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UNASUR: realist analysis of the organization since its conception to the entry into force of its Constitutive Treaty

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To aunt Zoilita Paredes, imperishable example of joy and affection.

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Abstract

The Union of South American Nations (UNASUR), officially born in 2008, emerges as one of the most ambitious political projects of the XXI century in Latin America. Nevertheless, despite its claim to achieve the awaited integration of South America, this initiative appears to face obstacles in its own institutional and regulatory nature; established in its Constitutive Treaty and General Regulations. To truly achieve its goals, UNASUR faces the challenge of dealing with an intransigent vision on the principle of sovereignty, which prevents thinking on a space of coexistence and governance beyond the concept of a Nation State. This thesis thoroughly investigates the institutional and normative design of the organization, providing empirical evidence that is contextualized in a Latin American scenario that is not foreign to integration schemes.

Introduction

Two hundred years ago, Simon Bolivar undertook a task that was half met. Although the people of America gained their independence from the Kingdom of Spain, they failed to build the "largest, richest, and most powerful state of the world" as the Liberator yearned. They had everything to become a world power; but they were outweighed by individual egoism; the idea of the Great Motherland became history. Or at least that was believed.

However, the dream of integrating these "disarticulated nations", appellation given by José Mujica, was never abandoned. More than century has gone by full with wars and differences among brotherly countries to finally understand that they were destined a promising future, but only if they overcome short lasting selfish visions. This meant that recognizing the significance that big goals require great sacrifices; meanwhile, facilitating the construction of large integration projects that could contribute to the cohesion of the young nations of South America.

Such recognition led to the trial of at least two extraordinary projects of integration of South America: the Andean Pact, that later became the Andean Community (CAN), and the Southern Common Market (MERCOSUR). These initiatives put forth a gradual scheme of integration that indispensably became an economic integration, (creation of regional zones of free trade, common markets, customs unification, etc.) which will lead to the social, cultural and political integration of the region. Nonetheless, this recipe was never met; as a result the regional integration process lost strength, the countries lost the margin to take action to avoid the deterioration of the market strength and capital; societies lost interest in the projects that had awoken hope in its initial state.

In this context, both the CAN and MERCOSUR entered a period of stagnation. It was a time of expansion of markets and important globalizing forces, which brought along projects such as the well-known Free Trade Area of the Americas (FTAA), in which South America played an important role. That would be the prelude to the "South American regionalization agenda" that would lead to the creation of UNASUR.

At the beginning of the millennium, led by Brazil, the Heads of State and Government of South America met in Brasilia, with the intention of promoting free trade in the region and thus form a united front to negotiate with the United States with regards to the FTAA. However, the emergence and convergence of players from the 'left', such as Luis Inacio Lula da Silva, Hugo Chavez, Evo Morales, Néstor Kirchner, among others, led to the consolidation of a South American regional project continuing the summits in Brasilia and then in Guayaquil, Cuzco, Brasilia, Cochabamba, and Isla Margarita. It would happen again in Brasilia in May 2008, where the leaders of the 12 South American countries signed the Union of South American Nations Constitutive Treaty (UNASUR), creating the newest organization of integration that will have a leading role in the regional agenda.

UNASUR is one of the latest efforts to integrate the Great Motherland, which was dream of Simon Bolivar. However, given the amount of efforts to integrate the region, part of the South American population is skeptical about the realization of this ambitious regional project. Although the CAN and MERCOSUR are accumulating valuable achievements and experiences, which should be applauded and replicated, they also provide some lessons about mistakes made, which should have been taken into account when constituting UNASUR. Anyhow, this Union currently stands as a project that is difficult to be ignored, with huge potentials which deserves to be studied.

The work proposed in these lines attempt to decipher in detail the theoretical concepts underlying UNASUR, with special emphasis on the principle of sovereignty as the cornerstone of this integration process. Through this structural diagnosis of the Union of South American Nations, which will use as reference its Constitutive Treaty and General Regulations, we will seek to identify the conferred capabilities on the organization's institutional architecture, connecting it with the objectives set by the Member States in May 2008 in the city of Brasilia.

In this manner, the first chapter has a clear conceptual approach that seeks to build this research through the lens of sovereignty and its influence in an anarchic

international system in which shared interests lead to coalitions, often institutionalized, of regional governance. The second chapter introduces the reader to a descriptive study of the Union of South American Nations, taking as a starting point its Constitutive Treaty and General Regulations; basic tools to understand the institutional and organizational rules of the organization. Based on what was previously described, the third chapter transcends to a very thorough analysis of UNASUR, not only based on what is written, but also based on what has been practiced in the early years of the organization. The questions rose in the third chapter, the description captured in the second, and the conceptual content provided in the first, allows the fourth chapter to retake comprehensibly the discussion of the concept of sovereignty and its influence on the design and functionalization of the Union of South American Nations.

Chapter I

Sovereignty and International Organizations

While today we take for granted the existence of the State as the center of international relations, history teaches us that humanity is constantly changing, and thus its governance institutions. This permanent transition, which can be analyzed from multiple levels, has been widely and thoroughly explained by a number of scholars of political and social sciences, facilitating an extensive range of theories, principles and definitions.

This chapter aims to take some of those explanations and compile around an axis of analysis to illustrate a brief overview of the emergence of the concept of sovereignty, describing and contextualizing it around the State and its significance in recent history. The following analysis does not ignore the reality of a world based on Nation States configured mostly in Europe and replicated in other continents, laying the groundwork for what we now know as the 'international system'. The study of history teaches us how hegemonic thought (and force) set the world in a Western style, displacing governance models alien to the European model, State-centric, sovereign, developed within the laws and the Constitution.

However, this paper does not ignore the demands of the rest of the world, with their own struggles to overcome this 'Eurocentric' model for the international system. I take the risk to get excited, maybe prematurely and naively, with the possibility that this constant transformation of the system is marked by the emergence of different schemes, who will share the responsibility of outlining the future.

Perhaps this is why I insist, at first, in the uniqueness of the Union of South American Nations (UNASUR), highlighting the essence in which is emerging. This does not impede that, after this, will delve into the history of the concept of sovereignty, a matter in which it is impossible to relegate it as a European burden, as has been said previously. Next, I will introduce some elements of discussion on interstate cooperation,

which will lead us to the analysis of International Governmental Organizations. At this point, besides exposing the constitutive characteristics of an organization of this kind, we will examine the organizational structure, giving it special attention to the matter of leadership; the latter due to the fact that in the analysis, that will be seen in later chapters, we will emphasis on the directive bodies of UNASUR, which inevitably influence their transformative process. Finally, the chapter will close with an explanation of the decision making models and its mechanisms of implementation, which will cover, in a very concise manner, the description of the IGOs.

With this analysis, the reader will have the necessary foundations to address the following chapters, allowing a proper and hopefully different analysis. The purpose of this paper is, precisely, to create room for analysis and discussion that can enrich the perspectives of a South American integration.

1.1. The Uniqueness of UNASUR

Delving into the singular, original and unique character of the South American political project might be obvious to those who read this analysis. Indeed, what political project is fully identical to one another? None, of course; each has its specificities. The analysis that is made of the Union of South American Nations must necessarily start from the recognition of its uniqueness. Why such insistence?

The existing literature on regional integration provides us with an answer: the Eurocentric character of its own study. Such is the extent of this bias that it is often easy to fall into the temptation to compare any attempts of integration with the European Union. It is not the purpose of this analysis to assess the achievements and failures of the European process, even if it offers lessons that can be taken into account in similar projects. In fact, sometimes they will be used to a corresponding argument. Nevertheless, it is necessary to stress that the path chosen by Europe is not a recipe that can be identically replicated in South America or in any other region of the planet.

While the approaches to regional integration are not new, overtime this has not lead to a unanimous consolidation of its meaning and scope. Talking about these political systems, Christian Bouteille (2009) recalls that the former EU Commissioner Jacques Delors, referred to them as "UPOs: Unidentified Political Objects" (185). In this regard, several authors have made efforts to demystify the idea of European integration style. Mary Farrell (2005), for example, is overwhelmingly clear that

there is no reason to accept the view that a particular model of regionalism offers a paradigm for others to follow, any more than it is reasonable to accept that a particular developmental model used with success in one state can be simply applied without any adaptation by all other states that seek to emulate the success of the former. It is imperative to look at the conditions (political, economic and social) and the historical context in each case in order to understand the nature of regionalism and to explain the processes, as well as appreciate the diversity of models (10).

Hence, according to Farrell is an error to take the European model as a paradigm to be replicated. Louise Fawcett (2005) agrees that one of the main problems facing the study of regionalism “lies in its Eurocentrism... Certainly in contemplating the regional phenomena, we must recognize that the make up of the region under discussion is vital to understanding its prospects and possibilities” (26). Both authors offer a much broader perspective on what it signifies for a regional integration project, they both belong to the school of the new regionalism, emerged with the rise - and stagnation - of integration efforts.

Beyond endorsing or not to their thesis, the new regionalism theorists allow us to rethink regional integration as a political project. In this context, UNASUR emerges as an alternative to the integration processes that have failed in the past - a subject on which Latin America has much to tell. In that sense, without denying that it can show similarities with such processes, it is not wrong to say that the very concept of the Union differs greatly from what has been thought until now in terms of integration. Its history and current dynamics respond to a different local and global context. And, this is exactly why much emphasis is insisted on its uniqueness.

This uniqueness, which is widely argued throughout this research, itself, constitutes the core of the philosophy of the Union. "The internal chemistry of

UNASUR is rare. It is strong", said Argentine analyst Martin Granovsky (2011) in the prestigious journal *Página 12*. His compatriot Rafael Follonier -presidential adviser of Néstor Kirchner, the first Secretary General of UNASUR, responded in an interview: "there is a sense that has revived, reborn, this time a patriotic South American feeling. There is a wind, a fantastic smell, a mystic" (Follonier 2011a).

This mystique, this chemistry between Member States is evident in the meetings of its various bodies: an air of pride is perceived; defiant due to the common recognition that in today's world, the Union provides them with a force never before experienced. Even without concrete results, that mystique is strengthened by the shared consciousness that, right or wrong, UNASUR is their own and they are paving their own path. I could not make it clearer, Maria Emma Mejia, Kirchner successor at the Secretariat: "we will be a model of study for other regions in how to build integration with equity, social justice and sustainable development" (Mejia 2012a), noting that the ideal is not to become a European Union (Mejía 2011a). Both statements reflect the essence of the new South American regionalism.

There is no need to quote any extract from the Constitutive Treaty of UNASUR (CTU) to comprehend it. Its uniqueness is a conclusion that is inferred after reading it entirely. Why is it important to measure its relevance? It is important because this characteristic has the philosophical essence of the Union. It denotes the independence that a region seeks, even in its discourse; although, it still has the ghost of colonialism. And in this sense, South America also makes a contribution to the geopolitical reconfiguration of the planet, a subject that exceeds the thematic topic of this research. CTU also denotes sovereignty, no matter how much this concept is discussed, and their very vigorous entry constitutes disengagement with the paradigms of which we have already discussed. Therefore, to understand the uniqueness of UNASUR is a *sine qua non* to avoid confusion or, in other words, avoid accessing its understanding under the veil of Eurocentrism.

Note that so far, I have avoided a judgment on the characteristic of its uniqueness, the success or failure will be determined by time and the practice of what is written in the process. In this regard, it is worth quoting Professor Björn Hettne (2005): “since regionalism is a political project, created by human actors, it may ... fail” (270). In fact, there are several analysts who foresee the failure of a project that combines old magical vices of South American regionalism, with a new hypothesis which remains unproven. Within the idiosyncrasies of the political class in charge of UNASUR, it is neither CAN nor the MERCOSUR or the ALADI neither the European Union nor the African Union, not even ALBA; it is an experiment that borrows from all, but it has more of itself. And these features impose the most important challenges: learning, taking note and correction.

Professor Olivier Dabène categorically summarizes the new regionalism that is developing in South America, stating that “UNASUR represents a regionalism which is post-commercial, post-hegemonic, and that can lay the foundation for something serious in the context of South America” (Dabène 2011a). And José Mujica, President of Uruguay, seems to understand the challenge of building this new space for integration: “Latin Americans are building a different time. I do not know if we achieve what has to be achieved: to be closer together, understand that countries are disjointed pieces of a nation” (Mujica 2011). It is Mujica who appeals to the ideal of this great nation, this idyllic Great Motherland which is referred by other leaders of the subcontinent.

The ideology of the Great Motherland is perhaps the main ingredient in the internal chemistry that Granovsky refers in his analysis. The history of that fragmented country into various pieces exceeds the scope of this analysis; however, the recognition of brotherhood between the people of South America is what moves these 12 countries to draw a new cooperation scheme. The integration of the region, as a necessity, is an idea hardly impugned: the South American political class is generally aware that it is a necessary path to adopt; better rules in the globalized world. The Bolivian expert Pablo Solón (2008) sums it up perfectly:

not a single state, not even the one that represents 50% of the territory, population and GDP of South America can imagine an autonomous development

at the margin of a regional integration. All South American states need and must complement one another (12-13).

As might be expected, the general awareness of the region's political class has not been reflected in concrete measures in order to achieve integration - or at least not on measures that have built a truly regional entity that could integrate nations. After all, "integration means different entities coming together in a coherent whole" (Camacho 2009, 76). Is UNASUR fully coherent? After frustrated previous attempts to integrate, is the South American political class willing to take concrete steps to integrate the region? And further more: in addition to state actors, what is the role of civil society, the business conglomerate, NGOs, labor unions, indigenous people and other stakeholders in this process of a South American regionalization?

The uniqueness of this process also makes it unpredictable. The multiple needs of the region are tried to be filled as they go forward, with new ideas and projects to be executed. This constant succession of ideas which covers various aspects makes many critics label the process of UNASUR to meet its objectives as improvised. Even, some scholars critique that the Union is a project without theoretical background, while other supporters respond by stating that political theory is no good if no tangible actions are executed. Dabène (2011a) explains:

normally the other processes . . . in the Andes or in MERCOSUR, first they have an agenda; institutions are created and then they are put to work. Here is the logical opposition that arises . . . based on functional necessities UNASUR creates boards to address a number of issues, in this sense, it is like an evolutionary agenda that depends on situations and with a very flexible approach, very pragmatic and towards the future with good perspectives.

Such that, improvised or not, this process has a unique touch and it is conceptually different from what already exists.

The following analysis becomes easier once its uniqueness has been recognized. Clearly, the Union of South American Nations breaks from the typical paradigm of regional integration. And yet, there is one issue that cannot escape any integration process analysis: state sovereignty. How is this principle seen in UNASUR?

1.2. The Dilemma of Sovereignty

1.2.1. The Concept of Sovereignty

We often hear our leaders mention the word sovereignty, sometimes in an energetic and challenging tone. This concept, which is nothing more than a political theory like many others, it is a fundamental principle of the international system that we know today as essentially anarchical. The existence of the State is unthinkable without the idea of sovereignty. Therefore, we should understand the meaning of this concept in order to be able to analyze the role it plays in the process of South American regionalism.

The renowned Austrian jurist Hans Kelsen (1986) refers to the classical conception of the sovereign, defining it as:

Sovereign, whether it is of an order, or a community, or of an organ, or a power, should be considered as highest, as the supreme, above which there can be no higher authority limiting the role of the sovereign, to compel the sovereign (103-104).

Thus it infers that in its classical conception, the sovereign State is the highest authority in the international system and that the authority of this entity is not subject to any other.

It is inevitably to ask oneself, when does this concept emerge? Clearly, history has not always been marked by the coexistence of sovereign States, but by different political institutions, that played by different rules. In the study of international relations is inevitable to recur frequently to a transcendental event in history: the Peace of Westphalia. Considered the first encounter of modern diplomacy, actually peace agreements were intended to bring order to political and religious conflicts that plagued Europe. Embodied in the treaties of Osnabrück and Münster in 1648, the Peace of Westphalia ended the bloody conflicts that devastated Europe. But, why these treaties are important to understand sovereignty?

For many, the birth of the international system based on sovereign States occurred by the signing of these agreements. John T. Rourke (2007), in his book, *International Politics on the World Stage*, explains the process in a simple manner. For

much of the Middle Ages, the authority to rule was shared by the Roman Catholic Church and the great European empires. They, in turn, distributed authority through princedom, duchies, baronies, and other fiefs: indeed, local political organizations were designed around the feudal system. These fiefs were ruled by nobles, who exercised almost complete sovereignty over them - although theoretically this sovereignty or authority over the fiefs belonged to the king or emperor, who was supposed to be served by nobles.

With regard to the sovereignty exercised by the nobles and theoretically attributed to kings or emperors, Rourke (2007) makes an important observation:

Certainly monarchs and nobles controlled specific territories, but in theory they did not exercise sovereignty over them. Instead, God and God's Church gave monarchs the right to rule over certain lands, and the kings subdivided their territory by granting nobles dominion over parts of it. Thus the very nature of the feudal system, in which vassals were theoretically subservient to kings and kings were theoretically subservient to emperors and popes, meant that sovereignty did not exist legally and often did not exist in fact (36).

Therefore, it is premature to talk about sovereignty as we know it today. It is interesting to observe the previous dynamics prior to the existence of the sovereign Nation-State, as today we assume its domain as a unit of political and territorial organization.

During the XIII, XIV and XV centuries, the feudal system was attacked from various angles. In the words of political scientist Hendrik Spruyt, "the international system went through a dramatic transformation in which the crosscutting jurisdictions of feudal lords, emperors, kings, and popes started to give way to territorially defined authorities" (Spruyt 1994, 1). On one hand, the feudal lords saw the ability to defend their stronghold diminished to the emergence of more sophisticated military technology and managed better by larger political entities. On the other hand, the economic expansion of Europe also threatened the feudal system. Trade with Asia and the Middle East flourished, and with that production also improved massively through the establishment of rudimentary factories. These two factors identified by Rourke are, in his opinion, what favored the decline of the system.

Of these two factors, Rourke illustrates three consequences: first, "it created a wealthy and powerful commercial class, the burghers, who increasingly dominated the expanding urban centers of trade and manufacturing" (Rourke 2007, 37). It is expected that the emergence of this new class would generate tension in the hierarchical order, especially if this process involves a transfer of authority. Thus, the second consequence was that the bourgeoisie, in their attempt to increase their economic power, they felt dissatisfied with the feudal system that limited their markets and their ability to purchase raw materials. The third jeopardize the system: "the desire to create larger political units to facilitate their commercial ventures made the burghers natural allies with kings, who were constantly striving to increase their control over their feudal lords" (Ibíd.). The conjugation of these consequences set a milestone

The burghers and the kings each had something the other needed. The kings could legitimately destroy the fiefdoms; the burghers could supply the kings with the money to pay for the soldiers and arms needed to overcome the nobles. The resulting alliance helped to create the modern state (Ibíd.).

The power of the monarchy had been strengthened. Nevertheless, what about the Church?

As the power of the kings increased, the power of the Roman Catholic Church was dubious. Its authority was questioned from several spheres, driven by the Renaissance. It is in this context that Martin Luther emerges, with the Protestant Reformation. Among other things, Luther proposed a direct relationship between the individual and God, without the mediation of the Church: this idea, of course, caused the Church authorities to repress the Protestants, without fully repressing the Lutheran ideas. In fact, many principalities -motivated in large by political interests- adopted these religious currents and perpetuated the conflict, especially in Germanic territories.

The wars caused by religious and political differences devastated Europe. The Peace of Westphalia marked the stabilization of Europe thanks to the signed texts that coordinated religious differences. For many, this is when sovereignty as the authority of a government to administer the territories, as it suited them best, occurred. Hence, often, many refer to this principle as Westphalian sovereignty-a term that was erected in Westphalia where the foundations of the international system and where this principle

was defined. Andrés Serbin (2010) - a Latin American scholar, who we will resort frequently in this research, says that

from the signing of the peace treaties of Westphalia in 1648 between "sovereign" States, are assumed as an essential standard by the international community and is incorporated as a cornerstone of the theories on international relations. Westphalia agreements substantiate the key elements of the modern system of sovereign States-States equally to one another, not subject to the imposition of any supranational authority and, above all, they do not intervene in the internal affairs of other States, with the right and ability to conduct both war and peace at the international level-(3).

For others, like Professor Stephen Krasner (2001), the historical extent of Westphalia is inflated, in relation to the conception of sovereignty:

Although Osnabrück and Münster treaties comprised Peace supported by the principle of *cuius regio, eius religio* (the ruler can set the religion of his territory) originally formulated in the Peace of Augsburg in 1555, Westphalia actually meant the establishment of an internationally recognized regime for religious tolerance in Germany before legitimizing the authority of the princes to set rules for religious practices within their own domains. The Peace of Westphalia had almost nothing to do with conventional notions of sovereignty (27-28).

We speak, of course, of the seventeenth century, therefore it is vital to understand that the modern concept of sovereignty has come a long way and, moreover, it is not a stable concept, but dynamic and malleable. Krasner states that

States that were territorial juridical independent entities and mutually recognized did not emerge suddenly as a result of the Peace of Westphalia or any other historical event. The rules of sovereignty were not explicitly formulated in an organic package for any theoretical or political leader. Rather, it emerged over time and were adopted with varying degrees of fidelity (Ibíd., 34).

The Peace of Westphalia would, therefore, be an important reference but not definitive in the conception of the word sovereignty. It is important because no historical analysis of international relations excludes Westphalia in its argument, either to demonstrate its relevance or qualify it.

As mentioned before, the notion of sovereignty is dynamic and malleable - and it is relevant to our study in a holistic understanding of it. Krasner quotes the philosopher Christian Wolff, who in the 1760s is attributed with the introduction of the concept of sovereignty as the core of the international State system, "to interfere with the governments, regardless of how it is made, is opposed to the natural freedom of nations,

by virtue of which one is totally independent of the will of other nations in their action" (Krasner 1976 Wolff 2001).

Going further, Nikki Slocum and Luk Van Langenhove (2005) make an interesting contribution to the study that concerns us, saying that

The concepts 'nation-state' and 'sovereignty' are inextricably interlinked in that sovereignty denotes the international legal personality of a state. Sovereignty means 'completely independent' and refers to the concept of the state as the only legitimate authority to govern and to enforce laws in a given territory. Indeed, the enforcement of laws, and its monopoly over the use of (violent) force to do so, and to protect itself from threats against this exclusive 'right', is considered the distinguishing characteristic of the state (140- 141).

Even though it is not the intention of this research to review the philosophical foundations of the Nation-State, it is of our concern to comprehend the dynamics that Slocum and Van Langenhove demonstrate between this concept and sovereignty. After all, the exercise of raising a new regional governance model inevitably leads us to question what the role of sovereignty between the state and the region will be. What would happen to the complete independence, the legitimate authority to govern and the ability to apply the law, if the state transfers it to a regional entity?

1.2.2. Sovereignty and Interstate Cooperation

All the previous analysis allows us to interfere with arguments in a discussion in which sovereignty is vital: regional cooperation. What is the best way to cooperate regionally? Should the state transfer its powers to another entity? Is regionalism the supposed loss of sovereignty? Is it an impediment to building a regional bloc? Finally, do the States want to truly cooperate?

The answer to these questions lies in a thorough analysis of the nature of the international system-one that, today, is based on sovereign States, but also in transnational corporations, nongovernmental organizations, criminal groups, civil society, religious organizations, individuals, etcetera. For many, however, achieving a holistic vision seems to be a pretentious objective. The protagonist of the international system unit is the State, and around it is the outline of the world we know.

In this manner, the simplest approach may be one that seeks to describe the interaction between states and their willingness (or not) to cooperate with one another. As a result, Rourke brings us to the debate between neorealists and neoliberals - or structural realists and liberal institutionalists. For Rourke (2007), “neorealists focus on the anarchic nature of a world system based on competition among sovereign states” (24- 25). According to Sterling-Folker (2002) “neorealists are skeptical about the ability of ... international organizations to promote cooperation”, because they emphasize the structure of a State-centered system. At the opposite side we find the neoliberals, who focus more on interstate cooperation. Thus, theorists who opt for this stream believe that “the best way to achieve cooperation is to build effective international organizations” (Rourke 2007, 26). Furthermore, neoliberals “are more dubious about a world in which countries retain full sovereignty. These analysts believe that countries will have to surrender some of their sovereignty to international organizations in order to promote greater cooperation” (Ibíd., 30).

Following these theoretical lines, and assuming that in a region the States do want to cooperate to achieve common goals, we should get into a deeper discussion of how this cooperation could become effective. There are two opposing models: supranational versus intergovernmentalism. Farrell (2005) cites Professor Hettne making an interesting comparison, stating that the debate between these two theories of integration reflects in some way the struggle between the theories of international relations, i.e. neorealism vs. neoliberalism (7). Indeed, as we mentioned above, the concept of sovereignty plays a malleable role in providing a regional cooperative model which is sought.

Therefore, it is appropriate to differentiate the two currents which are evident in international organizations. Intergovernmentalism is the trend that more empirical evidence accumulates. Its theorists maintain a State-centric view of the international system and, mostly, see international/regional organizations as appropriate arrangements to facilitate interstate cooperation without compromising the sovereignty of the State. In the international intergovernmental organizations, national governments of the Member

States are the ones who have a voice and vote on the issues that concern them. Contrary to intergovernmentalism, supranational conception breaks with the classical state-centric vision system and emphasizes the role of international organizations and their new structures. Those who defend this argue that the only way to safeguard the common interests of the Member States is ceding some sovereignty to a superior entity, thus overcoming a vision based on the individual interests of each state. For Rourke, a supranational organization is one that "is founded and operates, at least in part, on the idea that international organizations can or should have authority higher than individual states and that those states should be subordinate to the supranational organization" (Rourke 2007, G-12).

It is worth mentioning that there are many scholars who see antagonism in these two streams; on the contrary, we argue that a supranation constitutes an evolution of an intergovernmental organization whose members, considering the success of their institution, decide to grant greater powers to manage their common affairs. Of course, the discussion is focused on how successful an intergovernmental scheme can be if within, the Member States put their individual interests before the collective interests. This is precisely the focus of my analysis.

Contemporary theoretical trends of regional integration seem to have overcome the debate between intergovernmentalism and supranation. In academia, this divergence is seen as outdated, simplistic and limiting. Mary Farrell states, in the past tense: "critics considered that integration... was driven by states themselves, and how far the integration process would go depend upon the strategies and decisions of key states. In essence, integration was an intergovernmental phenomenon" (Farrell 2005, 7). Farrell represents a regionalist contemporary school of thought that sees integration as a process of social construction in the region, involving actors from all spectrums of society. This approach is truly interesting, but still lacks empirical evidence to contribute -while recognizing that the European Union has taken valuable steps as far as identity and citizen participation is concerned. Therefore, it is essential to understand that regional cooperation is still discuss under a traditional scheme mentioned previously, in part

because the political class has not yet assimilated these new philosophical trends. Even in this research we will include these contemporary intellectuals to understand the long road that a region must travel to establish itself as an indisputable model of integration.

Intergovernmentalism is by far, the theory that has transcended the academic field towards empirical evidence. In the words of Norwegian Professor Helge Hveem (2003), it is necessary to explain the intergovernmental regional project “represents a state-led and inter-state project that assumes some form and degree of multilateral decision-making processes being negotiated, not dictated outcomes” (87). According to the intergovernmentalist scheme,

nation-state authority retains power over cooperative processes and policies at the regional level... There may be a supranational aspect in the ideology or institutions of the project concerned. But... intergovernmentalist aspects of governance trump supranational ones (Ibíd.).

The reason why the intergovernmental trend is more popular is because “it comes closer than either hegemonic or supranational orders to preserving state autonomy and is thus seen as most legitimate by most political agents” (Ibíd.).

There are many who claim the role of the state role in the process of creation international organizations, debating any argument that suggests its weakening in modern times. Susan Strange (1996), for example, states that “international organizations, both in their dependent and independent exercise of authority, are essentially system-preserving. Their political activities have served to reinforce the authority of governments” (171). Professor Stephen Krasner (2001) comes to an interesting conclusion:

Those who hold power in the current system do not have an incentive to devise a new set of rules that would displace those associated with sovereignty, because the existing arrangements can coexist with alternatives that could be built either voluntarily or by coercion when conventional standards provide less attractive results (37).

Krasner touches upon the theme about the will of the political class that rules the States and, in an exercise of pragmatic political calculation, argues that they will not easily relinquish the power they have. The American professor states: "The adaptability of sovereignty is remarkable" (34).

The discussion of international governmental organizations (IGOs) is important because there is no state in the international community that does not belong to any of them. The multiplication of IGOs evidences that both neorealist and neoliberal; both realistic structural and liberal institutionalists; and both intergovernmentalist as supranationalist, everyone has seen the need to create schemes of interstate cooperation in different areas: security, defense, communications, transportation, politics, drug trafficking, education, health, economy, communications, currency, among others. Thomson (2008) details a very attractive interpretation about institutions attractions, and it is because they provide stability for agreements or for reached decisions that should be met, in other words “in the absence of stabilizing institutions, decision outcomes are inherently unstable when actors must agree on more than one controversial issue” (596). The key is to determine how they take these schemes and the degree, if needed, to transfer of national sovereignty to be part of IGOs. Such considerations have to be agreed in the constitutive agreements established within the organization that is conformed, in which it identifies objectives, institutional architecture, the authority conferred to each party, their responsibilities, rights and obligations, the decision-making system, dispute resolution, among other details.

Before delving into the construction and structural design of the IGOs, it is relevant for the purpose of this analysis, to reflect - though it seems insistent - on the conceptual dynamics between the State and International Governmental Organizations. What makes them attractive to the latter? Why continue to proliferate? Austrian Professor John Ruggie (1972) affirms that states have a “tendency towards International Organizations” (877-882), which could be based on the intention of the government to strengthen the functions in which they are deficient. Mary Farrell (2005) goes further, arguing that governments “have come to view cooperative decision-making as a crucial means to strengthen that sovereignty and to exercise shared authority in the framework of regional cooperation” (4). It is clear, then, the dominant trend that considers IGOs as instruments of the sovereign State.

In the current circumstances, in which global forces are threats to the integrity of the State, it seems reasonable to agree with such statement. The logic of exploitation of the IGOs is attractive for relatively new states, which are much more vulnerable to these forces. The trust placed in the IGOs by these states would demonstrate, at first glance, a paradox: if the newly independent states want to ensure independence and sovereignty to strengthen internally, why would they engage with international governmental organizations? Analyzing this trend, it follows the conclusion that governments consider IGOs as means to achieve their national goals as long as the membership does not involve the transfer of sovereignty. Andrés Serbin (2010) is emphatic when referring to the solid defense recently decolonized states make about the principles of nonintervention and self-determination, as pillars upon which is built their sovereignty (3-4). In this context, it is not unlikely the paradox that initially arose: under this view, the notions of sovereignty and international governmental organization are not mutually exclusive. That argument is in conflict when the conception of IGOs changes from adding the ingredient of supranationality.

The above reasoning does not differ much from what is done in the case of small states and micro-States. Because of its small size, its population, or even of its economy, these countries are not typically considered to be key players in the international arena. Susan Strange (1996) is overwhelmingly clear that in international relations, despite their flaunt sovereignty-states and its inherent principle of equality of states, “there has always been some recognition of a difference between small states and great powers, in the way each behaves to others and in the options available to them in their relations with other states” (13). “Small countries and especially developing countries have long perceived their economic and political dependence upon larger and more powerful countries,” suggest Slocum and Van Langenhove (2005, 140-141), thus diminishing the concept of sovereignty, which leads to better understand the tendency of these countries to engage in intergovernmental projects or, in Ruggie's words, their "propensity to international organizations”.

This trend is not self-explanatory. Many small States find attractive the options certain international organization offer; especially those that are limited to their geographic region. These intergovernmental agreements offer them advantages difficult to deny, as such guarantee having a seat at the table to negotiate with other States, facilitating interaction and its influence on the organization of the regional agenda (Fawcett 30). Beyond that, Andrew Hurrell (2005) argues that these institutions allow constrict freedom of powerful countries through established rules and procedures (50). In his words, "the most fundamental goal is to tie down Gulliver in as many ways as possible, however thin the individual institutional threads may be" (Ibid.). There is a voluntary complement Hurrell makes adding the adjective "thin"; powerful countries are not willing to constrain their power with vigorous institutional strings.

Ultimately, short, big or small, strong or weak, old or new, States generally do a very careful assessment and calculations before deciding whether or not joining an international governmental organization. The thesis that Ruggie (1972) raises states that the matter is that "the propensity for international organization is determined by the interaction between the need to rely on others to perform specific tasks and the general desire to maintain this dependence to a minimum" (877-882). His argument largely summarizes the conjecture that the political class faces while in power to discern what is best for the State. Werner J. Feld, Robert S. Jordan and Leon Hurwitz (1994) add another consideration to this tendency:

There exists an inverse relationship between the ratio of international to national task performance and the total level of national resources that a state possesses. In other words, from the perspective of the state, the greater the resources it commands, the lower will be the number and scope of tasks it assigns to IGOs for performance, as more of its resources will be assigned to national task performance (41).

Eventually, the IGOs would be an interesting alternative for countries to achieve their national goals through intergovernmental cooperative work. Of course, we must not overlook the role that States hold to maintain their involvement in a project of this type:

Decidedly, they do not want to slide into the position of Goethe's Sorcerer's Apprentice, who, after having magically transformed an old broom into an

efficient water carrier, loses complete control over his creation and is unable to stop its persevering, untiring activities (Ibíd., 181).

The analogy introduced by our authors is illustrative and manifest. The design of the international governmental organization must be closely scrutinized to disallow such scenarios.

1.3. International Governmental Organizations

Although a uniform analysis of international governmental organizations is extremely difficult, as we see their growing numbers and their different forms, this section attempts to illustrate, in a general way, some of its basic features; which are more the norm than the exception. It is organized around four main themes: constitutive characteristics, organizational structure, decision-making systems, and implementing decisions mechanisms of IGOs. Special emphasis will be given to the organizational structure, describing the major entities that usually occur in the institutional architecture of these entities: Plenary Assembly, Rotary President, Executive Management and Institutional Staff. This research will facilitate the understanding of the institutional features of UNASUR, the central theme of our analysis which will be assessed in the following chapters.

1.3.1. Constitutive Characteristics of the IGOs

To advance the study of the IGOs is pertinent to point roughly some of the features that they possess.

1. The purposes and objectives pursued by IGOs reflect common or converging national interests of the member states and, therefore, are normally long-range in nature.
2. The achievement of IGO goals is theoretically carried out with the equal participation of all states, although in practice, this is often not the case. . .
3. The most distinguishing feature of an IGO is its institutional framework. This framework may be very simple, consisting of nothing more than a lightly staffed secretariat ... or it may be complex and comprehensive, approximating the legislative, executive and judicial branches of a national government. . .
4. IGOs are always established by a multilateral international treaty. . . It stipulates the competences of the intergovernmental or bureaucratic organs of the

IGO and the interrelations among them, and it sets up the basic norms and operational principles of the organization.

5. IGOs are considered to have an “international legal personality” which means that, under international law, they can act in some ways similarly to a state; some. . . have standing to sue or may be sued in the International Court of Justice. They can conclude international treaties in their own name (Feld *et al.*, 1994, 11).

Even if these features are not a straitjacket for IOGs, they do illustrate briefly its general trend. Specifically, features 3 and 4 are of great importance: it is the international treaty that defines the institutional framework of the IOGs, and the latter should be adjusted with the necessary precision to achieve compliance with the objectives

It is essential to discuss in more detail the details of an IGO, so the empirical analysis has a solid knowledge base on which to work. Felt, Jordan and Hurwitz (1994) place emphasis on the negotiations prior to the signing of the Constitutive Treaty, Founding Charter or Multilateral Treaty: the result of this negotiation will largely define the success or failure of the IGOs that States sign into. In the words of the authors, two aspects are important: first, the scope and complexity of the tasks, and secondly, the type of policy involved in the operation of the IGOs: low or high political profile.

