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Varieties of Regional Integration: The EU, NAFTA and Mercosur

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ABSTRACT The closing of the twentieth century witnessed the proliferation of regional trade areas: a reinvigorated EU became one of almost 170 integration efforts. The first comparative analyses have suggested that these RTAs, despite sharing broadly similar objectives, are remarkably different projects. This article contributes to these works by examining two under-explored dimensions of variation: the laws of RTAs and how organizations – in particular interest groups, businesses and national administrations – have adjusted to their new legal environments. The article then suggests that the observable variation is likely to endure: the legal systems of RTAs reflect institutional realities in the member states, especially local legal traditions and power arrangements. The analysis focuses on the EU, NAFTA and Mercosur, using evidence from three realms: working women, dairy products and labour rights. The article concludes with some reflections on cross-RTA trade and the possibility of future convergence, competitiveness and the function of regulation in RTAs.

KEY WORDS: Integration, law, organizations, European Union, NAFTA, Mercosur

Between 1990 and 1994, officials from the World Trade Organization were notified of thirty-three new regional trade agreements (RTAs). This doubled the total to sixty-eight (International Monetary Fund 1994; Frankel 1997). Then, between 1995 and 2001 an additional one hundred RTAs formed. A dense network of regional agreements covered much of the world. As one observer wrote, RTAs became "almost a craze in the sedate world of economics, springing up here, there and everywhere" (Urata 2002, 21). The most prominent examples included the North American Free Trade Agreement (NAFTA), the Free Trade Area of the Association of Southeast Asian

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Nations, the South African Development Community Protocol on Trade, South America's Mercosur and, following the Single European Act of 1986, a rejuvenated EU.

Scholars, politicians and observers first reacted to these events by taking the wave of integration itself as the unit of analysis. They asked what variables – economic, political, social – might explain the movement towards free trade areas.[1] They wondered whether RTAs should be seen as "stumbling blocks or building blocks for a more integrated and successful economy" (Lawrence 1996, 2).[2] They assessed the impact of RTAs on the environment, development, the poor, women and other segments of society.[3] And they investigated how this wave of integration, often referred to as 'new regionalism', might differ from earlier movements towards integration in the 1950s and 1960s, especially with regard to global governance, ideology and hegemony, world politics and other dimensions beyond trade.[4]

As these debates progressed, some researchers began posing comparative questions. To what extent, they asked, is it accurate to think of this collective movement towards regional integration as a homogenous event? RTAs certainly share broadly similar objectives; yet, how similarly did the pursuit of those objectives materialize in the various regions of the world? The first studies to emerge from this comparative impulse have pointed to two important dimensions of variation. There are structural differences between RTAs: the EU, for instance, exhibits supranational characteristics absent in NAFTA or Mercosur (Grieco 1997, 169; Mansfield & Milner 1997, 14). NAFTA, in turn, has more rigid dispute resolution mechanisms than Mercosur (Blum 2000) and relies on a more decentralized approach to labour issues than the EU (Teague 2003, 428). There are also significant policy differences. With regard to the environment, for instance, the EU is more progressive than NAFTA, which is in turn more progressive than Mercosur (Grieco 1997; Mansfield & Milner 1997; Milner 1997; Atkinson 1999). When taken together, these comparative studies point to variation in the design of RTAs.

This article contributes to these emerging comparative studies, as well to the efforts of scholars interested in the non-economic dimensions of the new regionalism, by examining two under-explored but crucial dimensions of integration. Turning to the design of RTAs, it considers the nature of regional law. Much RTA law seeks to standardize definitions of, and normative stances towards, the world: what is 'fresh fish'? What is 'advertising'? Should men and women be paid equally for equal work? How much sulphur dioxide should power stations emit into the atmosphere? Such standardization is to be expected, since integration typically asks people from fairly different cultures to participate in a single marketplace. What is puzzling, however, is that officials – while in pursuit of free trade – have chosen to standardize very different aspects of the world as we move from one RTA to the next. Moreover, when targeting similar aspects, they have crafted quite different standardizing principles. The targets and content of regional law vary considerably across RTAs.

This article then considers how societal organizations – namely interest groups, businesses and state administrations – have adjusted to their legal

environments. Standardization at the regional level in any given realm of social life creates transnational spaces that stimulate the international expansion of those organizations that operate in those realms. It is easier for businesses to set up new international plants and operations. Interest groups have reason to mobilize at the regional level to influence the course of future legislation. And state administrations, typically responsible for enforcing regional law, are often asked to establish permanent transnational forums for cooperation and set up domestic units to oversee the implementation of regional principles. This article argues that these organizational adjustments are visible across RTAs. Crucially, however, they differ from RTA to RTA. Depending on their legal environment, different organizations have expanded internationally; when similar ones have done so, their specific programmes and structures differ.[5]

This article suggests that variation in law, and therefore organizational arrangements, is enduring. This is so because, as Héritier (1996) observed when discussing the EU in her 'uploading' argument, the laws of any one RTA reflect existing institutional realities in the member states. Specifically, officials have crafted regional laws that embody, or only mildly depart from, principles that already exist in most, if not all, of the member states. Their choices have generally reflected the will of powerful actors in the member states. When those traditions are too different, or when a history of regulation in the member states over a given topic is lacking, or when powerful actors show little interest in legal developments, RTA officials have generally avoided crafting regional regulatory regimes on those topics.

To support these claims, this article produces empirical evidence from three of the most important RTAs in existence: the EU, North America's NAFTA (comprising Canada, Mexico and the United States) and South America's Mercosur (comprising Argentina, Brazil, Paraguay and Uruguay).[6] The data – gathered from reviews of legal texts (directives and regulations for the EU, the treaty text and side agreements for NAFTA, decisions and resolutions for Mercosur), interviews with key actors, analyses of official reports and other sources – concerns legal and organizational developments in three important realms of social life: law on women in the workplace and the evolution of women's interest groups; law on dairy products and the expansion of dairy companies; law on labour rights and adjustments by state administrative structures. By necessity, the analysis is selective: the objective is not to put forth a comprehensive or definitive comparison of the three RTAs, but to present some of the most striking evidence of variation.

The next three sections consider legal and related organizational developments in the EU, NAFTA and Mercosur. The subsequent section accounts for the observable divergence in law across those RTAs. The concluding section reflects on broader issues raised by the findings. Is the distinctiveness of RTAs permanent or, as trade increases and the relationship between RTAs intensify, will there be increased pressure for some degree of legal convergence? The question is also asked whether different regulatory frameworks and organizational arrangements have an impact on the competitiveness of interest groups and business across RTAs. Finally, in light of the legal

differences among RTAs, we wonder about the role of regulation in RTAs and specifically if and when it is necessary.

The World of Working Women

In the EU, NAFTA and Mercosur women have increased their participation in the labour force (Gabriel & Macdonald 1994, 537; Ulshoefer 1998). Yet, only in the EU have officials developed an extensive legal system rich with definitional and normative notions about women. Table 1 identifies the key EU legislation on women.

Scholars have described two fundamental phases in the evolution of EU law on women. In the first phase, during the 1970s and 1980s, planners focused on promoting equal pay between the genders: defining and regulating wages, benefits and so on. In the second phase, during the 1990s, planners focused on defining and promoting equality of treatment and opportunities for women (Pollack & Hafner Burton 2001).[7]

By contrast, NAFTA has produced only one major normative principle in favour of working women. NAFTA's labour agreement is known as the North American Agreement on Labor Cooperation (NAALC). It was adopted as part of the Free Trade Agreement in 1994 and committed Canada, Mexico and the United States to the promotion of eleven 'labor principles'. Its eighth principle requires member states to promote equal pay for men and women. Member states are to ensure "equal wages for women and men by applying the principle of equal pay for equal work in the same establishment" (Annex 1). With this principle, NAFTA has taken a first step towards the development of regional-level laws about women.

