world not prepared for them,

³ PENVENNE, Jeanne. *Trabalhadores de Lourenço Marques (1870-1974)*, p. 13-39.

⁴ See: http://www.unitedhumanrights.org/Genocide/bosnia_genocide.htm (last visited on 05 April 2006).

⁵ See: <http://www.un.org/apps/news/story.asp?NewsID=17313> (last visited on 06 April 2006).

frequently not being able to come and go, to be independent and even having extra difficulty to occupy a job position.

As far as sexual orientation is concerned, there were ancient civilizations, such as the Greeks, which condoned homosexual practices. But throughout time, with the empowering of the Church, and the upcoming of a society based on a religious moral, a part of the population finds homosexuality unnatural and sinful. In the last centuries, homosexuals have been persecuted, mainly in the Western society, inciting rage and prejudice against them.

The creation of the United Nations represented a breakthrough in the fight against racism and discrimination, since the Organization has, as its basic fundament, the equality of all human beings. In 1948, the Universal Declaration of Human Rights was an important step to the protection of individual rights, constantly violated when racism and discrimination take place. The equalitarian spirit of the declaration is shown in its first articles:

“Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”⁶

⁶ See: <http://www.un.org/Overview/rights.html> (last visited on 20 April 2006).

The 1960s was a key decade to the fight against racism and discrimination. In the United States, for instance, the movement for civil rights, which had as one of its leaders Martin Luther King, was getting stronger and the international community, especially the United Nations, was fighting against the apartheid regime and the discrimination that persisted on territories that were going through the decolonization process⁷. In this context, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination was adopted in 1963 and later on, in 1969, the International Convention on the Elimination of All Forms of Racial Discrimination entered into force. The Convention had a unique role once it had juridical power to submit the participating countries to certain rules. It also defined racial discrimination and prohibited its practice, valuing the responsibilities of the States that took part of the convention and highlighting the importance of a more effective national legislation as far as racism and racial discrimination are concerned.

Moreover, the General Assembly established that the period between 1973 and 1982 would be the Decade to Combat Racism and Racial Discrimination. The First World Conference to Combat Racism was held in 1978 in Geneva, as was the second one in 1983. These first two World Conferences took very strong positions against the apartheid system then in force in the Republic of South Africa, being credited by many as having contributed greatly to its end. However, little was accomplished by these World Conferences with regard to ending racial discrimination against Indigenous Peoples or other victims of racism's pernicious practices and deadly results in other parts of the world⁸. Also, the Convention on the Elimination of All

⁷ See: <http://www.anc.org.za/ancdocs/history/solidarity/mlking01.html> (last visited on 16 April 2006).

⁸ ALVES, J.A. Lindgren. *Revista Brasileira de Política Internacional*, pp. 198-223.

Forms of Discrimination against Women that entered into force in 1981 and included some obligations for the States as:

- Pursuing by all appropriate means and without delay a policy of eliminating discrimination against women (Article 2);
- Legislating against traffic in women and the exploitation of women through prostitution (Article 6);
- Ensuring that women have the right to vote and to participate in government and non-government activities (Article 7);
- Granting women equal rights with respect to nationality and the nationality of their children (Article 9);
- Ensuring that women have the same access as men to educational and job opportunities (Articles 10 and 11);
- Ensuring that women have the same status as men in terms of access to health care and equality before the law (Articles 14 and 15).

The Second Decade for Action to Combat Racial Discrimination would go from 1983 to 1992. Among the significant events of that decade we can highlight the United Nations Security Council embargo of trade of arms to South Africa and other sanctions to its government, which resulted in the end of the apartheid regime in 1990. In addition, in 1993, the World Conference on Human Rights, held in Vienna, reinforced the text of the Universal Declaration, and stressed the universality, interdependence and indivisibility of the rights of 1st, 2nd and 3rd generation⁹.

The Third Decade to Combat Racism and Racial Discrimination began in 1994 and ended in 2003. Since the

⁹ CANÇADO TRINDADE, Antônio Augusto. *Tratado de Direito Internacional dos Direitos Humanos*. pp. 233-299.

last decade, the notion of ethnic diversity has expanded, and by then, other minorities and ethnic groups started to advocate their inclusion on the scope of the protection of human rights. This decade not only had the concern to end with racism, but was also willing to fight against other abuses that were emerging as ethnic cleansing, the usage of the media for racist propaganda, new forms of ethnic conflicts, genocide and new manifestations of xenophobia¹⁰. The events of this decade served as background for The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, as it will be shown below.

STATEMENT OF THE PROBLEM

The third World Conference against racism, racial discrimination, xenophobia and related intolerance

In 1998, The United Nations General Assembly adopted a resolution¹¹ deciding to convene the Third World Conference Against Racism, which should occur in September 2001. In the path of the two previous conferences, this one was intended to galvanize and strengthen their decisions and also to coordinate efforts in the global fight against racism. As the focus of the Conferences of 1978 and 1983 were the apartheid issue, the new one would have a historical chance to address other issues, especially the ones arisen after the end of the Cold War, which showed the need of States to join forces in the fight against racism¹² and all other forms of discrimination in national and international arenas. The place chosen to hold the Conference

¹⁰ *Ibid.*, pp. 198-223.

¹¹ UN Doc A/RES/52/111.

¹² CAMPONOV, Christopher N. *The George Washington International Law Review*, p. 659.

was very appropriate, Durban, a city in a new South Africa, free of apartheid.

The third World Conference had a broadened agenda, with the inclusion of other issues, namely xenophobia and related intolerance¹³. Moreover, the Conference innovated in the sense that it not only would review the progress in the international fight against racism, but also proceed with a “*review of political, historical, economic, social and cultural and other factors leading to the scourge of racism, racial discrimination, xenophobia, and related intolerance*”¹⁴.

During the preparation process, several meetings were organized, and the more significant were the three preparatory meetings in Geneva, in which States discussed formal questions, such as the themes, the programme of work, the draft declaration and program of action and everything regarding the preparation of the Conference. In addition, four regional conferences were arranged, and each one discussed the main features of the debate in the regions¹⁵. Finally, five thematic expert seminars were held around the world, in 2000, to discuss the worrying themes at the time¹⁶. These meetings largely determined the character and course of the Durban Conference.

¹³ There is not an official definition about the meaning of this expression. It is known that the General Assembly used it to broaden the scope of the Conference, including issues that were not traditionally viewed as part of the racism and racial discrimination discussion, and, consequently, were not included on the legal definition of racial discrimination. See: ALVES, J.A. Lindgren. *Op Cit.* 15, pp.198-223.

¹⁴ CAMPONOV, Christopher. *Op. Cit.* 8, p. 667.

¹⁵ The four regional conferences were in: Strasbourg (Europe), focused on the questions of migrants, asylum-seekers, refugees, Roma people, religious intolerance and anti-Semitism; Santiago (Americas), focused on indigenous people, persons of African descent and migrants; Dakar (Africa), focused on slavery and colonialism; and Tehran (Asia), focused on Middle East issues, especially Palestinian Refugees and foreign occupation.

¹⁶ The five seminars were held: in Santiago de Chile, on economic, social and legal measures to combat racism with particular reference to vulnerable groups; in Addis-Ababa, on the Prevention of Ethnic and Racial Conflicts in Africa; in Bangkok, on migrants and trafficking in persons with particular reference to women and children; in Warsaw, on the protection of minorities and other vulnerable groups and strengthening human rights capacity at the national level and in Geneva, on remedies available to the victims of racial discrimination, xenophobia and related intolerance and on good national practices.

At the end of August 2001, the events started, with NGOs and Youth forums, both preceding the intergovernmental meeting. From 31 August to 8 September, States, NGOs, and other organizations convened in Durban, in a historic meeting of the global movement against racism. The main issues of the Conference were: trafficking in women and children, migration and discrimination, gender and racial discrimination, racism against indigenous people and protection of minority rights. The Conference was permeated by polemic moments, and with two days of delay, a Declaration and Programme of Action were adopted, reflecting governments' agreements on the themes¹⁷. Very important issues were addressed in the documents such as the role of education and the linkage between health conditions, poverty, criminality and justice, gender, migrants' rights and religion with racism. Also, other very controversial issues were tackled, including the question of Middle East, the past and its legacy, as well as the question of reparations and the grounds of discrimination¹⁸.

In fact, after difficult negotiations and discussions, and aside from some critics of developed countries, the Conference was considered “*a fresh start and a new road-map for the fight against racism*”¹⁹. Also, as Mary Robinson, the Secretary-General of the Conference said: “*Durban must be a beginning and not an end. There must be follow-up*”²⁰.

¹⁷ MARAN, Rita. *Social Justice*, pp. 177-185. It is important to comment that during the official adoption of the instruments, on the United Nations General Assembly, a consensus was not reached. Two States voted against – United States and Israel – and two abstained – Australia and Canada – during the voting procedures on the Declaration and Programme of Action.

¹⁸ Because of the discussion on Middle East, the delegations of United States of America and Israel abandoned the Conference, especially since the document adopted on the NGO forum was considered very harsh on the consideration of Israeli practices, and the resurgence of the idea of Zionism as racism.

¹⁹ President of the Conference, Nkosazana Dlamini Zuma, in her closing remarks. Available at: <http://www.un.org/WCAR/dh/index.html> (last visited on 17 March 2006).

²⁰ World Conference Against Racism, Daily Highlights, 8 September 2001. Available at: <http://www.un.org/WCAR/dh/index.html> (last visited on 17 March 2006).

The following session will analyze the most important issues discussed during the Conference, which are still questions of concern to the international community nowadays.

I. Questions tackled during the Conference

I.1. Minorities²¹

Due to globalization and the constant migrating flow of people across borders, which is a much more ancient phenomenon than the first, it is almost impossible to find a single ethnic or religious group in a given State²². Therefore, the Nation-State is increasingly being replaced by the multi-ethnic State. However, there are dominant groups in several countries today that attempt to impose their culture by mistreating other groups, the minorities.

It is important to note that a minority does not always represent a small number of the population, but represents the parcel of the population that suffers from social, economic or political disadvantages or that has less power than the dominant group. An example of this is the apartheid regime in South Africa, where the minority group was the black population, although they represented the majority of the population.

Minority groups suffer from different degrees of discrimination. In the most serious cases, as it is the Rwanda genocide or the war in Yugoslavia, the hate against minorities end up in ethnic cleansing, but there are also the milder cases, which are more present throughout the world, for example in parties and speeches against those minorities, racist acts and the lack of opportunities on daily life. In one level or another,

²¹ This session was based on *Multi-ethnic States and the Protection of Minority Rights*. Available at: <http://www.un.org/WCAR/e-kit/minority.htm> (last visited on 10 April 2006).

²² HELD, D. and MCGREW, A., GOLDBLATT, D. and PERRATON, J. *Op. Cit.* 8, pp. 283-326.

minorities are present in every country of the world, even if it is an ethnic, religious, sexual, gender or disabled minority. The minorities' question was one of the key issues on the Conference, since there are cases of abuses against it by nearly all societies, and a great deal of those abuses is faced with certain normality by most countries. Those abusive thoughts are entwined in the basic structures of societies and the isolation of the minorities' issues at the Conference was important to highlight it as a major form of discrimination.

1.2. Indigenous people

There is no consensus on the definition of the term "indigenous peoples", but the most used one is the definition formulated by the Special Rapporteur for the Sub-Commission on Prevention and Discrimination and Protection of Minorities Martinez-Cobo:

"Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems." ²³

Apart from the inexistence of an exact definition, the importance of indigenous peoples is something already attested,

²³ Available at: http://www.sdnbd.org/sdi/international_days/Indigenous-people/2004/indigenous_people/ (last visited on 12 February 2006).

for instance, in the Rio Declaration on article 22:

*“Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.”*²⁴

However, history tells us a different story about how indigenous peoples were treated during the colonization of America and Africa. Just to number a few cases of abuse, those peoples had their land taken, their resources used, their language and culture destroyed and were massively enslaved. In the following centuries, the image that the white people had of them was of inferiority. In order to be inserted in the western society, those people had to be totally disconnected from their native culture, otherwise they would not be treated as citizens, being often deprived from their rights. Nowadays, there are over 350 million people distributed in 5.000 indigenous groups spread over 72 countries on all five continents²⁵. Having its issue tackled during the Conference attest the will to fighting racisms and to elevate their culture and role within the modern society.

1.3. Migrants²⁶

Immigration is the act of crossing a national or administrative border for a minimum amount of time. People

²⁴ Available at: <http://www.unep.org/Documents.multilingual/Default.asp?DocumentID=78&ArticleID=1163> (last visited on 15 February 2006).

²⁵ Available at: http://www.lacult.org/lacult_en/pueblos/indice.php?pais=0 (last visited on 10 May 2006).

²⁶ This session was based on *Working Far From Home – Migration and Discrimination*. Available at: <http://www.un.org/WCAR/e-kit/minority.htm> (last visited on 10 April 2006).

immigrate for a great number of reasons. Their impetus can be economic, political, religious, professional, personal or even motivated by persecution or natural disaster. Nearly 80% of migrants included in these categories are workers, refugees and displaced persons. The fact is that 3% of the world population, which is 150 million people, lives outside of its native countries²⁷.

Racism against migrants is directed to both migrant workers and refugees. The workers from other countries are held responsible for the unemployment of natives and other social problems such as drugs, violence and crime are also attributed to them.

What is not seen is how the work force of migrant workers contributes to a country. They both inject money into the economy, as new consumers, and are, in the majority of the cases, a very cheap labor force, doing unqualified work that could not be so easily done by natives. Underpaying those workers and offering them an inferior working place are also forms of abuse. Another important phenomenon for world economy is the remittances that migrant workers send back to their home countries. According to the International Monetary Fund, the world petroleum exports alone are superior to remittances in international monetary flows.

Having the migrant issue discussed on the Conference was a key element on improving the image of migrants and also stressed their problems abroad and the burden they have to carry due to racism, as they are treated as Pandora, who opened the box that spread all the misfortunes of mankind.

I.4. Women²⁸

²⁷ *Ibid.*, Available at: < <http://www.un.org/WCAR/e-kit/minority.htm>>. (last visited 10 April 2006).

Since the creation of the United Nations, some instruments concerning women's rights have been adopted by the UN and other organizations. The most important treaty for gender equality is the Convention on the Elimination of all forms of Discrimination against Women, adopted in 1979. However, the adoption of instruments and the progressive awareness of women's rights were not enough to put an end to gender discrimination.

It is more difficult for women to achieve a good educational level, especially in some regions of the world. 2/3 of illiterate adults are women, and, generally, they earn less than men to execute the same tasks²⁹. Indigenous and immigrant women have even less opportunities, and are generally confined to the informal sector exercising low-paid jobs. They also have less access to health care and justice, which excludes them from the full exercise of their rights.

During armed conflicts women from certain groups are subject of abuse and rape, and some of them are also kept as sexual slaves³⁰. They are also more vulnerable during these periods, as they have to take care of children and elderly people, and some times are obliged to leave their homes, becoming internally displaced persons or refugees, very severe conditions for a human being³¹.

A dimension that had not been well explored until the Durban Conference, was the question of double discrimination, which occurs when a women is not only discriminated by her gender, but also for other characteristics, such as race, religion, nationality, etc³². This intersection is responsible for lowering the

²⁸ The information about women was based on the text At the Crossroads of Gender and Racial Discrimination, Available at: <http://www.un.org/WCAR/e-kit/gender.htm> (last visited on 15 february 2006).

²⁹ *Ibid.*, Available at: <http://www.un.org/WCAR/e-kit/gender.htm>

³⁰ OHCHR. *Dimensions of Racism*. Proceedings of a Workshop to commemorate the end of the United Nations Third Decade to Combat Racism and Racial Discrimination, p. 179-180.

³¹ *Ibid.*, p. 183.

rates of women's employment and educational opportunities, health access and for leaving them in a situation of poverty. In fact, 70% of people living in poverty are women³³.

The Durban Conference was very important for discussing the situation of women worldwide, including the innovation of the consideration of double discrimination in the international arena, an essential question in the debate on gender equality.

1.5. Trafficking in women and children

Trafficking in human beings is the act of recruiting, harboring, obtaining and transporting people against their will (either by force, fraud or coercion) in order for them to perform involuntary acts, such as prostitution, begging, involuntary work in sweatshops, domestic servitude or manual labor. More often than not, trafficking in people is the trade of human beings and their use by criminals to make money. Many consider it the modern form of slavery³⁴.

The most usual victims of human trafficking are women and children, who are seduced by new opportunities in a wealthier country and more easily coerced after they are tricked into false promises of job or marriage opportunity. About 83% of the victims of human traffic are women, and 48% are under 18³⁵. Those women and girls become commodities of a very profitable industry dominated by highly organized criminal groups.

In such a filthy business, racial, ethnic and gender discrimination takes place, once the weaker and less empowered

³² *Ibid.*, p. 180.

³³ *At the Crossroads of Gender and Racial Discrimination*, Available at: <http://www.un.org/WCAR/e-kit/gender.htm>.

³⁴ GOMES, Juliana & PEREIRA, Liliane. *Uniting people, Uniting Peoples: Americas Model United Nations*, p. 229-252.

³⁵ *Ibid.*, p. 229.

ones have a more cruel and abusive treatment. Some ethnic groups are more subjected to be trafficked and to be more battered than others. As shown above, women represent the majority of victims in this business, but migrants and people whose countries are in conflict also figure in the hall of most usual victims.

1.6. Unsolved questions and new concerns

After Durban, once more the international community realized that the combat against racist practices is constant and takes a long term to be reached, thus it is necessary to keep a periodical follow-up mechanism that monitors and analyzes the advances of the question around the world. To provide this demand, several mechanisms have been established under the United Nations³⁶, which are trying to create comprehensive measures and new approaches that must be taken to answer those threats³⁷.

The struggle against terror, including manifestation in political platforms, has increased prejudice and discrimination against Arabs and Muslims, among others³⁸, throughout the world following the tragic events of September 11th, 2001. Following the adoption of strict measures motivated by “security threats”, the legitimate struggle against terror has undermined the protection of human rights and has led to a growing acceptability of traditional forms of racism³⁹. It is also important to emphasize that restrictive policies, as well as racist and xenophobic actions, against migrants and asylum seekers,

³⁶ The principal mechanisms are: Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Working Group on the effective implementation of the Durban Declaration and Programme of Action; Working Group of Experts on People of African Descent; and Group of Independent Eminent Experts.

³⁷ See: http://ap.ohchr.org/documents/dpage_e.aspx?m=92 (last visited on 18 March 2006).

³⁸ UN Doc E/CN.4/2006/17.

³⁹ These practices including Islamophobia, Christianophobia and Anti-Semitism.

have been more widely pretreated since the terrorist attacks of 2001, sometimes on an apparently discriminatory basis. This new ideological environment has led to the designation of categories of people that can be considered potential terrorists - that is, the identification of certain cultural and/or religious groups that are nowadays perceived as a terrorist risk.

In the same direction, the growth of nationalist political platforms in Europe has been increased by the struggle against terror and the presence of immigrants in those countries. These restrictive platforms undermine the concept of a pluralistic representation of groups within a society, stimulated by the integration process through the European Union. What was novel about this trend is not the existence of such platforms, but their gradual assimilation by democratic parties⁴⁰.

Furthermore, currently, with the Internet, the diffusion of racist ideas is easier than ever, as the system of information is free and has reached almost every part of the world. The Special Rapporteur on contemporary forms of racism has appointed the Internet as a dual role vehicle regarding racism and discrimination⁴¹. It can play a positive role in disseminating information to combat racism, but it can also be used to disseminate racist information. The Internet has brought contradictory principles relating to the right to freedom of expression and privacy and the anti-racism principles laid down in international legal instruments. There is still no consensus on the best way to use the Internet to combat racism⁴². The resurgence of racist violence by neo-Nazi groups in America and Europe is eased by the use of the Internet and it is motivated by nationalistic ideas.

A further setback in the struggle of racism is the intellectual

⁴⁰ UN Doc E/CN.4/2006/54.

⁴¹ See, i.e., E/CN.4/2005/18 and E/CN.4/2006/16.

⁴² Available at: www.un.org/News/Press/docs/2004/gashc3798.doc.htm (last visited on 17 March 2006).

legitimization of racism. The racism combat is less in the scope of normative measures and more in the scope of culture and knowledge production. Unfortunately, the intellectual community has legitimated racist ideas not only through the media, but also in works of literature, aimed at explaining the characteristics of some groups and their contribution to a specific society⁴³. Finally, some new practices are arising, such as the perpetration of racist incidents against foreigners during sports practices, especially during soccer matches. Another trend is the increasing number of speeches against immigrants, foreigners and asylum-seekers that have become increasingly popular. An alarming incident occurred in France, in 2005, when riots and violent clashes involving young people, called the attention of the world and led to a fruitful debate about immigrants and their integration in other societies. This happened after the death of two adolescents of Arabic origin, when many French youngsters with a foreign origin started a wave of protests in a desperate attempt to fight social exclusion and to request better life conditions⁴⁴.

After Durban, some practices that had already been considered eradicated have resurged and spread very fast. In this way, there is a necessity to revise the strategies previously proposed by all members of the international community towards the full implementation of the Durban Declaration, in global, regional, and sub-regional levels.

PAST UN ACTIONS

This session will highlight some United Nations measures

⁴³ See UN Doc E/CN.4/2006/16

⁴⁴ See more informations at: <http://www.cnn.com/2005/WORLD/europe/11/08/france.riots/index.htmlh> 2006).

and initiatives made, after the Durban Conference, to achieve a successful implementation of the Durban Declaration and Programme of Action.

Several mechanisms have been established inside the United Nations' Human Rights structure. After the Conference, the Office of the United Nations High Commissioner for Human Rights (OHCHR) established an Anti-discrimination Unit that has as main activity to support the mechanisms established to follow-up the Durban Conference. These mechanisms are the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the Independent Eminent Experts, Working Group of Experts on People of African Descent. The Anti-Discrimination Unit also works with technical cooperation and gives small grants to NGOs which deal with the matter⁴⁵.

The Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action⁴⁶ was established in 2002 by the UN Commission on Human Rights⁴⁷. This open-ended⁴⁸ working group has the mandate to make recommendations and prepare complementary international standards on racism and racial discrimination, in order to improve international standards. It has a twofold work: thematic discussions, it has already discussed the influence of internet, globalization, health, education and poverty⁴⁹ on racism; as well as the preparation of high-level and regional seminars.

Created in 2003 in accordance with Durban Programme

⁴⁵ UN Doc E/CN.4/2004/20.

⁴⁶ See: <http://www.ohchr.org/english/issues/racism/groups/> (last visited on 24 March 2006).

⁴⁷ UN Doc E/CN.4/2002/68.

⁴⁸ An open-ended working group means that all United Nations Member and Observer States, inter-governmental organizations, non-governmental organizations with ECOSOC consultative status and non-governmental organizations can participate on public meetings of the group.

⁴⁹ UN Doc E/CN.4/2002/68.

of Action⁵⁰, the Independent Eminent Experts' group is composed of five members, one of each region of the world, with recognized experience and commitment to the combat of racial discrimination⁵¹. They have a very special task, to follow the implementation of the Declaration and Programme of Action and to support OHCHR on the assessment of current standards and instruments in a view of improving them. In this way, one proposal is the creation of a "Racial Equality Index", similar to the "Human Development Index" of United Nations Development Programme. This index would measure the existence of racial inequalities, addressing "causes and manifestations of racial discrimination in a society"⁵², although it is seen as a very complex task, as a methodology and the consideration of other delicate questions must be further discussed.

Furthermore, the UN Commission on Human Rights established The Working Group of Experts on People of African Descent, which was created by resolution 2002/68, as requested by Durban Programme of Action⁵³. The group was created in order to promote a victim-oriented approach, addressing the problems of racial discrimination suffered by people of African descent, such as employment, health and housing. They also emphasize the need of government analysis of disaggregated data, which show the inequality among social groups, especially racial inequalities, in a way to provide appropriate measures to solve them⁵⁴.

The Special Rapporteur on Contemporary forms of racism, racial discrimination, xenophobia and related intolerance has been working since 1993, making country visits, studying and considering the causes and consequences

⁵⁰ Par. 191 (b).

⁵¹ UN Doc E/CN.4/2004/112.

⁵² UN Doc E/CN.4/2005/17.

⁵³ Par. 7.

⁵⁴ See UN Doc E/CN.4/2003/21, E/CN.4/2004/21 and E/CN.4/2005/21.

of contemporary manifestations of racism. He can also receive individual complaints about urgent situations⁵⁵. His thematic studies have been considered very important, especially after 11 September 2001, in which new forms of racism have been arisen in many parts of the world⁵⁶. He devoted his attention to problems like the situation of Muslim and Arab peoples in various parts of the world, the incompatibility of racism with democracy and the question of political platforms which promote or incite racial discrimination. In his reports, he has stressed the alarming resurgence of some forms of racism, reflecting a major regression in democratic progress, and the need of the promotion of cultural pluralism⁵⁷.

The Committee on the Elimination of Racial Discrimination (CERD) is a body that monitors the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. Therefore, it has one of the most important works on the advancement of the elimination of racism. Since its establishment, in 1970 by SHC, CERD has analyzed many questions, from apartheid to indigenous people, Roma and other groups that suffer discrimination. Through its General Recommendations, it developed new standards on the discussion, sometimes, along with other procedures, such as early warning and urgent action. Finally, article 14 of the Convention confers the Committee the possibility of receive individual and group complaints against States⁵⁸.

To reach the goals established on the Conference, several United Nations bodies and specialized agencies are working together, trying to achieve a coherent strategy of action in the

⁵⁵ UN Doc E/CN.4/RES/1994/64.

⁵⁶ See: <http://www.ohchr.org/english/issues/racism/rapporteur/index.htm> (last visited on 09 April 2006).

⁵⁷ See, i.e UN Doc E/CN.4/2006/17, E/CN.4/2006/54, E/CN.4/2001/60 and E/CN.4/1996/672.

⁵⁸ Although 169 States have ratified ICERD, only 43 made a declaration accepting this last provision.

combat against racism and racial discrimination. UNESCO⁵⁹ has some historic initiatives on the area, including researches about issues related to racism, such as extreme nationalism, ideologies of intolerance and the impact of racism on education. In 2003, UNESCO⁶⁰ adopted a new Integrated Strategy to Combat Racism, Discrimination, Xenophobia and Intolerance, as a result of Durban Conference. This strategy has brought some new approaches and priorities to the organization in its fight against racism. Moreover, UNAIDS has been studying the relation between racism, poverty and HIV/AIDS⁶¹.

Other agencies and bodies are also important in the combat of racism. The United Nations High Commissioner for Refugees (UNHCR), in its mandate to protect refugees and asylum-seekers, has promoted some initiatives to avoid discrimination against these populations, including legal counseling. It has also produced some publications on the issue⁶². UNODC, UN-HABITAT, WFP, UNICEF, UNDP, WHO, UNIFEM⁶³ and, virtually, all bodies that have a mandate related to social issues have developed strategies to include equality, multiculturalism and inclusion of minorities in the objectives of their policies and programmes.

Finally, it is important to emphasize that it is not only the United Nations system that is involved in the implementation of Durban Declaration and Programme of Action. Several regional organizations, national human rights institutions and non-governmental organizations are fully committed with the achievement of a better situation for minorities, foreigners,

⁵⁹ United Nations Educational, Scientific and Cultural Organization.

⁶⁰ See: www.unesco.org/shs/againstdiscrimination (last visited on 09 April 2006).

⁶¹ UN Doc A/60/307.

⁶² UN Doc A/59/375.

⁶³ Respectively, United Nations Office on Drugs and Crime, United Nations Human Settlements Programme, World Food Programme, United Nations Children's Fund, United Nations Development Programme, World Health Organization and United Nations Development Fund for Women.

women, and other groups that are victims of racism and racial discrimination.

PROPOSED SOLUTIONS

Since the international fight against racism started, many solutions and propositions have appeared. Some of them are still interesting and others have been replaced by fresh ideas. Thus, the aim of this section is just to show some guidelines to the discussions and debates on the committee.

The basic assumption on the fight against racism, racial discrimination, xenophobia and related intolerance is that States have the basic responsibility to effectively combat them. This can be done through various means. The most common is through legislation adoption: almost every country in the world has already recognized the rights of minorities and other groups, as well as the condemnation of racism and the prohibition of discrimination.

The creation of national institutions, especially human rights institutions are also very valuable to promote the insertion of the groups, to help them have their rights guaranteed and respected by the other citizens, as well the provision of remedies and compensations to people that have suffered discrimination. The promotion of specific public policies and governmental programs are also very interesting, making sure that an environment of equality and non-discrimination is created. One of these mechanisms are affirmative actions, through which individuals belonging to minorities have some incentives, such as scholarships, special vacancies at universities, courses, progressive taxation and other initiatives, to help individuals from such groups to have equal conditions of getting a job and achieving a good educational level. In addition, States should review their immigration policies, so that migrants, asylum-

seekers and refugees do not suffer discrimination inside the foreign country.

It is broadly recognized that the best way to fight racism is with educational measures. A rights based education, with the inclusion of all groups represented in a society, can help to destroy racial prejudices. However, the educational system can also be very efficient to facilitate the perpetuation of racism, racial discrimination, xenophobia and related intolerances⁶⁴. The educational system must also ensure the respect for cultural traditions, different languages and historical visions, in a real attempt to create an atmosphere of cultural diversity and tolerance.

The Internet and other forms of media also have a prominent role on the fight against racism. It is a very powerful tool to create awareness about the various dimensions and sides of the problem, stimulating the debate, also being an important tool to spread information on the issues. Nevertheless, it can be very dangerous, as there are some web sites, journals, etc, which promote “hate speeches”, thus, States must have a special concern when addressing them.

Finally, in the domestic level, we can not forget that, besides the adoption of legislation and creation of judicial guarantees to punish discrimination crimes, the political will of every politician, in fact, of every human being, must exist. The long way until the elimination of racism can only be covered and achieved with the cooperation of every person, alongside with the investigation of the sources, causes and manifestations of racism in every society.

In the international level, a big challenge is the implementation of the instruments that already exist. In Durban, a compromise was made to achieve universal ratification of the International Convention on the Elimination

⁶⁴ See UN Doc E/CN.4/2004/20, p. 8.

of All Forms of Discrimination by 2005. However, this has not been accomplished, the reservations have neither been released nor has the individual complaint mechanism been universally accepted. Some specialists talk about the need of additional standards, principally to include other dimensions of the questions, such as multiple discrimination as a way to address the several components of the problem⁶⁵.

Therefore, the international community must achieve better coordination, through exchange of information, best practices and cooperation among the United Nations, regional organizations and non-governmental organizations in order to effectively deal with the principal questions regarding racism and discrimination. Some polemic initiatives are also advocated: as poverty is a cause and also a consequence of racism, ways of achieving a more equal international arena should be stimulated, for instance, through debt relief initiatives⁶⁶.

The Durban program of action tackled many of these issues. It was a starting point for further actions aiming at the elimination of racism, racial discrimination, xenophobia and related intolerance. Nevertheless, new expressions of racism have been arising, and the international community must be ready to successfully fight them.

BLOC POSITIONS

There is a general agreement about the importance of the fight against racism, with the condemnation by the international community of racist past events such as colonization, slavery, apartheid and minorities persecution, as the Holocaust. Many colonized countries have discussed the possibility of

⁶⁵ OHCHR.*Op. Cit.* 33, pp. 1-12.

⁶⁶ *Ibid.*, p. 11

compensatory measures by historical acts caused by colonialist countries; however, these countries understand that there is no right, under international law, for acts that were not illegal at the time they occurred. Thus, the discussion about racism heritage has been focused in the advancement of the Programme of Action, to develop a fairer society by internal policies.

As the main actor in the implementation of anti-racist measures is the State, it is very important to analyze their practices, particularly the ratification of treaties and national implementation of measures to combat racism, such as educational measures, the question of administration of justice and the rule of law regarding different groups. Also, the existence national policies of inclusion, such as affirmative actions are very important to understand States' views on the matter.

The division of countries on the world is very multifaceted, as the importance of the past is essential on the fight against racism discussion. Countries that have a big amount of African descent are searching for ways to prompt the inclusion of this people, including through reparations. States with minority groups, such as indigenous people in Latin America, have a very delicate position in discussing such themes. In addition, another controversial point is the discussion of the caste-based discrimination in India⁶⁷.

African countries have demanded particular measures against racism, as their position is very sensible due to the artificial boundaries imposed by European colonialism and imperialism what exacerbated ethnic conflicts in the continent. Furthermore, some problems that intensify the discriminatory practices are related to poverty and the HIV/AIDS epidemic⁶⁸.

Furthermore, a very hot question that creates deep

⁶⁷ UN's *World Conference on Racism*, 2001. Available at: <http://www.globalissues.org/HumanRights/Racism.asp> (last visited on 10 April 2006).

⁶⁸ Seminar of experts for the African region – Nairobi, Kenya.

divisions is the one of the Palestinian people, an essential question, particularly for Arab and Muslim States. In addition, the discussion regarding racism and discrimination was further aggravated after 11 September 2001, as developed countries modified their migration policies, creating a new xenophobic wave in Europe and United States, with strict policies not only against migrants, but also against asylum-seekers and refugees.

Regarding women's situation, some countries, due to religion and cultural traditions, especially in Africa and Middle East still have discriminatory policies and practices against women and girls. Political and Civil rights are denied to them, and in some regions, this is aggravated by poverty and lack of access to education. These last economic reasons lead to a phenomenon that is spread worldwide, trafficking in women and girls, especially to Europe and rich States in Asia.

Finally, there is the question of multiple discrimination and related intolerance, such as the question of sexual orientation, a topic that is not a priority in the discrimination discussion, but is essential to be addressed in order to achieve complete solutions to the discrimination problem.

QUESTIONS A RESOLUTION MUST ANSWER

During the Committee's debate, some different issues and questions will arise, and the resolution to be approved will probably have to tackle them. In this section, we will illustrate some important questions that can guide the production of a Resolution:

- Which measures taken after the Durban Conference were effective to eliminate racism, racial discrimination, xenophobia and related intolerance from the world?
- What States, international and regional organizations,

non-governmental organizations, the civil society and the United Nations can improve in their actions to achieve appropriate and concrete measures to eliminate racism, racial discrimination, xenophobia and related intolerance?

- Which are the contemporary forms and manifestations of racism, racial discrimination, xenophobia and related intolerance?

- Who are the main victims of racism, racial discrimination, xenophobia and related intolerance and which measures should be taken to address their situation?

- Which concrete measures can be taken to eradicate racism, racial discrimination, xenophobia and related intolerance?

- Which initiatives can be launched in order to prevent racism, racial discrimination, xenophobia and related intolerance?

- Is it possible to adopt remedies and compensatory measures to promote effective equality among individuals?

FINAL REMARKS

As the reports of States and the media show, the amount of hate crimes, intolerance, xenophobia, restriction on immigration, and on certain human rights guarantees to certain groups, is still growing. Thus, even though the continuous debate and initiatives to fight racism has not been idle, there are still many things to be done in order to achieve the dreamed equality and non-discrimination that every human being in the planet deserves.

Besides the fact that racism and racial discrimination were the human rights issues that have been most addressed by States, and that much advancement has been achieved, the initiatives of the international community must be refreshed. It

is necessary not only to address and solve old problems, but also incorporate new and unexplored dimensions, such as gender, health, employment, migration, sexual orientation, and so forth.

The challenges that racism imposes to the world are very old, and the only way to solve these problems, as said by Mr. Doudou Diène, Special Rapporteur on Contemporary forms of racism, racial discrimination, xenophobia and related intolerance, is “through recognition of the mutual influences that exist and have existed among cultures, civilizations and spiritual traditions”. Only a change of values, by governments and the civil society, to achieve the respect of differences and promote tolerance and rights-based education can put an end to the scourge of racism, racial discrimination, xenophobia and related intolerance in the world.

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PROTECTION OF THE RIGHTS OF DETAINEES IN THE CONTEXT OF FIGHTING TERRORISM

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“Our responses to terrorism as well as our efforts to thwart it and prevent it should uphold the human rights that terrorists aim to destroy. Human rights, fundamental freedoms and the rule of law are essential tools in the effort to combat terrorism – not privileges to be sacrificed at a time of tension.”¹

INTRODUCTION

After the terrible attacks of September 11th, 2001 in the United States, and other attacks in many parts of the world, States have sought new strategies to combat terrorist

¹ United Nations Secretary-General Kofi Annan, addressing the Security Council Counter-Terrorism Committee, on 6 March 2003.

organizations in the world. These operations have included the search for terrorism's suspects and the following detention of some of these individuals.

The detentions have been occurring since 2001, and there have been some legal controversies about the legal standards used by States for the treatment of these individuals in detention. In this context, some disrespects to international law are going on, for example the occurrence of disappearances; torture and other forms of ill treatment; inadequate and degrading conditions of detention; and, particularly, the disregard for judicial guarantees². It is also of major concern the amount of detainees who are being held abroad, some of them are also being held incommunicado at undisclosed locations, apparently outside any legal framework, denying the application of legal guarantees which are generally accepted by domestic and international law³.

Persons deprived of their liberty, are never in a juridical "black hole" ⁴. This paper aims to present the main points of this discussion: the historical background preceding and affecting the issue, the principal concerns nowadays, such as their status, the rights which they hold, the situation of detainees in the context of fighting terrorism, the possible solutions to this situation and how States and the international community are dealing with the question.

It is important to emphasize, also, that is not only the United States that have custody of detainees in the context of fighting terrorism, other members of the Coalition forces and third States have some individuals in their detention centers as well.

The United Nations, specially the General Assembly

² AESCHILIMANN, Alain. *International Review of the Red Cross*, p. 108.

³ BORELLI, Silvia. *International Review of the Red Cross*, p. 41.

⁴ *Ibid.*, p. 68.

through the SHC, has a major role to play in this question, which has not yet been appropriately addressed by the organization, by promoting international cooperation and collaboration within governments, in order to reinforce the rights of detainees and prevent their violations by members of the international community.

HISTORY AND FRAMEWORK OF THE QUESTION

Terrorist acts are part of the history of mankind, and since its beginning such acts are firmly condemned and the perpetrators are prosecuted for their crimes. Although in the 20th century, the international community developed some legislation against these acts, the last 100 years carry plenty of examples of terrorist acts⁵. In 1914, the killing of Archduke Franz Ferdinand was illustrated how history can be changed by terrorist acts.

Regarding terrorist acts against civilians, since the 1970's some groups have been practicing such acts, in the hope to call attention to their pledges. They sprang up in Arab States, in a protest against the situation of Palestinian people. In the wars of national liberation, also, these methods were largely employed⁶.

But the decisive event that put terrorism again on the spot was the destruction of the World Trade Center towers and part of the Pentagon, in 2001, by terrorists that hijacked airplanes in the United States⁷. After this episode, the international concern on the issue has risen incredibly fast and all the attention of the world turned to States affected by terrorist acts. As afore

⁵ GASSER, Hans-Peter. *International Review of the Red Cross*, p. 547.

⁶ Ibid., p. 548.

⁷ Ibid., p. 548.

mentioned, it has also raised the concern on how States have been dealing with terrorist acts suspects.

The treatment of detained people throughout history had not been subject of legislation or other considerations until the end of the 19th century. In ancient times, prisoners of war were generally enslaved, if not killed or mutilated. They were considered prisoners of individual captors and not of the State. This situation just began to change in the 17th century, when some humanitarian rules were created in bilateral agreements to the treatment of prisoners.

Codified norms applicable to detainees were basically developed in the 20th century. In the field of International Humanitarian Law, The Hague Conventions of 1899 and 1907 were the first instruments that required human treatment to prisoners of war. However, they lacked in precision and efficient provisions. To solve this, after the experience of the First World War, the 1929 Geneva Convention on Prisoners of War⁸, the first specific convention on the matter, was adopted. Its main innovations were the definition of the status of prisoners, of living conditions, the establishment of some protection against violence, the prohibition of reprisals and of collective penalties and the organization of prisoners work⁹. Nevertheless, the benchmark on the protection of detainees in armed conflicts was brought about in 1949, with the Third Geneva Convention on Prisoners of War, which replaced the last Convention, and is applicable to international and non-international armed conflicts. Finally, the Protocols additional to the Geneva Conventions specify the minimum rules for the treatment of prisoners¹⁰. Each treaty further developed International Humanitarian Law, adding new provisions and adapting them

⁸ AESCHILIMANN, Alain. Op. Cit. 2, p. 108.

⁹ SCHINDLER, D. & TOMAN, J. The Laws of Armed Conflicts, pp.341-364.

¹⁰ AESCHILIMANN, Alain. Op. Cit. 2, p. 86.

to the reality of conflicts at the time, specially the question of the conduction of hostilities.

Under Human Rights Law, the first international document regarding detainees' rights was the Universal Declaration of Human Rights, of 1948, a paramount instrument in the area. The Declaration has some articles about the rights of detainees, including the rights of no-discrimination and equal protection by law; not to be arbitrarily arrested, detained or exiled; to have the right to a fair and public hearing; to be presumed innocent; freedom of movement; etc¹¹.

After the declaration, the treatment of detained persons has been on the spot again since the 1960's, with the adoption of the International Covenant on Civil and Political Rights (ICCPR)¹², in 1966, which developed and specified the rights contained on the Universal Declaration. Moreover, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) and the Convention on the Rights of the Child (1989) are also very important, as they developed specific norms to certain groups of people and the express prohibition of torture and other ill treatments to detainees. Although these instruments protect the right to personal liberty, they were not particularly developed to protect people deprived from their liberty.

In this area, there is not a specific treaty about detainees, but some non-binding texts, adopted on the framework of the United Nations. The first one was the Standard Minimum Rules for the Treatment of Prisoners¹³, which "*represents (...) the minimum conditions which are accepted as suitable by the United Nations*"¹⁴. Afterwards, other instruments were adopted

¹¹ Articles 7,8,9,10,11,13,14,18,19,20 and 21 are all related to the question.

¹² Articles 9,12,14,18,19,21,22,25,26 and 28 are specially related to the question.

¹³ Adopted at 30 August 1955, by the First United Nations Congress on the Prevention of 14 Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, annex I. Preliminary observations, article 2.

by the United Nations, such as the Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment (1988), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“the Beijing Rules”, 1985) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990). These instruments are the universal points of reference on detention and prison matters, guaranteeing that detainees will not suffer any form of discrimination, will not be submitted to torture or other cruel, inhumane or degrading treatment; will not be subject of medical or scientific experimentation; will be respected for their dignity and will have the guarantee of due respect of the law and so forth¹⁵.

Some professional codes of conduct were also established¹⁶, and many regional organizations, non-governmental organizations and other institutions are likewise concerned with the situation of detainees in the world, especially after 2001 and the growth on arbitrary detentions related to the struggle against terrorism.

STATEMENT OF THE PROBLEM

“War on terror”

The “War on terror”, term used by the United States and some of its allies, refers to operations by these States against transnational terrorist organizations, not only within their territory, but also outside their national borders, with the consent and cooperation of third States¹⁷. From the viewpoint

¹⁵ AESCHILIMANN, Alain. Op. Cit. 2, p. 107.

¹⁶ For example, medical ethics to health workers in protecting prisoners and other detainees. See: AESCHILIMANN, Alain. Op. Cit. 2, p. 87.

¹⁷ BORELLI, Silvia. Op. Cit. 3, p. 40.

of international law, all activities against terrorism as a whole cannot be considered a “war”¹⁸. In fact, there are two kinds of operations taking place. The first one can be characterized as international armed conflicts, namely, the conflicts in Afghanistan and Iraq. The other categories of operations are of law enforcement on an international scale, against a transnational criminal organization¹⁹. These operations, in fact, do not constitute a “war”, solely being a rhetorical use²⁰, as these operations are, in fact, a multi-faceted counter-terrorism campaign, with the involvement of military forces and law enforcement agencies of various States, and with operations of a transnational character²¹.

This distinction is essential if the detentions that are carried out in international armed conflicts as well as those carried out in law enforcement operations are to determine the status and future of detainees. Individuals captured in armed conflicts can be granted with the Prisoner of war (POW) status, as, not only international human rights law is applicable to them, but, specially, international humanitarian law, which is fully applicable in the case of armed conflicts²². For the second situation, it is international human rights law, criminal law and domestic law that are applicable²³.

¹⁸ The Geneva Conventions do not define the concepts of international and non-international armed conflicts. However, there are some characteristics that are considered essential to define an armed conflict: as the operations of the “war on terror” involve various countries, they can not be considered as a non-international armed conflict. In the same way, an international armed conflict is generally characterized by the involvement of groups territorially defined, which means that only States can take part in an international conflict. See: MCDONALD, Avril. *Defining the War on Terror and the Status of Detainees: Comments on the Presentation of Judge George Aldrich*. *Humanitäres Völkerrecht – Informationsschriften*, v. 4, 2002. p. 206-209.

¹⁹ BORELLI, Silvia. *Op. Cit.* 3, p. 46.

²⁰ The use can be comparable with other international actions such as the “war” on drugs, “war” against poverty and “war” against AIDS.

²¹ *Ibid.*, p. 46.

²² *Ibid.*, p. 46.

²³ The United States has taken the position that no detainees are entitled to prisoner of war status in the Afghanistan conflict: nor the Taliban or members of Al Qaeda. All of them were

Regarding terrorism, although there are some conventions and other documents about it, none of them provide an internationally accepted definition of “terrorism” or “terrorist acts”. Negotiations on a comprehensive Convention on International Terrorism are in course, but they are very slow and complicated, especially because of the definition of terrorism²⁴.

Detention and international law

Detention in itself is not a violation of human rights, although international law has defined limits, and beyond them detention would become arbitrary²⁵, and consequently, unlawful.

The term detention was not defined in any international treaty, which led to different interpretations of the term. Besides this fact, the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment²⁶, states in the section entitled “Use of terms”:

(...) “ *‘Detained person’ means any person deprived of personal liberty except as a result of conviction for an offence;*

considered “unlawful combatants”, without any rights under Geneva Conventions. In Iraq, the position was different: Iraqi citizens detained were considered prisoners of war, some non-Iraqi citizens were not entitled the rights under Geneva Conventions, and the possibility of transfer them to other countries to facilitate interrogation was opened. Regarding detainees captured outside the conflicts of Afghanistan and Iraq, as a result of law enforcement operations, no statement was made by the United States government. For more information see: BORELLI, Silvia. Op.Cit. 3, p. 41.

²⁴ The only attempt to elaborate a comprehensive treaty was in 1937, under the League of Nations. There are nowadays 13 International instruments about specifics aspects of terrorism. In fact, it is very difficult to define it, as terrorist acts changes with the time. See RONA, Gabor. Interesting Times for International Humanitarian Law: Challenges from the “War on Terror”. The Fletcher Forum of World Affairs, v. 27, n. 2, p. 61, summer/fall 2003 and GASSER, Hans-Peter, Op. Cit. 5, p. 550-554.

²⁵ OHCHR Fact Sheet n. 26, The Working Group on Arbitrary Detention. Available at: <http://www.ohchr.org/english/about/publications/docs/fs26.htm>, (last visited on 10 February 2006).

²⁶ Adopted by General Assembly resolution 43/173 of 9 December 1988.

(...)

(d) 'Detention' means the condition of detained persons as defined above; (...)”.

This definition means that a detainee is someone that has not yet been judged and convicted for the offences that he/she is accused of, and because of this, some rights are stipulated, such as the writ of habeas corpus, right to amparo, etc²⁷.

Protection granted by international humanitarian law and human rights law

I. International humanitarian law

The Geneva Conventions are seen by the international community as the principal instruments applicable during armed conflicts. They are international treaties designed to protect war victims, and each Convention protects a special category of people: the wounded and sick on land, on the sea, prisoners of war, and civilians²⁸.

The respect to international humanitarian law imposes respect to certain rules on the treatment of detainees, but does not pose it as an obstacle to effective terrorism combat. Therefore, a captured criminal must be dealt in accordance to the third and/or fourth Geneva Convention, and the 1977 Additional Protocols I and II, especially when regarding the detention regime.

Amidst the laws that apply on armed conflicts, it can be found, according to the Third Geneva Convention of 1949, that members of armed forces captured and detained by the

²⁷ ZAYAS, Alfred de. International Review of the Red Cross, p. 17.

²⁸ Coalition members have adopted different views regarding the applicability of Geneva Conventions on the conflicts in Afghanistan and Iraq. See: BORELLI, Silvia. Op.Cit. 3, p. 41.

adverse party as prisoners of war must be treated in conditions under which humane treatment is ensured to them, any form of violence or life threat to their person being forbidden, which may otherwise configure severe breaches of the Prisoners of War Convention, and thus, war crimes. Special attention is given to the conditions under which the detainees are interrogated: *“no physical or mental torture, nor any other form of coercion may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind”*²⁹.

POW status is a major concept, not only in the juridical statutes, when related to a person captured by a hostile State, but also in relation to the treatment this person benefits from. This status should be regulated in accordance to the second section of article 5 of the Third Geneva Convention³⁰, which can be contested only if there are strong reasons for a detainee not to fit into the classical definitions. According to article 5 of this Convention, only a competent tribunal can determine the status of the detainee, and this tribunal does not necessarily have to be a judiciary tribunal.

During international armed conflicts, lawful combatants, if captured, have the conditions to configure POWs³¹. In fact, there is a growing consensus that other detained persons would receive protection under the fourth Geneva Convention³². Nevertheless, regardless of what they are called, all combatants

²⁹ Geneva Convention Relative to the Treatment of Prisoners of War (the Third or Prisoners of War Convention), Article 17, § 4.

³⁰ “Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.”

³¹ Article 4 of the third Geneva Convention specifies the categories of combatants that are granted with prisoner of war status.

³² ZAYAS, Alfred de. Op. Cit. 25, p. 21.

are entitled to human treatment when captured by enemies³³.

Another explanation that must be done is about the category of “unlawful” or “enemy” combatant. They are persons believed to belong to, or believed to be associated with terrorist groups, regardless the circumstances of their capture³⁴. In these cases, the Third and Fourth Geneva Conventions are not applicable³⁵, but domestic and international human rights law provide guarantees for detainees in relation to treatment, conditions and due process of law.

Finally, it is essential to clarify that even during armed conflicts, international human rights law is applicable, and that the existence armed conflicts does not justify the suspension of its guarantees³⁶.

2. Human rights law

³³ Those not protected by third or forth Geneva Conventions, are protected by customary international law, as reflected in Article 75 of Additional Protocol I: “In so far as they are affected by a situation referred to in Article 1 of this Protocol, persons who are in the power of a Party to the conflict and who do not benefit from more favourable treatment under the Conventions or under this Protocol shall be treated humanely in all circumstances and shall enjoy, as a minimum, the protection provided by this Article without any adverse distinction based upon race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria. Each Party shall respect the person, honour, convictions and religious practices of all such persons”. Moreover, domestic and human rights law, also provide detainees’ guarantees in relation to conditions of treatment, due process of law and fair trial.

³⁴ This terms have no legal meaning outside an armed conflict, although it is used by who advocate all operations of the “war on terror” as an armed conflict. See: INTERNATIONAL COMMITTEE OF THE RED CROSS. The relevance of IHL in the context of terrorism. Available at <<http://www.icrc.org/Web/Eng/siteeng0.nsf/html/terrorism-ihl-210705>>. (last visited 22 December 2005).

³⁵ Those not protected by GC III or IV, are guaranteed by customary international law (as reflected in Article 75 of Additional Protocol I), as well as by applicable domestic and human rights law, all providing for rights of detainees in relation to treatment, conditions and due process of law.

³⁶ The Intentional Court of Justice, in the Advisory opinions about the Nuclear Weapons and about the Wall in the Occupied Palestinian Territory has reinforced this principle: “The protection offered by human rights conventions does not cease in case of armed conflict, save through the effect of provisions for derogation of the kind to be found in Article 4 of the International Covenant on Civil and Political Rights”. Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, ICJ Reports 1996(I), p. 240.

As said before, human rights law states the right to liberty and security of a person, including the right to a fair trial, and the test of legal legitimacy of a detention, by a competent tribunal. The most important treaty in this field is the International Covenant on Civil and Political Rights. In its article 9, it establishes that *“everyone has the right to liberty and security of person. No one shall be subject to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law”*.

The ICCPR, in its article 4, permits temporary derogation from some provisions of the applicable law, but only under strict conditions: *“a situation of public emergency which threatens the life of nation, and the State party must have officially proclaimed a state of emergency”*³⁷. Some rights can not be derogated at all, regardless of the situation and threats that a country is suffering. These rights include: right to life, prohibition of torture or cruel, inhumane or degrading punishment, the principle of legality in the field of criminal law, including the requirement of criminal liability and punishment being limited to clear and precise provisions in the law, and non-discrimination³⁸. Also, the UN Human Rights Committee (HRC) considers that even other provisions that are not in article 4, paragraph 2 of the ICCPR, cannot be subject of derogation, that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person, the principles of legality and the rule of law and that judicial guarantees must be secured³⁹. This provisions, according to General Comment n. 31 from the Human Rights Committee, are also applicable

³⁷ UN Doc A/56/40: General Comment n. 29: States of Emergency (article 4), para. 2. The United Kingdom has officially communicated the derogation of article 9, and the United States has not notified any derogation.

³⁸ After 11 September 2001, people from Islamic and Arabic origin are reporting discrimination in many grounds, especially regarding the entrance in developed countries.

³⁹ UN Doc A/56/40: para. 7, 8, 13, 15 and 16.

in situations of armed conflict and when international humanitarian law applies⁴⁰.

The transfer of a person to outside the national borders of a State or to other parts in order to avoid the application of human rights law is also not justifiable, as the HRC General Comment n. 15 states that *“the enjoyment of Covenant rights is not limited to citizens of State Parties but must be available to all individuals, regardless of nationality or statelessness, such as asylum-seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party”*⁴¹. Torture, secret detentions and disappearances are also prohibited under international human rights law⁴², as an offence to human dignity and a grave threat to the right to life, disappearance being a crime under the International Criminal Court. Also, this transfers to other territories can violate a main principle of refugee and human rights law: the non-refoulement⁴³.

Situation of detainees in the context of fighting terrorism

The question of lawfulness related to detainees can be divided into three categories: the legal limbo of the detainees; their treatment and conditions; and secrecy and the suffering of family members.

⁴⁰ UN Doc HRI/GEN/1/Rev. 7: General Comment n. 31: “The nature of the general legal obligation imposed on States party to the Covenant”.

⁴¹ General Comment n. 15: “The position of aliens under the Covenant”.

⁴² UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and 1992 UN Declaration on the Protection of All Persons from Enforced Disappearance.

⁴³ The principle of non-refoulement is stated in article 33 (1) of the Convention relating to the Status of Refugees and reinforced by article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It establishes that a refugee shall not be expelled or returned to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. See: BORELLI, Silvia. Op. Cit. 3, p. 62.

The problem of detainee's legal limbo starts at arbitrary and illegal detentions. As we have seen, international human rights law applies to all the detainees on "war on terror", and, as such, each and every one of them has the right to full judicial review of his detention and to release if that detention is unlawful – a basic protection against arbitrary arrest, torture and "disappearance". According to Amnesty International, most of the detainees are held in a inhumane situation: incommunicado in their cells, without access to lawyers or other assistance, and subjected to harsh interrogations⁴⁴ and a regime aimed at encouraging their "cooperation"- which means measures to extract information from detained people⁴⁵.

Moreover, doubtful mechanisms have been created to determine the legal situation of detainees. In the Guantánamo case⁴⁶, for example, the United States administration established, in June 2004, the Combatant Status Review Tribunal (CSRT), panels of three military officers with the aim of determining the legality of the detention. This is neither a court of law, nor the "competent tribunal" as stated by the Third Geneva Convention. Moreover, the CSRT do not follow some provisions of the International Convention on Civil and Political Rights. For example, it does not provide a fair opportunity to detainees to challenge their detentions, as they do not have access to legal counsel; they are not presented to judges in due time so as to define the legality of their detention and their status are not defined by known categories of international humanitarian law, but by recently created categories of detainees by the government

⁴⁴ According to the report E/CN.4/2006/120, interrogations techniques in Guantánamo Bay intend to humiliate detainees. Some of the techniques can infringe torture, if they cause severe physical or mental pain and suffering.

⁴⁵ Amnesty International. Guantánamo – an icon of lawlessness (1). Available at: <http://web.amnesty.org/library/Index/ENGAMR510022005>. (last visited 10 on April 2006).

⁴⁶ There are also some reports of juvenile detention in the Guantánamo Bay, including three individuals under 16.

of the United States⁴⁷.

Detention abroad is also a phenomenon that is constantly happening in counter-terrorism actions, with an unprecedented number of persons being detained outside their national territory. The principal argument used by States for this practice is that they can bypass guarantees of international human rights and humanitarian law⁴⁸. Counterterrorism efforts have resulted on the tracking down of suspects, which sometimes results in extraordinary rendition (moving a suspect for prosecution or interrogation) and forcible return. This practice generally involves the secret transference of the detained suspects among States, to countries widely known for the use of torture and other ill-treatment against detainees⁴⁹.

Other States also seem to have got involved in this practice (Canada, France, Sweden and the United Kingdom)⁵⁰, and in 2005, it was published by various European newspapers that the United States Central Intelligence Agency (CIA) was working on secret detention facilities inside the European Union (Poland) and Romania (both countries have denied the information)⁵¹ and that a CIA aircraft had landed at European airports or traveled through European airspace with terrorist suspects onboard on their way to other locations⁵².

These countries are violating their international obligations if they send a person, in any manner whatsoever, to another State in which it can be believed that “a well-founded

⁴⁷ UN Doc E/CN.4/2006/120 and Amnesty International. Op. Cit.45. Available at: <http://web.amnesty.org/library/Index/ENGAMR510022005>. (last visited on 10 April 2006).

⁴⁸ BORELLI, Silvia. Op. Cit. 3, p. 40

⁴⁹ Amnesty International. Human rights not hollow words: An appeal to President George W. Bush on the occasion of his re-inauguration. Available at: <http://web.amnesty.org/library/Index/ENGAMR510122005> (last visited on 10 April 2006).

⁵⁰ UN Doc A/60/316.

⁵¹ Human Rights Watch, Human Rights Watch Statement on U.S. Secret Detention Facilities in Europe. Available at: <http://www.hrw.org/english/docs/2005/11/07/usint11995.htm> (last visited on 06 April 2006).

⁵² A German Hub for Secret Flights?, Der Spiegel online edition, 5 December 2005.

fear” or a “real risk” that he or she will suffer a violation of his or her fundamental rights exists, disrespecting the principle of non-refoulement.

The conditions in which the detainees are held: isolated, intimidated and without respect for religion or belief freedom can lead to serious mental health problems⁵³. There is much additional evidence that numerous detainees in Guantánamo – as well as in Afghanistan, Iraq and elsewhere – have been subjected to interrogation techniques and other practices that can be considered direct torture or other cruel, inhumane or degrading treatment⁵⁴.

Finally, secrecy and imprecision have turned into suffering and abuse. There is no precise number of detainees held in Guantánamo and other areas, although the United States government is trying to provide more information about them. The main concern about the lack of precise information is that this could allow secret detainee transfers between the United States and other countries. Furthermore, numerous relatives of Guantánamo detainees are in deep distress for the lack of transparency and information about their loved ones. Some of them have referred to their detained relatives as having disappeared, as no information about their situation is provided by the government of the United States⁵⁵.

PAST UN ACTIONS

In 1993, the General Assembly started to adopt resolutions on “human rights and terrorism” and continued its annual work on “measures to eliminate international terrorism”. One year

⁵³ UN Doc E/CN.4/2006/120.

⁵⁴ Amnesty International. Op. Cit.45 . (last visited 10 April 2006).

⁵⁵ Amnesty International. Op. Cit. 49 . (last visited 10 April 2006).

later, the Commission on Human Rights began the analysis on the same topic, and in 1997 the Sub-Commission on the Promotion and Protection of Human Rights appointed a Special Rapporteur on human rights and terrorism. Her mandate was established until 2004, and during this period, she examined many dimensions of the subject, including some issues that need further clarification, as the definition of terrorism, armed conflict and terrorism, accountability of the actors and some other general topics⁵⁶.

Following the 11 September 2001 terrorist attacks, the United Nation Security Council unanimously adopted the resolution 1373 (2001), which established the creation of the 15-member Counter-Terrorism Committee (CTC). The resolution determines the accomplishment of several rigid measures of combat to international terrorism, without, however, giving the necessary attention to the observance of human rights in its implementation.

Taking into account that the subject of human rights was not considered in resolution 1373⁵⁷, the Commission on Human Rights adopted resolution 2002/2, focused on the unconditional respect to human rights on countering-terrorism. After that, other resolutions were adopted. Resolution 2003/42 affirms, in the sixth paragraph, that the combat to terrorism cannot be used as a reason, under any circumstance, for the breaking of any of the fundamental rights. Most recently, the Commission adopted resolution 2005/80 on the Protection of human rights and fundamental freedoms while countering terrorism.

⁵⁶ Ms. Kalliopi K. Koufa produced very interesting reports providing a general view of the complex relation between terrorism and human rights. See UN Doc E/CN.4/Sub.2/1997/28, E/CN.4/Sub.2/1999/27, E/CN.4/Sub.2/2001/31, E/CN.4/Sub.2/2002/35, E/CN.4/Sub.2/2003/WP.1, E/CN.4/Sub.2/2004/47 and E/CN.4/Sub.2/2004/40.

⁵⁷ Latter, the Security Council, in the resolution 1456, from 2003, affirmed: "6. States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law;"

Furthermore, the Sub-Commission adopted resolution 2004/21 Terrorism and human rights, which was reinforced by the Commission in document 2005/107. These resolutions stressed that acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, condemns the occurrence of violations of human rights and fundamental freedoms in the context of the fight against terrorism and exhort all States work to uphold and protect the dignity of individuals and their fundamental freedoms, while fighting terrorism.

The General Assembly has also approved some resolutions on this matter, called *Protection of human rights and fundamental freedoms while countering terrorism*⁵⁸. Although none of those resolutions approach directly the situation of detainees in the counter-terrorism context, all of them represent a concern about the defense of fundamental rights and freedoms, which comprehends detainees. Those resolutions are relevant because they demonstrate the apprehension of some UN bodies in face of the “war on terror”. However, they are not enough, other measures must be taken.

The Commission on Human Rights appointed an independent expert on the protection of human rights and fundamental freedoms while countering terrorism, Mr. Robert K. Goldman. His report⁵⁹ addressed issues like the rule of law, states of emergency, due process and fair trial, the principle of non-refoulement, rendition, the right of humane treatment, all of them closely related to rights of detainees. In his conclusions, he advised the creation of a new mechanism, with a broad mandate in order to deal properly with the multidimensional questions arising in the relation of human rights and terrorism. Thus, in the 61st session of the Commission on Human Rights, a

⁵⁸ See, i. e. UN Doc A/RES/57/129, A/RES/58/187, A/RES/59/191, and A/RES/60/158.

⁵⁹ UN Doc E/CN.4/2005/103.

mandate of Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism was unanimously created⁶⁰.