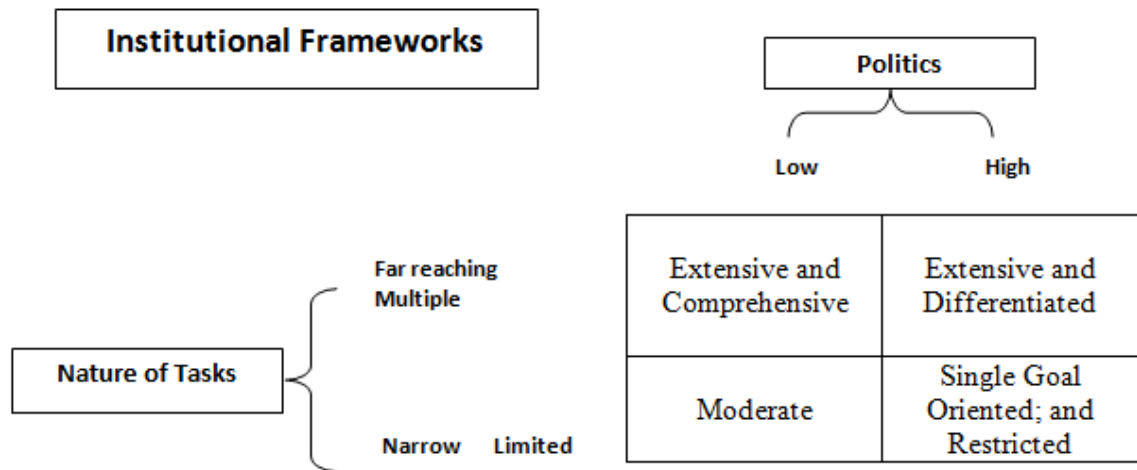


Figure 1: Institutional Framework (Feld *et al.* 1994, 84)

This figure tries to capture, in a didactic way, the options negotiators have with IOGs that are being created. As noted, the type of task may differ between a broad or narrow range, and multiple or reduced complexity. In the case of policy options of low

or high profile, the authors say that the first term “often refers primarily to economic or social matters with accompanying technical problems, while the latter deals with strategic or defense issues and political matters that appear to affect significantly the national interest” (Ibíd., 84). This figure by the authors is useful for the analysis, although in practice, categorizing IGOs into one of the quadrants of the graph can be complicated, as it will discuss.

Well, the institutional framework involves an internal organization with different hierarchical levels, to which Governments delegate powers and duties. The vitality of the international governmental organization depends not so much on their obligations, but on the powers conferred by Member States to each organizational level. It is fantastic to see how the dilemma of sovereignty reaches these meager points, but significant at a time.

What kind of features should the institutional framework of an IGO develop? To Feld *et al.*, “the fundamental mission of IGO institutions is the *management of cooperation* in various fields,” including the search for commitments in conflicting situations, for which there should exist “the necessary physical facilities for deliberation, consultation, and negotiations within and among institutions and between member state governments and institutions, as well as logistical support for its operations” (85-87). Andrew Hurrell (2005) agreed about the dominant role of IGOs, stating that these institutions affect the behavior of States by making cooperation rational by reducing transaction costs, identifying focal points for coordinated behavior, and the existence of a framework for a productive involvement of problems (46-47). All these facilities tend to create a space for intergovernmental cooperation, which would be nonexistent or intermittent without the presence of the IGO.

Notwithstanding the aforementioned function, international governmental organizations accomplish some other missions. Feld, Jordan and Hurwitz (1994) summarized them as, (a) the formulation and implementation of relevant policies, (b) the collection and dissemination of information in the relevant areas, (c) monitoring the

implementation of policies, and (d) the ability to express their opinion regarding ambiguous situations (85-87). John T. Rourke adds the function to fulfill the role of international player in the global sphere (Rourke 2007, 198). Many of these features vary greatly from IOG to another, some of them are not even considered among the functions of a particular organization.

1.3.2. Organizational structure of the IGO

These roles are assigned to the different structural levels of the institution, varying among them based on hierarchy *o raison d'être*. What the Member States assign to the General Secretariat will be different on what will they assign to the Ministerial Council, for example. In this sense, it is worth making a succinct revision on the elementary structure of an IOG.

1.3.2.1. *Plenary Assemblies*

Because they are made up of States, international governmental organizations reserve an essential role for their members. These plenaries, in which all Member States are represented, can acquire different names such as Assembly, Council, Conference, among others. The topics discussed range from general discussions on political issues, recommendations to Member States, guidelines for the bureaucracy of the IOG, up to revision of the work done by the many committees and the responsibilities assigned to the executive head of the organization (Feld *et al.* 1994, 87-88). In many cases, this plenary has the last word to clear ambiguity, approve proposals, or to reject them. It can meet as many times as desired, and is usually led by the representative of the executive power of each Member State, although this will depend on the very essence of the IOG. To sum up, the role of this organizational level is indisputable, and it is a pacesetter of the evolution or involution of the institution.

1.3.2.2. *Rotating Presidency*

The leadership of these plenary meetings is a topic of discussion both in academia and in the professional field. In the empirical field, there are several organizations that, in order to maintain the intergovernmental nature of the process, they

delegate leadership to a member state on a temporary and rotating basis. This is called Presidency, Rotating Presidency, or President Pro Tempore; this is a figure whose importance is often underestimated in studies of international organizations. In view of this, the limited academic literature refers to the Rotating Presidency of the Council of the European Union (Schout 2008; Everts 2011; Thomson 2008), that shares basic characteristics with other Temporary Presidencies of international agencies. In different institutional organization, this instance is present in almost all plenary or deliberative councils, but at the same time is abstracted and it is not located as a central body in the institutional architecture, we could say that its nature is rather transversal to the entire organization system. Probably this transversal nature is hampering its location in the institutional framework, which adds to its temporary and changing character. However, its importance should not be underestimated. In this respect, the European scholar Adriaan Schout (2008) highlights three issues that are usually discussed around this instance: a) whether or not the Presidency has any power, b) if its influence is a contribution or an obstacle to the progress of the organization and c) if that influence is preferred to be managed by a conservative Presidency, or by a more aggressive (269). Ultimately, how much significance has this instance within the institutionalization of the organization.

The definition of the importance of temporal Presidency will start, without doubt, from the functions conferred upon the charter of the organization. Three authors summarize these functions similarly. Steven Everts (2001), for example, summed up in three basic areas: preparation of agendas, chairing meetings, and representing the organization externally. Furthermore, the academic Robert Thomson (2008) describes four basic functions, which are detailed below:

First, presidents carry out administrative tasks by organizing meetings, distributing relevant documents and revising draft texts in accordance with previous meetings. Second, presidents set political priorities. When beginning their terms, presidents release programmes outlining their priorities and what they aim to achieve. Third, presidents mediate between other Member States to resolve controversy. Presidents are charged with achieving political progress in the form of decision outcomes on controversial dossiers. Fourth, presidents represent the Council externally (594).

From his point of view, Adriaan Schout (2008) also provides three basic functions of the temporary Presidency: organizer, actor, and political leader. Taking as reference Gary Yukl, Schout adapts its leadership theories around three areas: task-oriented leadership, group-oriented leadership, and transformational leadership (272). The result of this adjustment is as follows:

	Organizer Task-oriented leadership	Broker Group-oriented leadership	Political leadership Transformational leadership
Tasks	Planning Representation Drafting agendas of meetings (listing the agenda items) Chairing (i.e. organizing the debates) Preparing documents Mapping aspects of the topic Devising strategies for moving forwards Background studies	Sounding out Creating a good atmosphere Creating understanding for each other's problems Identifying mainstreams Identifying bargains and trade-offs Formulating compromises Serving group processes	Putting current discussions in a long-term perspective of EU challenges Steering debates in specific directions Convincing delegations to look beyond short-term or narrow interests Reducing frictions by recasting the debate in a long-term perspective
Focus	Efficiency	Fairness in the search for a common position (preserving trust)	Long-term objectives

Figure 2: Leadership Characteristics in an Organization (Schout 2008, 274)

In this regard, one can deduce that the first category "Organizer" or "task-oriented leadership," is elementary, intrinsic to the *raison d'être* of the Presidency, because without this function the management of the organization during the period would be chaotic. It is about "presiding over meetings efficiently", and it is only visible if something goes wrong, because what is expected is to things to work perfectly; for example, "if the documents are behind schedule," this would cause "great frustration," but if they are on schedule, the meeting would continue without raising comments in favor or against the Presidency . In a similar vein lies the function of "Intermediary" or "group-oriented leadership," although it already requires skills that go beyond the merely administrative. To Schout, this entails "poll positions and find common ground among participants." If the first, "Organizer," is focused on task efficiency, the second, "Intermediary," focuses more on the search for a common and just ground to all participants, building trust between them. We would say that the first category requires

administrative/organizational skills, while the second requires mediators/negotiator skills.

Now, the third category is the brand printing of the Presidency which is holding the position in that period. It could be called "political leadership" or "transformational leadership," it focuses on the long-term influence, "and aims to find new solutions." To Schout, "involves adding items on the agenda, or solving negotiations from a different perspective," areas in which governments take the opportunity to "draw attention to their national problems and their claims" for the organization (273). This function involves higher risk, requiring diplomatic/strategy/political skills to achieve its objectives. In the case of the European Union, for example, this category is differed to some of its Rotating Presidencies: Holland moved "much of Schengen to the first pillar¹" as Spain sought to raise relations between the Mediterranean region (Schout 273; Everts 2001). This transformational function allows Member States feel that their voice will resonate in the process. Speaking of the European case, Schout argues that allowed rotating presidency "Europeanization of the administration" (Schout 275).

The previous analysis regarding the functions of the Presidency, clarifies the doubts of Adriaan Schout, which revolves around the degree of influence of this instance and whether that influence is a contribution or an obstacle to the progress of the

¹ The Treaty of Maastricht (1992) introduced a new institutional structure that has remained until the entry of the Lisbon Treaty. This institutional structure was composed of three "pillars":

- The Community pillar, corresponding to the three communities: the European Community, the European Atomic Energy Community (Euratom) and the former European Coal and Steel Community (ECSC) (first pillar);
- The pillar corresponding to foreign policies and common security, which was governed by Title V of the Treaty on European Union (second pillar);
- The pillar corresponding to police and judicial cooperation in criminal matters covered by Title VI of the European Union Treaty (third pillar).

The Treaty of Amsterdam transferred a portion of the powers of the third pillar to the first (free movement of persons).

These three pillars functioned following different decision procedures: Community procedure for the first pillar and the intergovernmental procedure for the other two.

The Lisbon Treaty removes this pillar structure in favor of the creation of the European Union (EU). In the EU, decisions are made under a common law procedure called "ordinary legislative procedure". However, the intergovernmental method still applies to foreign policy and common security. Moreover, although the issues of justice and home affairs are "communitarised", some of them, particularly relating to police and judicial cooperation in criminal matters, are subject to special procedures which Member States retain significant power. (Source: http://europa.eu/legislation_summaries/glossary/eu_pillars_es.htm, accessed September 14, 2013)

organization. While some sectors are skeptical about this influence, for others it is undeniable. Schout (2008) states:

This influence goes much beyond moving issues up and down the agenda or added topics. Importantly, many chairmen have shifted the focus in the negotiations to its preferred outcomes. It influences the tone of the negotiations, formulates the ambitions, and builds bridges (275).

Thomson (2008) goes deeper in the analysis, using research done by other authors. He states that "several researchers suggest that the country in the Presidency of the Council can successfully defend its national interests using the power of the presidency" (595). Referring to Kollman, that their studies would demonstrate that the Presidency allows holders influence the timing and content of the resulting decisions. And paraphrases Tallberg to more clearly demonstrate this influence discussed:

Presidents have privileged access to information about other Member States' policy preferences and the decision outcomes they would be prepared to accept in order to avoid deadlock. The Council Secretariat, which supports the presidency, is an important source of information in this respect. Presidents also obtain such information through bilateral contacts with other Member States' representations... Such information enables presidents to formulate proposals that are acceptable to other Member States. Moreover, it enables presidents to realize decision outcomes that are as close as possible to their own policy positions. Presidents may also influence the pace of decisionmaking by adjusting the levels of priority given to issues and by introducing proposals for compromises. As with privileged access to information, this gives presidents a resource that could be used to influence decision outcomes in line with their own favoured positions (Thomson 2008, 597).

As for the influence about time, Presidents have the option to "give priority to a proposal... and make sure its adoption within their presidential period, or delay adoption to a future presidency" (Ibíd., 598). And, in terms of influence on the content, this depends on the decision-making system, since in a qualified majority vote, "the president may be able to forge a sufficient majority in support of a decision outcome close to its position. In this case, the winning coalition may exclude Member States with policy preferences furthest from those of the presidency," while under the rule of unanimity, "the preferences of all Member States, even those furthest from the presidency, need to be accommodated" to reach consensus (Ibíd., 599). That is, in a system of unanimity, the ability the Presidency has to influence the content is much lower than in a system with voting differential.

This stage of the organization, the rotating Presidency, may also involve certain risks to advance the process. This mechanism can lead to an active and committed participation of a Member State only when it occupies the rotating Presidency, falling into what Everts (2001) called episodic participation, which would be exacerbated by the distance on the number of years that must pass for the country to return to that position. In addition to these two problems, Schout (2008) introduces five more: discontinuity of agendas, burden of work due to the growing agenda and increased in the number of member countries, too ambitious agendas and attachments/obsessions with certain issues, doubts about the ability of new countries, and high costs (275). Referring to the European case, Schout remember that, representing small countries, the Prime Ministers of the Netherlands and Belgium, said that “[the Presidency] . . . implies too much work” (Ibíd, 270). Everts (2001), whose analysis is more relevant to the role of external representation, affirms that the existence of a rotating presidency causes three problems: a lack of continuity, poor external communication and inadequate credibility, and quotes the then High Council Representative for the Foreign Policies and Common Security of the European Union, Javier Solana, in his critique of the "tendency of each presidency to develop a new work program" in each period. To Everts, the issue of credibility of the rotating Presidency as representative of the organization in the international community is disturbing, "especially when a small country with limited diplomatic influence, holds the presidency” (Ibíd.). This concern of small countries should not be confused with a tendency on their part to promote the elimination of this instance; on the contrary, this opportunity gives them a unique opportunity to occupy a prime position in the project (Thomson, 2008; Everts, 2001). Finally, the weaknesses that have been discussed should be taken into account when establishing a petition of such nature in an organization.

Ultimately, the idea of a rotating presidency has certain conceptual foundations. In the opinion of the writer, this institutional arrangement is characteristic of intergovernmental systems where states want to feel that they handle the course of the organization. Of course, this depends on the power conferred upon them, a matter that enters in conflicts with the powers received by the central administration of the institution- Executive Directorate, General Secretariat, etc. - which often tend to be

discussed around the idea of supranationalism. Before moving on to this issue, I consider important to emphasize a principle that is often neglected, and refers to the assumption that the country holding the rotating presidency of the body must assume a neutral position and "suppress their national interests" (Thomson, 595) when takes over this responsibility. According to Thomson, the main task of the Presidency is to reach decisions on matters of importance, a process in which they "may have to put aside their own interests" (Ibíd.). Indeed, to openly prioritize national interests in the international process can "lead to criticism and retaliatory measures from other Member States" (Ibíd.), so that presidents who assume this revolving mechanism often put in their speeches, "the interest of the community above the national interest" (Kirchner 1992, 114). This feature of neutrality is often overlooked by the press and the general public. The rotating presidency is thus an instance to be treated carefully in any analysis of an organization that has a similar system.

1.3.2.3. Executive Direction

Among States there is a tacit acknowledgment that the objectives for which they created the IOG would not be possible without a central administration and impartial body, usually led by the Executive Director of the institution. Rourke says "it is difficult for any organization to function without an administrative leader" (Rourke 215). Call it the Executive Director or Secretary General, this organizational level is essential to manage the cooperation of governments to undertake compliance among States goals; besides a mere management role; this entity "is often also capable of initiative, executive and reactive functions" (Feld *et al.*, 109). In the words of the experts, the proper performance of the tasks of IOGs is in large part based on the quality of leadership of The General Secretariat. As a personal opinion, it is necessary to note that the leadership can be constrained by the same charter organization, it is not enough to have a skilled leader and executive who tries to guide the IOG toward meeting its goals, but that leadership must be accompanied by a number of faculties and attributions that enables it to serve effectively as a guide for the organization. Sometimes "document producers [founding] anticipate a restricted, limited, mostly administrative role" (Rourke 216) for the head of the organization. The General Secretariat is expected to act as a mediator or

counselor, and even have the ability to "alter the policies of the Member States so that they have greater conformity with the decisions and interests of the IOG" (Feld *et al.*, 122, 123), although, according to Rourke, the possibilities range from a role as an activist to a more cautious role" (Rourke 216), which explains that States often prefer docile or timid candidates. Kofi Annan, former UN Secretary General, makes it clear: he and his predecessors have served their traditional duties as administrative heads, but have also taken another alternative role, becoming "an instrument of broader interest, beyond national rivalries" (Ibíd. 218). As evidence, the position of Secretary General is crucial to the functioning of the organization, as is the repository of the trust of all Member States in order to protect the interests of the institution.

1.3.2.4. Institutional Staff

The existence of an Executive or General Secretariat is unthinkable without the support of a team serving the organization. The staff of the IOG-or international body of civil service- is designed to support the Executive Director in his duties, and to facilitate the administration of the IOG. For our authors, four principles govern this category of servers: loyalty, impartiality, independence and merit. Regarding the first, employees are expected to surrender their national loyalties and consider only the interests of the IOGs in performing their work, in terms of impartiality, it is important for servers to act as stewards, not as politicians: "their role is to implement the decisions and consciously avoid getting involved in controversies that often surround decisions of the IOG" (Feld *et al.*, 109-110). Furthermore, to ignore political pressure from any Member State, the principle of independence means that the employee enjoys job stability that prevents his work to be judged for political reasons. The fourth and final principle refers to the logic that merit should be the main component when evaluating server procurement, however, Feld *et al.* added that, "it is recognized that a certain proportion or geographic representation is also a prerequisite" (109-110). Rourke agrees with the geographical criteria, but adds one more prerequisite: genre, with which is to ensure the presence of women in the IOG (Rourke 218). Often, politicians expressed their displeasure with this international bureaucracy, so it is important an unrestricted support from the Directive in

the fulfillment of their tasks, and at the same time, smart leadership is needed that knows how to guide the team and correct their actions when they are defective.

The structural levels that we have so far analyzed -Plenary, Executive Director and Staff- are not uniform for all IOG: while almost all have these three instances, each organization designs its institutional architecture differently; creating agencies or committees specialized in certain priority areas of IOG. This will depend on the willingness of states to expand the bureaucratic fee of the institution, and also their financial capacity. All IOG membership implies a certain payment of financial obligations that will maintain a pace of work that will allow goals to be met. Therefore, it is at the discretion of the Member States the institutional architecture that will support their organization.

1.3.3. Decision-Making Systems of IOGs

Let us understand this; it is essential to address the issue of a decision-making system that governs international governmental organizations. Feld, Jordan and Hurwitz make an important observation to make clear that while senior executives as part of the IOG staff have an important role in decision-making, at the end it is "the delegates of governments... which have the primary responsibility in the decision-making process" (Feld *et al.*, 135-136). Before going into a detailed analysis of the voting systems is substantial to understand that "the more technical (or perhaps low-profile policy) are the areas of the issues for which the IOG is concerned, the greater the chances of simple majorities are used to reach decisions" (Ibíd.). Moreover, "the more high-profile political, economic or security issues are involved in making decisions . . . the greater the tendency to insist on unanimity. It is perceived that the vital interests of the Member States will not be adversely affected" (Ibíd.). These are not the only options for States to define the system of decision-making of the organization.

Indeed, John T. Rourke (2005) makes a comparative analysis of the different methods used in by the IOG, namely: "majority vote," "vote by weight" and "unanimous vote." Below, each of these methods is detailed more precisely.

In the first case, referred to "majority vote," the author states that this is the most common formula. He states that

it has two main components: (1) each member has an equal vote on the concept of sovereign equality, and (2) the question is approved by a simple majority (50% plus one), reflecting the democratic notion that the majority should prevail (Rourke 2005, 213).

In the same vein, an additional option "is the super-majority vote," or super-majority, "that requires more than a simple majority to pass bills. The two-thirds vote is the most common, and some other super-majority formulas can be quite complex . . ." (Ibíd.). We agree with Rourke on his reflection the vote of San Marino, with a population in the thousands, with the vote of China, a population of more than one billion people: is this disparity justified?

The second case, called "vote by weight", "assigns an unequal voting power based on a formula. Two possible approaches are population and wealth" (Rourke 2005, 214). An example is proposed the case of the European Parliament, for population and IMF for wealth, in which countries whose number is higher in one of the two criteria, has a vote that outweighs the less populous or wealthy countries. Specifically, "the vote based on wealth is particularly offensive to the least developed countries, which argue that it perpetuates the system of imperial domination by the industrialized countries" (Ibíd.). Countries with low population would make a similar criticism against the "hegemony" in case they propose something alike.

Finally, the "unanimous vote" supposed "unanimous consent, but sometimes does not mean that an abstention will block an agreement... The unanimous agreement preserves the concept of sovereignty but can easily lead to paralysis "(Ibíd.). Rourke arrives at his conclusion in a fundamental way. In practice, the unanimous vote gives Member States the power to veto any proposal for any reason, it can often upset partners and create indiscriminately use of this right, or stop any advance of the agenda of the organization. To adopt decisions based on unanimous consent, consistent with the risk of paralysis expressed by Rourke, faces both (1) the vicissitudes arising from political changes responsible by its Member States, as well as (2) discrepancies between partners

caused by ideological positions, border problems, natural resources, litigation, historical enmity, and so on. Additionally, a decision-making system based on unanimity requires that the ambitious objectives translate into modest agendas, sometimes modest to an extreme, or which would be explained in a lowest common denominator, according to this, countries have to carry minimal negotiating proposals acceptable to all members, rather than the maximum that could be achieved with the approval of the majority: the rule of unanimity, it is common dominating minimums. Furthermore, in the words of a Venezuelan diplomat, the veto is an "undemocratic practice . . . [and] is not consistent with the principle of equality of States" (Ibíd.). For Feld, Jordan and Hurwitz (1994), the consensus rule is risky because "once [the consensus] begins to crumble, the decision-making process tends to be fatally wounded" (167-168). The unanimous vote, therefore, must be thoroughly analyzed to include it in the Founding Charter.

It is important to understand that an IGO can combine multiple methods of voting in their decision-making systems, i.e. reserving the unanimous vote for transcendental aspects, leaving the technical issues to be decided by a majority.

1.3.4. The Implementation of Decisions Mechanisms in IGO

Finally, it should be stressed in the measures that the IOG has available to truly implement the decisions reached and, not least, the monitoring of this implementation. We have already discussed this issue, having mentioned these as functions of an international governmental organization. The implementation of these functions depends largely on decisions, rules, or policies decided by the IOG Plenary whether or not binding, that is, binding on all partners. If they are, it would be for the General Secretariat to monitor compliance with these policies. Another method to verify that these standards are being implemented on a national level is creating reports to be shared to other members, so that they, in the Plenary, judge the implementation of the commitments made by the State in question. The process of implementation and monitoring of the implementation is extremely difficult when decisions, rules, policies are not binding, which is at the discretion of each partner to implement early, late, or not at all. The dilemma of defining decisions as binding brings us back to the discussion of

intergovernmentalism versus supranationalism, since the obligation to comply with a provision clashes with the authority to reject it of the sovereign State, which means, if the State is required to implement a norm, this means that there is a higher authority that controls the correct implementation, running the risk of facing sanctions if it does not. Consequently, a status like this, places IOGs in a supranational character, in which Member States have given a small part of their sovereignty to the international body. An intergovernmentalism model does not consider this power to the organization, since the power lies entirely in the countries that makes it up.

1.4. Conclusion of the Chapter

Having traveled this thread of sovereignty theoretical analysis, interstate cooperation, international governmental organizations and its main features, and not forgetting the uniqueness of the institution that is the subject of this research, the reader can move more property in the specific study of the Union of South American Nations. This first chapter has set the tone for what we will discuss in the following chapters, and provides analysis tools that are necessary to carefully examine the institutional and regulatory framework created in 2008 by the Heads of State of Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela. Indeed, the description that follows is built upon on the UNASUR Constitutive Treaty, and is supported by its General Regulations, issued after the ratification of this Treaty.

Chapter II

UNASUR Constitutive Treaty: Reading and Description

To properly understand an institution, we must go to the primary sources: the founding documents. Their review provides access to a comprehensive understanding, from which it can explain its actions and omissions in its application. These founding documents also facilitate research of its history, which inevitably has an impact on the final result.

This chapter aims to provide the reader with the necessary tools to understand UNASUR. The centerpiece is its Constitutive Treaty, whose perambulatory provisions refer to its historical background, which will be reviewed in the first part. For the second part, we understand that the 27 articles of the Constitutive Treaty very generally describe the institution, which is why I decided to incorporate the UNASUR General Regulation, which translates into operational terms what is stated by the CTU (UNASUR Constitutive Treaty). The exercise to combine the provisions of the CTU with those related to the General Regulations could result forced, but it is necessary to contextualize unequivocally the internal structure of the Union of South American Nations. Therefore, this section will focus on three main elements: objectives, structure, and decision-making system of UNASUR, ending with very specific aspects that also deserve to be described.

Consequently, the focus of this descriptive chapter is its essence, since the analysis will be addressed in the third chapter of this research. In that sense, this chapter avoids deliberations on the terms under which UNASUR was founded. Regarding the preliminary chapter, the reader can appreciate then how this International Governmental Organization (IGO) adopts some patterns discussed above, and can sense the presence of the concept of sovereignty in the backbone of the institution.

2.1. Background to the UNASUR Constitutive Treaty

The Union of South American Nations (UNASUR) was officially born on March 11, 2011, when the Constitutive Treaty was put into effect. From another perspective, this came into effect after a decade of talks on an idea of cooperation between the 12 South American countries. Their Heads of State, after commissioned a group of politicians and intellectuals to design an organization that encompasses the interests of the dozen nations, signed in May 2008 the document that would be pending the approval of the internal staff of member states. As mentioned, this is it, the UNASUR Constitutive Treaty (CTU), which legitimized the existence of the organization and became a new actor in regional and international politics.

Therefore, on March 11, 2011 marked both the end of a process, as the beginning of a new one. This date sentenced UNASUR to what it is and what it is not. The Constitutive Treaty empowers it and limits it, converting it in what the South American political class wanted to be. The writing of a recipe for its birth and subsequent approval, it is not a matter that can go unnoticed: it is, without doubt, the birth of the will of 12 states, whose lines are thoroughly mapped, suggesting a predictable behavior. The CTU is, therefore at the same time a birth certificate and a road map.

Thus, the existence of the UNASUR Constitutive Treaty allows two things: exploring its historical roots and test a forecast of its future behavior. Both exercises do not escape the subjectivity of the writer, which is sometimes justified on the ambiguity of the founders of the organization, expressed in the language of CTU. Paraphrasing Auguste Comte, the French philosopher in human creations; "there is only one absolute maximum, which is that there are no absolutes." The CTU does not escape from this axiom.

It was not easy to define what would be and what scope would it have the Union of South American Nations, UNASUR. Without making its purpose a historical journey from the beginning, the exercise to find out the past of the Union is useful to know what were the roots and how they evolved, or devolved, to become what the CTU defined in its Article 2:

The objective of the Union of South American Nations is to set up, in a participatory, agreed manner, a space for integration and union among its peoples in the cultural, social, economic and political fields, prioritizing political dialogue, social policies, education, energy, infrastructure, financing and the environment, among others, with a view to eliminating socioeconomic inequality, in order to achieve social inclusion and citizen participation, strengthen democracy and reduce asymmetries within the framework of bolstering the sovereignty and independence of the States.²

This was not always the objective of UNASUR.

The meetings and efforts that inspired the Member States to establish this organization “with an international legal personality,” mentioned in the Treaty perambulatory phrases, makes references to the Declarations of Cusco (December 8, 2004), Brasilia (September 30, 2005) and Cochabamba (December 9, 2006). The oldest of them, the Declaration of Cusco, summarized what had been repeatedly discussed by the 12 South American countries since the beginning of the millennium, when in September 2000 the then Brazilian President Fernando Henrique Cardoso called at Brasilia at the 1st Meeting of Presidents of South America. Giving the fact that this initiative was born in the largest country in the subcontinent, it would not go unnoticed in subsequent meetings.

Cardozo's initiative was historic in every sense of the word. For the first time, South America was thought as a common ground, an appropriate space for the discussion of 'common' themes, many of which were introduced by the host. Thus the issues initially raised for discussion were South American democracy, trade, peace, human rights, infrastructure, energy, illicit drugs and related crimes, knowledge and information.

Nevertheless, it does not escape from our analysis the repeated allusions that countries made about trade liberalization in the subcontinent, to name two of them: "The

² “Constitutive Treaty of UNASUR,” May 23, 2008, art. 2.

Presidents, as a whole, emphasized the importance of market liberalization process in South America"³, or

the negotiations for the signing of a free trade agreement between MERCOSUR and the Andean Community . . . represent a decisive impulse towards the shared goal of forming an expanded trade and economic ground in South America, with the participation of Chile, Guyana and Suriname, based on the progressive liberalization of trade in goods and services, investment facilitation and creation of the necessary infrastructure to achieve such objective.⁴

The fact that this analysis pays more attention to the issue of trade in relation to those mentioned in the previous paragraph is not a casualty. In an age of candid discussions on the proposed Free Trade Area of the Americas (FTAA), promoted by the United States and faintly appreciated by the progressive forces in the region, Brazil chose to take the lead in its area of influence and redesign the theme for the southern part of the continent. The 1st meeting of South American Presidents, which was the first step in the interaction of the 12 countries and its subsequent convergence towards UNASUR, had, therefore, an agenda with emphasis on trade.

The 2nd Meeting of South American Presidents, held in July 2002 in Guayaquil, Ecuador, evidence a turning point with regard to the 1st. Venezuela, with a government whose regional projection was unchallenged (founded in part by its economic power based on oil exports), intended to enhance their role and their political ideology to the emerging South American territory. Its emphatic position on free trade and its disdain towards trade integration projects in the region led to a rethinking of South American agenda. Indeed, the "Consensus of Guayaquil", signed by the 12 countries attending, the trade issues were relegated to a last place, almost without even mentioning them⁵. It maintained, though, issues such as democracy, peace, human rights, infrastructure and energy, and included the issue of poverty and social exclusion, migration, and the environment. The summit in Guayaquil was the last to be carried occasionally.

³ Brasilia Communiqué, 2000, art. 31, http://www.comunidadandina.org/documentos/dec_int/di1-9-00.htm (accessed on February 3, 2012)

⁴ Ibid., art. 32.

⁵ Consensus of Guayaquil about Integration, Security and Infrastructure for Development, 2002, http://www.comunidadandina.org/documentos/dec_int/Consenso_guayaquil.htm (accessed on February 3, 2012).

Followed by Cusco, Peru, the meeting where presidents signed the Declaration which makes referenced to the UNASUR Constitutive Treaty. However, the organization does not adopt this name yet. Met in December 2004, the Heads of the 12 states of the subcontinent decided to form the South American Community of Nations, known as CASA or CSN⁶. In the crystallization of this new institution, the subjects did not change with respect to Consensus of Guayaquil, manifesting them as the central objective of the CSN

to promote the agreement and political and diplomatic coordination, and develop a South American ground integrated in the political, social, economic, environmental and infrastructure, which would grant the region a greater power and representation in international forums, gradually displacing the priority of the trade items in the regional agenda (Serbin 2010, 8).

Serbin does not forget that "the initial axis shaping the CSN was associated with the articulation of a free trade agreement between the Andean Community and Mercosur" (Ibíd.). The leaders of Brazil and Venezuela, while differing in specific aspects such as trade liberalization, were also decisive in defining the objectives of the organization.

The CSN, it is worth mentioning, it was not built on a Charter Foundation, which indicated somewhat its informal character; which, incidentally, was not a fortuitous product. In Peru the presidents insisted on including in the Declaration that the CSN will work "on the basis of existing institutions [CAN, MERCOSUR], avoiding duplication and overlapping without involving new financial expenses"⁷ The CSN was therefore a very broad mission statement without any institutional means to achieve them. Seen thus, what country would mind being part of an organization that does not compromise expenses or resources?

For 2005, the cohesion emerged around the South American common ground was beginning to bear fruit. A non-institutionalized institution, as the CSN, was not sufficient to achieve the objectives, and was not at the altitude of the South American

⁶There is no agreement among writers regarding the acronym representing the South American Community of Nations. While CSN stands predominate, some authors refer to it as CASA.

⁷ Delaration of Cusco about the Community of South American Nations, 2004, cap. III, http://www.comunidadandina.org/documentos/dec_int/cusco_sudamerica.htm (accessed on February 3, 2012).

political moment, which insisted to further integration. It was time also a decline in the salience of the other two regional entities that captured the South American space up to then: Andean Community of Nations (CAN), and the South American Common Market (MERCOSUR). Thus, State members instructed their Foreign Ministries in creating a Strategic Committee of Reflection on the South American integration process, consisting of senior representatives of the 12 states, with the duty to "develop proposals for the purpose of furthering the process of South American integration, in all its aspects (political, economic, commercial, social, cultural, energy and infrastructure, among others)."⁸

Previously, the presidents had met in Brasilia on September 30, 2005, where they were emphatic in the desired convergence between CAN and MERCOSUR, taking up free trade priority on the subcontinent. Also the Summit in Brazil also produced a Program of Action⁹, which defined more precisely the route that the Community would follow to fulfill its objectives. Finally, the Heads of State made an attempt to outline a structured organization, with hierarchical levels and remarks on their frequency of meeting and devised Sectoral Ministerial Meetings, which subsequently would become the Councils of the UNASUR. There was a troika of countries that would support a Secretariat Pro Tempore, chaired by a Member State, which would be responsible for guiding the CSN¹⁰. Surely this attempt to institutionalize a non-institutional institution, as redundant as it sounds, was extremely complex and/or frustrating, which led to the creation of the Strategic Committee of Reflection.

In Cochabamba, Bolivia, December 2006, was the scene of one of the most significant meetings for the crystallization of the South American regional project. Besides the intergovernmental conclave, Bolivia hosted parallel the Social Summit of

⁸ Project about the Decision on the Creation of the Strategic Committee of Reflection on the South American Integration Process, 2005, art. 3, http://www.comunidadandina.org/unasur/comision_estrategica.pdf (accessed on February 3, 2012)

⁹ Program of Action of the First Meeting of Heads of State of the South American Community of Nations 2005, http://www.comunidadandina.org/documentos/dec_int/casa_2005_4.htm (accessed on February 3, 2012)

¹⁰ Presidential Declaration and Priority Agenda of the First Meeting of Heads of State of the South American Community of Nations, 2005, http://www.comunidadandina.org/documentos/dec_int/casa_2005_3.htm (accessed on February 3, 2012).

Cochabamba, closely linked to the Community, in which social movements launched the proposal to rename the CSN as Union of South American Nations-initiative which would be inspired by the observations of Venezuelan President Hugo Chavez, dissatisfied with the surname of Community instead of Union: for him, South America was one nation, and its name should reflect the strength of the integrator project (Briceño 2010, 111-113; Serbin 2007, 23 - 24). But this episode did not displace the adjective essence of this Second Summit of Heads of State: the debate initiated from the delivery of the Final Document of the Strategic Committee of Reflection on the South American Integration Process¹¹.