Table 1. EU Law on women in the workplace

General Area	Specific Issues
Pay	Equal pay for equal work or work of equal value (D. 75/117)
Workplace Treatment	Equal treatment in employment, occupation, vocational training, promotion and working conditions (D. 76/207, D. 2000/78)
Social Security Benefits	Women's ability to contribute and benefit from social security schemes at the workplace (D. 79/7)
Occupational Security schemes	Equal treatment with regards to scope, obligations and benefits *vis-à-vis* social security schemes (D. 86/378)
Pregnancy and Motherhood	Pregnant women's rights at the workplace (D. 86/613), parental leave benefits for men and women (D. 96/34), safety and wellbeing of pregnant or breast-feeding mothers at the workplace (D. 92/85)
Mainstreaming	Gender perspective for EU international development policies and interventions (R. 2836/1998), and for EU regional development programs (R. 2836/98)

Note: Numbers in parentheses refer to EU directives (if preceded by D) and regulations (if preceded by R).

Mercosur's approach to women has been even more limited than that of NAFTA. On various occasions, officials have stated their commitment to pursue policies on behalf of women and to ensure the right institutional environment to that end. For instance, in Article 3 of the 1998 *Declaración Sociolaboral del Mercosur* (Social and Labour Declaration of Mercosur)[8] – a document that, unlike any other joint declaration, became legally binding – the member states asserted their general support for equality of opportunity and treatment at the workplace. Yet, by the end of 2005, the only concrete measure in place was Resolution 84/00, which asked Mercosur working forums and groups to incorporate a gender perspective into their deliberations.

These three regulatory environments have created quite different spaces for women's groups. In the case of the EU, the rise of a rich set of definitions and normative principles has encouraged the formation of European-level groups whose central mission – indeed *raison d'être* – has been to influence the development of EU law on women as well as to ensure the implementation of favourable legislation. As an expert observer put it, EU law on women and the transnational European women's lobby live in a close relationship, each influencing the other in fundamental ways (Mazey 1995, 592; 1998, 142; 2000). Table 2 lists the major European women's groups, along with their date of establishment and primary mission.

The most prominent European group is the European Women's Lobby (EWL). Founded in 1990, the EWL has over 3,000 national and EU-wide member organizations and close links with national women's groups that are not formal members (European Women's Lobby 2000, 14; Mazey 1998; Sperling & Bretherton 1996). Based in Brussels, its primary mission is to interact with the European Commission to evaluate and influence the development of EU law on working women. In the words of Cécile Greboval, Policy Coordinator for the group, the organization "lives in a close symbiotic relationship with EU law … since the legislative and policy agenda of the EU shape directly what we do".[9] Thus, official statements from the group assert that the EWL aims to "promote equality between women and men and to ensure that gender equality and women's rights are taken into consideration" in all of the EU's policies (European Women's Lobby 2000, 2).

The European Women Lawyers Association (EWLA) is a second major group. Founded in 2000, it is above all a networking body, linking thousands of female lawyers across member states. It too lobbies the Commission but focuses mostly on producing research and education on the rights of working women in the EU. Official documents state that the EWLA aims "to improve the understanding of European legislation in relation to equal opportunities, with particular reference to women" (European Women Lawyers Association 2002). To that end, the ELWA organizes a yearly congress and conferences, sponsors research projects, disseminates publications and information and comments on EU policies. Much the same can be said for the other groups in Table 2: they, too, are intimately focused on shaping EU policies on women and educating women about their rights.

Table 2. Major European-level women's interest groups

Group & Year of Creation	Aims	Membership Base
European Women's Lobby (EWL) - 1990	Lobby EU to promote equality, rights at work and in society Coordinate activities of national and European women's groups Ensure implementation of EU gender laws	3,000 national and EU-wide groups Individuals who are members of national groups Dutch President, French and Portuguese Vice Presidents Board members from every member state
European Women Lawyers Association (EWLA) - 2000	Improve public understanding of EU laws on work and women Defend women's interests in the EU Strengthen links and understanding among female lawyers in the EU	National women lawyers' associations Individual lawyers from member states One board official from each member state
European Federation of Women Working in the Home (FEFAF) - 1983	Lobby EU Parliament and Commission to recognize worth of domestic work Ease transition from domestic work to workplace for European women	Organizations from EU member states and Switzerland
Business and Professional Women / Europe (BPWE) - 1985	Equal opportunity and status for women in economic, civil and political life Promote the number of women in decision-making positions	Individuals and groups from EU but also Switzerland, Iceland and other countries Officers from all EU countries
European Institute of Women's Health (EIWH) - 1996	Promote health and wellbeing of women (both at work and beyond) as a priority for the European Commission Research on women's health issues on a European level Promote equality in healthcare treatment and options for women in the EU Present recommendations to European Parliament	Individuals from member states Health care professionals from member states Women's interest groups Patient organizations

Note: Internet addresses of these groups are as follows: EWL: www.womenslobby.org; EWLA: www.ewla.org; FEFAF: www.fefaf.org; BPWE: www.bpw-europe.org; EIWH: www.eurohealth.ie.

In NAFTA and Mercosur there has been no parallel growth of regional women's groups. Just as law has remained national, women's groups have retained their national character. "The Mercosur process," scholars of the South American bloc have written, has failed to "encourag[e] the creation of a women's movement that is regional in nature" (Jelin *et al.* 1998, 9). The same can be said of NAFTA. *Mujer a Mujer* (Woman to Woman) is the only group in NAFTA of note. Responsible for organizing the 1992 Tri-national Working Women's Conference on Free Trade and Continental Integration, it ceased operations in the mid-1990s due to a lack of funding. It was a true regional organization, formed in the late 1980s by women in the United States, Canada and Mexico to respond to economic integration, with offices in Mexico City and San Antonio, Texas. Other examples of transnational cooperation exist, but they are *ad hoc* and without formal character (Domínguez 2002, 230). Otherwise, all sustained activism in relation to NAFTA has taken place within the confines of purely national-level groups, such as the Coalition for Women's Economic Development and Global Equality in the United States, or the National Action Committee on the Status of Women in Canada (Liebowitz 2002, 187; White *et al.* 2003, iii; Gabriel & Macdonald 1994, 549-554).

In Mercosur, too, there is only one major regional-level interest group representing working women and women more generally: the *Reunión Especializada de la Mujer* (Special Committee on Women – REM). REM was established in Buenos Aires in 1995 as Mercosur's *Foro de la Mujer* (Women's Forum) and quickly opened official chapters in all four of the member states. With Resolution 20/98, Mercosur officials granted the group a permanent place in its consultative body, the *Foro Consultive Económico y Social* (Economic and Social Forum) and assigned it the name REM. In this position, the REM is in regular contact with national trade unions and workers' organizations (Ulshoefer 1998) and has offered the *Grupo Mercado Común* (Common Market Group), the main lawmaking body of Mercosur, a gender perspective as it produces law that affects women. Yet in Mercosur REM is alone in its activities and has had a very limited impact on regional law.

The World of Dairy Products

Contrary to their approach to the world of women, EU officials have hesitated to develop definitional and normative laws on dairy products. They have instead relied on Regulation 2081/92 to claim that much of dairy production cannot be subject to standardization. Often applied not only to cheeses but also to creams and butters, the regulation recognizes small geographical regions (typically areas with a radius of thirty or fewer miles) as having the exclusive right to manufacture certain products. As a result, in a country such as Italy, the EU recognizes over thirty cheeses as protected from standardization. In France, over forty cheeses, butters and creams enjoy such protection.[10] Dairy products originating in Spain, Ireland and Germany have also been protected against standardization.