On 22 November 2001, the United Nations Committee against Torture issued a statement (CAT/C/XXVII/Misc.7) reminding States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) of the non-derogable nature of most of the obligations undertaken by them in ratifying that Convention. Condemning utterly the terrorist attacks of 11 September and expressing “*profound condolences to the victims, who were nationals of some 80 countries, including many States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*”, the Committee highlighted the obligations contained in article 2 (prohibition of torture under all circumstances), article 15 (prohibiting confessions extorted by torture being admitted in evidence, except against the torturer), and article 16 (prohibiting cruel, inhuman or degrading treatment or punishment). The Committee stated that such provisions must be observed in all circumstances, and expressed its confidence that “*whatever responses to the threat of international terrorism are adopted by States parties, such responses will be in conformity with the obligations undertaken by them in ratifying the Convention against Torture*”⁶¹. The Committee, since then, has been working against the torture of the detainees in terrorism context.

The working group on arbitrary detention has also collaborated with this matter. Since 2001, the Working Group has been working to examine the situation of detainees in the

⁶⁰ UN Doc E/CN.4/2005/80, with a three years mandate. Mr. Martin SCHEININ, from Finland was the appointed.

⁶¹ Digest of jurisprudence of the UN and regional organizations on the protection of human rights while countering terrorism. Available at: <http://www.ohchr.org/english/issues/terrorism> (last visited on 10 March 2006).

context of the fighting terrorism, including the question of individuals held in Guantánamo Bay. Moreover, it has adopted deliberations and opinions about the issue, such as the question of deprivation of liberty resulting from the use of internet, secret prisons, armed conflicts, fundamental freedoms, inadequate conditions of defence and other essential topics relating to deprivation of liberty⁶².

In the beginning of 2006, a joint report about the Guantánamo Bay was launched by some special procedures of the United Nations⁶³. The report was a final attempt of these procedures that, since 2002, are following the situation of detainees in the detention centre. They asked the government of the United States to visit the Guantánamo Bay, but the government did not authorize direct contact with detainees. In response, the mandate holders did not went to the detention centre, and wrote the report based on information provided by the USA government. The report is very complete, as it states the main questions of concern about Guantánamo, the rights that are guaranteed to the detainees and the actual conduct of the government of United States. It concludes that persons held in Guantánamo Bay can challenge the legality of their detention; that interrogation techniques used in Guantánamo can produce violations of article 7 of ICCPR and article 16 of the Convention against Torture, besides other considerations regarding mental health, excessive use of violence, rendition, stating the USA is violating some main principles of international human rights law⁶⁴.

Finally, during the September 2005 World Summit

⁶² See UN Doc E/CN.4/2003/8, E/CN.4/2004/3, E/CN.4/2005/6 e E/CN.4/2006/7.

⁶³ The special procedures involved in the report are: the Working group on arbitrary detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

⁶⁴ UN Doc E/CN.4/2006/120.

prompted by the United Nations, the Security Council had a meeting at the level of Heads of State or Government, in which it adopted resolution 1624 concerning incitement to commit acts of terrorism⁶⁵. The resolution also stressed the obligations of countries to comply with international human rights, humanitarian law and refugee law.

PROPOSED SOLUTIONS

*“So what is to be done about terrorism? Are there better and worse ways of responding to it? Certainly there is a multiplicity of possible responses, ranging from a mild regulation to full-blooded military repression. What are the possible benefits, and what are the likely costs? Is it possible that sometimes the cure may be worse than the disease?”*⁶⁶

As the most powerful States in the world already support counter-terrorism measures, it is not easy to visualize possible solutions, as it is a question of political will. However, some measures can be considered to alleviate and compensate individuals that have suffered inside detention centers and have had their rights denied.

The most essential and efficient measure is the immediate release of the victims, until the moment that they are officially prosecuted and charged for a crime. Reparation is another important measure, as it is a form to address repair for the psychological and physical damages during the detention period⁶⁷. The payment of compensations is also recommended

⁶⁵ See UN Doc SC/8496.

⁶⁶ TOWNSHEND, Charles. Terrorism, a very short introduction, p.114.

⁶⁷ The right to compensation in the case of arbitrary detention is present in some instruments, such as the International Covenant on Civil and Political Rights and in the European Convention.

by the Human Rights Committee in the case of detention of immigrants, and the State should refrain from deporting individuals⁶⁸, especially if they have a possibility of suffering human rights violations in their countries of origin or in third countries to which they might be sent. The possibility of rehabilitation programmes to the victims is also essential to reconstruct their lives⁶⁹.

Visits to detainees by humanitarian institutions, such as ICRC and others that have an appropriate mandate to do it, are an effective way to have direct access to detainees, investigate the incidence of ill treatment, inadequate living conditions, and any other problem. It is also a very good start for a cooperative dialogue with authorities responsible for the detention centre⁷⁰.

International pressure is also a very efficient tool to solve the question. It is possible to advocate interim measures of protection in regional human rights systems, to use individual complaints procedures under the UN Human Rights Committee, the Committee against Torture and the Working Group on Arbitrary Detention and, lastly, to use Inter-State complaints procedures, in which a State brings a case when another violate a provision of the respective Conventions⁷¹. The international community must show solidarity to these people by firmly rejecting these practices.

The United Nations human rights system has taken important steps to guarantee not only the protection of detainees, but also the protection and promotion of human rights in the fight against terrorism. Other regional organizations are also

⁶⁸ ZAYAS, Alfred de. Op. Cit. 25, p. 35.

⁶⁹ Ibid., p. 37.

⁷⁰ AESCHLIMANN, Alain. Op.Cit. 2, p. 96.

⁷¹ Inside the Human Rights system at United Nations, Inter-State procedures are only possible if a State made a declaration recognizing the competence of the Committee to investigate and adjudicate cases.

acting in this field. An integrated and cooperative approach must be conquered, in order to protect more efficiently people that are victims of counter-terrorism operations.

Some recent international and domestic decisions have been reaffirming the applicability of international humanitarian law and human rights law in the protection of individuals detained on the “war on terror”, including the transfer of detainees, the necessity of a competent tribunal to determine the status of detainees, etc⁷².

BLOC POSITIONS

The first consideration concerning Countries position on the topic regards the international commitments done by States, especially the main standards of international law, including humanitarian law and human rights law. The most important instruments are the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Protocol I Additional to Geneva Conventions. Moreover, how States consider and implement these measures on the national legislation must also be considered, as well as the methods used by authorities to deal with detainees, including the duration of the detention, the possibility of *incommunicado* detention, etc⁷³.

States’ position regarding the detention of terrorism’s suspects is closely linked to the support on the “war on terror”. Since 11 September 2001, regional organizations, such as the European Union, African Union and Organization of American

⁷² Some Courts in the United States (including the Supreme Court) and United Kingdom are reaffirming the applicability of the principles contained in these bodies of law, as well as the Inter-American Commission and the European Court. See: BORELLI, Op. Cit. 3, pp. 65-67.

⁷³ AESCHLIMANN, Alain. Op. Cit. 3, pp. 91-92.

States have been fully involved in coordinating counterterrorism initiatives and efforts, guiding how concerned States are acting in every region of the world. Besides this general concern on terrorism's combat, two general positions have arisen among States: some States, especially the most affected by terrorist attacks, have fully supported counter-terrorism operations, sometimes disregarding if they respect or not the provisions of human rights and humanitarian law. Other ones have a more cautious position, and even if they support the combat of terrorist groups, they consider that counter-terrorist operations must ensure total respect of international law. This group has also some divergences about the legal status that has been attributed to detainees.

On the first group, the United States of America and some partners such as the United Kingdom, Canada and Australia are part of the leadership. These States are promoting very sophisticated counterterrorism operations, including political, economic, financial and other initiatives to destroy terrorist networks spread in the world, especially on Middle East. Moreover, they are working with the need of the building of democracy, well-governed states, economic and technical cooperation with other States as a means of combating and destroying terrorist networks spread thorough almost every region of the world⁷⁴. In addition, these operations include terrorism' suspects detention, acts that can lead to human rights violations, as described before. The detention centers of Guantánamo Bay in Cuba, Bagram in Afghanistan and Abu Ghrabi in Iraq are some of the places in which these detainees are held.

Many countries in different regions of the world are fully

⁷⁴ United States Department of State: Office of the Coordinator for Counterterrorism. Country Reports on Terrorism 2005. Available at: <http://www.state.gov/documents/organization/65462.pdf>, p.25 (last visited on 14 April 2006).

collaborating with these actions. States in Middle East, a region that has been the theatre for Afghanistan and Iraq armed conflicts in this context, are collaborating with the counterterrorism operations, including with the detention and transfer of terrorist suspects to Coalition detention centers. Another important phenomenon is that some countries – especially in Middle East and Asia – are using the “war on terrorism” to face internal problems, attacking political opponents as “Islamic terrorists”. In these circumstances, numerous people who are accused of involvement with terrorist groups are submitted to harsh treatment, and several denunciations of ill treatment to detainees imprisoned on counter-terrorism actions have been reported⁷⁵.

In Europe, there are strong oppositions to Coalition initiatives regarding detainees. France and Germany, for example, defend the closure of the Guantánamo Bay facilities. Angela Merkel, German chancellor, says that “different ways” should be found to deal with prisoners. The European Union also asks the United States to respect international law in the treatment of prisoners⁷⁶. Other countries in the region, especially from Eastern Europe have a neutral position in the issue, in order not to affect their relation with the United States. However, a grave concern in the region is that some governmental leaders are using the situation to approve restrictive or punitive policies against refugees, asylum-seekers, and migrants⁷⁷.

Other regions, such as Africa and Latin America, have a more independent position, as they are not clearly involved in the question. Developing nations, in general, are playing a

⁷⁵ Human Rights Watch. *Opportunism in the Face of Tragedy: Repression in the name of anti-terrorism*. Available at: <http://www.hrw.org/campaigns/september11/opportunismwatch.htm> (last visited on 16 March 2006).

⁷⁶ BBC News. *US rejects Guantanamo criticism*. Available at: <http://news.bbc.co.uk/2/hi/europe/4590912.stm>. (last visited 11 April 2006).

⁷⁷ Human Rights Watch. *Op. Cit. 76*. Available at: <http://www.hrw.org/campaigns/september11/opportunismwatch.htm> (last visited on 16 March 2006).

positive role in the defense of detainees' human rights: Mexico, for instance, took the lead in convincing the United Nations to maintain a Special Rapporteur on protecting human rights while countering terrorism⁷⁸.

Some States have not even sustained direct opinions about the question, in particular because of the consequences in their relations with the United States. In fact, as all regions in the world are possible victims of terrorist attacks, it would be interesting that every country have a positive position regarding how terrorist suspect should be treated, ensuring that counterterrorism actions fully respect international human rights. Finally, these positions are not definitive, because different arrangements about singular questions can arise during the negotiations inside the committee⁷⁹.

QUESTIONS A RESOLUTION MUST ANSWER

During the Committee's debate, some important issues will arise during the debate, and the resolution to be approved will probably have to tackle them. This section will illustrate some questions that the resolution should contain:

- How States should deal with terrorist suspects?
- According international law, which are the rights entitled to detainees?
- How the international community can ensure that

⁷⁸ UN Doc E/CN.4/2005/SR.60. Available at: <http://daccessdds.un.org/doc/UNDOC/GEN/G05/140/83/PDF/G0514083.pdf?OpenElement>. (last visited 16 April 2006).

⁷⁹ The question of detainees rights have never been discussed directly inside the United Nations, as the United States and the European Union believe that this issue should be dealt with special procedures, including confidential procedures such as 1503. In 2005, some countries supported a draft resolution about the situation of detainees in Guantanamo Bay on the Commission on Human Rights, but as the most important countries in the discussion did not approved it, it failed.

the rights of detainees in the context of terrorism will be respected?

- How international law can be respected in counter-terrorism operations?
- What is the United Nations role in guaranteeing detainees rights?

FINAL REMARKS

Terrorism threatens the exercise of human rights, democracy and the maintenance of peace and security in every country of the world, and requires definitive actions and answers by the international community. However, these answers must respect the rule of law and human rights.

In this context two situations must be solved: an answer to the questioning of the legal framework and how to guarantee these detainees' physical and moral integrity. As terrorism affects every country in the world, a consistent and coordinate approach must be found, so that counter-terrorism actions respect the principles of Human Rights, Humanitarian and Refugee Law, three branches of law created to protect people everywhere in the world.

Human rights and security are not in conflict with each other. A balance of these objectives must be achieved, and the more important initiative for this is an attempt to understand the complex root causes of terrorism, and find a possible way to achieve efficient strategies to combat them. Fortunately, after some years of no response, recent decisions are proving that international law is the only way to protect detainees against States' arbitrary actions.

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THE SITUATION IN THE GREAT LAKES REGION: DEVELOPMENTS AND CONSULTATIONS

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INTRODUCTION

The courage of the people of the Great Lakes region must be matched by solidarity from the international community. The beginning of the end to this regional crisis is in sight but in order to reach it and rebuild people's lives, it is vital that we all stand by them and redouble our efforts.

James Morris, Executive Director of WFP, Ann M. Veneman, Executive Director of UNICEF and António Guterres, UN High Commissioner for Refugees¹.

The African continent has been historically affected by the constant outbreak of armed conflict. The increase in ethnic

¹ See <http://www.wfp.org/english/?ModuleID=137&Key=2027>

struggles, the outflow of refugees, and the looting of natural resources, among other factors, have deepened a historical situation of insecurity and underdevelopment in the continent. Three main regions have been particularly devastated by wars: West Africa, the Horn of Africa and the Great Lakes region.

With its countries crossed by the Congo River, the Great Lakes region has a comparatively worse situation due to the involvement of a large number of actors whose different motivations have led the world into its deadliest war since World War II². The porous borders of the main parties to the conflict – the Democratic Republic of the Congo (DRC), Burundi, Rwanda and Uganda - and the subsequent movement of armed groups among these countries (especially to and from the DRC), the large quantity of natural resources in the eastern region of the DRC, the tribal and ethnic hatred, disputes over land, state and social disintegration, and high levels of poverty are some of the components of one of the bloodiest conflicts in the world today³.

This situation has generated what has become known as the First World War of Africa, in which most of the countries in the Great Lakes region have taken part. It is important to stress that in this region and its countries are a number of interrelated situations that are profoundly connected to one another. The genocide in Rwanda, the conflict in Burundi and Uganda, and the very complex situation in the DRC are all related to each other. The regional effects of this conflictive situation have been disastrous. The United Nations and regional organizations such as the African Union have huge difficulties in stabilizing the region. The lack of resources, the lack of commitment by many countries, and the reluctance of many groups to become

² See http://www.theirc.org/news/conflict_in_congo_deadliest_since_world_war_ii_says_the_irc.html.

³ GLOBAL WITNESS. *Same Old Story: A background study on natural resources in the Democratic Republic of Congo*. p. 17. Available at: <http://www.globalpolicy.org/security/issues/congo/2004>.

seriously engaged in the peace process are among the obstacles faced by the international community.

With the probable holding of elections in the Democratic Republic of the Congo this year, many questions need to be dealt with by the international community. How and on what levels will the United Nations commit to the region, more specifically, within the Democratic Republic of the Congo? What will the relationship between the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) be with the newly elected government? Are troops going to remain in the region, in Burundi, and in the DRC?

HISTORY OF THE COUNCIL

Collective Security

Since 1945, the primary responsibility of the United Nations Security Council (UNSC) under the United Nations Charter is the maintenance of international peace and security based on the collective security paradigm⁴ in which states accept certain norms and rules to maintain stability and accept to act together to stop aggression. Consequently, stability can be viewed as a product of cooperation: all for one, instead of each for its own⁵.

The main advantage of collective security is a more effective balancing against aggressors by promoting trust and cooperation and fostering a scenario upon which aggression is less likely to occur and where the competitive nature of international relations yields to more cooperative behavior⁶.

⁴ See http://www.un.org/Docs/sc/unsc_background.html.

⁵ KUPCHAN, Charles A. & KUPCHAN Clifford A. *The Promise of Collective Security*. pp. 52-53.

According to Hedley Bull⁷, order in world politics can be interpreted in three ways, of which we will detail only two: the *Hobbesian* and the *Kantian* traditions. The Hobbesian tradition scenario is one in which states are in incessant conflict, and, in this context, peacekeeping operations would pursue individual interests, and concern with the parties to the conflicts would be of second order⁸. The Kantian tradition, which is our main interest, is also called the universalistic tradition, because of its idea of a universal community with shared interest and cooperative efforts. Peacekeeping in this approach is destined to resolve conflicts while bearing in mind the cooperation of the parties to the conflict and their interests⁹.

The purposes of the United Nations are threefold. These are to “*take effective collective measures to the prevention and removal of the threats to the peace*”¹⁰, to “*take other appropriate measures to strengthen universal peace*”¹¹, and to “*be a centre for harmonizing the actions of nations in the attainment of these common ends*”¹². Underlying these purposes is the idea of a universal community with shared interests and cooperative efforts of the Kantian tradition, as opposed to the European diplomacy of the 19th century, based on the balance of power and alliances, which presume the existence of common, but not necessarily universal, interests.

This diplomacy was accused of being one of the causes of World War I. With the end of the conflict, the Wilsonian conception of world organization broke with this tendency. The

⁶ *Ibidem* pp.54-58.

⁷ BULL, Hedley. *A Sociedade Anárquica. Um estudo da ordem na política mundial*. pp. 31-64.

⁸ LAST, David. *From Peacekeeping to Peacebuilding*. Available at http://www.trinstitute.org/ojpcr/5_1last.htm.

⁹ *Ibidem*.

¹⁰ Charter of the United Nations, Chapter 1 Paragraph 1. Available at <http://www.un.org/aboutun/charter/>.

¹¹ *Ibidem* Chapter 1 Paragraph 2.

¹² *Ibidem* Chapter 1 Paragraph 4.

Wilsonian view was based on the idea of collective security, embedded in the Kantian tradition of associations of states and multilateral institutions with universal appeal¹³. Although the League of Nations failed to prevent World War II, the legacy of collective security would last until the United Nations.

The UNSC is the organ responsible for the assurance of the collective action paradigm, through the maintenance of international peace and security, the investigation of any dispute or situation which might lead to international friction, military action against an aggression, and the exercise of the trusteeship functions of the United Nations in strategic areas, among others¹⁴. However, the cooperative efforts of the universalistic tradition are not enough to guarantee that the principles of the collective security system are followed. In a non-ideal collective security system there is a need for other means to guarantee peace and security - means whose uses are regulated in Chapters VI and VII of the Charter.

These Chapters address the pacific settlement of disputes and action with respect to threats to the peace, breaches of the peace, and acts of aggression¹⁵. The pacific (or non-coercive) settlement of dispute gives preference to solutions by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of the parties' choice¹⁶.

The only circumstances which require the use of coercive means are threats to peace, breaches of the peace, and acts of aggression, according to Article 39 of the Charter. The negotiations of the Charter in Dumbarton Oaks, however, did not clearly distinguish between “*disputes that are likely to*

¹³ PATRIOTA, Antonio de Aguiar. *O Conselho de Segurança após a Guerra do Golfo: A Articulação de um Novo Paradigma de Segurança Coletiva*. pp. 10-11.

¹⁴ See http://www.un.org/Docs/sc/unsc_functions.html.

¹⁵ See <http://un.org/aboutun/charter/>.

¹⁶ UN Charter Chapter VI Article 33 Paragraph 1.

endanger the maintenance of international peace and security” of Article 33 and situations that may become “threats to peace, breaches of the peace and acts of aggression” as per Article 39¹⁷.

The negotiation of Chapters VI and VII has, however, undergone several difficulties as a result of the struggle for influence of the Cold War. All members of the United Nations, under Article 43, committed themselves to making armed forces, assistance and facilities available to the Security Council at its behest and in accordance with special agreement or agreements, which would govern the characteristics of the deployment of forces and which were to have been negotiated as soon as possible on the initiative of the Security Council. The rivalry between Washington and Moscow, however, undermined this initiative. The establishment of a Military Staff Committee to advise and assist the Council regarding military requirements for the maintenance of international peace and security, in this sense, faced insurmountable difficulties in the negotiations¹⁸.

Because of these difficulties in the Council between 1948 and 1992, other systems of collective security were developed, especially alliances such as the North Atlantic Treaty Organization (NATO) and the Warsaw Pact, in accordance with Article 51 of Chapter VII: *“Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. (...)”*. Furthermore, under Article 52 (Chapter VIII), nothing precludes the existence of regional arrangements, agencies, activities, and actions consistent with the Purposes and Principles of the United Nations.

Although the purposes and principles of the United

¹⁷ *Op. Cit.* 5, p. 20.

¹⁸ *Op.Cit.* 5, p. 25.

Nations should be the cornerstone of the collective security system, these regional arrangements suggest the continued influence of the balance of power paradigm and the Hobbesian tradition, not because of incessant conflict, but because of individual or regional interests. The conflicts that emerged in the Cold War phase had significant consequences for the United Nations, especially for the Security Council, which faced lack of unanimity among the permanent members and consequently, difficulties in its effective action.

Uniting for Peace (1950)

The paralysis faced by the Council and the subsequent failure to exercise its primary function of maintaining international peace and security led the General Assembly to the Uniting for Peace resolution¹⁹, which gave the General Assembly itself the responsibility for consideration of the matters under Article 39 of the Chapter when the Security Council was unable to act, “*with a view to making appropriate recommendations to Members for Collective Measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security*”²⁰.

In part E of the resolution, it recognized that enduring peace would not be secured solely by collective security arrangements, especially at a time when the United Nations was frequently paralyzed by East-West tensions. Thus, the resolution urged Member States to “*respect fully, and to intensify joint action in co-operation with the United Nations (...) and to intensify individual and collective efforts to achieve economic*

¹⁹ Resolution 377 (1950) of the General Assembly, in the 302nd meeting, 3 November 1950. Available at <http://www.un.org/documents/ga/res/5/ares5.htm>.

²⁰ *Ibidem* p.1.

*stability and social progress (...)*²¹.

The United Nations' role during the Cold War, according to Christopher D. O'Sullivan²², was to ease the transition of decolonization and to deal with the post-Cold War crises in Africa and Asia, among others, and to be the source of legitimized actions by the Member States. With the end of the Cold War, these conflicts turned into a new challenge to the United Nations, because of the new international scenario and new dimensions of conflict.

Agenda for Peace

The Iran-Iraq conflict in 1987 and the Gulf War marked a new path for the Security Council in the collective security paradigm. Beginning with the Iran-Iraq conflict, the permanent members started to make previous analysis of the most relevant issues of the Council as a means to achieve consensus and avoid the paralysis faced in the years before. The Gulf War, especially, gave a new conception to the paradigm, enlarging the notion of threats to peace: weapons of mass destruction, humanitarian, social and economic crises, human rights violations, and institutional crises, among others.

Furthermore, the Gulf War put the United Nations back in the center of the international order, in spite of the fact that the coalition that intervened in Iraq was led by the U.S. Since this war was a product of special circumstances — the end of the Cold War and the potential conflicts that sprang from its end — it required new solutions and actions from the UNSC.

On January 1992, the first Summit Meeting of the Council marked the beginning of this new order with new

²¹ *Ibidem* p. 3.

²² O'SULLIVAN, Christopher D. *The United Nations, the Cold War, and After: A Lost Opportunity?* pp.15-17.

commitments to the collective security system designed in the Charter. Although the U.S. was the world's foremost military and economic power, the United Nations had an expanded role to play in maintaining peace and security in the face of new demands brought about by the end of the Cold War.

The *Agenda for Peace*²³, a report that the Secretary General was invited to prepare by the Declaration of the Summit Meeting of the Council, discussed three main aspects: peacekeeping, peacemaking, and preventive diplomacy. Many aspects of peacekeeping, such as the protection for humanitarian assistance to refugees and civilians, troop contributions, child soldiers, and economic sanctions were also assessed. It is important to note that Article 43 of the Charter was also addressed, after 48 years, and UNSC actions under Chapter VII were reinterpreted. A time of optimism regarding UN action was started, which would be undermined by failures in Africa and in the Balkans.

Between 1945 and 1987, there were 13 peacekeeping operations, and between 1988 and 1992, 14 new operations. An increasing number of operations, added to new challenges of the post-Cold War era, resulted in new functions and approaches to peacekeeping operations and in an increase in the number of operations under Chapter VII. One of the consequences was the exclusion of the operations personnel from the 1994 Convention on the Safety of United Nations and Associated Personnel²⁴.

In the fiftieth anniversary of the United Nations, in 1995, was submitted the Supplement to An Agenda of Peace²⁵. It noted that since 1988, peacekeeping operations had been predominantly related to intra-state conflicts, a fact that presented new challenges to the United Nations, because of the

²³ See A/47/277 S/24111. Available at <http://www.un.org/Docs/SG/agpeace.html>.

²⁴ See <http://www.un.org/law/cod/safety.htm> Paragraph 2 of Article 2.

²⁵ See A/50/60-S/1995/1 available at <http://www.un.org/Docs/SG/agsupp.html>.

presence, beyond regular armies, of militias and armed civilians with disorganized chains of command and little discipline. The consequences of this include increased numbers of refugees and internally displaced persons, the need for humanitarian assistance, and the weakening of state institutions, all of which require the “*promotion of national reconciliation and the re-establishment of effective government*”²⁶.

The constant danger facing peacekeeping operations is also acknowledged. With this shift in peacekeeping operations from inter-state conflicts to intra-state conflicts, UN forces have been called upon to protect humanitarian operations. Another change is that peacekeeping, starting from the 1980s, has been deployed after the negotiation of peace settlements; during the Cold War, they were usually deployed after cease-fire agreements but before the negotiation of peace settlements.

Finally, the document concludes that the “*changed face of conflict today requires us to be perceptive, adaptive, creative and courageous, and to address simultaneously the immediate as well as the root causes of conflict, which all too often lie in the absence of economic opportunities and social inequities. Perhaps above all it requires a deeper commitment to cooperation and true multilateralism than humanity has ever achieved before*”²⁷.

Peacekeeping and the Brahimi Report on Peace Operations

Although there is no specific mention in the Charter of peacekeeping operations, they are understood as one of the means of collective action to maintain international peace and security. When the UNSC deems it inappropriate to become involved in a situation or feels that the operation may not be feasible under UN auspices, it can authorize regional

²⁶ *Ibidem* paragraph 12-13.

²⁷ *Ibidem* paragraph 103.

organizations to implement peacekeeping or peace enforcement functions²⁸.

Although the Charter does not specifically mention peacekeeping operations, they were conceived as one of the means through which collective action would maintain international peace and security. The UNSC, when deemed inappropriate its involvement or that an operation may not be feasible under UN auspices, can authorize regional organizations to implement peacekeeping or peace enforcement functions. The Council may also encourage regional approaches because of their potential in accessing peculiar characteristics of the conflicts²⁹.

Paragraph 7 of Article 2 of the Charter states that “*the United Nations may not intervene in matters which are essentially within the domestic jurisdiction of any state*”³⁰. This principle, however, must not compromise the application of coercive means under Chapter VII. These means can be divided into isolation (Article 41) and intervention (Article 42), and are usually applied gradually from means that do not use armed force (isolation) to the use of armed force (intervention) if the unarmed measures are thought to be inadequate.

Traditional peacekeeping (or first generation peacekeeping) was developed during the Cold War and usually involved unarmed or lightly armed military personnel under UN command with narrowly-defined missions. The operation would be called in to bring closure to conflicts when a ceasefire was in place. The function of *peace enforcement*, however, was subject to the acquiescence of the major international powers. In this context it is easy to understand the importance of impartiality within peacekeeping operations.

²⁸ See <http://www.un.org/Depts/dpko/dpko/faq/q1.htm>.

²⁹ See <http://www.un.org/Depts/dpko/dpko/faq/q1.htm>.

³⁰ GOULDING, Marrack. *The United Nations and Conflict in Africa since the Cold War*.

Multidimensional peacekeeping (or second generation peacekeeping) was a product of the growing complexity of the international scenario after the Cold War. The resort to operations under Chapter VII is easier, but the complexity of the operations is greater due to the expansion of peacekeeping and nation-building, and the appearance of multidimensional actions, including humanitarian relief, electoral assistance (training and organization of elections), repatriation of refugees, enforcement of the rule of law, civil administration, and economic development³¹.

The growth of UN peacekeeping operations in size and scope highlighted the necessity of rapid employment and clear and feasible mandates. In 2000, UN Secretary-General Kofi Annan requested a panel of international experts to “*assess the shortcomings of the existing system and to make frank, specific and realistic recommendations for change*”³². The result was the Report of the Panel on United Nations Peace Operations (also known as the Brahimi Report on Peace Operations), which states that the “*consent of the local parties, impartiality and the use of force only in self defence should remain the bedrock principles of peacekeeping*”³³, but also assesses structural adjustments needed in the information age, with information technology and tools for knowledge management in peacekeeping operations and the challenge of implementing these adjustments.

According to the Report, there is a need for changes in the institutional domains, greater financial support and renewed commitment on the part of the Member States, and “*the key conditions for the success of future complex operations are political support, rapid deployment with a robust force posture and a sound peace-building strategy*”³⁴. The Report also

³¹ See <http://www.un.org/Depts/dpko/dpko/faq/q3.htm>.

³² See A/55/305-S/2000/809 p.8.

³³ *Ibidem*. p. 9.

assesses state policies, the importance of political support for UN peacekeeping operations and the important role regional organizations can play given their greater knowledge of the context and actors involved in the conflicts.

In the post-Cold War era, UN peacekeeping operations in Africa have been the core around which the organizations' most important initiatives and conflict resolutions have been applied³⁵. What we see today, however, is that developing nations are becoming heavily involved in international peacekeeping while developed countries - although actively involved in peace support - direct their participation to cases in which their national interests are at stake³⁶.

The collaborative peacekeeping endeavors between the United Nations and African organizations (such as the Organization of African Unity and the Economic Community of West African States) demonstrate the potential of regional approaches to peacekeeping and capacity-building for managing conflicts and fulfilling peacekeeping needs on the continent.

HISTORY OF THE PROBLEM

The emergence of the Congo or Great Lakes conflict can only be understood by looking at the interwoven histories of the nations involved. Colonial rule in these countries (Rwanda, Democratic Republic of the Congo, Burundi, and Uganda) is one of the main explanatory factors for the conflict. In all four countries an overflow of internal strife affected neighboring nations and at least one of these is involved in all of the wars

³⁴ *Ibidem.* p. 17.

³⁵ NEETHLING, Theo. *International Peacekeeping Trends: The Significance of African Contributions to African Peacekeeping Requirements.* p.1.

³⁶ *Op. Cit.* 22 p. 5

in the region. Their history concurrently told illustrates the evolution of the Great Lakes conflict itself³⁷.

In 1960 the First Republic of Congo – known today as the Democratic Republic of the Congo – became independent from Belgian rule. Its overall importance in African politics due to its size and natural resources brought about a period of national turmoil on three levels. Internally, a secessionist war broke out in the province of Katanga. Externally, the relationship between the Congo and Belgium was strained due to its recent independence. Globally, the conflicting interests of the US and USSR influenced politics in the region pitting the Congo against its neighbors and creating a Cold War proxy conflict.

In 1961, former Prime Minister Patrice Lumumba and UN Secretary General Dag Hammarskjöld were killed in controversial incidents. In 1965, the Second Republic of Congo came about through a coup conducted by General Mobutu that overthrew President Kasavubu. Mobutu's rule was characterized by high levels of corruption, poverty, and a strong dictatorship. The country's name was changed to Zaire under a nationalistic policy in which all references to the colonialist period were altered³⁸.

In Rwanda, ethnic tensions had been building up since before the decolonization process began in the late 1950s. During Belgian rule, the historical division of Tutsi pastoralists and Hutu farmers underwent 'ethnicization' led by an 'indirect rule' strategy on the Belgian part³⁹. The Tutsi minority was favored in the administration of the country while the Hutu majority were treated as second-class citizens. Although during pre-colonial times Hutu and Tutsi were economic classes, an

³⁷ EDGERTON, Robert. *The troubled heart of Africa: A history of the Congo*. p. 153-184.

³⁸ *Ibidem* p.223-240.

³⁹ The Belgian colonies were never ruled directly by the Belgians. Their strategy was to make the minority in the territory the administrative power. This ensured that the minority – in order to maintain their leadership - would be consistently loyal to Belgium.

ethnic division was artificially established by the Belgians. Ethnic determination rules were given to public officials who then issued identity cards.

When the Belgians felt the international pressure to leave the country, surrender the trusteeship and allow for Rwandan independence, they inverted their administrative preferences. Hutus were given several leadership roles and Tutsis removed from their privileged positions. It is during this period that the first evidence of hatred between Hutus and Tutsi became evident. King Charles of Rwanda, a Tutsi, also took the new Belgian position and for that was assassinated in 1959. Later in the year a Hutu revolt supported by the Belgian army triggered the overthrow of King Kigery, Charles' successor and son. The Tutsi responded with an assassination attempt of the Hutu leader Kayibanda, head of the *Mouvement Democratique Republicain* (MDR), leading to the first Rwandan genocide. An estimated 60,000 Tutsi were killed.

Thousands of Tutsi refugees fled to neighboring countries, following the lead of King Kigery who was already in Uganda. This first ethnic conflict episode set the stage for the infamous genocide of 1994.

When the Belgians officially left Rwanda in 1962, many Tutsis fled to neighbouring countries and the administration was fully in the hands of the Hutus. The level of oppression suffered by Tutsis which remained in the country during that time is still unmatched by any other ethnic conflict in the region. Tutsis became national scapegoats and were treated as second-class citizens. Impunity was established when Hutus were allowed to kill Tutsi without legal consequences.

In the 1990s the children of the original Tutsi refugees began to organize themselves and return to reclaim family territory and the place they once had in Rwandan society. They created the Rwandese Patriotic Front (RPF) and began putting pressure on the government of Habyarimana, the thrice-elected

Hutu president of a one-party system. Three factors aggravated Tutsi reintegration: the economy was in shambles as most of the educated class had become refugees and corruption had become rampant; Habyarimana began making promises of political reform and the installation of a multi-party system which were greatly expected but slow in implementation; and the RPF made a drastic incursion in Rwanda which was taken by Hutus as an attempt to retake power in the country. Habyarimana cleverly used the rise in tensions to direct a series of drastic massacre policies toward Tutsis and Tutsi-friendly Hutus. The RPF and the Rwandan government began an all-out war.

Both parties agreed to a cease-fire in 1992 under the condition that the UN would send a peacekeeping mission. They realized that the population could not be kept under control by their own forces. The source of such insecurity was the emergence and strengthening of the *Interahamwe*, a Hutu militia formed by young men who controlled most of the radio in the country and used the government's attempts at peace as fuel to promote ethnic hatred throughout the population. Both Kagame (leader of the RPF) and Habyarimana agreed to meet in Arusha, Tanzania, for a cease-fire, peace talks and an eventual power-sharing strategy if an outside party would aid them at keeping peace in the country. It was not, however, until the next year that a UN mission was sent, and then initially established only as an observation mission.

In 1994, President Habyarimana and the President of Burundi, Cyprien Ntaryamira were killed when their plane was shot down at the airport of Kigali. Right after the incident, the highly organized *Interahamwe* began putting up roadblocks across the country and blaming the RPF for the assassination. The second genocide began and in the next 100 days 800,000 Tutsi and moderate Hutus were killed with machetes and axes across Rwanda.

At the beginning of the genocide, the *genocidaires*, as

the perpetrators were called, held the advantage, but the RPF soon began to fight back. The Hutus were defeated, leading to an overflow of the conflict into neighboring countries as the Hutu began to flee to the numerous refugee camps first set up to receive the Tutsi genocide victims. This weakened these countries' domestic politics making them unstable, as they now had to deal with ethnic tension in the regions to which the refugees had fled. Today most of the Tutsis are back in Rwanda and a diverse patchwork of judicial systems has begun trying *genocidaires* so as to end the tradition of impunity in the country and give closure to the Tutsi survivors. Kagame, the leader of the RPF during the genocide, is now president of Rwanda⁴⁰.

In Burundi, although Hutu-Tutsi tensions were also high, the death of the president did not trigger the same level of violence. The civil war which preceded the assassination – caused by a Tutsi uprising against the newly elected Hutu president – continued and was made worse by the influx of Tutsi and Hutu refugees from the Rwandan genocide. Finally, in 2001 a power-sharing system was worked out so that a break from the civil war could be attained. It is, however, still an unstable situation⁴¹.

The end of the Cold War had other effects on the country formerly known as Zaire. Western countries removed most of the assistance to the regime and Kabila, a long time resistance fighter backed by neighboring countries, led a successful military coup, deposing Mobutu and declaring himself president. The name of the country was changed one last time and war raged for a year involving several armed groups from Burundi, Rwanda, Uganda and from within the Democratic Republic of the Congo.

When in August 1998 the Banyamulenge – an eastern

⁴⁰ BARNETT, Michael. *Eyewitness to Genocide*. p. 97-128.

⁴¹ GUY, Arnold. *A modern history of Africa*.

Congolese Tutsi group - began a mutiny, the Second Congolese civil war erupted. Supported by the Rwandans and Ugandans, the Banyamulenge created the “Rally for Congolese Democracy” (RCD) and took over the towns of Bukavu and Uvira in the Kivus region. Both the governments of Uganda and Burundi also occupied a portion of the northeastern Congo.

President Kabila’s response only led to more ethnic hatred in a region already drenched in it. He enlisted Hutu militia to fight the incursions and began an anti-Tutsi movement among the people. The episode recalled the Rwandan Genocide as numerous references were made in the local media to the killings of Rwandan Tutsis, all sponsored by the government. Rwanda used it to its advantage and began enrolling support against “another genocide”. Rebel forces were able to advance relatively quickly and two weeks into the revolt the RCD was already in the surrounding area of Kinshasa in the Southwest of the country. Meanwhile Kabila managed to enlist the support of Angola, Zimbabwe, (and) Namibia and, to a lesser degree, Chad, Libya, and the Sudan, subsequently beginning his retaliation. Although the intervention saved the government and the situation began to turn, conflict still raged all through the country. Things seemed to be getting closer to an African inter-state war as Rwanda and Uganda began to publicly support the rebel movements. The crisis diminished when a cease fire between the foreign nations was agreed upon in January, but the internal rebel movements and the Congolese army did not stop fighting.

In April Uganda signed a cease-fire with Kabila, but Rwanda refused to participate. The RCD, which also did not agree to the cease-fire, had recently left the Rwandan-controlled region of the Banyamulenge and moved to the Ugandan-supported region of Kisangani, signaling a move in loyalties. This did not last long as its leader was soon substituted by a pro-Rwandan. The RCD was split and internal fighting for control

of the Kisangani sprang up, pausing periodically to form a strong front against Kabila. Uganda took the opportunity of a weakened Congolese state and created a new province in the region, calling it Ituri. This move triggered a regional ethnic conflict adding to the already complicated dynamics of the region.

A month after the Ituri takeover the conflict subsided and the six warring countries came together to sign the *Lusaka Ceasefire Agreement*. Among the rebel groups, the MLC also decided to sign but the RCD continued its refusal to make peace. At this point, the United Nations became involved and sent liaison personnel to aid and support the cease-fire. Having been under attack over the Rwandan genocide, the UN was particularly interested in disarming the rebels involved in the 1994 episode.

Conflict resolution, however, proved not to be an easy task. Small clashes between groups were just as destabilizing as larger-scaled ones. Repeated incidents between dissidents and the tensions still on the surface showed that a stronger outside force would be needed. The UN soon authorized MONUC, the French acronym for the United Nations Organization Mission in the Democratic Republic of the Congo. Its mandate consisted in monitoring the cease-fire and the mediation of several diplomatic efforts to calm the conflict along with other regional organizations, notably the African Union.

In 2001, Larent Kabila was assassinated by a bodyguard and the country's leadership was transferred to his son, Joseph Kabila. The motives and the amount of foreign involvement in the assassination are still uncertain, but evidence of both Angolan and Western participation has been put forward.

Joseph Kabila, backed by the president of Zimbabwe and several western countries, including the U.S., accelerated the peace process that had been stalled during the last part of his father's rule. With help from the UN, a deal was brokered

for Rwandan, Ugandan, and rebel troops to leave the country. The main reason why Rwanda was able to get so entangled in the DRC is that due to its history, Western countries avoided condemning its leader. Western guilt for not having taken swifter action to prevent the genocide has contributed to a removed stance during the peace talks when a more assertive position was needed against the Rwandan invasion of the Congo⁴².

In 2002, another step in the direction of peace was taken when the Sun City Agreement was signed providing a framework for democratic elections and a multiparty government in the DRC. Other steps in this process were the strengthening of the DRC's relationship with Rwanda, with a 2002 peace deal that decided on the withdrawal of Rwandan soldiers and the dismantling of the Interahamwe which had been installed in the Eastern Congo and continued to terrify both the Rwandan and the Congolese people. The Luanda Agreement solidified the informal peace between the Congo and Uganda and also focused on troop withdrawal from the Congolese territory. Internally, the different factions - government, MLC, RCD, RCD-ML, RCD-N, civil society, and Mai Mai - signed a Global and All-Inclusive Agreement in which dates were set for the legislative and presidential elections and a plan was created for the transitional government⁴³.

STATEMENT OF THE PROBLEM

"I think this is a lesson that the international community, not just the UN but all of us have learned, that one has to have the patience and help stabilize the countries coming out of conflict and not rush out too soon."
Kofi Annan, United Nations Secretary-General.

⁴² SCHERRER, Christian. *Genocide and Crisis in Central Africa*. P. 327- 360.

⁴³ Security Sector Reform in the Congo. International Crisis Group. Africa Report 104.

Even with the transitional government in the DRC, the peace process in the region remains challenged. Despite the inclusion of former belligerent parties in the government and in the army, many violations of the Global and All-Inclusive Agreement have occurred. Foreign groups continue to violate the sovereignty of the DRC. The exploitation of natural resources remains uncontrolled. There is still a fundamental need for security sector reform and transitional justice⁴⁴. Human rights abuses are evident all over the region. In a nutshell, these are the main challenges that the Great Lakes region has currently come up against.

After the signing of the 2002 Global and All-Inclusive Agreement, the transitional government was established with the aim of including the most important domestic warring groups. This government was committed to accomplishing the transition to a definitive government and a peaceful state through the disarmament and reintegration of armed groups, the holding of elections, among other measures.

Although there was some progress in this process, such as the approval of a new constitution by the parliament ratified in a referendum in December 2005, it unfolded very slowly, neglecting many important actions. This happened mostly because of the *“reluctance of the former belligerents to give up power and assets for the national good. All have maintained parallel command structures in the army, the local administration and the intelligence services”*⁴⁵.

Due to these difficulties, the electoral process in the Democratic Republic of the Congo has been postponed several times in the last years. The adoption of an electoral law that

⁴⁴ *Transitional justice is the process by which nations address past abuses and reform their society.* Available at http://www.mnadvocates.org/Transitional_Justice_Mechanisms.html.

⁴⁵ *A Congo Action Plan.* International Crisis Group Policy Briefing, p. 1. Available at: http://www.crisisgroup.org/library/documents/africa/central_africa/b034_congo_action_plan.pdf.

foresees the holding of elections in June 2006 is this year's main development in the conflict. It is notable that after ten years of war the international community sees it as the crucial step in the direction of sustainable peace.

More than 25 million citizens⁴⁶ of the DRC are eligible to vote in the elections this year. These will be the first nation-wide elections in more than forty years, and are the largest electoral process the United Nations has ever taken part in. Fear that security issues could threaten the outcome of the elections has made the European Union announce the deployment of troops in support of MONUC during the presidential and legislative election process⁴⁷.

This task is huge since it concerns such a large country suffering from a great lack of infrastructure in many places. Moreover, many combatant groups, such as the Mai Mai, pose their opposition through violent means. One can presume that there is a chance that this may occur during and after the elections.

Furthermore, it does not mean that once the electoral process is over, the situation will be overcome. Human Rights Watch accuses international actors of being more concerned with the political and logistical challenges of the electoral process than with planning the post-elections period when such major problems as army integration and the creation of a judicial system will need to be tackled⁴⁸.

In the following sections we will try to elucidate some of the major challenges faced by the region in order to attain sustainable peace.

⁴⁶ United Nations Secretary General Report S/2005/832

⁴⁷ See <http://www.monuc.org/news.aspx?newsID=10436>

⁴⁸ *Democratic Republic of Congo: Elections in sight: "Don't Rock the Boat"?*, p. 2 Available at: <http://hrw.org/backgrounder/africa/drc1205/index.htm>

Natural Resources

“The only way to stop the warlords from making money would be to put pressure on the region’s governments to end this regime of impunity.”

Enrico Carisch, UN finance expert⁴⁹

The 2002 report of the UN Panel of Experts on Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo⁵⁰, established by the Security Council, concluded that the greed over the Congolese natural resources has played a key role in prolonging the conflict. The report stresses the important link between the illegal exploitation of natural resources and the funding of armed groups which feed the conflict in the DRC.

It is important to highlight that natural resources were not a primary concern for neighboring countries in the 1990s. However, the opportunity to loot the wealth of a country suffering from serious lack of a governmental authority soon came to be a primary incentive for such groups⁵¹. Since then, copper, coltan, diamonds, gold, cobalt, and other commodities have been systematically looted by both foreign and domestic forces⁵².

The occurrence of natural resources exploitation in the DRC follows three patterns: some armies have been directly working on resource extraction; the occupying forces and their rebel allies have forced farmers to sell their commodities at the lowest prices; and foreign companies were given concessions to exploit the resources of the Congo. This pattern of exploitation

⁴⁹ Liberti, Stefano. *Congo and Uganda: A Rush of Gold*. Le Monde Diplomatique. Available at: <http://www.globalpolicy.org/security/issues/congo/2005/12rush.htm>.

⁵⁰ UN document S/2003/1027.

⁵¹ RENNER, Michael. *The Anatomy of Resource Wars*. p. 27.

⁵² ROSS, Michael. *Natural Resources and Civil War: An Overview with Some Policy Options*. p. 21

has allowed countries like Rwanda and Uganda to become exporters of raw materials that they do not possess⁵³.

Subsequently, the resources are traded for money, arms, equipment, or other supplies, financing the warring parties and prolonging their engagement. In an attempt to avoid such financing, the Security Council has adopted sanctions⁵⁴ that include freezing assets and travel restrictions on anyone who breaks the arms embargo on the DRC.

Justice and an end to impunity

In violent protracted conflicts there is an inherent tension between the need for reconciliation and the demands for justice⁵⁵. Transitional justice is extremely necessary not only to judge and punish the perpetrators of crimes and to end the feeling of impunity among the people, but also to increase dialogue between the former conflicting parties, reducing grievances and (re)establishing a vision of an integrated society. However, the governments in the Great Lakes region are failing to ensure such justice and accountability for human rights violations and violence.

Concerning the Democratic Republic of the Congo, the International Criminal Court has begun investigating those responsible for those more serious crimes that concern the international community⁵⁶. The European Commission is implementing a project to rebuild justice in the province of Ituri. These actions are, nevertheless, very limited, and the country still suffers from serious lack of legal mechanisms. Most of the perpetrators of human rights violations are not

⁵³ RENNER, Michael. *The Anatomy of Resource Wars*. p. 32.

⁵⁴ See Security Council Resolutions: S/RES/1649 and S/RES/1533.

⁵⁵ DRESS, Tobi. *Designing a Peacebuilding Infrastructure: Taking a systems approach to the Prevention of Deadly Conflict*. p. 41.

⁵⁶ See <http://hrw.org/english/docs/2006/01/24/congo12758.htm>.

being held accountable, contributing to the culture of impunity in the region. International NGOs, such as the Human Rights Watch, have been condemning the inability of MONUC to bring human rights abusers to justice⁵⁷.

Although it is clear that the Congolese judicial system is not capable of dealing even with common crimes, a reform of the judicial system has not yet been initiated. It is therefore common that violators escape punishment. This allows many persons guilty of past crimes to participate in elections, perpetuating their crimes and protecting them from indictment⁵⁸.

Neighboring countries are also facing difficulties to end the impunity of armed groups. An instance is the Ugandan government's inability to arrest leaders of the armed group Lord's Resistance Army (LRA), thus allowing them to cross the borders and act in Congolese territory.

Security Sector

Stable security forces in the Great Lakes are essential for peace in the region. It has, however, also been one of the most difficult problems to solve.

As stated in the Global and All-Inclusive Agreement, the new army created, known as FARDC, should integrate the former belligerent parties. However, the former forces continue to exist, leading to an intense division in the national army. Important military and political leaders are hesitant to commit their troops. In other cases, military officers are using what are known as "ghost soldiers", enlarging the ranks on paper in order to receive the salary payment for each soldier⁵⁹.

⁵⁹ *Democratic Republic of Congo: Elections in sight: "Don't Rock the Boat"?*, p. 10 Available at: <http://hrw.org/backgrounder/africa/drc1205/index.htm>

⁵⁷ *Id. Ibid.*

⁵⁸ *Id. Ibid.*

One of the most complicated post-conflict issues is what to do with the numerous groups that have sprung up from the Congo conflict. The Congolese Rally for Democracy (RCD) was a rebel group backed by Rwanda and Uganda in the eastern region of the Congo. It has since split into numerous factions. First the RCD-Kisangani backed by Ugandans and the RCD-Goma backed by Rwanda, which caused a shift in tensions between the two countries to the rebel groups that each, in turn, backed. The RCD-K was at one point renamed RCD-*Mouvement de Liberation* and had another split off originating the RCD-National, which has since allied with the *Mouvement de Liberation du Congo* – a rebel group turned into a political party. The RCD-Goma also had a splinter group, forming the RCD-Congo in 2002. The Mai Mai are Congolese militias initially formed to resist foreign invasion. They have since taken a life of their own and have had to be incorporated into the Lusaka agreement as armed groups. The Mai Mai have become abundant and are considered to be every armed group led by tribal heads, warlords, and politically active leaders. As stated above, it was decided that they would be integrated into one national army, but a lot has to be done before that can be achievable.

The main consequence of this division in the army is that frequent conflict between military units occurs in the country reflecting local ethnic divisions⁶⁰. This situation weakens the FARDC forces, undermining its capacity and credibility to establish a peaceful situation. Furthermore, the newly created army is not only failing to protect civilians from attacks, but it is also accused of attacking them.

Dealing with Foreign Armed Groups

⁶⁰ *Id. Ibid.*

Despite signing many treaties with its neighboring countries, one of the biggest challenges faced is the presence of foreign armed groups in the eastern Congo. These are mostly from Rwanda and Uganda. Both of these countries argue that the Congo's conflict and numerous militia and paramilitaries pose security threats to their governments. Official claims notwithstanding, there is no evidence for such rationale. Human Rights Watch argues that it is mostly an excuse used to cover up other interests in the country⁶¹.

Poor relations between Uganda, Rwanda, and the DRC have increased the difficulty of solving this problem, hindering negotiation. Rwanda and Uganda have threatened to invade the DRC several times in the last years. Their official goal would be to capture these rebel groups.

The Congolese army has had a hard time trying to demobilize foreign troops. Not only is the Disarmament, Demobilization, and Reintegration of ex-Combatants (DDR) difficult, it has to repatriate armed groups as well. In addition, MONUC has been cautious in the use of force against foreign groups, although it is allowed to in principle by its mandate⁶². According to the International Crisis Group, the Democratic Forces for the Liberation of Rwanda (FDLR), a Rwandan armed group based in the eastern Congo, *"has indicated that if it is strongly attacked by either the Congolese army or MONUC, it will retaliate against the local population"*⁶³.

This situation of insecurity complicates the development of the peace process, since it directly affects the electoral process. Even during the holding of elections or after this process, the presence of foreign groups in the eastern Congo will be a threat to the population and to the stability in the region.

⁶¹ *Id. Ibid.*

⁶² *A Congo Action Plan*. International Crisis Group Policy Briefing, p. 8. Available at: http://www.crisisgroup.org/library/documents/africa/central_africa/b034_congo_action_plan.pdf

⁶³ *Id. Ibid.*

Humanitarian Situation

“If you look at the figures and the extent of the suffering cumulatively, you probably have a tsunami in this country every six months, in terms of deaths.”

Kofi Annan, United Nations Secretary General

Systematic human rights abuses have been increasing in the Great Lakes since the mid-1990s. When armed conflict exploded in 1999, international media and the main Western powers were engaged in other humanitarian emergencies in southern Europe. *“While the heart of Africa implodes and a huge frontline develops which spans a string of conflicts involving, directly or indirectly, a dozen countries, the silence of the ‘international community’ is deafening and its inactivity striking in the face of a conflict which not only has huge humanitarian consequences but a potential continued impact as well.”*⁶⁴

Recently, the UN High Commissioner of Refugees, Mr. António Guterres, was invited to participate in a Security Council meeting in order to deliver a briefing to the Council members about the specific situation of two regions: Darfur (Sudan) and the Great Lakes region. Mr. Guterres stated that humanitarian agencies such as UNHCR are facing complex challenges in the Great Lakes region. According to the agency, 66,000 people went home to Burundi with UNHCR’s help. However, the rate of refugee return has slowed significantly, and this movement may stop unless some measures are taken to build confidence in the expatriate population. Among other important declarations, the High Commissioner also stated that *“humanitarian aid is not a guarantee against the recurrence of violence or of displacement”*⁶⁵.

⁶⁴ REYJTJENS, Filip. “The second Congo War: more than a remake”. *African Affairs*. N.98, 1999.

⁶⁵ See <http://daccessdds.un.org/doc/UNDOC/GEN/N06/219/13/PDF/N0621913.pdf?OpenElement>

In its last report about MONUC, the Secretary-General informed the Council that serious human rights violations committed by FARDC and national police personnel against civilians continued to be reported. This contributes to an environment of insecurity and fear in several Congolese towns and provinces, as violent crimes, particularly armed robberies, are being carried out with impunity. Kinshasa, Mbuji-Mai and Goma report the worst crime rates. Incidents of violence continue to be reported in North and South Kivu, northern Katanga and the Ituri district. Restrictions on freedom of expression have also continued. Furthermore, investigations conducted by MONUC demonstrate a close link between illegal exploitation of natural resources and violence⁶⁶.

Moreover, non-governmental organizations are reporting serious human rights violations in Congolese territory. Amnesty International (AI) has requested the Congolese authorities to bring the leaders of armed insurgent groups in Katanga and North-Kivu to justice. AI accused the Congolese government of being equally responsible for the lack of protection for civilians in these areas. In Katanga, fighting between the army and the Mai Mai militia has led to the displacement of more than 100,000 people. The insurgents have attacked villages, raped and killed civilians, and burned and looted people's homes. In fighting the Mai Mai, the Congolese army, according to Amnesty International, has also been responsible for looting, raping, and other human rights violations. North-Kivu and Katanga provinces are home to a mix of ethnic groups with historically troubled relations, living in intersecting zones of control of different, largely ethnically based, Congolese political armed groups. Some communities, manipulated by their leaders, remain deeply suspicious of the army unification

⁶⁶ Twentieth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo.

process - fearing the loss of protection by local armed groups⁶⁷.

The United Nations has taken part in the violation of human rights. In 2003, the United Nations' credibility was jeopardized by cases of sexual exploitation by MONUC personnel of Congolese women. Despite the existence of a specific code of conduct in the United Nations that prohibits such actions and stress for the necessity of strong answers to these actions, the response of the organization was too slow⁶⁸.

The Human Rights Watch also reports grave human rights violations. According to the organization, Ituri is one of the areas worst hit by the Congo's devastating war, which is still underway. A local conflict between Hema and Lendu ethnic groups that began in 1999 was exacerbated by Ugandan military forces and aggravated by a broader international armed conflict in the DRC. As the conflict spiraled and armed groups multiplied, more than 60,000 civilians were slaughtered in Ituri. In addition to abuses committed by the Union of Congolese Patriots (UPC), serious human rights violations were committed by other groups, including the Nationalist and Integrationist Front (FNI), a Lendu militia led by Floribert Njabu⁶⁹. Refugees International, one of the most acknowledged non-governmental organizations in the field of refugee rights, declared that hundreds of thousands of displaced people are facing life-threatening conditions in Katanga, rendering the international response to the crisis slow. According to the institution, this has not been for lack of warning. Information about the developing crisis has been available for several months, and the UN Office for the Coordination of Humanitarian Affairs (OCHA)

⁶⁷ AMNESTY INTERNATIONAL. "Democratic Republic of the Congo (DRC): Kinshasa must meet its responsibility to protect civilians". See <http://web.amnesty.org/library/Index/ENGAFR620032006?open&of=ENG-COD>

⁶⁸ See at <http://hrw.org/english/docs/2005/03/01/congo10222.htm>.

⁶⁹ "D.R. Congo: ICC Arrest First Step to Justice" See <http://hrw.org/english/docs/2006/03/17/congo13026.htm>

documented needs in the area in April and June 2005. Although OCHA, in partnership with UNICEF and through the Rapid Response Mechanism, has been able to provide supplies and protein biscuits to the displaced, it has not been able to catalyze a greater sustained response from other agencies⁷⁰.

The ambition of combatant forces to exploit the eastern DRC's natural wealth has been one of the most important factors in the ongoing violence. Rebel movements have been able to successfully sustain their war efforts by looting the economic wealth of the country's mineral rich eastern region⁷¹. In addition, the ethnic factor is relevant for a global analysis of the conflict in the Great Lakes region. Peace, security, and development are interrelated. They cannot subsist without one another. It would be a mistake to treat human rights as though there were a trade-off to be made between them and such goals as security or development. Since its establishment, the United Nations has committed itself to striving for a world of peace and justice, grounded in universal respect for human rights⁷². The international community exhorts the Council to respect human rights during its interventions, and also requests the most powerful body of the United Nations to ensure the protection of civilians, refugees, internally displaced persons, women, children, and all others.

UN PAST ACTIONS

United Nations participation in conflict resolution in the

⁷⁰ "Democratic Republic of the Congo: Respond to the needs of the displaced in Katanga" See <http://www.refugeesinternational.org/content/article/detail/8119/>

⁷¹ AMNESTY INTERNATIONAL. "Democratic Republic of the Congo: 'Our brother who help kill us' – Economic exploitation and human rights abuses in the east". April 2003, p.3.

⁷² "In Larger Freedom: towards development, security and human rights for all". March 2005. p. 37.

Great Lakes region dates back to the sixties. The experience then failed as one of the first attempts of UN peacekeeping involvement on the African continent. When UN left former Zaire at the end of that decade, the country was deeply immersed in Cold War dynamics.

But then the intervention happened in a totally different context of the recent and still current United Nations Organization Mission in the Democratic Republic of the Congo. However, its flaws to address nation-building problems emerge to this day, as primary causes of the conflict that has taken place between 1998 and 2002 in the Democratic Republic of the Congo.

The UN's first mission to the Great Lakes Region occurred in the context of the Belgian Congo's decolonization⁷³. Then, the metropolis withdrawal happened in such haste that it left the country short of any apparatus to deal with the incredible nation-building task. Amid the general conflict that then took place in the country, the province of Katanga decided to seek Belgian support to gain autonomy. Other provinces, however, understood such action as an attempt to re-establish colonial rule. Once Katanga tried to dissociate itself from the rest of the Congo, local leaders who aspired to national rule asked for UN help to halt the Belgian intervention, seen as the main root of Katanga's claim.

At this point, the Cold War made the UN see itself as the tool to prevent conflicts such as the one in the Congo from being entangled in the emerging dynamics of superpower antagonisms. Nevertheless, the UN's lack of experience with the characteristics of African countries and the organization's previous engagement in peacekeeping operations would not provide the mission established at the time– ONUC – with the proper tools to deal with the Congo's situation.

⁷³ Security Council Resolution S/RES/143, 14 July 1960.

Therefore, the UN's attempt to act outside the emerging Cold War dynamics in the African continent failed completely. Once the use of force by ONUC was authorized, it found itself used by competing leaderships within the country as a political tool to gain internal power, and superpower "patronage". *"The Congo experience illustrated the danger that UN intervention, far from fencing-off local conflicts from the larger global contest, could actually become an element in that contest, encouraging the very embroilment it was designed to prevent."*⁷⁴ ONUC - after a series of diplomatic problems, Security Council entanglements and unexpected occurrences in the field - saw the end of its mandate when the desire for autonomy of the Katanga province was silenced. Although the United Nations' intervention succeeded in maintaining the country's territorial integrity, it can also be considered responsible for setting the Congo's role as a client of the Western powers. The United States' "patronage" found its way, due to UN intervention, to consolidate the Mobutu dictatorship.

Forty years later, the nation building failure and the end of Cold War worked to revive regional instability, after years of cruel and repressive ethnic discrimination as well as humanitarian crises and conflicts in various parts of the Great Lakes. The recent conflict in the RDC had its immediate start under the government of the former rebel Laurent Kabila. The United Nations, however, due to the lack of an agreement between the warring parts, could only find a window to intervene in the country after international pressure had worked the Great Lakes region's way to a cease-fire agreement, almost three years after the war began.

A few paradoxes permeate the UN involvement in the DRC. It has features of a classic peacekeeping approach inasmuch as the porous national borders and, consequently,

⁷⁴ MacQueen, Norris. *United Nations Peacekeeping in Africa since 1960*, p. 36.

the spread of national ethnic conflict have placed the United Nations in a mediation position. Mediation between the DRC, Ugandan, and Rwandan governments includes a supervision role on the borders of Uganda, Rwanda (with the creation of a buffer zone between these two countries), and the DRC. In addition, it has also assumed the responsibility of providing a plan as to eliminate foreign armies from the region of eastern ex-Zaire⁷⁵. This classical approach, however, has not overshadowed a second generation peacekeeping point of view, which regards UN intervention's main concern as being the establishment of a safe environment and electoral assistance. It is also important to highlight the centrality of DDR programs in peacekeeping missions to the African continent, where civil war destroys even the most basic structures of society.

To understand how this second attempt in peacekeeping in the Congo has come to take place, one must look at the Rwandan genocide. To avoid the same problems they had had in the United Nations mission for Rwanda, the Security Council worked to guarantee that its decisions would correspond to what the country's government and opposite factions expected. In that view, the UN assured their presence as brokers during negotiations of the Lusaka agreement⁷⁶.

This agreement, however, is better understood as the result of large international pressure upon the signatories rather than the product of their political will. The particular character of the DRC's crisis lies in the satisfaction the warrior parties found in the point of stalemate the situation eventually reached. Nevertheless, *"the Agreement included provisions on the normalization of the situation along the DRC border; the control of illicit trafficking of arms and the infiltration of armed groups; the holding of a national dialogue; the need to address security*

⁷⁵ Security Council Resolutions S/RES/1304 and S/RES/1355.

⁷⁶ *Ibidem*, p. 90-1.

*concerns; and the establishment of a mechanism for disarming militias and armed groups. It also provided for a Joint Military Commission (JMC) composed of two representatives from each party under a neutral Chairman appointed by the Organization of African Unity (OAU) and proposed an 'appropriate force' to be constituted, facilitated and deployed by the United Nations in collaboration with OAU."*⁷⁷

Critics of the agreement often point out that it has not included all factions as signatories and that it has not been complied with. However, the agreement's importance is that of being a first sign of willingness to stop the war. That is what gave the UN the possibility of intervening, even though it did not mean that the DRC's situation was one of peace to be kept. The UN intervention in the Congo conflict began before the conflict's actual end. To gain greater acquaintance with the evolution of the peace process henceforward beginning, the Secretary-General appointed a Special Envoy to the Congo, to be assisted by the SG's Special Envoy to the Great Lakes Region – both responsible for the recommendation surrounding the need and deployment of a United Nations peacekeeping force⁷⁸.