The document, worked by the 12 High Representatives, detailed extremely broad objectives, but also advanced in the design of a functional institutional architecture than the existing one. Indeed, the document recognizes that the mere convergence between existing bodies (CAN and MERCOSUR) "will not guarantee the strength and speed required for consolidation of the Community"¹². It adds: "it is essential to take steps in institutional strengthening, beyond Presidential, Ministerial and Sectorial meetings"¹³. The most notorious of the Commission's institutional proposal was the suggestion for

establishing a Coordination Committee, which includes every country in the region, through representatives appointed by their governments, as well as the Secretary of Mercosur, the Andean Community and representatives of CARICOM and ALADI, which will ensure the implementation of presidential and ministerial decisions and coordination of existing initiatives. The Coordination Committee shall have a Permanent Secretary, with reduced structure, to support the activities of the CSN, including the Working Groups.¹⁴

The Commission saw it necessary to create "permanent working groups, coordinated by managers of high-level missions, initially for infrastructure, energy integration and social policies issues"¹⁵. Of greater significance is the suggestion made by the Commission to the President:

¹¹ Final Document of the Strategic Committee of Reflection on the South American Integration Process, 2006, http://www.comunidadandina.org/documentos/dec_int/dec_cochabamba_reflexion.htm (accessed on February 3, 2012)

¹² *Ibíd.*

¹³ *Ibíd.*

¹⁴ *Ibíd.*

¹⁵ *Ibíd.*

it should consider the need to negotiate a Founding and Constitutive Treaty of the South American Community of Nations, giving new legal density to the initiative and point to the creation of a Union of South American Nations (UNASUR). The Presidents . . . may extend the mandate of this Commission . . . to draw . . . a draft Treaty for consideration by the Heads of State of the South American Community of Nations.¹⁶

Note the reference made to the creation of UNASUR and its Constitutive Treaty. Also of considerable importance is the proposed establishment of a Secretary and Permanent Working Groups, because such progress was in contradiction with the initial refusal regarding the creation of institutions and increased costs for maintenance.

The work of the Strategic Committee of Reflection was partially accepted. The Heads of State meeting in Cochabamba recognized that regionalization in South America needed a momentum of its own, beyond the convergence between CAN and MERCOSUR. In that sense, accepted the creation of a Committee of Senior Officials, which has the functions of the Commission of Coordination propose by the Commission of Reflection, but without a Permanent Secretary. The Committee of Senior Officials would have the "technical support of a reduced structure" that will be "the first year in Rio de Janeiro" and whose proposals "shall be adopted by consensus." Finally, the presidents stated that the Commission of Senior Officials "will address the study of the elements of a Constitutive Agreement"¹⁷. All these, although were not completely satisfactory (the reluctance to create a Permanent Secretariat remained), were key issues for the deepening and advancement of the South American integration process.

The objectives outlined in the Declaration of Cochabamba are no less important for our analysis. From the work done by the Commission, the presidents of the CSN established, in its introductory part, that

the construction of the South American Community of Nations seeks to develop an integrated political, social, cultural, economic, financial, environmental and infrastructural space. This South American integration is not only necessary to solve the major problems affecting the region, such as poverty, social exclusion and persistent inequality, which has become in recent years a central concern of

¹⁶ *Ibíd.*

¹⁷ Declaration of Cochabamba, 2006, http://www.comunidadandina.org/documentos/dec_int/declaracion_cochabamba.htm (accessed on February 3, 2012).

all governments, but it is a crucial step to achieve a multipolar world, balanced, fair and based on a culture of peace.¹⁸ it is possible to determine the scope of the project that the governments of the twelve South American countries wanted to build. It was added:

This new integration model includes the commercial sphere and a wider economic and productive articulation, as well as new forms of political, social and cultural, public and private, cooperation and other forms of civil society organization.¹⁹ Specifically, in Chapter 4 of the Declaration, "The objectives of integration", the signatories countries propose that the South American Community of Nations aims to overcome existing asymmetries, search for social development of the people, integrate and to take advantage of the energy resources of the region, interconnect it through an appropriate infrastructure, to cooperate economically and commercially to establish a "transparent, fair and balanced trading system," to promote growth and regional economic development, developing financial integration mechanisms, propel industrial and productive integration, in public and private sectors, with emphasis on small and medium enterprises, reaching a South American citizenship by removing obstacles to nationals of the 12 countries, cooperation on migration with full respect for human rights, further actions in the field of the cultural identity of its people, ensuring sustainable development and environmental cooperation, encourage citizen participation in the formulation of integration policies and cooperate in defense matters²⁰. The amplitude of these purposes needed the creation of means to achieve them, but this second step, much more engaging than the mere statement of objectives, will take time to consolidate.

The process launched in 2000 cannot possibly be conceived without understanding the participation of Brazil and Venezuela, the phase that began in 2006 in Cochabamba cannot be imagined without the emergence of new actors favorable to regional integration. Besides Luiz Inacio Lula da Silva and Hugo Chavez, the figures of Evo Morales, Néstor Kirchner, Michelle Bachelet and Rafael Correa were vital in building the South American political space. At the summit in Bolivia, Ecuador's newly

¹⁸ *Ibíd.*

¹⁹ *Ibíd.*

²⁰ *Ibíd.*

elected President injected new energies to deepen the process. This detail is not trivial if you take into account what would come next.

Convened by President Hugo Chavez, the South American Community of Nations met for the last time on Isla Margarita, Venezuela, on April 16, 2007, in the framework of the First South American Energy Summit. The 12 heads of state, in an atmosphere of friendliness and informality, took significant steps on the path of integration of the subcontinent. First, the presidents decided to accept the suggestion of the Social Summit in Cochabamba and renamed the South American Community of Nations (CSN) as the Union of South American Nations (UNASUR). Second, they agreed to create a permanent Executive Secretariat in order to strengthen the regional project. Third, they approved that the Executive Secretariat establish its headquarters in the city of Quito, Ecuador. Fourth, the Presidents resolved to transform the Committee of Senior Officials at the Council of Delegates, which was entrusted with the preparation of a Constitutive Agreement of the Union²¹. And fifth, the name of the former President of Ecuador, Rodrigo Borja, was proposed to fill the Executive Secretariat of the organism (Ceriotto 2007). UNASUR was beginning to take shape.

Since the provisions of the presidents in Isla Margarita, the Council of Delegates created by the Heads of State was convened to Constitutive Agreement a dozen times, "for about a year, which were made in half a dozen countries. Almost all of the sessions had on average more than two days of work," thereby resulting in a text whose wording "directly involved more than 40 officers and staff members of the South American countries, plus the support staff in the respective foreign ministries, including legal offices, planning, and political and economic affairs" (Cardona 2008, 19). On the other hand, former Ecuadorean President Rodrigo Borja, gratefully welcomed his nomination for the post of Secretary General of this institution, and drafted a project of Constitutive Agreement of the Union, which was sent to the Presidents and the Council of Delegates. His intention to influence the negotiations of the Agreement, in a manner which favors

²¹ Decisions of the Political Dialogue between the Heads of State and Government at the First South American Energy Summit, 2007, http://www.comunidadandina.org/documentos/dec_int/unasur17-4-07.htm (accessed on February 3, 2012).

the birth of an institution with ambitious architecture, did not obtain the consent of the twelve (Solón 2008, 14).

Having spent just over a year since the last meeting of the Heads of State of South America, on May 23, 2008 the leaders of the subcontinent met in Brasilia to mark a milestone in the history of the regionalist process that started years ago. With the notable absence of the candidate for Secretary General, Rodrigo Borja, the Heads of State opened the first meeting of the Union of South American Nations, UNASUR. Borja had declined the proposal to occupy the General Secretariat on the eve of the presidential meeting, since the Constitutive Treaty establish that was going to be signed at that summit created, in his opinion, "a forum rather than an organic group" (Borja 2008a). The statements by the Ecuadorian statesman that day did not prevent the signature of presidents in which become the UNASUR Constitutive Treaty (CTU), but not all countries were totally satisfied with the text. The Ecuadorian president, for example, had to be "persuaded by the presidents of Brazil, Ignacio Lula da Silva and Venezuela's Hugo Chavez to sign the transcripts under the condition that could be modified . . . after the regulations" (AP 2008). Nonetheless, that day will be remembered as a turning point in the history of UNASUR.

2.2. The Constitutive Treaty of UNASUR

As already stated, this section will comprise of three elements: the objectives, structure, and decision-making system of UNASUR. Around them is outlined the main features of the Union, so that the reader can get a general picture of the organization.

2.2.1. The objectives of UNASUR

The document approved by the twelve in Brasilia was the result of the whole journey from September 2000 to May 2008. As we have seen, the goals to the regionalization of South America have constantly changed, starting with the specific intent to form a South American free trade area, to a much more holistic definition of 21 goals, which are detailed in the Article 3:

- a) The strengthening of political dialogue among Member States to guarantee a space for agreement in order to reinforce South American integration and UNASUR's participation in the international arena;
- b) Social and human development with equity and inclusion to eradicate poverty and overcome inequalities in the region;
- c) The eradication of illiteracy, universal access to quality education and the regional recognition of studies and titles;
- d) Energy integration for the integrated, sustainable use of the region's resources, in a spirit of solidarity;
- e) The development of infrastructure for the interconnection of the region and among our peoples, based on sustainable criteria of social and economic development;
- f) Financial integration through the adoption of mechanisms compatible with the economic and fiscal policies of Member States;
- g) The protection of biodiversity, water resources and ecosystems, as well as cooperation in preventing catastrophes and combating the causes and effects of climate change;
- h) The development of concrete, effective mechanisms to overcome asymmetries, thus achieving equitable integration;
- i) The consolidation of a South American identity through the progressive recognition of rights to nationals of a Member State resident in any other Member State, with the aim of establishing a South American citizenship;
- j) Universal access to social security and health services;
- k) Cooperation on issues of migration with an integrated approach, based on unrestricted respect for human and labor rights, migratory regularization and the harmonization of policies;
- l) Economic and commercial cooperation to achieve progress and the consolidation of an innovative, dynamic, transparent, equitable and balanced process, envisaging effective access, promoting economic growth and development to overcome asymmetries through the complementarity of the economies of South American countries, as well as the promotion of the wellbeing of all sectors of the population and the reduction of poverty;
- m) Industrial and productive integration, focusing especially on small and medium-size enterprises, cooperatives, networks and other forms of productive organization;
- n) The definition and implementation of common or complementary policies and projects of research, innovation, technology transfer and production, aimed at raising capacity, sustainability, and the region's own scientific and technological development;
- o) The promotion of cultural diversity and expressions of the memory, knowledge and wisdom of the peoples of the region, in order to strengthen their identities;
- p) Citizen participation through mechanisms for interaction and dialogue between UNASUR and the various social actors in the making of South American integration policies;
- q) Coordination among specialized bodies of the Member States, taking into account international norms, in order to strengthen the fight against terrorism,

corruption, the global drug problem, human trafficking in persons, trafficking in small and light weapons, transnational organized crime and other threats, as well as for disarmament, the non-proliferation of nuclear weapons and weapons of mass destruction, and demining;

r) The promotion of cooperation among the judicial authorities of the Member States of UNASUR;

s) The exchange of information and experiences in matters of defense;

t) Cooperation for the strengthening of citizen security; and

u) Sectoral cooperation as a mechanism for consolidating South American integration, through the exchange of information, experiences and training.²²

Trade liberalization was not mentioned in the CTU, allowing us to argue that in this sense there was a regression from the initial target. An involution, which contrasts with the evolution of other objects, which show the importance of non-trade issues in UNASUR.

Indeed, what was previously mentioned, anticipates an ambitious scope of the organization that was created by the Heads of State in the Brazilian capital. For the Bolivian Pablo Solón, one of the architects of the Treaty, "there was concern that a list of 21 goals end up diluting the ones that had been agreed as priorities" (Solón 2008, 16), and that is why Article 2, mentioned earlier in this chapter, states that the priorities of UNASUR will be the "political dialogue, social policies, education, energy, infrastructure, finance and the environment, among others"²³. The enunciation of the objectives would be dull without the exposure of the instruments that would be used to achieve them.

However, prior to expose the instruments provided by the CTU to fulfill the objectives of the organization, I consider appropriate to bring up a fact that undeniably influences our analysis. According to the principles of international law and in response to the need to regulate the provisions of the Constitutive Treaty, the Council of Ministers of Foreign Affairs approved, in June 2012, the General Regulations of the Union of South American Nations²⁴, which was arduously and extensively negotiated by the Member States. Such negotiations would not have been so difficult if not for the

²² "Constitutive Treaty of UNASUR," May 23, 2008, art. 3.

²³ *Ibíd.*, art. 2.

²⁴ UNASUR, *General Regulations*, 2012.

disagreements that existed at the time of signing the CTU, embodied in the Ecuadorian negativity on the eve of the signing. The Regulations would relativize some points of the Treaty, taking advantage of the ambiguities that it had. Thus, without necessarily going beyond what the CTU allowed, the delegates had a narrow leeway but admitted interpretations that ultimately served to strengthen certain instances of the institution, as will be seen later.

2.2.2. The Structure of UNASUR

This section is organized around six subchapters thoroughly covering most entities that UNASUR has: the four central bodies (the Council of Heads of State and Government, the Council of Ministers of Foreign Affairs, the Council of Delegates, The General Secretariat and his staff), and the two additional entities of the Union (Ministerial Councils and The Pro Tempore Chair). While the latter two are not listed as 'bodies' of UNASUR, the Constitutive Treaty gives them a central role making them indispensable for achieving the objectives of the organization, the reason why this will be explained at the beginning of this section.

It has been said that the CTU defines four essential organs for its operation, these are:

1. The Council of Head of State and Government;
2. The Council of Ministers of Foreign Affairs;
3. The Council of Delegates;
4. The General Secretariat.²⁵

As it will be seen, the order listed of these organs evidence the hierarchy each of these organs has, which allows us to infer in the nature of the Union. Taking into account the evidence presented at the time, is remarkable a certain institutional evolution of UNASUR when compared with the architecture of the CSN. In the opinion of the delegates who prepared the text, achieving that evolution was not easy: in fact, "the debate [about the Council of Delegates and the General Secretariat] continued until the signing of the Treaty" (Solón 2008, 16). Surely the divergence of views among a dozen

²⁵ "Constitutive Treaty of UNASUR," May 23, 2008, art. 4.

countries was not easy to arrange. For editorial purposes, we will refer to these four organs as “organic bodies,” of which three are denominated as “central Councils.”

2.2.2.1. The Ministerial Councils

In addition to these central organs of UNASUR, the Constitutive Treaty, according to Article 5, provides for the establishment of Sectoral Ministerial Meetings, Ministerial Level Councils and/or Working Groups, which function is to “comply with the mandates and recommendations of the competent bodies,”²⁶ these are, the Council of Delegates, Ministers of Foreign Affairs and Heads of State. In that sense, the CTU hosts, in a way, the Working Group model proposed by the Strategic Reflection Commission in the Summit of Cochabamba, although in the case of UNASUR they are not necessarily permanent (while not denying that possibility), nor do they have defined work items defined by the Treaty.

This interaction between those who we will call Ministerial Councils and Central Councils of UNASUR was intended to allow the South American Sectoral agenda to progress on its own, so that the achievement of the objectives of the Union will not depend entirely on the work of the Council of Delegates. In the words of the Colombian Cardona, “it keeps the motivation and relative autonomy of the sectors, but also gives political coherence to the process” (Cardona 2008, 20). This model assumes that, in practice, the Ministerial Councils will meet regardless of the meetings of the Council of Delegates, which regularly report on the agreements reached, which will, in turn, will report, as it sees appropriate, to the following bodies of the Union, the Council of Foreign Ministers and the Council of Heads of State. Proper management of these Ministerial Councils lies partially on who they are presided by, that is, the Pro Tempore Chair of UNASUR. The functions and powers of this instance will be described hereinafter.

The Regulations of the Union describes, in more detail, the operation and responsibilities of Ministerial Councils. On the one hand, Article 6 states that these

²⁶ “Constitutive Treaty of UNASUR,” May 23, 2008, art. 5.

Councils and other permanent bodies "shall formulate Action Plans that will be framed in UNASUR policy guidelines established by the Council of Heads of State and Government"²⁷. Furthermore, the Regulations provides in Article 10 that the Ministerial Councils "should develop from the date of its creation, a Status drafted to establish its operating rules, respecting the principles laid down in the Constitutive Treaty and the . . . Regulations"²⁸. Such Statute "should define its objectives [and] provide for the conduct of at least one annual meeting of its top officials"²⁹. A mechanism such as this would allow national ownership of the regional project, adapting the agendas around the implementation of the objectives of South America.

2.2.2.2. The Council of Heads of State and Government

Of course, each of the four central agencies has a range of powers and responsibilities to act within the organization. Emphasizing the hierarchy that suggests the CTU, in first instance, it is worth analyzing the Council of Heads of State and Government, which we called simply "Council of Heads of State."

The Council of Heads of State, as described in Article 6 of the CTU, is "the highest organ of UNASUR"³⁰. It was not difficult to arrange this protagonist nature of the Council in this regard, "there was virtually no discussion" (Solón 2008, 16). Their functions are:

- a) To establish policy guidelines, action plans, programs and projects of the South American integration process and set priorities for their implementation;
- b) Call Sectoral Ministerial Meetings and create Ministerial Level Councils;
- c) Decide over proposals submitted by the Council of Ministers of Foreign Affairs;
- d) Adopt the political guidelines for relations with third parties.³¹

Additionally, Article 10 gives the Council of Heads of State the power to appoint the General Secretariat of the Council, previously propose by the Council of Ministers of

²⁷ UNASUR, *General Regulations*, 2012, art. 6.

²⁸ *Ibíd.*, art. 10.

²⁹ *Ibíd.*

³⁰ "Constitutive Treaty of UNASUR," May 23, 2008, art. 6.

³¹ *Ibíd.*

Foreign Affairs³², the General Secretariat responds to its actions to the Council of Heads of State through the Council of Ministers of Foreign Affairs³³. The CTU also indicates that the agreements reached by the Council of Heads of State will be called "Decisions." In addition, the CTU provides that the Council of Heads of State meet with ordinary character, at least once a year. For special meetings, Member States shall adopt by consensus the initiative of a Member State, channeled through The Pro Tempore Chair³⁴.

2.2.2.3. *The Pro Tempore Chair*

We touch upon the issue of The Pro Tempore Chair. Even if this is not exactly a 'body' of UNASUR, its role is very important to drive the carriage of integration. This role is exercised annually by each of the member states, successively and in alphabetical order. Apart from convening extraordinary meetings of the Council of Heads of State, as discussed in the previous paragraph, the ordinary powers of the Pro Tempore Chair are:

- a) To prepare, summon and preside over the meetings of the organs of UNASUR;
- b) To present UNASUR's annual program of activities to the Council of Ministers of Foreign Affairs and the Council of Delegates, with dates, venues and the agenda of the meetings of its bodies, in coordination with the General Secretariat;
- c) To represent UNASUR at international events, with the prior authorization of the Member States;
- d) To undertake commitments and sign declarations with third parties, with the prior consent of the appropriate bodies of UNASUR.³⁵

However, as explained above, the Regulation of UNASUR emerged as an idea, an opportunity to interpret the Treaty so that it meets the demands raised by some delegations. Thus, in its Article 40, the Regulations renewed and/or add some functions of the Pro Tempore Chair, to leave them like this:

- b) Shall act as the representative of UNASUR, especially in matters of relations with third parties, and at international events, as well as of the General Secretariat, as stipulated in Article 10 of the Constitutive Treaty. In both cases this representation is exercised by express delegation of the Member States.
- c) Shall coordinate with the General Secretariat, activities necessary for compliance with political guidelines, plans for actions, programs and projects for

³² *Ibíd.*, art. 10.

³³ UNASUR, *General Regulations*, 2012, art. 18.

³⁴ "Constitutive Treaty of UNASUR," May 23, 2008, art. 6.

³⁵ *Ibíd.*, art. 7.

the integration process established by the Council of Heads of State and Government.

d) Shall carry out any duties assigned to that position by the Council of Heads of State and Government.³⁶

Its infer that the purpose of the architects of the Regulations was to strengthen the role of the General Secretariat, which accompanies with greater respect the work of the Pro Tempore Chair. That article is new because it alludes to the functions assigned to the General Secretariat under Article 10 of the Treaty, in which does not mention the possibility that it exercises UNASUR's representation at international events or relationships with third parties, unless these are "other entities of integration and cooperation between Latin America and the Caribbean."³⁷ The powers of the General Secretariat will be analyzed subsequently.

Complementing the provisions of the Treaty for the Pro Tempore Chair, the Regulations of UNASUR states that "the Presidency of [the Ministerial Councils], Working Groups and other bodies of UNASUR, the Member State shall serve as Pro Tempore Chair,"³⁸ unless the State concerned, propose and reaches a corresponding consensus to assign another country of such responsibility. This Presidency is accompanied by a number of responsibilities such as the development of a program for submission to the Council of Delegates (coordinating with the General Secretariat)³⁹, numbering, registration, filing and circulation of invitations to meetings of the entities and other bodies of UNASUR⁴⁰, the provision (in case of General Secretariat could not do) for logistical support for the organization and development of UNASUR meetings, including the preparation and circulation of documents⁴¹, funding of meetings held in his/her territory during their period, taking into account that these should be sought in his/her country, unless he/she accepts the offer made by another Member State⁴²; and receipt and shipment to the Council of Delegates of the official communications among

³⁶ UNASUR, *General Regulations*, 2012, art. 40.

³⁷ "Constitutive Treaty of UNASUR," May 23, 2008, art. 10, literal h.

³⁸ UNASUR, *General Regulations*, 2012, art. 5.

³⁹ *Ibid.*, art 6.

⁴⁰ *Ibid.*, art 53.

⁴¹ *Ibid.*, art. 59.

⁴¹ UNASUR, *Reglamento General*, 2012, art. 60.

⁴² *Ibid.*, art. 60.

entities and other permanent and temporary bodies of UNASUR (communications to be sent with a copy to the General Secretariat)⁴³. In short, much of the organization and conduct of meetings lies with the country holding the Pro Tempore Chair of the Union, whose work must be coordinated permanently with the General Secretariat.

As has been observed, the interaction between the Pro Tempore Chair and the General Secretariat is not the result of mere coincidence. To Cardona, this dynamics is planned as a "two-headed system: in one end the Pro-Tempore Presidency, rotating each year . . . and on the other hand, the General Secretariat, stable and with the size and budget assigned by countries" (Cardona 2008, 20). Thus, one could predict that the progress and management of UNASUR depends largely on the interim leadership of the Pro Tempore Chair, while the continuity and preservation of the interests of the region are guaranteed by the permanent General Secretariat.

The succession of the Pro Tempore Chair should not be argued, once the current period is completed. For such purpose, the Regulations provides in Article 8 that the "outgoing Pro Tempore Chair will coordinate with the incoming Pro Tempore Chair, with the support of the General Secretariat, the formulation of a proposed annual program of activities for the year," which "must be submitted for consideration by the Council of Ministers of Foreign Affairs" and then transmitted to the Council of Heads of State, "for their approval."⁴⁴ This proposal, submitted to the Heads of State must specify "dates and venues of the meetings of the entities of UNASUR, as well as Ministerial Councils."⁴⁵ Proper coordination between Member States will result in the continuity of the incoming and outgoing work of the Pro Tempore Chair.

2.2.2.4. The Council of Ministers of Foreign Affairs

Once it has been noted the relevance of the Pro Tempore Chair of UNASUR, it is prudent to move towards the analysis of the Council of Ministers of Foreign Affairs, which we will call hereafter "Council of Chancellors." Both as the Council of Heads of

⁴³ Ibid., art. 68.

⁴⁴ Ibid., art. 8.

⁴⁵ Ibid.

State, the Council of Chancellors elicited no further discussions between the delegations, since its existence was taken for granted. The Constitutive Treaty provides that the Council shall meet ordinarily twice a year, every six months; the call extraordinary meetings follow the same procedure as given for the Council of Heads of State, with the difference that in bringing together the twelve Chancellors approval is required only by half of them⁴⁶. The powers conferred by the CTU to the Council of Ministers of Foreign Affairs are:

- a) To make Resolutions to implement the Decisions of the Council of Heads of State and Government;
- b) To propose draft Decisions and prepare the meetings of the Council of Heads of State and Government;
- c) To coordinate positions on central themes of South American integration;
- d) To develop and promote political dialogue and agreement on topics of regional and international interest;
- e) To oversee and evaluate the integration process as a whole;
- f) To approve UNASUR's annual Program of Activities and annual operating budget;
- g) To approve the financing of UNASUR's common initiatives;
- h) To implement policy guidelines for relations with third parties;
- i) To approve resolutions and regulations of an institutional nature or on other topics falling within its jurisdiction;
- j) To create Working Groups based on the priorities set by the Council of Heads of State and Government.⁴⁷

Given its powers, the Council of Ministers of Foreign Affairs plays a pivotal role to the process of South American integration. It says, the agreements it reaches are called "Resolutions." However, in addition to the powers granted by the Treaty, the Regulations gives this Council some other responsibilities within the framework of the Union.

Among the additional powers of the Council of Chancellors, it could be mentioned the approval that this should give semiannual to the Ministerial Councils presented by the General Secretariat with the intermediation of the Council of Delegates⁴⁸; the approval for the proposed Annual Program of activities for the year, prepared by the outgoing and incoming Pro Tempore Chair and with the support of the

⁴⁶ "Constitutive Treaty of UNASUR," May 23, 2008, art. 8.

⁴⁷ *Ibíd.*

⁴⁸ UNASUR, *General Regulations*, 2012, art. 6.

General Secretariat, ascend to the Council of Heads of States⁴⁹ for their approval, and the latter proposes a name to fill the General Secretariat of UNASUR, which, once appointed, will respond to the Council of Heads of State through the Council of Chancellors⁵⁰.

The relationship between the Council of Ministers of Foreign Affairs and the General Secretariat is essential, from what is written in the Regulations. It is for the Council to approve "the proposed functional organizational structure, Regulations, operation and manual of rules and procedures," and the internal regulations, prepared by the Secretariat⁵¹, approve the proposal by the General Secretariat regarding the "amount of discriminated staff positions in a structure of positions related to the specialized support specialist, technical and administrative of the General Secretariat, and their appointment and removal"⁵²and to approve the annual report of the General Secretariat management and administrative accountability and financial of UNASUR, prepared by Secretariat.⁵³ Even the Council of Ministers of Foreign Affairs may suggest to the Council of Heads of State to declare vacant the post of the General Secretariat in specific cases and may also consider action in case of non-payment of contributions exceeding one year by any of the Member States, previously reported by the General Secretariat and mediation of the Council of Delegates⁵⁴. Mentioned this, it is understandable the extent of the powers that are the twelve Chancellors have, considering that they meet more frequently than the Council of Presidents, in addition to its own *raison d'être* consist on serving the international relations of the countries they represent.⁵⁵

2.2.2.5. The Council of Delegates

Straightaway, the UNASUR Constitutive Treaty introduces us to the Council of Delegates, which we have called "Council of Delegates." Composed of 12 representatives accredited by each Member State, the Council of Delegates should meet

⁴⁹ Ibid., art. 8.

⁵⁰ Ibid., art. 18, art. 29.

⁵¹ Ibid., art. 31, art. 39.

⁵² Ibid., art 31.

⁵³ Ibid.

⁵⁴ Ibid., art. 51.

⁵⁵ Ibid., art. 51.

with a periodicity "preferably every two months, in the territory of the State exercising the Pro Tempore Chair or other place they agreed upon."⁵⁶ Two observations arise from these provisions: the first is that it is clear for each State; the representative is appointed either directly by the President or by the Foreign Ministry and the second is that the Treaty does not prevent more frequent meetings since 6 times a year could be very limiting to advance the process. In Article 11, the CTU calls "Provisions" the agreements this entity reaches. Unlike the Council of Heads of State and the Council of Chancellors, the Council of Delegates involves more debate, more so, when you take into account that it was established in the Isla Margarita Summit in 2007. The Regulations of UNASUR clearly states the nature of this Council, mentioning that it will "act as a coordinating entity to the integration process, with the special responsibility to ensure compliance with its own provisions and the decisions of the Council of [Heads of State] and the Resolutions of the Council of [Chancellors]".⁵⁷

In that sense, the agreement reached by the 12 countries of UNASUR was to give the following powers to the Council of Delegates, as defined in Article 9:

- a) To implement, through the adoption of appropriate Provisions, the Decisions of the Council of Heads of State and Government, and the Resolutions of the Council of Ministers of Foreign Affairs, with the support of the Pro Tempore Chair and the General Secretariat;
- b) To prepare the meetings of the Council of Ministers of Foreign Affairs;
- c) To prepare draft Decisions, Resolutions and Regulations for the consideration of the Council of Ministers of Foreign Affairs;
- d) To coordinate and ensure the compatibility of the initiatives of UNASUR with other regional and sub- regional integration processes in force, so as to promote the complementarity of efforts;
- e) To establish, coordinate and oversee the Working Groups;
- f) To oversee political dialogue and agreement on issues of regional and international interest;
- g) To encourage opportunities for dialogue so as to facilitate citizen participation in the South American integration process;
- h) To propose the draft of the ordinary annual operating budget to the Council of Ministers of Foreign Affairs, for its consideration and approval.⁵⁸

The Council of Delegates then goes immediately after the Council of Chancellors, following the hierarchy intended in the Treaty.

⁵⁶ "Constitutive Treaty of UNASUR," May 23, art. 9.

⁵⁷ UNASUR, *General Regulations*, 2012, art. 41.

⁵⁸ "Constitutive Treaty of UNASUR," May 23, 2008, art. 9.

The Regulations of UNASUR goes into more detail into all the tasks that must be met by this Council. Regarding the relationship with third parties, the regulation states that the Council of Delegates is responsible for the "development and monitoring of UNASUR establish relationships with third parties, according to political guidelines on the subject set by the Council of Heads [of State]".⁵⁹ It adds that for this, the Council "must know the proposed statements and agendas of relationship with others, to be promoted from the organs and all instances of UNASUR".⁶⁰ In this regard, Article 21 provides that the Council of Delegates consents of a semester meeting of working group presented by General Secretariat, "in support of the performance of the functions of this body [the Council of Delegates], . . . harmonize and coordinate the initiatives of UNASUR of existing regional and subregional integrational processes".⁶¹ The Regulations also provide that every intention of the General Secretariat to meet with other regional integration and cooperation international organizations and other entrusted by different entities shall be notified to the Council of Delegates. And they insist that the Council of Delegates "shall meet and consider the positions that UNASUR in its relations with third parties"⁶².

Other interesting functions the Regulations confer to the Council of Delegates it refer to the relationship it has with the General Secretariat, to promote citizen participation, and the link with the Ministerial Councils. In regard to the first point, Article 18 instructs the General Secretariat to develop and strengthen the "relations of coordination and institutional support with the Council of Delegates,"⁶³ so that does not minimize the role that the Council has in UNASUR and preserves the interaction that both entities have. To include social actors in the South American integration process, the Council of Delegates "will prepare a draft of the guidelines that should define the participation of various social actors in the integration process," considering, though,

⁵⁹ UNASUR, *General Regulations*, 2012, art. 41.

⁶⁰ *Ibíd.*

⁶¹ *Ibíd.*, art. 21.

⁶² *Ibíd.*

⁶³ *Ibíd.*, art. 18.

that such participation establish “criteria of flexibility and gradualness.”⁶⁴ Finally, as mentioned above, the semiannual report of the Ministerial Councils, prepared by the General Secretariat, will be received by the Council of Delegates for it to put it before the Council of Chancellors.⁶⁵

Given the proximity provided between the General Secretariat and the Council of Delegates, the Regulations lists a number of activities that shall be implemented together, most of them operational. The development, implementation and monitoring of the budget of UNASUR is perhaps the most demonstrative link between the two bodies. Thus, although its preparation is the responsibility of the General Secretariat, it has to submit it to the Council of Delegates until December 31st of each year, to review and submit it to the Council of Chancellors⁶⁶. In the process of analyzing the draft budget prepared by the General Secretariat, the Council will convene a Technical Committee on the Budget for appropriate guidance; the Committee will also assist in the review of the implementation of the budget and the final balance⁶⁷. The Council of Delegates will receive periodically the report of the status of payment of contributions for each Member State, prepared by the General Secretariat, and, if any non-payment of contributions exceeds one year, it must inform the Council of Ministers of Foreign Affairs to adopt the necessary measures⁶⁸. On the budget, therefore, coordination between the General Secretariat and Council of Delegates is vital.

As part of this relationship among these two entities, there is also some other functions that are delegated by the Regulations. It is the case of the hiring of consultants and experts to execute projects and technical studies that contribute to the integration process, which must be authorized by the Council of Delegates, "as well as especial or occasional services rendered by natural or legal persons"⁶⁹. Or, in another situation, the publication of the documents from entities of UNASUR, as well as from the Ministerial

⁶⁴ *Ibíd.*, art. 15.

⁶⁵ *Ibíd.*, art. 6.

⁶⁶ *Ibíd.*, art. 31, art. 45.

⁶⁷ *Ibíd.*, art. 46.

⁶⁸ *Ibíd.*, art. 50, art. 51.

⁶⁹ *Ibíd.*, art. 31.

Councils and others, could only be made by the General Secretariat if the Council of Delegates agrees upon⁷⁰. The Secretariat should also agree with the Council of Delegates of the appointment and removal of Directors (position discussed below).⁷¹ Finally, as already noted, the Council of Delegates is the intermediary between the Secretary General and the Council of Ministers of Foreign Affairs on a range of topics, such as the transmission of proposed functional organizational structure, regulation, and operation manuals of rules and procedures, or the proposal of “the amount of officials that are discriminated in a structure of positions regarding the specialized support in technical and administrative areas of the General Secretariat, as well as their appointment and removal when it applies.”⁷²

2.2.2.6. The General Secretariat

Based on what has been seen so far, the General Secretariat of UNASUR is an organ that has a close relationship with all other levels of the Union. We have seen, for example, that it is the Council of Heads of State who appoints the General Secretary of the agency, based on a previous proposal made by the Council of Chancellors. Moreover, it was shown that the General Secretariat shares part of its activities with the Pro Tempore Chair, as in the representation of UNASUR in relations with third parties and in international events, as well as the coordination of actions to comply with what the Council Heads of State established as the roadmap for the integration process; the development of a program of activities of the Ministerial Councils and other permanent bodies of the Union, or the formulation of an Annual Plan for activities of UNASUR. In the case of the Council of Chancellors, it was seen that this body gives its approval to several of the actions executed by the Secretariat, as the semiannual reports of the Ministerial Councils, the proposed functional organizational structure, internal rules and manual operation of rules and procedures, the proposed number of personnel needed to carry out its functions, the annual management and administrative accountability and financial UNASUR, and report of non-payment of contributions by Member State, if any. Finally, the Council of Delegates must show its consent on some of the General

⁷⁰ *Ibíd.*, art. 23.

⁷¹ *Ibíd.*, art. 31.

⁷² *Ibíd.*

Secretariat activities, such as the development of a semi-annual scheduling program of meetings with regional integration and cooperation, as well as with international organizations and other entities referred to it by the organs; the development of a proposed annual operating budget of UNASUR; the publication of the documents emanating from the bodies of UNASUR, as well as Ministerial Councils and other bodies, and proposed hiring of consultants and experts to execute duties and technical studies that contribute to the integration process, as well as special services of occasional natural or legal persons.

However, these are not the only activities assigned to the Secretariat General of the Union of South American Nations. It is worth remembering that just recently, on the Isla Margarita summit, it was agreed to create this instance, which had been suggested in Cochabamba in 2006, without obtaining the approval until then. Therefore, and as recalled by Solón, debates about the powers of the General Secretariat lasted until the signing of the Treaty (Solón 2008, 16). From what you have seen, it can be said that the debate on the scope of the General Secretariat has continued even after the signing of the CTU, which has resulted in a "reinvigoration" of this instance through the Regulations of UNASUR.

We are, therefore, before a body that is the result of intense negotiations between the countries who "preferred a broad Secretariat, with many functions, with a more executive profile that would advance very rapidly the South American process . . . with higher executive functions" and with "a much more stronger and active model than any of the current ministries;" and those countries that, on the contrary, "wanted a small secretariat, more operational, more from the perspective of transactions relating among countries with very limited budget and staff", that should coordinate intergovernmentally and that possesses even fewer features than the existing Secretariats (Cardona 2008, 23). Even, it was on the table the proposal from the Commission of Strategic Reflection, suggesting that the General Secretariat includes representatives of existing agencies (CAN, MERCOSUR), but this approach was not accepted (Ibíd., 24). Thus, it is important to understand what the functions are and, above all, what is the

scope of the General Secretariat of the Union, considering it is the only permanent organ of the organization.

