# REGIONAL COOPERATION: OPPORTUNITIES FOR HARMONIZATION

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## Introduction

Inconsistent regulation across jurisdictions leads to inefficiencies, ineffective enforcement, and ultimately the effective deregulation of industries through jurisdictional shopping. The financial services industry is no exception to this rule and could be the poster industry highlighting the detriment caused by inconsistent regulation. December 2007 marked the start of the worst worldwide financial crisis since the 1940s. This financial crisis was caused by a variety of factors, but ineffective oversight and inconsistent regulation of the financial services industries in the United States and the European Union played a very important role in creating the environment that resulted in the unsound and sometimes criminal financial practices that contributed to the worldwide recession. It was argued at the time that harmonizing financial regulations between the U.S., EU and the rest of the world will help to provide a more stable, more profitable, and more sustainable worldwide financial industry.

The financial crisis that began in the U.S. banking and financial services industries caused global financial instability on a scale not seen since The Great Depression. In response to this crisis, most developed countries have actively strengthened financial regulations aimed at preventing future collapses, albeit on different time tables and with different ideas on how to achieve long term financial stability. Several international organizations and conferences had worked on these issues as well. These include: the Basel Committee for Banking Supervision (Basel), the Financial Markets Regulatory Dialogue (FMRD), the International Organization of Securities Commissions (IOSCO), the Financial Stability Board (FSB), and the G-20. While these forums are necessary and helpful, the urgency of the financial crisis has waned along with the urgency to cooperate. As a result, many of the reforms suggested by these organizations are receiving less than emphatic support by the attending nations.

The number of Regional Cooperation Arrangements (RCAs) in effect around the globe has more than doubled since the early 1990s. Several developments have contributed to the explosive growth in these regional initiatives. Arguably, the demonstrated success of European nations in building a prosperous and stable European Union (EU) has been the most influential factor.

Dissatisfaction with the slow and complex process of multilateral trade negotiations, in which most members have only indirect and limited participation, has also prompted several

countries to embrace RCAs as their preferred option for strengthening market access and trade growth. The RCA process offers a relatively expeditious and clear negotiating path, active participation and a voice for individual members, and customized and flexible arrangements.

The Association of Southeast Asian Nations (ASEAN) has successfully evolved into a well-knit and dynamic regional entity that is now a major force behind several economic cooperation initiatives between the Southeast Asian economies and the rest of the world. Moreover, the groundwork for cooperation established under the Greater Mekong Subregion (GMS) is facilitating smoother integration of some of Southeast Asia's least developed economies into ASEAN. On the other hand, several other RCAs in the region—including Asia–Pacific Economic Cooperation (APEC), Asia–Pacific Trade Agreement (APTA), the Bay of Bengal Initiative for Multi sectorial Technical and Economic Cooperation (BIMSTEC), and the South Asian Association for Regional Cooperation (SAARC)—appear to be works-in progress as their achievements to date have been limited. This raises an interesting question: why do performances vary significantly among RCAs.

## Objectives of RCAs

The expansion of trade and economic exchanges, and deeper integration with member economies have been dominant objectives of most RCAs, especially since the 1980s. Taking the EU as an example, having deeply integrated economies allows countries to trade effectively with very few barriers increasing the opportunities for cross border trade and thus increasing a wider market for locally produced goods and services. Besides these economic objectives, important non-economic objectives are also pursued by member states through RCAs. Some of these major objectives are:

### Regional Stability

An important objective that states pursue through regional cooperation is the build-up of stability and peace in the region. Apart from the obvious value of conflict-free relations with neighbours and reduced defence expenditure, regional stability and peace is a key requirement for attracting foreign and local investment. Regional peace is likewise critical if the region is confronted by an external security threat. While regional stability and peace are highly desirable, nation states are often at odds with their neighbours. This is because nation states, almost always have ongoing differences with neighbours regarding land and maritime borders, ownership of resources straddling these borders, and the (illegal) entry of goods and humans, among other issues. Mutual suspicion about each other's territorial ambitions is also not uncommon among neighbours. Moreover, internal problems and instability in one state usually tend to spill over into a neighbouring state/s, especially when there is a sympathetic ethnic group in its own population.

Many such events often cause serious tensions among neighbours on account of the politics of the moment, miscommunication, and misunderstandings; threatening to explode into

open conflict if allowed to grow unchecked. However, in cases where an RCA provides informal channels of communication and opportunities for frequent contacts among neighbours, the possibilities increase for defusing such tensions before they escalate. This is because the RCA framework fosters more free and frequent communication among members, and contributes to improved interpersonal contacts and the gradual building of trust among members. This helps in minimizing misunderstandings and miscommunication, and enhances appreciation of each other's positions. In addition, this encourages more understanding and patience on the part of all parties, thereby improving chances for the defusion of tensions should they arise. Even when such matters may be bilateral and hence formally excluded from the scope of an RCA, contending states remain conscious of the fact that their actions are subject to the informal scrutiny and quiet judgment of their peers.