MONUC's deployment, soon after the final setting of the agreement by Security Council resolution 1279, followed the logic of the Secretary-General's three-phase plan for the Congo⁷⁹. The plan was explained in his report of 15 July 1999, where he "recommended to the Security Council that the UN's responsibility for the implementation of the ceasefire agreement should be approached in three phases: firstly, the deployment of unarmed military liaison officers to the capitals of the signatories and, if the security situation permitted, to the rear headquarters of the rebel groups; secondly, the deployment

⁷⁷ See the United Nations Organization Mission in the Democratic Republic of the Congo website. Available at: <http://www.un.org/Depts/dpko/missions/monuc/>.

⁷⁸ Secretary-General Report S/1999/379.

⁷⁹ Secretary General Report S/1999/790.

of up to 500 military observers inside the DRC; and thirdly, the deployment of a peacekeeping force”⁸⁰.

MONUC’s initial mandate was to carry out basic tasks of gathering information about the signatories of the agreement and the security situation; to monitor compliance with the agreement; and to assist the Joint Military Commission in the initial DDR and humanitarian relief. This mandate had many extensions for diplomatic efforts, and it urged Rwandan and Ugandan armies to withdraw from the Congo’s territory⁸¹.

As stated above, the signing of the agreement did not mean the immediate compliance of factions and nations to it. The poor security situation in the country, in part due to the small effort made by neighboring nations to withdraw their troops, led the UN brokering to another agreement concerning the Congo’s war, the Kampala agreement. MONUC’s extension or the revision of its mandate became then closely related to the success of a disengagement and repatriation plan of alien troops in DRC territory, which was supposed to be established according to the framework set by conversations held in Kampala.

The economic dimension of the conflict would become very clear after the deployment of phase two of the Secretary-General’s plan. When war broke out between Rwanda and Uganda inside the Democratic Republic of the Congo’s borders, both countries declaring to be intervening in the internal situation of the Congo only to guarantee their own internal security, the role of the natural resources to the continuing instability in the Great Lakes Region was brought to the fore⁸². As the security situation did not allow the deployment of the MONUC plan’s

⁸⁰ Cilliers, Jakkie and Malan, Mark. *Peacekeeping in the DRC – MONUC and the road to peace*, cap. 4. Available at <http://www.iss.co.za/Pubs/Monographs/No66/Chap4.html>.

⁸¹ Security Council Resolutions S/RES/1279 (MONUC’s deployment) and S/RES/1291, S/RES/1316, S/RES/1323 S/RES/1332 (mandate’s extension).

⁸² Security Council Resolution S/RES/1457.

phase III, the Security Council opted for a revision of phase II. *“The new concept also emphasizes the economic importance of Kisangani, and the need to expand MONUC’s presence with more civilian personnel, military observer teams, and a commensurate increase in the size of both the UN armed security unit and the military and civilian logistics support units. The other three sector headquarters — at Kalemie, Kananga and Mbandaka — would also see a considerable expansion of civilian personnel, in order to make them integrated operational centers from which the full range of mission activities could be conducted.”*⁸³

The second phase of Kofi Annan’s plan was very much like the first one. But the obstacles encountered by the UN personnel to moving within the Congo’s territory and to protecting their own lives, an essential requisite to make disarmament possible, made it clear that there was the need for infantry backup. The Security Council resolution which finally approved the deployment of more troops also made them capable of engaging in the use of force in order to protect not only themselves, but also, in accordance to chapter VII of the United Nations Charter, established the mission’s capability to protect lives of civilians and Joint Military Commission personnel⁸⁴. The evolution in UN’s involvement made very clear the duality mentioned above concerning the peacekeeping approach to the conflict. Besides its more classical features, MONUC increasingly expanded procedures that are seen as part of a second generation in peacekeeping. Coordinating these two approaches is not always an easy task, and the controversy about the plan’s second phase revaluation showed that. After deciding about a new phase II concept, the Congo, France, and other governments made clear that the UN was intended, initially, to work in making the foreign troops’ withdrawal from the DRC’s territory effective, as

⁸³ Cilliers, J. and Malan, M. *Op. Cit* 8, cap. 6.

⁸⁴ Security Council Resolution S/RES/1417.

well as creating a buffer zone. That kind of controversy appeared in Security Council's discussions as MONUC's involvement in the region became more fragile. The lack of improvement in the security situation, largely due to parties' non-cooperation with peace efforts, made Security Council members less prone to strengthen the peacekeeping mission and follow the Secretary-General's plan.

Phase III, which would define MONUC's stabilization and a more robust mandate, that is, the permission for military backup and the use of force, was made possible only with new agreements and scenarios that followed the replacement of the government of Laurent Kabila, who died in 2001, by his son, Joseph Kabila. MONUC's mandate then, under Chapter VII of the Charter, included the protection of civilians and the use of all means to guarantee freedom of movement to MONUC forces, as well as the delivery of humanitarian assistance. This measure was taken especially because of MONUC's early problems with the troops' freedom of movement as a result of the country's organization into occupation zones, each one under control of a different warlord, and few under the central government's control⁸⁵.

The increased stability of the country since the promulgation of the new constitution has encouraged the deployment of another 1,800 troops⁸⁶, making MONUC the largest peacekeeping operation currently deployed by the UN. *"The focus of phases I and II of MONUC has been squarely on the cessation of hostilities and the disengagement or redeployment of the parties' armed forces in the DRC. Once progress with these aspects is deemed satisfactory, the Lusaka agreement lists the next set of requirements: orderly withdrawal of foreign forces; national dialogue and reconciliation; re-establishment of state*

⁸⁵ Galvão, Denise. *Conflitos armados e recursos naturais: as 'novas' guerras na África*, p. 166-7.

⁸⁶ Security Council Resolution S/RES/1493.

*administration over the territory of the DRC; disarmament of the armed groups; formation of a national army; and normalisation of the security situation along the common borders between the DRC and its neighbours.”*⁸⁷. MONUC has been increasingly taking up tasks that bring its mandate and constitution closer to those United Nations operations referring to intrastate conflicts: civil society reconstruction and strengthening of state institutions. Nation-building tasks, which require rehabilitation of social capital, rescuing it from conflict dynamics, marks the central and fundamental aspect of the DDR process – a staple of the peacekeeping operations of the 1990s – in order to remove the means of violence from the hands of warlords and local militias.

In this manner, MONUC now has a totally revised concept. This has been reinforced with the evolution of the situation in the Great Lakes region, and that goes beyond the original set of goals established for the UN intervention. *“According to the Secretary-General in his second special report on DRC dated 27 May 2003, the peace process had now moved beyond the Lusaka framework and begun a new chapter that would require the comprehensive engagement and assistance of the United Nations and the international community. The main focus of MONUC should now shift to facilitating and assisting the transitional process. The Mission should, therefore, be reconfigured and augmented.”*⁸⁸

In spite of the events having evolved further after the final withdrawal of Uganda's troops, the creation of a transitional government, and the setting up of elections, the situation still remains relatively fragile. In more volatile areas such as Bunia, the Security Council has authorized an international force to

⁸⁷ Cilliers, J. and Malan, M. Op. Cit., cap. 6.

⁸⁸ MONUC's website. Available at <http://www.un.org/Depts/dpko/missions/monuc/background.html>.

work, with all means necessary, to secure the area.

Moreover, a panel of experts has recently charged Rwanda and Uganda with being largely responsible for the conflict as they sought profit from it. Their connections to the illicit exploitation of natural resources have made the two countries, both essential to the success of regional peace building, less willing to fully cooperate. The Security Council has also, in more recent resolutions, imposed arms embargos and frozen personal assets as other attempts to constrain the activity of warlords in mobilizing civil society for their guerrilla use.

The situation in the Great Lakes region still has, however, a long way to go before it can be considered a peacekeeping success. Instability in Burundi, which has been taking place since 2004, can negatively impact the evolution of the DRC's peace process. Still, the UN has constantly reiterated its intended and effective participation through all means, in accordance with Chapter VII of the UN Charter, in the DDR process, in the humanitarian assistance, and the maintenance of the embargo on the sale of arms and related *matériel*, as emphasized in Security Council resolution 1592, from March 2005: *"MONUC in this regard is to continue to make full use of its mandate under resolution 1565 in the eastern part of the Democratic Republic of the Congo, and stresses that, in accordance with its mandate, MONUC may use cordon and search tactics to prevent attacks on civilians and disrupt the military capability of illegal armed groups that continue to use violence in those areas"*. The situation on the ground ensures that the MONUC and the ONUB (the peacekeeping mission in Burundi) have to join efforts in the enforcement of the processes taking place between the two countries.

The non-compliance of signatories and violations to cease-fire agreements also continues to happen frequently, killing even MONUC's troop members. The DRC continues to report numerous incidents in the eastern provinces, such as

attacks to their forces and to civilians by non-signatory armed groups, such as the Interhamwe and Mai Mai, who continue fighting in the east. The relation between the UN, the DRC's central government and these still unrecognized factions poses another challenge to the mission, and to the political and security improvement in the Great Lakes.

Many problems concerning the current UN peacekeeping force in the region are yet to be addressed. For example, the Lusaka framework works on the basis of amnesty, with the exception of suspects of attempted genocide. This poses a great problem for the UN in its combined efforts to reconstruct the political and judiciary apparatus. African civil wars often pose the dilemma to peacekeepers working to construct a feasible political structure, helping the military leaders to evolve to political means and abandon violence, or else to strengthen the penal system, judging these major regional leaders for the many atrocities perpetrated during the conflict. Consensus about the former existence, or not, of genocidal policies is also an issue as long as it could make the UN guilty of not intervening in a proven genocide attempt.

As the largest UN mission currently deployed, MONUC also faces the challenge of mobilizing the donor community. DDR is a paradoxical case in the Congo, as it involves a transnational dimension that the UN is not accustomed to (in the Congo's case, MONUC has to disarm forces that are not of Congolese nationality). It is usually within national borders that UN organizes DDR in African conflicts.

UN actions concerning the Great Lakes region, especially the DRC, have then used most or all of the UN available know-how and resources to deal with post-Cold War African conflicts. It has, however, presented new and more numerous challenges to the international community, many of which have yet to be addressed.

BLOC POSITIONS

There is some agreement on the need to assure a successful democratic transition in the Great Lakes region countries, especially in the DRC. The way in which this objective will be achieved, however, is not so clear to Council members. In this way, the countries' positions are mostly related to their historical participation in peacekeeping operations.

The Europeans are keener on the extension of the mandate regarding the presence of the United Nations in the Congolese territory, since the elections *per se* cannot fully stabilize the region. Other countries, such as the United States and Japan, would also like a more defined timeframe for United Nations action and believe that it should be limited by the cost of United Nations operations⁸⁹.

The European Union countries will send a rapid reaction force to the DRC in the electoral period in order to guarantee security in the country. Historically speaking, France has been one of the most important leaders on Great Lakes subjects in the Security Council. Moreover, Denmark believes that the Security Council “*should explore how best to support ongoing efforts to develop the African security architecture and to work closely with the African Union to advance ways and means of cooperation*”⁹⁰. Other European Countries, such as Slovakia and Greece, strongly support the engagement of United Nations bodies, like the newly created Peacebuilding Commission, which would have a very important role in the accomplishment and consolidation of a lasting peace in the region in terms of sustainable reconstruction.

Nowadays, British support for African peacekeeping

⁸⁹ See http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.1439191/k.B237/March_2006BRBurundi.htm.

⁹⁰ UN Document: S/PV.5359.

missions include funding for some African Union actions such as AMIB (the African Mission in Burundi, the first AU-led peacekeeping mission) and financial support for other missions, like ECOMICI (ECOWAS mission in Côte d'Ivoire) and AMIS (AU Peace Support Operation in Darfur), which also includes personnel support⁹¹. Following the European approach, the United Kingdom's policies are strongly directed to capacity building and to the support of African subregional organizations.

For the United States, the DRC plays a key role in the region because of its location and regional importance, even after the end of the Cold War, and nowadays, stability in the region is seen as dependent on a long term and de facto peace in the DRC. Since the US is the biggest contributor to the peacekeeping operations budget⁹², it is concerned with limiting the cost of UN operations, and has been more resistant to allow the extension of UN missions in the Congo and Burundi for much time after the elections⁹³. This leads the US to pursue an active diplomatic strategy to strengthen internal reconciliation and democratization, such as the facilitation of the signing of a "tripartite agreement on regional security in the Great Lakes region" between the DRC, Rwanda, and Uganda in 2004 – Burundi was to join it a year later making it the Tripartite Plus⁹⁴.

The Japanese government is also concerned with the UN missions' costs in the Great Lakes region. The country has implemented assistance for the Great Lakes region in the areas of elections, food, refugees, DDR, and community development, but believes that the ownership of the process

⁹¹ See *Support to African Peacekeeping Missions*. <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1094236371951>

⁹² <http://www.globalpolicy.org/finance/tables/inxpckp.htm>.

⁹³ See <http://www.securitycouncilreport.org>.

⁹⁴ U.S. State Department Background Note: Democratic Republic of Congo.

of conflict resolution and peace building should be with the African countries and with cooperative regional efforts, without whom there would be little chance of reliable and sustainable results⁹⁵.

For the Russian Federation, a sustainable peace will only be achieved if the disarmament process is resolved and allows the enlargement and deepening of cooperation in the region. Furthermore, Russia, like China, is reluctant regarding the use of sanctions against potential peace spoilers although the country agrees with the containment of armed groups in the region⁹⁶.

The People's Republic of China affirms that comprehensive cooperation at the sub-regional level should be further strengthened and argues that all countries and parties concerned should “*seek a proper solution through consultations and dialogue on the basis of mutual respect for sovereignty and territorial integrity*”⁹⁷. The Chinese Government believes that the peace process in DRC is directly related to the peace process in Burundi, and for that reason, solutions need to be taken as a whole.

Tanzania is taking a key role in Great Lakes region issues in the Security Council, since it is deeply affected by the violence in the region and has a very important standing with the countries in the region, especially Burundi. Since there is great concern with peace and security in the region, the country has taken important steps to support peace initiatives, like the Lusaka Agreement. The Republic of Congo is also profoundly interested in solving the situation in the Great Lakes region, since the effects of the conflict have had a great impact on the

⁹⁵ UN DOC: S/PV.5359.

⁹⁶ Statement by Mr. Wang Guangya, Ambassador of the People's Republic of China to the United Nations, during the Security Council open debate on the situation in the Great Lakes region (January 27th, 2006).

⁹⁷ UN DOC S/PV.5359 p. 28.

country, from the flow of refugees to serious economics effects. Ghana, although not very active in the Great Lakes region, is a member of the Group of Friends of the Great Lakes region. Uganda, Rwanda, Burundi, and the DRC, even though they are not members of the Security Council, are pressing the Council for the disarmament of foreign fighters in Congolese territory.

While some countries like Qatar stand for a more robust action from the United Nations in order to guarantee stability in the region, other countries such as Denmark and Japan stand for a more cooperative approach. Qatar stresses that the United Nations should have a more realistic approach, even if that means a more robust presence of the organization, and that security and humanitarian matters should be further discussed in the region.

Argentina believes that democratic elections are an advance to the encouragement of peace, stability and progress for the region. In this way, collaboration among the governments of the subregion, regional organizations, and multilateral organs are fundamental. Other actions are also highlighted, such as international conferences, assistance by donor countries, monitoring by non-governmental organizations of human rights violations and the “*will of peoples of the region to opt for democratic and inclusive solutions*”⁹⁸.

Peru has stressed the difficulties in the implementation of sustainable democracy in face of the impoverishment of the population in the Great Lakes region as a consequence of the conflicts and their peculiar characteristics: natural resource abundance and social and economic structure disintegration. For these reasons, Peru believes in the need for robust UN action and post-conflict support (especially economic support)⁹⁹.

⁹⁸ UN DOC S/PV.5359 p. 28.

⁹⁹ UN DOC S.PV 5359 Resumption 1 p. 27.

PROPOSED SOLUTIONS

There are many possible ways to deal with the situation in the Great Lakes region. The chosen path will depend on the positions of the countries and mostly on their bargaining capabilities.

One option is to redesign MONUC's mandate in order to reflect the new reality of the country. This new mandate may have a greater focus on patrolling of borders, the completion of DDR programs and the return of refugees. Some discussions about the countries of the region as candidates for the Peacebuilding Commission can also be addressed. The creation of mechanisms of transitional justice, such as a commission of truth and reconciliation, is also an option¹⁰⁰.

The continuation of MONUC will depend mostly upon the approval of the DRC government, and also by the contributing countries in the mission. Being such a complex situation, withdrawing MONUC's troops could be seen as a UN failure, even if this disengagement is carried out gradually. On the other hand, contributing countries can be reluctant to maintain troops in such a dangerous and costly situation.

A more intrusive stay could be considered with the extension of the mandate of MONUC and even deploying a larger number of troops. In this case, the Council could also take more robust actions against peace spoilers and strengthen the sanctions regime. It is important to stress that the Council has already been reluctant to approve additional troops for the mission¹⁰¹. However, contributing countries could be more reluctant to maintain such a mission. Also, the newly elected government needs to approve the extension of the permanence

¹⁰⁰ See <http://www.securitycouncilreport.org>.

¹⁰¹ *A Congo Action Plan*. International Crisis Group Policy Briefing, p. 16. Available at http://www.crisisgroup.org/library/documents/africa/central_africa/b034_congo_action_plan.pdf

of the UN mission in field.

FINAL REMARKS

The situation hereby presented is very complex. Many points of view can be expressed and solutions can be found. However, one point that should be borne in mind when discussing this kind of topic is that it does not mainly relate to the deployment or withdrawal of troops. The most important factor in this situation is the population. The reason why the Security Council is concerned with the maintenance of peace and security is to save these people from the “scourge of war”, as stated in the preamble of the United Nations Charter. Therefore, the Security Council needs to find solutions that allow the population of the Great Lakes region to live in peace.

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ECOSYSTEM AND HUMAN WELL-BEING

*By Luiza Castello Branco Pereira da Silva,
Camilla Neves Moreira e
Larissa Carolina Loureiro Villarroel*

“To reach the MDG targets, we need to link better health care coverage with social factors such as poverty, women’s empowerment, social exclusion, living conditions, and the public health trade policies and environmental hazards”¹

INTRODUCTION

At a first glance, the purpose of this article may not seem really clear. Apparently, the goal proposed in here is quite out of scope both in the ecological and health fields. However, what Willcox defined in his article as being the point of “ecosystem health” discipline, may clarify the idea proposed that is presenting to policy professionals “*a theoretical framework and methods, or practical tools, to improve society’s ability to sustain earth’s life-support systems*”².

¹ Report by the Director-General to the 59th WHA. Available at: http://www.who.int/mediacentre/events/2006/wha59/dr_lee_report/en/html.

It is possible to identify numerous ways through which human action on ecosystem³ depletion impacts on their own health⁴. The following discussion aims at addressing some of them and inducing additional investigation. In this sense, after a small historical overview of the emergency of the concept adopted, the text will be divided as follows: a general analysis on the relation between ecosystem changes and its impacts on health, an overview of its relations with biodiversity, a look at what has been already done by the United Nations, and finally, some proposals of what can still be done.

Ultimately, it is possible to say that this text is urging that the health sector look further, not only following the path of curative medicine, and trying to address the direct impacts that ecosystem degradation has been causing to human health, but also guaranteeing that our future generations will be able to enjoy natural environment⁵.

HISTORY OF THE PROBLEM – Ecosystem health as a concept

The problem of ecosystem health *per se* does not have a long history. However, every paper relating to health issues has recognized human destructive actions against the natural environment for more than 50 years. This is justified by the fact that this is the period recognized as the one in which men's

² WILCOX, Bruce A. *Ecosystem Health in Practice: Emerging Areas of Application in Environment and Human Health*. p. 317

³ The concept of ecosystems is used to cover a range of issues related to the environment. Ecosystems, as defined by UNEP, refer to “a spatially explicit unit of the earth that includes all of the organisms, along with all components of the abiotic environment within its boundaries”. – UNEP, *Twenty-Second session of the Governing Council/Global Ministerial Environment Forum*.

⁴ WHO. *Ecosystems and Human Well-being: A report of the Millennium Ecosystem Assessment*. pp. 1-10

⁵ *Ibidem*.

actions were the fastest and most widely extensive in changing fauna and flora⁶.

In a broad approach, just to justify the choice of this period, it was during it that one quarter of world topsoil was damaged; agricultural land was reduced in one fifth, and forests in one third. At the same time, human population increased from 2.5 to over 6.1 billion⁷. Another reason for that is the establishment and increase of industrial societies globally, which has been changing ecosystems' structure, organization and composition, and consequently, alters patterns of contamination.

As it is possible to realize, this is not a new issue. Nevertheless, it was only relatively recently, in the 1980s, that *ecosystem health* emerged as a theoretical and applied discipline. This was the starting point for later developments, such as the everyday practice of environmental policy and management, in this order⁸. But what does this concept mean? Many notions are possible, and they may vary a lot depending on the field of study which is privileged⁹.

Not disregarding other notions, we use here what WHO conceives¹⁰ as ecosystem health: "*a measure of stability and sustainability of ecosystem function or ecosystem services*¹¹ *that depends on an ecosystem being active and maintaining its*

⁶ *Ibidem.*. "Foreword".

⁷ CHIVIAN, Eric (Editor) *Biodiversity: Its Importance to Human Health* p.4 Available at: <http://www.med.harvard.edu/chge/Biodiversity.screen.pdf>.

⁸ WILCOX, Bruce A. *Op. Cit.* 17 p.317

⁹ To a further conceptual discussion see: LACKEY, Robert T. *Values, policy, and ecosystem health* and WILCOX, Bruce *Op. Cit.* 17.

¹⁰ All the concepts defined here as being WHO's can be found in: *Ecosystem and Human Well-Being: A Framework for Assessment*. Appendix 4: "Glossary" pp. 208-216.

¹¹ Ecosystem services, according to WHO, are the benefits people obtain from ecosystems. These include provisioning services such as food and water; regulating services such as flood and disease control; cultural services such as spiritual, recreational, and cultural benefits; and supporting services such as nutrient cycling maintain the conditions for life on Earth. The concept "ecosystem health and goods" is a synonymous with ecosystem services.

¹² The capacity of a system to tolerate impacts of drivers (in its turn defined as any natural or human-induced factor that directly or indirectly causes a change in an ecosystem) without irreversible change in its outputs or structure.

organization, autonomy, and resilience¹² over time. Ecosystem health contributes to human well-being through sustainable ecosystem services and conditions for human health”¹³. This, properly applied, can serve as a basis for policy management in environmental and public health science.

STATEMENT OF THE PROBLEM

Provisioning, regulating and biodiversity

Firstly, it is important to set up what is understood by well-being in this text, which is *“a context- and situation-dependent state, comprising basic materials for a good life, freedom and choice, health, good social relations and security”¹⁴*. That posed, we have a clearly view that the main issue in dealing with ecosystems and human health well-being can be addressed more properly if we think about “ecosystem services”.

These services are indispensable and may be classified in four categories, as shown by the Ecosystem Millennium Assessment¹⁵: Provisioning services¹⁶, regulating services¹⁷, supporting services¹⁸ and cultural services¹⁹. The first two categories are the most strongly linked to human health well-being.

¹³ Concept by WHO.

¹⁴ Concept by WHO.

¹⁵ See: <http://www.millenniumassessment.org/en/index.aspx>.

¹⁶ The products obtained from ecosystems, including, for example, genetic resources, food and fiber, and fresh water (WHO definition).

¹⁷ The benefits obtained from the regulation of ecosystem processes, including, for example, the regulation of climate, water and some human diseases (WHO definition).

¹⁸ Ecosystem services that are necessary for the production of all other ecosystem services. Some examples includes biomass production, production of atmospheric oxygen, soil formation and retention, nutrient cycling water cycling, and provisioning of habitat.

¹⁹ The nonmaterial benefits people obtain from ecosystems through spiritual enrichment, cognitive development, reflection, recreation and aesthetic experience, including, for example, knowledge systems, social relations, and aesthetic values.

If these categories are considered under a specific perspective, it is easier to comprehend the importance they have for human health well-being; thus, for the purpose of this work, we will focus on biodiversity, although some attention will also be given to climate change. The Convention on Biological Diversity²⁰ defines biodiversity as “*the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and ecological complexes of which they are part: this includes diversity within species, between species and of ecosystems*”. The destructive actions towards ecosystems destroy biodiversity; therefore, it emerges as an appropriate point of view.

Among the factors linking loss of biodiversity negative effects to ecosystem services it is possible to mention: climate change, deforestation, desertification, urbanization, wetland drainage, pollution, dams and water diversion and introduction of invasive species. Other major effect is the impoverishment of sources for medical research – as they have served as basis for traditional medicine in many communities and have shown to deserve further research²¹. The next section will better detail biodiversity characteristics and its relations with human health.

An Overview of the Linkage between Biodiversity and Human Health

The approach dealing with these two issues at the same time derives, as already posed, from the idea that humanity believes on its interdependence with nature and, in consequence, with biodiversity. However, its destructive actions towards the environment appear to be based on a contrary belief. Actually,

²⁰ Available at: <http://www.biodiv.org/doc/legal/cbd-un-en.pdf>.

²¹ CHIVIAN, M.D. (Editor). *Op. Cit* 22

most insects, bacteria, fungi, plankton, plants, and other organisms do not depend on us to exist, whereas we depend on them²². An interesting point of view in this matter is presented in the follow passage: *“ultimately, our behavior is the result of a fundamental failure to recognize that human beings are an inseparable part of Nature and that we cannot damage it severely without severely damaging ourselves.”*²³

There are studies indicating that recent extinction rates are several hundred times higher than earlier rates²⁴. This is caused, among other factors, by habitat losses (on land, in the oceans or in freshwater), which are believed to be the predominant grounds of extinction. Nevertheless, this is not a necessary truth, since there are also extensively, modified centers where, although extinction has not yet occurred, the losses of species caused by destruction are undeniable.

Other factors contribute to habitat beating. Pollution, for instance, brings synthetic products that can develop abnormalities in species. Introduced species, unknown if harmful to human’s safety, are more easily launched through globalization and transports revolution. Furthermore, secondary extinction²⁵ is an important feature since it brings the idea of a systemic connection among species and ecosystems. At last, the global climate change²⁶ is pointed as a meaningful indirect element in the present, and also in the future. The interactions between living organisms and physical-chemical environment, if damaged, can impact on services provided by it. Five categories

²² *Ibidem.*, p. 4.

²³ *Ibidem*, p.4.

²⁴ *Ibidem*, p. 8.

²⁵ “The death of one population due to the extinction of another, often a food species.” As defined at: <http://big.mcw.edu/display.php/2580.html>

²⁶ The global climate changes involve mainly the global heating and among the causes of this heating, the greenhouse effect is emphasized. The greenhouse effect is, in turn, caused by the presence of certain gases in the terrestrial atmosphere, which maintains a considerable parcel of the heat generated for the interaction of the solar light with the atmosphere and surface of the earth and reflected in return to the space.

of examples can better explain it²⁷.

First, there are the cycling and filtration processes²⁸. These involve air purification: forest canopies help regulate the composition of the atmosphere; purification of freshwater: absorption and recycling human settlements. There are also binding toxic elements: some plants concentrate toxic elements without harming themselves. Moreover, there is the detoxification of sediments and soil: microbes detoxify some human wastes. Finally, there is the maintenance of soil fertility: soil animals and microbes are essential to plants as they release nutrients in it²⁹.

Second, there are the stabilization processes³⁰. There is the control of potential pests and disease-causing species, since inside the alimentary chain some animals and microbes control the population of pests' organisms. Furthermore, there is the mitigation of floods: the ecosystems on rivers' borders make floods less severe assuring their role of depositing nutrients in the natural overflow and contribute to stabilization of landscape against erosion. Lastly, there is carbon storehouse: plants tissues and organic soil absorb carbon from the atmosphere and slow down global warming.

Third, there are the services of biodiversity preservation³¹. This includes providing habitat to species, as they are genetically potential future sources for better farming and medicine. Forth, there are translocation processes: pollination of crops and dispersal of seeds³². Finally, there is a psychological notion on how it matters to human activities and social life, an aesthetic importance and provision of outdoor backgrounds to

²⁷ CHIVIAN, M.D. *Op. Cit* 22., p. 14

²⁸ *Ibidem*, p. 14.

²⁹ *Ibidem*, p. 14.

³⁰ *Ibidem*, p. 15.

³¹ *Ibidem*, p. 16.

³² *Ibidem* p. 16.

recreation³³.

The third point mentioned above includes the value of biodiversity to humanity as a source of huge possibilities through research of natural resources. The many genetic resources and species are so important that several conventions have been created to regulate access to and use of them, and also there is growing investment in research by multinational corporations³⁴. Phytotherapy³⁵ and research of new drugs are important to medicine³⁶. Another prospect is natural pesticides, as agricultural agents, with the same positive effects of synthetic ones, but without great damage to biodiversity³⁷.

Lastly, a more direct factor influenced by biodiversity is the epidemic of infectious diseases³⁸. Ecosystem disturbances can be induced or accelerated by human activities, changing the species-habitat interaction, seriously impacting the diversity and population size of agents, reservoirs and vectors of infection diseases. The top predators are the most vulnerable to habitat destruction as these genera³⁹ regulate the population size of reservoirs and vectors and their behavior in the habitat.

The causes of disturbances are many⁴⁰: deforestation, besides those general effects mentioned, exposes inhabitants in the area to reservoirs. Bad water management, a possible consequence of irrigation, dams, and containers, can have

³³ *Ibidem* p. 17.

³⁴ *Ibidem*.

³⁵ Therapy using vegetal substances.

³⁶ "At least 119 chemical compounds, derived from 90 plant species, are important drugs currently in use in one or more countries. Of these 119, 74 % were discovered during attempts to isolate the active chemicals from plants used in traditional medicines. Such compounds are not only useful as drugs in their own right, but may be even more useful as leads to other molecules, though synthetic in nature, that are based upon the active natural products." In: CHIVIAN, M. D. Op. Cit. 22.

³⁷ *Ibidem*..

³⁸ For details, see: table 1.1 In: WHO. *Ecosystems and Human Well-being Op. Cit.* 19.

³⁹ Plural of *genus*, "Taxonomic subcategory within a family, composed of one or more species" here specie means "A group of organisms resembling each other more than they resemble any other organism outside the group". Defined at: <http://big.mcw.edu/display.php?name=genus>.

⁴⁰ Here we will briefly mention only some of them.

dramatic impacts (mostly diseases transmitted by mosquitoes and snails). Agricultural development can form a chain of diseases transmitted by animals which are in constant contact with humans, promoting the emergence of new pathogens also infectious to humans⁴¹.

Fires destroy the habitat and change reservoirs' feeding habits, for example. The exploitation caused by the pressure for food supply leads to the consumption of wild animals; some of the main diseases that were widespread this way, at least in the beginning, were the primate immunodeficiency viruses - like HIV/AIDS - and anthrax. Even solutions and actions to improve the situation, like reforestation, can represent a disturbance, as the reforested area has different characteristics from the native one, so it can be an even better place to multiply reservoirs species. All these factors make the subject more complex⁴².

In the second half of the 20th century, environmental problems, especially the rapid pace of ecosystems' degradation, have emerged in industrialized societies as a current topic of debates, as well as the impacts of human activities on ecosystems. Along with biodiversity⁴³, climate change has emerged as one of the most important issues on that debate putting environmental protection and international cooperation as a guarantee of a healthier world for human society and its future generations. It has been particularly observed during the recent years that ecosystems changes would impact most severely on low and middle-income countries⁴⁴.

⁴¹ CHIVIAN, M. D. *Op. Cit.* 22 pp 35-37.

⁴² *Ibidem* pp. 38-39.

⁴³ Biodiversity is deeply related with questions as species in danger of extinction and areas of conservation, for example. However, it is not limited to protect the wild life in natural environments or reserves. It takes care of the ecosystem preservation, of the genetic wealth, of the diversity of species and populations, as well as of the most diverse and complex existing relations with elements not-livings creature, but basic for the ecological balance, such as drinking waters, fertility of the ground and others.

⁴⁴ WHO. *Ecosystems and Human Well-being*. *Op. Cit.* 19.

Changes in climate can increase the risk of abrupt changes in ecosystems and, as a result, can impact on human health. To many experts, public health depends on safe drinking water, sufficient food, secure shelter, and good social conditions. A changing climate and a loss of biodiversity are likely to affect all of these conditions. This is, in its turn, not only caused by the emission of CO₂, but is also a result of the many factors already mentioned⁴⁵ and causes the extinction of more vulnerable species⁴⁶ (loss of biodiversity)⁴⁷, and consequently, secondary extinction. Besides, the increase of temperature can change the animals' life cycles; it can increase reproductive and adaptive possibilities, consequently giving them appropriate conditions to live in other habitats of which they had not been members previously. Among the most known problems regarding this matter, climate change particularly brings about the widespread of diseases, such as malaria, dengue fever, yellow fever, and Rift Valley fever⁴⁸.

PAST UN ACTIONS

In its Proposed Budget for 2006-2007⁴⁹, WHO outstood some UN actions concerning its environmental agenda, for that reason a closer look should be laid on them. At the outset, it mentioned the United Nations Conference on Environment and Development, held in Rio de Janeiro, Brazil, in 1992. In this

⁴⁵ Factors that diminish the ability of the ecosystems provided the elimination of the gases that cause the greenhouse effect, for example.

⁴⁶ IPCC Plenary XVIII. Available at: <http://www.ipcc.ch/pub/un/syrenng/spm.pdf>.

⁴⁷ "Biodiversity loss also means that we are losing, before discovery, many of nature's chemicals and genes, of the kind that have already provided humankind with enormous health benefits." See: <http://www.who.int/globalchange/ecosystems/biodiversity/en/index.html>.

⁴⁸ WHO. *Ecosystems and Human Well-being*. Op. Cit, 19, p. 40.

⁴⁹ WHO. *Environment*. Proposed Programme Budget 2006-2007

⁵⁰ See: A/RES/S-19/2.

opportunity, Agenda 21 was adopted by the General Assembly⁵⁰, identifying the principles of sustainable development. Concerning health, besides the specific section addressing this issue, it's possible to identify in many of its articles the necessity to lessen the impacts that arose in many countries as a consequence of a rapid economic growth process; for instance, there were increasing levels of air and waste pollution. Furthermore, it states that poor countries have been increasingly suffering the consequences of unsafe water supplies, such as ill-health and food insecurity. This document also identifies the importance of health care to poverty alleviation, and held responsibility to industrialized countries over the unsustainable patterns of production and consumption, which threatens the environment.

Article 31 specifically presents health objectives. It gives high attention to the necessity of children protection from all possible ill health burdens, including those, concerning health-environment relations, which were also emphasized. Article 33 calls upon the need for an inter-sectional approach for developmental problems, including health and ecosystems. In the next article, the need for fresh water, above treated, was considered fundamental *“for satisfying basic human needs, health and food production, and the preservation of ecosystems, as well as for economic and social development in general.”*

The provision of international structure for international accomplishment in the area came into view ten years later, with the Millennium Development Goals, the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg, South Africa, 2002), as well as other regional initiatives, in order to define and make the attainment of targets proposed in Rio possible through strategies review.

Another major UN initiative was the Millennium

⁶⁶ See: <http://www.maweb.org/en/index.aspx>.

Ecosystem Assessment (MA)⁵¹. It consists in a formulation on ecosystem change impressions concerning human well-being, providing decision-makers and general public with scientific and consistent data concerning ecosystem goods and benefits. The Statement of the MA Board was released in March, 2005 as a result of a work launched by UN Secretary General, Kofi Annan, in June 2001 and was divided into Biodiversity, Desertification, Opportunities & Challenges for Business and Industry, Wetlands & Water and finally the Health Synthesis.

The Statement faced a reality: among those different categories of assessments on human well-being, there are a total of 24 health-related services provided by natural assets. Also it checked the necessity of limiting the pressures over environment so as to make possible the guarantee to their services availability to humankind. In addition, it identified connections between poverty, ill-health, education, among other development issues. The purpose for this was to try to anticipate future situations, and it concluded that economic decisions should take environmental costs into account, as well as the importance of showing to local communities practical benefits gained when they act in a responsible way, and finally, that it would only be possible to implement any policy if a real commitment from governmental bodies exists, this meaning to centralizing most of the decisions concerning the theme⁵².

BLOC POSITIONS⁵³

The recent report “*Preventing disease through health*

⁵² Statement of the MA Board: *Living Beyond our Means: Natural Assets and Human Well-Being*, pp. 16-22. Available at: <http://www.maweb.org/en/Products.BoardStatement.aspx>.

⁵³ This section was based on: PRÜSS-ÜSTÜN, A. & COVALÁN, C. *Preventing disease through health environments – towards an estimate of the environmental burden of disease*. Available at: http://www.who.int/quantifying_chimpacts/publications/preventingdisease.pdf

environments – towards an estimate of the environmental burden of disease” published by the WHO puts in evidence the environmental factors related to health. This document presents information with a regional basis and also a detailed breakdown of diseases and injuries. Moreover, it points out the importance of the topic through impressive data, such as that 24% of diseases in the world are caused by environmental factors and that more than one-third of those affected (36%) are children (14 years old or less). These factors can be changed, which motivates a further debate on policies to improve strategies for prevention of such burdens and also for countries’ public health.

Because of the lack of quantitative data specifically on how the depletion of ecosystems impacts human health, the environmental burden of disease will be addressed in a general way. With this approach, it is possible to make a division between developed and developing countries: the first ones possess 17% of its deaths associated with environmental facts against 25% of those that occur in the last. Among the diseases in this category are diarrhoea⁵⁴, lower respiratory infections⁵⁵, “other” unintentional injuries⁵⁶, and malaria⁵⁷.

Developing countries suffer substantially more than developed countries when the subject is environmental burden of diseases. It was observed that the encumbrance per-capita caused by diarrhoeal diseases and lower respiratory diseases is 120- to 150-times greater in certain developing WHO Member-

⁵⁴ 94% of cases are due to environmental risk-factors and unsafe drinking-water and poor sanitation and hygiene.

⁵⁵ Associated with indoor and outdoor pollution, varies between developed and developing countries: the latter are associated with 42% of this kind of infections while the former with 20%. This category includes forms of pollution from transport pollution to second-hand tobacco smoking.

⁵⁶ These include problems caused by bad workplace environments, radiation, and industrial accidents.

⁵⁷ This is associated basically with land use, deforestation, water resource management, settlement sitting, and modified house design. 42% of the cases can be attributed to environmental factors.

states than in developed ones. A pattern observed was that if infectious diseases (like malaria) tend to decrease as a country develops, non-communicable diseases (as cardiovascular ones) go in the opposite direction.

The main risk group is children under five, who suffer five times more from the burden of environmental diseases in countries in all stages of development. Nevertheless, as to be expected, the poorer a country, the greater the proportion of children affected. One problem in addressing such diseases – in all ages – is the economic competition with curative intervention. One way to identify the position of countries in dealing with environmental health is their commitment to the MDGs.

In every goal some component of the issue can be identified, therefore the level of priority of some policy may be associated to the relevance of each goal for a country, mainly in goals 4 (reduce child mortality), 6 (combat HIV/AIDS, malaria, and other diseases), 7 (ensure environmental health), and 8 (develop a global partnership for development). Number 7 is one of the main issues in every sector, as it proposes better access to safe drinking water and sanitation, which is fundamental in all approaches of environment and health. Goal 8 is also of great importance as effective policies will depend also on the commitment of other sectors, such as energy, transport, agriculture, and industry; consequently it depends also on these sectors' commitment at national, regional, and international levels.

PROPOSED SOLUTIONS – Priority Setting

Policy decision making, is based on priorities which are not objective: they are based on a society's values, and decisive factors varies accordingly. Although assessments are

formulated in order to facilitate this process, they only help supplying decision-makers with a comprehensive approach of the problem. Despite their non regulatory posture, scientific papers have shown that they are the conductor of public-health protection decisions⁵⁸.

Quantifying the health impacts of ecosystems is possible in different ways, depending on the criteria adopted. One option are tools emerged in recent years to estimate to what extent a disease is harming population, one example is the disability-adjusted life years (DALYs). Another course is considering social subsections suffering, for instance, a study in 2000 estimated that the highest levels of people at risk of catching malaria were children and pregnant women, particularly if they were malnourished. For this measuring purpose, data availability must also be considered.

This kind of approach for setting priorities is called 'burden-of-disease' evaluation and is considered very useful, although not sufficient to address the ecosystem changes pressure over human health. Among other reasons, it is possible to mention that most of the decisions concerning these impacts must be taken in other sectors, not necessarily health⁵⁹.

What follows is the necessity of cross-sectoral strategies: integrating health in major development projects, which was the case, for example, of Agenda 21. Another option is coordinated actions between governments, government organs and NGOs⁶⁰.

All possible solutions in this theme, enables combat against the identified cyclic process linking poverty, environmental degradation and health vulnerability, and it can only be completely successful if they occur by the inclusion of

⁵⁸ WHO. *Ecosystems and Human Well-being*. Op. Cit. 19.

⁵⁹ *Ibidem*

⁶⁰ *Ibidem*

health perspective into national, regional and global policies for environment; this in its turn includes WHO partnerships in national and regional levels and with other UN components, for instance: Food Agriculture Organization of the UN (FAO), UN Children's Fund (UNICEF) and the World Bank⁶¹.

Considering all assessments of priorities, some consensus has emerged on how policy-makers should get involved. Firstly, if vulnerable communities are identified, they must be favored when policies are designed in a way to allow them to achieve their own sustainability. Stakeholders and researchers opinions must be taken into consideration together since the first group is supposed to be able to deal with experts⁶² in concepts concerning local situations, and the later ones are those who can dictate the precise links between disease process and risks⁶³.

Uncertainty has a great weight when proposing solutions. Strictly scientific comprehensions may not correspond to decision-makers expectations when the consultation occurs. As different interests are involved, which go beyond health or ecology- related ones, the usually reduced in scale equation made by researchers may look insufficient in the political sphere. Assessments are produced only to inform, not to prescribe. Therefore, they must pose their premises clear, to enable conclusions by the decision-makers. The last hypothesis includes the cases in which interventions for increasing health protection at lower costs are identified, furnishing them with appropriate information to act in accordance to their values.

Information appears to be, then, the basic element for concrete policies to be implemented. One illustration of precisely prescriptive action has been made by Director-General reporting to the 59th WHA. WHO's Global Malaria Programme

⁶¹ Proposed Programme Budget 2006-2007.

⁶² WHO. *Op. Cit.* 19, p. 44.

⁶³ *Ibidem* p.46.

which can serve as an example of a precise prescription, which is needed in other topics, including those treated by the present text. Expectations around this Programme are high and positive, since it was envisioned in what is considered a (potential, at least) successful alike plan in relation to AIDS/HIV (“3 by 5”). Results will only be available to analysis next year⁶⁴. This information must identify the differences on kind and extent of the use of ecosystems services, what may allow focus strategies in some issues and make these strategies effective⁶⁵.

FINAL REMARKS – defining health policies

The WHO defines its functions concerning environmental health to support Member States in achieving health for all, promoting an environment that foments individuals and organizations responsive for their health and its environmental basis. Undoubtedly, this effort requires some level of abstraction on one hand, and a visionary posture on the other. Getting more people familiar with basic guidelines and some of major topics in the area is necessary for this effort not to become a common sense discussion.

This is challenging, but not negative. This is a first approach of the issue not an exhaustive one, it (re)starts this debate among policy makers. In addressing it, they ought to bear in mind the strength their action might have as national governments’ political leadership is important for regimes’ formation and for the development of institutions in international society as *“leadership is a critical determinant of success of failure in the process of institutional bargaining that dominates efforts to form*

⁶⁴ Report *Op. Cit.*, p. 16.

⁶⁵ WHO. *Op Cit* 19, p. 49.

⁶⁶ YOUNG, Oran R. *International Organization.*, pp. 281-308.

international regimes”⁶⁶.

Finally it is necessary to keep in mind that human domination over nature is not being proposed here as a villain. The problem is when it is done in such a way that it brings burdens to all of the environment and the human species. Even if the universe of analysis is restricted to men, two facts are observable: 1) economic gains may exist but they are not so well distributed as are the burdens and 2) the most suffering populations are the poorest, the most directly dependent on ecosystems.

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HUMAN RESOURCES FOR HEALTH

*By Helena Meireles Gonçalves Eloy
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INTRODUCTION

“A well-trained and motivated workforce is essential for health care systems to function well. The health workforce of the 21st century must be capable of providing quality services based on HFA values. A culture of health that respects and supports the right to health, ethics, equity and gender sensitivity is fundamental.”⁸²

The World Health Organization’s (WHO) mission during its fifty years of existence has been the attainment by all people of the highest possible level of health, emphasizing the elimination of inequities within and among countries. Four strategic and interdependent directions have been chosen by the organization to fulfill this mission: reducing mortality of the poor and marginalized populations; dealing effectively with the leading risk factors; placing health at the center of the broader

⁸² Excerpt from “Building and maintaining human resources for health”, HFA (Health for All) for the 21st Century, Draft policy document, p.37.

development agenda; and, finally, strengthening health systems in Member States.⁸³ This article will address some major issues concerning the good functioning of health systems, focusing on the importance, somewhat neglected, of the development of effective Human Resources Policies, as an essential dimension in the major goal of providing health for all.

Great disparities can be perceived in the performance of different countries' health systems, and the success or failure of these systems are not just due to imbalances of income or expenditure, but is also due to the way systems are designed, managed and financed.⁸⁴ Where health systems have been performing poorly, growing inequalities in access to health services, failing returns for investments in health care and the difficulty of controlling the growth of cost have prompted governments, especially in the last two decades, to engage in reforms of the health sector. These reforms include measures aiming at reducing costs, improving performance, increasing equity, and decentralizing management. The reformist impetus has also reached the actions of bilateral and multilateral organizations, as well as aid foundations within low-income countries, as they now give high priority to planning and reformulation of the health sector as a condition for granting resources and implementing cooperation programs.

The efforts to reform the health sector have, however, had a limited rate of success in solving the problems of health services provision of many countries and, sometimes, the changes implemented by new health policies have even exacerbated some of the old health imbalances, as well as brought new challenges to be addressed. There is strong evidence indicating that the poor results of health sector reforms implemented by many

⁸³ World Health Organization. World Health Report 2000. Health systems: improving performance. Available at: http://www.who.int/m/topics/world_health_report/en/index.html.

⁸⁴ *Ibidem*.

countries are linked to policy makers' failure to understand the importance of the human resources dimension of health services and to include human resources policies in the wider health policies conducted within a country.⁸⁵ Human resources are the essential element in health systems (which is a labor-intensive sector) and a key factor in sectoral reform: health workers – professionals, technicians and auxiliaries – are the ones who determine, in the final analysis, what services will be offered, where, when, and to what extent they will be utilized and, as a result, the impact these services will have on the health status of individuals. Also, the viability of certain institutional changes in the health sector reform depends on the participation and support of health workers and of the institutions responsible for their education and training. But the reality is that public health institutions are not addressing the complex problems of staff performance adequately. Human Resources Management (HRM), often having to face lack of resources and lack of commitment to long-term policy development, is generally given low priority and conducted in a disjointed manner with little technical know-how, being usually relegated to mere personnel administration.⁸⁶

The lack of attention for human resources issues is also an expression of poor countries' limited ability to take measures so as to optimize financial cooperation and donations. In these countries, workforce problems comprise loss of personnel and productivity due to AIDS and other epidemic diseases and migration, either from this sector to others, either for richer or more stable countries, and they may be caused or worsened by deficient policies or practices in the fields of training, planning, and deployment of staff, and also management of performance

⁸⁵ MARTINEAU, T. and BUCHAN, J. *HR and the success of health sector reform.*

⁸⁶ Pan American Health Organization (PAHO). *Development and strengthening of human resources management on the health services.*

of working conditions.⁸⁷

Both success in achieving the WHO's health goals and the fulfillment of specific national health objectives depend on the effectiveness and quality of human resources management, which embraces theory, decisions, and interventions that impact on the delivering of services to the population since "the challenges of Member States of attaining equitable, efficient, effective, and sustainable health systems geared to meeting the health needs of their populations makes integral human resources development an essential function of their institutional capacities".⁸⁸ In this context, this article aims at serving as a preliminary guide to the comprehension of the fundamentally political character of Human Resources for Health (HRH) issues, and for the development of strategies to include explicit human resources policies in health policies by: a) providing a framework of the processes of devising, implementing and evaluating HRH policies and of the conditions of its success, formulating country-level proposals on how better develop HRH policies; and b) discussing how international cooperation can better contribute to human resources development.

HISTORY OF THE PROBLEM – health systems, health policies, and the impact of systemic reform on human resources for health

Health Systems and Health Policies

According to the WHO, health systems can be defined as comprising all the organizations, institutions, and resources that are devoted to producing health actions. Health actions,

⁸⁷ See: <http://www.pubmedcentral.gov/articlerender.fcgi?artid=166115>.

⁸⁸ *Ibidem*. p. 4.

in turn, can be understood as any effort (whether in personal health care, public health services or through intersectoral initiatives) whose primary purpose is health improvement. The main objective of a health system is, therefore, to improve health. To achieve this objective, health systems must succeed in carrying out four vital functions: service provision, resource generation, financing, and stewardship.⁸⁹

Health systems of some sort have existed since the first stages of human social history, with traditional practices, generally accompanied by spiritual counseling and provision of preventive and curative care – practices that can still be observed today, in coexistence with modern medicine. Organized health systems in the modern sense, though, just started to be created by the end of the 19th century. Since then, these systems have undergone an overlapping generation of reforms, including the establishment of national health care systems and the extension of social insurance schemes.⁹⁰ In the past 20 years a profound shift in the understanding of health systems' functioning and objectives has taken place, partly because of political changes that include transformation from centrally planned to market-oriented economies, reduction of state intervention in national economies, and more decentralization in decision-making. Although this new approach means a limitation on expectations of what a given government can do, there is strong evidence that market forces could not adequately take on the role of policy planning and regulating.

The idea of formulating health policies to guide the functioning of health systems is relatively recent, having become more present by the end of the 1940's in Europe with the advent of the Welfare State. Despite the fact that countries have hardly come close to achieving the goal of HFA, policy-

⁸⁹ World Health Organization. World Health Report 2000. *Op. Cit* 78.

⁹⁰ *Ibidem.*.

makers now agree that health policies are, at any rate, crucial tools as, according to Dubois and Dussault, they: facilitate planning (helping to determine objectives, set out priorities, delegate roles and define means of actions); support decision making, provide a framework for evaluating performance (by setting expectations, objectives, priorities, strategies and the resources to achieve them, also setting criteria on the basis of which actions can be evaluated); and help to rally professionals and other sectors around health problems and to legitimize actions.⁹¹

Health Sector Reform: objectives, strategies and effects

Health care systems in most countries have put into practice reform processes driven by a growing concern about the weak correlation between the volume of resources expended and the outcomes in terms of health status. These reforms were usually inserted in a package of government reforms that aimed at improving the efficiency, equity of access and quality of public services in general, but which often had, in practice, a real focus on the macroeconomic objective of reducing the government's operating costs and cutting budget deficits, without the necessary attention to their other declared objectives.⁹²

In health sector reforms, common trends can be perceived among countries regarding major objectives, like the improvement of equity⁹³ of access to services, effectiveness⁹⁴ of

⁹¹ DUSSAULT, G. and DUBOIS, C.A. *Human resources for health policies: a critical component in health policies*. Available at: <http://www.human-resources-health.com/content/1/1/1>.

⁹² RIGOLI, F. and DUSSAULT, G. *The interface between health sector reform and human resources in health*. Available at: <http://www.human-resources-health.com/content/1/1/9>.

⁹³ Equity refers both to the distribution of health care among individuals of different levels of income (vertical equity) and among people whose health condition and needs are similar (horizontal equity). A major determinant of equity is the accessibility of health services to population in general.

⁹⁴ Effectiveness means the capacity of health care to improve or maintain health status.

care, efficient utilization of resources⁹⁵, satisfaction of users⁹⁶, and sustainability⁹⁷, but with the emphasis varying, depending on the specific economic conditions and the political environment of each country.⁹⁸ The relative weight assigned to each of these goals is not a technical decision, but a policy one, influenced by circumstance. Among substantive processes that are often implemented in the conduction of health sector reform, the following can be highlighted: decentralization, changes of functions and structures of Health Ministries, changes in financing and payment modalities, new management modalities (such as outsourcing, procurement of services, and autonomy of services), changes in health care models, and expansion of health service coverage. These processes have considerable implications on the work content, working conditions and labor relations.

It is possible to take decentralization as an example of an efficiency-driven strategy that was designed in response to problems associated to central bureaucracies: in transferring management of health services to local authorities, it is possible to have better control of spending and accountability. Also, employers of human-resources are involved in this process, even if they do not have appropriate technical abilities or funding for hiring these people. An example of equity strategies are those for redistribution of qualified professionals so that rural and impoverished areas are also covered, as they are not considered attractive work environment, making the

⁹⁵ Technical efficiency can refer to “productivity” – the outputs in relation to inputs – and also to “allocation efficiency” which compares different interventions in terms of capacity.

⁹⁶ Satisfaction is related to consumers’ preferences and “stated preferences” (what they say to want).

⁹⁷ Sustainability, in this context, means that policy proposals must have an acceptable degree of economic and social feasibility (affordability of cost and sufficient support from the population, giving it a better chance of producing lasting effects).

⁹⁸ DUSSAULT, G. *Human resources development: the challenge of health sector reform*.

recruitment and retaining of personnel harder in such areas. Finally, the efforts to improve quality include improvement in qualification and training of workforce, introducing new teamwork configurations.⁹⁹

On the other hand, reforms of the health sector have impacts on health workforce like the tendency of cutbacks in public employment in the sector and flexibilization of labor relations, which leads to the growth of short-term employment contracts and other atypical forms of hiring, resulting in insecurity and lack of job protection for health professionals.

This brief overview of the human resources dimension of health sector reforms, focusing on impacts that reform strategies have on health workforce, leads to the conclusion that the success of health policies depends on the adequate consideration of HRH issues. Despite this understanding, a major failure of health policies adopted presently by many countries is precisely the inability to address issues of management, regulation and planning of HRH. There is discordance, within many reform projects, between the higher attention given to issues of financing and structural transformation and the neglect of HRH issues, which are often treated just as another production factor.¹⁰⁰

The implications of reforms for HRH are often considered only in hindsight, when it becomes clear that proposed plans cannot be implemented because of unaffordable personnel costs, opposition by professional groups, unrealistic views of baseline situations, or modification requirements in the organization of work that are too difficult to complete, in view of current organizational capacity or political acceptability of the modifications. The low level of interest in human resources issues is not justifiable when taking into consideration the

⁹⁹ RIGOLI, F. & DUSSAULT, G. Op. Cit 87.

¹⁰⁰ FILMER, D., HAMMER, J.S., and PRITCHETT, L.H. *Weak links in the chain: a diagnosis of health policy in poor countries.*

crucial role played by the health workforce in the process of achieving the objectives set by health policies; however, it is more easily understood when the difficulties of addressing these issues are considered.¹⁰¹

Even when HRH issues gain the attention of policy-makers, the way they are addressed is usually characterized by the limited vision of human resources management, reduced to personnel administration, isolating the HRH administrator inside the organization. It is also characterized by dispersal of accountability and lack of coordinated actions (resulting sometimes in the duplication of training efforts and contradictory interventions), by reactive and punctual attitudes in the management of the health workforce, by subordination of HRH decisions to economic criteria, and by a short-term view of HRM.¹⁰² These observations give an idea of the complexity of the workforce problem inside the international health reform agenda.

In countries that have actually constructed national plans for HRH development, the implementation achieved was only partial, and few of them dispose of mechanisms to evaluate policy advances in this area.¹⁰³ Therefore, HRH issues remain of crucial importance. Health authorities must build a human resources strategy into the reform process, including tools consistent with organizational fit.¹⁰⁴ The omission of HRH issues from health policy agendas can only be prejudicial to health sector reforms, and it will, for as long as it persists, hinder countries from achieving the ultimate goal of universal access to health.

¹⁰¹ DUSSAULT, G. and DUBOIS, C.A. Op. Cit. 86.

¹⁰² *Idem.*

¹⁰³ World Health Organization. World Health Report 2000. Op. Cit. 78.

¹⁰⁴ RIGOLI, F. and DUSSAULT, G. Op. Cit. 87.

STATEMENT OF THE PROBLEM – guiding countries towards better HRH policies

Addressing health imbalances: why plan human resources for health?

In the more than 50 years of existence of the WHO, the results of countries' attempts to plan HRH have been discouraging. Some projects never left the planning stages, others came to successful conclusions but had their findings and recommendations ignored, and others still ended up causing unanticipated adverse consequences. Despite this background, HRH planning, and its insertion on a broader health policy design, remains an essential and urgent task for countries. There are at least three arguments for giving serious attention to workforce issues and designing specific HRH policies:¹⁰⁵

The first reason is that health organizations are highly dependent on their human resources workforce, and their growth and development depend on personnel availability, and on its competences and level of effort in trying to perform the tasks assigned to it. HR are a strategic capital in health organization, where the personnel is the principal input making it possible for most health interventions, which are knowledge-based, to be performed.¹⁰⁶

Another reason is that HR account for a high proportion of budgets assigned to the health sector, which is a major employer in all countries. Around 35 million people are currently employed in the health sector worldwide,¹⁰⁷ and the expenditure claims an increasingly important share of gross

¹⁰⁵ DUSSAULT, G. and DUBOIS, C.A. *Op. Cit.* 86.

¹⁰⁶ *Idem.*

¹⁰⁷ International Labor Organization. *Terms of employment and working conditions in health sector reforms.*

domestic product: wage costs are estimated to account for 65% to 80% of health expenditure.¹⁰⁸ These costs are linked to the ways in which HR are organized and used. In low-income countries and where community-based health care prevails, with less reliance on equipment and advanced technologies, HR has an even more prominent role.¹⁰⁹

HRH policies are also supported by recognition of the economic and human costs of poor HRM that are particularly high in the health sector. The quality, efficiency and accessibility of health services depend primarily on the performance of deliverers which, in its turn, depends on policies and practices that define the number of staff, qualification, their deployment, and their working conditions. Wrong choices may have harmful effects on the functioning of health services and on their ability to attain health policy objectives and, given that they have long-term effects, these choices are on average difficult to correct.¹¹⁰

A brief analysis of the HR related problems that are currently affecting health systems performance also serves as an argument for the urgency of the development of better HRH policies. In many health systems, several health workers are found in one occupation, contrasting with the lack of them in others, and a substantial number of trained but unemployed/under-employed personnel. It is common among countries that more attention is given to doctors' education than to those who could be in some situations more necessary, such as mid-level technical and nursing personnel.¹¹¹ Workers with inadequate training, a poor functional distribution of the workforce (too many medical or surgical specialists, which require specialized

¹⁰⁸ SALTMAN, R.B. and von OTTER, C. *Implementing planned markets in health care: balancing social and economic responsibility*.

¹⁰⁹ DUSSAULT, G. and DUBOIS, C.A. Op. Cit. 86.

¹¹⁰ *Idem*.

¹¹¹ HALL, T. Why plan human resources for health? 1998.

procedures and equipment, tending to drive health systems toward urban and hospital-based care), a poor geographical distribution of the workforce (much higher worker-to-population rates in urban centers), and a political necessity of hiring more workers than can be reasonably afforded, can also be found, resulting in low salaries and poor productivity.

Imbalances of health workforces are categorized, according to Zurn et al..¹¹² into professional/specialty imbalances (such as shortage of nurses), geographical imbalances (urban-rural or poor-rich region disparities in access to health services), institutional and services imbalances (relating to difference in health workforce endowment between health care facilities or services), public/private imbalances (differences of human resources allocation between public and private health systems), and gender imbalances¹¹³ (disparities in female/male representation in health workforce). In practice, there is no single empirical measure of health personnel imbalances, and a variety of indicators have been used to estimate the incidence and extent of shortages/surpluses, such as employment, monetary and normative population based indicators.

Imbalances can also be classified as dynamic or static imbalances, depending on their tendency or actual lack of capacity to be solved in time by market forces. One example is the time of salaries response to shifts in demand or supply, which can be a result of institutional and regulatory measures, imperfect market competition, and wage control policies. Resulting in special characteristics of the health care delivery system and health labor market, market mechanisms alone tend

¹¹² ZURN, P., DAL POZ, M., STILWELL, B. and ADAMS, O. Imbalances in the health workforce – briefing paper.

¹¹³ To learn more on gender imbalances in human resources for health, read: STANDING, H. Gender – a missing dimension in human resource policy and planning for health reforms. 2000.

not to be able to attain an adequate supply and demand for health personnel from a societal perspective.¹¹⁴ Therefore, public interventions and human resources planning can contribute to correct these market failures and facilitate the attainment of an adequate supply and demand of health personnel for the best functioning of a health system.

Challenges of HRH planning

It is possible to realize that even when countries tried to implement HRH policies most of the attempts to conduct HRH planning failed or had limited success. The reasons for this failure are numerous and complex.¹¹⁵ One of them is the limited support for strategic planning in general, among countries, as policy-makers tend to overlook long-term strategies in a context of frequent budget crises, rapidly changing governments and governmental priorities. Other reasons are the lack of institutional memory and of appropriate and acceptable accurate workforce data, especially related to workforce supply, annual loss rates, private sector characteristics, service outputs, and staff productivity. Deficient planning methods and tools suitable for different systems and problems is a common reality in many middle-income countries, which tend to have large and dominant public sectors, severe misdistribution of resources, low productivity and many data limitations.¹¹⁶ The use of planning methods unsuitable or too complicated for the country situation and the weak linkages between planners and decision makers are also determinants to the failure of HRH policies.¹¹⁷

¹¹⁴ ZURN, P., DAL POZ, M., STILWELL, B. and ADAMS, O. Op. Cit. 107.

¹¹⁵ HALL, T. Op. Cit. 106.

¹¹⁶ *Ibidem*.

¹¹⁷ The situation is not much different in high-income countries. See: http://www.chsrf.ca/final_research/comissioned_research/programs/pdf/bloor_report.pdf

Improvement in performance, in turn, entails actions such as reviewing incentive systems, the development of new skills, improving work organizations and the adoption of new strategies of personnel development. Developing equity in access to services - through redistribution of personnel – requires the provision of appropriate incentives for recruiting and retaining staff in less well-served areas. The proposed changes in health care models and the promotion of primary care are major responsibilities in terms of redefining professional roles and integrating services.¹¹⁸

Another major matter in developing HRH policies is the need to anticipate potential effects of macroscopic social trends that affect health systems and the health workforce. One example¹¹⁹ of a macroscopic social trend is the socio-demographic transition, as demographic changes have a substantial effect both on the demand of services and on the workforce that provides them.¹²⁰ The ageing of population in industrialized countries is likely to increase the use of health services and diminish the working population (in Finland, 42% of public sector personnel is due to retire in the next 10 years),¹²¹ and tools for management of human resources should be adapted to this change. Another facet linked to this transition is the impact of HIV/AIDS epidemics in the most productive age group, which especially affects African countries. Despite the scarcity of data, evidence suggests that a country with a stable 15% prevalence can expect to lose between 1.6% and 3.3% of its healthcare providers from AIDS each year.¹²² Besides the deaths, the epidemic's impact on human resources is reducing the ability

¹¹⁸ DUSSAULT, G. and DUBOIS, C.A. Op. Cit. 86.