It is therefore essential to analyze what the UNASUR Constitutive Treaty says about the General Secretariat. Its Article 10 states that: "it is the body that, under the leadership of the Secretary General, executes the mandates conferred upon it by the organs of UNASUR and represents them on the express delegation thereof. Its headquarters are in Quito, Ecuador"⁷³. Its functions are:

- a) To support the Council of Heads of States and Government, the Council of Ministers of Foreign Affairs, the Council of Delegates and the Pro-Tempore Presidency in the performance of their duties;
- b) To propose initiatives and oversee the implementation of the directives of the organs of UNASUR;
- c) To participate with the right to speak, and perform the role of secretary in the meetings of the organs of UNASUR;
- d) To prepare and submit the Annual Report and the respective reports to the corresponding organs of UNASUR;
- e) To serve as the depositary of Agreements in the framework of UNASUR and arrange for their respective publication;
- f) To prepare the draft Annual Budget for the consideration of the Council of Delegates and take the necessary measures for its proper management and execution;
- g) To prepare the draft Regulations for the operating of the General Secretariat and submit them to the consideration and approval of the corresponding organs;
- h) To coordinate with other integration and cooperation entities of Latin America and the Caribbean for the implementation of the activities requested by the organs of UNASUR;
- i) To formalise, pursuant to the regulations, all the legal acts necessary for the proper administration and management of the General Secretariat.⁷⁴

The CTU adds that the Secretary General will remain in office for a period of two years, "renewable only once," and the Secretary General shall not be succeeded by a person of the same nationality. The Treaty also states that "in the selection of the staff of the General Secretariat, an equitable representation for each Member State shall be guaranteed, taking into account, as far as possible, criteria of gender, language, ethnicity and others."⁷⁵

⁷³ "Constitutive Treaty of UNASUR," May 23, 2008, art. 10.

⁷⁴ *Ibíd.*

⁷⁵ *Ibíd.*

Having reviewed the powers that the CTU gives to the General Secretariat, we should also ask what are the powers that the Treaty does not confer it. This comparative exercise will evidence more clearly the substantial innovations introduced by the Regulations for the Secretariat. First, the CTU does not give the General Secretariat the authorization to exercise UNASUR representation in relations with third parties or with international organizations or other entities, or international events; it only allows the coordination of activities with other entities of integration and cooperation in Latin America and the Caribbean. Secondly, the CTU does not contemplate that the General Secretariat issues statements or proposes special sessions of the organs and entities of UNASUR. Third, the CTU does not expect the General Secretariat to meet with national organisms from Member States. And finally, the Treaty of UNASUR does not specify where the Secretary General shall reside. These, among other details, are considerations that were introduced after the entry of the CTU.

Indeed, the Regulations of UNASUR incorporate very important features for the General Secretariat. We must remember that, after the signing of the CTU, President Rafael Correa stated that to sign this document, he was persuaded by the presidents of Brazil and Venezuela under the condition that it could be modified with the introduction of the Regulations, with the goal to strengthen the General Secretariat. In this scenario, it is worth going through the different powers, duties and responsibilities assigned to this organ.

First, a reinterpretation of the Treaty is visible in the Regulations, specifically in regard to relations with third parties. As already mentioned, the CTU imposes certain restrictions on the General Secretariat in regard to this subject; restrictions that are circumvented by the Regulations. Thus, while the CTU does not speak to grant the General Secretariat the attribution to exercise UNASUR representation in relations with third parties or with international organizations or other entities, or international events, the Regulations do include these features. In Article 40, speaking of the powers of the Pro Tempore Chair, it says:

Shall act as the representative of UNASUR, especially in matters of relations with third parties, and at international events, as well as of the General

Secretariat, as stipulated in Article 10 of the Constitutive Treaty. In both cases this representation is exercised by express delegation of the Member States.⁷⁶ The odd thing is that Article 10 of the CTU does not mention that the General Secretariat could exercise representation in any of the cases. Similarly, Article 21 of the Regulations states that

the General Secretariat shall, under its own initiative or by invitation, and through the presentation of a six-month agenda of meetings, meet with the other regional integration and cooperation organizations as well as with international organisms and other entities that the entities request.⁷⁷

While Article 10 of the CTU does allow the General Secretariat to meet with regional organizations of integration and cooperation, does not mention that it could meet with international organizations or other entities. The interpretation by the Regulations of the CTU is innovating.

Secondly, the Regulations add special features to the General Secretariat, which were not originally contemplated in the Constitutive Treaty. In one hand, its Article 80 empowers it to issue joint statements with the Pro Tempore Chair, “when the circumstances merit.”⁷⁸ On the other hand, Article 18 allows the Secretariat to meet with “national bodies with competence in the execution areas of UNASUR, with a prior coordination with the Ministries of Foreign Affairs of the Member States.”⁷⁹ Finally, the Regulations direct the Secretary General to reside in the host city of the General Secretariat”.⁸⁰ This latest development might have been implemented because of the particularity experienced when the former Argentine President Néstor Kirchner, became Secretary General of the organism. During his tenure, while applauded by many, Kirchner rarely visited Quito, as the established city for the General Secretariat, which may have had some impact on the institutional consolidation of this newly created body.

In addition to what was previously mentioned regarding the powers and responsibilities of the General Secretary, the Regulations specify in its Article 31 the

⁷⁶ UNASUR, *General Regulations*, 2012, art. 40.

⁷⁷ *Ibíd.*, art. 21.

⁷⁸ *Ibíd.*, art. 80.

⁷⁹ *Ibíd.*, art. 18.

⁸⁰ *Ibíd.*, art. 30.

following. Some have been omitted because they were already discussed above, in order to avoid redundancy:

- a) Direct the General Secretariat and exercise its legal representation;
- b) Dictate and enforce the administrative provisions that are necessary for the good performance of the General Secretariat;
- c) Submit to the consideration and approval of the Council of Ministers of Foreign Affairs, through the Council of Delegates, the proposals of the functional organic structure, Regulations and norms and procedures manuals and their possible modifications;
- d) When needed, assign and remove the Director, with the agreement of the Council of Delegates;
- e) Make the appointments and formalize the designations of the officials of the General Secretariat as it is necessary;
- f) Remove the officials according to what is established in the norms that govern the General Secretariat;
- g) Present a proposal to the Council of Ministers of Foreign Affairs, through the Council of Delegates and according to the budget availability, the amount of officials that are discriminated in a structure of positions regarding the specialized support in technical and administrative areas of the General Secretariat, as well as their appointment and removal when it applies;
- h) Approve the Procedure Rules of Staff of the General Secretariat, respecting the terms of the Venue Agreement and of the current General Regulations, which will be then submitted to the Council of Delegates;
- i) Execute, in agreement with the present Regulations, all the necessary legal acts for the good administration and management of the General Secretariat;
- j) Hire, whenever is it is needed and subject to the availability of resources, previous authorization of the Council of Delegates, the execution of works and specific studies with experts and consultants, as well as especial or occasional services rendered by natural or legal persons.
- k) Appoint, through administrative act, the officials that will represent the General Secretariat at UNASUR meetings, as well as at the meetings with regional organizations of integration and cooperation and with international organisms and other entities;
- l) Whenever deemed necessary, present a proposal to the Pro Tempore Chair, of the notifications to extraordinary meetings of UNASUR's bodies and institutions;
- m) Submit to the Council of Delegates the project of the annual operating budget of UNASUR including its components, so it can be considered and approved by the Council of Ministers of Foreign Affairs, in agreement with the terms of the Constitutional Treaty;
- n) Prepare and submit to the Council of Ministers of Foreign Affairs the annual report of its management and an administrative and financial accountability report of UNASUR.

- o) Maintain an updated database of the authorities of the board and representatives of the Member States.⁸¹

As discussed above, the role of the General Secretariat in the development and subsequent evaluation of the budget is significant.

The Regulations of UNASUR include some other considerations that cannot be overlooked in our analysis, as these reinforce the role of this organ. Thus, in the exercise of their right to speak⁸², the Regulations empower the General Secretariat to rule on issues of interest to the Union, "in favor of the consolidation of the integration process"⁸³. In that sense, it can even submit proposals for conducting technical studies commissioned by the organs, that "contribute to the development of the integration process" and it could "advise... in the preparation of agendas and proposals under discussion"⁸⁴.

2.2.2.6.1. The Staff of the Secretary General

The consolidation of the General Secretariat depends on the way it is organized to comply with the provisions entrusted both by the Constitutive Treaty and the Regulations. The latter describes that for the fulfillment of their duties, the General Secretariat will "receive the support of the staff members, specialized personnel, technical and administrative officials, needed to perform his/her administrative functions and to follow up the thematic areas that are part of UNASUR's institutional structure"⁸⁵. On this basis, Article 38 states that

The General Secretariat shall be made up of a group of Directors, corresponding to the structure of UNASUR and its various organizational bodies, grouping together the totality of their agendas, addressing the political, economic, social, cultural, and environmental areas, as well as energy, infrastructure, finance, defense, external cooperation, and others.⁸⁶

In selecting the Directors, whose term shall be of three years (renewable once), the General Secretariat shall ensure an "equitable representation of the Member States"⁸⁷;

⁸¹ Ibid., art. 31.

⁸² Ibid., art. 22.

⁸³ Ibid., art. 19.

⁸⁴ Ibid., art. 22.

⁸⁵ Ibid., art. 25.

⁸⁶ Ibid., art. 38.

⁸⁷ Ibid., art. 35.

this criteria extends to other officials in this instance. Officers, Directors and Secretary General should abstain to engage in political activities, and “to request or accept instructions... of a particular government, person or entity external to the General Secretariat, and they shall perform their duties taking into account only the interest and objectives of UNASUR and the mandates given by their bodies.”⁸⁸ As a last reference to this issue, Article 34 states that these officials “will be chosen in a transparent and objective process” and states that they “shall observe neutrality inherent in their functions and ensure the confidentiality of UNASUR documentation”⁸⁹. This structure of the General Secretariat of UNASUR is designed to cope with the needs arising from a process that brings together 12 countries, so that, in theory, should gradually refine and polish his conduct and its structure, in order to become the central ground of the South American integration.

2.2.3. The Decision Making System of UNASUR

The Constitutive Treaty of the Union of South American Nations reflects the intrinsic conceptions the twelve nations have on the integration process. This understanding is the result of accumulated experience about previous attempts of integration, in which *sui generis* schemes were tested with results of various kinds. Prior to the review of the issues that concern us, I consider pertinent to quote two passages from CTU, whose unequivocal significance cannot be ignored. First, paragraph 8 of the preambulatory clauses helps to decipher clearly what is expected of the South American process:

AWARE that the process of building South American integration and union is ambitious in its strategic objectives and must be flexible and gradual in its implementation, ensuring that each State makes commitments according to its own situation.⁹⁰

Note the manifestation of “flexibility” and “gradualness” to warn the signatory countries on the process to which they are committing themselves to. Secondly, I have chosen to cite Article 2 of the CTU, “Objective”, which holds another key to our analysis:

⁸⁸ *Ibíd.*, art. 26.

⁸⁹ *Ibíd.*, art. 34.

⁹⁰ “Constitutive Treaty of UNASUR,” May 23, 2008, preambulatory clause.

the objective of the Union of South American Nations is to set up, in a participatory, agreed manner, a space for integration and union among its peoples in the cultural, social, economic and political fields...⁹¹

These two passages of the Constitutive Treaty alone are suggestive, and allow us to speculate upon the possible path that UNASUR will choose in its integration process: flexibility, gradualness and consensus, three of the foundations on which the Union is built.

Indeed, as it will be seen later, the general rule for the adoption of everything discussed in UNASUR is the consensus. If there is no consensus, it is even difficult to introduce a topic on the agenda. In the Union, the possibility of submitting a proposal to a vote is negligible, because if there is no prior agreement is unthinkable to put a member on the ropes and force it to veto the proposal discussed. The latter because, in fact, the consensus standard results in standard "unanimity or at least non-opposition" (Cardona 2008, 30), which implies veto capabilities. The first-hand testimony given by one of the architects of CTU explains the vision of the States in this regard: "This is the glue that binds all members of UNASUR" (Solón 2008, 13). "This way all States are sure to be taken into account when deciding," given that "no decision can be taken against a Member State" (Ibíd.). Regarding the use of veto, he adds that "it is possible, but at the same time, it ensures that all States have an impact on South American integration process." And sentences it, without any doubt: "without the consensus formula the UNASUR Constitutive Treaty could not have been drafted and signed" (Ibíd. 14). Indeed, the result of this consensus is evident in Article 12 of the Treaty: "all the Norms of UNASUR shall be adopted by agreement"⁹². This decision-making system, quite simple in design, is complicated when the Treaty in Article 13 speaks of "Adoption of Policies and Creation of Institutions, Organisations and Programmes"⁹³.

That is precisely the Article that clearly embodies the ideas of flexibility and gradualness. It complements by stating that

⁹¹ Ibíd, art. 2.

⁹² Ibíd., art. 12.

⁹³ Ibíd., art. 13.

one or more Member States may submit to the consideration of the Council of Delegates a proposal for the adoption of policies, creation of common institutions, organisations and programmes to be adopted in an agreed manner, on the basis of flexible, gradual criteria of implementation.⁹⁴

These proposals, that shall be submitted to the Council of Delegates and get the approval of the twelve, then go to the Council of Ministers of Foreign Affairs and then to the Council of Heads of State, "for their approval by consensus." It continues:

Once a proposal is approved by the highest body of UNASUR, three or more Member States may begin to implement it, provided that the possibility of inclusion of other Member States in said common initiative is guaranteed and periodical reports of its implementation are presented to the Council of Delegates.⁹⁵

If so far, it is possible now to feel the criteria of flexibility and gradualness, the paragraph that follows adds a central feature for UNASUR:

Any Member State may fully or partially exempt itself from implementing an approved policy, for a set time or indefinitely, without this preventing said State from subsequently incorporating the policy, either fully or partially. In the case of institutions, organisations or programmes which are created, any Member State may participate as an observer, or exempt itself from participating fully or partially for a set time or indefinitely.⁹⁶

That is, even if there was consensus to approve a policy or create a facility or program, the Member States are not required to participate in them. This proves that consensus is not enough for countries to implement the agreement: the criteria of flexibility and gradualness relativize what has been agreed.

If among the foundations of UNASUR is the consensus, flexibility and gradualness, it is striking how these elements interact in practice. The Bolivian Pablo Solón (2008) once again helps us to understand this dynamic so particular:

While any decision is by consensus with the participation of all Member States, the implementation of these decisions may be gradual and flexible. Thus a Member State is not obliged to implement all agreements immediately, or at the same rate, but must agree with the existence of such "policies, institutions, organizations and programs" so that they can be considered as initiatives of UNASUR. This formula allows a flexible application in the context of a consensus approval procedure (14).

⁹⁴ *Ibíd.*

⁹⁵ *Ibíd.*

⁹⁶ *Ibíd.*

In other words, the fact that a country gives its approval to form consensus on a decision, does not mean that it is required to comply with the decision supported. That is, the consensus of the twelve does not require these twelve to comply with the consensus: only three countries are needed to initiate the development of the approved proposal, the rest can stay out as long as they want. To this are referred the concepts of flexibility and gradualness.

But what happens with a proposal on which no consensus among the twelve is reached? The lack of consensus can take two paths: the first, under Article 13 of the CTU, says that it "may only be submitted to the Council of Delegates six months after its last inclusion in the agenda."⁹⁷ The second path of a proposal without consensus is that it takes place in an area outside UNASUR. Cardona (2008) brings up the example of the Bank of the South, a project that does not belong to UNASUR by lack of consensus on the matter, which has not stopped it "to advance in their own objectives" (27). This feature is another example of the South American flexibility and gradualness.

The Regulations, in turn, ratify the implemented by the Treaty and adds a new item. For example, unlike the CTU in which the State's proposal is placed directly before the Council of Delegates; in the Regulations is specified that it will have to be done "with the assistance of the General Secretariat, through the Pro Tempore Chair and, only after, the Council of Delegates"⁹⁸. Under the Regulations, these proposals must be accompanied by both "of a statement of reasons, to assess their relevance and feasibility according to the objectives of the Treaty... and guidelines... of UNASUR" and a proposed budget, which must be considered to approve the proposal, whose implementation "will be developed under flexible and gradual criteria."⁹⁹ Moreover, if a Member State decides to "refrain from implementing all or part of a policy or the development of some programs, institutions or organizations... either for a definite or indefinite" shall "notify the Pro Tempore Chair, with a copy to General Secretariat,

⁹⁷ *Ibíd.*

⁹⁸ UNASUR, *General Regulations*, 2012, art. 9.

⁹⁹ *Ibíd.*

which shall inform the other Member States"¹⁰⁰. From another approach, Member States that take part to these programs, policies, institutions or organizations agreed by the Council of Heads of State, must "report the progress of the implementation of the project, through annual reports" to the Council of Delegates, "which shall forward it to the other entities"¹⁰¹. In practice, despite adding certain specific items, the Regulations fully complement what has been manifested by the Constitutive Treaty.

2.2.4. Other Aspects of UNASUR

Although demurely, UNASUR contemplates the inclusion of social actors in the integration process. Both the Constitutive Treaty and the Regulations glimpse that those behind the project admit the necessity to bring UNASUR to the citizenship, so that South America goes beyond mere intergovernmental coordination and takes root in South Americans. Thus, Article 18 of the CTU argues that this process will occur "through dialogue and broad, democratic, transparent, pluralistic, diverse and independent interaction with the various social actors, establishing effective channels of information, consultation and follow-up in the different bodies of UNASUR,"¹⁰² to which Article 15 of the Regulations states that mechanisms will be established in order to encourage this participation, with "flexibility and gradual nature criteria"¹⁰³. This same article mandates that the Council of Delegates produce "a guideline project that will define the participation of the different social actors in the integration process"¹⁰⁴.

Additionally, the Constitutive Treaty provides for "the establishment of a South American Parliament, to be based in the city of Cochabamba, Bolivia," but merely postpone the formal creation of this instance, leaving it as a "subject of an Additional Protocol to the present Treaty"¹⁰⁵.

2.3. Conclusion of the Chapter

¹⁰⁰ *Ibíd.*, art. 12.

¹⁰¹ *Ibíd.*, art. 14.

¹⁰² "Constitutive Treaty of UNASUR," May 23, 2008, art. 18.

¹⁰³ UNASUR, *General Regulations*, 2012, art. 15.

¹⁰⁴ *Ibíd.*

¹⁰⁵ "Constitutive Treaty of UNASUR," May 23, 2008, art. 17.

Throughout this chapter, we have reviewed in detail the background of the UNASUR Constitutive Treaty, as well as its content and design that provides for the organization, relying on the provisions specified in the General Regulations. We have deprived to analyze, reflect on and discuss the goals and instances, because doing so would have been confusing and messy. Through this mainly descriptive chapter, it has been possible to demonstrate in practice some of the features of the IGOs theories explained in the first chapter. If the intent of this chapter is to provide the reader with the tools that would enable him/her to understand the Union of South American Nations, the following chapter will facilitate the analyze of the relevance of its institutional design: its strengths, weaknesses, and its ability to meet the objectives for which it was created.

Chapter III

UNASUR Constitutive Treaty: Analysis and Empirical Contributions

As already stated, this chapter corresponds to the analysis, reflection and discussion of each of the instances described above, as a result of the provisions of the CTU and its Regulations. The following analysis goes beyond the descriptive, and provides a strong empirical content illustrating more clearly the actual operation of the institution, ranging from the foundational texts to their implementation. Of course, this reflection and questioning includes the writer's own assessments, and therefore it is not expected that the reader agrees. In fact, the matters discussed here have a controversial nature, which enables discussion and exchange of views, which ties with the purpose of this research.

This third section of the research replicates the organization of the previous, although perhaps with changes in the sequence. After we begin to reflect upon the objectives and the creation of UNASUR, we will proceed to the longest section of the chapter: the structure of the organization. It will deepen, step by step, in the Council of Heads of State, the Pro Tempore Presidency, the Council of Chancellors, the Council of Delegates, the Ministerial Councils and the General Secretariat. It is of special relevancy the analysis of the Pro-Tempore Presidency, whose axis of argumentation is based in the categorization of leadership: "Organizer: task-oriented leadership," "Intermediate: Leadership Group-Oriented," and "Political Leadership: Transformational Leadership," to which I will provide examples of the work of each country that has had this responsibility. Last but not least, the analysis of the Consensus Statement and the Procedures for Adoption and Creation of Policies and Institutions is crucial, because in my opinion these rules and procedures define very subtle, but also very definitely, the character of UNASUR.

Ultimately, the question that will lead this chapter aims to provoke the juxtaposition of concepts that are evident in moments of blurring of institutional organization. As a preview to what is coming after, I recommend the reader to try to identify the weight of the concept of *sovereignty* in the design of the Union of South American Nations.

3.1. Analysis of the Objectives and the Constitution of UNASUR

The signing of the UNASUR Constitutive Treaty deserved different opinions in the political, academic and social sectors in the region and the world. South America, thought as an integration project for the first time, was thrilled with the idea of forming a relevant block in the world; at the same time, the two major projects of the last century were losing prominence: the Andean Community and the Southern Common Market. While, regarding the purpose, the general opinion was favorable, the position on how to achieve that purpose provoked divided reactions. This means, it was not the aim but its attainment strategy that raised the debate. President Rafael Correa, for example, went on to say that the Treaty as it was signed, "is useless" (Correa 2008a). In the same vein, former President Rodrigo Borja, whose name had reached consensus of the twelve to occupy the General Secretariat of UNASUR, deserted the proposed charge due to profound disagreements with the project as it was signed. Considering that the Union of South American Nations had solemnly inaugurated, it is worth asking: what were these angry reactions based on, related to the founding document of UNASUR?

As we saw in the previous chapter, the objectives of the South American integration project were not always the same. Several readings can state that the initial intent (year 2000) to create a South American free trade area practically disappeared as the purpose of the organization when it finally settled (year 2008). On the one hand, the sector associated with the Socialism of the XXI Century refers to this as an overcoming of the neoliberal paradigm, which advocated trade liberalization to favor the interests of large transnational companies. In addition, certain groups glimpsed how the chance to create a large South American market without tariffs apparently vanished, along with the hope that trade within such a huge space would actually benefit local people. That is, if for the former it was a shift from a narrow perspective of development, limited

commercial release and ignorant of the rest of society and history of the people, for the latter this meant an incontestable involution, since it abandoned the ability to trade freely in a vast market. UNASUR, dominated by a stream of progressive and leftist governments, ruled out the path of trade liberalization and opted for the remainder.

Certainly, this choice was not the result of coincidence. The very María Emma Mejía, second Secretary General of UNASUR, made clear that economic integration is an issue "thornier, because there are more differences," which has led to what she defines as a "realistic action plan" (Mejia 2011b). From our analysis we can infer that this realism is reflected in much less thorny objectives, such as social, cultural, educational, or, in other words, much less commercial objectives and political markedly. "We must remember that we are eminently a political body that prevents threats and political difficulties in the region," said Mejia in another interview, trying to make a difference with the model of trade and economic integration of the European Union (Mejia 2012b). Along the same line we can classify the statement of former Chancellor of Peru, José Antonio García Belaúnde, who was also one of the leaders in the process of signing the Constitutive Treaty of 2008. In an interview after leaving office, it is known that García Belaúnde acknowledged that "since its inception, its members dropped into account the difficulties to achieve economic integration and trade" (Garcia 2013), so they decided to make UNASUR more political. This agrees with the statement by Andrés Serbin, for whom there is a "shift of trade and economic issues," expressed in a "return of politics in external relations and development", observed in a "marked politicization of the regional agenda" (Serbin 2010, 17).

The definition of UNASUR provided by Rafael Follonier, one of the advisers of the deceased Néstor Kirchner at the General Secretariat of the organization, leaves no room for doubt: "It is an integration political bureau. It can come down to the economy, finance, infrastructure, defense, so be it, not like in another era in which the economy or defense or continental security pacts govern the agenda. Now, politics rules over the rest" (Follonier 2011a). "Its initial purpose is... political," said the Argentine professor, Mario Rapoport (2008), while his compatriot Facundo Nejamkis, also a Kirchner

advisor, recognizes the absence of other areas, stressing however that "as a political forum... is very efficient, very powerful, in which countries in the region resolve their conflicts of interests" (Nejamkis 2010). To Sanahuja, the CTU "makes it clear the political character of the organization and the importance given to the adoption of common policies and cooperation which may be in non-trade areas" (Sanahuja 2011, 128-129). These approaches are useful to give us an idea of the nature of the organization, and to make a difference to the existing ones.

The question arises regarding the chosen integration model. Without wanting to sound redundant, Article 2 of the CTU defines UNASUR as "a space for integration and union among its peoples in the cultural, social, economic and political fields," with priority in the "political dialogue, social policies, education, energy, infrastructure, financing and the environment," an objective that has an ulterior purpose: "eliminating socio-economic inequality, in order to achieve social inclusion and citizen participation, strengthen democracy and reduce asymmetries." All this, of course, "within the framework of bolstering the sovereignty and independence of the States"¹⁰⁶. That is, the alternative path chosen by UNASUR pursues a highly ambitious overall objective, which is expanded in a list of 21 specific objectives of some magnitude. The layout of some ambitious goals is not only legitimate, but also is indispensable and urgent, especially if one takes into account the current state of governance in the world.

The UNASUR mission statement denotes a holistic approach to the achievement of South American integration. This wide-ranging and far-reaching approach, which is present since the beginning of the organization, differs markedly from other processes of regionalism in the world whose initial objectives have been much more specific and, in some cases even planned deadlines to meet them. In such cases, the consolidation of the first objectives has led leaders to explore the possibility of expanding, starting from a gradual process of regional integration. UNASUR, while it has defined seven priorities (political dialogue, social policies, education, energy, infrastructure, finance and the environment), it also has 21 goals which, in turn, are broken down in multiple areas,

¹⁰⁶ "Constitutive Treaty of UNASUR," May 23, 2008, art. 2.

capturing such an ample spectrum of action, at the point that today we know that UNASUR has plans ranging from the establishment of a South American Space Agency and to create a South American Film Market. This demonstrates the Union's desire to manage a list of extensive areas, which are conducted by at least 12 Ministerial Councils and a greater number of working groups. In this regard, the Union of South American Nations differs from other more specific processes of integration, being born with a quite comprehensive agenda.

This amplitude, however, is for many the greatest risk to the consolidation and success of UNASUR. The lack of a specific approach that serves to guide the efforts, time and resources, so as to prevent *the ship to lose its course*, can result in an overproduction of initiatives that blur the meaning of the project, and also hinder to see clearly the path initially thought. This problem can be deepened further, as discussed below, as the *captain of the ship* borne almost exclusively by the presidents of the member countries. There are several personalities who warn about the difficulties regarding the definition of an agenda too broad. This is the case of the Venezuelan Professor José Briceño Ruiz, who, in a panel discussion at the University of Buenos Aires on the construction of UNASUR, warned of the risks of falling into a schedule of "over ambitious" objectives (Briceño 2011). In the same debate, the Argentine economist Aldo Ferrer, former Finance Minister of his country, recommended UNASUR "to avoid setting unattainable goals", and instead "to integrate diversity and to apply administered rules of integration" (Ferrer 2011). Moreover, the academic Alberto Cimadamore manifests, very clearly, the connection between objectives and instruments, which greatly helps us to channel our analysis. Cimadamore, apart of warning of the approach of overambitious goals, expressed doubts about the tools that are created to achieve them, and regrets that they respond to "a strategy that privileges the times and the multiplicity of national interests over regionals" (Cimadamore 2010, 26). This holism of objectives continues to be of concern when considering its instrumentalization.

Since we broadly know that the negotiation process to agree on the text of the founding document was arduous and painstaking, we could conclude that every word of this text was carefully analyzed so that it does not compromise more than each member state was willing to compromise. The article just discussed holds the true concept of what is UNASUR, but at the same time is the trigger for the most acute questions that arise about the nature of this organization: "a space for integration and unity... in the context of sovereignty and independence of States". That is, UNASUR proposes that the twelve members integrate and unite but without either the remote possibility of yielding a fraction of their national sovereignty nor committing their independence in favor of achieving this integration and union. This raises an important question: how to integrate and unite the twelve without compromising their sovereignty and independence? Can you call this "a space of integration and union" to a scheme of sovereign and independent States? Or, in other words, is it possible an Independent and Sovereign Union of South American Nations? Well, the difficulty of finding an answer to these questions is born at the precise moment in which the signatories of the founding document combine the words *integration, unity, sovereignty and independence* in the same sentence.

The dilemma in which the signers of the document put us can disturb scholars and political scientists, but it seems not to affect politicians and leaders. In that sense, it may seem as an exaggerated insistence on the analysis of the discourse of the treaty; however, such performance is not unreasonable. Ambiguity and the game that is manifested in writing of the most important item, the most important document of UNASUR, can lead to the formulation of risky judgments, though not entirely unjustified.

The debate on the conceptualization of the Union of South American Nations is becomes stronger when we include in its background the proposed founding document drafted by former President Rodrigo Borja. In the months that followed the summit of Isla Margarita, in 2007, the then General Secretary ad-hoc suggested an ambitious

conceptualization of the project, which was in line with the objectives. In Article 2 of the proposed treaty, Borja wrote:

The authority and powers of UNASUR are given by the sovereign will of the Member States, in exchange for economic, political and geopolitical advantages in which they submit to a community order, they agree to self-limit some of its sovereign powers and form the Union with community entities of multinational decision and action (Borja in Solón 2008, 14).

This definition was far from what South American leaders were willing to accept. Moreover, after reviewing how Article 2 was finally signed at CTU in 2008, it is not wrong to say that the proposal submitted by Borja had all the concepts that the South American leaders did not want to include in UNASUR: shared sovereignty, self-limitation of powers, subordination to a community order, community bodies of multinational decision and action. None of that is UNASUR; Borja did not become the Secretary General.

3.2. Structure Analysis of UNASUR

At this point, our analysis presents a scenario that deserves attention: first, the indisputable certainty that UNASUR goals are ambitious, comprehensive, challenging, and, secondly, an uncertainty regarding the model chosen by the leaders to achieve those goals. This uncertainty reflects the fact that the Constitutive Treaty defines the organization in a very ambiguous sense, as we saw earlier. In turn, this reluctance to concrete definitions is reflected in the institutional architecture of UNASUR, which denotes visible caution when assigning responsibilities and competencies. Was this the most successful model that could be adopted by UNASUR? This section reflects on just this issue through an analysis and questioning of the Union institutionality.

The model chosen for UNASUR integration creates an institutional architecture and policy framework, which are designed to operationalize the achievement of the objectives of the organization. In other words, if the objectives are the gray matter of UNASUR, the institutions and regulations come to be the body that facilitates the realization of the goals.

However, it is important to consider the characteristics that surround the creation of the institutions of the Union. After the disappointment not only with subregional processes but also with certain broader multilateral agencies, the feeling that prevails in the region is a strong aversion to international bureaucracies. The Spanish political scientist recalls that in the "Latin American Foreign Ministries it is often said 'we do not want a bureaucracy such as Brussels'", which affects the design of new projects such as UNASUR (Sanahuja 2008, 19). This feeling of aversion seems to keep a negative concept of the word "institutions", equating it with "inefficiency" as if the poor results of other organizations were due to strong institutional architecture. In this respect, figures such as Chilean President Sebastian Piñera has said that in the region "there are many institutions, much bureaucracy and sometimes what is truly willingness as well as losing fear of freedom and integration" (Piñera 2011). The Argentine Follonier rated that "Unasur bureaucracies have little political weight and is bold, fast [and] creative", not dependent on "international bureaucracy, as in other cases," but in "the will and the political decision of the Presidents" (Follonier 2011b, 2011c Follonier). The Bolivian Solón (2008), one of the authors of the founding document of UNASUR, argues that "rather than rigid structures, the Treaty proposes the development of mechanisms, spaces and channels of 'information, consultation and monitoring'" (17), which appear to capture the recommendations of French Professor Olivier Dabène: "The challenge for the future is to work on [the issues of South American integration]... efficiently... without much institutionality" (Dabène 2011a). The General Secretariat itself, Maria Emma Mejía, stated that she expects UNASUR to "not excessive bureaucracy" in order to maintain its dynamism (Mejía 2011c). The dilemma then was leaving in discerning how much enough institutionality is.

After reading the Treaty, we can identify the institutional architecture of UNASUR features 6 vital instances: the Council of Heads of State, the Council of Chancellors, Ministerial Councils, the Council of Delegates, the Pro Tempore Presidency, and the General Secretariat. From the CTU we can also infer the essential principles on which this institutionality is built: sovereignty, intergovernmentalism, consensus, flexibility and gradualness. In turn, these principles are reflected in the

regulations of the Union. This amalgam of concepts and tools makes the individual analysis highly complex, so we will assume the risk of treating them collectively and resort to them whenever necessary.

3.2.1. Analysis of the Council of Heads of State and Government

The Council of Heads of State is the core body of the Union of South American Nations. Its installation is required only once a year, even though nearly all substantive regionalist process issues of UNASUR depend on its approval to become reality. Indeed, that is the case of proposed policies, institution, organization or public programs, which require consensus approval of the Council. If we understand that the main purpose of organism of integration is to adopt common policies or programmes that have a positive impact on the people, it is clear that in the case of UNASUR this exclusive power of the Council of Heads of State concentrates the cardinal functions of the institution. For sure, this is not the only attribution of this Council. It is also responsible for approving the Annual Program of Activities, a very important issue for running the entire organization, taking into account that they meet only once a year, and therefore it is an invaluable opportunity to plan the progress to be made regarding the integration of the subcontinent. This centrality of the Council of Heads of State responds to a typical feature of the political systems of the countries in the region, which many rightly called "presidentialism".

This presidentialism is revealing when understanding the nature of the South American project, as it is intrinsically related to the concepts of sovereignty, independence and intergovernmentalism - to the point that some sectors qualify this process as interpresidentialism. In this concept, Sanahuja (2008, 36) and Serbin (2010, 6) overlap, when they explain this model based on the concepts of intergovernmentalism and the main role of the state, ensured by the principle of sovereignty. The French Dabène adds that this feature is risky because the process depends "a lot on the relationship between presidents" (Dabène 2011b), which leads to similar conclusions by Bruno Dalponte, Matthias Döring, and Mercedes Hoffay: "the tendency to favor presidential diplomacy, as well as strong political polarization, is also reflected in a low

institutionalization of integration organizations, because an organization may not function effectively for the simple fact that governments change" (Dalponte *et al.* 2010, 145). This presidential diplomacy discussed by Dalponte *et al.*, is called "Summit Diplomacy" by Francisco Rojas Aravena, who adds that this model generates "sustained lack of coordination," which is made worse by "the multiplicity of processes that [the presidents] are involved," while generating "great pressure to the agendas of the leaders" (Rojas 2009; Mellado 2010, 593). Indeed, other regional organizations (ALBA, MERCOSUR, CAN, CELAC) also concentrate important responsibilities on presidents, confirming the presidential character of the organs of regional integration.

The issue of presidentialism is not only addressed in Academia. We turn again to the former advisor to the Secretary General of the organization, the Argentine Rafael Follonier, who states: "UNASUR is a political body, with absolute presidential decision. The Heads of State are the ones who decide in UNASUR", while defining this Council as "a South American team" of presidents, making this a "bold, swift" process, which does not require stronger institutions (Follonier 2011a, Follonier 2011b). María Emma Mejía, former Secretary General, added that in this process, "the presidents resolve conflicts immediately," implicitly acknowledging that South American foreign policy depends in part on the quality of relationships of the presidents. When asked about the future challenge of UNASUR, Mejía said: "Keeping that momentum and that agility," perhaps knowing that the positive political momentum can be temporary (Mejía 2011c). Former Uruguayan president, Tabaré Vázquez (2011), when leaving the presidency, said that there are "too many summits" and "too many photos between Presidents", but the "people do not live" the benefits of integration. Vazquez, however, was one of the signers of CTU in 2008.

This analysis allows us to understand more precisely the nature of the South American project. However, despite the argument that has been raised, it is worth remembering that it was mentioned in the previous chapter that there was virtually no debate about the centrality of the Council of Heads of State of UNASUR. As far as discussed, it is not unreasonable to say that the integration project moves at the rhythm

of the presidents, thus centralizing the process in the executive powers of the member countries, without taking into account the role of the Legislative, Judicial, or Citizen Sector. The fact that the main mechanism of work of this Council is through Presidential Summits to be installed once a year (called *Regular Meetings*), endorses the concept of "Summit Diplomacy," where dozens of documents are signed, whose tracking and implementation is complicated, and they also become obsolete with each new summit where new documents are produced.