The few EU laws with definitional and normative content focus on milk and milk derivatives.[11] The most important is Regulation 2597/97, which defines various types of drinking milk (raw, whole, skimmed, etc.) on the basis of content, weight and production processes. Caseins and caseinates are targeted with normative principles only regarding their use in cheeses. The remaining eighty or so regulations and directives categorized in the EU's legal database as related to Milk Products (3.60.56) concern themselves with financial aid to farmers, setting production quotas, granting licenses and other administrative matters of no definitional relevance and of very limited, if any, normative relevance.

As is the case with the EU, NAFTA officials have produced no significant pronouncements about dairy products. In the area of agricultural products, Article 713 of NAFTA simply asks that member states use relevant international standards, guidelines or recommendations for sanitary purposes. Without a single definition or vision, NAFTA goes even further than the EU in avoiding regional standardization.

In Mercosur, by contrast, officials have embarked on a quite different approach. They have undertaken a comprehensive effort to standardize, at the regional level, the essential characteristics of dairy products. In the short period between 1993 and 1998, they produced a rich set of laws. Table 3 identifies the major initiatives.

These laws cover a wide variety of products and all are rich with definitional and normative principles. They typically state that their objective is to 'fix the identity and quality characteristics' of the product at hand. For instance, when addressing Tybo cheese with Resolution 42/96, officials specify in Article 5 requirements for ingredients, senses (texture, colour, flavour, smell), shape and weight, physical and chemical composition and production processes. On the normative side, the law specifies in Article 7 handling, hygienic and other requirements.

Table 3. Mercosur laws on dairy products

General Area	Target
Milk	Powdered milk (31/93, 82/93), fluid milk (78/94), milk for industrial use (80/94)
Cheese Products	Processed cheese and pasteurized cheese (134/96), powder cheese (136/96)
Specific Cheeses	Minas Frescal (44/98, 145/96), Parmesan, Reggiano, Reggianito, Srbinz (1/97), Azul (48/97), Tybo (42/96), Pategrás Sandwich (30/96), Tilsit (32/96), Danbo (29/96), Tandil (31/96), Mozzarella (34/96, 78/96)
Creams and Fats	Butter (70/93), butter oil fat (63/94), milk fat (71/93, 72/93), milk cream for industrial use (76/94)
Milk Derivatives	Caseinates (16/94), caseins (43/94)
Desserts	Doce de Leite (137/96)

Note: Numbers in parentheses refer to Mercosur Resolutions.

These different legal environments have shaped the dairy industry. Developments in Mercosur's two major dairy producing countries are significant. By 2003, all of Argentina's five largest producers possessed plants in Brazil. In 1990, only one (Nestlé) did. Expansion was rapid. In 2001, Sancor – Argentina's largest dairy company – signed an agreement with Mococa of Brazil to have branded products produced directly in Brazil. In 1998, Mastellano (Argentina's second largest firm) bought Leitesol of Brazil, a powder milk facility to be used for the breakdown of large powder milk shipments, packaging and labelling of Mastellano products. And in 1998 Milkaut (Argentina's fourth largest dairy company) bought Ivoti in Rio Grande del Sul (Brazil) to produce milk products there. Danone (today the country's third largest dairy producer) established its production capacity in Argentina in 1997, after being in Brazil since 1970.

By 2003, three of Brazil's five largest dairy companies had manufacturing operations in Argentina. Two of the three expanded their operations into Argentina in the 1990s. Parmalat, in Brazil since 1977, entered Argentina in 1992 with the purchase of La Vascongada. It then established plants in Uruguay in 1992 and Paraguay in 1994. Danone, as already noted, expanded into Argentina in 1997 after being in Brazil since 1970. Table 4 shows data on the largest dairy companies in Brazil and Argentina.

Without question, these developments represent, at least in part, responses to regulatory harmonization: Mercosur law greatly increased regional trade and made expansion logical and attractive. Truly astonishing data is available for the period 1986/88 to 1994/96. Argentina's dairy exports to Mercosur countries increased by a factor of twenty-five during that period, those of Brazil by a factor of 160, those of Uruguay by a factor of four and those of Paraguay by a factor of over twenty-two. Total intra-Mercosur trade increased by over 900 per cent. By comparison, total dairy exports to the rest of the world increased by only 50 per cent in the same period (Nofal & Wilkinson 1999, 168). It was this combination of regional export-friendly policies and the resulting widening of company's markets that made direct infrastructure investments across national borders attractive. As Maximiliano Moreno, a senior official from Argentina's government actively involved in crafting Mercosur legislation, explained: "It was that environment above all which prompted regional expansion … the removal of technical barriers made it a single-level playing field, stimulating companies to expand".[12] His views are widely shared by other officials as well as policymakers and business experts alike. Two such experts have described, for instance, how "the impact of Mercosur on alliances, joint-ventures, mergers and acquisitions has been very significant … Mercosur's impact can be seen at different levels: it has had an effect on market competition for finished products (long life milk, butter), on shaping investment decisions in the powdered milk and cheese sectors and on prompting a greater level of organization of the actors in the chain" (Nofal & Wilkinson 1999, 156). Because of Mercosur's embrace of standardization, foreign companies invested heavily in the region, penetrating "the sector through mergers and associations with companies already established in the domestic

Table 4. Major dairy companies in Mercosur

	Company	Revenues in US$ (millions)	Plants in Home Country (2002)	Plants in Other Mercosur Countries (2002)
ARGENTINA	Sancor	870 (2000)	18[b]	1[d] (Brazil)
	Mastellone/La Serenísima	700 (2000)	6	1[d] (Brazil)
	Danone – Argentina	288 (2000)[c]	1[e]	2[e] (Brazil)
	Milkaut	240 (1999)	17[d]	1[d] (Brazil)
	Nestlé – Argentina	n.a.	5[b,e]	10[b,e] (Brazil)
BRAZIL	Nestlé–Brazil	n.a.	10[b,e]	5 (Argentina)[b,e]
	Parmalat – Brazil	963 (2000)[d]	17[b]	20[b] (8 Argentina, 12 Paraguay and Uruguay)
	Itambé	550 (1996)[a]	14[e]	0[b,e]
	Danone – Brazil	179 (2000)[c]	2[e]	1[b,e] (Argentina)
	Grupo Vigor	n.a.	3[d]	0[d]

Sources: [a] = Taccone and Garay (1999: 259); [b] = Company Website; [c] = Company Annual Report; [d] = Telephone Interview with Company Officials (July 2002); [e] = Email Exchange with Company Officials (July 2002). A general source of information for the Brazilian case was Ministério da Fazenda (Parecer N.172/COPGA/SEAE/MF, 22 May 2002, Brasila, Brazil). If no source is given, figures are from media releases and articles.

Note: Revenue figures were used to determine the size of companies. When not available, data on daily kilos of milk processed were considered. Nestlé–Argentina matches Milkaut, with 1.6 and 1.5 million each during 1999, and can thus be considered the country's fourth or fifth largest dairy company. Media sources and figures for daily kilos of milk processed unquestionably point to Nestlé–Brazil as the biggest dairy company, and Grupo Vigor as either the fourth or fifth largest company. See, for instance, the statistics section of the Internet Homepage of the Associação Brasileira dos Produtores de Leite (http://www.leitebrasil.org.br/).

markets of the [other] member countries" (Presidents & Prime Ministers 1997).