¹¹⁹ Other examples are technological transition, changes in the behavior of consumers and in their relationship with health professionals, mobility of workforce and brain drain.

¹²⁰ *Ibidem*.

¹²¹ International Labor Organization. Op.Cit.102.

¹²² TAWFIK, L. and KINOTI, S. *The impact of HIV/AIDS on the health sector in sub-Saharan Africa: the issue of human resources*.

of the health systems to respond to the simultaneous massive, shifting demand for services. Direct economic impacts of AIDS include permanent loss of labor and rising medical costs, and indirect costs include absenteeism and reduced productivity, a demoralized and stressed workforce, and additional costs of training new personnel.

It can be stated that, in the long term, there is an overlapping of two agendas of management of human resources. The older agenda corresponds to a regulatory model in which labor relations are stable and protected entailing persistent problems that personnel administration has been unable to access, along with the new agenda matching a new regulatory model characterized by flexibility in labor relations, resulting primarily in situations arising from reforms.¹²³ Many countries, especially in the developing world, have yet to solve the restraints posed by the old agenda; meanwhile, the reform processes have added new issues that decreased the countries' ability to handle the overlapping challenges. The implementation of some tactics of the new agenda has mobilized the attention of human resources managers and policy makers, leaving less room to continue addressing previous shortcomings, such as strengthening health information systems.¹²⁴ *"The transitions to this new agenda while keeping pace with the processes that the old one left unresolved, requires an integrated concept of the role of human resources in health systems as a role. This concept should provide a clear vision of how the proposed configuration of the services will be affected by the human resources imbalances, and how to act to correct them".*¹²⁵ This integrated approach must also be able to shape human resources policy, allowing the introduction of incentives and adjustments required by

¹²³ Pan American Health Organization (PAHO). *Op. Cit.* 81.

¹²⁴ RIGOLI, F. and DUSSAULT, G. *Op. Cit.* 87.

¹²⁵ *Ibidem*.

workforce to be continuously involved in this process.

PAST ACTIONS

Imbalances in health workforce are not a new challenge for policy-makers. In 1915, nurses' shortages were already reported in the United States.¹²⁶ By this time, nevertheless, data was not precise, neither was what they understood by "imbalance". Multiple and more precise, definitions have been coined in response to the increased acknowledgement of HR central role for the development of fairer health systems.

By the late 1970s, under the auspices of the Alma-Ata Joint Declaration of the WHO and UNICEF on primary health care, national policies in health sectors started to pursue the goal of Health for All by the year 2000 (HFA), with WHO members setting, in 1981, a framework based on it. According to this document, low-income countries should draft national policies so they would be eligible for receiving aid. Henceforth, the first regional strategy was adopted in 1984 by 38 European members of WHO, an initiative that has been followed by other regions and increased the commitment to HFA objectives.

During the 1980s these formulations were more deeply assessed. In this decade and in the beginning of 1990s, OECD countries' governments were engaged in public management reforms as they were suffering from loss of confidence and efficiency of their institutions, Human Resources Management (HRM) being one key area of these reforms. In this sense, it was no longer seen as being only a question of supply and demand (a quantitative question). The new primary health care central

¹²⁶ ZURN, Pascal, POZ, Mario R Dal, STILWELL, Barbara & ADAMS, Orvil. *Imbalance in the health workforce*. Available at: <http://www.human-resources-health.com/content/2/1/13#B1>.

approach led to the recognition of new skills to be developed for better planning and managing health systems. At this decade the central point was a managerial one.¹²⁷

The pillar of the 1990s was more of a structural nature, meaning that reforms addressed not only personal planning and training, but also investigated ways for making investments become more sustainable. This impacted on the understanding of human resource development (HRD), firstly pointed simply as a matter of production and distribution of staff, it gained a different reading.¹²⁸ At that moment, the separation between health policy makers and human-resource practitioners seemed unnecessary and also dangerous.

The modifications were mainly towards a multidimensional realization of the personnel function resulting in higher political level of discussion on this issue. The first changes occurred in Europe, as the British case demonstrates. The British National Health Service was reformed in early 1990s and changed the status of personnel managers, previously known as 'officers'; they became fundamental components of the National Health System Management Executive.

The evolving process during 1990s was a struggle to go beyond the idea expressed in the field of HFA. A consistent action took place in 2000 when the World Health Report published was entitled "Health Systems: Improving Performance" and defined four key functions that health systems had to undertake, in order to guide policy-makers in their acts. These four points were: providing services; generating the human and physical resources that make service delivery possible; raising and pooling the resources used to pay for health care; and stewardship – focused on regulation to attribute strategic direction for all actors involved. This report was considered by

¹²⁷ MARTINEZ, Javier & MARTINEAU, Tim. *Health Policy and Planning*, pp. 345-358.

¹²⁸ *Ibidem*.

WHO a milestone for all other health reports, since it made the improvement of health systems performance a regular feature in them.¹²⁹

Later, in the budget programmed for 2002-2003, the HR issue was addressed, indicating the necessity of cooperation with ministries of health as a way of making service delivery in countries more equitable. Its proposals were discussed during the Fifty-fifth World Health Assembly in May 2002. Based on it, the Director-General at the occasion – Dr. Gro Harlem Brundtland – proposed an initiative for development of human resources in national health systems.¹³⁰

This scheme included an analysis of how damaged were health systems and how poor communities were served inadequately, due to the persistent recruitment of skilled personnel which were invited to go to countries where wage levels and learning opportunities were better. Also, options for developing stewardship and technical skills within health professions were observed. Member-countries, at the same occasion, asked the WHO to accelerate development of an action plan for ethical recruitment and allocation of skilled health care workers in addition to demands for resonance national policies and strategies for the training and managing of HRH.¹³¹

This year, the WHO is focusing attention on the workforce crisis. That is why their annual report for 2006 is called Human Resources for Health,¹³² and World Health Day (April 7th) was dedicated to the theme. This recognition is a very important step towards dealing with the HRH problem, and fomenting the improvement of the health sector.

¹²⁹ WHR 2000 *Op. Cit.* 78.

¹³⁰ WHO/OIP/OSD. Available at: http://www.who.int/hrh/documents/en/Developing_policy_options.pdf.

¹³¹ *Ibidem.*.

¹³² See: http://www.who.int/whr/2006/whr06_en.pdf.

BLOC POSITIONS

In 2003, when Dr. Lee Jong-wook became the WHO's Director-General, he identified human resources crises in the health sector as a problem affecting countries in all stages of development.¹³³ Nevertheless, most of the 57 countries facing critical personnel shortage crises are poor and most are often found in Africa (proportionally) and East-Asia (absolutely).¹³⁴ Therefore, it may be adequate to look to each of the WHO's regional offices to analyze how countries face this issue.

All countries in America are members of the Pan-American Health Organization (PAHO);¹³⁵ in 1998, 22 of them gained national observatories of human resources for health. Since then, information can be centralized. Brazil is an interesting example in this context: the Brazilian Observatory emerged as a consequence of already existing (informal) networks between academics and managers' networks as recognition of training, planning, and management of human resources for the health sector.¹³⁶ Although the importance of the Observatory of Human Resources is a fact, it still needs a more extensive participation of the different sectors involved, in addition to the lack of integration of workforce management as a priority in health sector management reforms¹³⁷ and the inefficient use of financial resources.¹³⁸ Similarly, Middle Eastern and Eastern European countries also suffer from systemic inefficiencies.

¹³³ WHR 2006. *Message from the Director-General*. P.xiii.

¹³⁴ WHR 2006. *Overview: working together for health*. P. xviii.

¹³⁵ The office also has France, the United Kingdom and the Netherlands as Participant States, Spain and Portugal as Observers, and Puerto Rico as an Associate Member. For detailed membership see: <http://www.paho.org/english/PAHO/member-states.htm>.

¹³⁶ WHR 2006. Box 6.2 *Human Resources for health observatories in Latin América*. P. 128.

¹³⁷ Resolution CE128.R3.

¹³⁸ GOTTRET, Pablo & SCHIEBER, George. *Health Financing Revisited: A Practitioner's Guide*. P. 254.

The WHO's European office developed, in partnership with governments¹³⁹ and institutions,¹⁴⁰ the European Observatory on Health Systems and Policies.¹⁴¹ It recently published a book that examines the situation of the European Union's member-states and Former Soviet Union (FSU) countries.¹⁴² A major problem in the region is the brain drain process: people from lower-income countries are tempted by freedom of migration opportunities. On the other hand, countries are being stimulated to reform their health systems, to provide continued education and management of their workforce, most of them attempting to join the EU.¹⁴³ The focal point is policy strategies which can be unfolded, in a simple manner, into management and regulation.¹⁴⁴

Africa, in its turn, has a full agenda. Sub-Saharan countries are more closely dealt by the WHO Regional Office for Africa (AFRO)¹⁴⁵ while some countries – for instance, Morocco, Somalia and Tunisia – are the responsibility of the Regional Office for the Eastern Mediterranean (EMRO).¹⁴⁶ Sub-Saharan Africa's lack of personnel can be observed in countries which also possess an unemployed health workforce. Some factors allow this dual situation, such as “*poverty, imperfect private labor markets, lack of public funds, bureaucratic red tape and political interference*”.¹⁴⁷ This situation also exists in East Asia, where it

¹³⁹ Belgium, Finland, Greece, Norway, Spain, and Sweden (and the Veneto Region of Italy).

¹⁴⁰ the European Investment Bank, the Open Society Institute, the World Bank, CRP-Santé Luxembourg, the London School of Economics and Political Science (LSE) and the London School of Hygiene & Tropical Medicine (LHSTM).

¹⁴¹ See: <http://www.euro.who.int/eprise/main/who/progs/obs/home>.

¹⁴² DUBOIS, Carl-Ardy, McKEE, Martin & NOLTE, Ellen (Editors). *Human Resources for health in Europe*. Available at: <http://www.euro.who.int/Document/E87923.pdf>.

¹⁴³ *Ibidem*. Foreword.

¹⁴⁴ *Ibidem*. Introduction.

¹⁴⁵ See: <http://www.afro.who.int/>.

¹⁴⁶ See: <http://www.emro.who.int/>.

¹⁴⁷ WHR 2006 *Op. Cit.* P. xviii.

is not assignable to proportional number of professionals to population but to the enormous population living there (India is included in this region).

The Regional Office for South-East Asia (SEARO)¹⁴⁸ launched, in 2004, the South-East Asia Public Health Initiative, 2004-2008¹⁴⁹ aiming to strengthen and develop public health, with emphasis on its professionals. This Report from SEARO concluded that as countries in the region are in very different levels of development, policies to be adopted must be specific to each country's situation. Nevertheless, it noted that in general, public health has decreased in quality and quantity, especially in number of professionals and services provided.¹⁵⁰

The other African office, the EMRO, which also includes countries like Lebanon and Syrian, released in 2002 its "Guidelines and Tools for Management of Basic Development Needs", of which tool 3 is "Human Resources Development".¹⁵¹ The issue is viewed as a not punctual, but a continuous need only possible to be solved with a consistent partnership between governmental and non-governmental sectors allied with capacity building in both levels for cross-sectoral policies making.¹⁵²

Concluding, there is the Regional Office for the Western Pacific (WPRO).¹⁵³ The documentation on human resources is poor, even on health systems strengthening, a broader topic including the former. The office itself points to this lack of information, which would be facilitated if stronger information systems existed. Moreover, yet superficially, it is possible to point out a scarcity of personnel there, with serious consequences for

¹⁴⁸ See: <http://www.searo.who.int/>

¹⁴⁹ SEA-HSD-279 Available at: http://www.searo.who.int/LinkFiles/Reports_HSD-279.pdf.

¹⁵⁰ *Ibidem*.

¹⁵¹ WHO-EM/CBI/004.4/E/G Available at: <http://www.emro.who.int/CBI/BDN/Tool3.pdf>.

¹⁵² *Ibidem*.

¹⁵³ See: <http://www.wpro.who.int/>.

AIDS treatment as there are few trained professionals. Also, the Pacific islands are regions of emigration, with up 15% of specialized people from the health sector leaving them. Among the failures in information provisioning, they recognize a necessity of classification of information, nonexistent at the moment.¹⁵⁴

PROPOSED SOLUTIONS – strategies for human resources development in the health sector

The execution of policies governing HRH requires, essentially, three types of intervention: human resources management, human resources regulation, and human resources planning.¹⁵⁵ Within these three dimensions, a set of prescriptions and strategies can be set to improve HRH, as follows.¹⁵⁶

Changing concepts: The first and most fundamental strategy relates to the adoption of new concepts of Human Resources and HRM in the health services, developing a new type of HRM.¹⁵⁷ HRH policies must be comprehensive and HRM should be recognized as a set of trans-sectoral activities, all necessary, acting globally on the HR system, including new functions (such as negotiation with professional groups about the directions of the reforms), while keeping traditional ones

¹⁵⁴ See: http://www.wpro.who.int/media_centre/fact_sheets/fs_20050621.htm. Last accessed in May, 2006.

¹⁵⁵ Management ensures effectiveness and quality in staff performance to meet the services' objectives. Regulation mediates the rules of the game and interests among the institutions and actors working in education, professional practice, and the labor markets. Planning foresees and defines the criteria for the quantity and quality of human resources as a function of the services' needs. See : Pan American Health Organization. *Op. cit.* 81.

¹⁵⁶ See: MARTÍNEZ, J. and MARTINAU, T. Human resources *in the health sector: guidelines for appraisal and strategic development*.

¹⁵⁷ Pan American Health Organization. *Op. cit.* 81.

(such as the recruitment of personnel).¹⁵⁸

Improving equity and efficiency: A mixture of economic, organizational and professional incentives can be used to improve the deployment of the workforce (and thus, to improve access to health services), such as scholarships, income supplements, support for installation, accelerated promotion and pension advantages.¹⁵⁹ The improvement of efficiency, on the other hand, is related to the elimination/softening of certain labor rigidities (such as laws which give a monopoly practice to a category of providers). Introduction of managed competition and mechanisms which reward staff effort (for example, merit pay) can be useful to improve the efficiency of workers and the quality of the services delivered.¹⁶⁰

Improving education of the workforce and the quality of services: To better ensure the quality of education, mechanisms of accreditation or certification can be used and, regarding these mechanisms, regional integration and increasing labor mobility can bring health workers to initiate discussions and negotiations on the harmonization of standards (contents of curricula, definition of specialties, conditions of access to practice).¹⁶¹

Developing regulation: To reduce surpluses of specific categories, the long-term solution can be the regulation of intake (for instance, regulation of the creation of new schools and use of early retirement packages). Personnel shortages can be reduced by incentives to schools to attract recruits and by strategies to retain providers already in the field, which include scholarships, more attractive pay scales, career plans, and access to continuing education.¹⁶²

¹⁵⁸ DUSSAULT, G., and DUBOIS, C.A. *Op. cit.* 86.

¹⁵⁹ *Idem.*

¹⁶⁰ CASSELS, A. Health sector reform: key issues in less developed countries. *Journal of International Development*.

¹⁶¹ DUSSAULT, G. *Op. cit.* 93.

¹⁶² *Idem.*

Developing effective information systems: There is a need for improvement of the capacity for data analysis, and for a regular HRH policy implementation monitoring and evaluation system, capable of translating policies into measurable objectives and sharing its results with relevant actors to solicit views on needed changes in policy.¹⁶³

Building capacity: An effective HR strategy requires new capacities in human resources units, which should include collecting and analyzing information about the reform process; a policy role in terms of developing an appropriate regulatory framework for health staff; and an advisory guidance role in terms of providing technical assistance on workforce issues.¹⁶⁴

Working with the private sector and broadening health-financing options: There can be established systems for regulating, contracting with or franchising providers in the private sector, including non-governmental organizations (NGOs) and non-profit organizations. It is also possible to seek the expansion of financing through the introduction of user fees, community financing, voucher systems, and social and private insurance schemes.¹⁶⁵

Integrating stakeholders in the policy formulation process: Participation of the workforce and consumers of health services in the planning and decision-making is very important, as it gives legitimacy to the objectives and priorities pursued, weakens resistance to the reform process, and stimulates adherence to the process and its objectives.¹⁶⁶ The mobilization of all stakeholders is an important element in the development, implementation, and evaluation of HRH policies, which are

¹⁶³ EGGER, D., LIPSON, D. and ADAMS, O. *Achieving the right balance: the role of policy-making processes in managing human resources for health problems.*

¹⁶⁴ BACH, S. *HR and new approaches to public sector management: improving HRM capacity,* and RIGOLI & DUSSAULT . Op. Cit. 87 and DUSSAULT, G. Op. cit. 93.

¹⁶⁵ CASSELS, A. Op. cit. 133 and MARTÍNEZ, J. & MARTINAU, T. Op. cit.122.

¹⁶⁶ DUSSAULT, G. Op. cit. 93.

likely to be more sustainable with broader participation of the groups affected by them.¹⁶⁷

The role of international cooperation: Together with strategies at the country level, international cooperation is also essential to advance human resources development – and consequently, to advance in the direction of the goal of universal access to health, particularly in low-income countries, where the national capacities to improve quality of services provided by the health workforce are clearly limited. Concerted efforts, thus, should be made to support the national efforts of developing countries to develop their human resources - efforts in which developed countries have an important role. Concurrently with institution building, it is also possible to promote cooperation among developing countries, and international organizations - including international financial institutions – which can contribute by supporting the objectives of human resources development and by integrating them into their policies, programs, and operations.¹⁶⁸ Support may include exchange of information, technology transfer, financial assistance, training and skill development programs, as well as the provision of other forms of assistance.

At the regional level, technical cooperation to widen and strengthen human resources management should focus on building institutional capacity in health services. A first step is the guidance of cooperation efforts to develop a “critical mass” of sector managers with a new vision of human resources and generating adequate performance levels in the responsible units.¹⁶⁹ The Pan American Health Organization has developed one of these initiatives, the Observatory of Human Resources in Health Sector Reform, which proposes and provides technical

¹⁶⁷ DUSSAULT, G., and DUBOIS, C.A. Op. cit. 86.

¹⁶⁸ A/AC.250/CRP.1 Available at: <http://www.un.org/documents/ga/ac250/aac250crp-1.htm>.

¹⁶⁹ PAHO. Op. Ci.t 81.

support for the production of core data on human resources in each country; designs and supports comparative studies; mobilizes the exchange of experts among countries; and disseminates relevant information on existing problems.¹⁷⁰

At the global level, the WHO must continue and improve its work with Member States to strengthen their capacity to plan, educate and manage their health workforce so that health services can best meet health needs. The WHO must also unite efforts and strengthen partnerships with other international organizations (such as the World Bank) and NGOs in the development of global strategies for addressing the issues concerning HRH. Activities performed by the WHO can be fostered within countries to include the gathering of adequate information for the promotion of effective HRH policies; exploring policy options for recruiting, managing and retaining the health workforce in varied labor markets; and strengthening nursing and midwifery capacities. The WHO also works with various health institutions around the world with the objective of improving the quality of health professionals' education, testing and comparing methods of education and training and developing benchmarks and guidelines for accreditation of health institutions.¹⁷¹

Finally, some observations and recommendations can be made about the use of external funding and aid to improve health services in developing countries, including aid directed to human resources development. Most aid for health in developing countries is invested into projects, with each project separately developed and negotiated between the donor and the national authorities involved with implementation. Projects, however, tend to lead to fragmentation and duplication of efforts

¹⁷⁰ *Idem.*

¹⁷¹ World Health Organization Website. See: <http://www.who.int/hrh/>.

(e.g. redundant training programs for health workers within the same area), especially if many donors are involved.¹⁷² Experience shows that donor support for some projects can exacerbate inequalities in a given country (for example, supporting urban projects or particular regions in a country).¹⁷³ International agencies employing sector-wide approaches to develop assistance – which consists in a medium-term collaborative program of work, with government ownership, concerned with the development of sectional policies and strategies; projections of resource availability and expenditure plans; the establishment of management systems by governments and donors; and institutional reform and capacity building, in line with agreed policies –¹⁷⁴ instead of choosing individual projects, contribute to the funding of the entire health sector.

CONCLUSION

The good functioning of national health systems depends on the proper conception of how they could be capable to fulfill the objective of providing quality health services, equity of access and sustainability, and depends to a great extent on the performance of their most important resource, the health workforce.¹⁷⁵ Nevertheless, little attention has been given to issues regarding HRH in the development of policies in the health sector, and this seems to be a determinant reason for the failure or limited success of these policies, in a context in which many countries currently conduct broad reforms on

¹⁷² CASSELS, A. & JANOVSKY, K. *Better health in developing countries: Are sector-wide approaches the way of the future?* 1998.

¹⁷³ WALT, G., PAVIGNANI, E., GILSON, L. and BUSE, K. *Health sector development: from aid coordination to resource management*.

¹⁷⁴ *Idem.*

¹⁷⁵ DUSSAULT, G. *Op. cit.* 93.

public services. The inclusion of labor force problems in the political agenda, and more precisely HR policies in the general framework of health policies, is a way to clarify objectives and priorities in this area, to rally all sectors concerned with these objectives and to promote a more comprehensive and systematic approach to HRM.¹⁷⁶

The success of HRH policies, however, is strongly conditioned to certain factors. One of the most important is institutional strength and stability, on which depends the construction of an environment that allows promotion of echoing health policies, their formulation and implementation. National capacities for developing and implementing HRH policies are often inadequate, mostly because skills are rare, the information is deficient, and/or the institutions are weak. To reinforce national capacities, it is necessary to provide national leaders with a clear vision of the health needs and of the possibilities of action for the development of the workforce – policies imposed from outside (e.g. donor-driven), inhibit that kind of national leadership and hinder the adaptation of policies and programs to the national context.¹⁷⁷

Another essential condition for the success of HRH policies is political commitment, the ability and willingness of national policy makers to compromise with a long-term approach when including the development of the health workforce in their priorities. Social acceptability is also an important condition, as any policy related to human resources has little chance of success if it opposes the expectations, preferences and values of stakeholders. Affordability is also essential, in such a way that HRH must be based on an accurate assessment of their financial

¹⁷⁶ DUSSAULT, G., and DUBOIS, C.A. *Op. cit.* 86.

¹⁷⁷ *Idem.*.

implications and the capacities of the country to mobilize the necessary resources.¹⁷⁸

The recognition that health is one of the most important dimensions of social and economic development is necessary for all the international community engaged with global development issues. The understanding of policies for improvement of HR in health sectors are not an option for action, but a prerequisite to successful reforms¹⁷⁹ and for the ultimate goal, pursued by the WHO and its Member States, to provide access to the benefits of health services for all peoples.

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¹⁷⁸ *Ibidem.*

¹⁷⁹ DUSSAULT, G. *Op. cit.* 93.

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LOANS & CONDITIONALITIES: A REVIEW OF IMF AND WB POLICIES

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INTRODUCTION

The World Bank (also known as the “Bank”) and the International Monetary Fund (IMF) were born in the Bretton Woods Conference in 1944, in a context of economic disorder subsequent to the Second World War. They were both created to construct a new international financial system and to bring back stability to the economic environment. Both specialized agencies are the main tools of the United Nations system to manage the international financial system nowadays.

These institutions are composed of 184 member countries with voting powers proportional to their subscription quotas, which are the amount of money they contribute. Despite these similarities, each plays a distinct role in the global economic scenario and has its own structure.

The IMF seeks to promote international monetary

cooperation and exchange rate stability, to avoid competitive devaluation, to foster economic growth, and to prevent and resolve economic crises, among other objectives. Meanwhile, the World Bank aims mainly at supporting long-term human and social development by fighting poverty, encouraging stable economic growth and financing projects that can improve the lives of people around the world.

The Board of Governors of the World Bank and the IMF gather annually in Washington to discuss their work and coordinate strategies. Occasionally, the Annual Meetings occur outside Washington, and in 2006 the Conference will be held in Singapore. During these meetings, the governors decide on major policy issues, leaving the day-to-day work to the Executive Boards and their Managing Directors. One of the outlined topics for the upcoming meeting is the loans issue as well as the controversy involving the conditions under which these loans are granted.

Loans generate much controversy between borrowing countries and the Bretton Woods institutions. In order to receive a loan, countries have to commit themselves to a policy program and its conditions. The program and conditions will ensure the countries' commitment to resolving their balance of payment difficulties and to promoting their macroeconomic stability and sustained growth, in the case of the IMF. Also, to the World Bank, it may guarantee the proper use of the assistance according to the country's development objectives and to ensure the purposes' fulfillment.

The present article will explain the Bank and the IMF's roles in the formulation of the loans program, some criticism of these roles, various controversies between the institutions and the borrowing countries regarding this issue, the new trends – such as the World Bank's new *Programmatic* approach to the lending programs and the use of new tools to evaluate programs' progress, like *benchmarks* – and finally, the challenges

concerning loans and new practices.

HISTORY OF THE COMMITTEE

The World Bank

The World Bank is one of the largest and most important sources of development assistance worldwide. Each Member State is similar to a shareholder in a corporation, that is, their voting power is equivalent to the amount of their financial contribution to the Bank. Nowadays, the World Bank focuses on the achievement of the Millennium Development Goals (MDGs), which are eight goals established and agreed upon by the United Nations, aimed at reducing poverty around the world and encouraging sustainable development by the target date of 2015¹. Nowadays, their main goal is *“to fight poverty with passion and professionalism for lasting results – to help people help themselves and their environment by providing resources, sharing knowledge, building capacity and forging partnerships in the public or private sectors”*².

1. Structure of the World Bank

The difference between the World Bank and the World Bank Group is a frequent source of confusion. The World Bank Group is composed by five institutions, all under the same presidency:

- The International Bank for Reconstruction and Development (IBRD);

1 For more information on the MDGs: <http://www.un.org/millenniumgoals>.

2 The World Bank website: www.worldbank.org (Challenges)

- The International Development Assistance (IDA);
- The International Finance Corporation (IFC);
- The Multilateral Investment Guarantee Agency (MIGA);
- The International Center for Settlement of Investment Disputes (ICSID)³;

Among these, the IBRD and IDA make up the World Bank. Each of these institutions has a unique and specific function in the group.

The International Bank for Reconstruction and Development (IBRD) is the “original” World Bank, founded in 1944, at the actual Bretton Woods Conference. The term “World Bank” actually appeared only later on, also in 1944, in an article in *The Economist*, which referred to the Bretton Woods Conference, and became official shorthand for the IBRD and IDA only in 1975⁴. Today, the IBRD is the branch of the World Bank that provides loans and development assistance to middle-income countries and credit-worthy poor countries. It provides loans in larger volumes and with a longer maturity than commercial banks. The IBRD raises most of its funds within the world’s financial market, but with the special characteristics that its shareholders are all governments and that its goal is not maximizing profits, like commercial banks, but bringing about the best development impacts. The IBRD is also the institution of the World Bank Group with most members, 184. To become a member of the IBRD, a country must first be a member of the International Monetary Fund (IMF), and only then will this country be eligible for membership in the other institutions.

Created in 1960, the International Development

3 For more information on the World Bank Group and each of its affiliates, visit: www.worldbankgroup.org

4 The World Bank. *A Guide to the World Bank* p.11, Box 2.2.

Assistance (IDA) is run basically in the same way as the IBRD, but focusing on a different category of countries, the poorest ones. The countries which are eligible for IDA loans are those which are in “relative poverty”, that is, which have a GNP (Gross National Product) of less than US\$965 per capita, and, because of this and other problems, lack credit-worthiness to borrow on regular market terms. The country must also have sound public policies, which are effective in promoting economic growth and well-being⁵. There are also some countries, such as India, which are eligible for IDA loans, due to their low GNP per capita, but are also credit-worthy for IBRD terms, and are thus called “blend” borrowers. The IDA then provides interest-free loans, called credits or conceded loans, to these countries, with a bigger time-span to repay the loans, and also some grants⁶. Unlike IBRD, the largest sources of IDA resources are contributions from donor countries, which are the industrial member countries. Representatives of these countries meet every three years to refill IDA funds. The largest pledges of IDA14⁷ were made by the United States, the United Kingdom, France, Germany, Italy and Canada, accounting for approximately 60% of all donations to IDA14⁸. Together, the IBRD and the IDA, as mentioned above, form the World Bank.

The International Finance Corporation (IFC), created in 1956, is the private arm of the World Bank Group, which aims at promoting economic development by means of the private sector. This is done mainly by financing private projects in the

5 For a complete list of the IDA borrowers, visit www.worldbank.org/ida section Background, section IDA borrowers

6 It is important to notice the difference between loans and grants. Loans are funds that normally have to be repaid with interest, while grants are funds that do not have to be repaid at all.

7 Representatives from the donor countries meet every three years to replenish the IDA funds. This three-year cycle is commonly referred to as a number, for example, IDA14 was approved on April 15, 2005 and will be available for the next three years. For more information on IDA14 Replenishment: www.worldbank.org/ida. Section IDA14 Replenishment

8 For information on all the contributions to the 14th replenishment, visit: http://siteresources.worldbank.org/IDA/Resources/Contributions_to_14th_Replenishment.pdf.

developing world, which is the chief difference between the IFC and the World Bank. While the IBRD and IDA can only lend to the governments of member countries, the IFC was specifically designed to lend to the private sector.

The function of the MIGA is to encourage foreign investment in developing countries by providing various guarantees against losses caused by “non-commercial” risks, such as civil wars, expropriation, and breach of contract, among others. It is specialized in facilitating investments in high-risk, low-income countries, countries which would not be able to attract investments on their own. They also provide technical assistance services, which help developing countries decide and implement strategies to promote investment on their own.

Finally, there is the International Center for Settlement of Investment Disputes (ICSID), which focuses basically on settling disputes which may arise between foreign investors and member nations.

2. Brief History

In July of 1944, the Second World War was at its peak. The Soviets, on the Eastern Front, were still struggling to reach Poland, and the other Allies in the west had landed in Normandy only a month before. At the time, a group of representatives from forty-four of the “United Nations and the nations associated with them in the war” met in Bretton Woods, New Hampshire, to discuss an innovative project: the creation of two institutions, which would be a framework for economic cooperation and economic rebuilding in the emerging post-war international system. These two intertwined institutions are what later became known as the IMF and the World Bank⁹.

The creation of the Bank at the time was seen mainly as a means of helping and accelerating the post-war recovery, by means of loans, so that the international economy could recover

as soon as possible. It also had the objective of promoting economic development. Lord Keynes¹⁰ said, in his opening remarks at the first meeting of the Bretton Woods Commission on the Bank: *“It is likely, in my judgment, that the field of reconstruction from the consequences of war will mainly occupy the proposed Bank in its early days. But as soon as possible, and with increasing emphasis as time goes on, there is a second primary duty laid upon it, namely to develop the resources and productive capacity of the world, with special references to the less developed countries”*¹¹.

In the Bretton Woods Conference, the question arose of whether the main goal of the IBRD should be reconstruction or development. Obviously the nations from war-stricken Europe had much more interest in the reconstruction aspect of the Bank, while to the nations from the Third World, the aid for development had a much greater urgency. In the actual Conference, they did not solve the highest priority problem, leaving it up to the Bank itself to decide. Since the most powerful countries were the ones in favor of reconstruction, the function of the Bank during its first years of existence was mostly extending reconstruction loans to Europe. Its first action was to grant a loan of \$250 million to France, in 1947.

It was in that year also that the United States, hoping to further accelerate the restoration of normality to the world economy, introduced what became known as the Marshall Plan, or, more formally known as the European Recovery Program. By doing this, the United States introduced into the international

9 Besides these two institutions, there was also discussion of another institution to guarantee a sound and stable economic world trade environment, which originated the GATT (General Agreement on Tariffs and Trade), which would later become, only in 1994, the WTO (World Trade Organization).

10 John Maynard Keynes (1883-1946) – British economist who, alongside with the American Harry Dexter White (1892-1948), was a central figure in the creation of the Bretton Woods Institutions

11 MASON, Edward; ASHER, Robert, *The World Bank since Bretton Woods*, p. 2

system a powerful option for countries seeking reconstruction aid. The Bank then withdrew partially from the reconstruction field, and started participating more in the development aspect. The first loan to a less developed country took place in March 1948, to Chile (\$16 million for hydroelectric equipment and agricultural machinery), which would be followed by various other types of loans, mostly with emphasis on infrastructure¹².

By the 1950s, it was obvious that there were many developing countries which, even with the low-interest loans that the IBRD provided, could not afford to take loans. Thus, even easier terms were required, which led to the creation of the International Development Association (IDA), in 1960. It was about that time also, during the 1950s and 1960s, that there was a significant growth in the predominance of the structuralist school of thought. The structuralists saw the problem of under-development as being one mostly linked to infrastructure. Therefore, the Bank, embracing these ideas, directed its loans programs in great part to works involving infrastructure.

During the 1970s, the World Bank shifted its focus from infrastructure to development, by financing more educational and social projects. This was due not only to the completion of European reconstruction, but also to the insistence of the Third World, which complained that the Bank was insensitive to their needs. As a result, the Bank's loans increased from US\$953.5 million to US\$3.55 billion from 1968 to 1973 (fiscal years), alongside with the change in its focus, since loans were initially directed to reconstruction operations. Now, the Bank is focused in helping countries through developing programs.

In the 1980s, the world faced a debt crisis which deeply affected the Third World. In order to reduce its exposure to the crisis-stricken countries, the Bank adopted new measures, such as the raising of fees on IBRD loans and the reduction of

¹² MASON, *op cit.*

IDA funding. It was also during the end of the 1980s that the Bank started suffering severe criticism, on the grounds that it was financing irresponsible and ineffective projects, especially in relation to environmental issues. There are various examples of this, such as the *Polonoroeste* project in the Brazilian Amazon, in Rondônia¹³, which, in spite of warnings from Bank members, on grounds of the dubious probability of achieving its economic and relocation goals, not to mention the immense environmental costs, was approved and granted various loans. The project turned out to be disastrous in various aspects, such as the deaths among the indigenous natives rising greatly, due to imported diseases; malaria infected many of the new settlements and the rainforest was burned to a great degree¹⁴.

Criticism in other cases such as this led, in 1992, to the Wapenhans Report, a report created by former vice-president Willi Wapenhans, analyzing the Bank's projects. The conclusions were not good, as summed up in Wapenhans' own personal opinion of the Institution: *"There is a declining trend in project performance, highly concentrated in IDA countries and the Bank is contributing to it because of the presence of an approval culture. To remain the leading and preeminent institution that it is, it needs to reverse, and it can reverse to its earlier emphasis on performance. It should not resort to more bureaucracy, to a further invitation to promote compliance. It should not invite its staff, including its managers, to protect their rear. Such an emphasis would further foster risk aversion, not only of staff but also of managers. If not contained, it could retard development"*¹⁵. Since these waves of criticism, the Bank has been reformed in various

13 NIELSON, Daniel L.; TIERNEY, Michael J., *Delegation to International Organizations: Agency Theory and World Bank Environmental Reform*, p.256: "The Polonoroeste was a project intended to help accommodate the huge resettlement population influx to the state of Rondônia, while also meeting rural infrastructure and agricultural needs."

14 Ibid.

15 See www.worldbank.org, section Archives, section Willi A. Wapenhans, "Summary of Oral History Transcript".

aspects. Following the Wapenhans Report, an Inspection Panel was created to investigate claims against the Bank.

Today, the Bank is seen as a major source of aid to the developing world. In 2005, the World Bank provided \$20.1 billion for more than a 100 developing countries, distributed around the globe¹⁶. Its various projects range from education for HIV prevention and control to environmental issues, among others. The Bank has certainly grown from its humble beginnings in 1944. What started out as a single institution with only 30 members, serving mostly the purpose of rebuilding and reconstructing the post-World War II scenario, ended up becoming a major global institution of five closely knit institutions, with 184 member countries, emphasizing not only the reconstruction aspect from war or natural disasters, but also development aspects, such as social, environmental and educational issues, which are vital for any country to be able to grow prosperously¹⁷, having the reeducation of poverty as its over-arching goal.

International Monetary Fund (IMF)

The International Monetary Fund is a central institution of the international monetary system, pursuing as its main objectives the balanced expansion of the world economy, stability of exchange rates, and avoidance of competitive currency devaluation and orderly correction of balance of payments¹⁸. These goals are accomplished by employing three mechanisms: surveillance (the process of monitoring and consultation), technical assistance (providing advice about structural and macroeconomic policies), and financial assistance

¹⁶ See www.worldbank.org section About US Projects.

¹⁷ For more information on World Bank projects, visit: www.worldbank.org/projects.

¹⁸ For more introductory information about the IMF: <http://www.imf.org/external/pubs/ft/exrp/what.htm>.

(providing loans to countries experiencing balance of payments problems)¹⁹.

The Fund structure is formed by a Board of Governors, the highest policymaking body of the IMF, who normally meet once a year; the Executive Board of directors that consists of 24 executive directors, meeting three times a week; and the Managing Director, chief of the IMF operation staff, selected by the Executive Board.

1. Origins of the IMF

The disastrous consequences of the First World War and the Great Depression caused great damage to the economic order and, consequently, to the international monetary system. Guided by the spirit of cooperation and as a result of complementary efforts, the International Monetary Fund (IMF)²⁰ was conceived. The Articles of Agreement elaborated during the Conference were an attempt to avoid the repetition of the economic policies that contributed to the Great Depression. The synthesis of those goals formed a six-purpose plan from where the responsibilities of the IMF are derived: (i) to promote international monetary cooperation, (ii) to facilitate the expansion and balanced growth of international trade, (iii) to promote exchange stability, (iv) to assist in the establishment of a multilateral system of payments, (v) to give confidence to members through general temporarily available resources of the Fund under adequate safeguards, and (vi) to shorten the duration and lessen the degree of disequilibrium in the balance of payments of members²¹.

The members agreed on a system of fixed exchange rates

19 For better understanding of the Fund mechanisms: <http://www.imf.org/external/about.htm>.

20 In the same Conference the International Bank for Reconstruction and Development (IBRD) was also conceived.

- par values - for their currencies: the interwar experience had convinced the Fund's creators that floating exchange rates were a cause of speculative instability to international trade. Therefore, currencies would be defined in terms of the US dollar, as the US dollar would be pegged to gold²². These rates could only be modified with the Fund's permission and only in the event of a "fundamental disequilibrium"²³ in the countries' balance of payments. This way, the countries made their currencies convertible²⁴, which promoted and improved multilateral trade. This first stage lasted until 1960 and was characterized by low financing from IMF, as the Marshall Plan²⁵ was satisfying a large part of financial demand.

With the end of the European reconstruction, the world started to face a serious and continued problem of liquidity. Growing world trade demanded a growing supply of dollars. However, the US began to face serious economic problems, and the solution to that lay in the devaluation of the dollar, which would help eliminate the deficit in their balance of payments. Nevertheless, as all other currencies were pegged to the dollar, the devaluation could devastate other countries' reserves²⁶. Another point to be considered is that a deficit in the US balance of payments meant a decrease of their reserves in relation to gold, destroying the international trust in US currency²⁷.

The fixed exchange rate system established at Bretton

21 International Monetary Fund. *Articles of agreement of the international monetary fund*. Washington: 1968. Available at: <http://www.imf.org/external/pubs/ft/aa/aa01.htm>

22 KRUGMAN, Paul R. & OBSTFELD, Maurice. *Economia Internacional: teoria e política*, p 558.

23 A fundamental disequilibrium is basically a negative result in a countries' Balance of Payments.

24 Convertible currencies can be freely exchanged for foreign currencies.

25 The United States provided financial help, making essential contributions to Europe reconstruction.

26 Countries began to prefer accumulating reserve assets in dollars instead of gold

27 This idea is known as the Triffin Dilemma, described by the author in his book, "Gold and the dollar crises: the future of convertibility", of 1960.

Woods came under pressure in the 1960s for the lack of mechanisms to regulate the reserve growth to finance the expansion of trade and financial development. The solution to this problem of liquidity lay in the creation of a reserve asset to supplement dollars and gold in official reserve holdings²⁸. The answer by the IMF resulted in the creation of the Special Drawing Rights (SDRs)²⁹, to be used as a supplement to cover the lack of reserve assets³⁰. The introduction of this instrument happened with the First Amendment to the Articles of Agreement, in 1969.

Exchange crises became a regular feature of the international scene, especially after November 1967, with the pound sterling's devaluation. The Smithsonian Agreement of 1971 was an attempt to realign industrial countries' currencies and to increase the price of gold. The Fund established a temporary regime of central rates and wider margins³¹. In August 1971, the United States decided to suspend the convertibility of dollar into gold. The result: the collapse of the basic pillars of the Fund's original agreement – the system of par values and the convertibility of dollars into gold. The years after 1971 were a period of reconstruction for the Fund and for the international monetary system. The system of par value broke down altogether in 1973³², being transformed into several types of arrangements including individual floating, maintenance of margins respecting to one single currency, and mutual maintenance of margins by a group of countries³³.

The persistent increase in oil prices in the beginning of the

28 TRIFFIN, Robert. *Gold and the dollar crises: the future of convertibility*.

29 The SDRs works as a currency, and its value is calculated using an arrange of currencies (euro, yen, pound sterling and US dollar). Its value on February 17th is 1 SDR = 1.43049 US\$

30 The Idea of SDRs was first elaborated by Robert Triffin.

31 To see other important facts on IMF chronology : <http://www.imf.org/external/np/exr/chron/chron.asp>

32 DE VRIES, Margaret G. *The IMF in a changing world* - 1945-85, pp. 73-74, 111.

33 International Monetary Fund, *IMF annual Report* 1993.

1970s was responsible for continued deficits in the countries' balance of payments, affecting developing countries more strongly. However, the results were much deeper: creditors began to be more concerned about the developing countries' ability to repay their loans.

This context led to the expansion and development of the IMF financial programs to include facilities of lending, increasing the Fund's involvement in financial assistance to the poorest countries. In 1974, the Committee of Twenty, working for the purpose of reforming the international monetary system, agreed to implement a program that helped the system to evolve³⁴. All these facts culminated in the introduction of the Second Amendment (1978) to the Articles of Agreement, acknowledging that exchange rates could float or at least be allowed to adjust more frequently compared to the old system, in a way to help countries solve their high inflation rates and currency accounts deficits and return to exchange stability.

By the early 1980s, another series of economic issues started to bring instability to the system. Countries still faced difficulties in obtaining loans to solve their deficits, worsening the conditions of international debt markets. The debt crises transformed the Fund's role and its actions so that it could cope with the upcoming international crisis. The crisis of 1982 was different from the others faced by the Fund because this time it included a diversity of creditors, without whom the problem could not be solved. It corresponded to the need for high levels of assistance to individual countries, financed in part by borrowed resources³⁵.

The IMF also had an important role in the 1990s, when during the dissolution of the Soviet Union, it helped countries

34 DE VRIES, Margaret G. Op cit. 12, p.171.

35 BOUGHTON, James M. *The IMF and the force of history*. p.12. Available at: www.imf.org/external/pubs/ft/wp/2004/wp0475.pdf

in the transition process from planned to market oriented economies³⁶. It also showed substantial commitment to Africa's transition economies, which transformed the size³⁷ and diversity of the Fund and required intense involvement by it, including financial support in coordination with agencies to guarantee efficient assistance.

The 1990s were marked by a demand for Fund support during financial crises in several developing countries. The Mexican crisis of 1994-1995 and the Asian crisis of 1997, which spilled over into Russia, Brazil, Argentina, and Turkey, saddled the IMF with the responsibility of rebuilding market confidence and preventing contagious effects (indicated as one of the causes for the large proportions of the Asian crisis).

These financial crises exposed the weakness of the international system, with a clear connection being drawn to globalization and intensification of capital markets. The Fund has been responsible for part of the introduction of reforms aimed at strengthening the architecture of international monetary and financial system, pointed as a key to prevention and resolution of financial crises³⁸. To do so, the IMF introduced important changes into loans policies and facilities as a form of encouraging early adoption of sound policies as a means of preventing crises and reducing excessive use of its resources. Looking ahead, the challenge is to design and implement tools to help countries so they can detect and avoid financial crises in an early stage³⁹.

36 See more information at: <http://www.imf.org/external/pubs/ft/fandd/2004/09/pdf/boughton.pdf>

37 By the end of 1990s, 53 of Africa's countries were members of the Fund.

38 See more information on: www.imf.org/external/np/exr/facts/arcguide.htm

39 Extract from: International Monetary Fund. Financial Organization and Operations of the IMF, p.6.

HISTORY OF THE PROBLEM

The World Bank

The World Bank has two main types of lending facilities: Investment Loans, which fund projects, and Development Policy Loans, which are in support of a country's policy program. Both of these types of lending facilities make use of conditionality, that is, they state a series of conditions, which the country must comply in order to receive the loans. This is done to better achieve the stated goals.

Investment Loans are aimed at creating the necessary social and physical infrastructure imperative to reduce poverty and produce the conditions for sustainable development, by financing projects which concern economic and social development, and by having a long-term focus (5 to 10 years). The nature of investment lending has evolved over time. While it was originally more focused on infrastructure, such as hardware and engineering services, its focus has now shifted to creating more sound institutions, alongside with general social development, such as projects dealing with education, rural development, health services, post-conflict reconstruction, among others. They are available to all members of the IBRD and IDA, as long as they are not in debt with the Bank. Nowadays, the Bank usually discourages the use of conditionality in investment lending, but even so, some investment projects may include some agreement or another in relation to a particular policy or undertaking which might be considered important for the project's success⁴⁰.

Development Policy Loans, on the other hand, have a

40 The World Bank, Review of World Bank Conditionality: Conditionality: Context, Modalities, and Approaches pp.6

short-term focus (1 to 3 years), supporting structural reforms in the economy by providing quick-disbursing external financing, *“in the forms of loans or grants to help a borrower address actual or anticipated development financing requirements that have domestic or external origins”*⁴¹. There are three main types of lending programs in Development Policy Lending: single-tranche operation, multi-tranche operation, and programmatic lending operation⁴². Therefore, the conditions vary according to which program is chosen. In a single-tranche operation, that is, when the loan is disbursed in a single stage, the main conditions in the program usually have to come about *before* the operation is presented to the Board of Executive Directors for approval. Since they have to be met beforehand, they are known as prior actions.

In a multi-tranche operation, in which the loan is disbursed in several tranches, the borrower country should fulfill certain conditions after Board approval and effectiveness. That is, besides meeting the prior action conditions that the borrower must undertake before presenting the operation to the Board, there are also a series of conditions which it must meet before each new “stage” of the loan is released. These conditions are appropriately called tranche-release conditions.

Development Policy Loans, by that name, were actually established only in August 2004, replacing the previous policy-based lending instrument, called Adjustment Lending. Introduced in 1980, Adjustment Lending aimed specifically at helping developing countries literally ‘adjust’ their balance of payments after the 1979 oil shock. Therefore, it was originally designed as a way of financing short-term balance of payments support, improving the policy environment for traditional

41 Operational Policy 8.60, paragraph 1

42 Each one of these forms will be further explained in section 1.1.2 Understanding Development Policy Lending.

project lending⁴³, that is, investment lending. In other words, if the country is either going through or anticipating financial trouble, with an actual or anticipated external financial gap in the balance of payments or fiscal accounts, the Adjustment Loans then come into action to help the country tackle this issue. Therefore, in the 1980s, conditionality was mostly linked to conditions which, according to their present-time purpose, addressed these short-term macroeconomic imbalances.

Alongside with the change in Adjustment Lending, came the changing views regarding conditionality, both in favor and against. The main question is whether the policies associated with Adjustment Lending have actually led to better outcomes. The critics of conditionality consider its two main problems to be efficacy and intrusiveness.

On the one hand, it is considered ineffective because of the difficulty in monitoring countries' performances and compliance with the conditions; on the other hand, the Bank is considered overly-intrusive within the country. Many critics suggest that the main problem with conditionality is not so much its existence, but its content. They argue that conditions are based mostly on pre-established goals and methods on how to do public-sector reform, based on the "Washington Consensus"⁴⁴, without taking a closer look at the actual reality of the country, its political, social, cultural, and environmental features and limitations.

Due to these criticisms, various new approaches in

43 The World Bank Research Observer, vol. 18, no. 2, pp. 249-273, KOEBERLE, Stefan F. "Should Policy-Based Lending Still Involve Conditionality?"

44 The Washington Consensus is a set of policies disseminated by many neoliberal economists as a "recipe" for promoting economic growth and development in developing countries, specifically in Latin America, by introducing various market-orientated economic reforms. It owes its name to the fact that it represented themes and ideas which were broadly consensual among Washington-based institutions, including the IMF and the World Bank, in 1989. These themes include privatization, competitive exchange rates, and trade liberalization, among others.

conditionality have been developing. Conditionality, along with the lending programs, has greatly changed in the last decades, and is still changing now. First of all, the number of conditions per loan or tranche has been sharply reduced, due mostly to the concern that the high number of conditions may cause an intrusiveness of the Bank in the borrower country, especially in the lower-income ones.

Another change, perhaps an even more important one, is that the content of the conditions have changed, shifting its focus on macroeconomic adjustments, which were the primary concern in the 1980's, to a strong emphasis on improvements in the public sector governance. Also, research in aid effectiveness has shown that projects tend to be more effective when owned by the country itself. Therefore, one of the most important ways seen to improve conditionality effectiveness is to increase country ownership. The Bank has learned its lesson from experience that generalized policy prescriptions tend to fail: there is no blueprint for development that will work in every country. It is necessary to adapt and create a plan for development, which meets each country's specific needs and takes into account its unique characteristics.

In an attempt to reform the traditional Adjustment Lending, combining these new views and acquired experience, in August 2004, Development Policy Lending replaced it, as mentioned above. In so doing, the Bank withdrew passages on specific policy areas, concerning privatization, financial sector reform and public sector reform, in recognition of the need for country-specific prescriptions⁴⁵. Development research has shown, though, that if there is one universal truth about development, it is that sustainable growth and development are usually based on solid institutions, providing dependable

45 The World Bank, Review of World Bank Conditionality: Conditionality: Context, Modalities, and Approaches

property rights, managing conflicts, ensuring the rule of law, and aligning economic incentives with social benefits and costs⁴⁶. Thus, governments must take ownership of reforms so as to be able to develop a program that meets their country's specific and unique needs.

International Monetary Fund

Article I (v) of the IMF Articles of Agreement established that general resources of the International Monetary Fund may be temporarily available to the countries *under adequate safeguards*⁴⁷, in order to solve balance of payments problems. From this purpose, the concept of conditionality is constructed: policies that a member should follow to avail itself of credit from the Fund (Gold, 1979). These policies indicate the adequate program of adjustments necessary to correct external imbalances and assure that the country will repay the Fund, in response to the “revolving character” of resources⁴⁸ (guarantee that it will be available to other countries). The concept of conditionality was introduced in 1952 by a decision of the Executive Board and implicitly incorporated into the lending policies, only becoming a formal part of the Articles in 1969, with the First Amendment⁴⁹.

Conditionality has evolved profoundly throughout its history. Its initial focus were monetary, fiscal, and exchange policies, until the mid 1970s, with the major preoccupation of reducing the excess of aggregate demand, identified as the root cause of inflation and exchange rate disequilibrium;

46 The World Bank, Review of World Bank Conditionality: Conditionality: Context, Modalities, and Approaches

47 Available at: <http://www.imf.org/external/pubs/ft/aa/aa01.htm>

48 Statement of the IMF Staff Principles Underlying the Guidelines on Conditionality Revised. January 9, 2006. Available at: <http://www.imf.org/external/np/pp/eng/2006/010906.pdf>

49 BUIRA, Ariel. An Analysis of IMF Conditionality. United Nations, pg 03. Available at: <http://www.unctad.org/en/docs/gdsmdpbg2420033.pdf>

the reduction would then restore the external balance⁵⁰. The programs used to alleviate the excess were insufficient to correct payment imbalances within one year. The emphasis on growth changed the monetarist strategy to a more structural and long-run approach, focusing on stabilization. The result was the creation of *Extended Fund Facility* (EFF), established in 1974 to provide medium-term assistance to member countries experiencing chronic or accurate balance of payments problems due to structural distortions and weak growth, (IMF, 2001a) typically three years with possibility of extension to four. Before EFF, the duration of the arrangement ranged from one to two years, by the *Stand-By arrangements* (SBAs), established in 1952⁵¹.

The 1979 Guidelines on Conditionality brought some relevant issues to the fore: it underscored the principle of parsimony and stated that “*performance criteria will be limited to those that are necessary to evaluate implementation of the program with a view to ensuring the achievement of its objectives*”.

The International Monetary Fund’s conditionality is led by the purpose of making as certain as possible that the drawing country will pursue the designed policies appropriate to its economic situation in general and to its payments situation in particular⁵². To verify a country’s commitment to the designed policies, most IMF loans feature phased disbursements. Program monitoring relies on several tools, listed below:

50 To better understand the monetarist approach influence in IMF, see BOUGHTON, James M. The IMF and the force of history, pp .14-15. Available at: www.imf.org/external/pubs/ft/wp/2004/wp0475.pdf

51 See box 3 IMF, 2001a, “Structural Conditionality in IMF-Supported Programs,” (February), available at <http://www.imf.org/external/np/pdr/cond/2001/eng/struct/index.htm>. pg 15

52 POLAK, J. J. The Changing nature of IMF conditionality Available at: <https://www.oecd.org/dataoecd/14/43/1919583.pdf>.

Box I. Monitoring Techniques

Conditionality entails a body of practices and procedures, generally known as program monitoring techniques. These have been adapted to monitor structural reforms. Four forms of program monitoring have been employed in upper credit tranche stand-by and extended arrangements and the Fund's concessional lending: prior actions (PAs), performance criteria (PCs), structural benchmarks (SBs) and program reviews (PRs).

Prior actions are measures taken at the outset of an adjustment program or prior to the completion of a review to improve the capacity of the program to meet its objectives. Their implementation constitutes a precondition for program approval or completion of a review. PAs are particularly important in cases of severe imbalances or a weak record of policy implementation. Prior actions for the completion of reviews are frequently applied to structural benchmarks whose implementation has repeatedly been delayed.

Performance criteria are intended for structural measures that are critical to the success of the adjustment program and whose implementation in a specific timeframe is important. They need to be defined in precise, objectively verifiable terms. Their implementation constitutes a condition for purchases under an arrangement. Non-implementation by the deadline requires a request for a waiver, which the staff can support if the delay or non-implementation is not seen as overly detrimental to the attainment of the program's objectives, or if adequate compensatory measures are taken.

Benchmarks were first introduced in the context of the Structural Adjustment Facility (SAF) but are now used across Fund arrangements to monitor structural policies. They are typically used to monitor the implementation of reforms that are important but not as critical as are PCs, critical measures where the timing is less important, or critical measures that cannot be defined sufficiently precisely to constitute a structural PC. They are monitored in the context of reviews rather than directly linked to purchases. Delays in the implementation of specific SBs does not necessarily hold up the completion of a review, but a delay in a substantial number of SBs can signal a setback in meeting a program's objectives and will figure importantly in deliberations to complete a review.

Program reviews provide a framework for assessing structural reforms against established benchmarks, or progress in implementing reforms that are difficult to define *ex ante* with a high degree of precision, or reforms characterized by a series of smaller steps, which may be of only moderate significance individually but can make an important contribution to meeting a program's objectives when a critical mass is implemented. The completion of a review is linked to a purchase. Ideally, the focus of forthcoming program reviews should be defined in letters of intent, particularly if the content of the letter of intent goes beyond the policies that are important for the achievement of a program's macroeconomic objectives.

These techniques evolved over the years. In the early 1980s, the Fund focused on macroeconomic policies, embracing more explicitly the objective of raising growth on a sustainable basis. The IMF became increasingly involved in lending to low income countries, in particular with the establishment of the *Structural Adjustment facility* (SAF) in 1986 and, one year later, the *Enhanced Structural Adjustment Facility* (ESAF)⁵³. These lending facilities, together with the new challenges faced by transition economies⁵⁴, increased the use of Structural Conditions (SC), an increase that countries like the United Kingdom and Italy couldn't accept, resorting to fund assistance under the Oil Facility⁵⁵. Proposals for eliminating conditionality in its present form showed concern about the broadening of its scope⁵⁶.

53 These facilities were replaced in 1999 by the Poverty Reduction and Growth Facility (PRGF)

54 SC focused on removing pervasive non-market mechanisms and promoting the development of institutions to support the functioning of a market economy.

55 "At the time of the energy crisis in the 1970s, when oil prices quadrupled, the IMF helped recycle the foreign currency surpluses of oil-exporting countries through a temporary Oil Facility, in effect from 1974 to 1976. It borrowed from oil exporters and other countries in a strong external position and lent to oil importers to help finance their oil-related deficits". For more information about evolution on IMF lending: <http://www.imf.org/external/pubs/ft/exrp/what.htm>

56 For more about the Meltzer Report, see: http://www.adb.org/Documents/Slideshows/Meltzer_Report/Meltzer_Report.pdf

The use of Structural Conditions rose during the 1990s, being adopted in programs designed to address capital account crises (in countries like Mexico, Thailand, Indonesia, and Brazil)⁵⁷: the IMF recognized the importance of structural reforms for achieving more sustainable results in the areas of macroeconomic stability and better equipping economies to cope with the effects of adverse external shocks. As a result, policies such as trade reform, price liberalization, and privatization became important areas of SC. But the increasing number of structural policy commitments reached its peak during the Asian crisis⁵⁸, and this proliferation generated strong criticism outside the IMF. SC were argued to be intrusive and destructive of national ownership, among several other arguments. In response to this criticism, in 2000, the Managing Director issued an Interim Guidance Note aimed at streamlining Structural Conditions in IMF supported programs. A thorough review of conditionality was subsequently launched and New Conditionality Guidelines were approved in September 2002⁵⁹. The *“adoption of new guidelines for conditionality has been motivated by an increasing recognition of the importance of several interrelated principles for successful design and implementation of Fund-supported programs”*⁶⁰, built on the principles of national ownership of reform programs: the expectation that program documents such as the Letters of Intent⁶¹, will be prepared by the authorities, with the cooperation and assistance of IMF staff, and reflect the authorities’ policy goals; parsimony in

57 IMF, 2001b, “Conditionality in Fund-Supported Programs -Policy Issues,” Washington DC, IMF.

Available at: <http://www.imf.org/external/np/pdr/cond/2001/eng/policy/021601.pdf>

58 BUIRA. A. op. Cit 48, pg 16

59 IMF, 2005, “Draft Issues Paper for an Evaluation of Structural Conditionality in IMF-Supported Programs”. Available at <http://www.imf.org/External/NP/ieo/2005/sc/031805.pdf>

60 IMF, 2002a, “Guidelines on Conditionality,” (September), available at <http://www.imf.org/External/np/pdr/cond/2002/eng/guid/092302.htm> pg 8

61 The authorities’ policy intentions are described in a Letter of Intent (LOI) or a Memorandum on Economic and Financial Policies (MEFP) They represent modalities of Conditionality

the application of program-related conditions; tailoring of programs to the member's circumstances; effective coordination with other multilateral institutions (stressing the primary relationship in this context between the Fund and the World Bank⁶²); and clarity in the specification of conditions.

The new Conditionality Guidelines replace the 1979 Conditionality Guidelines and the Interim Guidance Note on Streamlining Structural Conditionality. In March of 2005, the Executive Board of the International Monetary Fund discussed a staff paper covering the review adopted in 2002. To summarize, the directors considered that substantial progress has been made in aligning practice with the new guidelines, although room for improvement still remains. In view of the importance of the issue, directors considered that the next review should be based on a larger body of evidence, and in particular it should take stock of economic outcomes⁶³.

STATEMENT OF THE PROBLEM

The World Bank

I. Understanding Development Policy Lending⁶⁴

The purpose of development policy lending is to assist poverty reduction in borrower countries⁶⁵ *“through a program*

62 For additional information, see : “Strengthening IMF-World Bank Collaboration on Country programs and Conditionality” –Progress Report at: <http://www.imf.org/external/np/pdr/cond/2004/eng/022404.pdf>

63 IMF, 2005, “Review of the 2002 Conditionality Guidelines” Available at: <http://www.imf.org/external/np/pp/eng/2005/030305.pdf>

64 This section explains ordinary development policy program. To learn more about procedures on supplementary financing and development lending in crises, post-conflict situation, and others, see: Operational Policy 8.60, Development Policy Lending.

65 Development policy lending may be provided to a member state or a subnational division of a member country (states or provinces).

of policy and institutional actions to promote growth and enhance the well-being and increase the incomes of poor people”

⁶⁶. Development policy operations provide loans or grants to help borrowers accelerate sustainable growth and efficient resource allocation. The Bank attempts to achieve these goals in accordance to the country’s economic and sector policies.

This lending program is composed of three interacting elements: the country’s own medium- or long-term development vision and policy; the Bank’s strategy for helping the country appreciate its own vision and policy; and a set of deliberations defined by the World Bank. These elements are, respectively, the country’s development strategy, the Country Assistance Strategy (CAS), and the Bank Policy Operational Policy (OP) 8.60⁶⁷.

Firstly, the country sets up its development program based on its own view of its development and of the strategy for achieving it. Development strategy for IDA-eligible countries is reflected in a Poverty Reduction Strategy Paper (PRSP)⁶⁸ and since there is no formalized approach for middle-income countries, IBRD loans are granted based on a government strategy document⁶⁹. This tendency reflects the Bank’s approach to enhance countries’ ownership, since the World Bank experience has shown that when owned by countries, program implementation has a greater chance of success.

The country’s development strategy is the basis for the Bank’s CAS. The Country Assistance Strategy⁷⁰ is produced by

66 Operational Policy 8.60, paragraph 1.

67 World Bank, Review of World bank Conditionality: Modalities of Conditionality (SecM2005-0390/1), OPCS, July 2005.

68 To learn more about poverty reduction, see: MENEZES et al. In: AMUN: Uniting People, Uniting Peoples. And for further information on PRSPs: <http://poverty.worldbank.org/prsp/>.

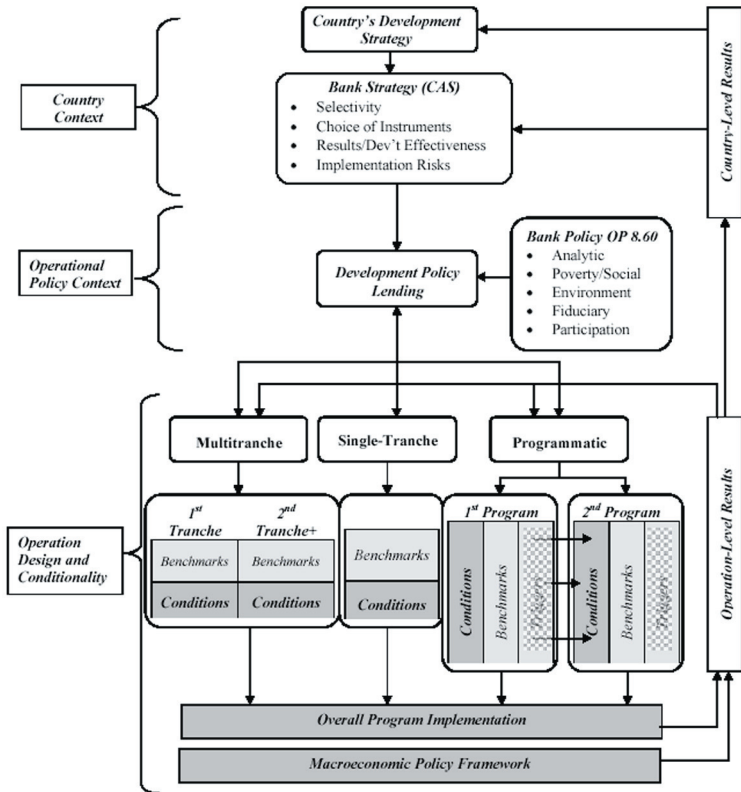
69 This document can be done in the form of government declarations, budgets, development plans or other strategy documents.