Anyway, this is how the UNASUR Constitutive Treaty organizes its institutions, which, as we have seen, consists of 5 other instances that will be discussed below. According to the hierarchy of these instances, it is clear that the Council of Heads of State takes the maximum range, however, the following ranges can cause some debate, and especially if it is considered that the Regulations of UNASUR re-interpret certain provisions of the CTU.

3.2.2. Analysis of the Pro Tempore Chair

The Pro Tempore Chair (PTC), for example, is a matter that should be treated with special consideration. Indeed, the PTC is not considered a central instance of UNASUR; the contrary, it could be said that this is a transversal instance. Therefore, while is not a central body, it makes it no less important. As explained in the previous chapter, we could say that the evolution of the regionalist process is a responsibility that rests largely on the efforts of each country holding the Pro Tempore Chair. So much that, at the end the yearly PTC management, the outgoing President's speech outlines the achievements of the management of their country in front of the Union. Indeed, the responsibility to prepare, convene and preside over all instances of UNASUR (except for the General Secretariat) lies in the country Pro Tempore Chair, which also, throughout the year, receives in his/her country the council meetings. This includes the Council of Heads of State, the Council of Chancellors, Ministerial Councils (about 12), and the Council of Delegates, so it is not misleading to say that this instance is transversal in the whole architecture of the Union.

The job of the Pro Tempore Chair, of course, cannot limit itself to prepare, convene and preside over all instances of UNASUR. As a leading country of the Union, the PTC can use its leadership to prioritize certain areas, suggest alternatives, influence Decisions, Resolutions and Provisions, and to project some of its foreign policy on the agenda in South America. Moreover, this instance has a distinctive attribution, and it is the only one that can make commitments and sign Statements with third parties, obviously, after having consulted with the relevant bodies of the organization. This instance of rotating leadership is characteristic of much of the existing multilateral organizations, although their importance varies from one to another. With this in mind, the Member Countries of UNASUR were careful not to give independent powers to the PTC, so that virtually everything is done with prior consent of the twelve.

After reviewing the attributions of the PTC, it is remarkable a feature on the relationship with third parties. While the Treaty gave it a starring role, being the only body that could represent UNASUR in international events, the Regulations made it to share this feature with the General Secretariat, as well as the power to relate to others, but only when Member States expressly delegated that responsibility to the Secretariat. The Regulations even give the authority to the General Secretary to meet with other regional integration organizations, international organizations and other entities recommended by the different bodies (CTU only allowed it to coordinate development activities with other integration entities of Latin America and the Caribbean). This ambiguity, which could confuse and lead to interpretations, shows the pressure from certain governments to give a greater role to the General Secretariat, which was minimized by the CTU to purely administrative actions. To further feed this ambiguity, in November 2012 the Council of Heads of State endorsed the "UNASUR Political Guidelines for Relations with Third Parties"¹⁰⁷, fulfilling what the CTU established in Article 6, relating to the powers of the Council. The wording of Article 4.1. of the document, seems to give back to the Pro Tempore Chair exclusive authority to represent UNASUR in international event, *with previous consent of the relevant bodies*, while the General Secretariat is given the option to "represent UNASUR," without specifying the

¹⁰⁷ UNASUR, *Decision N°6*, 2012, art. 4.1.

cases, as well as participation in international forums and organizations, *only when Member States have delegated it that function*. The distinction between the "*consent of the relevant bodies*" and "*where Member States have delegated it*" would seem to be an attempt to clear the doubts as to in which of the two bodies could act on behalf of UNASUR: if Member States have not expressly delegated the General Secretariat to do so, it will be assumed that this power is reserved to the Pro Tempore Chair, provided they obtain the consent of the relevant bodies.

This entire tangle greatly complicates the objective of the geopolitical positioning of the Union, since no clear rules are set to represent it in the international community. Although it appears that the three documents (CTU, Regulations and Guidelines for UNASUR Political Relations with Third Parties) provides the Pro Tempore Chair with more importance when it relates to others, the fact that the General Secretariat also can do it in almost the same cases, does not contribute to the international community to recognize a clear speaker of UNASUR. If what was intended by the Regulations and Guidelines Document Politicians, was to strengthen the General Secretariat with some powers that were not delegated in the Constitutive Treaty, in practice it will be very difficult for the Secretariat to position themselves as the party to which the international community will engage in matters with the Union. As a reflection, it is worth remembering one of the clearer episodes that exist so far in regard to relations with third parties: even though there was neither the Regulations nor the Political Guidelines, in June 2010, the U.S. Secretary of State Hillary Clinton, visited the Pro Tempore Chair of UNASUR, Rafael Correa, who had requested explanations regarding the agreement signed between the U.S. and Colombia to use Colombian bases by U.S. forces. Previously, Clinton had expressed her "interest in starting to build bridges with this organization" (Clinton 2010), and it was an approach made to Correa, as the Pro Tempore Chair of UNASUR, but not to Néstor Kirchner, Secretary General of the organism.

However, even if the Pro Tempore Chair is considered as the undisputed spokesperson, it remains to be seen if it can articulate a strategic agenda to develop a

combined foreign policy at the South American level. This objective could be met only sporadically and in very particular cases. Former Peruvian Foreign Minister and witness of the birth of UNASUR, José Antonio García Belaúnde (2013), had clearly explained: "Since its inception, its members took into account the difficulties... to take a stand as a bloc in terms of political issues." These obstacles, however, have been broken in some specific cases, such as the South American message sent to Britain in their differences with Argentina and Ecuador on the issues of the Falkland Islands and the inviolability of diplomatic missions, respectively, or the unified positions in some discussions of the World Health Organization or the Organization of American States, to which, for the first time, South America has come as a block. In the cases cited, the united voice of the subcontinent has been heard with attention and has achieved interesting success. However, those have been rare cases in which further work has been done mostly through the Councils of Heads of State and Foreign Ministers, without further action by the Pro Tempore Chair or the General Secretariat.

From what has been seen so far, the Pro Tempore Chair of UNASUR is of central importance in the South American project. Among its strengths is a norm that both the Treaty and the Regulations, empowers it, while not extensively, allowing the country that assumes that instance influences it significantly on the path the organization chooses. The fact that this appointment will enable the State to host South American meetings, whether delegates, ministerial or presidential, gives the country an impalpable benefit *as host country*. The power to make the Annual Activity Program, in coordination with the outgoing Presidency and supported by the General Secretariat in this instance, gives it even a greater relevance, since the annual agenda of all other organs of the Union shall be based on such program - of course, this document requires the approval of the Council of Heads of State for its realization. Although the CTU, Regulations and Political Guidelines for UNASUR Relations with Third Parties are quite ambiguous, the Pro Tempore Chair has the strength, although unexploited, to bring the voice of an entire subcontinent outward through its overseas diplomatic missions and international organizations, as long as it is approved by the other *eleven* members of the organization.

From another angle, the prominence of the Pro Tempore Chair in the South American project leads UNASUR to considerable weaknesses. These weaknesses lie in the risk that the country in which that responsibility rests is not be able to take on the challenge, or that it does not take as a priority the integration project, or that it does not have a good relationship with other South American countries, or other peculiarities that may arise. Since, with the exception of the General Secretariat, the Pro Tempore Chair leads all other organs of UNASUR (Council of Heads of State, Council of Chancellors, Ministerial Councils and Council of Delegates), a weak management of the country holding that responsibility inevitably affects the progress of the integration process, even if that was not the intention of the country holding the Presidency (may be the case of a country that really wants to push forward the process, but it is made impossible to deploy capabilities to encompass the many fronts on which the Presidency has to work, or it may be that the government in charge of the Presidency does not have as a priority to invest money and capabilities necessary to lead in the regional project). In practice, the great responsibility of the Pro Tempore Chair of UNASUR gives the ability, voluntarily or involuntarily, to provoke a boycott of the project.

3.2.2.1. The Matter of Leadership of the Pro Tempore Chair

In order to deepen the analysis, I consider important to take the categorizations of leadership mentioned by Schout (2008) in the first chapter, attributable to the UNASUR Pro Tempore Chair of the block. Here it can be appreciated a study that incorporates empirical evidence about the three categories established by Schout: "Organizer: Task-Oriented leadership," "Intermediate: Leadership Group Oriented," and "Political Leadership: Transformational Leadership".

3.2.2.1.1. Organizer: Task-Oriented Leadership

Both the CTU and the Regulations attribute the Chair the responsibility to prepare, convene and lead the meetings of the bodies of the Union, and the task of representing UNASUR externally. This goes hand in hand with the provisions provided by Schout in Chapter 1.

The empirical evidence can help prove, a brief overview, of how is it working this PTC after five countries have assumed this responsibility, which is currently in the hands of Suriname (reason why it will be ignored in the analysis that follows)¹⁰⁸. Starting with the issue of external relations, we can say that the existing results are still scarce. While the document of Political Guidelines of UNASUR for Relations with Third Parties was passed only in 2012, this cannot be considered an obstacle for the PTC to develop more relevant actions in this field.

Indeed, when Ecuador took the Pro Tempore Chair in 2009, its agenda included international actions that influenced the inclusion of UNASUR in the international arena. These actions highlighted the role played in the reconstruction of Haiti after the earthquake, which resulted in the signing of the Declaration of Solidarity of UNASUR with Haiti,¹⁰⁹ which promised, among other things, the creation of a Fund for \$100 million, plus the acquisition of a loan for \$200 million with the Inter-American Development Bank (IDB), both contributions made by Member States, in order to support the country in its reconstruction after the devastating 2010 earthquake. To this end, Rafael Correa traveled to Haiti as the Pro Tempore Chair of UNASUR, and opened the UNASUR-Haiti Technical Secretariat, which commissioned the Argentine Rodolfo Mattarollo, whose mandate ended on March 31, 2013. Additionally, regional concerns regarding Colombian-American agreement on the use of military bases to fight drug trafficking, was evidenced by the role played by Ecuador internationally. Acting as official voice of UNASUR, President Correa received in Quito the Secretary of State Hillary Clinton, in order to dispel doubts about that agreement, which in some way legitimized the Union as an international actor.

In 2010 Guyana took power, led by President Bharrat Jagdeo, playing a modest role until 2011, when the PTC was transferred to Paraguay, headed by Fernando Lugo. At this point I consider pertinent to add that these two states belong to the category of

¹⁰⁸ At this point it should be recalled that at the time rejected Colombia occupy the PPT for their own reasons.

¹⁰⁹ UNASUR, *Declaration of Solidarity of UNASUR with Haiti*, 2010.

"less developed countries"¹¹⁰ (along with Bolivia and Suriname); aspect worth mentioning since this categorization of UNASUR provides a more real scenario with regard to their economic capabilities in comparison to the other Member States: it would be unreasonable to compare the technical, political, economic and logistics of a giant country like Brazil, with the capabilities of any of the four countries mentioned above. This issue could not be ignored when analyzing the management of Guyana and Paraguay in their terms as Pro Tempore Chair of the Union.

That said, the period during Guyana was marked by an interesting achievement in regard to foreign relations: managing to reach UNASUR Observer status at the United Nations General Assembly¹¹¹. One might have expected more from Guyana in terms of external relations with the Caribbean, to name one example, given its closer relationship with the region, more so than with South America. It did not happen, perhaps because of the limitations inherent to its status as a less developed country, or perhaps the lack of confidence with this country by the other eleven.

The approval of the UN General Assembly to give UNASUR an Observer status allows us to reflect more closely on the role of the Union in the international system, represented by the Pro Tempore Chair. In my opinion, the importance of this achievement is more symbolic than practical, since the current situation allows me to intuit that UNASUR is not yet able to make effective and systematic use of its observer status, especially of the hands of the country holding the PTC. This analysis is not unique to what happened with the United Nations: so far, the Pro Tempore Chair could not play a central role even in South America meetings with other blocks: indeed, the meetings of South America-Arab Countries (SAAC), and South America-Africa (SAA), which are the first in which South American ventures as cohesive region, have provided greater centrality to the host countries, rather than to the Pro Tempore Chair countries. Beyond the relevance of this instances, or otherwise, of these meetings, it is important to consider whether UNASUR is seriously discussing its projection as a major player in the

¹¹⁰ UNASUR, *Resolution N°32*, 2012.

¹¹¹ While management was mainly Guyanese, the General Assembly adopted the UN Observer status for the period after its Presidency Pro Tempore, ergo, during the Presidency Pro Tempore of Paraguay.

international community. In favor of this motion could be cited instances such as the previous coordination as a block within other international organisms such as the Organization of American States (OAS), the World Organization and Pan American Health Organization (WHO and PAHO), the United Nations (UN), with interesting results in favor of the region. Results that, however, are not inherent consequence of the management of the Pro Tempore Chair. Thus, contrary to the previous motion, it should be mentioned that this coordination of positions on specific South American topics of interest should not be confused with a *systematization* expected on the foreign relations of the Pro Tempore Chair of the block.

In short, the idea would be to position UNASUR in such a way that actors of the world seek UNASUR talk to various topics, and when they do, they know to go to PTC to process their requests. Without an adequate strategy for external relations, UNASUR common achievements on the world stage will remain punctual, lean, and the role of the Pro Tempore Chair will be hardly recognized, as well as will be difficult to ask it to work these common affairs based on a given strategy.

Following the organization of this section, the management of the President of Paraguay in terms of external relations also had its limitations: the biggest milestone was the delivery to UN Secretary General of the Declaration of Council of Foreign Ministers on the issue of the Falkland Islands as a sign of support to Argentina in their position to pressure the United Kingdom to resume negotiations on that subject. The management of Paraguay in front of UNASUR was definitely limited by the particular situation of President Lugo.

Indeed, the Paraguayan case is a *sui generis* one. Having assumed the Pro Tempore Chair in October 2011, this designation lasted less than eight months, since in June 22, 2012 South American Chancellors decided to suspend the functions of Paraguay as PTC, which was confirmed a few days later by the Council of Heads of State met in Argentina.¹¹² This suspension was due to the fact that South American

¹¹² UNASUR, *Decision N°26*, 2012.

presidents understood as a coup d'état the process in which President Fernando Lugo was stripped of power, determined by the Congress of his country. Without going into details, this may illustrate the weakness with which the government of Lugo assumed the Pro Tempore Chair of the Union: political instability factor, combined with a limited capacity of the Paraguayan State to assume leadership of the project¹¹³, plus a disappointed public opinion with the integration projects and therefore also skeptical of UNASUR, conspired to undermine Paraguay management in PTC regional bloc, despite the strong commitment for integration of Fernando Lugo.

Finally, the external relations during the Peruvian Pro Tempore Chair were quite moderate. In my view, such action was deliberate: the priority of Peru is currently focused on positioning the brand new Pacific Alliance, a trade integration scheme composed of Peru, Colombia, Chile and Mexico, and whose philosophy of trade liberalization is so attractive that several non-South American countries have expressed interest to participate in this process: the United States, Japan, Australia, New Zealand, Indonesia, Spain, Costa Rica, among others. Although that is another subject of study that we will not go in depth, its importance makes it impossible to ignore it, to the point that, nowadays, several analysts described the subtle rivalry between the Pacific Alliance and MERCOSUR: with the exception of Mexico, countries in both projects are together under the umbrella of UNASUR, so the latter is inevitably influenced by both streams. In specific terms, this situation was reflected in the absence of President Ollanta Humala at the extraordinary meeting convened in July 2013 to support the Bolivian President Evo Morales for the incident that occurred in Europe, where some countries unfairly prevented his presidential aircraft to overfly their territories. This absence is significant, if one takes into account that such meetings are convened and chaired by the country holding the Pro Tempore Chair of the block, but in this case the call had to be made by the General Secretariat after the Government of Ecuador requested it, since it is known that there was no consensus to formally convene the Council of Heads of State of UNASUR¹¹⁴, so the session was chaired by President Morales¹¹⁵. Notwithstanding all

¹¹³ Paraguay is part of the list of less developed countries.

¹¹⁴ UNASUR Constitutive Treaty establishes that calls for special meetings of the Council of Heads of State require the consensus of all Member States.

this, and in the context of the report of the Pro Tempore Chair of Peru, Ollanta Humala highlighted the South American joint statement containing a "strong rejection" (2013) to the performance of the European countries involved. With that, the Peruvian Pro Tempore Chair closed a timid period in regard to external relations of UNASUR.

Finally, the category of 'Organizer: Task-Oriented Leadership,' also includes the responsibility to prepare, convene and preside over meetings of the organization. At this point there is a uniform participation of the countries that have occupied the PTC, with the exception of Guyana, whose limitations were obvious to assume such responsibility. In this case, there was a tacit acknowledgement by UNASUR that the State was not able to solve the load which involved taking office on so many fronts, so that the presidency and the organization of meetings of the various bodies were distributed among the other countries of the Union.

3.2.2.1.2. Intermediary: Group-Oriented Leadership

The centrality of the Pro Tempore Chair of UNASUR given in the Constitutive Treaty and the Regulations, allows it to act of as "intermediary agent" and work to probe positions and find common ground among the twelve. As seen in the first chapter, good performance in these areas lies in the proper handling mediating/negotiating skills, and implies that the State holding the PTC assumes a neutral position, or at least that appears to do so. To measure this performance implies a greater challenge, since subjectivity is inevitable. Seen from the outside, the PTCs of UNASUR have wisely used this leadership position, trying to foster an atmosphere of friendship that is plausible in contemporary times, even more so if one takes into account that in the past it was not surprising to hear the South American leaders reviving deep grudges and animosities that kept the region in tension, enhancing nationalism and ridiculing the neighbor. Arguably, the countries that assume the Pro Tempore Chair of UNASUR are aware of this, and, although there are several regional conflicts that have not yet been solved, it is

¹¹⁵ Dilma Rousseff (Brazil) Sebastián Piñera (Chile) Juan Manuel Santos (Colombia), and Donald Ramotar (Guyana) were also absent. Paraguay was not invited because of their suspension of the block in 2012.

uncommon to hear presidential speeches hostile towards other South American countries.

The Ecuadorian Pre Tempore Chair is a good example. Although diplomatic relations between Bogota and Quito failed to fully recover during the Ecuadorian PTC, it was a very clear change of tone in the Ecuadorian official discourse about their differences with Colombia, a change that can be attributed to the Ecuadorian recognition that the Pro Tempore Chair may not take sides at the expense of a Member State, however, this moderate attitude was not reflected in the full restoration of diplomatic relations with Colombia.

In other cases, Chile maintained a cautious tone with Peru and Bolivia, countries with which it has unresolved territorial disputes; Guyana did the same with Venezuela despite their existing border disputes, and Paraguay, with Lugo, maintained a conciliatory position with Brazil and Argentina, despite the existing trade differences in MERCOSUR. Finally, Peru not only prevented the dispute with Chile affecting the organization, but even promoted the strengthening of binational friendship, ensuring that it will continue and invigorate when The Hague issues its ruling on the claim that is filed against Santiago.

Now it may be misleading to assess only the ability of PTC to handle matters prudently, because that does not talk about all of their function as "intermediary" or "Group Leader."

In the search for common ground and justice to all Member States, it takes more than wise and friendly speeches. The activity of the Pro Tempore Chair of UNASUR when trying to "mediate" in conflict situations between and within Member States leaves more questions than answers. Chile, as already seen, avoided at all costs act as intermediary between Colombia and Ecuador in the 2008 crisis, arguing that the role of the PTC should be rather of *dialogue*, a role Chile fulfilled with remarkable caution. In Bolivia, Evo Morales attended the regional body in order to obtain external support to

the state as a whole, given the threats of separatism that existed in one of the regions of the Andean country. In that case, Chile "made it clear from the start that its function would be to convene members of the organization to seek a solution to the crisis", while "Bachelet was emphatic in stating that it will not act, neither she nor any member of her government, as a mediator between the autonomists and the central government" (Borda 2012, 19-20).

If Chile had not intention to act as mediator, Ecuador itself did, but failed. Indeed, from the breaking of diplomatic relations between Colombia and Venezuela in July 2010, Ecuador, in his capacity as Pro Tempore Chair of the Union, called the Chancellors of the bloc to seek a solution to the conflict, but the distrust and skepticism installed reigned even before the meeting, which was evident in the absence highlighted by, both the Secretary General of UNASUR, Néstor Kirchner, as other chancellors of the member countries, which instead delegated other officials. Convened in Quito a few days after the diplomatic breakdown, the meeting ended without signing any commitment.

For its part, Peru faced, during its Pro Tempore Chair, two controversial situations. Just positioned as Pro Tempore Chair, it was asked to chair a committee to monitor the situation of Paraguay, which then also accompanied the Paraguayan electoral process. Although the duties of this committee had numerous problems with the rejection of Asuncion because of UNASUR's controversial meddling in its internal situation, Peru achieved that the ten countries approve the full reinstatement of Paraguay to the block, after verifying the legitimacy of the elections that resulted in the rise to power of Horacio Cartes. It is worth mentioning that not in this case neither in the one that we will explain below, the Pro Tempore Chair served as an official mediator; I prefer to qualify it as intermediary, or even call it 'transaccionist,' as their role was more subtle and limited than it would be expected from a proper process of mediation.

Indeed, something similar happened with the controversy in Venezuela after the presidential election that defined the successor to the late Hugo Chávez, in which the

Venezuelan opposition denounced the commission of an alleged fraud by the ruling party, which led many citizens to confront violently in Caracas. UNASUR was the space where they discussed the situation, being Lima the scenario in which the Heads of State met in a session chaired by Peru. While it was chaired by Peru, it was the eleven countries of the Council of Heads of State that agreed on a statement that acknowledged the Venezuelan election results and simultaneously supported the audit of the votes required by the Venezuelan opposition candidate Henrique Capriles. This case of intermediation was remarkable because the statement congratulated the "President Nicolás Maduro" and noted, simultaneously, "the decision of the National Electoral Council to implement a methodology for the audit of all of the polling stations," while urging that "all claims, questioning or extraordinary action" were "channeled and resolved within the existing law and the democratic will of the parties"¹¹⁶. Despite the unprecedented ambiguity of the Declaration, the UNASUR meeting seemed to have had an analgesic effect in the Venezuelan crisis. While Lima fulfilled its role, having created the space to discuss the situation, the consensual resolution has continued to cause controversy.

Although, in both cases UNASUR acted immediately, through its Pro Tempore Chair, and that this role may have contributed to defuse tensions in its height, it is worth observing that these proceedings have been highly questioned. It is interesting to recall that both Federico Franco (interim replacement of Lugo) and Henrique Capriles have asserted that UNASUR is a "club of presidents" willing to support each other politically and, consequently, to become a judge in the country's internal conflicts, therefore deciding in favor of their colleagues in power and using more political considerations rather than actual facts. In the case of Venezuela, in which the Union was quick to congratulate the "President Nicolas Maduro" and simultaneously take note of the intention to audit 100% of the votes, what would have happened if the audit gave reason to Capriles? This, we will never know, because although stated by UNASUR, the audit itself was not carried out. In this sense, Peru has been criticized for ignoring, as Pro

¹¹⁶ UNASUR, *Declaration of Lima*, 2013.

Tempore Chair, the requests from the Venezuelan opposition to comply with what was agreed by the Union.

This analysis brings another episode of related characteristics: known as the '30S' in Ecuador, in 2010. Beyond the controversy generated by the subject, the Heads of State of UNASUR rated prematurely that it was a "coup attempt," thus legitimizing this hypothesis. Subsequently, the Ecuadorian government asked UNASUR for the creation of a commission to investigate the facts, to which the General Secretary of the body could only confirm that the Heads of State had previously condemned as a "coup attempt" (2011d Mejia), thus ruling out the proposal. What chance had UNASUR to create a commission to determine whether or not there was a coup attempt? Could it have formed a committee that contradicts what eventually was ratified by the Heads of State? The answers to these questions are uncertain. Anyway, it is worth mentioning that it was Ecuador the country holding the Pro Tempore Chair during the event.

With the evasion of Chile in the conflict in Bolivia, Ecuador's failure in the conflict between Colombia and Venezuela, and mixed results in the intermediation of Peru in Paraguay and Venezuela, the Pro Tempore Chair of the block has played modest roles mediating conflicts in the region which, incidentally, are various and of all kinds: in 2013, the Court of Justice of The Hague tried cases Ecuador vs. Colombia¹¹⁷, Peru vs. Chile and Bolivia vs. Chile - the latter two countries have no diplomatic relations since 1978. Paraguay, meanwhile, has filed a lawsuit to the Permanent Court of MERCOSUR to protest the entry of Venezuela without having considered their right to vote, and meanwhile, Venezuela claimed much of the Guyanese territory as theirs. On the other hand, Uruguay and Paraguay constantly are protesting trade barriers imposed by Brazil and Argentina, and the latter country is facing protests from its members for violating the treaties that facilitate trade, and has also announced its intention to bring Uruguay to The Hague due to an industrial controversy. We can go on listing a series of disputes that keep a low profile, so as not to threaten the peaceful environment prevailing in the

¹¹⁷ Ecuador decided to withdraw the complaint against Colombia in September 2013, after the two countries agreed to solve the dispute bilaterally.

region, whose Pro Tempore Chair resist to take risky measures to find solutions to these conflicts. The analysis leads us to reflect on the need to establish an official mediation, arbitration, or justice in the framework of UNASUR.

The role of "mediator" of course, cannot be conceived only to resolve differences of great magnitude. Mediation skills and finding common ground may be evident in the meetings of the organs of the Union, that continue to produce documents with a multiplicity of agreements, which show that this common ground itself is being managed consistently. At the time, though, these agreements were only at the executive and ministerial level, but South America, since the ratification of CTU (and the subsequent signing of the Democratic Protocol) has not yet seen the opportunity to produce new binding rules, that would truly touch sensitive issues which are significant for the South American integration process. The most discussed, but still distant and intangible project is the South American Energy Treaty which emphasizes the wealth of energy and resources of the subcontinent, but up to now it does not show substantial progress. Paraguay, during its Pro Tempore Chair, brought together, in March 2012, the Energy Expert Group (Andes 2012) to explore positions in the field, but we have not seen any progress of this publication. Finally, it remains to be seen whether the Surinamese Pro Tempore Chair, and the following ones, can find common ground to sow determinants projects in the South American integration.

3.2.2.1.3. Political Leadership: Transformational Leadership

The nature of the Pro Tempore Chair, which lacks significant restrictions in its scope, allows itself to make use of its position to lead the discussion in specific directions, formulate solutions and create long term alternatives. To exercise this leadership, as stated in chapter 1, diplomatic/strategic/political skills are needed to lead well. Thomson said that at the beginning of their term, presidents set policy priorities and the level of ambition with which they want to work during their period. At this point, it is important to make a clarification. While the Pro Tempore Chair gives the State a position which has an authority that lets it manage its initiatives with greater prominence, that does not mean that the other eleven do not introduce topics or initiatives during the working sessions. While it seems like an obvious explanation, it

allows us to understand why, despite the CTU and Regulations, will empower the PTC to preside virtually every organ that could be "preside over," some countries continue to lead certain issues or initiatives, thus exerting "Political Leadership" as strong or stronger than that exercised by the PTC, without needing to take that instance. For example, it has not been necessary for Argentina to be Pro Tempore Chair to position itself on the Falkland Islands during the Paraguayan PTC.

Having understood this, it is prudent to promptly analyze the role that the 5 Pro-Tempore Presidencies have played during their period as head of the UNASUR. With Chile it can be said that it exerted an active presidency with a huge burden of responsibility: being the first country to hold such office, from the signing of the founding document of the organization. The challenge, of course, was to consolidate the process that started years ago, and begin to shape what was built in the Treaty, with the natural limitations of an embryonic organization.

In that sense, Bachelet's political leadership was driven by her personal commitment to the project, which I consider crucial, especially in a Chilean political scene hesitant on whether to ratify the CTU, to the point that despite being the first country to hold the Pro Tempore Chair, was the seventh to ratify its charter, more than two years after Bachelet sign the document in Brasilia. Chile, let us remember, does not arise as a full member of either of the two pre-existing regional projects (CAN and MERCOSUR), which it has not prevented them to maintain cordial relations with the countries of the region (except for Bolivia, with which there are no diplomatic relations since 1978), nor has meant higher trading costs, since its bilateral negotiation strategy trade agreements with a number of countries has worked quite well. Spanish Professor Joaquín Roy, explains this cautious approach on the grounds that "Chile is satisfied with its 'splendid (productive) isolation' to the British" (Roy 2012), reason why is not expected to undermine regional commitments in their autonomy. However, the government in Santiago prioritized a long-term vision, enabling solid foundation of the Union, giving it a serious, agile, and neutral character, thereby promoting stability. Bachelet, as a doctor, devoted special efforts for the creation of the South American

Health Council, and supported the creation of other no less important boards. We would then say that the Chilean Pro Tempore Chair, in the exercise of their functions of "Political Leadership," sought to give the initial impetus needed in UNASUR, giving it prestige and solidity, and ensuring that the Union is for all, which does not respond to specific political affiliations (the reluctance of some countries was to become the axis instrument of Chavez-Correa-Morales), thus arguably, the engine properly ignited for the organization to start walking.

For its part, the Ecuadorian Pro Tempore Chair gave UNASUR an eminently political character focused on the Union position both internally and externally. These are not minor achievements; regional lobbying for the ratification of the Constitutive Treaty in National Parliaments, which, months after the Ecuadorian leadership, resulted in the entry into force of CTU, becoming a legal actor of UNASUR nor can we minimize the interpresidential management to gain support for the candidacy of Néstor Kirchner as General Secretary of UNASUR, especially when you take into account that there was not a General Secretary when Ecuador took the PTC. As an economist, the Ecuadorian President, Rafael Correa, prioritized the discussion of the role of economic dependence of the subcontinent over the traditional scheme of the global economic system, managed by the hegemonic North. In order to break this dependence, and shield the region from the ravages of the economic and financial crisis in the North-seething during the Ecuadorian period-Ecuador proposed the creation of a New Regional Financial Architecture, making the formation of High Level Technical Commission, that has worked, for example, in the creation of a new Bank of Regional Development, in the debate on the South American Reserve Funds, in prioritizing the use of national currencies in regional trade, among other topics. These Working Groups would lead, at the end of the period of Ecuador, to create the South American Council of Economy and Finance, as a cornerstone of the regional project. In its capacity as Pro Tempore Chair, Ecuador worked on the creation of new ministerial councils, extending the frame of action of the South American organization.

The final touch of the Ecuadorian PTC, it was the approval of the Additional Protocol on Commitment to Democracy¹¹⁸, tool designed to prevent the breakup of the democratic order in the Member States of the Union through measures such as the suspension of the right to participate in the organs of UNASUR, the partial or total closure of the land borders including suspension and/or restraint of trade, air and maritime traffic and energy supply, as well as working together to promote the suspension of the State involved in other regional and international instances.

In Guyana, little can be mentioned as a "Transformational Leadership." Directed by President Bharrat Jagdeo, Guyana management appears to have been affected by both cultural differences and by the limitations of its status as a small country. Being an English-speaking country, typically identified with the Caribbean rather than with South America, Guyana stands out among its achievements the ratification of the Constitutive Treaty by all Member States, which entered into force in March 2011, and the appointment of Colombian Mejia as General Secretary of the organism. The distant relationship of this country with South America was evident in the absence of the President of Guyana at the meeting of the Council of Heads of State held in Asuncion, where Guyana gave the Pro Tempore Chair to Paraguay. The relevance of UNASUR during Guyana's, I would say, was saved by the active role of Mejia as the General Secretary of the organism.

Paraguay, meanwhile, had a limited "transformational" influence, carrying out a much more quiet, diligent, with a primary focus on properly preside over meetings of the Ministerial Council of the organization. It is worth mentioning that during the Paraguayan period it was approved the General Regulations of UNASUR, work led by the General Secretary of the agency, Maria Emma Mejia, and also achieving the approval of the Budget for 2012 and 2013. It is noteworthy that, days before being removed from office, Fernando Lugo as Pro Tempore Chair of the Union of South American Nations, he sworn in the Venezuelan Rodríguez to take possession as General Secretary of the organization. That would be one of the last activities of Paraguay in

¹¹⁸ UNASUR, *Additional Protocol on Commitment to Democracy*, 2010.

front of UNASUR, a modest Pro-Tempore Chair, although willful, which was truncated by the removal of Lugo and the rise of his vice president, Federico Franco, to the Presidency of the Republic of Paraguay. After the hubbub generated and prior to the suspension of Paraguay in UNASUR, Franco said: "If UNASUR leaves us out, for me it would be a promotion. I does not agitate me, nor it gives me tachycardia, this block does not seduce me," he called it a "club of presidents" who refused to recognize his government (Franco 2012). However, Paraguay was recently readmitted to UNASUR, Horacio Cartes after assuming power as a result of the 2013 election Paraguayan-condition that was required by the organization.

On the other hand, perhaps the transformational leadership by Peru in its term as Pro Tempore Chair of UNASUR more was expected, especially considering that it is a country with unquestionable political and economic capabilities. The great contribution made to the organization was the premiere and strengthening of the Electoral Council of the Union, which participated in missions for monitoring, in the processes in Venezuela, Ecuador and Paraguay. Peru also helped to consolidate the work of the Ministerial Councils, handling a steady schedule of meetings and facilitating the internal operation thereof. These developments should not be minimized, but should be recognized and applauded. Under the Peruvian leadership, the work of the Councils, which started a couple of years ago, began to be visible; so it is expected that in future actual results will be shed. However, not much was achieved after that, perhaps because of the importance of the Pacific Alliance and its reluctance to engage more with the countries of ALBA/MERCOSUR axis. That existent duality under the South American umbrella inevitably affects the pace of the organization.

Finally, and although this may seem irrelevant, I believe is appropriate to recall that Colombia declined to assume the Pro Tempore Chair in 2009, presumably by the friction that existed with Ecuador and Venezuela - although it is known that in addition, the then president, Alvaro Uribe, was skeptical about the creation of this regional organization. At the time, this decision had an intangible impact that is only measurable when the Presidency rotates until it is assumed by Colombia again.

In short, in all areas of action, the Pro Tempore Chair plays an interesting role given its transversality in the South American integration process. We have seen how this instance creates *organizer, intermediary, and transformational* leaders of the institution, albeit with different levels of success due to its periodicity (1 year per country) and other factors. Indeed, in the initial chapter we touched upon some of the weaknesses of the institutional setting, being two of them the "episodic participation" and "lack of continuity." With regard to the first, it has been seen in UNASUR that most countries are constantly involved in proposing ideas and encouraging debate, albeit with exceptions. Based on the past 5 PTCs, we can say that Guyana has presented an episodic participation before and after its period, which leads us to predict that this sporadic involvement will be maintained in the coming years (Guyana and Suriname are two of the countries with repeated absences at the meetings of the organs of UNASUR).

The general experience of the Pro Tempore Chair allows us to delve into the problem of "lack of continuity" between the Pro Tempore Chairs. Thus it is seen that, for example, every 12 months, the new successor country has a new index priorities, which in some cases involves a break with the management of its predecessor. This "redirection" of the agenda may be due to strategic reasons, as much as operational reasons. Our authors pointed out other weaknesses of the figure of the Pro Tempore Chair; workload is too large, high costs, poor external communication, among others. All of them are present in the Union, especially the factors such as "cost" and "workload" that undoubtedly have an impact on performance by PTC and therefore UNASUR.

3.2.3. Analysis of the Council of Ministers of Foreign Affairs

The Council of Ministers of Foreign Affairs of UNASUR is a plenary with a range of powers which place it immediately after the Council of Heads of State. Forced to meet twice a year, this Council gives the Chancellors of the twelve a number of responsibilities that makes possible the operation of the Union, although the policy guidelines and clearances still dependent on the annual meeting of the Council of Heads

of State. The Council of Chancellors, it can be said, works as facilitators, connecting the main body (Council of Heads of State) with the other 4 bodies of UNASUR (Pro Tempore Chair, Ministerial Councils, General Secretariat and Council of Delegates). In certain specific issues, approval such as the budget and financing of joint initiatives, or the management report of the General Secretariat, it is not necessary to go to the Council of Heads of State, since the Council of Ministers of Foreign Affairs has the power to give the nod to some issues.