The situation is quite different in the EU and NAFTA. European dairy companies have retained fairly national profiles. Table 5 shows production location data for the five largest dairy companies in each of the three largest dairy producing countries in the EU. In Germany, the EU's greatest dairy producing country, the two largest companies (Nordmilch and Humana) only produce in Germany. The third company, Campina, is Dutch and has plants in The Netherlands and beyond. However, Hochwald and BMI (ranked joint fifth) are purely national. In Great Britain, the third biggest

dairy producing country in the EU, dairy companies exhibit even stronger national characters. The two largest dairy companies have all of their production plants in Great Britain.[13] Only the third company, Arla, has any transnational capacity whatsoever. It is a Danish company with an extensive network of plants. It is only in France, the second greatest dairy producing country of the EU, that the major dairy companies have transnational production capacity. As Table 5 shows, the five largest companies all have international capacity. The French instance, however, is fairly unusual in Europe.[14]

Again, undoubtedly the industrial landscape reflects, at least in part, legal realities in the region. Expansion in the EU requires significant knowledge of local traditions and processes and access to the required raw materials. As Pierluigi Londero of the Directorate General on Agriculture of the European Commission explained, this has discouraged all but the most aggressive of companies from establishing plants in new territories:

> In theory, a Germany company can therefore set up shop in, say, France. In practice, this is actually quite difficult. There is a tremendous variety of products across countries: the required knowledge and familiarity is simply not there for foreigners. I have a hard time imagining a German company setting up shop in France to sell a certain type of Brie to the French … Then, there is the supply side of things. There exist negotiated deals between suppliers and buyers of milk. This makes it very difficult for anyone to arrive in a given market and have access to the local raw material. The only choice would be to acquire a local company, but that is rather difficult to do.

There is, Londero continued, an "artificial stability to the market, one that has prevented financial problems from occurring and has thus deprived the marketplace of a certain dynamism".[15]

His views were echoed by officials of large dairy companies in Germany and Great Britain during interviews with the author. A representative from Germany's BMI stressed her company's attachment to domestic standards and traditions. "How," she asked, "could we set up a plant in, say, France? We would need to bring our German milk all the way there … that would be impractical".[16] A second representative from Britain's Dairy Crest observed, with some surprise at questions about expansion: "We have a healthy market here in the UK and really see no need to set up shop elsewhere".[17] We should note that trade figures confirm this picture of fragmentation: according to European Commission data, growth rates of intra-regional dairy trade show a mere 50 per cent increase in the period 1989-2002.[18]

In NAFTA, too, many companies have retained a surprisingly national character. As Table 6 shows, four of the five largest dairies in the United States have no plants in either Canada or Mexico. Only Schreiber Foods – the fourth largest company – has as a single plant in Mexico. Mexican companies have also not expanded in the NAFTA regions. The only two companies with plants in the United States or Canada are the third and fourth largest, both multinationals from Europe: Danone and Nestlé. In the

Table 5. Major dairy companies in the European Union

	Company	Revenues in US$ (millions)	Plants in Home Country (2002)	Plants in Other EU Countries (2002)
GERMANY	Nordmilch	2000 (2000)[a]	15[a]	0[d]
	Humana Milchunion	1608 (2000)	11[a]	0[d]
	Campina – Germany	1266 (2000)[a]	6[a,d]	22[e] (18 Netherlands, 3 Belgium, 1 France)
	Molkerei A. Müller	1335 (2000)[a]	2[d]	1[d] (Great Britain)
	Hochwald	572 (2000)[a]	5[a]	0[e]
	BMI	486 (2000)[a]	7[d]	0[d]
GREAT BRITAIN	Dairy Crest	2077 (2001)[c]	15[d]	0[a,d]
	Express Dairies	1282 (2001)	10[d]	0[d]
	Arla	712 (2000)[b]	6[b,d]	62[b,d] (36 Denmark; 25 Sweden; 1 Greece)
	Robert Wiseman Dairies	434 (1999)[c]	5[c,d]	0[c,d]
	The Milk Group	187 (2001)[b]	2[b]	0[b]
	ACC-Manufacturing	n.a.	8[b,d]	0[b,d]
FRANCE	Danone	6597 (2001)[b]	7[e]	13[e] (6 Spain; 3 Germany; 1 Belgium; 1 Greece; 1 Italy; 1 Portugal)
	Groupe Lactalis	5000 (2000)	65[e]	7 to 9[e] (Belgium, England, Germany, Luxembourg, Italy, Portugal, Spain)
	Bongrain S. A.	3500 (2000)[c]	over 12[b,g]	4[b,f] (Spain)
	Sodiaal	2563 (2000)[a]	28[a]	4[d,e] (1 Ireland; 1 UK; 2 Finland)
	Fromageries Bel	1557 (2000)[a]	8[b]	9[b] (1 Belgium; 1 Germany; 2 Italy; 2 Portugal; 3 Spain)

Sources: [a] = European Dairy Magazine (*Special Report: The Leading Dairy Companies in Germany and Mainland Europe 2001*); [b] = Company Website; [c] = Company Annual Report; [d] = Telephone Interview with Company Officials (July 2002); [e] = E-mail Exchange with Company Officials (July 2002); [f] = *Bongrain Financial Report 2001*. If no source is given, figures are from media releases and articles.
Note: In terms of daily kilos of milk processed, BMI ranks fifth in Germany, with 2.8 million kilos (vs. 2.3 for Hochwald). Given their similar revenues, both BMI and Hochwald are included in the table.

Table 6. Major dairy companies in NAFTA

	Company	Revenues in US$ (millions)	Plants in Home Country (2004)	Plants in other NAFTA countries (2004)
UNITED STATES	Dean Dairy Group	8120 (2002)[a]	95[a,b,c]	0[a,b,c]
	Kraft	4100 (2002)[a]	18[a]	0[a]
	Land O'Lakes	2899 (2002)[a]	12[a,c]	0[a,c]
	Schreiber Foods	2300 (2002)[a]	16[a]	1[a,b,d] (Mexico)
	National Dairy Holdings	2148 (2002)[a]	32[a,c]	0[a,c]
MEXICO	Ganaderos Productores de Leche Pura (Alpura)	1328 (2001)[f]	2[c]	0[c]
	Lala Group (including Evaproadora Mexicana)	1152 (2001)[f]	14[b]	0[b]
	Nestlé – Mexico	462 (2001)[f]	6[f,c,d]	13[f,b] (2 Canada, 11 USA)
	Danone	251 (2001)[f]	14[d]	25[d] (5 Canada, 20 USA)
	Grupo Industrial de la Leche S.A (GILSA)	234 (2001)[f]	1[e]	0[e]
CANADA	Saputo	2503 (2002)[a]	35[a]	15[a] (United States)
	Parmalat – Canada	1800 (2002)[a]	20[a]	6[c] (5 United States, 1 Mexico)
	Agropur Coop	1327 (2002)[a]	20[a,c]	1[a,c] (United States)
	Kraft – Canada	n.a.	2[d]	19[a,d] (18 United States, 1 Mexico)
	Nestlé – Canada	n.a.	2[d]	17[d] (11 United States, 6 Mexico)

Sources: [a] = Dairy Foods Magazine (*Annual Report on Top 100 Dairy Companies in North America*, 2003); [b] = Company Website; [c] = Telephone Interview with Company Officials (February – March 2004); [d] = E-mail Exchange with Company Officials (February – April 2004); [e] = Telephone Interview with Alpura official; [f] = Figures estimated from data assembled from Datamonitor Industry Market Research reports from January 2002 (*Mexico: Liquid Milk; Mexico: Powdered Milk; Mexico: Concentrated Milk; Mexico: Yogurt; Mexico: Processed Cheese*).

case of Nestlé, moreover, expansion in the three member states preceded the arrival of NAFTA.[19] Canadian companies alone in North America have expanded their operations across borders.