70 For more information regarding CAS see: Bank Procedure (BP) 2.11, Country Assistance Strategy; and Results Focus in country Assistance Strategies: A Stocktaking of Results-Based CASs (R2005-0042), February 24, 2005.

the Bank, supporting the country's vision and strategy. The CAS analyzes the country's macroeconomic and social performance and prospects, such as education, agriculture, budgeting, fiscal management, and public expenditure⁷¹.

In the CAS, the Bank assesses the areas and the aspects of the country's development strategy that are supported, and how gaps of the policy program will be addressed⁷². The CAS also establishes a clear-results framework since it includes indicators to monitor progress in achieving the CAS outcomes supported by the Bank.

Figure 1. Bank Approach to DPLs: Overview



Source: World Bank, Review of World Bank Conditionality: Modalities of Conditionality (SecM2005-0390/1), p.3, OPCS, July 2005.

The total amount of the development policy lending for a borrower is determined in the CAS, taking into account: the country's financing necessity, evaluating the costs of the program, the actions necessary to reach the expected results of the program, the size and the disbursement profile of the Bank's lending program, and other available financing sources; the borrower's debt sustainability, assessing the probable impact of the development policy program on the debt situation; the country's absorptive capacity; the country's relative allocation of available concessional resources for IDA borrowers, and the country's exposure to IBRD in the context of creditworthiness and risks for IBRD borrowers; and the country's performance triggers for CAS lending scenarios⁷³.

A request by the borrower to extend the development policy lending can be considered after a Bank assessment of the country's policy and institutional framework⁷⁴. The Bank also considers the country's institutional capacity and ability to effectively implement the program, its strength, and the country's commitment to it⁷⁵.

Before going forward with the development policy operation, a number of requirements must be considered. These considerations are established by the Operational Policy 8.60⁷⁶. The most important one is the analytic work⁷⁷ on the country undertaken by the Bank, the country and other parties.

71 MENEZES, A. Op. Cit. 4, p.389

72 According to the Bank vision, lending support may include investment loans, guarantees or development policy loans.

73 OP 8.60, paragraph 4.

74 It includes the country's economic situation, governance, environmental/natural resource management, poverty and social aspects.

75 OP 8.60, paragraph 3.

76 Operational Policy 8.60 and other Ops can be found at: <http://wbln0018.worldbank.org/Institutional/Manuals/OpManuals.nsf>.

77 As OP 8.60 states, prior analytic work includes analyses of the country's economy wide or sector policies and institutions aimed at stimulating investment, creating employment, accelerating and sustaining growth.

The Program Document⁷⁸ links this analytic work used in the preparation of the operation to the proposed development policy program⁷⁹.

Part of this analytic work examines the poverty and social impacts⁸⁰ on the country and the environment and natural resources management⁸¹. The Bank determines whether specific country policies supported by the operations will have poverty and social consequences on people (mostly on poor and vulnerable groups) and if they will impact environment, forests, or other natural resources. The Program Document contains the possible country policies with significant effects on people as well as on environment and natural resources and the borrower's system to deal with these adversities and to improve the positive effects of these policies. The Bank assesses and attaches them, in the case of gaps and shortcomings in the borrower's system, to the Program Document manners to deal with these before or during the program implementation⁸².

The analytic work also includes the analysis of the country's public financial management. Based on this, the Bank determines if it is necessary to include in the operation measures to tackle identified fiduciary weaknesses. The Bank does not believe that public financial management is a prerequisite for development policy lending. Improved public financial management can be considered an outcome of the developing policy program. In some cases, development policy lending can be granted to country with weak public financial management

78 The Bank prepares for each development policy operation a Program Document that describes and appraises the operation. After the operation has been approved by Executive Directors, the Program Document becomes available to public.

79 OP 8.60, paragraph 9.

80 For further information on poverty and social impacts see: World Bank, Good Practice Note for Development Policy Lending: Poverty and Social Impact Analysis; and A User's Guide to Poverty and Social Impact Analysis.

81 For support see: World Bank, Good Practice Note for Development Policy Lending: Environment and Natural Resources Aspects.

82 OP 8.60, paragraphs 10 and 11.

that has adopted a program of public financial management improvement and has shown advances on it.

The fiduciary assessment focuses mostly on the following aspects: comprehensiveness and transparency of the budget, the systems that facilitate implementation and monitoring of the budget, fiscal transparency and financial accountability for use of the public recourses⁸³. When the Bank identifies fiduciary weaknesses in the borrower's central bank control environment or budget management system, it will recognize steps needed to secure acceptable fiduciary arrangements for development policy lending.

Therefore, after all these processes, the development policy operation is prepared. The Bank's next step is to structure the program to provide financing to the country. The program can take several forms and it depends on the Bank's choice. The Bank attempts to attach to the program conditions only to those actions that are critical for the achievement of the program success. The Bank has also sought to keep the number of conditions low and to focus on actions that are specific and monitorable.

The lending program can be shaped up into three different structures, depending on the disbursement or tranche form: single-tranche, multitranches or programmatic operations. In a single-tranche operation, the country has to fulfill the conditions before the Bank presents the operation for the Board approval; only then will the Bank disburse all the funds at once⁸⁴. Single-tranche operations are used on an exceptional basis, such as crises or extraordinary financing needs by the country.

Multitranch operations are those where the Bank disburses the funds in two or more tranches, as the borrower

83 World Bank, Review of World bank Conditionality: Modalities of Conditionality (SecM2005-0390/1), p.3.

84 OP 8.60, paragraph 14.

meets all the program conditions⁸⁵. Tranches may occur in fixed shape, when their timing and sequence area decided in advance, or in a floating form, with free timing to accomplish the condition. The use of this operation is more appropriate when details of key steps in a medium-term policy are well understood. Multitranche operations used to be the most frequently established; however, they are generally used in certain circumstances, such as when country needs to establish a track record of performance⁸⁶. In multitranche operations when there is no progress before the Bank disburses to the country, there are two options available: it may delay disbursements until the country complies with the tranche conditions; or the Bank may request approval from the Board for waiving the condition on a non-objection basis⁸⁷.

Programmatic operations are the current norm in Bank operations. They are made up of a series of single-tranched operations which are framed in a medium-term policy program. In programmatic operation there is a general expectation about the timing, policy steps, and the amount of financing to be involved in each operation of the series⁸⁸. The advantage of this operation compared to the other two is the flexibility it allows to adjust to new information and changing circumstances during implementation and to change scope of operation over time⁸⁹. In programmatic operations, the single-tranched programs are linked to the others through a set of triggers, which are expected prior actions for the next program. When the expected progress against the triggers is achieved, the Bank moves to the other operation in the series. Triggers are not included in the loan

85 OP 8.60, paragraphs 14 and 18.

86 World Bank, Op. Cit. 83, p.7.

87 The Bank only requests for waiving the condition if it determines that there are valid reasons for the failure to fulfill the condition.

88 World Bank, Op. Cit. 83.

89 World Bank, Programmatic Adjustment Lending Retrospective, report 26315.

agreements and are not conditions, they are usually chosen because of their criticality to the achievement of the results of the overall program. They are also considered flexible, because as prior actions, they are updated and can be adapted and modified, according to the changing circumstances⁹⁰.

Applying to these structures of programs we have conditions which can take the following forms: *Prior actions* and *tranche conditions*. Prior actions are those relating only to single-tranche operations, even if this is part a programmatic series. These conditions have to be accomplished by borrowers before the Bank's Executive Board approves a loan. They are appropriated when upfront implementation is deemed as critical for the success of the program⁹¹.

Tranche conditions apply to multitranché operations and can take a regular or a floating shape. In regular tranche operations, timing can be foreseen and are critical for the achievement of program objectives. Nevertheless, timing is uncertain in floating tranche operations, giving the flexibility needed to the country to implement the policy action according to their authorities' consideration.

There are also *effectiveness conditions* which are implemented within the time span between the Board's approval and the loan becoming effective. Effectiveness conditions are not included in the loan agreement and are not recommended since they are often associated with implementation delays.

When making funds available to a country, an adequate macroeconomic policy framework is required. It is also necessary to implement the development program in a manner satisfactory to the Bank and according to the critical program conditions. The Bank assesses the macroeconomic policy

90 The Bank can, therefore, take into account, for instance, the pace of the implementation of the policy program or any improvements on the original policy program.

91 World Bank, Op. Cit. 83.

framework and determines its satisfactoriness. The existence of an IMF agreement is an important input to the evaluation of macroeconomic policy framework. If one does not exist, the Bank observes the existence of any concern which the Fund may have about the adequacy of the country's macroeconomic policies. Therefore, close coordination between the Bank and the IMF is fundamental to the effectiveness of the development policy lending and the overall program⁹².

It is the borrower's task to implement the development policy program, to monitor progress during implementation, and to evaluate results upon its completion. The Bank assesses and supervises the arrangements by which the borrower will fulfill these responsibilities. The Bank also reviews implementation progress to verify fulfillment of program conditions and acquiescence with legal covenant⁹³. The tools used by the Bank in such process are benchmarks and some outcome indicators. Benchmarks are non-critical actions planned for the second or later year of the program, and are complementary to the conditions and triggers. They illustrate the contents and results of the government's program in areas monitored by the Bank, describing the small steps in reform process that represent significant progress markers for the implementation program. Despite not being legal conditions for disbursements, they are close to them because they define areas of the Bank's policy involvement and help to measure the program implementation⁹⁴.

International Monetary Fund

92 For more information about macroeconomic policy framework see: Ibid., p 11.

93 OP 8.60, paragraph 16.

94 World Bank, Op. Cit. 83.

I. Money with adjustments: discussing IMF conditionality

“For demonstrators seeking to shut down the Annual Meetings of the Fund and the Bank, conditionality has become the lightning rod for what they regard to be the worst excesses of the BW institutions. For the countries seeking financial support from the IMF, conditionality represents the hurdle, which they must clear in order to convince the international community of their commitment to economic reform. For the Fund itself, conditionality represents the most effective mechanism through which it can ensure that Fund financial assistance is used to serve the interests of its membership and the international monetary system as a whole”.

Ross Leckow, in “Conditionality in the IMF”, 2002.

Despite its central role in providing a stable international financial system, essential to foster the expansion of trade and to promote sustainable economic growth, the IMF is targeted with stodgy criticisms, serving as a scapegoat for any turbulence that appears in the global economic scenario⁹⁵. These criticisms come from a diverse range of groups, from globalization haters to IMF economists, all of them questioning the real importance of the Fund’s role in crisis situations.

Conditionality has been the most controversial and polemic aspect of Fund’s policies since its introduction in the Articles of Agreement in 1952. Debate over this matter continues to stand out in the international economic scenario despite all the changes and reviews undertaken by the IMF over these last 20 years. The list of criticisms is large and constantly growing. Some believe that conditionality programs are too focused on demand management; others argue that it compromises affected countries’ economic growth, since it outlines very restrictive and severe structural reforms; still others emphasize that conditionality is a threat to countries’ sovereignty.

95 Adapted from GOMES et al. In: SINUS Study Guide, 2005.

Bearing this in mind, this section aims to present the main lines of criticism towards Fund conditionality, since they play a very important role for a better and wide-ranging comprehension of the theme at hand.

1.1. So long, loose conditionality!

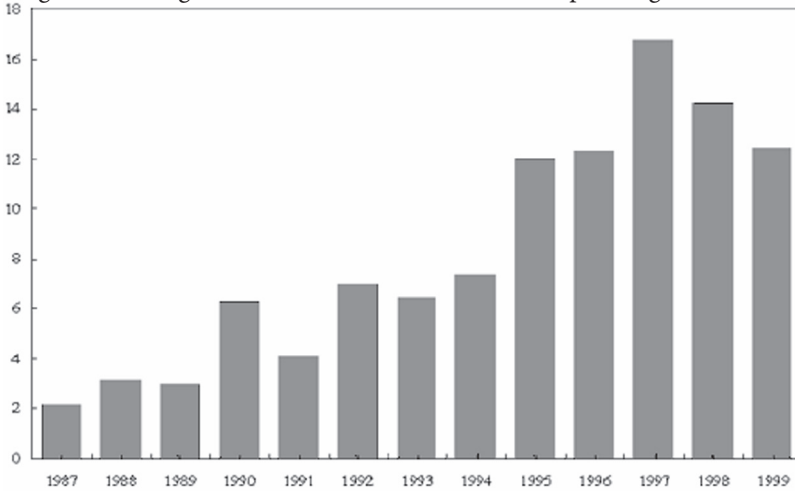
One point that seems to attract critics' attention is the fact that IMF conditions get more and more numerous with the passing of the years. Critics emphasize that until the debt crisis, international financial institutions (IFI) were willing to lend at low conditionality terms, bearing in mind the favorable economic framework at the time. Money coming from oil investments ("petrodollars") was abundant, therefore facilitating loans and lending all around the globe, especially in Third World countries.

But with the deflagration of the debt crisis of the 1980s and the subsequent rise in the demand for money, things got more complicated on the economic field. Loans were much harder to obtain due to a dramatic combination of resource scarcity and lack of confidence of private lenders in general. So, according to the IMF staff, the scope of conditionality had to be extended beyond macroeconomic measures, market operating rules and prudential supervision⁹⁶. For example, during the Asian crisis, the number of conditionalities reached a peak of 140 structural policy undertakings.

Extracted from: IMF, 2001a, "Structural Conditionality in IMF-Supported Programs," (February).

⁹⁶ Adapted from GOMEL, Giorgio. Crisis prevention and the role of IMF conditionality.

figure 1. Average Number of Structural Conditions per Program Year 1/



Source: International Monetary Fund, MONA database, and country papers.

1/ Total number of structural performance criteria, benchmarks, prior actions, and conditions for completion of review in stand-by, EFF, and SAF/ESAF/PRGF-supported programs, adjusted for differences of program length

I.2. “We felt the pain, when do we get the gain?” conditionality and its restraints

According to this line of criticism, contractionist policies not only contribute to depressing the affected countries’ economies even further, but also provoke negative spill-over effects in neighboring countries, unleashing the (in)famous contagion phenomena. Thus, IMF programs in East Asia were perceived as leaving behind nothing but hunger, strikes, higher unemployment rate, downfall of countries’ GDP; in sum, total chaos. Critics still complain that the Fund’s staff had the nerve to defend the sanctity of its conditionality programs, affirming that if there was a failure, it was only due to local governments’ and organizations’ lack of commitment to the imposed conditions. Financial sectors reforms were excessively focused on making interest rates market-determined in very thin and rudimentary markets, leading often

*to prolonged periods of very high interest rates without improving the availability of credit.*⁹⁷

Why is this system wrong? Well, besides being a “one prescription doctor”, disregarding its “patients” particularities and special features, structuralists, such as Joseph Stiglitz, feel that some of the emergency measures adopted by the Fund in crisis resolution are not suitable and end up producing the reverse results: more crises instead of the desired economic stability. Some of the IMF’s criticized measures have been⁹⁸:

- **Currency devaluation:** According to this line of criticism, the devaluation of affected-countries currencies is a bad thing mainly because it can trigger an inflationary process in the affected regions. Besides, devaluation may lead to a downward tendency in commodities prices, which could eventually cause a dangerous imbalance between supply and demand of these products.

- **Public spending reduction:** Some critics allege that these should not be implemented because they end up suppressing indispensable public projects, vital to the country’s development and prosperity. Furthermore, reducing public spending leads to the reduction of internal demand, which, as Lord Keynes once said, is the main cause of economic depressions.

- **Elevation of inner interest rates:** As with reduction in public spending, these are charged with reducing investments and internal demand.

- **Market economy:** Stiglitz does not believe in the market as the sole and best remedy to cure economic diseases.

The core idea here is that the Fund’s approach to adjustment has had severe economic costs for many developing

97 Adapted from: STIGLITZ, Joseph. Failure of the Fund.

98 Adapted from GOMES et al. Op. Cit. 95.

countries in terms of decline in the levels of output and growth rates, reductions in employment and adverse effects on income distribution⁹⁹.

1.3. Mine, yours and ours: separating IMF and WB activities

The Fund has no particular expertise on poverty reduction or developmental strategy – issues that are within the Bank’s purview. However, perhaps to show it has a “social conscience”, the Fund has lately engaged in development programs , following WB terms. But critics seem to find that the IMF should probably withdraw from them and keep itself within its original simplified mandate by giving advice and technical assistance within its areas of competence¹⁰⁰.

Liberal critics see the IMF and the World Bank, as bureaucratic institutions with a sole goal: guarantee their self-preservation. Therefore, both the Fund and the IBRD can not and must not be labeled as real liberal institutions, bearing in mind the fact that they do not foster the liberal doctrine as they should do.

Box The 1989 Concordat

(Extracted from “The IMF/WB collaboration on country-programs and conditionality”, available on www.imf.org/factsheets)

The 1989 Concordat represented a major turning point in the relationship between the Fund and the Bank. It broke new ground by setting out more clearly the understanding (...) on the mandates and role of the two Bretton Woods institutions. In brief:

For these critics, the IMF should better coordinate its

99 Joseph Stiglitz describes conditionality as a legitimate “beggar-thy-self policy”, since no benefits derive from it.

100 Extracted from GOMES et al. Op. Cit. 96.

- The Fund's core mandate is to promote international financial stability and the macroeconomic stability and growth of member countries. To that end, the Fund must focus on its core responsibilities: monetary, fiscal and exchange policies, and their associated institutional and structural aspects;
- The core mandate of the World Bank Group is to help countries reduce poverty, particularly by focusing on the institutional, structural and social dimensions of development – thus complementing the Fund's macroeconomic focus.

conditionality with that of other organizations. In Bank-IMF relations, the organization with expertise in a particular area should take the lead and its assessments should be included in other organizations' reports¹⁰¹.

2. The political factor

The political argument has been well-explained by Jeffrey Sachs:

“Countries siding with United States geopolitics have a much easier time getting IMF loans and debt relief. Countries labeled ideological opponents, by contrast, have had funding frozen at tremendous cost to their poor citizens. When the USA wisely sought to forestall a Mexican default in early 1995, the IMF was induced to make an emergency loan of unprecedented size. When, on the other hand, the U.S. Treasury was wary of lending to Ecuador in late 1999 following that country's default to private creditors, the IMF withheld a pending loan. That decision helped topple the financially strapped government in Quito in early 2000. When ideologues in the Bush administration wanted to punish an

101 Adapted from “New guidelines on conditionality”. Available at: www.globalpolicy.org/socecon/bwi-wto/imf/2003/01condition.htm.

allegedly left-wing government in Haiti, the IMF obligingly froze lending in 2001. (...) Eventually, the Haitian economy crumbled and the elected government was ousted. (...) Either through action or deliberative inaction, the IMF has repeatedly influenced politically charged issues of privatization, trade, or financial market policy in emerging markets at the behest of rich nations.”

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The political stream also accuses the IMF of being an uncompromising institution that aims only to serve to the interests of banks and rich governments around the planet, with special feature for the USA. Like the antiglobalists, they believe that the austerity programs fulfilled by the Fund hinder the development of affected countries, decaying living standards of their populations and also enlarging poverty.

The conditionality process adopted by the IMF is criticized, considering the fact that it appears to have a mandatory aspect solely to developing and poor countries in regions like Africa and Latin America. Conditionality – says political criticism – is the Fund’s instrument to spread inhuman austerity in these areas.

The bottom line is that rich countries almost never apply in their economies the lessons proposed by the Fund, but they feel they are in a position to force developing countries to do so. For political protesters, this behavior must change.

3.The “One-size-fits-all” approach

This expression, coined by famous economist Joseph Stiglitz makes reference to the Fund’s practice of submitting all crisis-affected countries to the same programs and conditions, as if the IMF were a “one remedy doctor”, prescribing the same

102 SACHS, Jeffrey. How to run the International Monetary Fund? In: Foreign Policy, July/August, 2004.

medicine for all patients, regardless of their disease.

This framework has laid the ground for developing countries to protest, arguing that IMF conditions are not tailored to their individual needs. Moreover, there are also critics that affirm that the Fund is hard on developing countries, demanding the adoption of very detailed and rigid reforms. By contrast, industrialized countries appear to receive their loans without any difficulties.

4. Recipient-country ownership

The concept of “country-ownership” is one of extreme importance. Basically, it means that programs include countries’ own strategies for crisis resolution and not those of the Bank or Fund¹⁰³. In other words: conditionality must not, under any circumstances, serve as a substitute for countries’ own strategies and decisions. The fact that countries are facing very difficult economic situations must not cancel out their right of having a say in their internal affairs.

For critics, country-ownership plays a major role on the stage of international financial relations and must be observed. Taking this statement into consideration, IMF staff should work towards the coordination of imposed arrangements and member countries’ wills, enhancing rather than undermining the ownership factor. Otherwise, conditionality will continue to figure as an invasive and disrespectful measure imposed by the “evil forces” of the IMF.

Three concrete proposals can be offered for improving national ownership. First, the World Bank and the IMF should be more transparent and accountable in the way they design

103 Adapted from COLLINGWOOD, Vivien. Indispensable or unworkable? The IMF’s new approach to conditionalities. To read more, go to: <http://www.globalpolicy.org/soecon/bwi-wto/imf/2003/01condition.htm>.

and implement conditionality. Notably, the institutions should consult thoroughly and systematically with national authorities, and preferably with other stakeholders, to determine the country's preferences and priorities before attempting to specify conditions. If, as a result of the review, the IMF would simply pass structural conditionality to the Bank, the net effect would not be clear to countries. Second, the institutions should always ensure that national authorities have a range of options from which to choose. Letters of intent, like PRSPs, should be drafted by the countries rather than by IMF staff. It should be done even if the wording does not reflect the language usually used by the IMF's Executive Board. Unfortunately, the insistence that country papers be called PRSPs, rather than a name that better suits the country's own needs, is a subtle indicator of the tendency of the IMF and the Bank to retain control of the process. Third, the institutions should devote more resources to capacity building in developing countries. Many low-income countries need to devote more resources to developing human capital if they are to be able to design their own programs effectively. Technical assistance is inadequate for this purpose and it would be very useful if institutions were to devote more resources to capacity building.

BLOC POSITIONS

It is important to stress that the European Union today has 25% of the votes in the IMF, against the USA's 17%. However, the members of the EU do not always vote together. It is a challenge to build a European consensus in economic matters: the British, Germans, and French do not agree on several aspects of crisis prevention and resolution. It is worth remembering that Frankfurt and London are still vying for the title of Europe's financial center.

The United Kingdom's representatives have defended that consistent application of conditionality policy is a problem across and within regions and that the content of conditionality has shifted from actions on trade and fiscal adjustment towards longer-term institutional and social sector reforms. The UK also acknowledges that progress has been made in reducing the number of critical conditions, but there is a need to reverse the trend towards increasingly large and complex sets of policy actions being agreed to as parts of programs. It has also defended that forcing policy choices on reluctant governments cannot be sustained, even if this can attain short-term gains.

In the light of work by the IMF and the WB, which showed relative failures of conditionality, France's basic position has been that conditionality should be removed. France seems attached to maintaining some basic limits, but it has progressively moved on to retrospective conditionalities. When sector-based or macroeconomic performance is not considered satisfactory, France can review the forms and volume of assistance. It is no longer a question of total suspension of programs, but of reflecting on the practices and their relevance. Today, France has set itself on a course of progressive removal of conditionality. By maintaining the minimum necessary level of conditionality, it can develop euphemisms such as 'contracts of objectives', intended to underline the partnership aspect of assistance programs. Over and above the genuine willingness to promote ownership by the governments and civil society in the beneficiary countries, the objective difficulties posed by the handling of conditionality today provoke questions at the heart of French diplomacy and cooperation. Besides the classic questioning as to its real social impact, the recovery of assistance in a country under sanctions is difficult (due to the changing political and social contexts, the crisis of confidence created, and the technical constraints imposed by a project being abandoned during execution, among others).

Africa has a quite complicated relation with the Bretton Woods institutions. Despite the good relationship with the World Bank (relatively speaking), relations with the Fund are more complex. On the one hand, the African continent has a major interest in the Fund's initiatives, such as the HIPC¹⁰⁴. On the other hand, African countries sustain that the IMF works with prohibitive conditionalities, which lead to economic downward cycles in most cases, leaving harmed regions in the lurch. They say that the IMF's demands for fiscal containment and economic deregulation entails less revenues for the government, which weakens the government's ability to invest in public goods, such as health and education, infra-structure, police equipment, training and payment, as well as the investment in armies to contain rebellions not only, but also caused by dissatisfaction with government policies.

Conditionality policies imposed on African countries are often too focused on liberalization of agricultural prices, relying too much on market fundamentalism (the idea that markets can achieve efficiency by themselves), without paying adequate attention to the prerequisites to make it indeed effective (such as functioning markets for inputs and outputs, credit availability and infrastructure). As Stiglitz says, the *modus operandi* of the Fund is characterized by a too-narrow set of objectives as well as a too-narrow set of instruments.

Japan believes that it is crucial to streamline conditionality in light of the need to strengthen program ownership by member countries. Also, when deciding conditionality, due consideration should be given to each member's actual situation and different circumstances¹⁰⁵. Japan considers it imperative that the IMF examine in the upcoming biennial review whether

104 "HIPC" being the "Highly Indebted Poor Countries" initiative.

105 Adapted from the statement by H.E. Masajuro Shiokawa, Minister of Finance of Japan at the Third Meeting of the International Monetary and Financial Committee, April 29, 2001

those guidelines have been steadily implemented, and whether they have contributed to enhancing the effectiveness of IMF-supported programs and to promoting country ownership¹⁰⁶. In addition, Japanese representatives believe that in formulating loans programs, it is essential for the IMF to set necessary and appropriate conditionality in extending assistance to policy adjustments of borrowing countries. It welcomed the recent adoption by the IMF's Executive Board of the new guidelines on conditionality, which emphasize the importance of the ownership of the borrowing countries and of keeping its conditionality to a minimum, and thinks that the IMF should continue to analyze how much this change in conditionality policy contributes to improvements in program design and performance and, if necessary, continue to study the possibility of further improvements of the guidelines

China supports the Fund's efforts to streamline conditionality and enhance the ownership of member countries, commends the progress it has made in these areas, and welcomes the new Guidelines on Conditionality. The Chinese Government thinks that the guidelines will help further streamline conditionality, sharpen the focus of programs and allow member countries to formulate adjustment policies more flexibly and independently, looking forward to the firm implementation of the guidelines in future programs and emphasizes the timely review of the outcome of programs and the continuous process of learning from experience¹⁰⁷. The Chinese Government welcomes the vigorous efforts made by the IMF to streamline its conditionality and to strengthen ownership by member countries¹⁰⁸.

106 Extracted from the statement by H.E. Sadakazu Tanigaki - Minister of Finance of Japan and Governor of the IMF for Japan Tenth Meeting of the International Monetary and Financial Committee - Washington, D.C., October 2, 2004

107 Statement by Mr. Dai Xianglong, Governor of the People's Bank of China, International Monetary and Financial Committee, Washington, D.C., September 28, 2002

India believes that conditionality should not only be made consistent with its intended purpose, but should also be responsive to the institutional realities in member countries for respecting sovereign decision-making. It emphasizes basic principles pertaining to the rationale of Fund conditionality, like that the ‘proliferation’ of Fund conditionality into areas outside the Fund’s core responsibilities based on the notion of ‘everything depending on everything else’ must be eschewed, that the Fund can avoid asking ‘a sick man to demonstrate his fitness by carrying out a tough regimen of exercise’, and that Fund’s conditionality, especially structural conditionality, should be transparent and clear without being either overambitious or overtly stringent.

India also argues that any assessment of the role of the New Conditionality Guidelines should, therefore, be benchmarked against these basic principles and more importantly, the current state of the global economy, which reflects in the pattern of IMF lending as alluded to earlier. In this context, India also highlights the concerns expressed by the Fund about the plausible conflict between the objectives of ‘criticality’, ‘parsimony’ and ‘clarity’ in the formulation of conditionality and the design of Fund programs. In India’s view, such contradictions essentially reflect the prerogative of the Fund to protect its own resources, when its portfolio is highly exposed to a few select debtor members and should not be construed to justify the dilution of the principles of ‘criticality’, ‘parsimony’ and ‘clarity’ to the old ‘everything depends on everything else’ norm¹⁰⁹.

In post-Soviet Russia, however, several barriers exist

108 Statement by Mr. DAI Xianglong, Governor, People’s Bank of China at the Fifty-Third Meeting of the Interim Committee of the Board of Governors of the International Monetary System. September 26, 1999, Washington, D.C. Available on www.imf.org.

109 Statement by Honorable Finance Minister Mr. P. Chidambaram Leader of the Indian Delegation to the IMFC On behalf of Bangladesh, Bhutan, India and Sri Lanka Eleventh Meeting, April 16, 2005 (with adaptations).

to this, such as chronic fiscal deficits, deficient allocation of savings and an overall unstable macroeconomic environment, which was enhanced by the Russian crisis in 1998. Following the crisis, the IMF made new loans, on conditions which were not very popular measures, such as trimming expenditures, raising tax revenues, and reforming banking, among others.

South Korea, along with other southeast Asian countries such as Thailand and the Philippines, experienced a financial crisis in 1997. This crisis was unlike any other that the IMF was accustomed to dealing with. In previous years, the IMF had focused its attentions on three basic types of countries: incredibly poor countries, such as those in Africa; countries making the transition from communism, like the ones in East Europe; and lastly, those with an immense foreign debt due mainly to past governments, such as the ones in Latin America. The south-east Asian crisis was like no other, since the countries had more resources, the governments did not have great fiscal problems or galloping inflation and furthermore, the foreign debt involved banks and industrial companies, not the governments. Therefore, many found the conditionalities imposed by the IMF at the time, tight fiscal policy and tight monetary policy, to be ineffective. Nowadays, looking back at the crisis and at the results, it seems that the countries have reestablished themselves, and that, even though the IMF policies were controversial, they seem to have helped.

Saudi Arabia, along with other Arab states of the Gulf region, is a partner with the World Bank in the Technical Cooperation Program (TCP), which supports rapid development of the countries in the region. Being rich in oil, it is a donor country, and therefore reflects the common opinion of conditionality that most donors have: that it is a useful and necessary tool to manage funds for development results.

PROPOSED SOLUTIONS: WHAT CAN BE DONE?

“Keynes believed that the Fund should be entirely passive in all normal circumstances, the right of initiative being reserved to the central banks of member countries”.

Ariel Buira, in “An analysis of IMF conditionality”

What can the International Monetary Fund and the World Bank do to improve policy responses to financial crises? Is it possible to refine the Fund/Bank mechanisms of conditionality? Should conditionality programs be reviewed? There are no easy answers to these questions; below are some possibilities:

- Conditionality should only be applied to those policy areas deemed to be critical to achieving the goals of Fund-supported programs. This means fiscal, financial, and exchange rate policies, and in some cases privatization, governance, and public sector reform¹¹⁰.

- Conditions must be used in a way that enhances countries’ ownership.

- The IMF and the WB should better coordinate their conditionality programs.

- The IMF should be restructured as a smaller institution with three unique responsibilities: increase global stability, improve market functioning, and help countries improve monetary fiscal policies¹¹¹.

- Long-term loans should be limited to World Bank responsibility.

- The IMF and the WB should be accountable for their conditionality programs.

- Conditionality programs should be submitted to severe

110 Extracted from BUIRA, A. Op. Cit. 48.

111 Adapted from US Congressional Meltzer Report, 2000. For further information, access: <http://www.j-bradford-delong.net/TotW/meltzer.html>.

revision process (streamlining).

- The IMF should improve its work with members, aiming at a durable exit from crises, helping affected countries to consider the relevant constraints and trade-offs, so that they can design an appropriate adjustment program¹¹².

- The creation of a lender of last resort in the traditional sense, since the International Monetary Fund is not capable of providing an unlimited amount of financing to its members¹¹³.

- Improve the equity and effectiveness of the way the IMF is governed. That is, to give emerging markets and developing countries more input at both Boards (Governors and Executive)¹¹⁴.

- Reinforce the idea that efficient tax collection, a well-functioning financial sector, an effective judiciary, respect for property rights and contract enforcement are essential to countries willing to create and maintain a stable economic environment¹¹⁵.

- The interest rates attached to the loans should be decreased, in order to facilitate countries' full recuperation¹¹⁶.

FINAL REMARKS

As part of its conditionality review, the IMF and the WB have been organizing a series of discussions on its proposals, holding seminars where country officials, academic experts, and representatives of other organizations are expected to add their views about what they consider should make conditionality more efficient, effective and focused. Changes are clearly needed

112 Extracted from GOMES et al. Op. Cit. 95.

113 Ibidem.

114 Ibidem.

115 Ibidem.

116 Adapted from VEON, Joan M. The reinventing of the IMF/WB.

and streamlining is a first, positive step. The opportunity of debating the question of conditionality, proposing diplomatic and realistic solutions to the problems at hand, is a unique and important one.

Some argue that the proliferation of conditions, rather than solving any problems, has in many cases made it more difficult for countries to implement programs. Success is said to depend not on the number of conditions, but on country ownership, meaning willingness by countries – civil society as well as governments – to accept responsibility for their policy programs. Indeed, much of the discussions have been devoted to this idea. To achieve ownership, country authorities need to have substantial input into the conditions attached to the program. Streamlining and focusing the conditions will not improve ownership if there is a widespread feeling in a country that reforms are externally dictated. Wesley Hughes, of the Planning Institute of Jamaica, once said that it was only when his country took full responsibility for its own program, designed by the authorities, that people “bought into it, and if they believe in it, they will follow the program”¹¹⁷.

However, it is important to clarify what the Bretton Woods institutions are trying to achieve jointly through the streamlining of conditionality and how this fits in with stronger domestic ownership, and to establish a system for the monitoring of aggregate Bank-Fund conditionality at the country level. These questions will be at the center of the Singapore Meetings, and will only be resolved if the participants demonstrate an ability to work together, bearing in mind that WB and IMF activities were first outlined with the intention of complementing one another.

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THE IMPENDING OIL CRISIS: ADJUSTING TO A NEW ENERGY ENVIRONMENT FOR DEVELOPING COUNTRIES

By Tarso Sousa F. Evangelista

INTRODUCTION

At the dawn of the 21st century, nearly two billion people do not have access to the benefits of affordable energy services based on electricity or other modern fuels¹. Developing countries contain approximately 76% of the world's population and account for around 26% of the global aggregate energy consumption. This demonstrates the sharp discrepancies between the North and South: on a global basis, the industrialized countries consume 2/3 of all energy produced and commercialized. On a per capita level, countries such as the United States use nine times as much energy as the Sub-Saharan regions².

¹ Modern fuels include natural gas, oil, liquefied petroleum gas and modern biomass fuels such as ethanol, biodiesel and methanol.

² See <http://www.peopleandplanet.net/doc.php?id=559>.

Many studies have shown that the main driver of energy demand is economic growth, but the availability and price of fuels plays an important part in sharing the demand for energy among the different energy resources³. Sudden changes in energy price or supply can lead to structural crises as sharp increases in inflation, rising stock prices, and economic recession. It's relevant to notice that energy imports are currently one of the largest sources of foreign debt for many developing countries. This leads to the conclusion that energy should be available at all times, in sufficient quantities and at affordable prices in order to guarantee the development of all nations.

The energy supply in worldwide markets will probably remain dominated by fossil fuels, mainly oil and its derivatives, for the next several decades, due to their abundance and relatively low cost relative to other modern energy sources. It is also expected that soon, developing countries will consume more oil than industrialized ones, which reflects their prominent global dependence on this non-renewable and scarce resource, and even the key role of developing countries due to their relevance on promoting adjustments in oil-consumption patterns⁴.

Changes in oil prices are not only linked directly to shifts in consumption in industrialized regions, and to exports from the Middle East, but also correlate with changes in GDP growth and flows of energy trade (oil accounts for approximately 10% of world trade) in the global oil market⁵. Nonetheless, there are many studies that demonstrate that an oil-based energy economy is inherently unsustainable in the long term. The scale of the potential damages is reasonable enough to justify the restraint of oil consumption through energy conservation policies.

³ GOLDSTEIN, Joshua & XIAOMING, Huang. *Energy in the World Economy, 1950-1992*, pp. 23-25.

⁴ WELLS, Peter R. A. *Challenges and opportunities in the evolving oil market*, p. 24.

⁵ OPEC. *Oil Outlook to 2025*, p. 5.

This article will deal with the theoretical and analytical exposition of the topic and can be regarded an introductory study of the matter. It proposes to explain the main challenges and risks to developing countries in order to encounter the most affordable paths to reach a group consensus and tackle issues about the upcoming oil energy crisis, bearing in mind the role of the Group of 77 and China.

HISTORY OF THE PROBLEM

The availability of oil has played a crucial role since World War II. Strategic access to reliable oil supplies was a motivation for the German invasion of Central Europe, German and Italian actions in North Africa, and also the Japanese conquest of Southeast Asia. The oil industry's traditional structure, led until the 1950s by few powerful multinational companies (known as "Seven Sisters") was largely dismantled and counterbalanced with the creation of the Organization of the Petroleum Exporting Countries (OPEC). OPEC was originally chartered as an intergovernmental organization by founding members Iran, Iraq, Kuwait, Saudi Arabia, and Venezuela in 1960, and later joined by other eight members⁶. OPEC's stated that the *"objective is to co-ordinate and unify petroleum policies among Member Countries, in order to secure fair and stable prices for petroleum producers (...)"*⁷.

Years later, at the beginning of the Suez Crisis in 1967, several Arab states imposed an oil embargo on the US, Britain, and West Germany after spreading rumors that US and British

⁶ The countries members are Qatar (1961); Indonesia (1962); Libya (1962); United Arab Emirates (1967); Algeria (1969); Nigeria (1971). Ecuador (1973–1992) and Gabon (1975–1994) had suspended their membership by themselves.

⁷ See at <http://www.opec.org/aboutus/history/history.htm>.

planes had provided air cover for Israeli planes when they bombed an Egyptian military airport⁸. Whatsoever, many factors contributed to the relative failure of the oil embargo. Participating countries did not cut their expected production, did not enforce the embargo as obligatory and did not extend the suppression of oil long enough to make targeted countries suffer its pressure. The closure of the Suez Canal increased oil prices slightly, but not the embargo.

The world oil prices increased suddenly after OPEC had refused to export oil to Western nations friendly to Israel following the start of the Yom Kippur War on October 1973 between Israel, Syria, and Egypt⁹. The Arab members of OPEC reacted by unilaterally increasing the posted oil price by 70%, deciding to use oil as a “political weapon” by cutting production of quotas¹⁰. This first shock can either be considered not just a political crisis, but remains as a demand-led shock.

Since 1965, world demand had been increasing by 7.7% per years, which means that oil prices quadrupled over a quarter of century. In the period of 1973-74, the price quadrupled in the space of three months. In an attempt to alleviate the economic impacts at a global level, the Organization established the OPEC Fund for International Development in 1976, with the mandate of strengthening the financial cooperation between OPEC members and other developing countries, promoting the South-South cooperation for development¹¹.

The 1979 second oil crisis was different from the one in 1973 in some important aspects. Even though there was also another round of crude oil prices increases, unlike before,

⁸ DAOUDI, M.S. & DAJANI, M. S. The 1967 Oil Embargo revisited, pp. 67-72.

⁹ HERVEY, Jack L. The 1973 Oil Crisis: One generation and counting, Chicago Fed Letter, 1994, p. 1.

¹⁰ ALHAJII, A. F. Was the 1973 Oil embargo “unique”? Journal of Energy & Development, vol. 30, n° 2, 2005. pp. 1-16.

¹¹ Since its creation until March 2006, the OPEC Fund has accumulated approximately US\$8 billion in grants and loans. See at <http://www.opecfund.org/about/about.aspx>.

it was caused by events that happened in Iran. The Iranian Revolution culminated with a more radical group in control of the government. The new regime installed by the Revolution damaged the oil sector by resuming exports at a very low volume. As a result of this policy, the prices were forced to rise. Saudi Arabia and other OPEC members increased their production in order to offset the decline, but it was not enough to hamper the panic that took place, driving the prices far higher than would be expected.

In 1980, during the second oil crisis, Iraq decided to invade Iran. At this time, oil production in Iran was almost halted, and production in Iraq was severely affected as well. At the end of these two crises, the accumulated damages hindered the development of several countries that depended on oil as their main source of energy. The 1979/80 oil price hike led values to triple over a nine-month period, which had an impact on advanced countries around one percentage point of GDP larger than the first shock. This occurred at a time when the advanced economies were growing at a more moderate pace compared with the lead-up to the previous shock¹².

That was followed by higher rates of unemployment and lower capacity usage both in developing and developed countries. Inflation, while still high in many countries, was in general declining rather than increasing as in 1973—with the exception of the United States, where inflationary pressures had been building up even before the second oil shock hit. By 1982, prices were twelve times higher than during the period that preceded the crises, reflecting how the second shock was even more devastating than the first one¹³.

However, oil prices collapsed in 1986, re-establishing oil

¹² DARBY, Michael R. *The Price of Oil and World Inflation and Recession*, pp.4-5.

¹³ SKINNER, Robert. *Energy Security and Producer-Consumer Dialogue: Avoiding a Maginot Mentality*, pp. 7-8.

as the world's cheapest fuel (excluding few places where natural gas was cheaper). *"Although real oil prices fell somewhat through the early 1980s, these two shocks resulted in a fifteen-year period of historically high oil prices which ended at the beginning of 1986 when OPEC, or more specifically Saudi Arabia, abandoned production constraints"*¹⁴. The prices fell by roughly 50%, further reduced incentives in developing countries to reduce decrease oil demand¹⁵.

Oil returned as an affordable and convenient fuel in order to boost growth and economic development in those countries. At the same time, by lowering the costs of oil derivatives' raw material, the oil price collapse accredited the industrial countries imposing restrain environmental patterns on oil ended-use products¹⁶. As results of the oil crisis in the 1980s, world oil prices and trade turned even more volatile, impelling the formation of futures markets, which have transformed oil from a highly regulated product of trade into a commodity, as it's negotiated at stock exchanges.

The 1990 energy crisis was a result of the first Gulf War and had a short-lived nature compared to the two previous ones, which, associated to the decline of relative importance of oil as source of energy in the overall economy, limited the impact on inflation¹⁷. The loss of Kuwaiti and Iraqi oil production lowered OPEC's collective capacity from 30 million to 24 million of barrels per day¹⁸. The industrial countries also adopted non-accommodative policies in order to cut back the inflation impact on the oil prices. The dominance of petroleum together with the strength of the local currencies continued to impede

¹⁴ IMF. The Impact of Higher Oil Prices on the Global Economy, p. 38.

¹⁵ MANOUCHEHR, Takin. The Oil Market-I: Past, present, and near term, p. 20.

¹⁶ KRAPELS, Edward. The Commanding Heights: International Oil in a Change World, pp. 83-84.

¹⁷ BARREL, Ray & POMERANTZ, Olga. Oil Prices and the World Economy, p. 6.

¹⁸ Ibid.

advances in the non-oil trade sectors¹⁹.

Towards the end of the 1980s, arguments that overall energy conservation, including oil could be achieved at minimal cost gathered political force²⁰. The high oil prices of 1979-80 made most others forms of energy consumption economically preferable, as well as purchases promoting oil and energy conservation²¹. In November 1997, OPEC decided to approve a production quota increase in consequence of the Asian financial crisis, culminating in a price collapse of about US\$10 per barrel²². However, in 1999, OPEC took an opposite decision, announcing a soon diminishing of production quotas. Subsequently, oil prices doubled in spite of the production keeping at normal levels²³.

Furthermore, an IMF report stated that *“The policy response to the increase in oil prices in the second half of 1990 followed the pattern of the 1979/80 period. The very short-lived nature of this increase, coupled with the declining role of oil in overall economic activity, also limited the impact on inflation. In particular, the industrial countries maintained non-accommodative monetary policies in order to curtail the inflation impact of the oil price rise. The dominance of petroleum and the strength of the local currencies continue to frustrate progress on developing the non-oil trading sectors.”*²⁴

Since the 1990s, OPEC members have sought more than just assuring their oversupply capacity in the international market. In particular, following the collapse of the price of oil in 1998-99, the organization's aim has been to prevent an unbalanced increase in oil global stocks. In this effort, the

¹⁹ CAMPBELL, Colin J. & LAHERRÈRE, Jean H. The End of Cheap Oil, p. 79.

²⁰ AGUIAR-CONRARIA, Luís F. & WEN, Yi. Understanding the Impact of Oil Shocks, pp. 4-6.

²¹ See <http://www.mofa.go.jp/policy/other/bluebook/1980/1980-3-2.htm>

²² IMF. The Impact of Higher Oil Prices on the Global Economy, p. 41.

²³ Ibid., p. 42.

²⁴ IMF. The Impact of Higher Oil Prices on the Global Economy, p. 42.

group has been helped by shareholder pressure on managers of private oil companies. Forced to concentrate on the short-term performance of their company's stock, managers reduce costs in every way possible to increase immediate profits. One cost-cutting strategy is to keep inventories as low as possible, lowering both working capital as well as the cost of maintaining stocks²⁵.

The world oil market apparently demands 4-5 million b/d of spare oil production capacity as well as large crude and oil products inventories. *“Over the past three decades, world oil supply expanded by about 1 per cent per year on average. OPEC output grew by 0.2 per cent annually on average after 1973, while non-OPEC output expanded by 1.9 per cent on average annually over the same time period. During the 1970s and 1980s, when OPEC sharply reduced its oil output, non-OPEC oil exporters, mainly from the countries of the former Soviet Union and Latin America expanded their output to meet the aggregate demand for oil.”*²⁶

Generally, it can be affirmed that oil prices have been rising since early 2002, despite the recent relapse, but more consistently so since spring 2003 and more steeply in July – October 2004²⁷. This gradual rise in price is different from the sudden jumps that occurred in the past. The main reason for the present oil price rise has been the healthy and strong demand brought about by economic recovery in many parts of world, in particular developing countries as China, India, and former Soviet republics. Historically, the world oil market has been vulnerable to major supply disruptions caused by collective actions in key oil-exporting countries or by international conflicts involving directly some of those oil-exporting countries²⁸.

²⁵ Ibid., p. 41.

²⁶ BARREL, Ray & POMERANTZ, Olga. Oil Prices and the World Economy, p. 7.

²⁷ HIRSCH, Robert L., et alii. Peaking of world oil production: impacts, mitigation, & risk management, p. 12-14.

STATEMENT OF THE PROBLEM

The world oil market: an overview

The geophysicist M. King Hubbert, known for his studies related to oil peak, brought to the field many contributions, including his prediction, in 1949, of an oil shortage twenty years before it actually happened. The patterns of production and depletion in regard to fossil fuels were based on two suppositions. The first one was that production and consumption tend to peak during the initial phase of a resource's development. The second one was that problems arise not when total supplies are exhausted, but when demand exceeds supply. In general, when extracted half of the oil supply, the production rate of a resource grows exponentially, and then decreases as soon as the resource depletes²⁹.

The current global energy system is highly dependent on the use of fossil fuels (coal, oil, and gas), which together represent 80% of global primary energy consumption. Worldwide oil demand amounts to about 3.3 billion tons per year. Total energy sales worldwide are estimated at US\$1 trillion per year (3% of the world's GDP). Indeed, many governments provided subsidies for the sale of domestically-produced fossil fuels in the order of US\$150 billion in 2004³⁰. The next two decades are expected to see an increase in energy demand, predominantly for fossil fuels, with oil maintaining its major role.

According to statistics of the energy sector as a whole, it can be inferred that the consumption of fossil fuels in developing countries corresponds to 89% of their total energy demand³¹.

²⁸ SMITH, Benjamin. *Oil Wealth and Regime Survival in the Developing World, 1960-1999*, pp. 232-246.

²⁹ HUBBERT, M. K. *Techniques of prediction as applied to the production of oil and gas*, pp. 16-141.

³⁰ IEA. *International Energy Outlook 2005*, p. 33.

On the other hand, other sources of energy such as biomass correspond to 16% of the energy produced in countries of Latin America, 25% in the ones of Asia, and almost 60% in Sub-Saharan Africa, while in industrialized countries this source of fuel represents only 3% of the primary energy. Nuclear energy is also relevant for this last group of countries (where it is source of 11% of the energy, very superior to the developing countries, with only 0.4%)³². Hydroelectric power on the contrary, due specially to geographic conditions, supplies 72% of the electricity in Latin America and only 9% in some regions of Africa.

In regard to consumption patterns of energy, there are substantial disparities in annual per capita energy use among groups of countries. According to statistics, in 2001, industrialized countries spent 4.7 tones of oil equivalent (toe), per capita. Developing countries, however, used only 0.8 toe per capita, while the world average was 1.7 toe per capita³³. Between 1999 and 2001, the average annual growth rate in primary energy use in industrialized countries was 1.5%, and in developing countries it was something about 3.2%³⁴. *“Over the past 30 years world annual consumption of petroleum products has increased by almost 40 per cent, from 57.4 million b/d in 1973 to about 78.7 million b/d in 2003”*³⁵.

Besides this, the expected increase in world oil demand would require an expansion of world production capability of more than 42 million barrels per day, relative to the 2002 crude oil production. Producers in the Organization of Petroleum Exporting Countries (OPEC) are expected to be the major source of production increases³⁶. In addition, non-OPEC supplies

³¹ UNDP. World Energy Assessment Overview: 2004 Update, p. 30.

³² Ibid., p. 31.

³³ JOHANSSON, Thomas & GOLDEMBERG, José. Energy for Sustainable Development – A Policy Agenda, p. 34.

³⁴ Ibid.

³⁵ BARREL, Ray & POMERANTZ. Oil Prices and the World Economy, p. 6.

are estimated to become highly competitive, with substantive increments originated from offshore resources, especially in the Caspian Basin, Latin America, and West Africa. At the rate of production in 2003, OPEC's oil reserves are enough to last more than 90 years, while non-OPEC oil producers' reserves might last less than 20 years³⁷.

Around three-quarters of the increase in demand over the period measured from 2002 to 2025, is expected to come from developing countries. OPEC petroleum exports to emerging economies are expected to increase by 17 million barrels a year for the next 10 years, with more than 70% of the increase being demanded by the emerging economies of Asia³⁸. Long-term concern is particularly relevant for the energy sector, as impacts from energy production and consumption can reach into the future for many generations to come. Most of the studies regarding the rising world demand for oil along the years predict that *"around 2009, OPEC will probably have to increase its production in 5.1 million barrels to make ends meet. By 2020, OPEC production may have its daily production doubled from around 26 million barrels today to as much 54 million barrels"*³⁹.

Annual growth in oil supply from non-OPEC areas (about 1million barrels/day) became insufficient to meet the unusually large annual peak in oil demand. In the final quarter of 2004, fears about immediate availability generally eased⁴⁰. Supply from OPEC increased each month from May to October totaling 1.8 million b/d, and non-OPEC supply increased by an estimated average of 1.1 million b/d through that year⁴¹.

In fact, the threat of a major oil crisis (which receded in

³⁶ The members of OPEC are: Iran, Iraq, Kuwait, Saudi Arabia, Venezuela, Qatar, Indonesia, Libya, United Arab Emirates, Algeria and Nigeria. See <http://www.opec.org>

³⁷ IEA. International Energy Outlook 2005, p. 33.

³⁸ UNDP. World Energy Assessment Overview: 2004 Update, p. 64.

³⁹ BROWN, Michael. Grave New World: Security Challenges in the 21st Century, p. 163.

⁴⁰ IEA. Analysis of the Impact of High Oil Prices on the Global Economy, p.15.

the 1980s as a result of chronic surplus oil production capacity) is once again plausible in the 21st century. It can be highlighted that *“the effects would be primarily felt as changes in oil prices, and sharp increases in oil prices cause economic crisis: world GNP growth can fall by up to 1 per cent for every US\$ 5 per barrel increase in oil prices.”*⁴²

Concerns about the energy security of oil

Attention to energy security which according to International Energy Agency means *“the availability of energy at all times in various forms, in sufficient quantities, and at affordable prices”*, is acute because of the unequal distribution both of the fossil fuel resources, on which most developing countries currently rely, and also the lack of capacity to improve their energy matrix⁴³. Although nowadays patterns of energy security have been stabilized around the world, the potential for conflict, sabotage, disruption of trade, and reduction in strategic oil reserves cannot be dismissed, as energy system structures are potential targets for terrorist acts⁴⁴.

An energy crisis is a situation in which some countries suffer from a disruption of energy supplies accompanied by rapidly increasing energy prices that threaten economic and national security⁴⁵. It is evident that security of energy supply resources has recently been a priority on the global agenda for reasons such as the shift in oil prices from very low levels in the 1990s to highest price ever reached after 2004 by the crude oil since oil shocks in 1973/74; liberalizing market reform especially in transition economies (former Soviet republics);

⁴¹ Ibid.

⁴² KRAPELS, Edward. *The Commanding Heights: International Oil in a Change World*, p. 87.

⁴³ IMF. *The Impact of Higher Oil Prices on the Global Economy*, p. 42.

⁴⁴ IEA. *Oil Supply Security 2001*, p. 13.

⁴⁵ See <http://www.wtrg.com/EnergyCrisis>.

establishment of new forms of environmental regulation; and protocols to reduce greenhouse gas emissions⁴⁶.

The energy security of oil is directly related to the goals of sustainable development, as interruptions of energy supply can cause serious financial, economic, and social losses. In addition, investments that were made in high cost centralized conventional energy installations have contributed to the growth of foreign debt. In many developing countries, energy imports exceed 10% of the value of all exports or even the payments for oil imports exceed those for external debt servicing⁴⁷.

It is plausible to affirm that mainstream government strategies to meet energy supply security evolve as preoccupations of countries with different fuels shift in concordance with their relevance to boost the national economy⁴⁸. More than three quarters of the world's hydrocarbon reserves are held by state-owned companies. The top six biggest oil company producers in the world (Saudi Aramco, the National Iranian Oil Company, Mexico's PEMEX, Venezuela's PdVSA, ExxonMobil, and Shell) together control nearly one of every three barrels of oil consumed in the planet⁴⁹.

Policy interventions also characterize the basis of world oil supply through the decisions of OPEC governments. The concentration of power bargain means that when private interests are confronted by unfavorable laws or a competing energy technology, oil companies act collectively pressuring the behavior of governments. Energy's key role in national security has allowed these companies to enjoy close ties to national governments, and thus to help shape national energy policies⁵⁰.

Thereafter, there are some indicators in evaluating petroleum security from a national perspective that can be

⁴⁶ By March 2004, crude prices were well over US\$10 per barrel higher than 2001.

⁴⁷ ECHEVERRI, Luis Gomes, et alii. WEHAB: Framework for Action on Energy, p. 8.

⁴⁸ IEA. International Energy Outlook 2005, p. 33.

⁴⁹ ROBERTS, Paul. The End of Oil, p. 286.

considered: *“domestic production capacity; dependence on imports; the degree of import concentration, and the ability of the market to second source petroleum imports in the event of an interruption from one or more suppliers”*⁵¹. Bearing this in mind, it’s estimated that an increase of \$10 per barrel of oil (over average price) can decrease the global gross domestic product (GDP) by 0.5% annually⁵².

In this light, the IEA highlighted its apprehensions about energy security as follows: *“Serious concerns about energy security emerge from the market trends. The world’s vulnerability to supply disruptions will increase as international trade expands. Climate destabilizing carbon-dioxide emissions will continue to rise, calling into question the sustainability of the current energy system. Huge amounts of new energy infrastructure will need to be financed. And many of the world’s poorest people will still be deprived of modern energy services. These challenges call for urgent and decisive action by governments around the world.”*⁵³

A range of actions can be taken to improve energy security. One important measure is to avoid excessive dependence on fossil fuel imports. This involves diversifying supply, geographically and among various primary energy resources as well as increasing end-use energy efficiency and encouraging greater reliance on local, including renewable resources⁵⁴. Another important measure is fostering greater political stability through international cooperation and long-term agreements among energy-importing and exporting countries.

The role of developing countries in the oil sector

⁵⁰ Ibid.

⁵¹ JOHANSSON, Thomas & GOLDEMBERG, José. Energy for Sustainable Development - A Policy Agenda, p. 41.

⁵² Ibid., p. 32.

⁵³ IEA. International Energy Outlook 2005, p. 29.

⁵⁴ CAMPBELL, Colin J. & LAHERRÈRE, Jean H. The End of Cheap Oil, pp. 78-83.

If we take into account developing countries that have a considerable capital stock and relevant technological potential, we can expect those countries to have higher GDP growth rates than the industrialized nations. For this reason, developing countries, and, in particular, their energy supplies are becoming increasingly vulnerable due to many factors. Among them is the need of these countries to purchase oil, mainly the transportation sector. Most of them also face problems with their government policies, which may stimulate energy monopolies and increase poverty, inequality, and violence. There is also their inability to switch, in the short term, from one source of energy to another in given unfavorable conditions.

According to these factors, increases in the demand for oil can easily affect, in a negative way, the balance of payments, especially of the developing countries. Since they have more fragile institutions, they usually face the deterioration of their balance of payments, which drives up inflation, puts downward pressure on exchange rates, makes imports more expensive, and leads to a drop in real national income.

Concerning the infra-structure, huge investments are required to meet overall energy needs of developing countries. The IEA evaluated that *“developing and transition countries as a group face the following cumulative investment requirements in their energy sectors (oil, natural gas, coal, electricity): US\$2.4 trillion (in 2000 year dollars) in the period 2001 to 2010, US\$3.2 trillion in the period 2011 to 2020, and US\$4 trillion the period 2021 to 2030.”*⁵⁵

Some researchers have shown that the main leader of the energy demand is the economic growth⁵⁶. They also have illustrated that the availability and price of fuels play an important role in sharing the demand for energy among the fuels capable of delivering it to different users. Higher oil prices result

⁵⁵ IMF. The Impact of Higher Oil Prices on the Global Economy, p. 13.

in increased costs for the production of goods and services, inflation, unemployment, reduced demand for products other than oil, and lower capital investment. Tax revenues decline and budget deficits increase, consequently launching up interest rates. These effects are generally perceived in an unexpected environment of prices increase, and will certainly be exacerbated by the impact on consumer and business confidence⁵⁷.

Due to the economic conditions of developing countries, their governments generally make energy choices mainly on a minimum cost level, giving priority to such short-term goals such as energy security, while putting aside longer-term concerns as CO₂ emissions, environmental impacts, and diminishing imports of energy, among others⁵⁸. Since most developing nations rely on fossil-fueled energy system, any success they have in achieving economic growth will condemn global efforts to shift toward cleaner energy. This can be referred to as a measure of power that are given to developing countries and that allows them to articulate global energy decisions such as climate policy⁵⁹.

Promoting the developing energy alternatives to oil dependency

The preservation of the environment is closely related to the sources of energy that are used today. Worldwide, fossil fuel production and usage represents about 60% of the emissions that are causing the earth's atmospheric greenhouse. Since most of the holders of the advanced technological techniques are

⁵⁶ GOLDSTEIN, Joshua & XIAOMING, Huang. *Energy in the World Economy, 1950-1992*, pp. 241-266.

⁵⁷ AGUIAR-CONRARRIA, Luís F. & WEN, Yi. *Understanding the Impact of Oil Shocks*, pp. 3-9.

⁵⁸ ROBERTS, Paul. *The End of Oil. On the Edge of a Perilous New World*, p. 284.

⁵⁹ *Ibid.*

industrialized countries, technology and information exchange through cooperation at the regional level would be essential for developing countries to have access to what will allow them to maintain and potentially achieve energy self-sufficiency⁶⁰.

In this context, the development of new energy sources is extremely relevant and necessary. It is known that the use of fossil fuels causes much damage, such as loss of biodiversity, contamination, degradation of agricultural lands, and also helps to further the greenhouse effect. The search for energy alternatives would not only help the environment, but also reduce the dependence of developing countries on imported oil and contribute to the decrease of their national debt⁶¹.

Many synthetic fuels, such as synthetic middle distillates or even those derived from biomass, such as ethanol, may be feasible in supplementing conventional liquid fuels (diesel, gasoline, and kerosene). These fuel alternatives could alleviate oil supply security concerns and facilitate the implementation of acclimatizing air pollution regulations. The use of biomass may be the most appealing alternative for developing countries for many reasons, such as relatively low production investment in facilities as well as labor costs. Biomass can be collected and converted to substitute liquid fuels in a number of processes. The market for ethanol derived from biomass, for example, has been facilitated by federal tax subsidies in developing countries such as Brazil.

The wish of many countries to make use of resources that were not yet exploited has guided them towards gas development as an alternative fuel, and those that produce oil to the use of gas to release oil for exportation⁶². About half of the world's proven reserves of natural gas are located in developing countries, but

⁶⁰ CLEMENT, David & LEHMAN, Matthew. *International Tax Incentives for Renewable Energy: Lessons for Public Policy*, pp 9-12.

⁶¹ WORLD BANK. *The World Bank Group's Energy Program: Poverty Reduction, Sustainability and Selectivity*, pp. 9-10

a number of restrictions such as the difficulties in financing the development of fields, high costs of transport and monopolies by state-owned companies have impeded a larger rise in gas production⁶³.

In regard to the large-scale hydropower projects, decisions should be made through the close examination of social costs and benefits in the light of likely environmental impacts. Small-scale hydropower plans should receive particular attention since they could simplify simultaneously the accomplishment of environmental, economic, and social goals, especially for rural communities⁶⁴.

Another potential energy alternative to oil and coal that could be adopted in any future clean energy strategy is nuclear energy. The growing fossil fuels prices and relative low interest rates around the world have enhanced the competitiveness of nuclear power plants⁶⁵. Indeed, concerns over the security of energy supplies, continuing pressure on governments to limit greenhouse emissions, and the economic consequences of future commodity price shocks have spurred nuclear power's resurgence. Even so, many obstacles have hampered this source of energy. Besides the high level costs of building a nuclear plant, there are also concerns about reactor safety, adequate disposal of radioactive waste, and potential links to atomic weapons⁶⁶. If these obstacles are removed, nuclear energy may have a more prominent role in the global energy system.

It is also relevant to strive for national initiatives in order to encourage greater international cooperation, what would lead us towards a more rapid and effective development and

⁶² OPENSHAW, Mark. *An Outlook Energy for Non-OECD Countries*, p. 25.

⁶³ Natural gas has been playing the role of a convenient substitute for imported oil and other fossil fuels due to the fact that it can be more economically and environmentally appealing in power generation than the other alternatives available.