The fact that this Council “filters” what the Council of Heads of State decide when they meet, it shows the extent of their role, which places it above other Councils. This is because its regular meetings also serve to raise all other issues to the Council of Heads of State, for them to discuss it and approve it - although sometimes all these issues are not discuss, since presidential meetings rarely last enough time to try to go over everything that has accumulated during the time that they had not met. That is, roughly, it could be argued that the Chancellors are the real responsible for reviewing the implementation of the agreements governing the regional project, as indicated by the same Constitutive Treaty in Article 8: The Council of Ministers of Foreign Affairs will monitor and evaluate the integration process as a whole.

But now, how are the Chancellors supposed to meet with the monumental responsibility to monitor and evaluate the whole process? On one hand, it is assumed that monitoring will be based on the Action Plan of each Ministerial Council, plus the Program of Activities that the Pro Tempore Chair creates for every Council, in coordination with the General Secretariat. Moreover, the Regulations only provide that for the evaluation of the process, the General Secretariat must prepare a biannual report of the Ministerial Councils, for consideration by the Council Chancellors. As the Council of Ministers of Foreign Affairs is the body that has the authority to evaluate the process, it is understood that it is done during the ordinary summits, which occur only once every six months. As regards monitoring, this is a task that would be complicated and useless if it was done only the Council on a six-month period, hence, the General Secretariat also has the authority to monitor the guidelines from all organs of UNASUR,

this means that, informally, the activity of monitoring the compliance of the agreement is a shared responsibility, that it still lacks a formal structure that institutionalizes this work, and so far it has not been considered to give any of the bodies the power to comment on the reports or call attention to breaches of an agreement, either by a State or by the institutions that make up the Union.

In practice, however, the meetings of the Council of Foreign Ministers have met halfway with the responsibility for monitoring and evaluation, focusing much more in executive and operational activities. As seen in the previous chapter, the Regulations and CTU give this Council diverse responsibility that go beyond monitoring and evaluation. For example, the Council of Foreign Ministers has approved the annual budgets of UNASUR, has instructed the Council of Delegates for the development of multiple activities, it has proposed to the Council of Heads of State Projects of Decisions, has spoken on topics of relevance both regionally and internationally, among many other topics.

The Council of Chancellors, as previously stated, is a "filter" that classifies what will be on the agenda of the annual meeting of the Council of Heads of State; therefore, its role as *intermediary* is the most outstanding. In practice it can be seen how the Council brings together everything that is transmitted by other bodies of the Union; such as the Ministerial Councils, Working Groups, the Council of Delegates, among others, becoming a sort of "link" prior to what is delivered to the ultimate authority of UNASUR. Two observations of this role should be made. On the one hand, it is not at the plenary meetings of Chancellors that all this work happens: their delegates are gathered in previous days, who make up a sort of extended *Delegates Council*, as not only participates each *Delegate* accredited by the Member State of UNASUR, but the rest of advisers and officials, becoming the greater part of the Chancellery of the *twelve*. These prior meetings leave everything ready for the signature of the Chancellors, except for the issues that can only be discussed at the level of their authority. The second consideration is this institutional structure of UNASUR, which puts this Council as a second instance of UNASUR; it implies a subordination of the other bodies, including

the Ministerial. That means, implicitly, that in the UNASUR project, the Ministers of Foreign Affairs are in a hierarchical level somewhat higher than the rest of other Ministers of the Member States, who in order to communicate anything, the Council of Heads of State, they should go first to the Council of Chancellors.

As noted, the Council of Chancellors, it could be said that is an essential, vital and crucial instance in the South American integration project. However, the centrality of the process is as risky as it was made in the case of the Council of Heads of State, and lies in the fact that the performance of great functions depends on a Council of Chancellors, which is required to meet in a "ordinary" character only twice a year, and that in turn depends too much in the political relations and harmony between the governments of the Member States. The meetings also are very brief and do not allow people to read and analysis the documents prepared by subsequent instances, but they should be approved without further discussion. It must also be said that the Ministers of Foreign Affairs do not always attend, who are expected to have plenipotentiary powers, but their delegates without the level of decision making capacity demanded by the Council. Being such a high level, the task of bringing together the twelve foreign ministers is not easy, even less so when you consider that these authorities have a very broad agenda, which is evident in the above-explained "Summit Diplomacy." That is, the Ministers of Foreign Affairs face the challenge of covering the broad range of integration: in Latin America, South American, the Peoples of Our America, the Andean Community, Mercosur, Pacific, Caribbean, and other attempts of multiple coexisting integration processes that coexisting in the region. It is difficult, therefore, that the Chancellery take a diffuse course, which is difficult to discern what, is important and what is not, and consequently, it is difficult to comply with the provisions not only of CTU, but from the charters of other international and regional organizations. The fact that the UNASUR Constitutive Treaty has centralized several vital powers in the twelve Chancellors, who meet briefly only twice a year in ordinary session, reflects the paradox that exists between the intentions to forge ahead in the South American integration, and the brakes that the CTU places.

Now it should be mentioned further that both the Treaty and the Regulations provide the possibility of convening extraordinary meetings, provision that has been utilized on several occasions, with the limitations involved. Thus the Council of Ministers of Foreign Affairs and the Council of Heads of State have met extraordinarily repeatedly, to meet urgent or symbolic aspects of the integration process in South America. In 2012, for example, the Ministers of Foreign Affairs met in extraordinary session in Bogota on the occasion of the transfer of the Secretary General Maria Emma Mejia to the hands of Ali Rodríguez, or in Guayaquil, to agree a Declaration in support of Ecuador in its *impasse* with the United Kingdom or in Asuncion to address the political crisis that erupted in the impeachment of President Lugo of power, or in Mendoza to discuss the situation of Paraguay, a country that was suspended from the block. This situation leads us to conclude that in 2012 the Council of Ministers of Foreign Affairs met more extraordinary than ordinary, resulting in a constant interaction of foreign policy members of member countries. This statement suggests that those who negotiated, drafted and signed the CTU fell short to forecasts how many meetings should have a year, and that puts UNASUR in a sort of constant "extraordinariness" intrinsic word - but not necessarily - is linked to an idea of "improvisation" or "informality." Being extraordinary the meetings which are held in order to address urgent issues as already explained, although that does not necessarily mean that other less specific issues are not "released", which, otherwise, should wait for one of the two annual ordinary meetings of this Council. The same reasoning applies to the meetings of the Council of Heads of State, with the difference that it ordinarily meets once a year

3.2.4. Analysis of the Council of Delegates

After the Council of Heads of State and the Council of Chancellor, the Council of Delegates is the plenary body that meets with the highest frequency of all. Its decision-making capabilities are more limited than those of the other councils, as its purpose is more executable than decision-making. Its nature puts them in a condition of true creator of integration, since in the institutional hierarchy of UNASUR, it is the last of the existing plenary bodies, i.e. it does not have plenaries that are accountable for, nor is it

dependent plenary . Yet despite being the most basic plenary establishment of the Union, the Council of Delegates has the duty to meet only every two months, or six times a year. Given the limitations mentioned of the Council of Ministers of Foreign Affairs (a level too high, brief meetings, difficulty to discuss the whole process, insufficient periodicity of its ordinary meetings, etc.), It would be expected that the Council of Delegates will supply these deficiencies and hold efficiently and effectively the process marked by the Heads of State and State Portfolios. However, empirical evidence casts doubt on this hypothesis, which is consistent with concerns raised by certain actors in the process of South American integration.

Indeed, some difficulties were warned in due course on the proper functioning of the Council of Delegates. Thus the Bolivian diplomat Pablo Solón (2008) notes that the criticism “lays primarily in that given its powers it must have been a permanent operating authority” (16), an issue that was not supported with the consensus of all countries. The other concern was the level that these officials would have at this Council, which is manifested in the attempt by some governments, that the CTU decree that they should be appointed directly by the Presidents (Ibíd.), so that there were an immediate relation, dynamic, approachable, giving them a high executive rank and considerable influence capacity and eliminating the bureaucratic divide that these delegates depend on the institutional frameworks of each of the twelve chancellors. This attempt was also unsuccessful, and in theory does not deny the possibility that should be President who appoints these Delegates, nor does it close the opportunity that these Delegates belongs to the bureaucracy of each Chancellery. This has meant that in practice, after the approval of the CTU, States opt for the second option, a situation that reflects that in reality it is not feasible to sit at the same table high level officials with direct access to the Oval Office, and lower-ranking officials, who are accountable to the foreign ministerial office. The reality, however, has led to particular *de facto*, as the designation of delegates who have appointed an "Alternate delegate" and simultaneously hold the position of National Coordinators of UNASUR in their respective countries, in order to coordinate integration actions from within each Member State. It is interesting, that the records of the meetings of this body reveal that in reality it does not always

attends the official "Delegate" of UNASUR, but its alternate, and that this situation is not occasional. To this we must add that in fact the provisions of CTU are not being met, in the sense that the meetings are not always given every two months, but often are accumulated on the eve of the appointments of the Council of Ministers of Foreign Affairs and Heads of State to comply with the Resolutions and Decisions that these bodies arranged. Let us recall that the convening authority depends largely on the Pro Tempore Chair of the block, so a weak or indifferent management of the PTC inevitably affects the rate at which this Council conducts itself. It appears that the subordination to their Chancellors, together with the periodicity of regional meetings, has led for the Delegates to work *informally* on their Councils, falling behind on their level of effectiveness and efficiency in carrying out the powers that they were conferred.

Of the functions assigned to the Council of Delegates by the CTU, the two that stand out are the duality between the preparation of projects of Decisions and Resolutions from the other councils, and its implementation through Provisions, work that must be supported by the Pro Tempore Chair and the General Secretariat. Since the Ministers of Foreign Affairs hardly have enough time to write their own Resolutions and projects of Decisions, therefore, are not able to collect the material from the other organs of the Union (remember that the Council of Ministers of Foreign Affairs hinge between the Council of Heads of State and other organs), is actually the Council of Delegates, which is responsible for these activities. Even though UNASUR Regulation does not clearly establish which body should report to the Ministerial Councils and other instances ad-hoc of the institutionality of UNASUR, presumably the Council of Delegates is responsible for serving as an administrator of the reports from the agreements reached by these Councils, including the composition of their projects of Resolution and Decisions of the Ministers of Foreign Affairs and the Heads of State. This does not mean that the General Secretariat is the custodian of these files, but at some point, in reality the Council of Delegates should be the one that has the knowledge and the capacity to "process" this data to be included in the aforementioned documents. I specified that this procedure should be "by pragmatism" as if by rank, it is unusual for Ministerial Councils to not have direct contact with the Council of Ministers of Foreign

Affairs and, through it, with the Council of Heads of State. Instead, the decision of the Ministers from the different Member States must pass through the Council of Delegates, to get to the Council of Chancellors, and only then reach the ultimate authority, the Council of Heads of State: delegates, i.e. Chancellery officials are above the Ministers of State, as UNASUR tacit hierarchy? Such a claim may be exaggerated, but there is evidence that institutional hole that should be and ordered and abide, since nowhere in the Regulation clearly specifies what the mechanism connector between Ministerial Councils and Union bodies.

Beyond that, this situation clearly demonstrates the importance that the Chancellery has in the South American integration process. Of the 4 organic bodies of the Union, the Chancellery controls two of them (the Council of Ministers of Foreign Affairs and the Council of Delegates), which suggests that the social, political, economic, cultural integration is still conceived as a foreign policy issue. This regional dynamic, makes one wonder if indeed the Chancellery of the twelve has logistical and economic foundation strong enough to support not only this, but other integration projects that coexist in the region. This reasoning does not seek to question the role that the Chancellery should play in the process, finally, its rationale makes them necessary, but the facts show that the Ministerial Councils are far from being institutionalization as the Council of Chancellors, with more clearly defined processes, by contrast, the Chancellery are the ones who concentrate the work from the remaining Ministries, to then raise them to the highest authority of the Union. This role of the Chancelleries are accompanied by some features-or defects-proper of foreign policy institution, not for nothing, the renowned European integrationist, Jean Monnet, when designing that today is the European Union, "deliberately tried to exclude the Chancelleries of the construction of the new community, because of its commitment to national interests, the sanctity of borders and the protection of state sovereignty "(Monnet quoted by Cooper, 2003, 142). Such precepts, undoubtedly, are often the bottlenecks in the negotiations about important topics for regional integration. Anyway, as said, the expertise of the Chancelleries in the management of multilateral diplomacy cannot be ignored in the Union project.

However, the criticism of the Council of Delegates goes beyond its mere structure, it questions their very nature. Who was the first nominee to serve the General Secretariat of UNASUR, Dr. Rodrigo Borja, said at the time: “I do not think it is appropriate that the executive powers shall be vested in a collegial body to be composed of delegates from each of the countries” (Borja 2008b). Surely Dr. Borja envisioned an organization with its own executive body, as an European Union Commission style, with a strong administrative group that will give the organization its own, permanent, booster power of the integration process, after all, a bureaucracy with regional identity rather than national, with accurate executive abilities, and with high and visible hierarchy, recognized as an establishment of regional integration. And yet, what was created was a "twelve-member executive body, one per country, which leaves the 'General Secretariat with few and small competences'" (Borja 2008a). Beyond the questionings of the General Secretariat, which will be discussed later, the concerns of the former Ecuadorian President emerges almost six years after signing the Treaty, confirming the limitations of an executive authority embodied in a Council of Delegates with a semi-permanent -or semi-absent-, that finds difficulties in complying with the powers given .

Indeed, beyond the work of the Decision and Resolutions projects, and its implementation through Provisions, the Council of Delegates has some other responsibilities that are essential in strengthening the South American integration, as explained in the second chapter. Two of them, related with extra-institutional relations, that is, with other regional and sub-regional integration organisms, as well as with other "third parties." While the Pro Tempore Chair and sometimes, the General Secretariat of UNASUR are its voice in external relations, it is the Council of Delegates who is responsible for the "development and monitoring of third-party relationships," having to know in advance "the proposals of pronouncements and agendas that deals with the relationship with third party"¹¹⁹ proposals that should be put to the consideration of these twelve Delegates.¹²⁰ Is it possible that UNASUR can develop an effective strategy for

¹¹⁹ UNASUR, *General Regulations*, 2012, art. 41.

¹²⁰ *Ibíd.*, art. 21.

external relations, positioning on the international stage, if it depends on the sporadic meetings of the Council of Delegates? It is not impossible, but is obviously complicated. This is evidenced in the rare presence that UNASUR has outside the region, except in specific cases such as the Technical Secretariat in Haiti and other technical meetings with CAN, MERCOSUR and ALADI, and perhaps the pronouncements of support of Ecuador and Argentina with Great Britain, the latter managed by the Council of Chancellors. This structural failure of the Council of Delegates should be considered among the weaknesses of the relationship with third parties, discussed above.

Ultimately, the question that arises with respect to the Council of Delegates is reflected in a constant skepticism about its nature and structure. It appears that a meeting every two months does not facilitate the work of the most elementary plenary body of the Union, to which it was entrusted the essential executive tasks to integrate the subcontinent in all areas proposed, and which would be expected that mitigates the shortcomings or faults which by its nature, has the Council of Chancellors, as previously explained.

3.2.5. Analysis of the Ministerial Councils

The Ministerial Councils (or the Sectoral Councils as the colloquial internal language of UNASUR), are the instances that, in theory, support with proposals and actions the process of integration of the Union, lay out with the extensive objectives previously discussed. Its existence is vital to the project, since the Chancelleries would hardly negotiate themselves the issues of political, social, cultural and economic integration and so on. As already suggested, that does not mean that these Ministries are at the same level as the Chancelleries in the South American project, by contrast, the "centralism" in the structure of UNASUR remains. However, this institutional design does not prevent the Ministerial Councils to meet, work, coordinate and propose initiatives, policies and common programs of integration of the region, although, of course, it has to specify the Council of Delegates and Ministers of Foreign Affairs for the far-reaching proposals could be unanimously approved by the Council of Heads of State.

Indeed, the Ministerial Councils are required to pass a Statute to establish its rules of operation, which must "foresee at least one annual meeting of its higher authorities"¹²¹. Thus, it is understood that the remaining meetings of these councils are of a lower level, understood as being normal that the "executive body" of each Ministerial Council is in charge of Deputy Ministers or Senior Officials or Delegates, who set the tone for the formation of "Working Groups" of lower rank, which work on specific issues. Thus we have, for example, the Council of Economy and Finance of UNASUR, which in its internal hierarchy they have, first the Ministers of the respective corresponding portfolios (Economy, Treasury, and Finance) and the Presidents of the Central Banks in the region. Following by Deputy Ministers or other Senior Officials or Delegates, and lastly, three Working Groups focused on specific issues each: in the first case, it is the Working Group of "Management and Mobilization of International Reserves," which is comprised of technical and political officials who present their results to higher levels of the Ministerial Council.

It is worth mentioning that it is an unspoken rule that all these meetings are accompanied by a delegate of the General Secretariat of UNASUR, so that it will serve to support the work that the country holding the Presidency of the Council does, serving as secretary of the meeting. The Regulations confirms that the power to make design the draft reports of the meetings of all bodies, including those of the Ministerial Councils, will be in charge of the General Secretariat, which will send them to the Pro Tempore Chair for it to send them to the rest of the countries. These reports serve as an input that the Council of Delegates will process them and raise it to the Council of Ministers of Foreign Affairs and to the Heads of State.

UNASUR currently has 12 Ministerial Councils covering a multitude of areas and are intended as landmarks that contribute to achieving the goals outlined in the Constitutive Treaty of the Union. These are: South American Health Council, South American Council of Social Development, South American Council of Infrastructure

¹²¹ *Ibíd.*, art. 10.

and Planning, South American Council of Education, South American Council of Culture, South American Council of Science, Technology and Innovation, South American Council on the World Drug Problem, South American Defense Council, the South American Council of Economy and Finance, South American Energy Council, South American Electoral Council and South American Council on Citizen Security, Justice and Coordination of Action against Transnational Organized Crime, and other bodies working in complementary areas.

As seen, the diversity of topics UNASUR is working on its many specialized meetings, effectively suggests that integration is a multisectoral issue, which goes beyond mere issues of foreign policy. This is why I wanted to deepen in the explanation of its operation, as these Councils constitute the engine of integration. However, the Ministerial Councils suffer from some flaws of the other organic Councils explained, as its "periodical" character of their work, as well as some weaknesses inherent in its structure. First, as mentioned this is ineffective hierarchy of UNASUR, which leaves the Ministers of State in a lower rank than the Chancellery, including, its subordination to the Council of Delegates. Secondly, the Sectoral work progress depends largely on the country holding the Pro Tempore Chair of the block, as this in turn holds the presidency of the Ministerial Councils and Working Groups, so that the necessarily management capability insides in the results of these instances. Third, the work of the Ministerial Councils is much less institutionalized than the organic Councils of the Union, because, in practice, each Council has its own Statute, although it constitutes the norm which it should comply, it is not at the same specificity or institutionalization as it says in the Regulations of UNASUR; in addition, each Council has its own Statute, there currently at least twelve, not necessarily harmonize with one another or with the Regulations of the Union, moving further away from the establishment of a comprehensive legal body that regulates the operation of all structures of UNASUR. Finally, as already stated, ad nauseam, the absence of permanent structures does not lead to a steady, uniform work, in order to progress faster and with greater cohesion and security in the South American integration process.

3.2.6. Analysis of the General Secretariat

Overall, we have touched upon almost all important instances of the Union of South American Nations, except one: the General Secretariat. Two recurring themes have been addressed in most organs of UNASUR: firstly, the great powers that have been conferred by the CTU, and, secondly, the periodic meetings hindering permanent and continuous work on integration issues. Well, the General Secretariat presents a greater challenge, becoming a real paradox. Roughly, the General Secretariat is the only permanent body of UNASUR, but with overly limited powers, which is the antithesis of what is seen so far. In other words, the General Secretariat has what the other bodies need, but simultaneously lacks what they have in abundance.

This contradiction is probably the greatest weakness of the South American project, and demonstrates the differences between countries that wanted a strong General Secretariat with extensive executive abilities, and countries which preferred an insignificant General Secretariat and without greater capabilities. What they agreed to create is a permanent instance, with features and functions that are detailed in chapter 2, which allow speculating about ideas, precepts and dilemmas that momentarily, concluded with the signing of the Constitutive Treaty of the Union. It was a "high" momentary discussion, far from definitive, since today the voices advocating a stronger and more capable instance, have continued to question the existing structure as it is agreed in 2008. Currently, few dispute the speed in which it operates UNASUR, but there it is not the same about its structures, with the General Secretariat being the most controversial. Not surprisingly, the first candidate to attaining the consensus of the twelve to hold such position, Dr. Rodrigo Borja, withdrew after learning the text that the presidents would later sign in Brasilia, and that the national parliaments ratified in subsequent years.

It should not simplify the analysis to the revision of the wording of CTU, but a quick review can give the reader an idea about the limited functions that the Heads of State decided to give the General Secretariat: “supports the Councils in the performance of their duties,” “serves as the secretariat,” “prepares and presents reports,” “serves as a

repository,” “prepares the budget,” “coordinates with other entities of integration,” “celebrates the legal acts necessary for its administration and management,” “proposes initiatives and monitor them” and “participate with the right to speak.” These last two features are particularly interesting because they bring to the General Secretariat some ability to influence the process, albeit very modest. In general, all the others can appreciate the “modest” nature of this instance, which in the hierarchical structure of UNASUR is in the last establishment, because that is what the twelve wanted.

There have not been few the opinions given on this restrictive design of the General Secretariat of UNASUR. While Dr. Rodrigo Borja, first agreed name to take the leadership of this body, manifested that the CTU left to the “General Secretariat few and limited responsibilities” (Borja 2008a), President Rafael Correa stated that “with all the reason in the world Rodrigo Borja resigned to the Secretariat, because that was a real travesty” it leaves the “the Executive Secretary under other levels, even [under] the Chancellors” (Correa 2008b). However, the Constitutive Treaty was signed as is, perhaps knowing that the “non-signing” it would have meant to throw everything away, a process that started years ago, in which there has been time, money and efforts invested. This, despite the fact that a few months before writing it concluded, Ecuador had already expressed its disagreement and its desire to review the draft of the Treaty, proposing that “the Executive Secretariat would have a gravitating political role, with autonomy to present initiatives and with decision-making capacity, respecting the hierarchy which has the summit of presidents” (El Comercio 2008). As can be inferred from the text adopted, the Ecuadorian proposal was unsuccessful, leading to the General Secretariat to be in the “fourth level of hierarchy, under presidents, chancellors and government delegates”, taking “its management and executive political capability”, as described by the diplomat Francisco Carrion Mena (Carrión 2008). These few voices are but a small sample of the many observations made in the design of UNASUR.

Aware of the criticism, the Bolivian Ambassador Pablo Solón (2008), later wrote that

the suggestion to elevate the General Secretariat to the hierarchy of organs, in order to have a more dynamic instance that would work directly with the

Presidents, did not reach consensus because most Member States consider that a General Secretary above the Council of Delegates would be almost out of control because the Councils of Presidents and Chancellors only meet once a year or every six months (16).

Solón's explanation of the rejection to the strengthening of the General Secretariat is not entirely satisfactory, since you cannot justify the weakness of this body based on the weakness of the others, on the contrary, strengthen it would have been a giant step towards the integration of Latin America that is highly spoken, at least in public discourse of its leaders. However, his testimony as part of the team that wrote the CTU evidence overwhelmingly countries opted for the current design of the General Secretariat, leaving a minority without maneuvering options.

In this context, the election of the General Secretary of this organism is a difficult job, as the challenge is to find a name with sufficient recognition, authority, and regional prestige, who is willing to take a position with a limited margin of action, all with the intention of complying with the provisions of the Constitutive Treaty of UNASUR. Now, it is striking that the first official experience of the Union with its General Secretariat, which is an unorthodox alternative. After Dr. Rodrigo Borja ruled out the position as Secretary General of UNASUR leadership went into a reflective, complex, and nervous process, a kind of abnormal routine that has its roots in the lack of consensus to appoint the person to occupy the General Secretariat. On the eve of the second anniversary of the signing of the CTU in Brasilia, the twelve finally reached an agreement: former Argentine President Néstor Kirchner became the first Secretary General of UNASUR. And they did it despite being aware that Kirchner already held a position of great responsibility in their country, to have a seat in the Chamber of Deputies of the Congress of Argentina, in addition to his status as president of the Justicialist Party in that country, thus he aspired to be, once again, the candidate for the presidency in the elections of October 2011, according to reports. However, with the appointment of Kirchner the twelve succeeded to overcome this absence.

As expected, Kirchner did not resign from his other positions during his period in UNASUR, which did not prevent his high-profile and politically recognized in South America, it had an impact on a higher position of the Union in the region. As it is

known, Néstor Kirchner died on the eve of turning 6 months in the regional office, which cut short his administration of the organism. Either way, his passes through UNASUR revealed the weaknesses of the Constitutive Treaty, specifically as it relates to the General Secretariat. Thus, Kirchner demonstrated that a figure of his stature is not willing to accept the hierarchy of a charge that falls below the Chancellors, precisely the last establishment of the institutional architecture of the organization. Indeed, the work of the Argentine, who is usually applauded by politicians in the region (especially by his skillful work to ease tensions between Colombia, Ecuador and Venezuela), disrupted what the drafters of the CTU had thought for the Secretariat General: Kirchner walked at his own pace, since the institutionalization of the UNASUR was embryonic, he never devoted himself exclusively and permanently to the regional organization and he never gave up his political activities in his native country. It is worth mentioning, though, that Kirchner had to take an organization whose charter had not yet entered into force, which complicated the management, by not yet having legal validity. However, beyond the views that may leak around the work of Kirchner in UNASUR, his time in the organization allowed to learn lessons and draw conclusions that would be taken into account afterwards.

The period of vacancy caused by the death of Néstor Kirchner lasted another six months, when the Guyanese Pro Tempore Chair of UNASUR swore in the new Secretary-General, as a result of a very particular agreement. Months ago, when it sought consensus on a figure to hold office, Colombia and Venezuela proposed a formula that suggested that nationals from both countries occupy the next period of the General Secretariat, i.e. if a period of Secretariat usually lasts two years, in this case a Colombian would occupy the position in the first, and Venezuela during the second year. This formula, which clearly contradicts the rules of the Treaty, was welcomed by the other ten, mainly because it showed that the political crisis between the two nations had not been overcome. Thus, in his capacity as Pro Tempore Chair of UNASUR, the Guyanese Bharrat Jagdeo sworn in on May 9, 2011, in Georgetown, to the Colombian Maria Emma Mejia, becoming the second Secretary General of the Union.

The new General Secretary UNASUR gave the formalism and dynamism that the organization needed. In a complex picture, it is said, the best tool is the ingenuity and creativity. Maria Emma Mejia received an institution in its infancy, which suffered from an excess of informality, a lack of institutionalization, and it seemed to navigate to the pace of the Presidential Summits; in practice, a legal framework that had not taken root in the South American terrain. Aware of this, the proposed Colombian combat these shortcomings, and it was clear her absolute dedication to the office entrusted to her by the twelve Heads of State. Her work could be considered a real challenge, since it had been three years since the signing of the CTU, without internal substantial or innovative changes, so that Mejia had to face the apparent normality, and hence, to be awakened in the high instances of the need to deepen the construction of the regional project, transforming into action the words that were written in the Treaty, despite the apparent rejection of the "bureaucratization" of the organization. Mejia was aware of the need to institutionalize the work in favor of integration, and that this will require human resources, staff, working document, assist, advice and follow up on the decisions taken by the highest authorities.

However, the organization that María Emma Mejía received did not even have a formal operational budget. The work of his predecessor, Néstor Kirchner, had been covered by the Casa Rosada,¹²² and nothing was set on financing subsequent General Secretaries. The Colombian had to face the challenge almost alone, accompanied by a tiny group of four administrators; they had to share the work to document and institutionalize the work of all bodies of UNASUR, and all meetings: those four officers constitute the bureaucracy Union (El País 2011). Maria Emma Mejia knew that facing the whole process, accompanied by four people, was an impossible task, and tentatively asked each of the member countries to send a person to work with her from the headquarters of the organization, provided by Ecuador in Quito. At least nine countries sent officials to serve as management support of the General Secretariat, although this "collaboration" has its limitations.

¹²² La Casa Rosada is the seat of the executive branch of Argentina.

Indeed, the first chapter of this research tries to explain the general characteristics of bureaucracies of international organizations, repeating certain traits in common. In general, however, Feld *et al.* highlights four principles that should govern the servers of an international organization, being these loyalty, impartiality, independence, and merit. The rationality of these principles lies in building an entirely bureaucracy to ensure the interests of the whole region, and that it should be flawless to the people, exercising a transparent work, differing themselves from traditional national bureaucracies entrenched in state structures and hardly affordable to the population that employees them. In the case of UNASUR, however, one can hardly speak of the existence of an unquestionable bureaucracy. First, the "support" officials from the States at the request of Mary Emma did not waive their national loyalties and therefore did not swear allegiance to the organization in which they are working. Secondly, their independence was far from being guaranteed: these officials of UNASUR depend economically on each of their States, which called into question their "work," "intellectual" and/or "ideological" independence with respect to their employers. These two features show, by themselves, the very limited bureaucracy of the Union has troubling weaknesses, what is interesting is that they are not due to being a large, slow, inefficient bureaucracy, but it is a tiny bureaucracy at high risk of dependence of certain sectors of the region, and remain loyal to the State of which they are citizens.

The UNASUR Constitutive Treaty speaks briefly of the officials who accompanied the General Secretary, without great specifications about the relations to the internal structure of this instance. Maria Emma Mejia knew that this institutionalization of the General Secretariat should be done through the adoption of the Regulations of the Union, a task in which she focused her greatest efforts. "According to Mejia's aides, she dispatched on average three days a week in Quito. Her main trips were to Paraguay, which then held the Pro Tempore [Chair] of the block "(Zas 2013), achieving a level of constant work that helped to create the necessary consensus for the adoption of the Regulations, in June 2012,¹²³ the month in which she left office to her successor. Nevertheless, it happens that the Regulations specifies in greater details this

¹²³ UNASUR, *Resolution N°16*, 2012.

internal structure of the General Secretariat of UNASUR, where there will be thematic Directions that will cover the totality of the agenda and the majority of the objectives that the Union proposes¹²⁴. In addition to these Directors, it will be needed "specialized technical and administrative"¹²⁵ officers which "will be chosen on transparent and objective processes" which "shall observe the inherent neutrality in their functions and ensure the confidentiality of UNASUR documentation"¹²⁶ and that shall not "seek or accept instructions regarding the performance of their duties in any particular government, person or entity outside the General Secretariat and shall perform their duties solely taking into account the interests and objectives of UNASUR"¹²⁷. Considerations that greatly adhere to the criteria and principles explained on the staff of General Secretariat in the first chapter. Although these criteria are far from satisfied as regards the existing bureaucracy of the General Secretariat, Mejia's achieving was a precedent for that at some point, when there would be the will to do so, this instance would count with a comprehensive, encompassing bureaucracy that would, sustain, and deepen the integration process in South America.

Mejia was also achieved the approval of the budget of UNASUR, for the first time in its history. Thanks to her management, "the adoption of a non-despicable budget of \$19 million, effective until 2013" (El Tiempo 2012), was a milestone in the process, and that led to the establishment of differentiated fees according to the economic capacity of each of the twelve South American countries. This overcoming of rhetoric into practice, however, it will be seen as countries disburse their fees in full and accepted by consensus. For the 2013 budget, these fees are distributed as follows:

¹²⁴ UNASUR, *General Regulations*, 2012, art. 38.

¹²⁵ *Ibíd.*, art. 25.

¹²⁶ *Ibíd.*, art. 34.

¹²⁷ *Ibíd.*, art. 26.

<i>Distribution of Budget Fees UNASUR 2013</i>			
Fee Differentiated by Country	Country	Contribution Condensate Per Group	
39%	<i>Brazil</i>	39%	77.40%
16%	<i>Argentina</i>	38.40%	
12.40%	<i>Venezuela</i>		
10%	<i>Peru</i>		
8%	<i>Colombia</i>	19%	22.60%
7%	<i>Chile</i>		
4%	<i>Ecuador</i>		
1.60%	<i>Paraguay</i>	3.60%	
1%	<i>Uruguay</i>		
0.80%	<i>Bolivia</i>		
0.10%	<i>Guyana</i>		
0.10%	<i>Suriname</i>		
Source: UNASUR/CMRE/RESOLUTION NO. 21/2012 ¹²⁸			

The above chart allows us to draw some interesting conclusions:

a. A third of UNASUR budget is financed by Brazil. This puts it as the largest contributor (39%); not even Argentina, Venezuela and Peru together (38.4%) matched the Brazilian contribution.

b. The 4 countries that contribute the most bring together an account for the 77.4% of the budget, leaving 22.6% for the other 8 countries in the region.

c. The five countries that contribute the least (Paraguay, Uruguay, Bolivia, Guyana and Suriname) account for 3.6% of the budget; consequently, that means that Ecuador (4%) provides further that those 5 countries combined.

These findings demonstrate the disparities between UNASUR member countries, but also exemplify the solidarity of the stronger countries with the weaker ones, the first by taking the greatest part of the burden of the budget of the organization. The work of the Colombian General Secretary was instrumental in the negotiation of this budget, which

¹²⁸ UNASUR, *Resolution N°16*, 2012.

includes a section on "Common Initiatives," which differs from the General Secretariat specific budget (Personnel, Operations and Activities) and focuses on the financing of activities and projects of the Ministerial Councils.¹²⁹ These disbursed funds ensure the progress in meeting the goals of integration.

In short, both the Regulations and the Budget for 2011, 2012 and 2013 were the greatest tangible achievement of the work of Maria Emma Mejia, though not the only ones. Despite the limitations imposed by the CTU, the Colombian developed a very active role, highlighting the presence and importance of UNASUR in virtually every place she visited. As a professional communicator, the then General Secretary neatly knew how to handle the public relations image of the Union and positioning it in the press and in public opinion in South America. Another achievement, not as intangible as the first, was the order she gave to the internal management of the Secretariat, institutionalizing and strengthening it, leaving a very different bureau she received in 2011. Her work was broad and unanimously recognized, and will go down in history as the woman in which UNASUR went from being an organization in its infancy, to a much more mature, serious, and real organization.

According to the formula agreed by the twelve, Mejia yielded to Venezuelan Ali Rodríguez Araque, becoming the latter the third General Secretary of UNASUR. Since this research is drawn during the period of Dr. Rodríguez, it is difficult to draw absolute conclusions about his management; nevertheless, some insights could be drawn with regarding to what has been observed during these months.

Rodríguez Araque took office on June 11, 2012, in Bogota, Colombia, sworn against the then Pro Tempore Chair of UNASUR, Paraguay's Fernando Lugo. Being confidant of then President Chavez, Rodríguez Araque took the challenge to maintain or exceed its predecessor management, and thus defined the priorities that would focus on his period, one of which is energy integration. With his experience as Minister of Energy in his country, Secretary General of the Organization of Petroleum Exporting Countries

¹²⁹ UNASUR, *Resolution N°22*, 2012.

(OPEC), and President of Petróleos de Venezuela (PDVSA), Rodríguez Araque has extensive knowledge of energy issues, and especially the potential of South America as far as natural resources are concerned. For the Venezuelan, the latter should be the basis of the regional integration, assuming that this is his greatest strength. In a comparative exercise with European integration, Rodríguez recalls that "Europe all started with two natural resources" (Rodríguez 2012a), hence South America could jointly take advantage of "that vast reservoir of natural resources . . . in huge quantities . . . to solve not only the needs and overcome the poverty of millions of people, but to help solve many problems in other regions" (Rodríguez 2013a). In this manner, Rodríguez concludes that, for the integration process to be irreversible, some considerable aspects should be touch upon, with the common management of natural resources, becoming one of the most promising, and simultaneously, more delicate regional integration aspects (Rodríguez 2013b). It is common knowledge that much of the livelihood of South American economies is based on the extraction and export of raw materials to be used elsewhere in the industrialized world, so that Rodríguez sees an opportunity that no longer could be deferred, an opportunity to "connect" definitely the nations of the region and achieve the objectives of this integration.