Again, key players point to the impact of a fragmented legal system for expansion. A representative from Land O'Lakes summarized the implications of Canada's legal protectionism for the behaviour of companies from the United States: "Canada is a very difficult country to enter: the regulatory environment is tough, the country is closed … with all those difficulties, I cannot imagine a company that would be willing to enter the country".[20] David Phillips, Chief of Dairy Foods Magazine (a publication based in the United States) and an industry expert, spoke about the existing legal environment: "Certainly, had Canada and Mexico been willing to adopt, say, to agree that all dairy companies use USDA [United States Department of Agriculture] standards, that would have really stimulated the industry in unprecedented ways. It would have made it a lot easier for US companies to think of Canada as part of their market and playing field".[21] Trade figures again complete this picture of legal and organizational fragmentation. Canada remains a dairy 'island' in NAFTA. For the decade 1991-2001, only 6 per cent of all dairy imports into Canada came from NAFTA countries (Brunke 2002, 3). For the United States, in turn, Canada has represented a minor dairy trading partner at best, taking only 11 per cent of its dairy exports and accounting for a mere 2.5 per cent of dairy imports.

The World of Labour Rights

Officials in the EU, NAFTA and Mercosur have agreed on the need to endow workers with rights. But they have articulated significantly different ideas about what these rights should include. In the area of social security, only the EU guarantees migrant workers full unemployment benefits. On the other hand, Mercosur and NAFTA differ from the EU in guaranteeing workers' rights to strike and freely associate.

EU Regulation 1408/71 of June 1971 grants migrant workers and their families social security benefits identical to those enjoyed by native workers – provided that the worker originates from a member state. Chapters 1 to 6 identify those benefits: sickness and maternity, invalidity, old age and death, work accidents, occupational diseases, death grants and unemployment. With Decision 19/97 (still in need of ratification by Paraguay and thus not yet in force), Mercosur officials recognize that migrant workers should be entitled to the same rights as native workers. However, they offer a significantly less comprehensive list of what such rights include. Unemployment rights (along with maternity rights, work accidents and occupational diseases) are omitted. NAFTA officials have similarly avoided taking any steps in the direction of unemployment rights, choosing instead to focus on working conditions (NAALC, Annex 1).

EU officials have, on the other hand, hesitated to grant workers the rights to form labour associations and to strike. Indeed, the Treaty of the European

Communities (TEC) explicitly excludes both rights from the domain of EU activities (Article 137). The 2000 Treaty of Nice presented an opportunity to amend the TEC with the introduction of the European Charter of Fundamental Rights, which recognized the rights to form trade unions and to strike (Articles 12 & 28). However, the European Council recognized but refused to adopt the charter as legal or binding (Declaration No. 23 of the Treaty of Nice). The proposed Constitution of the European Union (now clearly unlikely to enter into effect) recognizes the right to form unions and strike, but the relevant charter comes with highly ambiguous language. Its application seems to be limited to the institutions of the EU and not to workers elsewhere. Moreover, its principles must be applied within the context of national customs and laws, which implies that countries without the rights to form unions and strikes will not be expected to comply.

By contrast, the first principle of NAFTA's NAALC is the "freedom of association and protection of the right to organize"; the third principle is "the right of workers to strike in order to defend their interests" (Annex 1). Such impressive rights are subject to the particular stipulations of each member state,[22] but they are nonetheless considered inalienable. Mercosur officials have, in turn, recognized the rights to form unions and strike in the *Declaración Sociolaboral* of 10 December 1998, which became a binding and legal text with immediate application upon promulgation. In a key passage, the declaration states: "All workers and trade union organizations are guaranteed the right to strike" (Article 11). The right must be exercised in conformity with existing national laws (Articles 10 & 11), but it cannot be denied by the member states. The right of association is stated in Article 8.

As we would expect, on the organizational front we observe that national labour and employment departments in all three RTAs have become active in permanent transnational bodies dedicated to the promotion of selected labour rights. They have also developed domestic units charged with overseeing the enforcement of these rights. Important and predictable differences, however, set these departments apart – in line with the specific demands of regional law. In the EU, Regulation 1408/71 (along with Regulation 574/72, which provides implementation guidelines) asked that each national administration collaborate at the transnational level by creating the Administrative Commission on Social Security for Migrant Workers (ACSSMW).

Composed exclusively of national representatives and attached organizationally to the European Commission, the ACSSMW strives to ensure that the rights of migrant workers are respected. With a budget of almost 2 million euros, it meets several times a year. Its meetings and activities regularly concern unemployment benefits.[23] Aiding the ACSSMW is a second transnational administrative body: the Advisory Committee on Social Security for Migrant Workers, which serves as a forum for representatives from national labour and employment departments to meet with representatives of trade unions and employer organizations.

Domestically, European labour and employment departments have (in line with the demands of Regulation 574/72) developed institutional capacity to process and oversee unemployment claims by migrant workers. The

management of Form E-303 offers a prime example. Form E-303 allows citizens of one EU country to receive unemployment payments for three months as they search for work in a second country. The host country is to process the request, but workers are required to complete the form before leaving their home country (the home country must then reimburse the host country for its payments). Thus, in Sweden for instance, offices of the Labour Market Administration manage Form E-303. In Denmark, the Public Employment Office handles those forms. In Belgium, a more decentralized country, regions have a branch of the Department of Employment charged with the task.[24]

In the case of NAFTA, labour and employment departments are not concerned with helping migrant workers receive unemployment benefits. Instead, they have developed structures and programmes to protect the rights of workers to strike and form unions – along with the other rights set out by the NAALC. At the transnational level, representatives from the labour and employment departments have a permanent structure for interaction: the Commission for Labour Cooperation. At the heart of the commission is the Council of Ministers. This is a body composed of the Secretary of Labour from the United States, the *Secretarío del Trabajo y Previsión Social* (Secretary of Work and Social Welfare) from Mexico and the Minister of Labor from Canada. The council conducts research and proposes policies on topics related to the rights to strike and form unions (as well as the other rights stated in the NAALC), participates in the process of dispute resolution and keeps the public abreast of relevant legal and policy developments. Thus, in February 2001 for instance, representatives from Canada and the United States held a "one-and-a-half day cooperative activity … to examine the general scope of protection of the right to organize" in the two countries (Commission for Labor Cooperation 2001, 11).

The internal structure of national labour departments has also changed. In line with the specific requirements of the NAALC, National Administrative Offices (NAOs) now exist in the labour departments of the three member states. Each is charged with developing and receiving complaints about alleged violations of labour principles, publishing reports, exchanging information and other responsibilities. As of 1 January 2001, nearly twenty-five complaints had been filed with the three NAOs, all of which were closely monitored by the council (Compa 2001, 454). Thirteen involved the right of workers to associate, and one involved the right to strike.

In Mercosur, the *Comisión Sociolaboral del Mercosur* (Social and Labour Commission of Mercosur) is designed (as specified by Mercosur Resolution 12/00) to promote the rights of workers covered by the *Declaración Sociolaboral* of 10 December 1998. These include both the rights to form unions and strike. National departments have a permanent representative in the commission (national employer and labour unions also have one representative each). The commission inspects yearly reports on member states' formal and practical compliance with workers' rights (Resolution 12/00, Article 9) and formulates action programmes and recommendations.

To aid the *Comisión Sociolaboral*, member states have, in turn, set up *Comisiones Nacionales* (National Commissions). These commissions (themselves made possible by Resolution 85/00) collaborate with the departments of labour or employment in each country to gather information on all issue areas covered by the declaration. Each year, the commissions are asked to place special focus on selected rights. In 2002 attention was on Article 8, which states the right to form unions (2002 Programme of the Social and Labour Commission). The right to strike is certain to be on future programmes, most likely in 2005 or 2006.