⁶⁴ See www.unep.org/Documents/multilingual/Default.asp?DocumentID=100&ArticleID=1676&I=en

⁶⁵ TAUB, Steven & WANG, Jone-Lin. *Nuclear Power Worldwide. A new growth track*, p. 2.

application of carbon dioxide (CO₂) control strategies⁶⁷. It is important to have in mind that the viability of these measures will depend on the cost-effectiveness and environmental sustainability of these emerging technologies, once they may offer mitigation opportunities for removing carbon dioxide from the atmosphere.

Adjusting new energy policies for developing countries

Options of energy use in ways supportive of sustainable development require a consistent focus on social, economic, and environmental processes⁶⁸. A framework policy should include more efficient use of energy, especially at the point of end use in buildings, transportation, and production processes, increased reliance on renewable energy sources, accelerated development and deployment of new energy technologies – particularly next-generation fossil fuel technologies that produce almost no harmful emissions, and also nuclear technologies⁶⁹.

The transport sector is one of the main challenges to reduce the fossil fuel dependency. For instance, it is remarkable the range of negative effects that pollution by oil derivatives cause on the environment and human health⁷⁰. The high dependency of fossil fuels could be alleviated by combining renewable fuels, with the diffusion of the use of alternative fuels like natural gas, petroleum liquefied gas, natural gas, and also improving conversion technologies such as fuel cells or hybrids⁷¹.

Indeed, governments can set guidelines and implement regulations to shift to wider adoption of cleaner fuels and

⁶⁶ Ibid., p. 17.

⁶⁷ OPENSHAW, Mark. An Outlook Energy for Non-OECD Countries, p. 10.

⁶⁸ The definition of sustainable development is "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". See <http://www.gdrc.org/sustdev/definitions.html>

⁶⁹ See www.worldenergy.org/wec-geis/wec_info/work_programme2007/tech/cffs/cffs.asp

⁷⁰ UNDP. World Energy Assessment Overview: 2004 Update, p. 21.

efficient forms of transport. Indeed, both developing and industrial countries may set emissions standards in order to manage innovation and markets towards cleaner fossil fuels. The investments on infrastructure of public transport systems also play a relevant role on reducing the impacts of gas emission⁷².

Moreover, for most developing countries the necessity of obtaining oil for the transportation sector consumes a great part of foreign currency reserves, transferring valuable funds to producers. In addition, many developing countries also suffer from mishandle fuel subsidies, including the use of public goods to maintain the inefficient energy monopolies⁷³. This mismanagement of energy resources contributes to impoverishment and inequality, making the achievement of a sustainable energy system even more difficult.

The availability of energy exchange among countries on a regional and interregional level may be attainable in diverse energy sources, mainly by electricity (load charge)⁷⁴. Attempts to develop agreements to the establishment of international grids between domestic electricity networks could attenuate usual problems to developing as difficulties of financing, lack of entrepreneur's initiatives and technical capability. Therefore, these grids should be progressively enhanced focusing the development of large-scale power plants by national responsibility. There are also other types of energy resources that can be exploited, depending on geographic and economic conditions: coal, hydropower, natural gas and biomass fuel, for example⁷⁵.

Another remark can be related to mechanisms to prevent the energy waste. Upgrades in energy efficiency

⁷¹ IEA. Policies to support Development and Deployment: Zero emission technologies for fossil fuels, p. 4

⁷² Ibid., pp. 5-6.

⁷³ UNDP. World Energy Assessment Overview: 2004 Update, p. 40.

⁷⁴ See <http://www.retailenergy.com/articles/loadagg.htm>

could be enhanced by structural changes originated from increased recycling process and substitution of fossil fuels⁷⁶. The achievement of the potential of structural changes will depend on the effectiveness of regulatory frameworks and well-targeted incentives for entrepreneurial investments on energy conservation and material efficiency. Industrializing countries could benefit from the introduction of new and more efficient technologies in their energy materials processing, as these countries are still building their physical infrastructure.

Energy efficiency activities are generally decentralized, which makes it difficult to organize support to it. Also, significant barriers, like market imperfections, prevent the realization of greater end-use efficiencies⁷⁷. Energy efficiency policies that use price mechanisms (e.g. removal of subsidies) are effective in lowering consumption trends in price-sensitive sectors and applications, but even without price mechanisms policies, energy efficiency should be pursued to deal with market failures – like efficiency standards, demand-side management, appliance and product labelling, voluntary agreements and professional training⁷⁸.

BLOC POSITIONS

The G-77 and China bloc of developing countries has

⁷⁵ HIRSCH, Robert L., et alii. Peaking of world oil production: impacts, mitigation, & risk management, p. 45.

⁷⁶ IEA. Policies to support Development and Deployment: Zero emission technologies for fossil fuels, pp. 7-9.

⁷⁷ JOHANSSON, Thomas & GOLDEMBERG, José. Energy for Sustainable Development – A Policy Agenda, p. 46.

⁷⁸ UNDP. Op. Cit. 73, p. 47.

⁷⁹ For a country analysis brief to energy sector see <http://www.eia.doe.gov/emeu/cabs/index.html>

⁸⁰ DESSAI, Suraje. An Analysis of the Role of OPEC as a G77 Member at the UNFCCC, pp 6-10.

consistently played a crucial role in energy related negotiations⁷⁹. Successful negotiations on a gradual transition and adjustments to fit the energy necessities of developing nations, with the current lack of leadership from key developed countries, will depend upon an active role of G-77 and China. Within the G-77 and China, the OPEC has often been a driving force especially on economic and environmental issues⁸⁰. Their members control 77% of global proven oil reserves, and some 40% of the world's natural gas reserves also originate in these countries. Looking at the OPEC policies inside the G-77 negotiations, it can be said that their major concern is the possibility of decline in oil revenue. There is also evidence that attention to climate policies is not the conducting behavior of these countries⁸¹. They consider that policies to reduce carbon emissions undermine their own efforts to promote economic development.

It also can be perceived an informal creation of internal negotiating groups at OPEC regarding price policies, divided into three main ones: the “price hawks” (Iraq, Libya, Algeria, and Iran), at one extreme, who want the highest price possible; the “price doves” (the United Arab Emirates, Saudi Arabia, and Kuwait, defending moderate positions; and the rest (Nigeria, Venezuela, Indonesia), which try to counter-balance the other two groups⁸². In general, OPEC countries have indicated preferences to take the short-term gain of higher prices, and consequently have been slow to make high investments in future oil capacity.

Furthermore, it can be said that most countries of Middle

⁷⁹ Despite the fact that all of them have ratified the United Nations Framework on Climate Change Convention (UNFCCC) and the Kyoto Protocol.

⁸⁰ PORUBAN, Steven. Analysts discuss OPEC's role in next potential oil price shock, pp. 62-64.

⁸¹ Moreover, about 40% of all world oil exports, and almost 25% of world supply actually pass daily through that region.

⁸² CORDESMAN, Anthony H. & AL-RODHAN, Khalid R. The Changing Risks in Global Oil Supply and Demand: Crisis or Evolving Solutions, pp. 43-44.

East share these policies of OPEC countries of focusing on petroleum revenue⁸³. It is estimated that Middle East has 62% of the world's conventional oil reserves and in 2005 had a participation of 23% of the world's total oil production⁸⁴. Combining these huge reserves and comparatively low costs for improving production, the Gulf economies are so dependent on the national oil activity that they lack a successful private sector⁸⁵. Also, there are constantly political and ethnic tensions in that region. These facts added to the pressure from the population to use the countries' political capital to help their own development and to solve the major issues, such as the Palestinian cause, are factors that can affect the behavior of those countries in determining their production capacity.

About the other Asian countries, there is an observed attempt to decrease their dependence on foreign sources of energy and a limited oil production on the majority of countries⁸⁶. Most of them consume a growing amount of energy, and because of this they have been promoting the a national expanding exploration, abolishing price controls, and some still have managed to maintain strategic petroleum reserve. Moreover, China, India and, Pakistan have ongoing strategic disputes and tensions that bring an unstable factor to high private investments⁸⁷. The first two, the most populous nations, are rising economic and military powers with uncertain future ambitions and growing need for petroleum imports, which have progressively increased over the last few years.

In a very different condition, Africa doesn't have sufficient access to energy resources in many regions. However,

⁸³ IEA, World Energy Outlook 2004, p. 32.

⁸⁴ IEA. Oil Supply Security 2001, pp. 60-61.

⁸⁵ FIALKA, John J. Search for Crude Comes With New Dangers. Wall Street Journal, April 11th, 2005.

⁸⁶ IEA. Oil Supply Security 2001, pp. 55-56.

⁸⁷ WIDDERSHOVEN, Cyril. West African Oil: Hope of Hype. Available at: <http://www.iags.org/africa.html>

discoveries are showing new deposits of oil above the ground that could be used to supply the internal demand⁸⁸. The problem is that geo-strategic risks including revolutions, violence, and corruption have limited the potential of African oil reserves. In West Africa, the slow process of developing offshore oil fields is related to severe border disputes. In those countries that have actually established an oil production industry, corruption, lack of transparency, low diversification of energy resources have jeopardized the benefits that could arise due to a wider access to energy services⁸⁹.

Latin America's countries owns a considerable source of oil, but there is a great difference between the amount of oil existent in those reserves and the amount that is actually explored and commercialized⁹⁰. An early stage of liberalization of their energy markets, political and security instabilities, and rigid laws that limit investment in the energy industry may be pointed as reasons for these discrepancies. Actually, the three major countries (Argentina, Brazil and Venezuela) have had production setbacks caused by the recent uncertain scenarios⁹¹. Among developing nations, the countries of Latin America remain the most dependent on oil for their energy consumption needs and have performed quite poorly in terms of fiscal discipline and oil revenue management. Indeed, Venezuela has the key role when it comes to the oil activity, as it owns the largest oil reserves outside the Middle East and therefore has a great influence on the oil market.

⁸⁸ CORDESMAN, Anthony H. & AL-RODHAN, Khalid R. *The Changing Risks in Global Oil Supply and Demand: Crisis or Evolving Solutions*, pp. 75-76.

⁸⁹ RADLER, Marilyn. *Worldwide reserves increase as production holds steady*, p. 113-115.

⁹⁰ Estimating an annual investment of US\$4.2 billion in the energy chain (mainly at the exploitation and distribution levels) may save about 45,000 megawatts per year, which means reducing costs by as much as US\$ 8.5 billion.

PROPOSED SOLUTIONS

The major tendency to sustainable development is the transition to cleaner and more advanced fuel technologies. Because of the rising demands for energy services and growing populations, mostly in developing countries, new installed capacity for electricity and increased supply of clean fuels will be necessary. In order to get to this point, the nations' efforts ought to be focused on:

Energy efficiency and technological innovation: Industrialized countries should consider assisting developing countries access of energy technologies; stimulating and coordinating bilateral aid programs and research programs. In that way, improvements to energy efficiency could help to reduce financial investments in building new power plants and to reduce the amount of primary energy used⁹². Currently, about 2/3 of primary energy used are wasted in the process of conversion⁹³. An efficient path that could help economic development as a whole is the formation of partnerships while producing environmental benefits at the global and national levels. Through cooperation, consultation, establishment of norms and institutional frameworks to promote the integration of systems, and the adoption of standards, many positive results could take place in the field of energy efficiency⁹⁴.

Implementing Subsidies and Tax Policies: Subsidies and taxation policies are other practices that could help governments to encourage the development of affordable energy services. Bringing affordable energy services to the poor and enhancing

⁹¹ WORLD BANK. *Responsible Growth for the New Millennium: Integrating Society, Ecology, and the Economy*, p. 80.

⁹² ECHEVERRI, Luis Gomes, et alii. *WEHAB: Framework for Action on Energy*, p. 12.

⁹³ JOHANSSON, Thomas & GOLDEMBERG, José. *Energy for Sustainable Development - A Policy Agenda*, p. 40.

⁹⁴ *Ibid.*, p. 42

their energy security are possible consequences of these practices. The regulation of taxes over imported fossil fuels should be flexible in order to allow the lowering of these taxes when oil prices increase suddenly. Governments could foster private initiative through fiscal incentives for environmentally sound technologies⁹⁵. In addition to policy frameworks, availability of financing for renewable power projects is a key aspect of market development. An important point to note is that the use of donated renewable energy equipment in developing countries generally undermines markets' sustainability. Donors projects can be viable to support familiarization of governments with technologies and economic viability of investments⁹⁶.

Promoting Technology Transfer: In order to promote a sustainable energy environment, governments should consider establishing national regulatory policies to provide transfer of environmentally sound technologies. Transference of technology between countries and regions widens the choice of mitigation options to avoid dependence on oil and other fossil fuels, and this learning will decrease the costs of adopting new technologies. It's reasonable that a framework for important and effective actions for technology transfer should provide capacity-building and funding to install the various activities, as well as spurring programs of research and diffusion of renewable energy technology⁹⁷.

Developing financial mechanisms as Oil Funds: Oil-exporting governments should consider the establishment of some kind of fund to help address fluctuations in revenues, which is a consequence of the oil price volatility⁹⁸. A few oil producing countries, such as Kuwait and Venezuela (and including an institutional fund of OPEC) have already established these

⁹⁵ UNDP. World Energy Assessment: Overview 2004 Update, pp. 48-49.

⁹⁶ SKINNER, Robert. Energy Security and Producer – Consumer Dialogue, p. 19.

⁹⁷ BARREL, Ray & POMERANTZ, Olga. Oil Prices and the World Economy, p. 10.

kinds of mechanisms for oil disruption situations⁹⁹. In effect, some producers could address the issue by paying down debts. It is also acceptable that the IMF or World Bank could set up a contingency fund to assist poor countries manage the impact of higher oil prices when most of these countries do not have mechanisms to prevent themselves from uncertainties of increasing prices¹⁰⁰.

Improving regulatory barriers: It is reasonable that macroeconomic policies should avoid discriminating policies against some energy technologies, allowing a competitive environment. Deficient public policies constantly undermine energy service markets by favoring one fuel type over another and creating disincentives for entrepreneurial solutions¹⁰¹. National regulatory frameworks often represent the biggest barriers to decentralized options for energy supply, including advances in alternative energy technologies for locations not served by electricity and fuel distribution networks. For instance, governments themselves could, using their national oil companies, formulate and finance an adequate investment program and execute it¹⁰². It is also desirable that governments determine a regulatory framework that enables the successful establishment and operation of joint ventures in energy-related activities, attempting to expand the range of fuels used in a country.

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⁹⁹ BARREL, Ray & POMERANTZ, Olga. Oil Prices and the World Economy, p. 10.

¹⁰⁰ EIA. International Energy Outlook 2005, p. 12.

¹⁰¹ JOHANSSON, Thomas & GOLDEMBERG, José. Energy for Sustainable Development- A policy Agenda, p. 53.

¹⁰² EIA. Op. Cit. 87, p. 12.

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INTERNATIONAL ECONOMIC MIGRATION AND DEVELOPMENT: COSTS AND BENEFITS FOR MIGRANTS AND THEIR COUNTRIES OF ORIGIN AND DESTINATION

*By João Silveira de Faria
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INTRODUCTION

“If international policy makers were really interested in maximizing worldwide efficiency, they would spend little of their energies on a new trade round or on the international financial architecture. They would all be busy (...) liberalizing immigration restrictions”

Dani Rodrik¹¹²

Globalization, the set of dynamic forces that makes people more interdependent and production factors more mobile, has changed our world significantly. Over the years, it has lowered transportation and traveling costs and therefore made space and time limits less troublesome.¹¹³ Equally important, through its program of liberalization: originally aimed at the great differences in price levels and production costs among political units, globalization has made the production of goods and services and capital reach efficiency levels never before experienced.¹¹⁴

However, during its revolutionary course, globalization has left significant questions unanswered and much ground yet to be covered.¹¹⁵ One of these issues is the movement of people across political borders, that is to say, international migration. The progressive globalization of economic activities has encountered reluctance on the part of States to give up control over those who enter their countries and who is allowed to leave them. “*More than ever before, migration is a global phenomenon*”¹¹⁶, but still, nation states’ overall perception is that migration has been and is a (possibly, the) fundamental national topic.

The tension between the demands of an international

¹¹² Comments at the Conference on “Immigration Policy and the Welfare State”, on June 2001. Available at: <http://ksghome.harvard.edu/~drodrik/Comments%20on%20Immigration%20Conference.doc>.

¹¹³ Already in 1995, World Bank’s World Development Report showed for example that the costs of a three-minute telephone call from New York to London had dropped from an index of 100 in 1940 to an index of 1 in the last decade of the 20th century.

¹¹⁴ The quest for efficiency is so dear to economic theory because inter alia of its effects on lowering general price indexes and, consequently, increasing real wages (i.e. purchasing power corrected incomes per hour).

¹¹⁵ Some authors, proceeding from the works of Lord Keynes, have actually said that impediments on deep economic integration are altogether desirable. See: RODRIK, Dani. Feasible Globalizations.

¹¹⁶ WEINER, M. Nations Without Borders, p. 128.

labor market and the reluctance of states is so tangible that it could be cut with a knife. In many leading democracies, nationalist anti-immigration conservative parties have recently gained greater voice – for instance, the Danish People's Party¹¹⁷ in Denmark, the One Nation Party in Australia and the List Pim Fortuyn¹¹⁸ in the Netherlands, to name a few. At the same time, advocates for and against opening borders to free movement of people have been gathering in virtually all major international fora to discuss the issue. The snapshots they have been providing us are valuable and shall be assessed in this paper.

Dani Rodrik is Rafiq Hariri professor of International Political Economy at Harvard University, one of today's most respected voices in migration and development studies. He argues that, because the wages of similar workers in developed and developing countries differ sharply, by a factor of ten or more, whereas differences in commodities and financial assets rarely exceed a ratio of 2:1, the gains from openness could be roughly 25 times the gains from capital and trade liberalization. Even a modest relaxation of borders (equivalent to 3% of host countries' labor force), Mr. Rodrik argues, could reap benefits worth US\$200 billion a year to developing countries.¹¹⁹ With numbers like these, why is so little energy spent on freeing labor?

The answer could be that free movement of people has its costs as well, the most harmful of which is what we call "brain drain", which is the loss of large amounts of public funds resulting from a long-term or permanent emigration of skilled individuals in whom these funds had previously been invested. The case of the Caribbean is very elucidative in this regard: according to a recently published IMF working paper,

¹¹⁷ For a brief overview, see: <http://www.hamlet2002.org/quotes.htm>

¹¹⁸ For a brief overview, see: <http://www.irr.org.uk/europe/netherlands.htm>

¹¹⁹ RODRIK, Dani. *Feasible Globalizations*, pp. 19-20.

the region, despite being the largest recipient of cash sent home by nationals abroad, has lost more with migration than it has earned in remittances because of brain drain.¹²⁰

The debate surrounding the benefits and costs of international migration has slowly but successfully made its way to the top of the international agenda. In February 2004, United Nations Secretary-General Kofi Annan established the Global Commission on International Migration (GCIM), and at its fifty-ninth session in 2005, the UN General Assembly (GA) confirmed the High-Level Dialogue on International Migration and Development to be carried on at GA's sixty-first session in 2006.¹²¹ In 2004, as a contribution to the dialogue, ECOSOC's Commission on Population and Development decided that the special theme of its thirty-ninth session would be "international migration and development".¹²²

Interest in the relationship between migration and development is at a historic high and yet the world is at a crossroads. Some have called it a "global migration crisis"¹²³ and some have referred to migration as the "missing link" of globalization,¹²⁴ or so much because of unprecedented levels of migrants, but because there are no general rules or principles under which movement of people can be regulated at the beginning of the 21st century. As we will show further on, levels of migration are no greater today than they were in the 19th century; the difference is that migration is no longer regarded as beneficial for all countries involved.

¹²⁰ See http://www.bbc.co.uk/caribbean/news/story/2006/02/060220_imf.shtml

¹²¹ See UN Doc A/RES/59/241.

¹²² Commission on Population and Development. Report on the thirty-seventh session (22-26 March and 6 May 2004). Economic and Social Council, Official Records, Supplement No.5, p. 9.

¹²³ WEINER M., *The Global Migration Crisis: Challenge to States and to Human Rights*, p. 22.

¹²⁴ "Economic Focus: Be My Guest", *The Economist*, October 6th 2005.

“Global games need global rules”.¹²⁵ Times of globalization urge for an international framework that takes into consideration both the potential benefits and costs associated with greater mobility, with a view to ultimately making the movement of people across borders more orderly, manageable, and efficient for sending, transit, and receiving countries, as well as for migrants. This is one of the great challenges before nation-states as they enter the new century.

HISTORY OF THE PROBLEM

A World on the Move

The movement of people across borders has a long history. For over 6000 years, when the substance of the modern international system in which we live in started to emerge, human migration has been shaping the course of history, mainly through conquest, the formation of national identities, and the spread of new ideas. Individuals and masses migrate due to political, religious, cultural, security, or economic reasons. Traditionally, these reasons were mixed, but after 1880, economic motivations have become hegemonic. Here we will discuss economic migration, that is, international labor migration.

The year of 1880 has been chosen as a starting-point for our analysis for diverse reasons. Firstly, by 1880 the currents of migration from the European colonial powers to their colonies were diminishing and the slave trade had already been abolished. Though both are related to economic reasons, they are not regarded as international migration. The abolition of the slave

¹²⁵ STRAUBHAAR, Thomas. Why Do We Need a General Agreement on Movements of People (GAMP). HWWA Discussion Paper.

trade had another impact in the migration of labor: it increased the demand for contracted labor.¹²⁶ In Brazil, for example, the abolition of slavery led landowners and the government to promote European immigration.¹²⁷

Secondly, the total number of migrants from 1880 to 1914 was almost three times the number of migrants prior to 1880.¹²⁸ Third and most importantly, the doors to immigrants were closing gradually, as in the case of the immigration acts passed by the United States Congress in 1875 and 1882 determining qualitative restrictions to immigration¹²⁹ (prostitutes, lunatics, idiots, and Chinese were no longer allowed to migrate to the U.S.), and the abandonment by Argentina of its immigration subsidies in 1890.

Prior to 1880, the majority of migrants were West Europeans moving to North America. From 1880 to 1914, migration patterns grew in volume and complexity. South and East Europeans were now leaving, not only for North America but also for Latin America. They left looking for work in industrial activities (in the U.S.) and rural activities.¹³⁰ During this time there were several circumstances common to all of Europe which favored migration to the Americas: demographic pressure and fragmentation of land in rural Europe, the development of the New World and the use of steamers, which lowered the costs of transportation.¹³¹ These factors are most

¹²⁶ Some authors regard international labor migration, solely as demand-determined. See STRAUBHAAR, Thomas. The causes of international labor migration – A demand-determined approach pp. 835-855.

¹²⁷ Immigration subsidies were financed by export taxes, linking international migration to international trade.

¹²⁸ See HELD, David. *Transformaciones Globales*. Nd.: Oxford University Press, 2001.

¹²⁹ PASTOR, Robert. US migration policy and Latin America, pp. 35-56.

¹³⁰ The industrialization of Europe led to an abundance of agricultural workers, scarce in the Americas.

¹³¹ In Argentina there was even a seasonal movement of workers from Italy. The workers, known as *golondrinos*, arrived at Argentina in the beginning of the harvest, October, and returned to Italy in the end, December.

commonly listed as determinants of the course of transatlantic mass migration up until World War I.

Not only Europe, but also Asia experienced major emigration. The increase in international trade and investments in the region and the absence of slave labor increased the demand for cheap labor. Colonial governments and business enterprises sought a new market of cheap labor in Asia. This migration current, which involved about 42 million migrant workers, was composed by Chinese, Japanese, and Indians under temporary work contracts leaving for European possessions in Africa, Asia, and the Caribbean, along with the west coast of North America. The competition between Asian workers and white workers, particularly in California, led to the first restrictions based on country of origin.¹³²

During this period, Europe was able to send its growing population abroad and thereby lessen demographic pressures. At the same time, the destination countries benefited by importing needed manpower. European colonial powers could also use cheap Asian labor to work in their colonies worldwide. Eventually, as the native population grew and as the immigration flow increased, nationals saw themselves in competition with foreign laborers. This led to restrictions in immigration by most destination countries.

In 1914, migration suffered a backlash. The war halted the previous globalizing trends, and generalized restrictive policies. Several countries set immigration quotas and others, like the Soviet Union, restricted emigration. After the war, the demand for workers in the colonies decreased. Later, the Great Depression and World War II kept international labor migration levels low until 1945. In the immediate post-war period, many well-established professionals and high-level

¹³² PASTOR, Robert. US migration policy and Latin America, pp. 35-56.

scientists left Europe, and the term “brain drain” was coined to designate what was seen as a new phenomenon. Previous labor migration were composed mainly by young unskilled workers, who would have more to gain and less to lose starting fresh in a new country.¹³³

After World War II, international labor migration rates began to increase once more, due to the dramatic decline in the costs of traveling and information. Though not as intense¹³⁴ as in the late 19th and early 20th centuries, migratory flows have been growing steadily. The three main changes after 1945 were the decline of Europe and Japan as emigration sources, and their rise as a destination for migrants; the shift of Latin America from a region of immigration region to one of emigration; and the emergence of the Middle East as an immigration region.

The need for manpower in the reconstruction efforts combined with the shortage (caused by the human losses) of young workers made Europe turn to foreigners. Also from the early 1950s to the mid-1970s, Western Europe enjoyed a golden age of economic growth, the most notable case being the German *Wirtschaftswunder*. These circumstances brought about a series of agreements promoting the temporary migration of workers from labor-supplying countries (such as Turkey, Algeria, and Portugal) to labor-demanding countries (like Germany, France, and Switzerland). The demand for labor and the reluctance in providing citizenship to the foreigners who would take the unpleasant and poorly paid jobs gave rise to those programs. These “guest workers” were young males, supposed to come without their families and to return home after a short period. But in the mid-70s, as economic growth decreased (after the

¹³³ PETERSEN, William. *International Migration*, pp. 533-575.

¹³⁴ Although the absolute numbers are similar to those observed from 1880 to 1914, they are smaller relative to the receiving country population.

first oil crisis) and as the temporary workers became permanent minorities, especially through family reunification schemes, those programs ceased.¹³⁵

A similar case was the Bracero program. The Bracero Program (1942-1964) was an agreement between the U.S. and Mexican governments that allowed Mexican citizens to take temporary agricultural jobs in the United States. Over the program's lifespan, more than 4.5 million Mexican citizens were legally hired for work in the United States. However, as the illegal migration and the migratory pressures grew over 22 years, the U.S. decided to unilaterally terminate the program.¹³⁶

During the 1960s and the 1970s, the United States, Canada, Australia, and New Zealand abandoned their pro-European migration policies, as Asian and African countries gained independence and became trade and/or strategic partners, with whom the developed Anglophone world's clearly racist policies did not sit well. Another reason was the economic growth of these countries and the decline of European immigration (as we saw above, Europeans were migrating within Europe). Since then, the numbers of migrants from Asia to those countries have increased, Asia being the major origin of immigrants nowadays.¹³⁷

From the earliest days of colonization until the early 1970s, Latin America and the Caribbean attracted immigrants from around the world, especially from Spain, Italy, Portugal, and Japan, but also from other European countries. Today, that pattern is largely reversed, with many longstanding destination countries in Latin America seeing a marked

¹³⁵ RHOADES, R. *Foreign Labor and German Industrial Capitalism 1871-1978: the evolution of a migratory system*, pp. 563-564.

¹³⁶ PASTOR, R. *U.S. Immigration Policy and Latin America: in search of a special relationship*, p. 47.

¹³⁷ IOM. *World Migration 2005*, p. 396.

decline in immigration and a drastic increase in emigration. The demographic transition and poor economic outcome have created an exodus of people lured abroad by dreams of a better life. Latin American and Caribbean people started migrating mainly to the United States and to countries with which they have ethnic roots. Spain, Portugal, Italy, England, and Japan are among the most popular destinations.¹³⁸

In the 1970s, a new destination for migrants emerged: the Middle East. The oil-producing countries, scarce in labor, brought both high and low-skilled workers from other parts of the Arab world and from Asia (mainly from India and the Philippines) to work in the oil industry and to build their infra-structure. These workers were brought by private firms responsible for recruiting and training them and assuring their return. While Arabs continued to move to the Persian Gulf, they were outnumbered by Asian workers. This shift occurred due to the lower cost of the Asian labor and to the preference for Asian workers, because they wouldn't settle permanently. The reliance on Asian labor has increased ever since.¹³⁹

As the guest worker programs in Europe ceased and the United States, Canada, Australia, and New Zealand abandoned their pro-European immigration policies, those countries' policies shifted towards education-based selection,¹⁴⁰ making unskilled labor migration more difficult. Nonetheless, international labor migration was further propelled by the increasing interdependence among countries caused by economic liberalization, continued income disparities among

¹³⁸ PELLEGRINO, Adela. Migration from Latin America to Europe: trends and political challenges. Available at: http://www.iom.int/DOCUMENTS/PUBLICATION/EN/mrs_16_2004.pdf

¹³⁹ CHISWICK, B. & HATTON, T. International Migration and the Integration of Labor Markets, p. 11

¹⁴⁰ Check UK's Highly Skilled Migrant Programme at: http://www.ind.homeoffice.gov.uk/working_in_the_uk/en/homepage/schemes_and_programmes/hsmpl.html

nations, cheaper and more accessible means of transportation, and growing demographic disparities between developed and developing countries. The number of migrants grew from 80 million in 1970 to an amazing estimate of 185 million today.¹⁴¹

STATEMENT OF THE PROBLEM

Determinants of Migration

In an ideal world, there would be little unwanted migration and few barriers to migration. But, we do not live in a world where income differentials between countries tend to reduce substantially. Instead, economic differences between many states are widening, increasing the motivation for international labor migration. People move for many reasons, but economic differentials are the main determinants of migration from developing to developed countries. Governments and international organizations are striving to reduce these differences and using migration, managed properly, as one means to hasten development.

Other factors also stimulate international labor migration, including relative deprivation. That is when individuals are not necessarily poor, but feel poor in comparison to other families with a migrant abroad. Families with a migrant abroad or their relatives living abroad are able to acquire additional valuable consumer items. This stimulates other families to send out migrants to keep up. Also, misfortune, such as a failed crop, urges people to emigrate, in order to bring in money for survival or to pay the bills.

Economic models explain migration through the relative

¹⁴¹ IOM. World Migration 2005, p. 13.

income hypothesis.¹⁴² Migration occurs when the expected lifetime income in another country, after subtracting the cost of travel and the income forgone while traveling and while searching for work, is higher than the expected lifetime income in the source country. The net income increase can be weighed by the probability of employment and by the possibility of entry and/or exit difficulties.¹⁴³ Evidence also suggests that social networks linking the migrant to the destination country are positively related to migration.¹⁴⁴ The costs of transportation and the time spent traveling have diminished in the past decades. This has increased the numbers of migrants throughout the world by lowering the income forgone while traveling. In addition, the low costs of information potentially decrease the costs of searching for work, since individuals can now act globally.¹⁴⁵ Moreover, lower information costs provide greater exchange between migrants and their nationals, promoting the construction of social networks, which act as a “pull” to immigrants.

Remittances¹⁴⁶

Remittances are the most tangible and immediate benefit countries could receive if they were to liberalize international labor. In 2005, for instance, at least US\$232 billion was sent by

¹⁴² Neoclassical economics refers to a general approach to economics based on supply and demand which depends on individuals operating rationally, each seeking to maximize their individual utility by making choices based on available information. Mainstream economics is largely neoclassical in its assumptions.

¹⁴³ DUDLEY, B. European emigration, 1815-1930: Looking at the emigration decision again, pp. 526-527

¹⁴⁴ MORETTI, Enrico. Social Networks and Migration: Italy 1876-1913, p. 655.

¹⁴⁵ FRIEDMAN, Thomas. The World is Flat.

¹⁴⁶ Remittances can be defined as the sum of workers' remittances, compensation of employees and migrant transfers. Its figures for most countries can be found at the IMF Balance of Payments Statistics.

migrants all over the world to their families at home, a figure almost three times greater than official development aid (US\$78 billion), which has made remittances one of the most important sources of external finance made available for developing countries – in many cases, the only one.¹⁴⁷ For Mexico in 2003, for instance, they were larger than Foreign Direct Investment (FDI), and about the same size as oil exports.¹⁴⁸

Regardless of what they have been spent on, be it consumption or investments, remittances have improved health and education indicators (at least 10% are directed towards spending on these two areas), promoted tourism and trade, raised overall confidence in states' institutions and much more. Its impact on poverty alleviation is also considerable: research by the World Bank's International Migration and Development Research Program on the data from 71 developing countries showed that a 10% increase in international remittances from each individual migrant will lead to a 3.5% decline in the share of people living in poverty.¹⁴⁹

The size and range of the developmental impact of remittances is due to a blend of factors that make it a unique source of finance. First and foremost, they are not public money, but personal flows, which means that ultimately remitters and recipients are the ones who decide how the money is spent. In this sense, because they are person-to-person flows, remittances are better targeted to the needs of the recipients than other flows could possibly be, especially for poor people, who are often the ones who migrate and send back remittances. They also tend to be a stable financial flow for developing countries,

¹⁴⁷ Over USD 167 million of which would go to developing countries, almost the double total development aid. "Id21 Insights" #60, January 2006. Available at www.id21.org

¹⁴⁸ IMF Balance of Payments Statistics.

¹⁴⁹ ADAMS Jr, Richard and PAGE, John. Do International Migration and Remittances Reduce Poverty in Developing Countries? World Development, Volume 33, Issue 10. Washington: World Bank, 2005, pp. 1645-1669.

and almost always have a counter-cyclical effect in times of economic uncertainty. However, there is still much room for improvement on remittances, as we will suggest below.

Illegal Migration

Maillat argues that *“it is immigration policies that cause illegal migration, since illegal migrants are those who do not possess the necessary permits or no longer meet the conditions imposed upon them by national legislation”*.¹⁵⁰ As the countries where people most want to go are the countries that most restrict entry, it is not surprising that illegal migration has grown over the last few years. The increase in wealth and information has also facilitated illegal migration even among low-skilled workers in the developing countries of Latin America, Asia, and Africa. Also, well-established communities act as a “pull”, supporting much illegal migration, particularly in the United States and in Southern Europe. Illegal workers, for various reasons, tend to be very low-skilled. Low-skilled jobs are less likely to require licenses, certifications, and other documentation that might reveal one’s legal status.

Illegal migration is fostered by the difference in the costs of labor. The labor cost in manufacturing is, for example, US\$0.25/hour in China and US\$31.88/hour in Germany. Not surprisingly, workers from China want to migrate to Germany and employers from Germany would be glad to hire low-cost Chinese workers. The rationale is the same as for regular migration, but in the case of illegal migration, the probability of potential detection and penalties are also weighed.¹⁵¹

¹⁵⁰ MAILLAT, D. “The experience of European Receiving Countries”, p. 33.

¹⁵¹ ENTORRE, H. Rational Migration Policy Should Tolerate Non-Zero Illegal Migration Flows: Lessons from Modeling the Market for Illegal Migration, p.3.

Illegal migrants compete with unskilled domestic workers, and are therefore frequently seen as a threat by the locals, although the destination countries could benefit by having to pay lower wages and gaining competitiveness.¹⁵² The benefits that the countries of origin could have, such as the decrease in unemployment and relief from demographic pressures, are balanced by the ill-treatment received by their nationals abroad.

Much has been done to curb illegal migration: border controls, expulsions, denying access to public institutions (such as school for their children), and fines and imprisonment for employers. Despite all of these efforts, the risk of detection is low, especially in liberal democracies; hence the expected cost (risk) being beneath the expected gain for both worker and employer.¹⁵³ This demand for illegal migration has created a profitable industry, the “trafficking industry”.

Therefore, illegal migration is closely related to smuggling (voluntary migration) and human trafficking (forced migration). In order to enter a country illegally, migrants can either enter the country as tourists or students and then, once inside the country, evade the authorities to work and live there, or turn to smugglers, who facilitate illegal entry into a country for a fee. Around 20% of illegal migrants are thought to use this service.¹⁵⁴ Smuggling is noteworthy on the Mexico-U.S. border, the Mexican Gulf, and the Mediterranean. The actions of smugglers are usually associated to human trafficking. Traffickers use coercive tactics including deception, threat, and debt bondage. The majority of victims are women, and sometimes children, forced into prostitution. Other victims include men, women,

¹⁵² One example is the agriculture in California, which uses a great deal of illegal poor paid Mexican labor.

¹⁵³ Ibid.

¹⁵⁴ Ibid.

and children forced into manual labor. All the developing and less-developed regions in the world, such as Latin America and the Caribbean, Africa, Asia, and Eastern Europe, are sources of trafficked people.¹⁵⁵ These people's destinations are not restricted to developed countries, but also to developing countries themselves (such as India, South Africa, and much of East Asia).

Brain Drain

The “brain drain” is the emmigration of highly skilled workers, which could lead to skill shortages, reductions in output, and tax shortfalls in their countries of origin. It is the most harmful cost of free movement of people that can be imposed on developing countries. It can also be reinforced by the existence of communities of skilled persons in developed countries who attract other skilled persons, thus leaving weaker communities in developing countries even further depleted.¹⁵⁶

Some argue that the brain drain is depriving developing countries of valuable human resources and inhibiting research and development, and generally holding back development. The debate over whether the migration of skilled workers is or can be beneficial to the country of origin is not settled, but where the costs of high-level manpower education were financed by public money, and the migration is permanent, the cost is obvious: the loss of the public investment. At the same time, the benefit for the destination countries is also obvious: the immigration of highly skilled workers, whose education they did not have to fund, and the widening of the talent pool results in the selection

¹⁵⁵ The total global trafficking flow is close to 1 million. See: IOM World Migration 2005.

¹⁵⁶ COMMANDER, S., KANGASNIEMI, M. & WINTERS, L. The Brain-drain: curse or boon, p. 1

of the best candidates impacting positively on productivity.¹⁵⁷ One could point to the reduction in the wages of highly skilled workers in developed countries as a result, but the effects tend to be marginal. Moreover, since highly skilled workers cannot hide from the authorities like unskilled workers, their immigration is easy to control. Also, the destination countries usually have a sector-based immigration policy to attract high-skilled workers to those areas of the economy where their talents are lacking. Germany, for instance, possesses policies to attract information technology workers.

Unilateral, Bilateral, and Multilateral Initiatives on Migration¹⁵⁸

In 1990, the General Assembly of the United Nations approved the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.¹⁵⁹ The Convention laid down a series of rights for migrant workers and established the groundwork for protecting their rights. Part III of the Convention underlines the Human Rights of all migrant workers, such as the right to life (Article 9) and the freedom of thought (Article 12). Part IV underlines other rights, including the equality of treatment in relation to some public resources, like access to educational institutions; placement services; housing, including social housing schemes, and protection against exploitation in respect of rents; and

¹⁵⁷ COMMANDER, S., KANGASNIEMI, M. & WINTERS, L. The Brain-drain: curse or boon.

¹⁵⁸ Though there is no international framework governing movements of people, there are some interesting initiatives taken by states in the unilateral, bilateral and quasi multilateral levels. For a review of them other than the one we offer here, we would recommend: International Organization for Migration. *Managing the Movement of People: What Can We Learn from Mode 4 of GATS and ALEINIKOFF*, Alexander T. & CHETAIL, Vincent. *Migration and International Legal Norms*.

¹⁵⁹ UN Doc A/RES/45/158. Convention is available at: <http://www.ohchr.org/english/law/cmw.htm>.

social and health services, provided that the requirements for participation in the respective schemes are met. Part VI, entitled “Promotion of sound, equitable, humane, and lawful conditions in connection with international migration of workers and members of their families” is the part that deals with the prevention and remediation of illegal migration.

The UN Convention was built on the standards to protect migrant workers elaborated over seventy years ago in the institutional framework of the International Labor Organization (ILO), as described by Hasenau.¹⁶⁰ The ILO emerged from the turmoil of the First World War concerned with the conditions migrant workers were subjected to. Until 1975, the main concern was to establish a common ground in the protection of migrant workers, namely equality of treatment, standardization of labor contracts, and work conditions. However, States’ fear of losing sovereignty constantly limited measures. As decolonization occurred, the ILO grew more heterogeneous, as was made evident in the Convention of 1975. In 1975, the interests of labor exporters opposed the interests of labor-importing countries, as the first wanted further rights and guarantees for their nationals and the latter wished to suppress illegal migration. As a result, Convention No. 143 concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers was adopted, committing the ratifying States to respect the basic Human Rights of all migrant workers and to combat illegal migration.

Another approach to international labor migration involves state-related migration policies. There are several types of policies related to migration, as described by Weiner:¹⁶¹

¹⁶⁰ HASENAU, M. ILO Standards on Migrant Workers: The Fundamentals of the UN Convention and Their Genesis.

¹⁶¹ WEINER, M. On International Migration and International Relations.

1. Unrestricted entry rules grant a great deal of liberty to people from neighboring countries to enter their territories, like in the European Union.

2. Promotional entry rules, in which countries with labor shortages promote the entry of workers. The countries can promote permanent migration, like the American States in the XIX century, or temporary migration, like the Persian Gulf States do currently.

3. Selective entry rules do not promote immigration but allow it in previously established circumstances.

4. Unwanted entry rules try to legally restrict immigration.

5. Prohibitive entry rules virtually ban long-term immigration, Japan being the most notable example.

6. Prohibitive exit rules forbid citizens to leave the country, as in most of the totalitarian regimes.

7. Selective exit rules do not allow some nationals to leave; Egypt at one time restricted the emigration of physicians.

8. Permissive exit rules allow citizens to leave if they have performed all of their obligations.

9. Promotional exit rules encourage nationals to leave; this is the case in some South and Southeast Asian countries, which encourage their citizens to go to the Middle East.

10. Expulsion exit rules expel a group of people from the territory; this occurred when Greece expelled ethnic Turks from its territory. These policies can occur on three levels: unilateral, bilateral and multilateral.

Unilateral policies are measures taken by a single country to promote or restrict migration. Since migration involves at least two countries, unilateral measures are rather inefficient. Unilateral efforts to promote migration only work if there is a country willing to accept the emigrants. Unilateral efforts to restrain migration are inefficient, for they require great investments in border patrol and have to deal with the action

of smugglers whose operations are typically based in another country. Consequently, bilateral and multilateral solutions are considered better ways to address the issue.

Bilateral agreements involve two countries willing to either promote or restrict migration from one country to another. Countries come together to promote migration when one country has a shortage of labor and the other has a surplus. Germany had this sort of agreement with South European countries and Turkey, and nowadays has them with some East European countries. These agreements stipulate the conditions in which migration will occur, like the permitted number of migrants, their rights, and if the move is to be permanent or temporary. An interesting mechanism was developed in the agreements between Germany and some East European countries: whenever the unemployment rate reaches a given level in Germany, the concession of visas is reduced. Bilateral efforts can also be made with the purpose of restricting migration. In 1907, Japan and the United States made a gentlemen's agreement by which Japan agreed not to issue passports to citizens for travel to the United States, thus eliminating immigration. In exchange, schools in California agreed not to discriminate against Japanese ethnic students.¹⁶²

Recently, efforts that are multilateral in scope are seeking to deal with migration. Two notable cases are the Regional Consultative Processes (RCP) and Mode 4 of the General Agreement on Trade and Services (GATS) – the latter we shall discuss later in the paper.

Regional Consultative Processes have four common features. First, they are informal; second, they are non-binding; third, they imply no up-front financial commitment and fourth, the members meet more than just once. The informal and non-

¹⁶² PASTOR, Robert. US migration policy and Latin America, pp. 39.

binding nature of RCPs encourages more states to join in, as both entry and exit costs are minimal. A RCP that brings together developed and developing nations is the Mediterranean 5 + 5 Dialogue.

The Mediterranean 5 + 5 Dialogue gathered France, Italy, Spain, Portugal, Malta, Morocco, Libya, Mauritania, Algeria, and Tunisia in 1990 to discuss migration between the two regions. The initiative was due to the acknowledgment that this issue would be better discussed on a multilateral basis. The Tunis Declaration of 2002 committed the members to an effort to: identify migration trends; exchange information and expertise on combating human trafficking; support development in source countries through financial and technical aid, therefore improving possible migrants' prospects; foster the integration of migrants and initiate migrant support programs; enforce current migration policies; fight human trafficking and smuggling; and facilitate the migration of business people and service providers.

BLOC POSITIONS

It is hard to speak of great ideological divisions among countries on national migration policies formulation, especially since more and more countries are becoming simultaneously countries of origin, transit, and destination, which has made the issues we have mentioned here of utmost concern for virtually all of them. However blurred these divisions seem to us, States have, nonetheless, responded differently to the demands of interest groups within their territories, and have pushed the debates surrounding international migration for different directions.

Among developing countries, the overall perception is that their developed colleagues have been trying to push debates towards the themes of controlling and handling of

migration flows, so as to preserve their rights of imposing selective migration policies.¹⁶³ The words of the French Interior Minister, Nicolas Sarkozy, on the occasion of the adoption of a more selective immigration system in his country, which would favor the entrance of highly skilled immigrants and make it much more difficult for unqualified workers to enter France, corroborated this way of seeing things: “*We no longer want a migration that is inflicted (on us) but a migration that is chosen,*” he told *Le Journal Du Dimanche*, “*this is the founding principle of the new migration policy I advocate*”.¹⁶⁴

Developing countries, in this regard, would be much more interested in discussing the linkages of migration with other policy sectors, as well as assessing the determinants of movements of people. African countries, who continue to suffer under the classical impediments to sustainable development (armed conflicts, human rights violations, and disease pandemics combined with weak democratic institutions), are highly interested in discussing how an international framework governing international migration could assess its determinants in an in-depth manner and therefore yield considerable benefits for other relevant policy areas.

In 2001, the African Union called upon its member states to “develop a strategic framework for migration policy” on the continent, in a decision later on named the “Lusaka Decision”.¹⁶⁵ Their major concerns were related to “brain drain”: because so many African health workers flee their countries in search of better living standards, a mere 1.3% of the world’s health workers are left to provide care to nearly 14% of the world’s

¹⁶³ This insight was provided to us in an interview generously granted by Messrs. Bruno Brant and Marcelo Böhlke, diplomats serving at the United Nations Division of the Brazilian Ministry of External Relations, on February 2, 2006.

¹⁶⁴ <http://www.moroccotimes.com/Paper/article.asp?idr=6&id=12644>

¹⁶⁵ 74th Ordinary Session of the OAU Council of Ministers.

people who suffer from 25% of the world's disease burden.¹⁶⁶ Combating human trafficking – a topic which used to be taboo among African leaders – and with protecting migrants' rights were also actively discussed. The episodes in March 2006, when more than twenty-four African migrants died and four hundred others were arrested in a single day when trying to cross the 800 kilometers that separate the coast of Mauritania and the Canary Islands show that for African leaders, the time to properly handle migration is now.¹⁶⁷

Violent conflicts are also a major cause of migration in the Middle East. In 2003, there were an estimated six million refugees in the region, four million of which were Palestinians, the largest refugee population in the world. What is perhaps more surprising are the 14 million international migrants, mostly laborers, in the region, who move mainly from the Arab Mashreq (Egypt, Iraq, Jordan, Lebanon, Occupied Palestinian Territories, Syria, and Yemen) to the Gulf Cooperation Council (GCC) states, among which are Saudi Arabia, the United Arab Emirates, and Kuwait.¹⁶⁸

The movement of people in the Middle East reflects to a great extent the economic differences between the labor markets of the non-exporting Mashreq countries and the petroleum producing economies of the GCC countries. Another feature of labor policy and migration management in this group of countries is the increasing segmentation in GCC job markets, where nationals are concentrated in the top jobs, while the mid-level ones are occupied by other Arabs, and South and Southeast Asians (mostly Filipinos) are left to do menial works.¹⁶⁹

¹⁶⁶ Health Action AIDS Campaign. At <http://www.phrusa.org/campaigns/aids/>

¹⁶⁷ http://www.lanacion.com.ar/exterior/nota.asp?nota_id=789165&origen=premium

¹⁶⁸ Data compiled from IOM, UNHCR and UNRWA.

¹⁶⁹ "Arab Migration Patterns: the Mashreq" In: Arab Migration in a Globalized World: IOM and League of Arab States. IOM: Geneva, 2004.

In the Americas, conflicts and human rights-related concerns have also been at the forefront of migration policy formulation for countries like Colombia and Haiti. However, the numbers of international migrants in the region, when compared with those of refugees, are quite more considerable. Latin America alone has about 25 million people living outside their home countries, accounting for 13% of the world total.¹⁷⁰ The complexity of movement in the region can be easily demonstrated if we take the case of Ecuador: it is, at the same time, a key destination country as well as one of origin and transit.¹⁷¹

One probable direction towards which Latin American and Caribbean countries will work to push the debates is the role that remittances can play in economic development. By some estimates, one in twenty households in Latin America benefit from remittances, which combined with increasing regional migration – due to economic integration under mechanisms like NAFTA, CAFTA, CARICOM and Mercosur – make the continent an interesting pilot region for enhancing the role of remittances in economic development.¹⁷²

Remittances represent the most important impact of migration on Asian economies and societies (especially South Asia, one of the poorest regions in the world) and also account for a large percent of Asian economies' GDP: India, the Philippines, Bangladesh, and Pakistan are known to be among the largest beneficiaries of remittances globally. A distinctive feature of Asian migration flows is that they are a more legally

¹⁷⁰ "International Migration, Human Rights and Development in Latin America and the Caribbean". Paper presented at the Thirty-First Session of ECLAC, in Montevideo, Uruguay, on March 2006.

¹⁷¹ The bilateral agreement between Ecuador and Spain is today one of the most successful of its kind. For an assessment of this and other bilateral and regional agreements, we would recommend

¹⁷² IOM. Costs and Benefits of International Migration.

organized “industry” than other regions, involving migration-promoting government programs¹⁷³ and considerably facilitated by a regional system of labor recruitment and scanning.¹⁷⁴ Because of this, all forms of migration throughout Asia are expected to grow in the coming years, which goes some way to explaining the increased attention Asian leaders have been giving to the problem of irregular migration. Nevertheless, Asian leaders have been harshly criticized on the account that migration flows in Asia, much like in the Middle East, reflect and reinforce hierarchies between economies, especially by leaving menial service roles to be performed by people from certain nationalities, and therefore putting “Asian values” over human rights and liberties.¹⁷⁵

The problem of irregular migration has been of major concern to China. The Chinese government has a stated policy and practice of taking back any Chinese irregular migrant found abroad, and has also recently passed stronger laws against smuggling and trafficking. Its program of pursuing unequal development through the formal establishment of Special Economic Zones and therefore giving rise to huge flows of internal migration, however efficient it may be in the overall allocation of resources, is often criticized from an ethical standpoint.¹⁷⁶

¹⁷³ The case of the Philippines is of extreme value in this regard. It is one of the major suppliers of migrant workers – over 8 million Filipinos live or work abroad, and has developed a now reference programme on ensuring competitiveness on the global market, intensifying skills training and developing training programmes for their citizens: the Philippine Overseas Employment Administration (POEA) and the Overseas Workers Welfare Administration (OWWA). For more information, see <http://www.poea.gov.ph/> and <http://www.owwa.gov.ph/>.

¹⁷⁴ The Asia-Pacific Economic Cooperation (APEC) is a regional trade agreement that includes 16 member countries and that has developed, for a number of reasons, an excellent record of resonance in terms of cooperation between sending and receiving countries. Its main goal however is limited to facilitating certain kinds of movement related to trade or investment. For more on APEC, please check: <http://www.apec.org/>

¹⁷⁵ See CASTLES, Stephen. *Asia-Pacific Migration and Emerging Civil Societies*.

¹⁷⁶ See, for instance, JORDAN, Bill & DÜVELL, Franck. *Migration: The Boundaries of Equality and Justice*.

Finally, one must bear in mind that because international migration is greatly related to other relevant policy areas (as discussed below), the divisions between countries that arise in other fora are often brought to the debates concerning international migration. It should therefore be no surprise if, for instance, when discussing violations of migrants' human rights, in light of the recent events concerning the publication of caricatures of the Prophet Mohammed, Arab states pushed for the inclusion of a discussion on the agenda about protecting migrants from defamation and disrespect of their beliefs.

PROPOSED SOLUTIONS

The Asia-Pacific Economic Cooperation (APEC) Business Travel Card (ABTC)¹⁷⁷, the Trade NAFTA visa (TN visa), the Swiss scheme of imposing fees on its citizens who keep their Swiss passports while living abroad, and the macroeconomically-triggered test-based immigration quotas in Germany are just some of the practical initiatives States have been developing to properly handle movements of people, with a view to maximizing potential benefits and minimizing costs.

However important the consideration of these practices may be to any attempt at institutionalizing an international framework on immigration, one must bear in mind that the basic goal of such a framework is to provide a consensus-building platform for multilateral agreements that takes into consideration the fact that flexibility is key to engaging states on international agreements (especially for migration) and that what is a workable approach for one region (for instance, the ABTC in Asia) may be ineffective elsewhere (in Latin America,

¹⁷⁷ The Operating Framework of the ABTC, as well as many other economy-specific information can be found via the APEC Business Travel Handbook at www.businessmobility.org.

for example, where the distinction between service providers and workers in other fields, which is crucial for the efficiency of the ABTC, is blurred). With this in mind, follows a list, not of universal administrative solutions to immigration, but of elements on which States still need to find common ground.¹⁷⁸

Enhancing Inter-State Cooperation

The absence of an international structure governing the cross-border movement of people has been noted as a huge gap in the current model of international governance for the global economy; nonetheless, the existence of such a framework would not by itself yield policy coherence between nation states. Only through the fostering of dialogue, the sharing of information, experience and practices and the cooperation in policy development and implementation at the bilateral, regional, and global levels, can the international community avoid overlapping and often contradicting jurisdictions and guarantee an efficient use of available resources.

Pursuing Policy Coherence

Coherence is needed within governments first and foremost, to ensure that policy formulation and implementation are effective.¹⁷⁹ It requires inter-institutional cooperation between policy sectors, e.g. ministries whose work is somehow involved with migration. This means consultations and dialogue between ministries such as justice and home affairs, labor, employment, health, and trade, so as to create “integrated”

¹⁷⁸ The idea of focusing on “ideological impediments” surrounding the establishment of an international framework for migration, and therefore the development of a “common language” on the subject is an old one. It is evident on the works of the IOM’s International Dialogue on Migration (IDM), the Global Commission on International Migration (GCIM) and most significantly the International Agenda for Migration Management, the most important outcome of the Berne Initiative.

¹⁷⁹ Ninetieth Session of the International Dialogue on Migration 2005. Theme: Towards Policy Coherence on Migration. MC/INF/279, 21 October 2005.

policy agendas¹⁸⁰ and ensure the creation of a conducive environment for migrants. Policy coherence also requires that migration policies be consistent with international obligations undertaken by states in other fields.

Policy coherence demands, furthermore, that the linkages between migration and related policy domains be thoroughly assessed. We have discussed the link between migration and development, but if the potential benefits are to be reached in that field, it is vital that other linkages be taken into consideration as well. To mention only a few:

a) Migration and Trade: It was not until the General Agreement on Trade in Services (GATS), more specifically its Mode 4,¹⁸¹ that trade and migration came to be seen as united and conducted with similar mindsets. However, commitments under Mode 4 to date have been very limited – around 80% of total trade in services happens under Modes 1 and 3, mainly covering highly skilled migrants and being largely horizontal, that is, applying to sectors listed in the member's schedule.¹⁸²

b) Migration and Security: The terrorist attacks in the U.S., Madrid, London, and Bali have highlighted security concerns associated with migration. In 2003, in the U.S., for instance, the Department of Homeland Security (DHS) was established as a

¹⁸⁰ See, for instance, the Netherlands integrated approach of migration, available at <http://www.minbuza.nl/>

¹⁸¹ The GATS divides supply and consumption of services into four interdependent modes. Mode 1 covers cross-border supply, e.g., an electricity company providing services in another country. Mode 2 comprises cross-border consumption, e.g., a tourist going to the country of the supplier. Mode 3 involves commercial presence, e.g., setting up a business or a professional establishment (such as a subsidiary corporation, branch, or representative office in another country). Mode 4 covers the cross-border movement of service providers, e.g., a lawyer or a doctor, and thus, relates to immigration policies.

¹⁸² The participants at the seminar organized by the OECD, the IOM and the World Bank have appointed as the reasons for the restrictive nature of Mode 4 commitments: the lack of coherence between GATS concepts and those of migration regimes; the desire of states to remain flexible in matters of migration; the need of first guarantee the return of temporary migrants; and the relative lack of obligations by the destination countries. Information about the seminar is available at http://www.iom.int/en/know/idm/tms_200410.shtml.

response to the apparent ease with which terrorists entered the country in 2001. In 2004, President Bush created the National Counterterrorism Committee with a mandate to examine, inter alia, how counterterrorism relates to border control and immigration reform.

At the same time, the very concept of state security has expanded, and terms like human security have gradually gained their niche in the international security agenda.¹⁸³ Human trafficking, smuggling, and the resurgence of xenophobic tendencies pose to states the challenge of increasing security while at the same time managing the demands of a mobile international workforce and without inflicting too serious constraints on individual liberties (of both nationals and resident aliens).

c) Migration and Health: It is only reasonable to expect that in today's mobile world, infectious diseases would travel as rapidly as people, connecting the health environments of all countries on migrants' paths. The rapid spread of the Human Immunodeficiency Virus (HIV), the proliferation of the Severe Acute Respiratory Syndrome (SARS), and recent outbreaks of avian influenza in poultry are just some examples why public health policies should be globally integrated. As human mobility is unlikely to abate, the challenges in health policies formulation for states remain.

d) Migration and the Environment: The devastating Asian tsunami of December 2004 and the dramatic consequences of the earthquake in Pakistan and India have proven that natural

¹⁸³ The concept of "human development" means, in essence, the situation where human beings are free and able to pursue the ways of life they have previously adopted. Interestingly enough, the influence of Amartya Sen's notion of capabilities is also evident on the term "human security" which, in a nutshell, refers to the ability of human beings to enjoy the ways of life they have voluntarily chosen in a stable manner. See: PNUD, *New Dimension on Human Security*. New York: Oxford University Press, 1994 and the *Final Report of the Commission on Human Security* – available at <http://www.humansecurity-chs.org/finalreport/>.

disasters, man-made catastrophes, and ecological degradation can significantly influence movements of people. Nonetheless, the relationship between migration and environmental concerns goes both ways: migration patterns can also affect the environment, especially by crowding out a country's natural resources.¹⁸⁴

e) Migration and Human Rights: The protection of the human rights of migrants is one of the greatest challenges for States today, especially in the face of growing xenophobia and exploitation. Never before there has been such a need for States to implement measures so as to ensure that foreign nationals are protected against illegal discrimination (principle of *non-discrimination*), that refugees are prohibited from being sent back to countries where their lives would be at risk (principle of *non-refoulement*), and that no individual be “arbitrarily deprived of his or her nationality” (*statelessness*).¹⁸⁵

Engaging Relevant Stakeholders

International Migratory movements have grown in complexity. The migration life cycle never before involved such complex relationships between migrants and various public and private stakeholders. Consequently, organizations such as the World Bank (IBRD), the International Labor Organization (ILO), the UN High Commissioner for Refugees (UNHCR), the UN Conference on Trade and Development (UNCTAD), and recent initiatives such as the IOM Business Advisory

¹⁸⁴ The impact is especially harmful for host countries whose infrastructures are already strained, such as housing, drinking water, power, transportation, communications, etc. See: Ninetieth Session of the International Dialogue on Migration 2005. Theme: Towards Policy Coherence on Migration. MC/INF/279, 21 October 2005.

¹⁸⁵ The principles mentioned here are just some of the principles contained in the main Human Rights International Instruments that play an important role in the protection of migrants' human rights.

Board, and many others, need to have their roles and possible contributions explored with a view to reaching a coordinated approach to migration.¹⁸⁶

Turning Brain Drain into Brain Gain

Is brain drain that big of a deal? The experience of many European countries is sometimes cited to counter the criticism surrounding skill migration. Italy, Spain, and Portugal sent their skilled workers abroad in the 1960s and 1970s, but none of them became poorer as a result. At the same time, recent econometric analyses have developed the concept of “optimal brain drain”: they show that countries with emigration of over 20% of all persons with tertiary education, and low levels of education (such as El Salvador, French Guyana, Jamaica, and Trinidad and Tobago), would benefit from reduced skilled emigration. On the other hand, countries with low levels of adult education and low emigration rates (such as Brazil and China) would benefit from increased skill emigration.¹⁸⁷

The essence of the argument is that when return to education is higher abroad than at home, if individuals consider the possibility of migration, then their expected return to human capital increases. Therefore, more people will invest in human capital as a result of increased migration opportunities. Since only some of them actually emigrate, there may be an overall increase in the country's post-migration level of human capital.¹⁸⁸

¹⁸⁶ The importance of NGOs for development studies has been strongly advocated by theories of “social capital”. According to them, these organizations play a key on increasing the capacity of poor people to engage in society's relevant decision-making processes and properly articulate their interests and aspirations. For more on theories of social capital, we would recommend: DASGUPTA P. & SERALGEDIN I. (eds), *Social Capital: A Multifaceted Perspective*.

¹⁸⁷ 2005 IOM World Migration 2005, Section II – “Costs and Benefits of Migration”

¹⁸⁸ BEINE, M., DOCQUIER, F. & RAPOPORT, H. Brain Drain and LDCs' Growth: winners and losers.

The key to avoiding the high costs associated with emigration is assuring that both temporary and potential permanent migrants return home after the expiration of their contracts. In this regard, States should do their best to establish transparent return policies, to assist the voluntary return of migrants (for instance, by giving workers the possibility of being rehired in the future), to ensure respect for the human rights and dignity of migrants in the event of mandatory returns, to provide for temporary returns through which migrants could maintain contact with their families and communities and, finally, to help in the effective reintegration of migrants (especially illegal ones) into their home communities.¹⁸⁹ Through the adoption of these policies, States can refrain from the use of traditional notions of brain drain and effectively initiate a phenomenon some call “brain circulation”.

Heightening the Developmental Impact of Remittances

In June 2004, the G8 Heads at the Sea Island Summit, recognizing that remittances can play an important role in development efforts, decided to “*promote better coherence and coordination of international organizations that are working to enhance remittance services and heighten the developmental impact of remittance receipts in developing countries*”.¹⁹⁰

The most direct way of improving the potential impact remittances may have on poverty alleviation in source countries is by reducing transfer and transaction costs of these flows.¹⁹¹ Money transfer agents frequently charge exorbitant rules –

¹⁸⁹ International Agenda for Migration Management.

¹⁹⁰ G8 Action Plan at the Sea Island Summit 2004. Available at: <http://www.fco.gov.uk/Files/kfile/Art%2020%20Entrepreneurship.pdf>

¹⁹¹ Transaction costs are essentially all additional costs of market activities that are not included in the production costs. They arise from the transfer of ownership (i.e. property rights) – for instance, the costs of bringing to the table the parties involved and the writing of contracts.