In that sense, it is known that the General Secretary of UNASUR is focusing its management on a project that aims to design joint strategies for exploitation of natural resources that has the subcontinent. While there is no official information, it is known from interviews and reports that Rodríguez idea is to make a complete diagnosis of all natural resources of South America, where he said "is deposited almost the entire periodic table of Mendeleev" (Ibíd.). This would be reflected in

a regional map where they will be geo-referenced the energy resources, fossil and non-fossil minerals, freshwater, forests, biodiversity and ecosystems, agricultural potential, forest reserves and resources in the exclusive maritime areas,¹³⁰ leading to develop "regional industrialization policy of raw materials, technological development, and financing with its respective instruments."¹³¹

¹³⁰ Polo Democrático, "UNASUR and the Impulse of its Strategy for the Defense of Natural Resources as the Axis of Integration," http://www.polodemocratico.net/index.php?option=com_content&view=article&id=4370:unasur-y-el-impulso-de-su-estrategia-de-defensa-de-los-recursos-naturales-como-eje-de-integracion&catid=47:internacionales&Itemid=49 (accessed on June 13, 2013).

Additionally, Rodríguez Araque is proposed to better integrate the region through the rapid exchange of information. Thus, the organization's General Secretariat opened a Center for Communications and Information, "Flag Project" of Ali Rodríguez, which seeks to "interrelate UNASUR organizational structure in real time" (Rodríguez 2012b), enabling an "activity of liaison and information among all members" and properly organize "files, documentation and monitoring of all decisions and agreements" (Rodríguez 2013a). With this, the General Secretary would seek to speed up the work of the organization, avoiding the duplication of effort and lack of communication, and coordinating Sectoral policies emanated from the various Councils. If successful, this initiative, from the Venezuela, will positively impact the daily management of UNASUR, with tangible results in the short, medium and long term.

Despite the efforts of Ali Rodríguez, his work is far from pleasant for various sectors in the region. These questions do not touch his ideas, but the way it is holding the position as head of the General Secretariat of the Union. Indeed, it is known the 'dip' in which the presence of UNASUR is portray in the media, which may be a natural consequence of the departure of Maria Emma Mejia, a communicator which remained almost ubiquitous in the regional public stage. This situation is not surprising if one takes into account that Ali Rodríguez rarely works in Quito, which houses the headquarters of the General Secretariat of the organization (Zeas 2013), and where the person who holds the position of General Secretary should reside, according to the Article 30 of Regulations. Meanwhile, Argentina's Rafael Follonier (who advised Néstor Kirchner when he became General Secretary), states that "we need a charismatic leader" (Follonier 2013), perhaps longing Kirchner or even the Colombian Mejia, and inevitably questioning the somewhat distant or cold attitude that Rodríguez transmitted. This "absence of UNASUR" (Sandoval 2013) may be due to the advanced age of Venezuelan political (76 years), which could be accompanied by a number of health ailments. However, the Heads of State knew of this feature prior to his appointment as General Secretary, since in January 2011; Dr. Rodríguez had to resign as Minister of Electricity

¹³¹ *Ibíd.*

of Venezuela, due to health complications (Zeas 2013). In short, the situation inevitably affects the management of the organization, and in compliance with the mandates of the Constitutive Treaty of the Union.

3.3. Analysis of the Consensus Statement and Procedures for Adoption and Creating Policies and Institutions

In addition to the institutions that must be built to achieve the goals of the regional project, it should take into account the decision-making system, which inevitably affects the process. In this specific case, UNASUR decides by consensus. The choice of this system of consensus is not casual, and repeats the pattern of the preponderance of national sovereignty, protecting each State in relation to the group of states. Indeed, the logic of this consensus rule seeks to prevent any Member State to be obliged to accept what most States from community advocate, since otherwise would, in the neorealist thought, an imposition that shakes the foundations of what is conceived as state sovereignty. In the South American process, the risk that the sovereign state is obliged to abide by what most States believe was not assumed.

Moreover, the framers of the Constitutive Treaty support the defense of this standard based on an approach that continues to be valid, and that means that consensus is a "guarantee that all States have an impact on South American integration process" (Solón 2008, 14), so that it can create a friendly and supportive environment, to prevent any Member State, in the people of its authorities, or the same population, feel that their opinion is invalid or that they are being cornered. This practice is characteristic not only of UNASUR, but other international organizations, for the sake of maintaining harmony between states, its prioritize the search for consensus before starting a voting process. This is the case of the Security Council of the United Nations (UNSC), which promotes the establishment of intensive negotiations that remove the possibility of votes against, and offer the international community a consensus decision that takes into account the diversity of opinions rather than censure them. Indeed, the difference between the UNSC and UNASUR is that the former does not require consensus, on the contrary, if it is not

reached, there is the possibility that States refrain from voting, or vote against, which helps unlock the proposals that have not reached a consensus of all (although if a permanent member votes against, the resolution does not pass). The decision-making system of the Union of South American Nations does not contemplate this possibility of differential voting, the very idea of voting on a proposal is unthinkable, because if the negotiations do not result in consensus agreements, a voting process would be little more than useless.

In the discussion of the consensus standard, several perceptions are put on the table. In some cases, critics argue that such a rule implies the existence of unanimity, i.e. all agree and approve the postulate discussed. Therefore, a dissonant position, widely accepted by the majority will fail, or, what is the same, a state not accepting what the majority suggests, can veto that proposal. This right of veto, intrinsic to the unanimity rule, is strongly criticized not only in UNASUR, but in various international forums, since it obstructs the decision making processes and tends to stagnate. For example, referring to the European Union, Professor Federico Mayor asks: can anything less democratic and inefficient be imagined than to have to take decisions unanimously? (Mayor 2012). Meanwhile, in an interview about an internal affair of his country, Ecuadorian President Rafael Correa responded: "democracy of unanimity, do you know what that means? Veto power! . . . It is impossible to run a country by the rule of unanimity, because that gives the right to veto" (Correa 2012). Not only talking about a country, but rather a regional integration processes, Naomi B. Mellado states:

the decision-making mechanisms follow the procedure of consensus, unanimity or qualified majority stiffening the decision-making processes and enabling crossed vetoes that prevent effective progress. Thus, the integration is relegated to self-limiting voluntarism of national interest, constantly renewed and subject to the whims of changing governments, conducted and reviewed individually by each member (Mellado 2010, 593).

And in the specific case of UNASUR, José Antonio Sanahuja (2008) adds that "the text of the Treaty . . . makes clear that, ultimately, Unasur's confidence in their decision making still rests on the right of veto, since it establishes the unanimity rule" (36).

Those who favor this rule downplay those negative impacts which are much discussed, and used another analysis when discussing the consensus. In this case, Colombian Diego Cardona Cardona (2008) speaks of that consensus does not necessarily require everyone to agree and approve the proposition, that is, for him, the consensus does not necessarily presuppose the existence of unanimity, but "no opposition" (30) of the parties to the proposal that is on the table. Pablo Solón (2008) goes further and argues that a differentiated voting system would be prejudicial to the members, saying that thanks to the consensus rule, "no decision can be taken against a Member State" (13-14); thesis with which I disagree. It is not implausible to think that a rule of this kind not only greatly affects the regional integration process, but also puts you at risk of paralysis, especially when you take into account that the institutional framework is still in its infancy and that the project, as it, is at the mercy of presidential will and therefore the quality of interpresidential relationships.

It is interesting to find in the region, as a result of the talks in UNASUR, organizations that reject the rule of consensus and pose different decision systems. I bring up the Bank of the South, created in 2009, which perfectly illustrates the paradox of the regional relationships and the particularities of the Constitutive Treaty of the Union. The Bank of the South, as its Articles of Agreements says, "its objective is to finance the economic, social and environmental development of the 'Member Countries', in a balanced and stable . . . ; strengthen integration, to reduce asymmetries and promote the equitable distribution of investments among member countries"¹³² (Article of Agreement of the Bank of the South), and is comprised of seven South American countries: Brazil, Argentina, Venezuela, Uruguay, Ecuador, Paraguay and Bolivia.

Let us refer to the decision-making system of the Bank of the South. To begin with, it does not require the consensus for most of its resolutions, on the contrary, within its bodies (Board of Directors, Executive Board, etc...) voting models differentiate that require Absolute Majority and Simple Majority, but not necessarily consensus. Even, it specifies that in case "provided . . . operations involving amounts over US\$70 million . .

¹³² "Constitutive Agreement of the Bank of the South," September 26, 2009.

. will require the affirmative vote of 2/3 of the Directors representing . . . more than 66% of capital." Since only Brazil, Argentina and Venezuela can add together more than 66% of the capital of the bank,¹³³ since they provided much more than the other four countries, that means to approve a projects exceeding the US\$70 million . . . , will require that at least two of these three major contributors casting an affirmative vote. Although complex, this differential voting system is designed precisely to allow operation of the Bank, without a consensus standard that blocks the progress and achievement of its objectives.¹³⁴

A regional integration process does not take root if it does not convert its discourse into political realities, and common programs for which it requires institutions and organizations. Perhaps aware that the consensus rule is too restrictive, the architects of the Constitutive Treaty of the Union devised a mechanism whose nature is no less bizarre, ineffable, although theoretically it overcomes the limitations of the 'unanimity or the no opposition'. Thus, within UNASUR there may be a consensus for a policy to be adopted or a program or institution is created, but that consensus does not mean that the twelve are willing to adopt the policy or create the institution or program proposed. Indeed, the CTU does not oblige Member States to abide by what is passed, which is an inconsistency that leads us to question the usefulness of all the normative, institutionality and the current revised regulations of the Union of South American Nations. The exercise to imagine that a country provides support for an initiative that does not abide, it is, at least, strange, though in the reality of UNASUR, a system of consensus-based decisions, this strangeness seems to acquire certain logic of which we do not have empirical evidence, perhaps because of its peculiarity. This logic leads us to believe that this mechanism of policies and creation of programs and institutions, somehow "soften" or "minimizes" the problems imposed by the rule of consensus, which reduces the

¹³³ *Ibíd.*

¹³⁴ The Bank of the South example is interesting because it works as a sign of regulatory framework that UNASUR Constitutive Treaty establishes for projects emanating from the regional body. The reader may wonder why the link between UNASUR and the Bank of the South, if the latter has only 7 members, marginalizing Colombia, Chile, Peru, Guyana and Suriname. On the other hand, if the Bank of the South was born as a raised initiative in UNASUR, why is the Bank not part of the Union, since among its objects is the 'strengthening of the integration'? The answer to these questions is in Article 13 of the CTU, called "Adoption of Policies and Building Institutions, Organizations and Programs".

likelihood of "blocking" or "paralysis" of the regional integration process, since a State is not obliged to "veto" a proposed policies or creation of institutions or programs, as their support does not mean commitment to compliance.

However, this logic does not mean that the twelve will always reach a consensus, and then analyze whether to join or not the adoption or creation of the proposal. For example, although the Bank of the South proposal did not obtain the general consensus, which did not mean that, the project was paralyzed. Simply, the promoting countries understood that the project would not progress among the twelve, and decided to open from the framework of UNASUR and launch the project as their own, with the option that the rest could integrate when they want it. The other option left was to file the project for six months, after which might sound it out once again for the support and the possibility of consensus.

This ingenious approval mechanism and institution building policies and programs somehow overcomes the limitations of consensus, but opens an even larger and deeper implication: the non-binding nature of the regional integration process. If in the practice, states are legally bound to fulfill what many agree in long negotiations and discussions, then what good is all the effort? Does it really favor the integration process? Could it be that amidst all the idea of integration of South America, national sovereignty is the biggest obstacle to the achievement of the common goals established in the CTU?

3.4. Conclusion of the Chapter

Having gone through in great detail the institutionality and regulations of UNASUR based on the provisions of CTU and Regulation, and using as reference the contributions from the field, the chapter that concludes allowed a cross analysis of the organization and its structural design: its strengths, weaknesses, and its main features. As noted, the following chapter includes this analysis in order to dig deeper into the nature of UNASUR, making the central idea the concept of sovereignty and setting it in the Latin America historical and situational context.

Chapter IV

Sovereignty of UNASUR

Throughout this work, we have tried to comprehensively cover the main concepts underlying the Constitutive Treaty of the Union of South American Nations. Specifically, the second chapter was dedicated to thoroughly and objectively review the context prior to the signing of the Treaty and its provisions written, relying on the Regulations of the organization, so that the reader can have a clear idea about what is UNASUR, its scope, its purposes, its institutions, and its implementing regulations. Unlike the second, the third chapter focuses its approach on a real questioning of the basic regulatory texts of the Union, providing empirical evidence, but, above all, using elements of the first chapter, specifically related to the institutional structure of international organizations. This fourth chapter aims to resume comprehensively and briefly the discussion rose in the first chapter, regarding the concept of state sovereignty and its weight in shaping international organizations in which the states are its major player, framing the analysis in the current Latin American context.

4.1. The Importance of the Principle of Sovereignty in the Historical Context of South America

Indeed, one cannot dissociate the current South America and a Latin America that, throughout its history, has been built conceptions based on the discourse of their leaders, conceptions that penetrated deeply, in return, in the regional construction of the integration. I am referring to, specifically, the concept of national sovereignty and state sovereignty, from which it can explain concepts deeply rooted as intergovernmentalism, consensus, and the same regional integration, among others. The perception of the Latin American political class have of these concepts, responds not only to the customary practice, but also the historical reasons for a region that is conceiving its existence based on the threat of the *other*, but in absence of that *other* still has difficulty believing itself as 'one region'. Therefore, let us include, initially, this Latin American conception of sovereignty, in order to understand fully what the political class thinks about regional

integration, and how that translates into the institutions created in the South American sphere.

Thus, it is clear to say that state sovereignty is a core concept, leading, precious and indispensable to the region. And that conclusion certainly is not grounded in the air. A brief review of the history can help us understand much of that reality, which, it is worth mentioning, it also responds to local electoral and political agendas which are explained later.

Firstly, national sovereignty refers to the concept of "state as the only legitimate authority to govern and to enforce the laws in a given territory" by the "monopoly on the use of force (violence)" (Slocum and Van Langenhove 2005, 140) - is an idea that is not as old Latin America as it is in Europe, and, beyond that, lies a historical relationship and is not always pleasant between the two zones. Indeed, the Spanish colonization in much of Latin America, and although different, the Portuguese in the area now occupied by Brazil, was a milestone in history that has been extensively researched and discussed, and which cannot be explained in detail in this paper. However, this fact awakened a feeling of revolt and indignation, in a section of the indigenous and mestizo population, which would eventually declare independence in the American territories over the Iberian domain, resulting in a fundamental element that set the stage for idealization of sovereignty in the newly independent nations.

Later, during the post-colonial history, the concept of sovereignty was acquiring an important weight, although at certain times and on specific situations. So, after the European dominance in the continent, the United States would become the next foreign agent with national interests in the region. Approaches such as the Monroe Doctrine, who sought to defend the strategic interests of the U.S. giant against Europeans in its entire southern border, it supposed to germinate in the region a new sense of mastery, while the United States assumed the role of protector and arbiter of all that happened in the Americas. Insisting that this work is not a comprehensive review of the history, I decide to move deliberately several decades forward until the Cold War era, in which the

U.S. intervention in Latin American countries reached levels notoriously high, supporting allied regimes (some authoritarian and dictatorial) and encouraging sedition that ended with regimens which were more ideologically aligned with communism than with capitalism. Although sovereignty was already a widely accepted principle and even as something positive in various international instruments, in the case of Latin America at the time, the idea of sovereignty existed merely on paper. Unsurprisingly, such interventions trigger the emergence of nationalist movements, some in the context of democracy, and other insurgents and belligerents, who repudiated the U.S. manipulation of Latin American politics, and clamored for the defense of national sovereignty, leading some of them to power. However, political instability, institutional weakness, economic dependence, rampant corruption, inefficiency of the new rulers, disunity among the countries of the region, among other factors, meant that all this elements played against the consolidation and reinvigoration of the American States, which sovereignty was still a distant longing that did not transcended from paper.

Finally, and advancing through history, the irresponsible administration of the United States and its coffers, crystallized in external debts and alarming gigantic fiscal disorders, it supposed that the American hegemony comes back more subtly, with the complicity of certain local industries, to intervene in certain Latin American countries. The famous "Washington Consensus" became the document that marked the recent history of many of the countries in the region, as it contained the recipe for the crises and left the path open for U.S. economic arms to enter the economies and markets located on the south side of its border. This new intervention facilitated and accelerated the weakening of States, which, in the ideology of economic liberalism, are considered almost a nuisance, thus sovereignty became an almost anachronistic concept. It is worth mentioning, for this era, talking about the 90s and the beginning of the new millennium, much of the regional bodies that exist today were already created, namely, the Andean Community of Nations (CAN) and the Southern Common Market (MERCOSUR), with a focus primarily economic, though in politics it rarely came together to resist the north interventionism.

At this juncture it is not surprising, then, the multiplicity of social protests and leftist political movements that emerged in Latin America, of which the commander Hugo Chavez is an emblematic figure. Beyond the controversy surrounding him, Chavez democratic ascent to the presidency of Venezuela brought a nationalist discourse that resonated not only in his country, but in most of the countries of Latin America, and especially in South America. Encouraged by a favorable economic climate, based on the rising price of raw materials, and international situation in which U.S. attention was focused on the war against terrorism in Iraq and Afghanistan after the attacks of September 11, the new leaders of South America succeeded in imposing their thesis on the need to strengthen the national state, making a difference of what was dictated by Washington, and re-registering in the minds of Latin Americans the idea of state sovereignty.

This historical review, very briefly explained, is essential to understanding why sovereignty is so present in the discourse of Latin American national leaders and, in general, the current regional political class, in which is a tacit rule to support the projects of integration as priority in the foreign policy plans. The Spanish José Antonio Sanahuja, referring specifically to UNASUR, categorically synthesizes what has been discussed, by stating that this typical pattern of integration

reveals that two hundred years after their independence, the binomial integration-nationalism, rooted in the Latin American identity, collective consciousness, and political culture, remains one of the pillars on which pivots national politics, foreign relations and projects of international integration (Sanahuja 2011, 147-148).

Such a way that, to ignore this reality necessarily triggers a misunderstanding of the Latin American context and vision of regional integration.

In my opinion, however, it is necessary to add that the sovereignist discourse responds not only to history but also to motives of domestic politics and elections. Thus, although it is not unknown the weight of history in which Latin America has experienced moments of intervention by external hegemonies, it is also worth mentioning that the concept of state sovereignty is exploited with greater fervor during election time, resorting on it to get revenues in votes or internal supports in a Latin

American population where the anti-hegemonic discourse has had a profound impact. Ultimately, there are several factors that contribute to this kind of "sacredness" of the concept of sovereignty at the regional level.

4.2. The South American Conception of Sovereignty and Regional Integration

Now, speaking of strengthening of the Latina American national states, and the reinvigoration of its sovereignty, it is convenient to alert that its regional concept is still impenetrable to modern notions of shared sovereignty, such as how the European Union has applied it to itself. Indeed, the European body considers "overrated" this principle in the present age, which characteristic is of a globalized world, with interdependent economies, and with States obliged to give up their sovereignty on the basis of multiple treaties signed in the areas of human rights, justice, among others, as well as the hotly debated principles of the Responsibility to Protect. Finding itself on the margin of a more traditional sovereignty, Latin Americans "have a different view" than the European. In reference to the emerging powers that seem to be shifting the focus of power in the world-in which case the Latin American countries are debuting as actors in this new transcendental equilibrium-, Professor José Ignacio Torreblanca (2011) states with an air of bewilderment:

The point is that 'new ones in the neighborhood' have a different view [on sovereignty] . . . Many won it not long ago, even snatching it from those same Europeans who dominated them, and now that they enjoy it, not just symbolically, but also materially, they do not want to give it up and linked, as they are asked by the Europeans, for international rules and commitments that limit their ability to take decisions. Therefore, in the world that is taking shape, the EU is increasingly 'a freak'. Its post-state vision, post-national and post-sovereign of international relations is, certainly, the exception rather than the norm. For a long time the Europeans saw this difference as a source of pride, because they thought that their actions marked the path of others and was an outpost from which others end up doing . . . Quite the opposite . . . they all seem happy on the other side of the fence, on the side of sovereignty and state autonomy, and . . . very reluctant to come crashing to the other side of binding commitments monitored by international bodies.

In short, the modern view that Torreblanca calls "post-sovereign" has not been passed on to the rest of the world, perhaps for historical reasons mentioned before, or maybe even by the current role, unpublished, that the region begins to play on the international stage.

In this manner, the concept of sovereignty in Latin America is closer to the traditional precepts, rigid, immutable. And also, this concept translates into actions that strengthen national states, which seems to undermine the thesis that predicted a decline of state power, some even to predict its demise. Certainly, today, the states share the stage with actors who have gained more weight, some visible, such as transnational corporations, international NGOs, multilateral organizations, and some others that have found spaces to exercise their "work" as the mafias, transnational criminal networks, drug cartels, etc.. Either way, it is no doubt that, especially in South America, the nation states have reinvigorated, re-assuming some control of their countries and their economies to the detriment of those who pondered the auto regulatory magic of the market. Of course, this strengthening of the state, not only it should not, but is not able, to ignore these alternative forces and, above all, the reality of a world economic, political, and communicatively interconnected.

It is in this framework that the countries of the region, in apparent attempt to overcome integration schemes with priority focus on economic and customs technicalities, have been raised to revive the discourse of regional integration, with refurbished models, with a social and identity focus, but not because of that, they have overcome the typical pitfalls that is imposed by the traditional concept of state sovereignty and its related concepts. The Union of South American Nations, UNASUR, is highlighted in the newly created regional projects (ALBA, CELAC, Pacific Alliance), both by the number and caliber of the member countries, and its wide range of objectives and its recent history. Yet, this renewed air of UNASUR does include in its charter some elementary ideas that were already seen in previous schemes, such as CAN, MERCOSUR and ALADI.

What is, briefly, the context in which the States interact, regional bodies, and sovereignty? Andrés Serbin, an expert in regional integration processes and specialist in the South American processes, explains that "in the first place, unlike the previous decade, there is a marked politicization of the regional agenda and a shift of trade and economic issues, which expresses a 'return of politics' in the foreign relations and development", which is evident in drafting the Constitutive Treaty of UNASUR, which, as we saw in previous chapters, it downplays the importance of trade, making it clear to remember that in their dawn, the Union was raised precisely as an alternative to the FTAA and in order to create a sub continental commercial strategy. This did not happen, and eight years after the first meeting called by Brazilian President Fernando Henrique Cardoso, the trade issue had been displaced, UNASUR taking an eminently political tone. Secondly,

this process is not dissociated from a marked 'return of the State', both in foreign relations and in the social and development policies, with a leading role of governments and a displacement of non-state actors, as the private sector and civil society, while the bulk of the agreements are intergovernmental . . . This 'return of the State' is also associated with visions reprising a traditional look of national sovereignty (Serbin 2010, 17).

In essence, the focus on the return of the State is no stranger to the analysis in this paper, let alone its relationship with the traditional concept of national sovereignty. Finally, in third place, Serbin added that this new project "records a 'return to the development agenda', in sharp distancing with the Washington Consensus" (ibid.). This last element is crucial, as it undeniably exemplifies this combination of economic factors that, based on the rejection of the Washington Consensus and its prejudicial scope to the sovereignty of Latin American states, defends this, *sui generis*, integration by its identifying feature, with its own slogans that recover the sharpness of the voice and the voting weight of the countries of the region in hemispheric and international affairs.

This traditional concept of sovereignty is difficult to define, since it has been subject to constant change since its existence is known. Many of the authors are determined to speak of a "Westphalian" vision of sovereignty, even though in our first chapter we cited Professor Stephen Krasner, who remembered that the Peace of Westphalia had little to do with conventional notions of sovereignty. However, in order

to further the analysis, we should warn the reader, that it can appreciate how certain authors speak of Westphalian sovereignty, referring to what is here referred to as traditional or classical sovereignty. To Sanahuja (2008),

the 'Westphalian' or traditional conception of sovereignty that characterizes the Latin American political culture . . . is explained by the need to preserve some room for maneuver in national politics and the defense of national interests against neighboring countries (18-19).

To Serbin (2010), the countries in the region seek to reaffirm "the national sovereignty as a constitutive principle of Latin American legal heritage", which is reflected in their reluctance to "any transfer of the same in the name of some supranational legal order", reaffirming the sovereignty as an "inalienable principle of a Westphalian State emerged in the region with the independence struggles of the nineteenth century" (1). Sanahuja even suggests that this conceptualization of Westphalian style sovereignty, it may be redefined as "southphalian," combining this insistence on the traditional concept of sovereignty and at the same time constant and indispensable claim to regional integration. The same professor synthesizes more clearly this complexity, and, instead of speaking of the dilemma of this "southphalian" definition for Latin America of sovereignty, he poses a "trilemma . . . between the Nation-State and the desire for an effective regional integration and the search for international autonomy "(Sanahuja 2012, 62). According to Serbin (2010), this "obsession" with the principle of sovereignty is:

it is expressed very clearly in the caution in which it is structured and constructed the various agencies that promote regional integration and the repeated aspiration of imposing national interests in the schemes that form the current regional architecture (16).

Finally, Uruguayan President Jose Mujica, puts into words this contradictory feeling, this "trilemma" spoken by Sanahuja:

I do not know if we should succeed to achieve: to be closer together, to understand that countries are disjointed pieces of a nation . . . But the nation-state culture crosses by us . . . [and] we have difficulties to generate this 'us', this is the struggle today, the toughest, the hardest (Mujica 2011).

In Mujica logic, then, is the nation-state culture, with its principle of sovereignty, one of the biggest obstacles to integration.

4.2. Sovereignty in the Structure of UNASUR

Now, Serbin spoke of the "caution in which are structured and built the different levels of regional integration", so we will proceed to focus the discussion on UNASUR and its architectural model, carefully designed based on the principle of national sovereignty. It is at this point that we must necessarily address the issue of intergovernmentalism and supranation. Given the point that we have reached in this research, it does not seem difficult to locate UNASUR in one of two classifications: the Union is an intergovernmental institution, with no evidence yet to become supranational. Mario Rapoport (2008) agrees with this premise: "for now UNASUR is an intergovernmental agreement and not a supranational body." Why?

The difference between the two models was deeply discussed in the first chapter. As a reminder, Alberto Rocha *et al.* explains that

if the relationship [between the regional organization and its Member] involves political dependency, the legal-institutional functionality it is intergovernmental, however if the livelihood involves political autonomy, it will attend to a legal-institutional supranational functionality (Rocha and Morales, 2007).

Based on this, since the institution of UNASUR lacks political autonomy, and, conversely, it depends politically on the Member States, it is not wrong to say that we are facing with an intergovernmental institution. It is not seen in the South American case any intention of voluntarily transferring powers to the Union, which reaffirms its intergovernmental nature. The statement of the former General Secretary of UNASUR, Maria Emma Mejia, transmits this thesis, in all honesty, answering an interview she said that the Union "will not become a 'superpower'" since "the ideal is not to become a European Union," stating a "'grave mistake' to sacrifice national sovereignty 'for the sake of common sovereignty'" (Mejia 2012c). Touching on the subject of the European Union, Mejia reminds us of a quote from the Spanish Joaquín Roy, who, limiting its analysis to the economic crisis that Europe lived since 2008, said: "If today there are doubts about the survival of European supranationalism, in America is barely a hint" (Roy 2013). Talking about the latest created regional organizations (UNASUR, ALBA, CELAC), Roy seems to be right.

And yet, it should be mentioned that not all South American politicians thought as Mejia, especially before signing the UNASUR Constitutive Treaty. To quote one of

them, Bolivian President Evo Morales, who in the process of building the regional organization, and prior to the Second Summit of Heads of State of the South American Community of Nations, sent a letter to its eleven other colleagues:

I am aware that the South American nations have different processes and rhythms. Therefore, I propose a process of integration of different speeds. Let us make us an ambitious but flexible roadmap. That allows everyone to be a part, allowing each country to assume with the commitments that can take and allowing those who wish to do so to accelerate the pace towards the establishment of a real political, economic, social and cultural bloc. In this manner other integration processes have developed in the world and the most appropriate way is to advance towards the adoption of supranational instruments, respecting the times and the sovereignty of each country . . . Let us strength our sovereignty and our common voice. The South American Community of Nations can be a great leverage to defend and assert our sovereignty in a globalized and unipolar world. Individually, as individual countries, some may be more easily susceptible to pressure and external conditions. Together we have more chances of developing our own choices in different international settings (Morales 2006).

As can be seen in the CTU, his proposal of an "ambitious but flexible roadmap" was received, in the sense that the Treaty raises a number of broad objectives, but also establishes the principles of gradualness and flexibility. However, the suggestion to adopt supranational instruments did not have a no room in the region, although it is known that the Ecuadorian Rafael Correa support him afterwards, although this was not enough, ruling out the idea in the CTU. Nevertheless, in 2006 Evo Morales already recognized one of the postulates that we introduced in the first chapter, in relation to the fact that international organizations can serve to strengthen and bolster national states towards an effectively managed sovereignty. Morales coincided with the political scientist Guillermo Morales Omar Orsi, who, speaking of the destructive effects of globalization in the States (permeability of the borders and lack of physical communication boundaries, intensification of transnational crime, etc.) simultaneously suggested to discuss a "positive globalization "based on the" joint defense of individual sovereignties" (Orsi 2011). That is, contrary to the sectors that advise against that national sovereignty will disappear when forming a regional entity with supranational capability, it emerges antagonistic approaches that see integration as a tool for strengthening Member States.

It has been said that certain countries favored this supranational idea. However, there are reasons behind the divergent positions of other countries, the case of Brazil being one not to be ignored. Sanahuja (2008) states that the:

Brazilian diplomacy shows a clear preference for intergovernmental agreements with a low level of institutionalization, but this, in part, also responds to the limits established by the Brazilian constitutional system, which excludes in advance the supranationality (47).

The fact that precisely the Brazilian Constitution does not provide the possibility of ceding sovereignty to a regional body with binding powers over their members; it is not a minor detail, especially in a South American project of this magnitude. Being the largest country of all, representing more than half of the population and South American territories, and nearly 50% of GDP in the region, Brazil's positions on regional issues are crucial. And if the South American giant is not only unable to admit the possibility of ceding sovereignty to a regional body, but neither is willing to lead the process of concessions in various areas, then it is almost impossible that the rest of the region, under the same umbrella, would approve of it. As Sanahuja says, "Brazil is the only country with the economic and political capacity to take on the real costs of regional leadership" (*ibid.*), and regardless of whether its Constitution forbids it, we still have to see if the will to assume that risk; a matter in which the current hegemonic position of Germany in the European Union is not exactly encouraging. Citing Hurrell, quoted in the first chapter, UNASUR scheme has failed, and apparently not achieved, to tie the South American "Gulliver," although this is not necessarily a threat at this juncture.

This inability to transfer sovereignty in the case of Brazil, and the lack of willingness to engage in agreements of greater accuracy and range, are reflected in different moments and events of South American integration. For example, proposals such as establishing a parliament or South American Court, were rejected in the drafting of CTU, to be treated later, although to date there are no decisive progress. In both cases, the functions of the organs posed would require the states the transfer of some sovereignty, otherwise, its existence would be futile. In the first case, the idea of Parliament came to be echoed in the regional press, creating expectations, to the point that in October 2008, Evo Morales and Michelle Bachelet laid the "foundation stone" of what would be the legislative complex located in the Cochabamba, Bolivia, in a rural

area of 300 hectares (EFE, 2008). Morales was even stating that it "has to be larger than the European Parliament", which, when analyzed, has certain powers to legislate in Europe. It is curious that the presidents of both countries have been quick to take this step, even though if its take into account that there is not a consensus in the region around the terms under which it would create this instance. The issue of sovereignty weighed, though as the former adviser Néstor Kirchner in UNASUR, Facundo Nejamkis, says, the regional project cannot be delayed indefinitely: "any integration process is expected, at one point, to include the participation of civil society. Otherwise, it would be a process driven solely by the heads of States "(Nejamkis 2010). To date, the conduction of the process is the exclusive domain of governments. In the second case, the Court itself is far from materializing. Pablo Solón (2008) elaborates that "it was agreed not to mention it in the Treaty and calmly work in relation to this aspect, which inevitably involves a degree of supranationalism and that in the future may be subject to an additional protocol" (17), while Cardona (2008) adds that "there was no consensus to devise a mechanism similar to the one in Europe or the CAN, probably because of the importance that some prefer to give to inter-governmental and national sovereignty" (27). The South American Court case is very clear to show reluctance to the transfer of national sovereignty in order to transfer powers to a regional body with a binding character. Nejamkis demonstrates that: "there is nothing in the Constitutive Treaty that raises the issue of the transfer of sovereignty. There are no courts, no constitution of a supranational justice, supranational institutions."(Nejamkis 2010)

It is clear then, the state in which UNASUR develops: intergovernmentalism, as we talked about in the first chapter. With an air, perhaps, of frustration, Alberto D. Cimadamore (2010) recalls that "successful integration processes," the "transfer of certain aspects of sovereignty to regional institutions" is a "distinctive element" that "has been recognized even by the most sophisticated aspects of Intergovernmentalism, as for various aspects of Neofunctionalism and Institutionalism "(24-25). And yet, says Mellado

existing structures respond to conceptions that ultimately support the theoretical perspective of intergovernmentalism of the eighties and nineties, which

neorealism repositions the State as the essential element integration (Mellado 2010, 593), adding that the recent "liberal intergovernmentalist approach of Andrew Moravcsik, [holds] that national interests are what define the line of action in the integration processes" (ibid.), UNASUR being the case one of them.

International relations theory is complemented by the rich experience of integration in the region, which the Union is the "new" in the neighborhood. Regarding UNASUR, Cimadamore (2010) adds that a "long-term project is entirely subject to the variability of national policies that are defined mainly in the short term," as the South American strategy "favors in a insuperable manner the times and the multiplicity of national interests over regional ones," which does not support the claim of "reaching an ambitious set of purposes" as "common policies" that occur in "deep stages of regional integration" (26). We turn again to Nejamkis (2010), who as an adviser of the first General Secretary of UNASUR expressed his opinion about the South American project, being skeptical about the possibility of agreeing "common policies, the European Union style." This intergovernmentalism- that for Cimadamore (2010) reflects "one of the most basic versions Intergovernmentalism- has been, and is, behind the official ideology of the subregional integration schemes such as Mercosur, which has shown clear limitations to achieve the objectives agreed and move towards deeper integration stages "(24-25) it is confirmed, when Sanahuja (2008) states in "nature of the resolutions adopted: "Decisions, Resolutions and Provisions emanating from the bodies of UNASUR" it will only be binding when they have been incorporated through the appropriate legal standard, in the domestic legal system of each Member State" (36) . "In this manner," Mellado (2010) says,

the dynamics of regional integration would be determined, on the one hand according to the preferences of governments that support when it supplies a utilitarian function, i.e. when it reaffirms national interests . . . On the other hand, the state maintains control on the integration process from the start and at each of the stages as calculated by their interests and relative power that may be exercised at a specific issue (593-594).

And the CTU confirms this hypothesis, in Article 2, "confirming that the eventual transition to integration will be 'in the context of strengthening the sovereignty and independence of States'" (Cimadamore 2010, 24-25).

UNASUR is intergovernmental because it turned out to be the only model that obtained the consent of the twelve. And yet, the voices in the region have continued to point out the limitations of the organization, given the political and economic situation unbeatable and unique in years, it was expected in the beginning to reach strong levels of engagement with more sophisticated mechanisms of integration and cohesion than those of other existing regional projects. However, for Sanahuja

the future of this project is conditioned by nationalism and traditional views of sovereignty, and a regional construction, respectful of the foregoing, it has ab initio important institutional constraints derived from its eminently intergovernmental logic, of its internal asymmetries, and of the conditions of Brazilian leadership (Sanahuja 2012, 62)

Ultimately, it is the same limitations that prevented the success of previous projects in the region. Cimadamore (2010) coincides, who in his analysis of contrast between objectives and means to achieve them, concludes comparatively:

Mercosur has not been able to advance in time and manner towards the objectives set by the Treaty of Asuncion, relatively more accurate than Unasur, by the limitations of its institutional design. There is theoretical and empirical evidence that supports this hypothesis, therefore today it could not be assumed that it will work for Unasur what did not work for Mercosur and is observed in the breach of important goals and deadlines (24-25).