Institutional Realities and RTA Law

How are we to account for the remarkable differences in the legal environments of RTAs? Why have RTA officials, similarly intent on creating integrated transnational markets, crafted such different regulatory principles? The choices of RTA officials have reflected institutional realities in the member states – in particular the existing legal traditions in those countries and the preferences of powerful actors that have thrived in those traditions.

Women in the Workplace

The articulation of a rich system of EU laws on women reflects legal and political developments in European countries from the 1960s on. By the 1970s the member states had developed extensive national legal frameworks that would attract women to the work place and maximize their contribution. The most impressive advances were made in northern countries such as the Netherlands and Denmark (Outshoorn & Swiebel 1998; Walter 2001). But non-discrimination, pay and equal opportunity laws were also passed in France, Germany and Great Britain during the 1960s and later years (Duina 1999). As integration progressed in the 1970s, the position and rights of working women at the regional level became increasingly important issues. EU officials responded by crafting laws that broadly stated, at the regional level, core principles found in most, if not all, member states. Aggressive proposals that forced member states to accept new values and principles were strongly opposed by national representatives. Those that fell "within the range" of existing member states' approaches were adopted instead (Ostner & Lewis 1995, 159). Thus, as Cécile Greboval, Policy Coordinator for the EWL, put it, "EU officials translated or otherwise expanded upon concepts and visions that were already in place across much of Europe".[25]

At the same time, women's groups from various member states exerted "intense" pressure on EU officials to act (Rossilli 1999, 173). After victories on the domestic fronts, they sought to play a "catalytic role in the development of EC [European Community] equal opportunities legislation" (Mazey 1995, 592; see also Warner 1984). In some cases, Commission officials engaged in close and sustained "interactions with leading feminists and women's movements" (Liebert 1999, 198). In other cases, women mobilized

in the streets to force the officials' hands. When, for instance, the social affairs ministers met in 1975 to discuss the fate of an anti-discrimination proposal, activists stood nearby, pressuring officials to adopt the text. "Approval" of Directive 76/207, a journalist noted, "came quickly, perhaps accelerated by a women's rights demonstration to greet the ministers' arrival" (*The Economist,* 'Social Affairs: Getting Warmer', 27 December 1975).

In NAFTA, the legal preconditions for regional law on women actually existed: all three member states had significant legislation on women.[26] What was missing was a lack of interest, on the part of key groups, to shape the course of international affairs:

> During the NAFTA debate, women's groups failed to make the gendered dimension of regionalization visible in public debate and have had virtually no impact on either the NAFTA text or on broader public policy related to integration. This failure to influence the policy outcome can be contrasted with the greater success of other social movements, like labour and the environmental movements … only the Canadian women's movement organized widely at the national level in response to NAFTA (MacDonald 2002, 152).

The absence of pressure from women's groups from the United States was especially conspicuous. "US-based women's organizations were virtually absent from transnational organizing around the passage of the North American Free Trade Agreement" (Liebowitz 2002, 145). Two key organizations – the National Organization for Women and the Fund for the Feminist Majority (now the Feminist Majority Foundation) – "showed little interest" in influencing the course that NAFTA would take (*ibid*. 177). Much of their behaviour was the result of a longstanding lack of interest in international events and, especially, international trade (*ibid*.; MacDonald 2002). Mexican women, too, proved fairly uninterested in NAFTA: accustomed to a marginal role in their societies, many actually viewed integration as a promising step towards better employment opportunities (Gabriel & Macdonald 1994, 539-540).

In Mercosur, the legal and power preconditions for regional gender law were altogether missing. Women in the Mercosur member states have only recently begun to organize effectively and score legislative victories. Long dictatorships championing conservative values precluded any progress in all four member states well until the early 1980s. For instance, Brazil's most important organization – the *Conselho Nacional dos Direitos da Mulher* (National Council for Women's Rights) – was born in 1985. Argentina's *Consejo Nacional de la Mujer* (National Women's Council), which reported directly to the Presidency, was established in 1991. Their objectives were basic. In Brazil, the council lobbied legislators to ensure that the new 1988 constitution would state that men and women were equal citizens (Pitanguy 1998, 104). They succeeded, but were then effectively silenced until 1995 by the conservative and powerful Ministry of Justice (*ibid*. 108). In Argentina, the struggle concerned equality within the family. The most important advances in the workplace, in all four Mercosur countries, was the repeal of

paternalistic laws safeguarding women from various hardships rather than the adoption of progressive laws (Navarro 2001, 12).

Thus, as Beatriz Etchechury Mazza, an official from Uruguay's administration and a participant in Mercosur policymaking,[27] explained, "by choosing not to produce regional laws on behalf of women, Mercosur officials simply recognized the legal and political realities in the member states." In this type of environment, she then added, few have expected any women's group to become active at the regional level: "Just now women have begun to assert themselves as important players in their countries … it is too early for them to really play a role in Mercosur; all that will take time".[28]

Dairy Products

Standardizing dairy products and procedures in the EU would have challenged longstanding traditions of granting farmers and companies the exclusive right to manufacture specific types of cheeses, butters and creams. Those traditions, Mauro Poinelli – a representative of Coldiretti (Italy's largest agricultural lobbying groups) active in Brussels – explained, "served the dual purpose of protecting a way of doing things and guaranteeing a high level of quality".[29] Thus, beginning in the early 1900s, Italian, French and Spanish farmers had fought for, and obtained, protected denominations for a large variety of products. In 1954, the Italian government passed Law 125/1954 authorizing such denominations. In 1955, it recognized four cheeses as protected.[30] Dozens and dozens of varieties eventually became protected (Food and Agriculture Organization of the UN 1997, Chapter IX). In France, the early battles centred on wine; later, they concerned dairy products. In the late 1970s, 1980s and 1990s, a large number of French cheeses, butters and creams were granted protection.[31]

Administrative building to process requests and ensure compliance followed. In Italy, the *Comitato Nazionale per la Tutela della Denominazione di Origine e Tipiche dei Formaggi* (National Committee for the Protection of Cheese Origin Denominations) was formed in the 1950s within the *Ministero delle Risorse Agricole, Alimentari e Forestali* (Ministry of Agricultural, Nutritional and Forest Resources). In 1947, the French government founded by legal decree the *Institut National des Appellations d'Origine* (National Institute for Origin Denominations). Within the *Institut*, it established the *Comité National des Produits Laitiers* (National Committee for Dairy Products) exclusively for the protection of dairy products (Echikson 1998). The Spanish government followed in 1970 with the establishment of the *Instituto Nacional de Denominaciones de Origen* (National Institute for Origin Denominations). These offices joined forces with farmers and national politicians to establish a powerful lobbying presence in Brussels. Over time, they have systematically and successfully pressured EU officials not to subject the dairy world to definitional and normative standardization. In 2002, French agriculture minister Hervé Gaymard, along with six other agriculture ministers, sent a letter to several European newspapers that concisely captured the spirit of years of pleas: "For us, agricultural products

are more than marketable goods; they are the fruit of a love of an occupation and of the land, which has been developed over many generations … For us, farmers must not become the 'variable adjustment' of a dehumanised and standardised world" (*The Economist*, 'The French Exception', 16 November 2002).

Matters followed a parallel course in NAFTA. Canada, in line with a long tradition of protectionism for its farmers, resisted from the very start any effort to liberalize the market for dairy products (Doyon & Novakovic 1996, 1-3; Bailey 2002, 5-7). Its representatives worked tirelessly to ensure that Chapter 7 of the agreement would explicitly exempt their country from having to reduce its barriers in dairy (along with other agricultural sectors) (Scollay 2001, 1141). Without a single market for dairy products in the making, it logically follows that officials logically chose not to engage in the standardization of dairy products.