13% on average, and some times as high as 20% - and, quite surprisingly, are also regressive – making it especially harmful to poor people who cannot send huge sums of money simply because they do not have them.¹⁹²

If competition were not hindered but instead encouraged by the political authorities, the fees charged to transfer funds could come closer to the levels experienced in informal channels, where charge fees are regularly set below 1%. Remittance costs could also be avoided by the practice of “bundling”, i.e. enabling senders to remit more money but less frequently, therefore hampering the progressive transfer costs, and also if more migrant workers were granted access to banking facilities, which would also lead to a rise in overall savings and consequently to financial development.

However, there may be ways to indirectly increase developmental impact of remittances, for instance, by encouraging account-to-account remittance flows instead of the traditional cash transfer, resulting also in increased saving by both recipients and senders. Another way would be through improving the financial climate, which would encourage recipients to spend a larger share of remittances on supporting investment in development-related projects.¹⁹³ Through policies aimed at setting the macroeconomic house in order, such as these, combined with micro-finance tools and efforts by the existing banking network, remittances can be better channeled into productive investments.¹⁹⁴

¹⁹² <http://www.sendmoneyhome.org/>

¹⁹³ World Migration 2005: Costs and Benefits of International Migration, p.273

¹⁹⁴ A line of thinking has also focused on encourage remittance inflows through official channels, tackling therefore the problem of unrecorded remittances. For this, we would recommend PURI, Shivani and RITZEMA, Tineke. Migrant Worker Remittances, Micro-finance and the Informal Economy: Prospects and Issues.

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GUARANTEEING POLITICAL STABILITY AND SECURITY IN THE AMERICAS

By **Ciro Marques Russo** ,**Alan Somaio**
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INTRODUCTION

The terrorist attacks of September 11th have reestablished a global strategic dimension in dealing with security issues, which calls for an equally strategic reaction from the whole international community.¹ This reflects an intrinsic change in the very substance of contemporary conflicts, which have become transversal in nature.² Among the “new threats”, the fragility of democratic systems represent one of the major sources of instability, especially in the case of Latin America, a

¹ VALLADÃO, Alfredo. Uma política de segurança e defesa sul-americana, p.47.

² BLANCO, Miguel Camilo Ruiz. Visiones de seguridad en las Américas, p.114.

region historically plagued by political instability.

Consequently, there is a need for renewed schemes of collective security, which would permit movement towards a system where all of the actors, new threats, and existing mechanisms are harmonically integrated.³ As hemispherical security cannot be guaranteed by macroregional activity alone, it becomes essential to also strengthen national and sub-regional systems of security. In Latin America, however, there are still concrete obstacles to be overcome in all levels of security.

This text intends to analyze the factors involved in the attempt to guarantee political stability and security in the Americas, with special emphasis on the South American subregion. The text is divided in seven sections. The first shows the main reasons for the convening of the Manaus Meeting and gives a brief explanation of the logistical questions involved. The second section provides an overview of contemporary analysis of security issues. The third section, entitled “History of the Problem”, draws upon a historical overview of the main security problems in South America. Then, the section entitled “Past Actions” inquires into how security problems have been tackled in the continent.

The fifth section briefly goes over national security policies in South America. Afterwards, the “Proposed Solution” section presents guidelines for the search for effective and innovative solutions for security problems in the Americas, and the final section lists the main questions which delegates must address in order to provide effective solutions to problems hereby discussed.

THE MANAUS MEETING

³ Ibid., p. 115.

The Idea behind the Manaus Meeting

Throughout their history, Latin American countries have struggled to attain stable political systems, which are not only the foundation for a healthy political environment, but also have relevant implications for the functioning of the economy and the maintenance of security in the whole region. Unfortunately, these countries have learned that even local problems of political instability can easily spill over to neighboring nations and start a regional crisis.

According to Goldstein and Pevehouse, crises are foreign policy situations in which outcomes are very important and time frames are compressed.⁴ In a crisis, decision-makers operate under tremendous time constraints; communications become shorter and more stereotyped; and information that does not fit a decision-maker's expectations is more likely to be discarded, due to time constraints. To make things harder, crisis management also takes a high toll psychologically and physiologically.⁵

Notwithstanding these complications, crises can strike unpredictably and require immediate responses. This is what happened in South America in July of 2006, when unstable security issues evolved into a regional crisis situation. Although the region has some incipient institutional mechanisms to deal with security issues, none seem capable of delivering a timely and adequate response to crisis situations. Thus, a number of the region's governments decided that a high-level meeting was required to help manage the crisis, and the wider political implications stemming from it. The Brazilian government volunteered to host this secret meeting, to happen at the end of July in the city of Manaus.

⁴GOLDSTEIN, Joshua S. & PEVEHOUSE, Jon C. *International relations*, p. 149.

⁵*Ibid.*, p. 150.

Even though the primary goal of the Manaus Meeting is to restrain and control the crises at hand, nothing deters it from being a crucial step in the effort to guarantee security and political stability in the Americas. However, this is far from being an easy outcome, and the situation will evolve – or deteriorate – according to the choices, decisions, and hesitations of the participants in the Manaus Meeting.

The Circumstances

The Manaus Meeting will take place in real time, which means the simulation will begin on July 26th and end on July 30th. As it is a secret meeting, it is not intended to receive the publicity characteristic of summit meetings. Shortly before the AMUN begins, delegates will begin to receive more detailed information about the events which may evolve into crisis situations. From the moment that the first piece of news is received, delegates must not take into account any real-life events, which will be considered not to have occurred for the purpose of the simulation.

Being a popular tourist destination, the presence of foreign diplomats in Manaus should not attract any media attention, as long as they are discrete. The Brazilian government will provide the logistic structure of the meetings; further information about the exact place of the meeting will be sent by the Brazilian government to each delegation.

Notwithstanding the informal character of the meeting, a certain formality is expected in relation to dress, due to the fact that the Manaus Meeting will have the presence of high-level ambassadors from diverse countries.

Flow of Communications

Being a crisis management situation, diplomats may

establish frequent contacts with their respective governments. To do so, the Brazilian government has arranged secure telegram lines for the use of all delegations. For simulation purposes, this will be the only way of establishing communication with governments, international organizations, and any other entities not present in Manaus. All telegrams are subject to the usual diplomatic privileges, and are therefore immune from any kind of search or seizure.

Delegates will also receive a constant flow of news, beginning a few days before the start of the simulation, in order to give precise information about the events which motivated the convening of the Manaus Meeting. This flow will continue throughout the meeting.

Therefore, the Manaus Meeting will not be disconnected from the outside world. On the contrary, news will be constantly arriving from around the continent, from newsrooms, presidential palaces, and from the streets of South America. This information will be directly influenced by the actions taken – or avoided – in the Manaus Meeting. Once more, during the simulations, delegates should not take into consideration or make reference to events which take place in the real world.

Decision-Making Process

The Manaus Meeting does not have a pre-set decision making process. The scope of decisions can go from the restraint and control of eventual crises to measures of conflict prevention and strengthening of available security mechanisms. However, the wider the possibilities of action, the more difficult they will be to approve and implement. Thus, if one wishes to go beyond the management of specific crises, he will have to face several limitations and obstacles which are placed in the path to a comprehensive multilateral cooperation.

With regard to the types of documents which can be approved in the Manaus Meeting, there are also unlimited possibilities. Delegates can issue unilateral, bilateral, or multilateral declarations, memorandums of agreement, plans of actions, declarations of principle, and draft resolution proposals to UN bodies or the OAS. Delegates may also agree to make use of available institutional mechanisms such as the Inter-American Treaty of Reciprocal Assistance (ITRA); informal mechanisms such as the Rio Group; regional or sub-regional initiatives, such as the Lima Commitment; and international organisms, such as the MERCOSUR, Andean Community, or the Amazon Treaty Cooperation Organization (ACTO).

Two requirements must be fulfilled for a decision to be made. The first is that all parties to a decision must approve it. The second is that the decisions must either fall within the limits of the delegates' status as a plenipotentiary, or be approved at the appropriate level (i.e. Minister of Foreign Affairs or President). With regard to the limits of the delegates' powers, these are made clear in the Special Rules of Procedure.

STATEMENT OF THE PROBLEM

Historical Context

Since the end of the Cold War, the international system has been changing considerably. The bipolar structure of the Cold War has yielded a more multidimensional and dynamic one. States are no longer the only actors with the power to influence the global agenda, although they still hold considerable influence when it comes to decision-making.⁶ Through this process, civil society, transnational corporations,

⁶ OLIVEIRA, Miguel Darcy. *Nações Unidas, novos atores e governança global: mensagens e propostas do Painel sobre sociedade civil*, p. 59.

and international organizations acquire increasing influence. The world is increasingly integrated by the technological innovations, instantaneous information, financial flows, and the spread of democracy. Nevertheless, with increased interdependence comes greater vulnerability to international crises, as demonstrated by the financial collapse of the Asian Tigers in the 1990s and the threat of terrorism.

In the case of Latin America, this region was embedded in the context of containing communism throughout the Cold War. The United States' preoccupation with communism served as an incentive for Latin American dictatorial regimes to channel their energies to security issues. With the absence of external communist threats, these governments turned their extensive security apparatus into an instrument of repression against their own people. These attitudes deepened social divisions between the people on one side, and national governments and the military on the other.⁷

With the end of the Cold War and the consolidation of democracy and free markets across the region, Latin America lost its already little strategic importance as a battleground against the spread of communism, and had to face an increase of marginalization in the international system. Security concerns gave way to economic ones, and the continent saw a renewal of hemispheric goodwill and cooperation with the summit diplomacy launched by the Miami Summit and the project of a Free Trade Area of the Americas (FTAA).⁸

Although nearly all Latin American countries are considered formal democracies (political systems which hold periodic elections), there are still considerable imperfections related to the protection of human rights, deep social

⁷TULCHIN, Joseph S. & ESPACH, Ralph H. *Latin America in the New International System: A Call for Strategic Thinking*, p. 10.

⁸*Ibid.*, p. 11

inequalities, and institutional weaknesses. After the terrorist attacks of September 11th, these debilities received increased attention with changes in the global agenda set by the new foreign policy of the United States, which brought political and security questions back to the top of the global agenda.⁹

While the great powers can easily surpass the logic of neighborhood and geographical constraints in their relations with the whole world, this is not feasible for most of the nearly 200 States which exist nowadays. Therefore, contemporary international relations in the field of security tend to form consistent and stable regional complexes. These are formed by *“a group of units whose main securitization processes are so interconnected that their security problems cannot be reasonable solved apart from the other”*.¹⁰

Three concurrent agendas

In comparative terms, Latin America is one of the most demilitarized zones in the world and a region with low propensity for interstate conflicts. Nevertheless, although interstate threats such as territorial disputes have been stabilized, they have not completely disappeared. These issues are usually referred to as the traditional agenda, which are characterized by perceptions based on past rivalries.¹¹

Meanwhile, non-military issues gave rise to increasing security concerns in the Americas. Political and economic instability have become a potential threat to regional security, as reflected by a series of political and social crises which overthrew several governments in the region. Environmental damage, illegal immigration, and drug trafficking are just other

⁹ FUENTES, Claudio & ÁLVAREZ, David. *¿América Latina en la encrucijada?*, p. 75.

¹⁰ BUZAN & WÆVER, Ole. *Region and Powers: the structure of International Security*, p. 44.

¹¹ HIRST, Monica. *Seguridad regional en las Américas*, p. 26.

Table 1. Latin America: Political-institutional Crises (1990-2005)¹³

	Coups d'état	Uprisings or Military tensions	Presidential Destitution or Resignation
1990-1995	Surinam (1990), Haiti (1991), Venezuela (1992), Peru (1992), Guatemala (1994)	Argentina (1990), Chile (1990 and 1993), Honduras (1991), Venezuela (1992), Colombia (1995), Haiti (1995), Paraguay (1994 and 1995) Panamá (1995)	Brazil (1992), Venezuela (1993)
1996-2000		Paraguay (1996), Guatemala (1997), Honduras (1997), Paraguay (2000), Peru (2000)	Ecuador (1997 and 2000), Paraguay (1999), Peru (2000)
2001-2005	Venezuela (2002)	Venezuela (2002)	Argentina (2001), Haiti (2004), Ecuador (2005), Bolivia (2002, 2003, 2004, 2005)
Source: Flacso-Chile			

few examples of what is known as the “new security agenda”. This new agenda has also faced a sub-regional specialization in the Americas, where environmental problems are of special concern in the Amazonic region, drug trafficking in the Andean region, and migratory issues in the United States, Central America, and Mexico.¹²

After September 11th, terrorism initiated what is called

¹² *Ibid.*, p. 47.

¹³ FUENTES, Claudio & ÁLVAREZ, David. *Op. Cit.* 9, p. 76.

the “newest agenda”. Although Latin America does not have high incidence of terrorist attacks, it could be seen as being vulnerable to terrorism infiltration, due to the global character of terrorist networks. This perception has led to a considerable expansion of United States intelligence operations across Latin America. The increased vigilance at the Triple Frontier between Argentina, Brazil, and Paraguay is one example of this new trend in the field of security.¹⁴

These new kinds of transnational threats require cooperative responses. However, there are still several problems which lie ahead of an effective multilateral response to these new security issues. Although there are instances of ad hoc cooperative response to control and restrain regional crises, often with the United States as the primary actor, Latin America has been slow in creating institutional mechanisms of multilateral response, especially in the field of conflict prevention.¹⁵ Intra-regional fragmentation, political heterogeneity, different foreign policy priorities, and the absence of a perception of shared threats represent considerable challenges to Latin America security. In the case of South America, for example, its so-called regional complex of security is better described as a mosaic of coincidences and divergences rather than an articulated regional response.

Three complementary approaches to security

The issues included in the new and newest agendas have suffered conceptual changes related to new political approaches to international security. Therefore, when analyzing security issues in the Americas, it is important to know what level of

¹⁴ HIRST, Monica, *Op. Cit.* 11, p. 55.

¹⁵ TULCHIN, Joseph S. & ESPACH, Ralph H. *Op. Cit.* 7, p. 14.

security is being considered. There are three main approaches to security, each one highlighting specific levels of analysis. The first is the international approach: it has a global logic and takes into account the process of globalization and the relative weight of states, international organizations, and non-state actors. Its main goal is the promotion of security on a global or regional level, which is understood as a condition of stability.¹⁶

The second approach primarily focuses on state concerns. It is related to realist's definitions of security, having dynamics primarily linked to national sovereignty and border problems, as well as to the preponderance of military forces in the promotion of security. The third approach shifts the referent object of security from states to people. This approach starts from assumptions that human security is a relevant concern for people everywhere, and it is easier to ensure through early prevention.¹⁷ Although human security especially relates to local dimensions, it can also comprise global issues which affect the whole of humanity, such as pandemics and the environment. When dealing with the new and newest agendas, there is a tendency to treat many of their issues as human security problems.¹⁸

It is worth to notice that the three levels of analysis are not mutually exclusive. On the contrary, actions taken at a particular level do not satisfy demands on the other levels. They are also interconnected, as security in one level considerably affects stability in the others. The purpose of distinguishing these levels is not to broaden the concept of security, which would lead to the militarization of different areas, but to stimulate a better articulation of the three levels.

¹⁶ ARAVENA, Francisco Rojas. *Las nuevas perspectivas de la seguridad humana en América Latina y el Caribe*, p. 18.

¹⁷ DALBY, Simon. *Geopolitical Change and Contemporary Security Studies: Contextualizing the Human Security Agenda*, p. 8.

¹⁸ *Ibid.*, p. 21.

Sources of Vulnerability

Notwithstanding the complexity and multidimensional nature of the new security threats, it is possible to identify four kinds of vulnerability: political-institutional ones; those with economic roots; those related to social problems; and those with explicit security dimensions.

In regard to political-institutional sources, the fragility of democratic systems represents the major threat faced by Latin American countries. This fragility becomes evident when one considers the number of crises triggered with the participation of the armed forces, which often leads to the destitution of presidents. These problems are aggravated by systematic violations of civil and political rights, institutional violations, and high levels¹⁹ of corruption, which all take place in the course of these crises. This situation subsequently leads to increasing popular disaffection towards political parties and a crisis of representativity.²⁰

With regard to economic vulnerabilities, the wave of increased interdependence among American countries has caused two major regional impacts. On the one hand, it induced the enlargement of markets and the replacement of former rivalries by larger commercial dynamics. On the other hand, it increased the vulnerabilities of Latin American countries to institutional crises, as reflected by the sustained growth of their external debt. Other sources of vulnerability are related to excessive concentration of wealth in the hands of a small minority, which leads to some of the world's highest levels of social inequality.²¹

In relation to social vulnerabilities, Latin America is

¹⁹ *Ibid.*, p. 19.

²⁰ FUENTES, Cláudio & ÁLVAREZ, David. *Op. Cit.* 9, p. 77.

²¹ *Ibid.*, p. 79.

plagued by the exclusion of vulnerable groups, such as women, youths, migrants, and ethnic groups. Among these, indigenous peoples are affected throughout the region by neglected demands and increased pressure for the exploitation of land and natural resources which have long been used by these peoples.²²

As for the security-related vulnerabilities, although the majority of interstate conflicts have come to an end, border issues between Colombia and Venezuela, for instance, are of great concern, especially due to the presence of guerrilla groups in the area. However, the major vulnerabilities are no long related to border disputes between States, but to the so-called new security threats such as drug trafficking, money laundering, terrorism, and arms trafficking. Notwithstanding the low prevalence of terrorism threats in Latin America, the United States has been inclined to relate terrorism with drug trafficking, which is the new security threat of greatest concern.²³

The importance of drug trafficking is related to three main factors. First, it creates a relevant flow of drugs between the producer areas, on one side, and consumer areas such as Europe and the United States, on the other. Second, policies implemented to combat the drug trade in one country necessarily have immediate effects on neighboring countries. Lastly, several Latin American countries, although not being drug producers, are used for drug distribution and as drug transit zones.²⁴

Furthermore, arms trafficking represents another dangerous source of vulnerability. It takes advantage of public and private corruption, incapacity of institutions to exert adequate control, and availability of arms in the regional and international markets. Due to increasing demands of criminal organizations and illegal armed groups, arms trafficking is one

²² *Ibid.*, p. 82.

²³ MONTÚFAR, César. *Terrorismo e seguridad andino-brasileña*, p. 412.

²⁴ FUENTES, Cláudio & ÁLVAREZ. *Op. Cit.* 9, p. 35.

of the major flows of transnational smuggling.²⁵

HISTORY OF THE PROBLEM

The countries of South America present some affinities that allow the region to be divided into two groups for the purposes of this analysis: the Southern Cone countries and the Andean countries. The Southern Cone is formed by Argentina, Brazil, Chile, Uruguay, and Paraguay; and the Andean group is composed of Bolivia, Colombia, Ecuador, Peru, and Venezuela, which, for academic purposes, will also include Guyana and Suriname. The division will take into account similarities among the countries, such as considerable presence of paramilitary groups, recent major political instability, and economic growth and depressions in recent years.

The Southern Cone

I. The Argentina-Brasil-Paraguay Border

Within the Southern Cone, there are many themes that attract attention through the lens of international security. The most commonly discussed of these is the drug trafficking and counterfeiting that occurs at the intersection of Brazil, Argentina, and Paraguay (known as the “Tri-Border Area”), along with the terrorist-linked financing said to be present in this region. The smuggling issue began under the dictatorship of General Stroessner, who placated his domestic allies by turning a blind eye to the practice of smuggling of counterfeit products and drugs into Paraguay,²⁶ especially to Ciudad del Este, from where it could flow illegally to the neighboring countries.

²⁵ GUÁQUETA, Alexandra; PEÑA, Paula. *¿Que pasa en la región andina?*, p. 151.

²⁶ CARBONE, Alberto & SOTOMAYOR, Walter. *Stroessner, anatomía de una dictadura*

After September 11th and the beginning of the United States' war on terror, the region's sizable Islamic community was charged with being a source of financing for terrorist actions throughout the globe, and the U.S. government has been pressing for stronger action by local governments on the matter. It has been widespread in the media that the United States are also taking some measures on its own to fight the so-called terrorist actions in the region. The most conflictive issue is related to negotiations between Paraguay and the United States in order to grant immunity to U.S. troops in Paraguayan territory, which could eventually lead to the establishment of a U.S. military base in this country.

2. The Falklands/Malvinas Issue

The struggle between Argentina and the United Kingdom for possession of the small austral islands has had a significant impact on the region's security. Argentina claims ownership of the islands and attempted to obtain the territory by diplomatic channels until 1982, when the government in Buenos Aires took over the islands for two and a half months, leading to war with (and ultimately defeat at the hands of) Britain. Possession of the islands is a sensitive matter for Argentina, and for its neighbors as well. Every year since 1983, resolutions have been approved at the United Nations and the Organization of American States calling for further negotiation on the matter of sovereignty over the islands.²⁷ Relations between the United Kingdom and Argentina have always been molded by this issue.

The Andean Countries

²⁷ See <http://www.oas.org/main/main.asp?sLang=S&sLink=http://www.oas.org/juridico/spanish/Resasgen.htm>

I. Border Disputes

The countries of the Southern Cone established their borders mainly in the early 20th century. With the exception of the Beagle Channel dispute between Argentina and Chile,²⁸ all borders between these countries were settled in the first half of the 20th century. The same cannot be said of the Andean countries, who strive to settle their borders to this very day. The hostilities between Ecuador and Peru lasted until 1995.²⁹ Bolivia struggles by diplomatic means to regain the shoreline it lost in the Pacific War in 1883.³⁰ Venezuela claims more than half of Guyanese territory, and Suriname claims the other half.³¹ There is an ever-present fear that any of these disputes may flare up again and undo much of the progress that has been made towards achieving peace and integration on the continent.

2. Armed Groups

Another problem inherent to the Andean countries is the presence of non-governmental armed groups. The FARC in Colombia and the Sendero Luminoso (Spanish for “Shining Path”) in Peru have engaged in many deadly actions and are a permanent source of concern to the governments of the Americas. These groups have drawn attention to Latin America in the post-Cold War era, inasmuch as the terrorism and drug trafficking which they practice have gained relevance. The United States’ preoccupation with the matter has led to the creation of Plan Colombia, in which the U.S. is present in Colombia to

²⁸ LAUDY, Mark. *The Vatican Mediation of the Beagle Channel Dispute: Crisis Intervention and Forum Building*, p. 32.

²⁹ See http://ndupress.ndu.edu/jfq_pages/jq019610.pdf

³⁰ See <http://www.globalsecurity.org/military/ops/war-of-the-pacific.htm>

³¹ See <http://www.cia.gov/cia/publications/factbook/geos/gy.html>

assist the government in repressing these groups. Neighboring countries, especially Venezuela, regard the American presence in Colombia with unease, suspecting that the U.S. presence in the region may have other objectives than those stated openly.

3. Governmental Instability

The difficulties in maintaining a stable democracy in the Andean portion of South America is another source of preoccupation on the continent. The recent crises that arose in Ecuador, Bolivia, and Venezuela represent an obstacle to the fulfillment of the new principle of security present in the Declaration on Security in the Americas of 2003.³² The unequal distribution of wealth is directly connected to democratic instability in many of these countries. A good example is Bolivia, where the indigenous movement seeks greater political participation and greater access to the wealth produced in the country. At the same time, the wealthier provinces seek emancipation, or at least more autonomy in relation to the central government. Bolivia is not the only country where this occurs. The attempted coup in Venezuela and the political polarization that dominates the country are another manifestation of this chronic instability and democracy fragility, as are the events that transpired in Ecuador in 2005.

PAST ACTIONS

This section highlights the main actions taken in the scope of existent mechanisms to deal with security problems on the American continent. It is important to take prior notice to the existence of multiple levels of action. These actions differ from each other not only in terms of scope, but also in

³² See http://www.oas.org/documents/eng/DeclaracionSecurity_102803.asp

terms of formality and efficiency. Thus, initiatives taken on the hemispheric level will deal with a wide range of issues and usually face difficulties in conciliating diverse interests, whereas sub-regional initiatives will deal with specific problems of certain States and often produce successful cooperative actions.

The Organization of American States

The Organization of American States (OAS), along with the Inter-American Defense Board and the Inter-American Treaty of Reciprocal Assistance, represents the main mechanisms of the collective security system in the American hemisphere. The OAS's structure was designed to perform tasks of collective security operations and diplomatic consultations. However, the lack of consensus between Member States and their traditional acquiescence in the decision-making process have hindered the OAS from performing a decisive role on security issues.³³

The OAS system comprises four basic instances: the General Assembly, the Meetings of Consultation of Ministers of Foreign Affairs, the Secretary General, and the Permanent Council. The General Assembly is the supreme organ of the OAS and is responsible for outlining the major orientations of the Organization. The Meetings of Consultation have an extraordinary and sporadic character, and are generally held in order to consider security problems such as border conflicts and terrorism.³⁴

The Secretary General has an executive role, although he is not allowed to vote when decisions are made. Since 1988, with the adoption of the Protocol of Cartagena de Indias, the Secretary General “*may bring to the attention of the General Assembly or*

³³ HERZ, Mónica. Límites y posibilidades de la OEA en la esfera de la seguridad, p. 133.

³⁴ CARDONA, Diego Cardona. De la seguridad en las Américas a la seguridad hemisférica, p. 215.

the Permanent Council any matter which might threaten peace, security, and development of States".³⁵ The Permanent Council has the greatest decisive capacity in the Organization and it deals especially with grave security matters. Since September 11th, it has acted as a provisional organ of consultation, until the meeting of ministers takes place.³⁶

Moreover, three other mechanisms were created in order to deal with security issues. First, the Committee on Hemispheric Security was developed in 1991 and turned into a permanent committee in 1995. Its function is to study and make recommendations to the Permanent Council on several issues related to hemispheric security. In 1999, the Inter-American Committee against Terrorism was established and represents an attempt to coordinate efforts to protect people against terrorism. Lastly, the Inter-American Drug Abuse Control Commission, established in 1986, dedicates itself to reducing the supply of illicit drugs and preventing substance abuse.³⁷

The Role of the United Nations and its relations with the OAS

The OAS and the UN have been cooperating in specific fields since the 1940s. In fact, the OAS Charter acknowledges its subordination to the United Nations.³⁸ In the 1990s, a renewed effort to increase cooperation between the two organizations was made. Thus, meetings with representatives of both were held, joint resolutions were approved, and agreements were established in the fields of environment protection, drug trafficking, disaster relief, and development of indigenous

³⁵ Protocol of Cartagena de Indias, art. 116.

³⁶ CARDONA, Diego Cardona. *Op. Cit.* 34, p. 215.

³⁷ *Ibid.*, p. 216.

³⁸ Article 131 of the Charter of OAS: "*None of the provisions of this Charter shall be construed as impairing the rights and obligations of the Member States under the Charter of the United Nations*".

peoples and rural areas.

The main areas of mutual cooperation are those related to humanitarian affairs, removal of anti-personnel landmines, human rights programs, development of human resources, and social and economic activities. In the 1990s, the peace process in Central America, especially in Nicaragua and Haiti, involved the first cases of cooperation between the UN and the OAS in peacekeeping operations.³⁹

Cooperation has proven successful because both organizations can perform complementary tasks. For example, the OAS could help the UN to act rapidly in crisis situations in the American hemisphere. Moreover, the OAS can offer valuable aid in electoral observation missions, due to its larger experience in the area. UN involvement can be, in its turn, essential for the formulation of comprehensive plans, and the provision of the necessary funds or the possible authorization for the use of force.⁴⁰

Inter-American Treaty of Reciprocal Assistance

The Inter-American Treaty of Reciprocal Assistance was signed in Rio de Janeiro in 1947. At that time, the recent events of the Second World War had led to the search for a common defense strategy. The looming Cold War also influenced in the building of the collective security agreement and strengthened Latin America's ties to the United States.

Many countries defend a revision of the treaty since the threats foreseen in the text no longer correspond to the political reality of the Americas. From the fall of communism, the fight against terrorism, and drug trafficking sprang a contestation of the strict concept of defense present in the Treaty's text. The

³⁹ HERZ, Mônica. *Op. Cit.* 33, p. 146.

⁴⁰ *Ibid.*, p. 147.

new definition of security celebrated in Mexico in 2003⁴¹ and the conclusion by many that the treaty is obsolete resulted in the denouncing of such treaty by some governments, like Mexico in 2002. The revision of the Treaty so as to adequately address the new concept of insecurity defined in the 2003 meeting is needed, but this should not imply that the Treaty should be ignored in the midst of a crisis situation.

Inter-American Defense Board

The Inter-American Defense Board was created to prepare the defense of the American states in light of the German invasion of France and the Netherlands in 1942.⁴² Later on, with the “Inter-American Conference on Problems of War and Peace”, the members decided to create a Permanent Military Body and when this was not carried out, the IDB would fulfill its duty in preparing the American countries to maintain peace on the continent. In the revision of the charter of the Pan-American Union and its transformation into the Organization of American States, the creation of a Permanent Military Organization was debated, but ultimately rejected when some countries charged that the existence of a military forum would undermine the peaceful role of the OAS.⁴³ Therefore, the Board was made permanent and the discussion of its role in the organization was postponed.

Up until the present day, the Board works with the ambiguity of having been established as a provisional organization, but which exists indefinitely as there have been no further discussions about a body to replace it.

With an officer of the host country (the United States) serving as President, the Board is composed of officers named

⁴¹ See http://www.oas.org/documents/eng/DeclaracionSecurity_102803.asp

⁴² See <http://www.oas.org/CSH/portuguese/novosdoc%20oea%20e%20jrid.asp>

⁴³ *Ibid*

by the governments of the 19 member states.⁴⁴ The Board's main role nowadays is to promote military cooperation across the Americas.

Follow-up to the Americas Summit

The summit diplomacy was launched by the Miami Summit, which represented a unique opportunity for Latin American countries to reshape inter-American relations and influence U.S. foreign policy for Latin America. Since then, the Summit of the Americas has become the main instrument for the creation of a “hemispheric agenda”.

Summit diplomacy is important at least in three ways. First, since summit diplomacy comprises the presence of Heads of State, its decisions have a substantial character. Second, summit diplomacy has created an efficient follow-up mechanism, which gives continuity to decisions made by Heads of State. Third, it has also involved the OAS with the tasks of technical support and institutional memory of the inter-American process. Furthermore, the Summit of the Americas yielded periodical meetings of ministers of American countries on several areas such as security, defense, justice, and economy.⁴⁵

Conferences of Ministers of Defense of the Americas

This mechanism emerged in 1995 as a hemispheric meeting to discuss issues of security and defense, in coordination with the works of the Committee on Hemispheric Security. Although the Miami Summit set important precedents in the field of regional cooperation, security issues were marginalized

⁴⁴ *Ibid.*

⁴⁵ CARDONA, Diego Cardona. *Op. Cit.* 34, p. 218.

on its agenda. Then, the U. S. Secretary of Defense, William Perry, decided to summon the First Conference of Ministers of Defense of the Americas, which would be held in Williamsburg, Virginia, in July of 1995. Its agenda was centered on three main themes: transparency and promotion of confidence-building measures; cooperation in the areas of defense; related issues such as peacekeeping operations, demining operations and the fight against drug trafficking; and the appropriate role of the armed forces in 21st century democracies.⁴⁶

Since the Williamsburg Conference, four other meetings have taken place: Bariloche (1996), Cartagena (1998), Manaus (2000), and Santiago (2002). These conferences have sought to deepen inter-American cooperation in the maintenance of peace and in the strengthening of hemispheric security.⁴⁷ Their work has covered issues such as the reinforcement of democracy as a basic condition for development and political stability; civil and military participation in defense matters; the promotion of confidence-building measures; cooperation in the maintenance of peace; the impact of drugs and organized crimes on security; the impact of arms trafficking; and the effects of economic issues on security.

The Rio Group

The Permanent Mechanism of Political Consultation and Coordination, popularly known as the Rio Group, was created in 1986 in the city of Rio de Janeiro. The group represents a mechanism for high-level political consultations on several topics of the international and regional agenda.

The members of the Rio Group include Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Panama,

⁴⁶ FONTANA, Andrés. *Las relaciones de seguridad interamericanas*, p. 188.

⁴⁷ BLANCO, Miguel Camilo Ruiz. *Op. Cit.* 2, p. 123.

Paraguay, Peru, Venezuela, Uruguay, and a representative from the Caribbean Community (CARICOM). Since June 2000, Costa Rica, the Dominican Republic, El Salvador, Honduras, and Nicaragua have participated in the Rio Group as full and individual members, and no longer as rotational representatives of CARICOM.

Although it has a minimal level of institutionalization, the Rio Group has been an important instrument to restrain processes which put democratic order at risk. It also serves as a privileged forum for coordination of Latin American and Caribbean policies in regional and international matters.

Sub-regional Initiatives

The sub-regional level has seen the most effective cooperation initiatives in the field of security. One of the main reasons for this is the ability of sub-regional initiatives to reflect the specific necessities and concerns of certain States.

In Central America, the Framework Treaty on Democratic Security was established in 1995 and focuses on the supremacy of civil power; the reasonable balance of forces; human security; actions against poverty, corruption, and impunity; terrorism; and narcotics and arms trafficking.⁴⁸

In the Caribbean, the Regional Security System was established in 1996 and prioritizes fighting against drug trafficking; immigration control; protection of fishing resources; tariffs and customs control; maritime policies; protection against natural disasters; and smuggling.⁴⁹

Although the Treaty of Asuncion is essentially economic in nature, the MERCOSUR is gradually taking on issues of foreign policy coordination and cooperation in the fields of

⁴⁸ *Ibid*, p. 124.

⁴⁹ *Ibid.*, p. 124.

international security, judiciary matters, and internal security. In this context, institutionalized fora were established for the Ministers of Justice, Interior, and Defense of Member States. An important landmark in this process of coordination was the creation of the “democratic clause”, institutionalized by the Ushuaia Protocol on Commitment to Democracy in the MERCOSUR (1998). This clause implies that the functioning of democratic institutions is recognized as essential to the integration process between Member States, and that the MERCOSUR can help to guarantee the consolidation of democratic regimes in the Southern Cone.

In 1999, the Peace Zone of the MERCOSUR, Bolivia, and Chile was created. It represents an agreement to constitute an anti-personnel landmine- and weapons of mass destruction-free zone between the parties. Moreover, it also intends to strengthen cooperation mechanisms in the field of security; foment confidence-building measures; and achieve the goals of nuclear disarmament, peaceful use of nuclear energy, and development of space technology.⁵⁰

The Andean sub-region has slowly advanced in the formulation of a common security policy and execution of coordinated security measures. Like the MERCOSUR, the Andean Community also has its Ministers of Defense Meetings.⁵¹ The Lima Commitment, established in 2002, represents the first efforts to formulate an Andean Community security policy. It also focuses on the constitution of a peace zone between the Andean countries, the restriction of external defense spending, the control of conventional weapons, and the promotion of confidence-building measures.⁵²

Finally, the Amazon Cooperation Treaty was signed by

⁵⁰ *Ibid.*, p. 124.

⁵¹ ARDILA, Martha. *Viabilidad de la seguridad regional en el Área Andina*, p. 240.

⁵² BLANCO, Miguel Camilo Ruiz. *Op. Cit.* 2, p. 125.

the governments of Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname, and Venezuela on 3 July, 1978. It expresses their intention to promote the sustainable development of the Amazon region and increase regional cooperation. In 1995, the Ministers of Foreign Affairs of the Amazon region reinforced the treaty's institutional strength by creating the Amazon Cooperation Treaty Organization (ACTO). In its VIII Ministers of Foreign Affairs Meeting on 14 September, 2004, a clause about common actions on defense was included in the Manaus Declaration, setting an important precedent for security cooperation within the scope of the ACTO.⁵³

BLOC POSITIONS

This section intends to provide a brief summary of national security policies in South America. Rather than being an exhaustive list, the following descriptions merely contain the main security issues for the relevant actors, which can serve as a basis to understanding their positions in the problems discussed in this article.

Argentina

Argentina plays an important role in South American security politics, having traditionally sought to balance against Brazil, with whom the possibility of war, or at least conflict, seemed ever-present for centuries. Diplomatic relations between the two countries have always been handled with great care.

In the last quarter of the 20th century, under a military dictatorship, Argentina was involved in two major territorial conflicts, over the Beagle Channel with Chile and over the

⁵³ BONILLA, Adrián & CEPIK, Marco. *Seguridad andino-brasileña: conceptos, actores y debates*, p. 55.

Falklands/Malvinas war, won by the United Kingdom in 1982. The results of the last are still present today in the mind of the Argentinean population, and especially in its foreign policy.

Another problem present in the agenda of the country is drug trafficking. Although Argentina is not a major consumer, the country's goods infrastructure and trade with the US and European countries have led to the use of this country as a route to drug-consuming countries. The extensive border with Paraguay and Bolivia, known as drug-producing countries, facilitates this use. The region of the Tri-Border Area is a great concern to the government in Buenos Aires. The terrorist financing allegedly originating from this area has provoked the government to increase its presence and restrain actions of this nature in the region.

The economic crisis of 2001 also left a deep mark on Argentinean society. The lack of resources and the growth of poverty provoked a marked increase in violence and a significant decrease in the quality of government services, creating a very complex situation in which the fight against violence needs to be thought over, as the problem is new for the country and the daily street protests have to be carefully handled so that it doesn't develop into the bankruptcy of the state as an institution.

Bolivia

In Bolivia, there are two major approaches to security, which are also interconnected: one takes into account political stabilization and focuses on public order; the other takes into account state security and identifies drug trafficking as the major threat.⁵⁴

Therefore, Bolivia's security priorities are based on the

⁵⁴ TABORGA, Juan Ramón Quintana. *La Policialización de la agenda de seguridad de Bolivia*, pp. 100-101.

fight against drug trafficking and terrorism, public order, and the security of the citizen. Furthermore, Bolivia has tried to adapt to the international community's efforts to maintain stability, cooperation, and peace. Another potential problem for Bolivian security is related to increased intervention by the military in internal affairs, taking on roles traditionally belonging to the police.⁵⁵

This trend has its roots in the growing popular dissatisfaction with State institutions. Those, in turn, have to rely on the armed forces for the restraint of furious popular manifestations. However, the increasing military presence in internal affairs may itself breed insecurity, as the State's ability to control and restrain the military is doubtful.⁵⁶

As the poorest country in South America, Bolivia also suffers from the lack of armaments and resources to face external aggressions, especially in face of the new transnational security threats. Thus, Bolivia has to rely on cooperation and help from other countries, mainly from the United States. However, although the United States offers economic and political support for the Bolivian security agenda, it also holds considerable influence in terms of operative decisions, logistic structure, and intelligence control. In regard to the armed forces, the United States also exerts great influence on military training, doctrine, and financial aid.

Therefore, there is increasing momentum towards the militarization and formalization of Bolivia's security agenda. Due to U.S. pressures, the fight against terrorism and drug trafficking also comprises reduction of coca cultivation. However, apart from being the main ingredient for cocaine, coca has also significant economic and cultural importance

⁵⁵ *Ibid.*, p. 101.

⁵⁶ *Idem.* *Bolivia, entre la crisis y el caos: ¿Existe una salida negociada?*, p. 1. Available at: <http://observatorio.iuperj.br>.

in Bolivia as a source of medicine and nutrition, as a central component of religious ceremonies, and as an important cash crop.⁵⁷

As a reaction to these new trends in Bolivian security policies, the cocalero movements have abandoned their tactics of local resistance and became engaged in an extensive, nationwide political confrontation. The election of Evo Morales, the most prominent leader of the cocalero movement, as President of Bolivia may represent a turning point for security priorities in the region.⁵⁸

Brazil

Brazil's role as the major South American power gives it a prominent role in the continent's security. Although until 30 years ago, this country's main external security concern was neighboring Argentina, nowadays Brazilian security policies are directed principally to combating transnational illicit trafficking, especially along its borders.

The Brazilian military has an important role in the Amazon. The use of the rainforest by terrorists, smugglers, guerrillas, and paramilitaries originating from neighboring countries is a source of great preoccupation for the authorities in Brasilia. The region's sparse populations allow these groups to act more or less freely in the Amazon, using the country as route to reach the North American and European drug markets.

Seeking a greater role in the region, Brazil maintains close military relations with its neighbors. Several joint actions have been undertaken to fight the drug trafficking in frontier areas.

The increasing military presence of the United States in Colombia, Peru, and Paraguay, along the border with Brazil,

⁵⁷ TABORGA, Juan Ramón Quintana. *Op. Cit.* 54, p. 132.

⁵⁸ *Ibid.*, p. 133.

has brought some concern to the Brazilian armed forces and foreign policy establishment.

Drug and arms trafficking do not restrict themselves to the borders with other countries; there is significant action by armed gangs in the major cities, especially Rio de Janeiro. The “favelas”, or shantytowns, are practically devoid of State presence and are de facto run by drug barons. This lack of security in urban areas is a major issue for the government’s security agenda.

Chile

Chile has historically been an exception in the Latin American scenario. In the Pacific War, it fought against two nations and won the disputed territories. Located in the American sphere of influence during the Cold War, the election of a socialist President led to a coup and to one of the harshest and bloodiest dictatorships on the continent. Like many of its neighbors, Chile feels a strong influence of its past dictatorship’s actions on its present political life. In spite of this, the country has the fastest-growing and stable economy in the Americas.

Past disputes with its neighbors require Chile to tread carefully in its external relations, as Bolivia still claims an exit to the Pacific Ocean, and the Peruvian government has also been a source of friction. The fallout from its dispute with Argentina has been gradually overcome as part of the new Chilean strategy of becoming closer to its neighbors. The country’s main concern nowadays is the possibility of a popular uprising in Bolivia, with regard to the territorial dispute. Chile needs to take careful and thought-out steps in this new attempt to resume cordial relations with its neighbors.

Another problem present in the Chilean agenda is its energy needs. The careful relations with its neighbors involve the country’s energy requirements. The government works constantly to find alternative sources of energy, but needs to

import gas from the neighbors.

Colombia

Colombia's security agenda is mainly influenced by the internal conflicts involving the Colombian state; paramilitary groups such as the United Self-Defense Forces of Colombia (AUC); and guerrilla groups, especially the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN). The FARC are considered a terrorist group by the Colombian Government, and by several other countries and organizations, including the United States and the European Union.

Colombia's national security policy is focused on the assertion of its borders and the protection of Colombian citizens. Due to the threats imposed by conflicting groups, there is a major concern over the strengthening of State institutions, such as the armed forces and the police.

Colombia has close relations with the United States, which maintains troops and special agents within Colombian territory. The bilateral relations between the two nations are focused on the fight against terrorism, drug trafficking, and the restraint and control of internal conflicts. Thus, Colombia's foreign policy is closely tied to the U.S. foreign policy, especially regarding security issues, but also political and economic ones.

Ecuador

When it comes to formulating defense and security policy, two kinds of factors affect Ecuador's priorities: those related to national interest and those determined by exogenous influences. In the first group, relations with Peru still generate great concern for Ecuador's security. Although the territorial dispute has been brought to an end, problems still remain relating to

the fulfillment of the agreement on territorial disputes and an undeclared disagreement over maritime limits.⁵⁹

However, the Colombian conflict represents the main source of insecurity. Therefore, there are increased concerns over border security, the spilling over of the Colombian conflict into Ecuadorian territory, and the tendency towards militarization and regionalization of this conflict brought by Plan Colombia. Other security concerns are related to the inflow of Colombian refugees, and internal displacements caused by armed confrontation and coca fumigation, which harms the fertile soil, sources of water, and natural vegetation.⁶⁰

In regard to the induced agenda, Ecuador is affected by its position as a nexus for drug transit and money laundering. Therefore, Ecuador finds itself somewhat subordinated to United States security policies, which prioritize drug trafficking, but do not distinguish between the stages of production, distribution, and commercialization. Moreover, although it has not suffered significant terrorist acts, Ecuador is involved in the fight against terrorism, especially in the form of combating drug trafficking and narcoterrorism.⁶¹

Guyana

Cooperation between Guyana and other South American countries has increased in the past few years. Recent Guyanese governments have been increasingly concerned about the lack of resources with which to tackle drug trafficking and environmental crimes which are taking place in the Amazon area. Another worrisome factor relates to Guyana's borders: since the 19th century, Venezuela has claimed all the area

⁵⁹ CELL, Pablo. *La vulnerabilidad estructural de la agenda de seguridad ecuatoriana frente al deterioro regional andino*, p. 248.

⁶⁰ *Ibid.*, p. 249.

⁶¹ *Ibid.*, p. 255-257.

west of the Essequibo River – 62% of Guyana’s territory. At a meeting in Geneva, in 1966, the two countries agreed to receive recommendations from a representative of the UN Secretary General on ways to settle the dispute peacefully.⁶²

As a consequence of this situation, and considering that Guyana has had a foreign policy guided by pacifism and democracy since its independence, the country has been trying to increase representation in multilateral organizations. Therefore, Guyana has established diplomatic relations with a wide range of nations and international organizations. The European Union (EU), the Inter-American Development Bank (IADB), the UN Development Program (UNDP), the World Health Organization (WHO), and the Organization of American States (OAS) all have offices in Georgetown. Guyana is also a member of CARICOM.⁶³

Guyana’s strategic location between the Central and South Americas also gives it an important role in the integration process. In this context, Georgetown has seen an opportunity to take on a more visible position in South American politics, in areas such as political and economic integration, security, environmental preservation, and fighting drug trafficking. These efforts seek to foster more extensive technological and development-related cooperation, in order to increase the quality of life of the region’s population.

Mexico

During most of the 20th century, Mexican national security policy focused on governance problems and issues of political control. However, as the revolutionary regime began

⁶² INSANALLY, Samuel. *Política externa da Guiana: respostas a um contexto mundial em transformação*, p. 122.

⁶³ See www.ciponline.org/bibliogr/gy.htm.

to deteriorate, democratic transition and the globalization process fomented a redefinition of national security parameters. Therefore, new concerns emerged for Mexican security, especially the achievement of governance through the consolidation of democracy and the implementation of the rule of law.⁶⁴

The main sources of security problems are related to the crisis in public security, drug trafficking, and unresolved problems of governance, such as in Chiapas. Due to the multidimensional nature of the new international security agenda, Mexico has also incorporated poverty and the lack of strong economic structures as variables of insecurity. Furthermore, the links between trade and security, as a result of NAFTA, have become strategic to Mexico, especially after the September 11th attacks. Largely due to weaknesses in the civil structure, and partly due to the alienation of the armed forces from the formulation of defense strategies, the military became extremely involved in internal security.⁶⁵

In respect to national security and defense policies, Mexico has usually held to defensive and nationalistic guidelines. On the one hand, this approach has contributed to the fact that Mexico has no enemies and enjoys excellent relations with its neighbors. On the other hand, Mexico occasionally distances itself from the United States' security policies. During the Cold War, for example, Mexico opposed U.S. policies to fight communism in the American hemisphere. This nationalistic approach may also result, on occasion, in isolation from the rest of the continent. This was clearly seen when Mexico withdrew from the Rio Treaty on September 6, 2002, leaving the impression that its policymakers do not consider hemispheric security commitments a priority.⁶⁶

⁶⁴ BENÍTEZ-Manaut, Raúl. *Mexico and the new challenge of hemispheric security*, p. 49.

⁶⁵ *Ibid.*, p. 50.

⁶⁶ *Ibid.*, p. 51-52.

Paraguay

Paraguay is threatened by the involvement of its governmental agents with a wide range of illicit activities. These usually involve smuggling, counterfeiting, arms trafficking, money laundering, and drug trafficking. All these threats are also overlapped by the high levels of corruption in Paraguay. Along with Brazil and Argentina, Paraguay is extremely vulnerable to transnational threats, especially at the border among the three countries.⁶⁷

Since the terrorist attacks in Buenos Aires in the 1990s, the Tri-Border Area began to be considered an important source of funding for radical Islamic groups, including Hezbollah and Hamas. This region is also believed to be South America's contraband and smuggling center, where billions of dollars flow as a result of illicit activities.⁶⁸

This scenario raises difficulties for interstate security cooperation by means of the MERCOSUR. Actually, it is noteworthy that the presence of regional and international criminal organizations has increased with the advent of commercial integration. This fact, alongside disappointment with the prospects of MERCOSUR for Paraguay's development, has contributed to Paraguay's search for other partners, especially the United States.

Since the launching of the global fight against terrorism by the Bush administration and the subsequent concerns over the Tri-Border Area, there have also been increased contacts between Paraguay and the United States in the fields of security, especially those related to drug trafficking, counter-terrorism intelligence, and military cooperation. American agencies such

⁶⁷ HIRST, Monica. *As relações Brasil-Paraguai: baixos incentivos no latu e strictu sensu*, p. 15.

⁶⁸ *Ibid.*, p. 16.

as the CIA, the DEA, and the FBI have expanded their logistic and information-gathering capabilities in Paraguay.

Neighboring countries have been increasingly concerned with negotiations between Paraguay and the United States in order to grant immunity to U.S. troops in Paraguayan territory. Some countries, such as Brazil and Argentina, believe these agreements might eventually lead to the establishment of a U.S. military base in Paraguay.⁶⁹

Peru

Historically, Peru's national security policy has been influenced by neighboring countries – Brazil, Bolivia, Chile, Colombia, and Ecuador – as well as by the United States. During the last two decades of the 20th century, Peru's national security was strictly a secret military matter. Two major terrorist groups threatened internal security and the state's very survival: the Shining Path and the Tupac Amaru Revolutionary Movement.

In the past few years, the Peruvian government has tried to forge a new security policy, committing every citizen of Peru to the prevention of any internal or external threat to social peace, security, and general well-being. The main objective of Peruvian national security is to safeguard the Peruvian nation by preserving national sovereignty, political independence, national interest, and territorial integration. The following issues are of special concern: external influences, political pressure groups, drug trafficking, smuggling, corruption, environmental destruction, and terrorism.

Relations between Peru and the United States have focused on the fight against narcotics. Both countries have made several cooperation agreements to eradicate illegal drug trafficking. Nonetheless, bilateral relations are highly

⁶⁹ FLORES, Mario Cesar. *Presença norte-americana no Paraguai*, p. 33.

asymmetric, due to the United States' large political influence and military presence in Peru, Ecuador, and Colombia. Regarding inter-American relations, Peru has defended the immediate cessation of offensive armament purchases in South America, a measure that could release resources for poverty eradications and social development.

Suriname

Like Guyana, Suriname has become a member of many multilateral institutions since its independence, such as CARICOM, the Economic Commission for Latin America (CEPAL), the Inter-American Development Bank, the International Finance Corporation, the World Bank, and the International Monetary Fund.

Nowadays, the most dangerous problem of Suriname's border is related to drug trafficking. This country has been, in the past few years, a transfer point for cocaine from South America to Europe and the United States. This situation is aggravated by the involvement of authorities with drug trafficking. In this context, law enforcement authorities face difficulties combating drug smuggling due to the existence of dense jungles, lack of infrastructure, and insufficient personnel and equipment. Drugs are transported out of Suriname by couriers on international flights, commercial airplanes, and maritime shipments.⁷⁰

Another problem which calls attention of international community is the permanent conflict on the Suriname's border. Although the contending parties in the border conflicts were usually identified with State actors, which resolved their contentions in a peaceful manner, this issue increasingly encompasses guerrilla and paramilitary groups. Foreign aid has been, since its independence, necessary not only for Suriname's

⁷⁰ See www.ciponline.org/bibliogr/su.htm.

development, but also for its struggle to tackle the problem of terrorism and drug trafficking.

United States

The prominence of the United States in the American hemisphere is mainly associated with power asymmetries on the continent, the lack of Latin American coordination vis-à-vis the United States, and the relative irrelevance of this area to the U.S. global security agenda. This relative negligence has been eroding, however, due to the appearance of links between drug trafficking and terrorism, which represents priority issues in the country's foreign policy since the September 11th attacks.⁷¹

According to U.S. government, around one third of all terrorist groups have operations in Latin America. In the field of security, U.S. priorities in Latin America are related to the strengthening of intelligence cooperation, regional coordination in the fight against the new threats, counter-terrorist efforts, the strengthening of law enforcement, and the isolation of governments who sponsor terrorism.⁷²

The United States' Cold War-era hemispheric security policy has been adapted to the immediate goals of its new outlook, which favors the securitization of Latin American political agenda and replaces the former regional approach with a strategy focused on privileged bilateral relations and concentrated action in critical zones. This unilateral approach also gives priority to military factors in U.S. foreign policy and conditions security relations with Latin America.⁷³

Furthermore, the linkage between the fight against drug trafficking with a strategy of regional control in South America,

⁷¹ HIRST, Monica. *Op. Cit.* 11, p. 57.

⁷² *Ibid.*, p. 63.

⁷³ CELI, Pablo. *Op. Cit.* 59, p. 257.

especially through the permanence of U.S. military forces in the region, strengthens the operative structures of the U.S. Southern Command. This trend takes the form of cooperation programs to tackle drug trafficking and the establishment of U.S. military bases throughout Latin America.⁷⁴

Uruguay

Historically influenced by its two neighbors, Argentina and Brazil, Uruguay was created among the intentions of annexation from both neighbors. After the recognition of the independence of the Banda Oriental, as the region was known before the settling of the disputes, the country had little or no major security problem until the 1960s, when urban guerrilla groups started to act. Formed by the union of left oriented groups of Uruguay, the National Liberation Movement (Movimiento Nacional de Liberación), also called Tupamaros, started acting in the country with light robberies and later distribution of goods to the poor. After the overthrow of the civilian government, the actions of the rebels were intensified, and alongside bank robberies, the Tupamaros began committing hijackings and other similar guerrilla actions. The government's answer was repression, causing considerable bloodshed.

When democracy was restored in Uruguay, the Tupamaros joined the political life of the country forming a political party. Nowadays, two ex-militants of the group are the head of the two legislative houses. The Tupamaros' party is a part of the current Uruguayan Government.

Nowadays Uruguay struggles with the increase of poverty and the shock of the economic crises in Brazil in 2000 and Argentina in 2001. Although affected, the country was able

⁷⁴ TOKATLIAN, Juan Gabriel. *O momento pró-consular – A América Latina depois da reeleição de Bush*, p. 33.

to maintain economic stability better than its neighbors, which does not mean that the poverty and internal insecurity did not grow.

Montevideo has a relevant role in Latin America in United Nations peacekeeping operations, having participated in a large number of peacekeeping actions organized by the UN as a means to improve its standing with other nations.

Venezuela

Venezuela's security policy has suffered many drastic changes as a result of the political and institutional transformations that have taken place since 1999, when Hugo Chavez was elected president. The security agenda is conditioned by the political confrontation between the government and contending elites. For example, while the government is openly critical of free trade, its opponents support it; while the opposition defends closer relations with the United States, the government disparages U.S. foreign policy and seeks to erode American influence through multilateral channels; and when the government seeks the strengthening of OPEC and the control of oil prices and supply for political leverage, the opposition defends larger oil production in order to develop the Venezuelan economy.

With regard to internal threats, Venezuela's main concerns are related to poverty, economic decay, corruption, environmental deterioration, personal insecurity, and governmental capability. Regarding external threats, there are important concerns over border definition, pressures from the Colombian internal conflict, drug trafficking, international organized crime, flows of refugees, environmental degradation, violence, terrorism, and external pressures.

In the international sphere, Venezuela has tried to promote cooperation through commitments to the

reinforcement of autonomy, Latin American integration, and the promotion of development. In addition, the Venezuelan security agenda embraces energy issues, especially concerning oil, and the possibility of an American invasion of Venezuela, possibly originating in Colombian territory.

PROPOSED SOLUTIONS

This section is by no means an exhaustive list of the proposed solutions for the security issues described above, but only a few suggestions which merit further reflection and could possibly give birth to much-needed innovative solutions.

When it comes to regional security in the Americas, one of the most basic problems is related to the capacity of providing effective multilateral responses. With the new dynamics of the post-Cold War international system, states are unable to tackle new threats alone; greater policy coordination among the different actors involved is required. Although states have made efforts to increase confidence with the summit diplomacy and the approval of declarations of principles, few practical initiatives have been undertaken. One viable option would be the creation of efficient systems of monitoring and early notification concerning traditional issues, especially those related to border conflicts. These actions could permit the maintenance of disarmament policies, low levels of military expenditures, and effective control of strategic weapons in the region.⁷⁵

The lack of coordinated response is also aggravated by the existence of different foreign policy priorities among Latin American states. Therefore, any harmonized security view should embody the different concerns of each state, and no security issue should have a presumed dominance over the

⁷⁵ FRANKO, Patrice. *Hacia una nueva arquitectura de la seguridad en las Américas*, p. 164.

others. Although the available resources are scarce, they should be properly distributed between the different priorities of each nation. To do so, security institutions should be flexible enough to foster engagement and coordination among Latin American countries.⁷⁶

Moreover, it is necessary to strengthen institutions which shape local security structures, as well as to increase coordination between them. Due to the fact that different institutions have different characteristics and timings, the construction of a solid security structure will be a slow and gradual process. Therefore, progress could also be damaged by excessive pressure on these institutions for a swift evolution. Before developing new goals, States should think of consolidating each step taken in the field of security.⁷⁷

Latin American countries should also take a leading and pro-active role in inter-American issues. They should deepen sub-regional connections, which have proven themselves to be one of the most effective ways to enhance multilateral responses to security threats.⁷⁸ Finally, hemispheric security must be constructed with respect for the particularities of each nation.

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⁷⁶ *Ibid.*, p. 166.

⁷⁷ ARAVENAS, Francisco Rojas. *América do Sul: A caminho de uma coordenação estratégica?*, p. 15.

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GENERAL AFFAIRS AND EXTERNAL RELATIONS: EUROPE'S INTERNATIONAL ROLE

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*“Europe will not be made all at once, or according to a single plan. It will be
built through concrete achievements which first create a de facto solidarity”*
Robert Schuman

EUROPEAN UNION BRIEFING

The modern European integrationist dream began with six members and with a limited, though audacious, outline. Today, there are twenty-five countries involved through a net of common policies in the most diverse domains of internal and external affairs. However, the enlargement process in course, the gradual raise of normative power, the Constitutional ambition, the teleology of the integration, and the discussion of the principle of supranationality prove that the European Union is

still a work in progress. In order to understand the depth of this project, the basic requirement is to follow the long historical path leading to the consolidation of the most important agent of change in contemporary decision-making of international repertoire. In a second moment, we will turn our attention to the challenges that keep the European flame alive, ready for further progress.

History

It has been claimed that the roots of European amalgamation can be found in the classical Greco-Roman heritage. This foundation gained body with Charlemagne's coronation in the year 800, when Christianity was the essential element for rule. Nonetheless, the differences of culture, ethnicity, and religion were seen as significant obstacles to the development of a feeling of unity among all European peoples. The Peace of Westphalia (1648) came to confirm this idea of immiscible plurality. For centuries, Europe could be considered an unstable battlefield, the center of political and economic rivalries. It may be said, therefore, that there was no reason more powerful for the process of European unification than the search for peace. Thus, the post-war scenario and the rise of the Cold War order forced Europe to take creative steps towards political and economic stability.¹

The idealism of men like Jean Monnet and Robert Schuman was the spark necessary for a great and unprecedented initiative. As a result, in 1951, the European Coal and Steel Community (ECSC) was set up, based on a supranational body, the High Authority, in charge of the coal and steel industry decisions. The next steps were encouraged by the good results of the first

¹ An excellent reference for historical facts and documents on European integration is: <http://www.eu-history.leidenuniv.nl/>

experience.²

In 1957, the Treaties of Rome, creating the European Atomic Energy Community (EURATOM) and the European Economic Community (EEC), opened the doors to a common market by suppressing trade barriers. In 1967, the institutions established by previous treaties were finally merged, forming the traditional structure: the Parliament, the Court of Justice, the Council, and the Commission.

The Single European Act (SEA), signed in Luxembourg and in the Hague, entered into force on July 1st, 1987, revising the Treaty of Rome and proportioning the achievement of a common internal market. The community gradually assumed proportions closer to those of Europe itself, especially after the fall of the Iron Curtain.

Finally, the Treaty of Maastricht (1992), also known as Treaty on European Union, as it was firstly named, brought the European body closer to its actual shape. Barriers were toppled one by one. The Single Market was followed by the free Movement of Goods, Capital, Services and Persons. The adoption of the Economic and Monetary Union (EMU) had great economic as well as symbolic impact when the Euro currency, existing since 1999, became a reality on January 1st, 2002. It is important to understand, however, that the strict economic focus became simply an important component in a much wider sense of integration: from coal, steel, and politics to culture, youth, and environment.

Accompanying the evolution of the community, Union enlargement has occurred in successive waves, with new members joining the initial group of six (Belgium, France, Germany, Italy, Luxembourg, and the Netherlands). There were five of these waves in a period of thirty years: 1973 - Denmark, Ireland, and the United Kingdom; 1981 - Greece;

² See: http://europa.eu.int/abc/history/index_en.htm.

1986 - Spain and Portugal; 1995 - Austria, Finland, and Sweden; 2004 - Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. Bulgaria and Romania are expected to become members in 2007. Croatia, Turkey, and the Former Yugoslav Republic of Macedonia may be the next to join, if they reach the tough targets necessary for membership.³

The effort to maintain the institutional structure vigorous enough to efficiently attend to the European Union's aims is implicit in the process of enlargement. This requires a more streamlined decision-making system. Therefore, rules and procedures are not petrified while the Union grows: previously signed treaties have been constantly updated to keep up with developments in the European community.

Community Law

The cornerstone of European integration is the gradual adoption of a daring legal experiment: Community Law. This system advocates the precedence of communitarian over national legislation and is based on voluntary transfer of sovereignty from States to a common unitary body. The judicial nature of this logic is still under discussion, but the principle of supranationality has already been absorbed into the European lexicon, invoking the primacy of the Community Law in its normative power and recognizing the teleology of integration.⁴ The distinct nature of the European Union is therefore the subject of heated academic debate. In fact, each one of the member states adopts a particular view and even the European Union's institutions corroborate with a given perspective, varying from the perception of an intergovernmental confederation, a true

³ See <http://europa.eu.int/comm/enlargement/candidate.htm#pc>.

⁴ STELZER, Joana. *União Européia e Supranacionalidade*, pp. 121-177.

supranational entity, or a federation of States. None of these views is close to being unanimous, nor do any of them aptly synthesize the complexity involved. Attentive to these problems, the more cautious tend to call the European Union a *sui generis* international organization.⁵

The Treaty of Rome instituted the embryo of this legal order, composed by a hierarchy of coordinated norms independent from national jurisdiction. The founding treaties that established the European Coal and Steel Community, the European Atomic Energy Community and the European Economic Community are called the Primary Community Law, followed by the Single European Act, Maastricht Treaty, Treaty of Amsterdam, and Treaty of Nice.⁶ These are also known as primary legislation and were ratified by all members to enter into force.⁷ Derivative Community Law, more dynamic, results from the normative acts produced by EU institutions.

The Adjustment Treaties and the Three Pillars

The Treaty of Amsterdam (1997) and the Treaty of Nice (2001) adjusted the legal texts to simplify and to make the organization work more transparently, among other things. The latter treaty, which came into force on February 1st, 2003, dealt mostly with reforming procedures, in light of the enlargement wave of 2002 and the potential decision-making difficulties of having 25 members. The former, which came into force on May 1st, 1999, amended and renumbered the European Union and the European Community Treaties. The consolidated texts

⁵ A complete discussion on this theme can be found at: CAMPOS, João de Mota. *Manual de Direito Comunitário*, pp. 255-286.