In relation to the European project, which in the present has seen its common institutions lose weight with bilateral/governmental management of the economic crisis, Piotr Maciej Kaczynski adds: "Ultimately, intergovernmentalism does not work, as it requires unanimity and there are no forces that can hold it together during conflict situations" (Kaczynski 2012). Perhaps aware of these limitations, Pablo Solón (2008) interpreted this reality, claiming that "no one denies that in the future it will be necessary to move towards supranational organizations, but today the Member States want it to be an agreement between governments where everyone is required to take into account one another to find a meeting point "(14). As we can see, there seems to be a tacit consensus among various intellectual and professional sectors about the need to advance towards the transference of sovereignty, at least in certain areas, if a regional integration scheme wants to be reached.

4.3. Final Thoughts

In the light of the preceding considerations, from the first chapter to the preceding paragraph, more than a few question: Is UNASUR a truly regional integration scheme? In a model that favors the prevalence of national positions, above the regional, that is intergovernmental and that is no iota of supranation, that it also reflects the most basic concepts of intergovernmentalism, that lacks different actors than the governments and therefore excludes civil society, NGOs and the private sector, which has been unable to create common and public regional policies, it has a central entity (General Secretariat) miniscule and without major powers, which requires an annual presidential meeting to set the tone and review its progress, which overlaps with the Foreign Ministries over the rest of state entities, which lacks an adhesive that makes it immune to government changes, that can hardly speak with one voice on the international stage, and in which decisions are taken by consensus not binding on Member States, is it possible to say that the region is being integrated through the Union of South American Nations? Is it really feasible to maintain this discourse?

More than a few analysts insist on questioning the “integrator” discourse of UNASUR, basing their arguments on empirical and theoretical reasoning. For example, Sergio Caballero, states that this organization

is hardly positioned as a regional integration project, since it is organized more like a body or forum for political coordination and cooperation to resolve certain matters of high politics (in particular geostrategic stability) and boost certain priority areas (mainly energy and infrastructure) (Caballero 2012, 12-13).

In the same vein, Carlos Malamud (2009) shows that “it is confused the function of a forum for consultation and political dialogue with an instance of integration.” For him, UNASUR “has functioned more as a space for political dialogue than a real tool to deepen regional integration,” comparing it with the Rio Group (102). “It is a coordinating institution where agreed standards are not legally binding” point out Dalponte *et al.* (2010, 130), becoming a “stage of negotiations of joint positions at the confluence of the South American States” (Borda 2012, 23). In his analysis, Orsi (2011) predicts that UNASUR will be consolidated “primarily as a political forum from which South American nations coordinate regional political positions,” thereby insists that

characteristic of "political forum" or "coordinating entity" of which other authors speak of, but even at this "coordination of issues," Manuel Mora y Araujo (2011) notes that "hardly" may "arise . . . something more than a desire not to exacerbate . . . the competition between member countries", and ends: in "Latin America, each country still faces its own fate." From the field, the same adviser of the first General Secretary, says that UNASUR

works very well as a political forum in the region, which manages to resolve conflicts autonomously, perhaps, these conflicts were resolved through a coup d'état, or were resolved with the intervention of a body outside the region or a foreign power. Therefore in that sense, UNASUR has an important role. Of course, I do not know if this will mean that at some point it will result in an integration process . . . For now, what it is; is a very powerful political forum in which countries in the region resolve their conflicts of interest (Nejamkis 2010). And we finish with Sanahuja (2012), who describes it as "an organization of political cooperation" which is evidenced in its "institutional precariousness," the "regulations" and "the risks involved in its strong presidential frame" (62).

Instead of talking of regional integration, the Brazilian Monica Hirst alluded to an "anarchic regionalism" that prevails in Latin America. This concept, introduced by Hirst (2009) unpretentious, it seems to have resonated with some regional analysts. Speaking of the position taken by the region surrounding the coup d'état in Honduras in 2009, Hirst notes that this "anarchic way of practicing regionalism" is based on some elements, such as "the rejection of the idea of (regional) government" "that has the authority and legitimacy in any subject of common interest," "an aspect in which UNASUR fits perfectly. Another element is the "preservation of liberty" in making decisions and actions of the organization, from the point of view of preservation and monitoring of sovereignty and independence of the countries of the region. The third element, Hirst mentioned the "spontaneity" as a pattern of regional relations, perhaps accentuated by changes in government and the consequent discontinuity in external integration strategies and international and regional diplomacy that characterizes our countries. For Hirst, another element to consider is the non-violent and peaceful that in general reins regional relations, an issue in which South America considers a bulwark its status as a nuclear-free zone. Finally, the scholar adds the reluctance of South American countries to excel as undisputed leaders in the region, perhaps because of the sensitivity

of the smaller countries, feelings that has not been forgotten of the classic South American quarrels, or by the same risks associated with leading a region with the particularities mentioned before. This characterization of regional processes, that Hirst makes, takes into account much of the discussion in this research, which is why our attention.

Placing UNASUR within the framework of “anarchic regionalism” of Hirst, we recognize that the organization cannot be treated in a different chapter than the one Latin America has us accustomed, with its traditions, concepts and particularities. In that sense, Dalponte *et al.* (2010) identified some “factors that leads to this anarchic regionalism,” one of them being the fact that “Latin American countries have not institutionalized multilateral agencies that were created,” “the strong power of presidential diplomacy,” and the “tendency to act in conflict resolution rather than on conflict prevention, for which it would be necessary the existence of more institutionalized organisms,” (145) which Serbin (2010) adds “the strong politicization of the regional agenda,” “the need to build consensus in a context marked by fragmentation,” “the limited achievements and progress in Sectoral concertation around specific issues but particularly relevant to the regional agenda” and “the absence of an effective commitment to anchor these processes in the formulation, implementation, monitoring and evaluation to an active citizen participation” (20). Ultimately, analysts agree on the limitations of regional integration agreements, or, if you will, of coordination.

Whether it is coordination or integration, few dare to predict the failure of UNASUR. Even as a political forum, a regional cooperation scheme can produce interesting results, though often are too specific and short term. The fact that States want to create these schemes, beyond the form and substance may be symptomatic of its nature: let us remember what Ruggie cataloged as “propensity” of States “towards international organizations.” To be sure, these schemes can meet the conjuncture or factual needs, reason why in its intergovernmental nature, it is observed that organizations created as instruments for the fulfillment of national objectives, as stated

in the first chapter. The case of UNASUR is no different. Since Cardozo had the twelve meet in Brasilia, it should not be surprising that the generated cohesion would become, over time, a regional organization, confirming the "propensity" of which Ruggie mentioned, perhaps prompted by the need for the voice of its member countries to resonate in the international arena. Indeed, given that during the last centuries the center of international relations has been North America, Europe and Eurasia; the South American region has typically remained in the periphery, classifying it more as a receiver than as "doer" of politics. I would say that, precisely, UNASUR comes to cover this gap, creating a space for those peripheral voices to resonate under the framework of an organization hard to ignore, as it sets its roots in a huge territory, with a young population and increasing in number, and with an amount of natural resources unmatched by any other region. And with this, we agree with Fawcett, appropriately cited in the first chapter when he stated the importance of the IGO to ensure a seat at the table to the traditionally excluded States from regionally and internationally decision making. And, "although the degree of institutionalization of the UNASUR is far from desired, all parties agree that the forum has proven to be the most appropriate tool to solve the problems of the region," says Gabriel Bencivengo (2011).

In all this context, UNASUR may be explained as an International Governmental Organization (IGO) whose regional member states, in order to strengthen their individual sovereignties, consensually agree to cooperate in a broad framework of sectors under the basic principles of intergovernmentalism, without ignoring the Latin American conceptual and customary particularities, and with a clear distance of modern notions of shared sovereignty. Call it "regional integration," "political forum," "anarchic regionalism" or "coordination space," the ones who speak of the Union of South American Nations should not ignore the concepts underlying this entity. The Union, after all, seems to capture the lessons from the story of Goethe's Sorcerer's Apprentice. That the analogy could continue to be quoted, depending on the path that UNASUR takes, whether its institutionality continues to evolve or involute.

Conclusions

Paraphrasing the Uruguayan José Mujica, is UNASUR the ideal mechanism to unite the disjointed great nation?

Throughout the four previous chapters, we have carefully reviewed some basic concepts inherent to the Union of South American Nations, including its basic regulations and also its institutional framework. Additionally, it has been provided the opinion of many scholars and experts as well as politicians and advisers, in order to strengthen the argument with first-hand material. This research does not pretend to solve the issues that have been raised -an almost impossible task in the field of political and social science-, this research has focused on identifying the underlying transcendental points of UNASUR, contextualizing the organization in the Latin American context and the historical tradition of the region. Understood as a structural diagnosis rather than a list of observations and recommendations, This paper has sought to go beyond the lyricism with which regional organizations are built, uncovering step by step and digging in the corners of their architectural design, such that the reader can be clear about the nature of the Union, and could forge its own opinion on this matter.

As seen, the opinions about the structure of UNASUR are, at least, dissimilar. While some wanted a more cohesive organization by the force of its Treaty, others sought a dialogue space more equitable, flexible, without binding commitments. And yet, the discourse of regional integration is present in virtually all political leaders in the region, some longing for the time when Simon Bolivar led the independence of our peoples, and dreamed of the creation of a Confederate nation, that could deal, on equal terms, with the great European and American powers. And despite, the reality is that there are boundaries that separate twelve countries, twelve wills, twelve South American States which seem aware that their future is not a unilateral action, but a collectively consensual activity. Not for nothing, the French scholar Jean-Michel Blanquer (2008) is still surprised that the "most homogeneous region of the world, from a cultural and historical point," does not have the most developed integration system of the planet,

although its homogeneity is debatable, if one takes into account the heterogeneity prior to the period of colonization.

In the same way, not in vein the concept of sovereignty has starred, transversely, the present analysis. Sovereignty is reflected in the Constitutive Treaty and, through it, in the rules and Regulations, as well as in the institutionalization of the organization. In this context, the principle of sovereignty is itself a source from which other concepts are broken other paradigms of integration, such as intergovernmentalism, consensus, the non-binding character, or the absence of entities with "super-powers," as a Court or Parliament. Consequently, it is not an exaggeration to illustrate to the Union as a pyramid of ideas and concepts, whose summit is the idea of sovereignty.

It was observed that the institutionalization of the UNASUR is built, at first, based on the Constitutive Treaty, but its analysis cannot ignore the Regulations, which carefully details not only the institutional structure, but the functions and characteristics of each sector of the Union. Our analysis has been possible to demonstrate, through a comparative and compiler exercise between the CTU and the Regulations, how the institutions of the Union have been designed; taking precautions at all times the empowerment of its bodies through a sovereigntist vision. Without necessarily agreeing with the opinion, some authors even claim that UNASUR foundational agreements constitute a shield against any "supranationalist" aspirations which may arise from the South American instances.

In such a scenario, we glimpsed the way in which, for example, the Presidents are the only ones who can truly decide transformative and transcendental issues in the process of consolidation of the South American project. This situation is not random, but carefully designed so that it is the executive of each of the twelve who approve or disapprove the proposal, in full sign of distrust of power models that provide executive and decision attributes to Senior Officers or officials with plenipotentiary powers that could well fulfill the functions of the Council of Heads of State. As we have seen, this feature is attributable not only to the idea that the administration of sovereignty is vested

in the Executive, but the "Presidentialist" tradition in Latin America, which places the Heads of State at a level of prominence that other power entities of the States of our region do not enjoy, and that, consequently, makes us think about international relations based on the quality of existing interpresidential relationships. The scenario becomes even less encouraging when we relate this feature with the lack of institutional or interdependence, strong ties enough to reduce the risk of conflict and dissuade actors when dealing with antagonistic pairs. Clearly, UNASUR does not provide such strong institutional ties which were talked about.

Moreover, this analytical exercise would not have been complete without a comparative practice between the entity with the major powers (i.e. "Council of Heads of State") and one that has limited powers. This is that the central issue of this research. If, at one extreme we find a Council of Heads of State leading, powerful, crucial, at the other end we can see a General Secretariat limited, helpless, passive. And it just seems to not influence the fact that the former usually meets only once a year, and the latter, in theory, works permanently and uninterruptedly. In UNASUR, the word "Secretariat" was took almost literally classifying it with restricted features, which make it an unattractive position for presidential class characters in South America. Sadly, the resignation of Rodrigo Borja contained a grayish prognosis that it seems to becoming reality. Even the drafting and adoption of the Regulations of the organization could reinvigorate a General Secretariat unlikely to serve as a credible interlocutor to the world from the organization, and vice versa. The fact that, at the date of conclusion of this research (i.e., nearly six years after the signing of CTU), the General Secretariat still does not have a real team of own officials, it is by itself revealing.

In this context, to mention the idea of supranational is falling into absurdity. The comparative exercise of the previous paragraph, and what we have seen throughout this investigation, we can easily tell the prevalence of a basic intergovernmental model, elemental, which prioritizes the will of States over the consolidation of a region in which internal borders are, today, true walls that protect the exercise of sovereignty that seems to have root in the State, rather than in the people themselves. These walls are skillfully

replicated in a Constitutive Treaty that, at all times, carefully uses its vocabulary to avoid compromising an ounce of the sovereignty of Member States. This setting blocks the emergence of a regional idea, a regional identity, a regional vision, because, besides the rejection of the possibility of ceding sovereignty to regional administration, suffers from a chronic lack of actors other than the executive powers of the twelve, without which it is almost impossible to speak of a true integration. The veil of intergovernmentalism could prevent to see clearly the possibilities of moving towards deeper integration stages, although their own limitations could also trigger corrections in the same direction.

The time is right to also reflect on the political situation and its relevance to South American regional integration. For some, it is frustrating that South America agreed on one "basic agreement" on a unique political moment for the region, with many of its leaders ideologically connected to the "left," and with another important part of leaders less related but equally committed -at least in their discourse- with the regional integration. Without strong institutional or solid interdependent ties, thinking on a future recurrence of a political moment similar to the current one leaves us with more questions than answers. And yet, it would be unfair to attribute this scenario only to the political leaders of the region. It is not news to anyone the reluctance of those who make up the state structures to cede power spaces or be held accountable for their actions to new regional entities, in addition to the difficulty of achieving a paradigm shift dominated by sovereign States in the last 200 years. There are powers entrenched in national institutions, for which a change is only acceptable if it is to grab more power, but not to yield it. This short-term view is shared by multiple actors in the national political activity of the Member States, who do not see the long term benefits of regional cohesion that can truly influence the fate of the region and the world, and to deal on the same level with the other try to you to face with the other "major players" of the world. This congenital blindness replicates, with striking similarities, the frustrated attempts of the Liberator Simon Bolivar to unite the departments of Gran Colombia, a task that was impossible for the selfish interests and lack of vision for the future of the other regional leaders at the time.

Of course, to paint gray the big picture would be irresponsible when analyzing the recent born UNASUR. In fact, nearly six years of existence (almost 3 since the entry into force of CTU) are insufficient to judge the efficiency and to determine the success or failure of an organization that, except for specific exceptions, maintains a positive image and still has hopes of integration not only of South American governments, but to the citizenry in general. This "internal chemistry" defined by Granovsky, that "South American patriotic feeling" alluded by Follonier, and that South American project personified by Maria Emma Mejia, are all excuses, if you will, to imagine an integrated South America becoming a link to bring together the great Latin America. Santos Caballero (2012) states when suggesting, the idea that UNASUR, beyond its stated objectives, "aspires to become the identity field, in a way, in a kind of guarantor of Latin Americaness" (12-13). The construction of the Bolivarian ideal, of the "largest, richest and most powerful State of the world," takes on new significance with UNASUR, but only time will determine if this organization will serve this purpose. Integration requires the commitment not only of politicians, but of the citizenry, that should take this goal without denunciation. Therefore, it is a civic duty to contribute to the vitality of the South American project and sustain a process that began two hundred years ago and, despite its setbacks, remains a legitimate aspiration that will know how to find a place in the future history of our people . This is without a doubt.

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Annex I
CONSTITUTIVE TREATY OF THE
UNION OF SOTUH AMERICAN NATIONS

The Republic of Argentina, the Republic of Bolivia, the Federative Republic of Brazil, the Republic of Chile, the Republic of Colombia, the Republic of Ecuador, the Cooperative Republic of Guyana, the Republic of Paraguay, the Republic of Peru, the Republic of Suriname, the Oriental Republic of Uruguay and the Bolivarian Republic of Venezuela.

PREAMBLE

BASED on the shared history and solidarity of our multiethnic, multilingual and multicultural nations, which have fought for the emancipation and unity of South America, honouring the vision of those who forged our independence and freedom in favour of that union and the building of a common future;

INSPIRED by the Cusco Declaration (December 8th, 2004), the Brasilia Declaration (September 30th, 2005) and the Cochabamba Declaration (December 9th, 2006);

AFFIRMING their determination to build a South American identity and citizenship and to develop an integrated regional space in the political, economic, social, cultural, environmental, energy and infrastructure dimensions, for the strengthening of Latin America and Caribbean unity;

CONVINCED that the South American integration and South American unity are necessary to promote the sustainable development and wellbeing of our peoples, and to contribute to the solution of the problems which still affect our region, such as persistent poverty, social exclusion and inequality;

CERTAIN that integration is a decisive step towards the strengthening of multilateralism and the rule of law in international relations in order to achieve a multipolar, balanced and just world, in which the sovereign equality of States and a culture of peace prevail and in a world free of nuclear weapons and of weapons of mass destruction;

CONFIRMING that both South American integration and the South American union are based on the guiding principles of: unlimited respect for sovereignty and territorial integrity and inviolability of States; self-determination of the peoples; solidarity; cooperation; peace; democracy, citizen participation and pluralism; universal, interdependent and indivisible human rights; reduction of asymmetries and harmony with nature for a sustainable development;

UNDERSTANDING that South American integration should be achieved through an innovative process, which would include the progress achieved so far by the MERCOSUR and CAN processes, as well as the experiences of Chile, Guyana and Suriname, and which goes beyond the convergence among them;

CONSCIOUS that the process of building a South American integration and union is ambitious in its strategic objectives and will be flexible and gradual in its implementation, ensuring that each State honour its commitments according to its own reality;

RATIFYING that fully functioning democratic institutions and the unrestricted respect for human rights are essential conditions for building a common future of peace, economic and social prosperity and for the development of integration processes among the Member States;

AGREE:

Article 1

Constitution Of UNASUR

The States Party to this Treaty decide to constitute the Union of South American Nations (UNASUR) as an entity with international juridical character.

Article 2

Objective

The objective of the South American Union of Nations is to build, in a participatory and consensual manner, an integration and union among its peoples in the cultural, social, economic and political fields, prioritizing political dialogue, social policies, education, energy, infrastructure, financing and the environment, among others, with a view to eliminating socioeconomic inequality, in order to achieve social inclusion and participation of civil society, to strengthen democracy and reduce asymmetries within the framework of strengthening the sovereignty and independence of the States.

Article 3

Specific Objectives

The South American Union of Nations has the following objectives:

- a) The strengthening of the political dialogue among Member States to guarantee a space for consultation in order to reinforce South American integration and the participation of UNASUR in the international arena;
- b) The inclusive and equitable social and human development in order to eradicate poverty and overcome inequalities in the region;
- c) The eradication of illiteracy, the universal access to quality education and the regional recognition of courses and titles;
- d) Energy integration for the integral and sustainable use of the resources of the region, in a spirit of solidarity;
- e) The development of an infrastructure for the interconnection of the region and among our peoples, based on sustainable social and economic development criteria;

- f) Financial integration through the adoption of mechanisms compatible with the economic and fiscal policies of Member States;
- g) The protection of biodiversity, water resources and ecosystems, as well as cooperation in the prevention of catastrophes and in combating the causes and effects of climate change;
- h) The development of concrete and effective mechanisms to overcome asymmetries, thus achieving an equitable integration;
- i) The consolidation of a South American identity through the progressive recognition of the rights of nationals of a Member State resident in any of the other Member States, with the aim of attaining a South American citizenship;
- j) Universal access to social security and health services;
- k) Cooperation on issues of migration with a holistic approach, based on an unrestricted respect for human and labour rights, for migratory regularisation and harmonisation of policies;
- l) Economic and commercial cooperation to achieve progress and consolidation of an innovative, dynamic, transparent, equitable and balanced process focused on an effective access, promoting economic growth and development to overcome asymmetries by means of the complementarities of the economies of the countries of South America, as well as the promotion of the wellbeing of all sectors of the population and the reduction of poverty;
- m) Industrial and productive integration, focusing especially on the important role that small and medium size enterprises, cooperatives, networks and other forms of productive organisation may play;
- n) The definition and implementation of common or complementary policies and projects of research, innovation, technological transfer and technological production, aimed at enhancing the region's own capacity, sustainability and technological development;
- o) The promotion of cultural diversity and the expression of the traditions and knowledge of the peoples of the region, in order to strengthen their sense of identity;
- p) Citizen participation through mechanisms for interaction and dialogue between UNASUR and the various social actors in the formulation of South American integration policies;
- q) Coordination among specialised bodies of the Member States, taking into account international norms, in order to strengthen the fight against corruption, the global drug problem, trafficking in persons, trafficking in small and light weapons, terrorism, transnational organised crime and other threats as well as for disarmament, the non-

proliferation of nuclear weapons and weapons of mass destruction, and elimination of landmines;

r) The promotion of cooperation among the judicial authorities of the Member States of UNASUR.

s) The exchange of information and experiences in matters of defence;

t) Cooperation for the strengthening of citizen security;

u) Sectoral cooperation as a mechanism to deepen South American integration, through the exchange of information, experiences and capacity building.

Article 4

Bodies

The Bodies of UNASUR are:

1. The Council of Heads of State and Government

2. The Council of Ministers of Foreign Affairs

3. The Council of Delegates

4. The General Secretariat

Article 5

Institutional Development

Sectoral Ministerial Meetings, and meetings of the Councils at Ministerial level, Working Groups and other institutional levels may be convened as required on a permanent or temporary basis, in order to fulfil the mandates and recommendations of the competent bodies. These bodies will report on their activities through the Council of Delegates, which will present its findings to the Council of Heads of State and Government or to the Council of Ministers of Foreign Affairs, as appropriate.

The agreements adopted by the Sectoral Ministerial Meetings, Councils at Ministerial level, Working Groups and other institutional levels will be submitted for consideration by the competent body which has summoned or created them.

The Energy Council of South America, created by the Declaration of Margarita (April 17th, 2007), is part of UNASUR.

Article 6

The Council of Heads of State and Government

The Council of Heads of State and Government is the highest organ of UNASUR.

Its responsibilities are:

- a) To establish policy guidelines, plans of action, programmes and projects of the South American integration process and to decide on the priorities to be implemented;
- b) To summon Sectoral Ministerial Meetings and to create Councils at Ministerial level;
- c) To decide on the proposals presented by the Council of Ministers of Foreign Affairs;
- d) To adopt the political guidelines for relation with third parties;

The ordinary meetings of the Council of Heads of State and Government will be held annually. Upon the request of a Member State, extraordinary meetings may be summoned through the Pro Tempore Presidency, subject to the consensus of all Member States of UNASUR.

Article 7

The Pro Tempore Presidency

The Pro Tempore Presidency of UNASUR will be held successively by each of the Member States, in alphabetical order, for periods of one year.

Its responsibilities are:

- a) To prepare, summon and preside over the meetings of the bodies of UNASUR;
- b) To present to the Council of Ministers of Foreign Affairs and to the Council of Delegates the annual program of activities of UNASUR, with dates, venues and agenda of the meetings of its bodies in coordination with the General Secretariat;
- c) To represent UNASUR in international events, with the prior authorization of the Member States;
- d) To undertake commitments and to sign Declarations with third parties, with prior consent of the appropriate bodies of UNASUR.

Article 8

The Council of Ministers of Foreign Affairs

The Council of Ministers of Foreign Affairs has the following functions:

- a) To adopt Resolutions in order to implement the Decisions of the Council of Heads of State and Government;
- b) To propose draft Decisions and prepare the meetings of the Council of Heads of State and Government;
- c) To coordinate positions on central themes of South American integration;
- d) To develop and promote political dialogue and coordination on themes of regional and international interest;

- e) To oversee and evaluate the integration process as a whole;
- f) To approve the annual Programme of activities and the annual working budget of UNASUR;
- g) To approve the financing of the common initiatives of UNASUR;
- h) To implement the policy guidelines for relations with third parties;
- i) To approve resolutions and regulations of an institutional nature or on other themes falling within its jurisdiction;
- j) To create Working Groups based on the priorities established by the Council of Heads of State and Government.

The ordinary meetings of the Council of Ministers of Foreign Affairs will be held every semester and may be convened by the Pro Tempore Presidency on an extraordinary basis at the request of half of the Member States.

Article 9

The Council of Delegates

The Council of Delegates has the following functions:

- a) To implement, through the adoption of the appropriate Provisions, the Decisions of the Council of Heads of State and Government, and the Resolutions of the Council of Ministers of Foreign Affairs, with the support of the Pro Tempore Presidency and the General Secretariat;
- b) To prepare the meetings of the Council of Ministers of Foreign Affairs;
- c) To prepare draft Decisions, Resolutions and Regulations for the consideration of the Council of Ministers of Foreign Affairs;
- d) To ensure the compatibility and to coordinate the initiatives of UNASUR with other existing regional and subregional integration processes in order to promote the complementarity of efforts;
- e) To establish, coordinate and oversee the Working Groups;
- f) To oversee the political dialogue and consultation and coordination on issues of regional and international interest;
- g) To encourage the opportunities for dialogue so as to facilitate citizen participation in the South American integration process;

h) To propose to the Council of Ministers of Foreign Affairs, for its consideration and approval, the draft ordinary annual working budget.

The Council of Delegates is composed of one accredited representative of each Member State. It will meet preferably every two months, in the territory of the State which occupies the Pro Tempore Presidency or another agreed venue.

Article 10

The General Secretariat

The General Secretariat is the body that, under the leadership of the Secretary General, executes the mandates conferred upon it by the organs of UNASUR and represents them accordingly. Its headquarters shall be the city of Quito, Ecuador.

Its responsibilities shall be:

a) To support the Council of Heads of States and Government, the Council of Ministers of Foreign Affairs, the Council of Delegates and the Pro Tempore Presidency in the fulfilment of their duties;

b) To propose initiatives and to oversee the implementation of the directives of the organs of UNASUR;

c) To participate with the right to speak and to perform the role of secretary in the meetings of the organs of UNASUR;

d) To prepare and submit the Annual Report and the respective reports to the corresponding organs of UNASUR;

e) To serve as depository of the Agreements in the framework of UNASUR and to arrange for their respective publication;

f) To prepare the draft Annual Budget for the consideration of the Council of Delegates and to adopt the necessary measures for its proper management and execution;

g) To prepare the draft Regulations for the functioning of the General Secretariat and to submit them for the consideration and approval of the corresponding organs;

h) To coordinate with other integration and cooperation entities of Latin America and the Caribbean with a view to developing those activities requested by the bodies of UNASUR;

i) To execute, according to the regulations, all the legal acts necessary for the proper administration and management of the General Secretariat;

The Secretary General shall be appointed by the Council of Heads of State and Government, following a proposal by the Council of Ministers of Foreign Affairs, for a term of two years, renewable only once. The Secretary General shall not be succeeded by a person of the same nationality.

During the exercise of his or her functions, the Secretary General and the staff of the General Secretariat shall be exclusively dedicated to UNASUR and will not request, neither accept, instructions from any Government nor any authority other than UNASUR, and will refrain from acting in a manner inconsistent with their status as international civil servants with sole responsibility to this international organisation.

The Secretary General shall be the legal representative of the General Secretariat.

In the selection of the employees of the General Secretariat, an equitable representation for each Member State will be guaranteed, taking into account, as far as possible, criteria of gender, language, ethnicity and others.

Article 11

Juridical Sources

The juridical sources of UNASUR are the following:

1. The Constitutive Treaty of UNASUR and other additional instruments;
2. The Agreements concluded by the Member States of UNASUR as a consequence of the instruments mentioned in the item above;
3. The Decisions of the Council of Heads of State and Government;
4. The Resolutions of the Council of Ministers of Foreign Affairs;
5. The Provisions of the Council of Delegates.

Article 12

Approval of the Legislative Measures

All the norms of UNASUR will be adopted by consensus.

The Decisions of the Council of Heads of State and Government, the Resolutions of the Council of Ministers of Foreign Affairs and the Provisions of the Council of Delegates may be adopted with the presence of at least three quarters (3/4) of the Member States.

The Decisions of the Council of Heads of State and Government, the Resolutions of the Council of Ministers of Foreign Affairs adopted without the presence of all Member States, shall be forwarded by the Secretary General to the absent States, which shall make known their position within thirty (30) days after receipt of the document in the appropriate language. In the case of the Council of Delegates, that deadline shall be fifteen (15) days.

The Working Groups shall hold sessions and make proposals as long as they have a quorum of half plus one of the Member States.

The legislative measures emanating from the organs of UNASUR will be binding on the Member States once they have been incorporated into each Member State's domestic law, according to its respective internal procedures.

Article 13

Adoption of Policies and Creation of Institutions, Organizations and Programmes

One or more Member States may submit for the consideration of the Council of Delegates a proposal for adoption of policies, creation of common institutions, organisations and programmes which will be adopted in a consensual manner, on the basis of a flexible and gradual criteria of implementation according to the objectives of UNASUR and the provisions of Articles 5 and 12 of this Treaty.

Programmes, institutions and organisations in which Member States participate prior to the entry into force of this Treaty may be considered as UNASUR programmes, institutions or organisations, in accordance with the procedures outlined in this article and in accordance with the objectives of this Treaty.

The proposals will be submitted to the Council of Delegates. Once approved by consensus, they will be forwarded to the Council of the Ministers of Foreign Affairs and, subsequently, to the Council of Heads of State and Government, for approval by consensus. When a proposal has not obtained consensus, it may only be submitted to the Council of Delegates six months after its last inclusion in the agenda.

Once a proposal is approved by the highest body of UNASUR, three or more Member States may begin to implement it, provided that the possibility of inclusion of other Member States in such a common initiative is guaranteed and periodical reports of its implementation are presented to the Council of Delegates.

Any Member State may completely or partially refrain from implementing an approved policy, be it for a period defined beforehand, or for an indefinite period, without preventing it from later joining the total or partial implementation of that policy. In the case of institutions, organisations or programmes which are created, any Member State may participate as an observer, or refrain from participating fully or partially for a definite or indefinite period.

The adoption of policies and the creation of institutions, organisations and programmes will be regulated by the Council of Ministers of Foreign Affairs, following a proposal by the Council of Delegates.

Article 14

Political Dialogue

The political consultation and coordination among the Member States of UNASUR will be based on harmony and mutual respect, strengthening regional stability and supporting the preservation of democratic values and the promotion of human rights.

Member States will reinforce the practice of consensus-building on the central themes on the international agenda and will promote initiatives that affirm the identity of the region as a dynamic factor in international relations.

Article 15

Relationship with Third Parties

UNASUR will promote initiatives for dialogue on themes of regional or international interest and will seek to strengthen cooperation mechanisms with other regional groups, States and other entities with international legal character, focusing on projects in the areas of energy, financing, infrastructure, social policies, education and others to be identified.

The Council of Delegates with the support of the Pro Tempore Presidency and the General Secretariat is responsible for overseeing the implementation of activities. For the purpose of achieving proper coordination, the Council of Delegates shall be informed of and consider the positions that UNASUR will adopt in its relationship with third parties.

Article 16

Financing

The Council of Delegates will propose to the Council of Ministers of Foreign Affairs, for consideration and approval, the draft Annual Ordinary Budget for the functioning of the General Secretariat.

The financing of the ordinary budget for the functioning of the General Secretariat will be based on differentiated contribution quotas of the Member States to be determined by a Resolution of the Council of Ministers of Foreign Affairs, following a proposal by the Council of Delegates, taking into account the economic capacity of the Member States, shared responsibility and the principle of equity.

Article 17

Parliament

The creation of a South American Parliament, whose seat shall be the city of Cochabamba, Bolivia, will be the subject of an Additional Protocol to the present Treaty.

Article 18

Citizen Participation

Full citizen participation in the process of South American integration and union will be promoted by means of dialogue and interaction in a broad, democratic, transparent, pluralistic, diverse and independent manner with the various social actors, establishing effective channels of information, consultation and supervision in the different bodies of UNASUR.

The Member States and organs of UNASUR will promote innovative mechanisms and spaces to encourage discussion of various issues ensuring that the proposals submitted by civil society receive adequate consideration and response.

Article 19

Associate States

Other Latin American and Caribbean States that request participation as Associate States of UNASUR may be admitted with the approval of the Council of Heads of State and Government.

The rights and obligations of the Associate States will be regulated by the Council of Ministers of Foreign Affairs.

Article 20

Accession of New Members

After the fifth year of the entry into force of the present Treaty and taking into account the aim of strengthening Latin American and Caribbean unity, the Council of Heads of State and Government may consider requests for accession as Members States by Associate States, that have held such a status for four years, by means of a consensual recommendation by the Council of Ministers of Foreign Affairs. The respective Protocols of Accession will enter into force 30 days after the completion of the ratification process by all Members States and the acceding State.

Article 21

Dispute Settlement

Any dispute that may emerge between States Parties regarding the interpretation or implementation of the provisions of this Constitutive Treaty will be settled through direct negotiations.

In the case where a solution is not reached through direct negotiation, the Member States involved will submit the dispute for the consideration of the Council of Delegates, which will formulate within 60 days, the appropriate recommendations for the settlement of the dispute.

If a solution is not reached by the Council of Delegates, the dispute will be taken to the Council of Ministers of Foreign Affairs, which will consider it at its next meeting.

Article 22

Privileges and Immunities

UNASUR shall enjoy in the territory of each of its Member States, the privileges and immunities necessary for the fulfilment of its functions.

The representatives of the Member States of UNASUR and the international employees of UNASUR will therefore benefit from the privileges and immunities necessary for the independent exercise of their functions with relation to this Treaty.

UNASUR shall establish with the Republic of Ecuador the corresponding Headquarters Agreement which will establish the specific privileges and immunities.

Article 23

Languages

The official languages of the Union of South American Nations will be English, Spanish, Portuguese and Dutch.

Article 24**Validity and Denunciation**

This treaty will have an indefinite validity. It may be denounced by any of the Member States by means of a written notification to the Depositary, which shall communicate such notification to the other Member States.

The denunciation will have effect six (6) months after the date in which the notification is received by the Depositary.

The notification of the denunciation shall not exempt the Member State of the obligation to pay outstanding ordinary contributions.

Article 25**Amendments**

Any Member State may propose amendments to this Constitutive Treaty. The proposed amendments will be communicated to the General Secretariat which shall notify the other Member States for its consideration by the bodies of UNASUR.

The amendments approved by the Council of Heads of State and Government will follow the procedure established in article 26 for entry into force.

Article 26**Entry Into Force**

The present Constitutive Treaty of the Union of South American Nations will enter into force thirty days after the date of receipt of the 9th instrument of ratification.

The instruments of ratification will be deposited before the Government of the Republic of Ecuador, which will communicate the date of deposit to the other States, as well as the date of entry into force of this Constitutive Treaty.

For the Member State which ratifies the Constitutive Treaty after the deposit of the 9th instrument of ratification, the Treaty will enter into force 30 days after the date in which that State deposits its instrument of ratification.

Article 27**Registration**

This Constitutive Treaty and its amendments will be registered at the United Nations Secretariat.

Transitory Article

The Parties agree to appoint a Special Commission, coordinated by the Council of Delegates and composed of representatives of the National, Regional and Subregional

Parliaments, with the objective of preparing a draft of an Additional Protocol which will be considered in the IV Summit of Heads of State and Government. This Commission will meet in the city of Cochabamba. Such an Additional Protocol will determine the composition, attributions and functioning of the South American Parliament.

Done in the city of Brasilia, Brazil, on the 23rd day of the month of May of the year 2008, in original copies in the English, Spanish, Portuguese and Dutch languages, the four texts being equally authentic.