By contrast, none of the Mercosur member states have a history of protected denominations, state activism or direct lobbying in Montevideo. Indeed, these countries all witnessed a policy shift during the 1980s and 1990s away from decades of discrimination *against* agricultural producers (and in favour of heavier industries) and towards a more market-friendly approach (Helfand 2000; Nofal & Wilkinson 1999). Large dairy manufacturers, in turn, eager to expand production capacities and sales through the Mercosur areas, expressed a strong interest in rapid regional standardization. In such an environment, as Maximiliano Moreno – the Argentina government official involved with dairy legislation in Mercosur – explained, "differences in production norms and sanitary requirements naturally came to be seen as hindering the development of the dairy industry".[32] Officials thus embarked rather aggressively on a process of what they termed 'technical' harmonization (*Spanish Newswire Services,* 'Lacteos Argentinos Deberán Demostrar Cumplimento Sanitario', 15 September 1999; *Spanish Newswire Services,* 'Mercosur No Desistirá de Lucha Contra Proteccionismo Agrícola UE', 23 February 2000).

Labour Rights

EU laws on labour rights reflect legal and political realities in the member states. The absence of a recognition of the rights to strike and form association is the direct result of relentless opposition from the British, for whom those rights were not enshrined in any legal document. A succession of British governments, backed by the Confederation of British Industry, thus opposed any EU initiative. Prime Minister Margaret Thatcher "single-handedly blocked the approval" of the Community Charter of Fundamental Social Rights for Workers of 1989 (Dowdy 1990; see also *The Economist*, 'Social Dimension: Louder than Words', 8 July 1989). Referring to it as a "socialist charter" (Meade 1989), she asserted that she would not tolerate "attempts by Brussels to impose worker participation and other sensitive issues on Britain" (*Xinhua General News Service*, 'Britain's Labor Party Favors EC Social Charter', 4 October 1989).

From 2000 on, Prime Minister Tony Blair insisted that the European Charter of Fundamental Rights, whether as part of the Treaty of Nice or a European constitution, "should not be legally binding" (*The Independent,* 'New EU Charter Enshrines the 'Right to Strike', 21 September 2000). British government officials pointed out that they would work assiduously to ensure "that the finished product will not create new rights or be in conflict with the law in any member state" (i*bid*.) and that it would ultimately be "subject to national law and practice" (Meade 2000).

All EU member states have offered for some time, on the other hand, impressive but also very different unemployment benefits (Gallie & Paugam 2000). The Acting Secretary-General of the ACSSMW described the member states as offering every possible variant of programmes (Coëffard 1982). The range extends from Denmark, where benefits are granted regardless of contributions, to Italy, where benefits are fully determined by contributions. EU law does not seek to harmonize these systems; instead, it builds on them by intelligently asking member states to extend their current benefits to migrant workers.

In the case of NAFTA, all three member states already granted workers the rights to form unions and strike in their national legal systems.[33] With the NAALC, officials simply asked the member states to commit to enforcing existing national legislation. At the same time, they also responded to pressure from powerful trade unions from the United States and Canada, who wished to prevent Mexican employers from enjoying cost advantages derived from illegal abuses of their workers (Phelps 2001, 24). President Clinton in particular, in his role as a NAFTA representative, seems to have pushed for the NAALC as a way to address the concerns of the unions (Morton 1993). Clinton, wrote an observer, "hopes to steer a middle ground. He supports the basic concept of NAFTA, but at the same time promises to negotiate side agreements that will mollify the critics" (*The San Francisco Chronicle,* 'New Trade Talks Open Today', 17 March 1993). By contrast, it is clear that the same unions, but also national politicians from the United States and Canada, would have never supported a NAFTA clause on migrant workers and unemployment.

In Mercosur, matters followed a similar course. As Ruben Cortina, a senior official from Argentina deeply involved in Mercosur's labour legislation,[34] explained, "the right to strike is very much in the regulatory history of the member states, a history that is shaped by intensive collective bargaining." Indeed, trade unions made spectacular gains in Argentina and Brazil during the turbulent period of the 1980s. The *Confederación General de Trabajadores* (General Confederation of Workers) in Argentina struggled bitterly with the Aflonsín government for a broad sanctioning of the rights to strike and form unions, winning these rights in 1988 (Cook 2002, 6). In Brazil, the *Central Unica dos Trabalhadores* (Central Workers Union) fought successfully to ensure that those same rights be recognized in the new 1988 Constitution (*ibid*. 9). Hence, as Cortina explained, the "Ministries of Labor from the four member states themselves were very active from the very beginning of Mercosur in representing labour's interests … and especially those

related to principles such as the right to strike and form unions".[35] By contrast, the same Mercosur member states have had far more modest unemployment systems, mostly because of Argentina and Uruguay's histories of very high employment policies and Brazil's high unemployment problems but lack of resources. Understandably, Mercosur officials thus quite naturally steered away from this area.

Varieties of Regional Integration

The pursuit of free trade is a social process. Integration is a vision, or perhaps a starting point. How officials and other actors mobilize to create a marketplace that spans various countries varies from one region of the world to the next. Institutional realities in the member states often account for such variation. Multiple paths to integration exist: no simple guidebook is available. It follows that each RTA displays a unique architecture. This article explored the legal dimension of RTAs: the targets and content of regulatory initiatives. Remarkable differences between the EU, NAFTA and Mercosur in the realms of working women, dairy products and labour rights were seen. Those differences were accounted for by examining the existing legal traditions in the member states and the preferences of powerful actors active in those traditions.

This article also explored the responses of organizations to their new legal environments. Interest groups, businesses and state administrations have expanded their structures and activities across the member states. Which organizations have done so, however, varies from RTA to RTA in line with regional law. Only in the EU have women's groups acquired a regional character, whereas only in Mercosur has there been a major, and quite sudden, expansion of dairy companies. When similar organizations have expanded, their structures and programmes reflect the content of regional law. In NAFTA and Mercosur, labour and employment departments have developed international capabilities to oversee the right to form unions and strike, but not so in the EU. Only in the EU, in turn, have those departments developed structures and programmes to provide migrant workers from other member states with unemployment benefits.

Such variance in regional integration raises a number of pressing questions. As RTAs establish themselves as unitary actors in the world, conflict is likely as trade increases across RTAs and officials from one RTA begin interacting with those of another and market players and other societal actors find themselves constrained by different rules. Officials from some RTAs – perhaps the more powerful ones – might be tempted to pursue legal changes in other RTAs. Some voluntary adjustments and alignment may also take place. In line with the expectations of some proponents of trade and globalization,[36] we may thus witness a movement towards convergence across RTAs – much as has happened across the member states of single RTAs. Initial evidence suggests that some initial steps towards convergence have already been taken.

Consider the relationship between the EU and Mercosur, discussed in detail recently in the pages of this journal (Santander 2005). The former has

already dedicated funds and technical resources to ensure that Mercosur legislation follows that of the EU. The EU Commission's Latin America Directorate (Mercosur Desk), in an important overview of its strategic plans for increased EU-Mercosur trade for the period 2002-2006, summarized its position as follows: "In the area of competition the EU is *stimulating Mercosur to adopt legislation on competition which is basically inspired by the EU competition policy*. Mercosur will create the Competition Authority and in our negotiation for the Association Agreement a co-operation will be established between the two authorities. A [sic] technical assistance could be provided to Mercosur" (European Commission 2002, 24, emphasis added). Funds have thus been allocated to help Mercosur's 'institutionalisation'. In 2003, funds for the harmonization of Mercosur's technical standards were 4 million euros, those for statistics 2 million euros (*ibid.* 57).