⁶ For more information about the content of each treaty and the respective texts see http://europa.eu.int/abc/treaties/index_en.htm.

⁷ The primary and secondary legislation are explained in the section 2.2 – Council Instruments of Action and Rules of Procedure.

of the Treaty establishing the European Community and the Treaty on European Union are part of the legal evolution of the founding Treaties made decades ago. The next and challenging step is a Constitution for Europe, which would establish a single pillar by uniting the existing three.⁸

Regulated by the aforementioned treaties, three distinct policy areas are referred to as the pillars of the European Union. The first, the European Communities, is related to achievements in the communitarian domain such as the common currency and the formal European citizenship. The second pillar refers to the Common Foreign and Security Policy (CFSP), covered by Title V of the Treaty on the European Union, and the third addresses cooperation in the field of Justice and Home Affairs, covered by Title VI of the Treaty on European Union.

Institutions

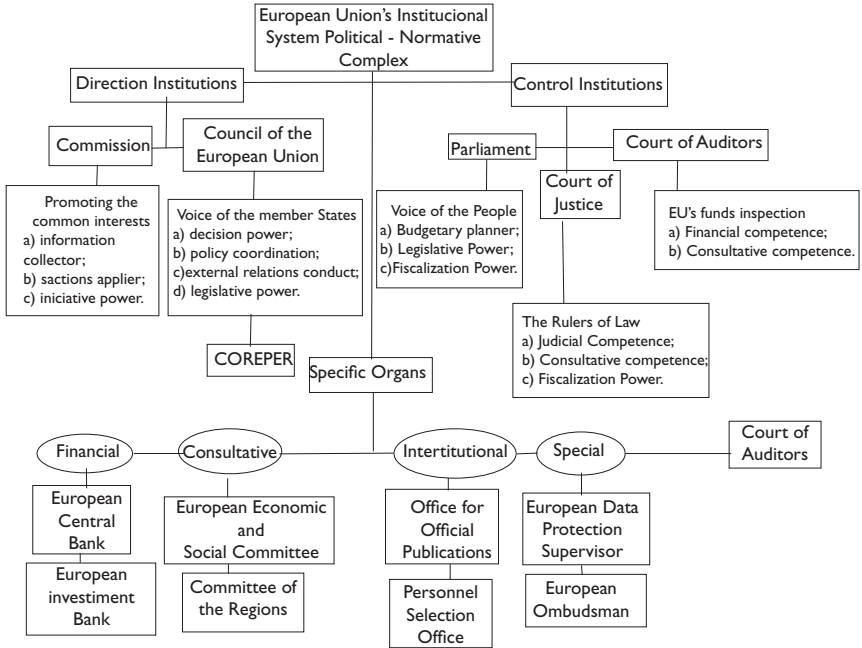
The structure of the European Union is considered very complex, since the roles and internal processes are indeed extremely intricate. The Treaties still define the system of work, which is why one of the main purposes of a European Constitution would be to replace the old European Union treaties with a single text setting out clearly what the Union is and who does what.⁹ For now, at least, the image of the key institutions and their main goals is quite clear. However, accurately describing the processes of coordination and of the dozens of communitarian units that coexist would require a

⁸The European Constitution, which was adopted in June 2004, cannot come into effect unless it is ratified by all 25 State members. Austria, Belgium, Cyprus, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Slovakia, Slovenia and Spain have already ratified the treaty. However, France and Netherlands rejected it in a referendum process.

⁹See “Make it simple: the new Constitution”: http://europa.eu.int/abc/panorama/howorganised/index_en.htm.

major effort.¹⁰ In lieu of that, here follows a simplified scheme of the European Union's institutional body.

Figure 1: European Union's Institutional System



I. The Council

The Council of the European Union, or Council of Ministers, is generally described as the main decision-making body of the European Union. In it, the voice of national governments is heard and national interests, discussed directly. Without voluntary cooperation among members under the rule of law in the Council, it would be impossible to find common ground for action, since member States of the organization

¹⁰ For an introduction to the European Union functioning, see: http://europa.eu.int/institutions/index_en.htm.

have to abdicate some sovereign capabilities for the sake of the community's functioning. The decisions taken in Council meetings define the general political guidelines of the European Union.¹¹ Therefore, the ministers of State gathered in the meetings are empowered to commit their governments to central decisions on policy issues. Depending on the issues on the agenda, each country will be represented by specific ministers, politically responsible for the subject under discussion.

The Council of the European Union has the Justus Lipsius building, in Brussels, as its traditional home, even though Luxembourg also holds meetings. On a rotational basis, the Presidency of the Council is held for six months by each member state, in an order that has already been determined up to 2020.¹² The Presidency is assisted by the General Secretariat, which prepares and ensures the smooth functioning of the Council's work at all levels.

In order to cope with its multiple responsibilities, the Council of Ministers is supported by the COREPER (Committee of Permanent Representatives), formed by technical committees and diplomats and chaired by the Presidency of the Council. The COREPER is composed by heads of mission of member states and is in charge of preparing the agenda of the ministerial level meeting.¹³

The six key responsibilities of the Council are:

1. To pass European laws, jointly with the Parliament in many policy areas;
2. To coordinate national economic policies;
3. To conclude international agreements between the European Union and other countries or international organizations;
4. To approve the European Union's budget, jointly with

¹¹ For further information, consult the Council's website (<http://ue.eu.int>).

¹² See http://ue.eu.int/cms3_fo/showPage.asp?id=242&lang=en&mode=g_.

¹³ The Article 207 of the EC Treaty lays down the legal basis of COREPER.

the European Parliament;

5. To develop the Common Foreign and Security Policy;

6. To coordinate cooperation between national courts and police forces in criminal matters.

2. General Affairs and External Relations Council

Among the Council's many different configurations, the General Affairs and External Relations Council (GAERC) is the one holding the greatest visibility and influence. Once a month, the ministers of foreign affairs of the member states and a representative of the European Commission are summoned to its regular session. Ministers of Defense or Development may also take part in those meetings, depending on the agenda. The foreign minister of the country that holds the Presidency is in charge of the Council's sessions, and he is assisted in this task by the General Secretariat.¹⁴ In 2006, Austria (January - June) and Finland (July-December) will assume the post.

As its name implies, the General Affairs and External Relations Council deals with a great variety of themes, preparing the ground for the European Council meeting that gathers the European Heads of State and usually happens twice a year. The GAERC is responsible *inter alia*, for the Common Foreign and Security Policy (CFSP), for trade between Member States and third countries, and for development cooperation and humanitarian aid. Moreover, the GAERC has a role in coordinating the European Union's external relations, promoting the coherence of members' position on sensitive subjects.

3. Council Instruments of Action and Rules of Procedure

¹⁴ See http://europa.eu.int/institutions/council/index_en.htm#presidency.

The legislative framework of the European Union is divided in two groups: primary legislation, laid down in the form of Treaties and approved amendments, disposing on institutional roles, decision-making, legislative, executive, and judicial procedures; and secondary legislation, based on the Treaties’ prescriptions, implying a variety of procedures defined in the Primary legislation articles. The acts of the Council are shaped into several instruments, which have secondary legislation status.

The council’s power of producing secondary legislation is, generally, a joint action, involving the Commission and the Parliament at the Council’s side.¹⁵ Except for the Common position (Article 251(2) TEC), the other instruments (conclusion, declaration, resolution) can be considered ad hoc acts taken in order to attend to circumstantial political purposes, products of intergovernmental relations rather than the communitarian ideal.

Box 1: Council Instruments of action and their effect

The main legislative procedures are the consultation, the

Council’s acts	Effect
Regulation	Binding on all European Union members without the need of any national implementing legislation
Directive	Binding on specific member states as to the objectives to be achieved in order to align national legislation
Decision	Binding for those to whom they are addressed
Recommendation	Non-binding suggestion of action directed at members, institutions or citizens
Opinion	Non-binding statement that sets out a point of view on a question

¹⁵As it is stated in the Article 249 TEC: “In order to carry out their task and in accordance with the provisions of this Treaty, the European Parliament acting jointly with the Council, the Council and the Commission shall make regulations and issue directives, take decisions, make recommendations or deliver opinions.”

Conclusion	Politically binding
Resolution	Sets out the direction of future policy initiatives
Declaration	States unilateral or common political view on some theme
Common position	Covers the Council position on proposals for amendments from the Parliament / Establishes a statement under the CFSP

assent, the cooperation, and the co-decision. The latter deserves full attention, since it is the traditional pathway to the European Union's legislative process. The power of initiative is usually reserved to the Commission, which starts the legal procedure that involves the three main institutions.¹⁶

The Council must deal with three voting procedures: unanimity, qualified majority, and simple majority. In some particularly sensitive areas such as Common Foreign and Security Policy, taxation, asylum and immigration policy, Council decisions must be, a priori, unanimous. On most issues, conversely, decisions by qualified majority voting (QMV) have become the usual. The Council Rules of Procedure (CRP) determines the many other devices necessary for the Council work.¹⁷

AGENDA ITEMS

The Presidency has to deliver to all member States the provisional agendas for the meetings of the Council, indicatively mentioning the legislative work and operational

¹⁶ Article 251 TEC

¹⁷ See Council's Rules of Procedures of 22 March 2004 (2004/338/EC Euratom).

decisions envisaged. The provisional agenda is divided into Part A and Part B. A-items are those that might not need discussion for their approval, in opposition to the substantive topics, the B-items.¹⁸ The Presidency is in charge of drawing up the provisional agenda for each meeting in the light of the multiannual strategic program and of the suggestions by the Commission and by member States. The Council's agenda is therefore not established haphazardly, but in accordance with the evolution of events in Europe and around the world. Observing the trends and challenges in evidence, however, some topics may be considered natural agenda items.

Migration and External Relations

I. Introduction: A European Dilemma

The history of Europe is marked by migration. This phenomenon has been developing since the pre-industrial era. The foundations of the European Union are related not only to trade, but also to the creation of a political and social union. In these terms, issues such as migration and other related policies should be dealt with in the Union more than in the traditional national sphere. The Treaty of Amsterdam transferred these subjects from the third pillar to the first pillar, but a common policy on this important theme has yet to be achieved.

Migration is becoming one of the most important issues for the European Union. Decision-makers are aware of the United Nations Population Division report of 2000,¹⁹ according to which Europe would need about 150 million immigrants by 2025 to sustain economic growth and prosperity. But they are also aware of the problems caused in their countries by recent

¹⁸ Council Decision of 22 March 2004, (2004/338/ EC Euratom), article 2.

¹⁹ See http://www.un.org/esa/population/publications/EGMPopAge/6_RSigg.pdf

immigration. Nevertheless, the problems in “people-exporting countries” cannot be ignored. Past policies were not satisfactory, and issues such as brain drain and remittances are in need of further discussion. Bearing this in mind, the Council agrees with the Commission on the urgent need for concrete actions, ensuring that migration will work for the benefit of all countries concerned.

2. History: an old issue

The first great flow of modern migration in Europe occurred in the pre-industrial era, when consecutive wars and imperialism created a need for extra manpower. After that, three more distinct periods were important for migration in the continent; the first was the development of manufacturing in the countryside, the second was the age of industrialization, and the last period would be the twentieth century.²⁰ Despite this important historical nexus, large-scale immigration to the countries of the European Communities occurred only in the 1960s.

After the Second World War, manpower was needed due to the reconstruction of Europe. Many workers from the former colonies immigrated to their former metropolis, but the migratory flow met with a mishap: the oil crisis of 1973. Because of the high unemployment and economic problems, States tightened their migration laws in order to stabilize the situation. The principal means of migration in this period were asylum systems and family reunions. In response to the ensuing attempts to tighten these forms of immigration, new patterns of irregular migration, including human trafficking and smuggling, arose.

²⁰For further information, see MOCH, Leslie P. *Moving Europeans*.

In the 1980s, countries that had not been common destiny for migrants (such as Ireland, Spain, Portugal, Greece, and Finland) started receiving a large flow of migrants due to their growing economic prosperity and the restrictive policies of most Northern European countries. Furthermore, in the 1990s, many of the traditional migrant destinations (such as Austria, Switzerland, France, and the United Kingdom) once again experienced high levels of migratory flows. It is widely recognized now that the countries that recently joined the European Union became countries of destination, due to their economic growth and political stability. It is also important to notice, however, that the total number of migrants coming to Europe has decreased after the terrorist attacks to the United States on September 11. New restrictive laws were adopted as part of counter-terrorist programs, in order to avoid potential terrorists from entering the Union.

After all, the concern of the Europeans on this issue is explained by the fact that the governments recognized the need for labor migrants, especially highly skilled ones. This need for migrant workers reflects problems of shortage and mismatch of supply and demand within the European Union. Although the Union knows the importance of immigrant workers for their economy, many sectors of European societies have found it difficult to come to terms with the immigration process. Many national workers believe that new immigrants will cause displacements and increase the violence in their regions and part of these anxieties is explained by the fact that the integration of previous migrants was not easy. These fears have been strengthened by the recent riots in North African immigrant ghettos in France and Belgium. These events highlighted the need for a migration policy that benefits all countries and citizens involved, regarding the complex, though essential, link between migration and development.

3. Past Actions: from Maastricht to Hague

The first treaties of the European Community were essentially trade agreements. However, ever since the appearance of the idea of a united Europe, members were already foreseeing a political, social, and economic union. The Treaty on European Union (1992) was a pioneer step towards an effective political union. It brought the idea of the three pillars, as explained before, bringing migration and related policies to the third pillar – remaining primarily in the intergovernmental sphere. Another important event was the signing of the Schengen Conventions, which pointed to a community without frontiers, adopting common policies, such as the visa policy.

The Schengen acquis – formed by the Schengen Convention, the Schengen Agreement, the rules adopted on that basis, and the related agreements – were incorporated into the next treaty, the Treaty of Amsterdam (1997), which also rewrote the Title IV into the EC Treaty, bringing migration and related issues to the first pillar. The rationale behind this transference is to abolish internal frontiers, allowing the free movement of people among its members, meanwhile strengthening its external borders, which were supposed to control irregular entry. Many states from the European Union were not confident about the migration controls of others States, especially those with a large coast. Cooperation in this field was immediately requested.

Freedom of movement inside the Union was balanced by a rigorous external border control, which some critics called “Fortress Europe”, dividing the insiders from the outsiders. This control has been justified in order to secure European citizens. Free movement through internal borders also created the phenomenon known as “country-shopping”, when irregular migrants from countries outside the Union could cross the borders and look for the best welfare and labor market. All these problems, together with the problems that the imminent

enlargement of the Union would bring, could only be resolved with common migration and asylum policies within the Union, and this was exactly what the Tampere Communiqué proposed in 1999: a Union of Freedom, Security, and Justice. The High Level Working Group on Asylum and Migration (HLWG), set by the General Affairs Council in December 1998 played a key role in the European Council held in Tampere. It prepared Action Plans subsequently adopted by the Council and Parliament.

The Treaty of Nice (2001) strengthened these ideas, and in 2002, in the Seville European Council,²¹ they urged that any future agreement concluded with a third country should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration, and in this way, integrating migration in the European Union's external relations policies. The General Affairs and External Relations Council reached agreements with relevant third countries for the immigration process, such as Libya and China, in order to stop illegal immigration. And at the same period, they also called for a uniform format for visas, facilitating the free movement of third countries' nationals.

It was only in 2004, however, that a concrete multi-annual program created a pathway for common policies. The program was known as "The Hague Program", and its subtitle was "Strengthening Freedom, Security and Justice in the European Union". The program on migration-related issues was divided into five parts:²²

- A common European asylum system;
- Legal migration and the fight against illegal employment;
- Integration of third-country nationals;

²¹ See http://extranjeros.mtas.es/es/general/Seville_European_Council_en.pdf.

²² See The Hague Programme, available at: http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/ec/82534.pdf.

- The external dimension of asylum and migration policy;
- The management of migration flows.

The topic entitled “the external dimension of asylum and migrations policy” was divided into four more sections: partnership with third countries; partnership with countries and regions of origin; partnership with countries and regions of transit; return and readmission policy.

This program revealed the new lens through which migration should be viewed. The focus would be cooperation among all the countries and citizens involved, strengthening the connection between migration and development. It also pointed out problems occurring especially in the countries of origin, such as brain drain, and ways to deter people from seeking to migrate, by improving their countries' conditions. A mid-term review of The Hague Program has been scheduled for 2006.

The General Affairs and External Relations Council, following the topic that calls for partnership with third countries, sets up Actions Plans and assessments for important countries considered to have a key role in the immigration process, origin or transit countries. These Plans also created Regional Protection Programs, aiming at those that need international protection, bearing in mind the European Convention on Human Rights.

4.Challenges: a bridge to the Third World

One of the priorities in 2006 will be implementing the Hague Programme. In December of 2005, the Council welcomed the Commission's Communication “Priority actions for responding to the challenges of migration” and adopted the “Global approach to migration: priority actions focusing on Africa and on the Mediterranean”, follow-up to Hampton Court and the Hague Programme.²³

In order to achieve the goals proposed for 2006, the Council will have to deal with and clarify a number of problems regarding migration and related issues. Firstly, all Council members must adopt a balanced, global, and coherent view on migration. It is consensual that the European Union will not stop being a popular destination for immigrants in the coming years, and it is also clear that if the Union's members do not support development efforts in countries of origin, the flow of immigrants, legal or illegal, will not change, deepening the poverty and distance between Europe and the developing countries.

One of the common frameworks used by the Council is cooperation among all the countries concerned. The Council Agenda for 2006 focuses especially on developing countries. This framework was adopted before the European Union's enlargement and is widely considered a success.

There are two different ways of approaching cooperation among the countries.²⁴ The first one is characterized as "repressive measures". This school can also be understood as an exportation of European Union's level control measures to third countries. These measures include fighting trafficking and smuggling of people, better border controls in third countries, and return and readmission of irregular migrants to non-EU countries. A way that the Union has found to combat trafficking and smuggling has been harnessing the benefit for legal migration in developing countries. It also created ways to facilitate immigration, such as the selective scheme. An example of readmission policies were the recent agreements with transit

²³The main areas covered by this document are: strengthening cooperation and action between Member States; increasing dialogue and cooperation with African states; increasing dialogue and cooperation with neighboring countries covering the entire Mediterranean region; the questions of funding and implementation. See Global Approach to Migration, available at the Council's website: http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/ec/87642.pdf

²⁴For more details, see BOSWELL, Christina. Migration in Europe. Available at: <http://www.gcim.org/attachements/RS4.pdf>.

countries next to the European Union, which created a “buffer zone” around the EU’s borders.

The second school can be termed “preventive measures”. The main idea here is that in order to stop illegal migration, the European Union should tackle the root causes of migration, by improving the conditions in developing countries. The opening of markets and promotion of economic growth, the integration of third country citizens, and the return of qualified workers can all be included here. The brain drain is one of the most discussed themes in migration issues. The selective scheme of immigration only admits qualified workers. Thus, there is a lack of compensation for the countries that lose their best minds, necessary for the improvement of the developing countries.

The integration process of third country citizens is a very important subject nowadays. The aforementioned riots in France and Belgium, and the recent tension between Muslim migrants and Europeans, caused by the caricatures of the prophet Muhammad, demonstrated the necessity of finding a new way of approaching the problem. Public intolerance of immigrants and an increase in xenophobic acts were already identified as early as 1993, when a European Commission against Racism and Intolerance was set up. This Commission was revised and was granted more power in 1997, but those examples only strengthened the need for more action in this subject.

These two distinct methods are not perfect. The European Council must be able to understand the problems related to migration, the ways of approaching these problems, and the implications for the national interests of members, and to create a concrete plan of action that allows for the essential connection between the EU’s migration policy and its external relations.

European Union-MERCOSUR Talks

I. Introduction: an Atlantic Option

The European Union has always been the most successful illustration of regional integration and, in the mid-1990's, it innovated once again when it started a new phase in this process: the creation of free-trade zones between different regional blocs. The EU-MERCOSUR negotiations were formally initiated in 1999 and, if successful, will lead to the world's largest inter-regional free-trade area, involving more than 700 million people.

It is not easy, however, to materialize such a huge and complex plan. The coordination among different members of two distinct blocs demands long and strenuous efforts from both sides, as the EU-MERCOSUR negotiations have proved. After more than 5 years of intensive talks, there are still many challenges to be faced and many solutions to be found by both partners. In order to achieve a final ambitious and broad agreement or at least to make substantive progress towards it, intense debates and relevant accomplishments are expected from negotiators on both sides over the course of 2006.

2. History: the first pages

There is a long tradition of relationship among European and South American countries. Since the decolonization, and partly as a consequence of it, both regions have maintained deep political, economic, and cultural contacts, especially involving Brazil and Argentina. Following this tradition, the European Union's support for the regional integration process of the Southern Common Market (MERCOSUR) was almost immediate. Less than one month after Argentina, Brazil, Paraguay, and Uruguay had signed the Treaty of Asuncion, in March 1991, the foreign ministers of the MERCOSUR countries met with the president of the European Commission, in Luxembourg, to launch the idea of cooperation agreements.

This aim was for the first time materialized with the UE-MERCOSUR Inter-institutional Cooperation Agreement, signed in May 1992.

This was, nevertheless, just the first step in a long and complex process that has continued until nowadays, though with very different phases. It is noteworthy that the evolution of the relationship has varied according to the steps taken by the Free Trade Area of the Americas (FTAA): advances in its negotiations have almost inevitably been followed by achievements in EU-MERCOSUR cooperation.²⁵ In December 1994, for example, the Summit of the Americas, which initiated FTAA's negotiations, was followed by an EU-MERCOSUR joint declaration that launched a new phase in the inter-regional relationship, as both regions clearly expressed their intention of promoting commercial reciprocal liberalization in accordance with the sensibility of some products and World Trade Organization rules.²⁶

After one year of intense dialogue, the EU-MERCOSUR Interregional Framework Cooperation Agreement was signed in Madrid on 15 December 1995. This agreement, the first of its type to be signed by the EU, was the basis of all negotiations from that moment onwards as it established the initial institutional framework and the three main themes of the interregional dialogue.²⁷ The two blocs then embarked on three years of deep research in order to photograph inter-regional trade relations and to produce the instruments for future negotiations. These were initiated only in November 1999 (non-tariff issues) and in July 2001 (tariffs and services), mainly through regular meetings of the EU-MERCOSUR Bi-regional Negotiations Committee

²⁵ See SAVINI, Marcos Rodrigues. *O Brasil e as Relações entre o Mercosul e a União Européia, dos anos 80 a nossos dias*.

²⁶ In December 1994, the MERCOSUR also signed the Protocol of Ouro Preto, which gave it the status of a juridical person.

²⁷ Political dialogue, co-operation and trade issues.

(BNC), the Subcommittee on Co-operation (SCC), and the Technical Groups (TGs).

From this moment on, the association process has faced both optimistic and pessimistic moments. The initial proposals made by the European Union and by MERCOSUR, in July 2001 and October 2001, respectively, had many restrictions and safeguards. Revised offers, made in March 2003, contained important improvements, but they were still considered insufficient. A similar situation was faced by the third generation of offers, launched in April 2004; so, the end of negotiations, scheduled to October, had to be postponed. Actually, in October the impasse was settled and talks were frozen for several months. Notwithstanding, the following year, 2005, can be considered a positive year; although there was no major practical progress, the negotiations have been resumed: a new roadmap was fixed and very important steps are expected for 2006, mainly in the three priority areas defined in September 2005.²⁸

3. Challenges: Towards a Successful Bi-regional Association Agreement

The negotiations to reach an association agreement between the MERCOSUR and the European Union have proven to be much more complex than either party probably expected. According to Professor Roberto Bouzas, of the *Universidad de San Andrés* (Argentina) and member of the Working Group on EU-MERCOSUR Negotiations, “*negotiations look more like an exercise to ‘explore the limits’ than a process that may eventually lead to a full fledged free trade area agreement*”.²⁹ In fact, the EU-MERCOSUR negotiations are now far behind preferential

²⁸ Improvement of agricultural supply, reduction of custom duties, and new offers on services.

²⁹ VALADÃO, Alfredo G. A., BOUZAS, Roberto (ed.). Market Access for Goods & Services in the EU-Mercosur Negotiations: Negotiating Issues I, p. 27.

negotiations held by the EU with other Latin American countries, mainly Mexico and Chile – association agreements with them were signed, respectively, in 1999 and in 2002.

The obstacles have been worsened by the slowness of multilateral negotiations at the Doha Round on agriculture liberalization and by the resistance of many European countries, especially France, to conduct a deep reform of European Union's Common Agriculture Policy (CAP),³⁰ which subsidizes European agricultural production. On the other hand, the EU argues that the MERCOSUR is also being too defensive in its proposals concerning services, government procurement, and investments.

Another reason for these “slow-track negotiations” is related to the fact that the MERCOSUR is not a single counterpart as Mexico and Chile are. As a bloc composed by very different countries, from their territorial size and economic capacity to internal legislations and cultural traditions, MERCOSUR's very nature imposes many constraints to negotiations. Also, its institutional fragility, which became clear during Argentinean economic crises, and its lack of strong mechanisms to negotiate with third parties have brought even more difficulties to the talks between both blocs.

In order to try to solve this problem, the MERCOSUR-European Community Regional Strategy Paper (2002 – 2006)³¹ established three main aims of European policies towards the MERCOSUR:

1. Completion of the internal market;
2. Stronger – internal and external – institutionalization of the MERCOSUR;
3. Integration of the MERCOSUR into the regional and the international context.

³⁰ See Glossary produced by the AMUN committee.

³¹ Available at: http://europa.eu.int/comm/external_relations/mercosur/rsp/index.htm

As 2006 is the last year of this Strategy Paper, for the European Community, including the GAERC, it will be extremely relevant to discuss the accomplishments that have been reached and the failures that must be faced. Moreover, it will be essential to come to some conclusions concerning how these accomplishments and failures affect present EU-MERCOSUR relations and which are the main following steps towards a successful bi-regional association agreement.

Developing and Implementing Counter-Terrorism Policies

I. Introduction: Security in the Spotlight

The importance of combating terrorism in international relations has drastically changed over the past few years, as has its role in discussions regarding European security. The necessity of building and implementing an effective political apparatus has become more urgent, as it currently represents one of the most relevant challenges for the future of Europe's security.

The new world order that came about after the collapse of the Soviet Union has drawn attention to new issues and challenges for European security. Matters of civilization became more radicalized, and the structural reconfiguration of global flows of people, money, and ideas permitted terrorism to become an overwhelming menace. Furthermore, the terrorist attacks of September 11th were a bitter display to the world of the new possibilities available to terrorist organizations. And Europe's western culture may be seen as a target for terror.

Islamic terrorism is currently a major source of worries as its new, cell-based, decentralized, international structures such as the Al-Qaeda network, make prevention and effective combat more difficult. In fact, Europe has already suffered the actions of this unpredictable menace when Madrid was attacked in March 2004. The attack, claimed by the Abu Hafs al-Masri

Brigades, killed 191 and injured more than 1,400. In July 2005, suicide bombings struck at the London public transport system, killing 52 and wounding more than 700 people. Bearing these tragic events in mind, and their implications for the concept of security in Europe, the European Union must debate strategies to shape an effective counter-terrorist policy.

2. History: Europe as Potential Central Stage

In 1934, Mr. Louis Barthou, French Minister of Foreign Affairs, was murdered as a result of a terrorist action during the troubled scenario set by the Balkan crisis. This event demonstrates that terrorism has long been linked to the European political context. However, there is no better example of the potential extension of this theme in Europe than the murder of Archduke Franz Ferdinand in 1912 by the action of the Serbian secret organization *Ujedinjenje ili smrt* (Black Hand), an event that triggered World War I.

The term “terrorist” came about at an emblematic moment: the French Revolution, when it was used to designate special agents of the Jacobin “*Comité de Salut Public*” sent on missions to combat those with counterrevolutionary intentions. In the post-revolutionary period, however, state terrorism faded away and anarchism and nationalism began to represent the main sources of terrorist actions.³²

In later times, during the Cold War, terrorism was reconfigured in terms of ideology and political alignment. Left-wing movements, such as the Italian Red Brigade (*Brigada Rossa*) and its German cousin, *Baader Meinhof*, struck at government stability, in a context of student engagement and cultural transformations.³³ Nevertheless, nationalism and ethnic purposes have never stopped being major motivations

³² See more at: www.ina.fr/voir_revoir/terrorisme

for terrorist initiatives, as was made clear by decades of terrorist actions led by factions of the Irish Republican Army and the Basque group *Euskadi ta Askatasuna* (ETA). Moreover, during this period, the conflictive background created by Arab-Israeli tensions, as well as Algerian War, was considerably harmful for Europe, as proven during the 1972 Munich Olympic Games, in which Palestinian terrorists killed 11 Israeli athletes. In addition, the most recent episodes, such as those in London and Madrid, are still vivid in European memory.

3. Past Actions: Looking for a Plan

The recognition of terrorism as a communitarian matter is considerably recent. Previous terrorist actions were dealt with according to national defense policies. Nevertheless, the progress of integration concerning common policies for security and defense created firmer ways to shape a more effective response to the new face of terrorism. The creation of the Common Foreign and Security Policy (CFSP) represented, perhaps, one of the most important steps towards the implementation of a common defense policy.³⁴ However, common actions concerning global terrorism were practically nonexistent.

The European Council – followed by the Justice and Home Affairs Council (JHA) and the GAERC - is the most important policy-maker for security issues. One of the first remarkable actions, the Tampere Program, launched in 2001, foresaw increased judicial cooperation. Only after the September 11th attacks, as a result of an extraordinary meeting of the European Council, was an anti-terrorism action plan produced, stipulating

³³ SCHMIED, Julie, “A UE e o combate ao terrorismo internacional”, 26 de março de 2004. Available at <http://www.unirio.br/assuntosinternacionais/Artigos%20NEW.htm>

³⁴ The fifth title of the EU Treaty turned European Political Co-operation (EPC) into the Common Foreign and Security Policy (CFSP).

that the fight against terrorism would represent, “*more than ever, a priority objective of the EU*”, focusing, among other aspects, on a common definition of terrorism.³⁵ This “post-2001” phase has been enormously important for the recognition of terrorism as a common problem. The identification of priority items, and even the adoption of the first steps concerning judicial integration on terrorism, such as the establishment of EuroJust in 2002 and the replacement of extradition by the European arrest warrant, prepared the ground for more standardized procedures. However, implementation was a more problematic issue.

The tremendous impact produced by the Madrid attacks, in March 2004, gave a new push to reinforcing existing cooperation - such as calling up for the implementation of the European Security Strategy, adopted in 2003, and creating new instruments as the European Counter-terrorism Coordination. In November 2004, the JHA launched the Hague Program, as a successor version of the Tampere Program. This plan, representing an expiring “*programme for cooperation in justice and home affairs matters*”,³⁶ prescribes ambitious measures to be implemented within five years, establishing among its main topics a deeper exchange of information and border control as well as judicial cooperation itself.³⁷

The General Affairs Council, following its attributions, launched in June 2005 a declaration for Improving Civil Protection Capabilities, which prescribed a “*rapid response to tackle man-made disasters inside and outside the Union*”.³⁸ After the London attacks, in July 2005, the Council of Interior Ministers decided to implement, as a matter of urgency, various topics already adopted as priority objectives, such as the Europe evidence warrant, the reforming of visa information systems,

³⁵ European Council, “Declaration on Combating Terrorism”, March 2004.

³⁶ See <http://europa.eu.int/ISPO/legal/en/internet/gpen-txt.html>.

³⁷ Available at:

³⁸ GAC, “Declaration on improving the European Civil Protection Capabilities, June 2005.

and the wider control over trade, storage, and transport of explosives.

Responding to demands for more effective implementation, the JHAC approved, in December 2004, a new Counter-terrorism Strategy. This document, committed to “*combat terrorism globally while respecting human rights*”³⁹ and to provide the general public with more information regarding security subjects, involves a far-reaching analysis of terrorist structures and the strategies to combat them, based on four broad pillars: prevention, protection, pursuit, and response.

4. Challenges: an Effective Counter-Terrorism Strategy

*“Terrorism has changed the global agenda. It has also changed the role and functioning of the European Union”.*⁴⁰ With these words, the EU Counter-terrorism Coordinator, Gijs de Vries, expressed the way terrorism has become a central issue in European security matters. According to which, the creation and constant review of the already-adopted Anti-terrorism Action Plan - as well as the European Counter-terrorism Strategy - can be considered vitally important steps in providing effective instruments for combating terrorism.

Nonetheless, implementing these measures remains a considerable challenge. Many aspects, such as domestic policy structures and lack of cooperation, could be seen as actual obstacles. In terms of common judicial procedures, some measures have already been adopted, like the EuroOrder system, described above. But it is important to state that specific anti-terrorism measures lie within member States’ competence, leaving the Union with the main responsibility

³⁹ See the European Union Counter-terrorism Strategy, p.3. Available at: <http://register.consilium.eu.int/pdf/en/05/st14/st14469-re04.en05.pdf>

⁴⁰ “The EU and fight against terrorism” report by the Counter-terrorism Co-ordination, January 2006.

of promoting cooperation, particularly concerning sharing of information, and coordinating actions among member states and communitarian bodies and agencies, especially Europol and Eurojust.

External policies are another complicated issue. The American recommendation of a wider sharing of information, referred to as the “*passenger names record*”, does not please the European Parliament.⁴¹ Furthermore, an important facet of the Counter-terrorism Strategy is concerned with the roots of terrorism. In fact, recognizing that fanaticism could be related to social, economic, and political origins, Europe has committed itself to promoting “*assistance to the priority third countries - including in North Africa, the Middle East and South East Asia*”,⁴² as well as “*working to resolve conflicts and promote good governance and democracy*”,⁴³ aiming at establishing an interfaith and pluralistic dialogue and, therefore, preventing radicalization.⁴⁴

The Counter-terrorism Strategy seeks to “*constitute a comprehensive and proportionate response to the international terrorist threat*”.⁴⁵ The implementation of the four pillars listed below is a real challenge, inasmuch as their achievement could constitute a concrete and effective anti-terrorism action. The pillars are:

- “Prevent”, aiming at preventing people from turning to terrorism by averting radicalization and recruitment;
- “Protect”, designed to defend citizens and infrastructure from possible terrorist menaces;

⁴¹ “European Parliament Citizens’ Rights Committee have, on 17 March 2004, adopted a resolution opposing the transfer of personal passenger data to the United States.” Available at www.euractive.com.

⁴² The European Union Counter-terrorism Strategy, 2005, p. 7

⁴³ Ibidem.

⁴⁴ JHAC, “EU Counter Terrorism Strategy” December, 2004

⁴⁵ Ibidem.

- “Pursue”, referring to prosecution and investigation of terrorists, across borders and worldwide;
- “Response”, preparing society and political structures to face the consequences of possible attacks.

Finally, one of the most problematic issues concerning the implementation of terrorism-related policies is the safeguarding of fundamental rights. The evolution of counter-terrorism policies has to be in accordance with the European Convention on Human Rights of 1950; nevertheless, some member States have been accused of disrespecting fundamental rights and liberties in this area. Instruments such as the constitution of a network of experts on fundamental rights to advise the Commission have already been implemented. The issue, however, has not been resolved.

FOREIGN POLICY GUIDELINES

Austria

Austria has been one of the pioneer enthusiasts of European economic integration. However, its policy of neutrality, in opposition to European Communities’ proximity to NATO, made it impossible for Austria to be part of the EU, an obstacle that has only been removed by the end of the Cold War, after which accession to the EU became natural. The accession process began in 1989, and the formal membership negotiations, initiated in 1993, and came to an end by December 1994. Despite some political difficulties due to the Austrian political system, a proportional democracy that usually demands consensus, the economic advantages, especially the European agricultural funds, were the main motivations for joining the European Union and still guide Austrian actions. However, the role of Austria in the EU goes far beyond economic interests: it is holding the Presidency of the European Union for the second

time during the first half of 2006 and maintains representatives with important roles at EU institutions, such as Ms. Benita Ferrero-Walder, EU Commissioner for External Relations. When Austria assumed the EU presidency, there was some uneasiness in the Union, since the country is considered a “euro-skeptic”. Austria defends the constitution of a zone of security and conducts cross-border cooperation programs (CBC) with the Czech Republic, Hungary, Slovakia, and Slovenia, for infrastructure in border areas and joint actions to foster tourism in central Europe. In the first semester of the year, Austria had, as the holder of the Presidency, the difficult task of reviving debate on the EU’s future after the Constitution’s failure at the Dutch and French referenda.⁴⁶

Belgium

One of the EU’s founders, Belgium has adopted European engagement as one of the main dimensions of its foreign policy. In institutional matters, the Belgian government prides itself in having had a fundamental participation in defining the final text of the Constitution. The EU’s enlargement was recognized by Belgian authorities as a “historical decision”. Belgium’s foreign policy shares many similarities with those of the other BENELUX countries (Luxembourg and the Netherlands), including the defense of a “federalist” model for the Union, which could provide safeguards against a possible Franco-German hegemony. Brussels does not adopt a liberal approach to migration policies; it has implemented specific restrictions with regard to economic migration of citizens from the new EU member States. Regarding security and defense matters, Belgium and the other BENELUX countries vigorously support

⁴⁶ See www.austria.gv.at

the extension and reinforcement of the CFSP deliberations, citing the concerted European policy regarding the Great Lakes region in Africa as an example of how the EU must act.⁴⁷

Bulgaria

Bulgaria is still working on complying with the European's Union criteria of accession. The financial assistance has considerably increased in these last years of preparation. The main concerns involving the country are environment, agriculture, movement of services, public administration reform, intellectual property rights and, notably, judicial reforms. The European Union and Sofia agreed on a safeguard clause in 2004 that prescribes a delay in the accession if the deadlines are not met. The Bulgarian challenge is to prove to the European Union that its government has total conditions of implementing anti-corruption measures. Another argument for immediate Bulgarian accession is its important role in the Balkans region. Sofia has to prove its readiness to control illegal migration, considering its strategic position between Turkey and Serbia and Montenegro and the potential fragility of its border monitoring.⁴⁸

Croatia

Croatia still faces the consequences of the turbulence in the Balkans. For a young country, having reached its independence only in 1992, Croatia presents a good democratic infrastructure with stable institutions and prevalence of the rule of law, which has been the main argument in favor of Croatian membership. Nevertheless, the country is positioned in sensitive part of

⁴⁷ See www.diplomatie.be

⁴⁸ See www.bulgaria.bg

Europe, subject to intense exodus phenomena. European demands on Zagreb have generally been related to the Serbo-Croatian war: the failure to deliver the fugitive general Ante Gotovina to the UN court at The Hague impacted negatively for the country. The efforts to effect macroeconomic adjustments brought good results. Thus, Croatian diplomacy must focus on the intent of reinforcing minority rights as well as permitting refugees to return. Croatia must underline its importance in the resolution of the instability in the Balkans. The internal support of Croatia joining the EU is immense, with citizens' support over 70%.⁴⁹

Cyprus

First of all, Cyprus is trying to deal with the fundamental dilemma of its own identity, which reflects the “green line”. Cyprus entered divided in the European Union - as historical dissection between Greek and Turkish communities - according to the two parallel referenda of accession. The north, with a Turkish majority, demonstrated resistance to joining the EU. The country tries to universally apply the principles of fundamental rights and liberties, not distinguishing, therefore, citizens and non-citizens of the Republic. Cyprus possesses an assertive counter-terrorism policy, bred by a familiarity with the issue in cases like the Eoka movement in the 1950s. The country can be considered an example of action in the war against terrorism, creating an effective framework to locate and freeze terrorist assets, and implementing measures related to coastal control and security checks.⁵⁰

⁴⁹ See www.mvp.hr

⁵⁰ See www.mfa.gov.cy

Czech Republic

The Czech Republic became a member of the EU in May 2004, fulfilling what had been a national ambition since 1989. The country has been perceived as a “trade priority” by other EU members since its accession to the bloc; it possesses one of the fastest-growing rates of foreign trade of the European Union. However, the Czech attitude towards the EU is sometimes regarded as complex and even contradictory, so it is looking for a more consistent approach. The country’s Security Strategy dedicates special attention to the terrorist menace; the Czech strategy on this theme is focused on the protection of electronic, communication, and information networks. The Czech Republic is also a member of the Visegrád group, which is an important tool for increasing the Czech weight in European bargaining processes within EU framework.⁵¹

Denmark

In the years since Denmark’s accession to the European Union, in 1973, the country has received the reputation of being a “euro-skeptic”. This reputation has derived from the Danish tradition of public debate and from the fact that major decisions taken by the government must be approved by a popular referendum, demand that took place, for instance, regarding the Maastricht Agreement, with a negative result at the polls. Denmark only ratified the Treaty of the EU under 4 opt-outs in the areas of monetary policy, defense, and justice and home affairs. Recently, Denmark has also been working actively in favor of the EU’s enlargement (it was the first member State to ratify the accession treaty), despite its skepticism regarding deepening political integration. Debates concerning a new and active

⁵¹ See www.mzv.cz

Danish European policy are being conducted at the European Affairs Committee of the Danish Parliament. Denmark is the world's biggest donor of development aid in relative terms. Denmark has recently been the pivot of an international crisis regarding caricatures of the prophet Muhammad published by the Danish Jyllands-Posten. Denmark's image as a racist country was reinforced by the crisis, and now the government seeks to reopen dialogue with Muslims.⁵²

Estonia

The smallest Baltic country acceded to the European Union in the last enlargement, on May 1st, 2004, with the support of 61% of its voting-age citizens, a figure that remained practically unchanged in January 2006. Among Estonian priorities in the Union, which are described in the "Estonian Government European Union's policy for 2004-2006", are the adoption of mechanisms to promote a competitive and open Europe, the improvement of the EU's budget efficiency, and the promotion of policies related to sustainable development. Estonia also defends a common immigration policy for the EU and a stronger partnership with NATO to deal with global threats such as terrorism and weapons of mass destruction. Its status as a EU member facilitates dialogue with Russia, which has great influence on the Baltic countries' foreign policies. The Union also represents an opportunity for Estonia to strengthen relations with its Nordic partners, Finland and Sweden, on most issues.⁵³

Finland

⁵² See www.um.dk

⁵³ See www.evi.ee

Finland has historically maintained a neutral foreign policy. As the European Communities had a military interface connected to NATO, the engagement of Finland to the UE was impossible until the end of the Cold War, when the policy of neutrality was revised. Finnish accession to the European Union took place in 1995, with the approval of 57% of its population. On July 1st 2006, Finland will once again occupy the presidency of the EU. Among its priorities will be the future of the Constitutional Treaty, the financial framework for 2007-2013, WTO talks, the enlargement process, and the intensification of the Union's external operations, mostly in military and civil crisis management. As President of the EU, Finland has the crucial role of establishing the agenda and concerting the debates and guaranteeing institutional equilibrium during its labors. One of its main tasks is to foster effective participation of the small countries and prevent control of the decisions by the traditional European powers.⁵⁴

France

Since 1945, the project of European integration has been one of the main branches of French foreign policy. Supported by the principle of avoiding the eruption of new European conflicts and maintaining the ambition of constructing a homogeneous economic, social and political space, the French participation has played a fundamental role in the process of institutional development. Furthermore, nationalist conceptions – as well as domestic policy aspects - have been relevant to the definition of many foreign policy positions, particularly in reference to the adoption of the Schengen Agreements and, most recently, the rejection of the proposed EU Constitution by 55% of the voters

⁵⁴ See www.finland.fi and www.upi-fiia.fi/julkaisut/northetn_dimensions/northern_dimensions_main.htm

in a referendum held in May 2005. In security matters, France supports reinforced dialogue and cooperation within the EU institutional mechanisms, especially concerning terrorism-related issues. Finally, concerning enlargement issues, France is reported to be directly engaged in providing conditions for institutional and jurisdictional adjustment to candidate countries, which demonstrates France's particular commitment to EU expansion. French diplomacy is especially engaged in recovering its image as a pillar of the EU, which was jeopardized since disappointing results of the referendum on the European Constitution, which delayed the Union's institutional reform.⁵⁵

Germany

Germany, along with France, has been one of the most important countries involved in the evolution of the European Union. The two countries, despite their disagreements, can be considered the driving force of EU's institutional development. Due to its position as the biggest economy of the EU, its major role has been focused on economic and monetary issues. The headquarters of the European Central Bank, for instance, are in Frankfurt. In the political arena, Germany has consistently been in favor of deepening and extending the European Union. In fact, Germany was one of the biggest advocates of the recent enlargement towards the East, which goes along with its intentions of intensifying German relations with Eastern Europe, particularly with Poland. It also plays a leading role in the debate towards a more unified and capable European institutional body. The country has also been experiencing problems with migration. High unemployment rates in East Germany, coupled with the presence of refugees from regions in crisis,

⁵⁵ www.diplomatie.gouv.fr

such as Bosnian and Turkish displaced persons, has given rise to xenophobic neo-Nazi groups. In the context of terrorism, its new legislation facilitates the expulsion of foreigners considered “dangerous”. A basic necessity is to promote integration of non-EU foreigners to German society.⁵⁶

Greece

Greece has reaped many benefits from EU membership, as its high growth rate indicated. The Hellenic Parliament ratified the Constitution treaty in April 2005, making Greece one of the first countries to ratify it. In spite of the turbulent history between Greece and Turkey, Greece supports Turkish membership, and has recently offered to lend aid in reopening the process for the solution of the problem of Cyprus, a country with which Greece maintains very close relations. The government of Athens seeks active participation in EU debates, proposing reforms in three sectors: democratization of EU institutions, strengthening the legitimacy of EU communitarian deliberations, and EU expansion. Athens also defends a single voice for Europe in foreign affairs. The country confronts problems with its public finances, being a major beneficiary of the EU budget. The country is working, then, on economic projects, to improve its competitiveness and human resources.⁵⁷

Hungary

Hungary was invited to join the EU in 1997, and became a member in May 2004. The Hungarian parliament also ratified the European Constitution in 2004. Hungary supports a deeper integration among the members and the extension of

⁵⁶ See www.auswaertiges-amt.de

⁵⁷ See www.mfa.gr

cooperation within the Union. Hungary has historical partners among its neighbors and is a founding member of the Visegrád group (that also includes Poland, Slovakia and the Czech Republic). The country dedicates a considerable part of its agenda to talks with the countries of Eastern Europe. However, the most distinct theme of Hungarian foreign policy is the responsibility taken on by the Ministry of Foreign Affairs over Hungarian minorities living abroad, as stated in the Act on Hungarians Living in Neighboring Countries, of January 2002. This principle influences Hungarian positions on many issues and bilateral relations. Another important theme for Hungary is the broadening of markets for its expanding exports. In this sense, the country makes efforts in the proper EU channels to establish mutually advantageous relations with distant regions.⁵⁸

Ireland

Ireland is a historical partner of North America and of the United Kingdom. Like Britain, it does not take part in the Schengen acquis. The UK and Ireland have a free movement arrangement, known as the Common Travel Area, and in order to maintain this, Ireland will only sign the Schengen Agreement if the UK does. Despite this partnership, Ireland has always tended towards independence in its foreign policy, and has a longstanding policy of military neutrality. Ireland has also strongly cooperated with the UK in the area of terrorism, largely due to IRA actions and to their wish for a united country. Ireland benefited from the EU's structural and funding programs to develop its economy, and was one of the founding

⁵⁸ See www.magyarorszag.hu and www.mfa.org.hu

members of the Eurozone. After Ireland's economic boom in the 1990s, it has become a receiving country of immigrants, and immigration policies had to be developed. Dublin has one of the most liberal policies regarding immigrant labors in Europe. There are no specified quotas for work permits and, like the UK, Ireland allows citizens from the new EU members to work legally. Overall, immigrants have been employed in relatively low skilled occupations.⁵⁹

Italy

Historically, Italian foreign policy has been linked to EU development. Nevertheless, unlike France or Germany, Italian influence on the Union has considerably weakened as a result of its period of economic debility. As far as reform is concerned, Italy has positioned itself against a European development achieved in "different speeds" and in favor of a European institutional enlargement in terms of common foreign and social policies. Italy considers EU expansion a priority issue, not only due to its beneficial effects on the general stability of the EU, but also as a means to provide Italy with a way to project itself in areas of potential influence. Italy also plays an important role in the CFSP process, having special participation in managing financial resources. In the last years, Rome has adopted a conservative view on most issues and the elections of this year may represent a change in Italian foreign policy. One of the main themes is illegal migration that directly affects the peninsula, especially from Serbia and Montenegro and Albania. Due to the sizable Italian presence in MERCOSUR countries, Italy is attentive to the project, underlining the cultural aspects

⁵⁹ See <http://foreignaffairs.gov.ie/> and www.eu2004.ie

⁶⁰ See www.esteri.it

of the partnership.⁶⁰

Latvia

Latvia initiated its accession talks to the European Union in 2000 and concluded them in 2002. However, even before its formal accession, in May 2004, it participated in the EU's institutions as an observer. Improved influence on the regional decision-making process and broader foreign opportunities were some of the main reasons that motivated Latvia's candidacy. Notwithstanding, the Latvian government has recently recognized that it must still improve its administrative capacities in order to fulfill its obligations at the EU's institutions. Riga maintains complicated dialogue with Moscow, since independence and the Citizenship Law, which disqualified many Russians residents in Latvia. Like the other Baltic nations, Latvia is developing new links with the Nordic Council and the Council of the Baltic Sea States.⁶¹

Lithuania

Lithuania is the largest Baltic country, both in area and population. Its accession to the European Union began in March 2002 and was completed just nine months later. Like the other Baltic countries, for Lithuania the membership in the EU means bigger political influence and greater diversity of economic relations. There is also the important financial aid given by the EU, around €180 millions per annum. However, also in accordance with the other Baltic countries and the other members that acceded in 2004, Lithuania is still under the de facto integration to the Union's institutional body and must still

⁶¹ See www.mfa.gov.lv

face both great challenges and significant impacts over the next few years. Lithuania has a considerable history of participation in multilateral troop deployments. Its relations with Russia were normalized in 1993, after an agreement on national borders – the first former Soviet Republic to do so. The government of Vilnius strives to strengthen the standing of the Baltic States in the EU.⁶²

Luxembourg

Luxembourg naturally considers European integration a priority, having always played an active role in its process, notably during its presidency (first semester of 2005). Its foreign policy stresses the importance of social dimension in the process of integration, as well as encouraging a balanced approach to European economic reform, being a firm, but not dogmatic defender of the Growth and Stability pact. The diplomatic service of Luxembourg has given Europe great personages, such as Joseph Bech, Pierre Werner, Charles-León Hammes, Émile Mavrisch, and even Robert Schuman (a Luxembourg-born Frenchman). In addition, Ville de Luxembourg is one of the three Eurocapitals, proving its importance and influence in the institutional debates. Following the position of its BENELUX partners, Luxembourg is particularly engaged in the CFSP implementation and enforcement. Therefore, the Luxembourg's voice in the European Union is always recognized as a major source of reasonable ideas and proposals towards strengthening the EU.⁶³

Malta

⁶² See www.lfpr.lt

⁶³ See www.mae.lu

Malta is strategically positioned between Europe and North Africa, making the Mediterranean island an important actor on the issue of immigration. The government wishes to neutralize its theoretical condition of a buffer camp. Malta has one of the highest population densities in the world, so its increased boarder policing to prevent illegal migration may be seen not only as an answer to European needs, but as a national priority. The challenge is to succeed in its control efforts while maintaining an open dialogue of cooperation with South Mediterranean countries. This idea is expressed in the seventh goal manifested in the Strategic Objectives of Malta's Foreign Policy, of February 2006: "Address holistically the international aspects of illegal immigration".⁶⁴ Malta has never abandoned, as a national principle, the humanitarian approach. In this sense, the position of the country in the fight against terrorism is related to a perception of failure of some States to provide minimum conditions to their people. Thus, the Republic of Malta defends the reduction of world poverty, social exclusion, and injustice as the best manner to combat terrorism. The country has also been reaffirming the economic potential of the central Mediterranean area, attentive to trade opportunities.⁶⁵

Poland

In 1991, the Polish government signed the European agreement that established relations between the Republic of Poland and the EU. Poland finished the accession negotiation in December 2002 and became a member in 2004. The recent Polish transformation has been accompanied by a corresponding drive in its foreign policy, assuming a conciliatory identity. Poland maintains, as an intransigent defender of democracy,

⁶⁴ See Ministry of Foreign Affairs. Strategic Objectives of Malta's Foreign Policy, p.4. Available at: <http://register.consilium.eu.int/pdf/en/05/st14/st14469-re04.en05.pdf>

⁶⁵ See www.foreign.gov.mt

an assertive policy towards Eastern Europe. The Ukraine and its “Orange Revolution” have been very important topics in the Polish agenda. Relations with Belarus, however, are uneasy. Polish diplomacy prioritizes questions of energy security strategy and of demographic and migration policies. Poland looks for effective opening of labor markets to Polish workers and social protection under the argument of solidarity and against stereotyped images, like the “Polish plumber”, achieving good results in Great Britain, Sweden, and Ireland. Warsaw emphasizes the importance of its work force in European economic growth. Poland is also a tempting growing market, drawing much attention from its European colleagues, which has led to the drafting of a comprehensive Strategy for Promotion of Poland in the Years 2007-2013. The Polish government considers political and economic preventive actions as the most effective method of counteracting terrorist initiatives, as shown in the Polish participation in the American-led coalition that invaded Iraq.⁶⁶

Portugal

Portugal is regarded as one of the greatest enthusiasts of the EU's projects, aware of the benefits that its membership has brought to the country, especially regarding democracy. Both main political parties supported the Constitution, but the referendum was postponed. Portugal held the EU Presidency in the first half of 2000 and launched a dialogue with Africa. Nowadays, together with Spain, Portugal calls for more cooperation with Latin America. Lisbon is a crucial actor in the Euro-Atlantic dialogue process, defending the reinforcement of relations with Latin America (notably with the MERCOSUR),

⁶⁶ See www.msz.gov.pl

with Africa (especially with the Portuguese-speaking countries), and with the countries of the South Mediterranean shore (such as Morocco, Algeria and Tunisia), fully supporting a still incipient European Policy for Oceans and Seas. During its last Presidency, Portugal oversaw the launching of the Lisbon Strategy.⁶⁷ Portugal advocates the egalitarianism in EU as a mark of the solidarity principle, defending the participation of all members in every single deliberation, and guaranteeing the same status to all European national languages.⁶⁸

Romania

Immediately after signing the Accession Treaty, Romania began participating in EU Community bodies as an observer. The recognition of the Romanian progress granted the country fund allocations in order to sustain the reforms being made. By the year's end, Romania will have possibly been the biggest-ever receiver of EU funds. Nevertheless, Romania (along with Bulgaria) received a formal warning from EU Commission for Enlargement concerning essential judicial reform. The postponement of accession may be invoked if goals are not met. The main issues for Romania are similar to Bulgarian difficulties, added to the particular question of problematic border controls, since Romania's northern and eastern frontiers will be the frontiers of the EU. It is essential for Romania to reaffirm the functioning of its market economy and to suppress mentions to minorities' discrimination in the Progress Report.⁶⁹

Slovenia

⁶⁷ See <http://www.euractiv.com/Article?tcaturi=tcm:29-117510-16&type=LinksDossier>

⁶⁸ See <http://www.min-nestrangeiros.pt/mne/> and <http://www.un.int/portugal/foreignpolicy.htm>

⁶⁹ See www.mae.ro

Slovenia was one of the richest former Yugoslav republics, boasting a considerable industrial park, favored by the mineral riches of its soil. The country proclaimed its independence in 1991, standing apart from its neighbors due to its relatively good social statistics, especially educational levels. Slovenia joined the EU in the latest wave of accession, after applying many budget measures and addressing some Italian demands related to market access. The Slovenian TRANSFORM program developed a deep democratic and market reform. Slovenia's most important partner is Germany, representing a great percentage of its trade, so the country is eager to develop new commerce channels. The stability of Balkans is, of course, of direct interest to Slovenia, due to the possible security and the immigration impacts. Slovenia is expected to join the Schengen acquis by the end of 2007. Uneasy relations with Croatia have been seen as a potential difficulty for establishing effective border control.⁷⁰

Slovakia

Slovakia entered the EU with significant popular support and expectations of improving its social indicators. The country achieved membership being considered the least apt to join the European Union, especially due to the economic and infra-structural problems. The effort of Slovakia, in this sense, has been concentrated on building a new image to gain the confidence of European counterparts. Slovakia's actions to remedy the situation of discrimination related to access to employment and public services by minority groups, such as the local Hungarian community, have been noted. As one of the closest entry points to the European Union, Slovakia's border police have come under great pressure to reinforce protection along the Ukrainian border. The main worries of the Slovakian

⁷⁰ See www.mzz.gov.si

diplomacy are directed to the responsibility following the Schengen border rules without being compensated, since it will have to deal with high costs for controlling immigration. Slovakia is also an enthusiastic supporter of economic cooperation with developing countries.⁷¹

Spain

Spain only became a member of the European Community in 1986, after seven years of negotiations. The application was made in 1977, with the extinction of the previous undemocratic regime. Based on its experience, Spain supports the membership of the candidate countries, saying that Spain is an example of both adaptation to the European supranational system and of peaceful transition to democracy. The convergence criteria laid down in Maastricht as essential parameters for achieving monetary union has helped the Spanish economy to become one of the most competitive in Europe. Recently, Spain declared that it is going to allow workers from the new EU members to work legally in the country after May 1st, 2006. Spain was the first country to approve the EU Constitution through a referendum. Both the Socialist Worker's Party and the People's Party backed the Constitution. Terrorism is a key issue for the current government. Spanish approach to counter-terrorism policies has been criticized, especially after it proposed starting talks with ETA after the group agreed to cease all violent activities. Nevertheless, the good results are undeniable. Spain is favorable to a deeper social union and social cohesion, having contributed with important concepts, such as European citizenship. The foreign policy of Mr. Zapatero includes more cooperation with France and Germany within the EU, to

⁷¹ See www.ivo.sk

⁷² See www.mae.es

become a counterbalance to the American power.⁷²

Sweden

The Kingdom of Sweden follows a traditional doctrine of neutrality and non-participation in alliances. Since it has joined European Union's CFSP, Sweden has been trying to resolve an apparent mismatch. Swedish foreign policy is known for its assertive position on themes concerning human rights, environment, and development assistance. At the turn of the XIX century, Sweden produced great migratory flows to America. Now, the situation is reversed, being a preferential destiny for large waves of migrants. Swedish attractiveness is due to the liberal immigration and asylum policies, counting on considerable assistance provided by the State. Based on its social democratic approach, Sweden adopts a coherent position on EU debates, firmly discussing European social deficit and European budget. In this sense, Sweden has a consistent role of reaffirming efforts to safeguard human rights and of strengthening their implementation.⁷³

The Netherlands

In spite of their close ties to the United States, European integration has long been one of the main motors of the Netherlands' foreign policy. Institutionally, the Dutch government seemed favorable to the constitutional text; nevertheless, 62% of the population opposed it in the referendum, leading the House of Representatives to call for a public dialog on the issue. Concerning EU enlargement, the Dutch authorities positioned themselves favorably to the

⁷³ See www.sweden.se

expansion, defending the maintenance of strict accordance to the *acquis communautaire* amongst the ten new members. Regarding security and defense issues, the Netherlands are committed to the enforcement of European security, despite the drastic reductions of the defense budget. Strongly engaged in achieving EU objectives, the Netherlands keep promoting both Dutch and European interests in international forums and bilateral contacts.⁷⁴

Turkey

Turkey is always a main subject when European Union's expansion process is discussed. Since the modernization headed by Atatürk, Turkey has been taking steps to reach a condition of equality in its dialogue with the West. The radical reforms suffered by Turkish society were profound, but were insufficient to convince European interlocutors, hesitant before a nation with 65 million inhabitants and with a different profile. Even though the membership application is dated 1987, the Turkish candidacy was only formally recognized in December 1999, at the Helsinki European Council. The main challenge for Turkish plans is the fulfillment of Copenhagen Political Criteria, which touched many points of traditional internal practices. The legislative reforms that followed, such as the legal guarantees and the abolition of capital punishment, were insufficient to reach European standards of democracy. Turkish diplomats are expected to come up against German resistance, so it is essential to maintain open dialogue with concerned countries (the Eurobarometer shows over half of European citizens do not want Turkey in EU), as well as with Greece, which surprisingly manifested its approval of the Turkish candidacy. The migration question is also a key issue and a tough task for Turkish

⁷⁴ See www.minbuza.nl

diplomacy, which has to prove that Turkish membership will not represent an open door for illegal migrants to Europe and that Turkish workers will not saturate the European market.⁷⁵

United Kingdom

Among the milestones of UK's European presidency were the opening of accession negotiations with Turkey, and the debate on the future of Europe - dealing with subjects such as terrorism, migration, and the constitutional treaty - following the reflection time agreed to after the "No" referenda in France and the Netherlands. In the UK, critics said that the constitution undermines British sovereignty. The Conservative Party says it wants a new treaty, while the Labour Party, currently in power, supports the Constitution, but has never been very enthusiastic. The UK is concerned with the construction of a European superstate, and had always maintained certain distance from "mainland Europe". When the EC was established, the UK was afraid that membership would weaken her strong trade links to the Commonwealth and the United States. In the United Kingdom there are labor shortages in many areas, leading the government to introduce initiatives, such as the High Skilled Migrants Programme, for non-EU nationals, and to allow workers from the new EU members to work legally. The UK participates in the Schengen Information System, but does not participate in the Schengen acquis. Britain has historically been reluctant to relax border controls and fears that illegal immigrants would travel to the UK. After the London attacks in July 2005, the UK government has issued new anti-terror legislation, but critics say these new policies violate human

⁷⁵ See www.mfa.gov.tr

⁷⁶ See www.fco.gov.uk and www.eu2005.gov.uk

rights.⁷⁶

FINAL REMARKS

The themes on the European Union's table are clearly gaining new shapes. The enlargement of the prospective views shows that a new European international role is not a rough draft anymore, even though the implementation of policies is compassed and very time-consuming. The idea of an island of prosperity surrounded by an unstable periphery could not be accepted without response. Therefore, it is remarkable how the European Union has been suppressing the notion of parallelism between internal and external affairs to implement, through communitarian action, an experience of wide integrated strategic thought.

Themes like migration, terrorism, and economic partnership involve high potential for convergence. On the other hand, particular circumstances and minor interests may lead to confrontation. The political tone of the debates among member States implicitly brings a series of principles that reinforce a European sense of common interest, even when it seems impossible to conciliate opposite views. In fact, the European Union epitomizes the democratic principle by actual practice. After all, the Union's motto, "United in Diversity" resumes the implicit logic.

Finally, considering the recurrence of the debates on institutional reform, it is easy to notice that the challenges to the European Union go beyond material questions. Every single step within the European machine has been calculated to prevent domination of the lesser powers by the greater ones. In the same sense, the institutional weight will be balanced until the mechanical equilibrium is reached. Not only do European representatives reform the framework within which they make decisions, but they also deal with substantive world challenges.

Goals such as undoing the image of a “European fortress” and extending its hands to the developing world reinforce the idea of a crucial international actor for change. In sum, while the institutional configuration is being revised, new members are preparing to accede, and present members are becoming used to the new principles of transparency and efficiency, discussions and decisions go on. Europe cannot stop.

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