There are reasons to believe, in turn, that Mercosur officials are 'borrowing' from the legal framework of the EU whenever possible and expedient. María Juana Rivera, of Argentina's *Ministero de Economía y Producción* and an active participant in Mercosur lawmaking, openly reported that her assistants use the Internet extensively to see what others and especially the EU, have done.[37] There are then examples of Mercosur legislation replicating EU legislation. Resolution 54/92 of 1992 on toys and safety requirements, for instance, repeats verbatim much of EU Directive 88/378 of 1988. It follows that we may soon witness some significant convergence across RTAs as exchanges and interactions intensify.

A second question concerns differentials in competitiveness. Different regulatory regimes and organizational arrangements are bound to impact the performance of interest groups and businesses. European level women's groups are probably better positioned to participate in global affairs than national level groups in North and South America. On the other hand, if European dairy companies that currently benefit from protected denominations can succeed in having global bodies recognize their monopoly over certain products, they may prove to be far more competitive than companies without such protection. It is also possible, however, that Argentine companies – having gained considerable experience beyond national borders – now have knowledge and skills which many European counterparts lack. To date, considerable attention has been given to the relationship between legal frameworks and competitiveness across nation states (Casper 2001; Tate 2001). Much remains unknown, by contrast, in the case of RTAs.

A third major issue concerns the relationship between regulation and market building. The evidence presented in this article suggests – in line with the literature on 'varieties of capitalism' – that integration can successfully happen with different regulatory and organizational regimes. This raises rather difficult questions. We remain unclear about the function of regional law: when and why is it needed for integration? NAFTA has an overall much lighter regulatory regime than the EU or Mercosur, with a mere fraction of the laws of the two other major blocs (Duina 2004). This would lead us to think that regulation is not necessary for transnational trade to take place. Or, perhaps, that it is necessary when certain conditions are met. Future

research should investigate the function of regulation in regional integration efforts.

The comparative study of RTAs is still in its infancy. This article has offered some insights into key dimensions of difference, demonstrating that the various RTAs are remarkably different creations. Yet, these are only initial insights: much conceptual and empirical work remains to be done.

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Notes

1. The literature is extensive. For prominent examples see Frankel (1997, 4), Yeung *et al.* (1999, 4), Hormats (1994, 99), Gibb (1994, 6), Stubbs (2000), Milner (1998, 20), Mattli (1999), Moravcisk (1998), McConnell & MacPherson (1994, 170).
2. Some warned of the destructive impact of RTAs. See Michalak (1994, 64), Gordon (2003). Others saw RTAs as a preparatory step for global integration. See Kono (2002), Panagariya (2000), Salinas (1995, 38), Reuveny & Thomson (2000, 5), Summers (1991), Gordon (2003, 112), Teague (2003, 338).
3. See, for example, Cavanagh & Anderson (2002), Griswold (2003, 22), MacDonald (2003, 76-179), Ramirez (2003, 863).
4. See, for example, Hettne *et al.* (1999), Telò (2001).
5. These organizational dynamics have certainly been noted for the EU (Imig & Tarrow 2001; Mazey & Richardson 2001; Knill 2001; Mény *et al.* 1996); in this article, they are ascribed to RTAs more generally.
6. Different criteria can be used to determine the importance of an RTA. These include the size of the internal market, growth of trade among the member states and the extent to which the removal of specified trade barriers has taken place. The EU, NAFTA and Mercosur are the most impressive on most fronts (Duina 2004, 362-363).
7. The EU has more recently adopted two additional approaches to gender equality with only limited impact on legislative production for the workplace: 'positive action programmes' and 'mainstreaming'. The former includes practical initiatives to advance those equality concepts already found in the law (Mazey 1998, 141). The latter approach is an attempt to ensure that women's issues and female representatives are shaping policymaking in a variety of areas, including the workplace.
8. Author's translations of the names of departments, committees and other entities that have no official English translation.
9. Interview with the author, Brussels, Belgium, April 2004.
10. To date, a total of over 600 products (dairy and other types) enjoy special denomination status (European Report 2003).
11. For milk, laws target drinking milk (Regulation 2597/97), partly or wholly dehydrated milk (Directive 2001/114) and production hygienic measures (Directive 89/362). For milk derivatives, laws target butter (Regulation 577/97) and use of caseins and caseinates in cheeses (Directive 90/2204).
12. Legal Advisor in Argentina's *Ministerio de Economía y Producción, Coordinación de Legislación Internacional* (Ministry of Economy and Production, International Law Coordination). Interview with the author, Buenos Aires, Argentina, August 2003.

13. Dairy Crest has a cheese manufacturing plant on the coast of Ireland. However, 98 per cent of its products are intended for the British market (telephone interview with Company Official, July 2002).
14. For this study, data was also collected for companies in The Netherlands and Denmark, given the presence of Dutch and Danish companies in Germany and Great Britain. The three largest companies in the Netherlands (Friesland, Campina and Nestlé) had international presence in other member states, making the Netherlands somewhat similar to France; only one company in Denmark (Arla), however, had international productive capacity. Irish, Spanish and Italian companies are known to have little production capabilities in other EU member states.
15. Interview with the author, Brussels, Belgium, April 2004.
16. Telephone interview with company official, July 2002.
17. *ibid*.
18. The figure comes from Londero's database. Note that it refers to the twelve member states that the EU had in 1990 and not the fifteen that the EU had after 1995 and through 2002 (Finland, Sweden and Austria – countries with little weight in this sector – are thus excluded).
19. E-mail exchange with company officials, April 2004. Data on the timing of Danone's expansion is not available.
20. Telephone interview with company official, February 2004.
21. *ibid*.
22. For instance, in Canada strikes are prohibited during the term of a collective bargaining agreement, in Mexico workers may be forced to return to work or lose their jobs if certain legal requirements are not fulfilled and in the United States employers are allowed to replace striking workers permanently.
23. See, for instance, the 1996 informational guide (ACSSMW, 1996, Section 5.8), Decision 96/172/EC and Recommendation No. 21 of 28 November 1996.
24. VDAB for Flanders, FOREM for Wallonia and BGDA/ORBEM for Brussels.
25. Interview with the author, Brussels, Belgium, April 2004.
26. See Canada (1996), Gabriel and Macdonald (1994, 540), Stetson (1997), Mexico (2003).
27. Assessor in Uruguay's Instituto Nacional de la Familia y de la Mujer, Ministerio de Educación y Cultura (National Institute for the Family and Women, Ministry of Education and Culture).
28. Interview with the author, Montevideo, Uruguay, August 2003.
29. Interview with the author, Brussels, Belgium, April 2004.
30. These were Fontina, Grana Padano, Pecorino Siciliano and Parmigiano Reggiano (De Roest & Menghi 2000, 440-441).
31. See Decree 93-1239 of 15 November 1993 for a list of cheeses.
32. Interview with the author, Buenos Aires, Argentina, August 2003.
33. For Canada, see the Public Service Staff Relations Act of 1967 and the Canada Labour Code of 1971 (Taylor 1997). For Mexico, see Article 123 of the Constitution of 1917 and the 1931 Ley Federal de Trabajo (Federal Labour Law) (Patroni 1998). For the United States, see the National Labour Relations Act of 1935.
34. Coordinator of International Affairs at Argentina's Ministerio de Trabajo, Empleo y Seguridad Social (Ministry of Work, Employment and Social Security) and member of Mercosur's Subgrupo No. 10 (active on labour issues and social security) and of the national commission for the implementation of Mercosur's Declaración Sociolaboural.
35. Interview with the author, Buenos Aires, Argentina, August 2003.
36. The literature on the topic is extensive. See Drezner (2001) for a useful review.
37. Interview with the author, Buenos Aires, Argentina, August 2003.

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