The objective of building regional stability and peace has provided strong motivation for the formation of several RCAs. One of the oldest and most successful RCAs—the EU— was initiated with the primary objective of securing peace and stability in Europe following the devastation suffered during the Second World War. The EU was borne of the notion that the possibility of future conflicts among European nations could be minimized if they worked together to build a unified community of European states. The quest for regional stability and peace was so compelling that they agreed to put aside the enmities and bitterness of their recent experiences. In addition, the perceived security threat from the growing power of the Soviet Union in Eastern Europe also exerted pressure on them to cooperate.

Establishment of ASEAN was likewise prompted by member states' desire to avoid potential inter-state conflicts among them, especially as they perceived a threat to their security from the growing influence and power in the region of China. In the mid 1960s when ASEAN was formed, Southeast Asia was a seriously troubled region that prompted observers to call it the —Balkans of Asia, a reference to the troubled state when EU was initially formed. Every Southeast Asian country was fighting an insurgency and mired in economic problems and ethnic tensions that had the potential to spill across borders and fuel interstate feuds.

The combination of the potential for continued inter-state conflicts within ASEAN and the perception of growing external security threats persuaded the subject states to put aside their ongoing disputes with one another and urgently forge a unified regional entity. This entity would seek to avoid inter-state conflicts by resolving disputes through peaceful dialogue and consultations among members, while also demonstrating their solidarity against any threats to the region from external sources. Moreover, perhaps there was also recognition in the region that, countries needed to maintain a certain level of military might for safeguarding their territorial integrity. To do so without causing undue concerns among neighbours, it was desirable to engage countries in a cooperative network. Such arrangements enhance mutual interactions and the flow of information for developing relationships of understanding and trust in the region. The formation of ASEAN was thus prompted mainly to minimize the prospects of inter-state conflicts and achieve stability and peace across the region.

## Regional Opportunities and Issues

Harvesting opportunities and addressing issues in the region that require two or more states to collaborate is an important objective in most, if not all, RCAs. Opportunities exist in the form of coordinated and joint development of resources such as rivers and bodies of water that straddle more than one state, and protecting regional ecosystems that can be best managed through cooperative approach. In an increasingly interconnected world, where norms and rules for global and national governance in critical areas (e.g. trade and capital flows, intellectual property rights, climate change, global financial architecture) evolve through negotiations among groups of nations, member states of an RCA are more likely to have their voices heard collectively rather than as individual states. As in the case of ASEAN, regional cooperation allowed the group of small and medium powers to unite and engage more powerful states and economies than would have been possible for 10 small states individually. In addition, there are additional regional issues that require two or more (and sometimes all) RCA member states working together for their effective management. These issues include controlling cross-border terrorism; halting trafficking in drugs, weapons, and humans; preventing the spread of infectious diseases; and mitigating the effects of acid rain, haze, and other pollutants. Mercosur, for instance, has the explicit goal of providing a platform for its members to discuss common security issues such as drug trafficking. The management of these issues through regional cooperation has the potential to enhance regional and global welfare. While such opportunities have not yet adequately engaged the attention of member states of several RCAs, they should gain greater attention and priority in the future.

For instance in the SAARC region, home to one of the largest populations in the world, there can be many opportunities to pursue within the cultural boundaries. The traditions and beliefs of people can be common across the region, thus helping to create businesses that can transcend national boundaries within this region.

## Need for a Comprehensive Approach

The foregoing discussion shows that important structural characteristics, such as the role of the state and societal groups in national decision-making, inter-state power relationships, and the priority objectives being pursued, differ among RCAs. As such, all RCAs are not alike and they differ from one another in terms of built-in strengths and constraints inherited from their unique characteristics. Much of the ongoing debate over regionalism, however, treats RCAs mainly as instruments of economic forces and processes, built to achieve the single goal of economic integration. Yet, for example, the EU was founded for the purpose of minimizing inter-state conflicts in Europe, while economic cooperation was used as a tool for achieving it. Likewise, ASEAN was established for strengthening the internal stability and external security of Southeast Asia, and it only began to seriously pursue economic cooperation 25 years after coming into existence.

The approach that pays inadequate attention to the non-economic characteristics of RCAs results in incomplete assessments and comparisons of their performances. For instance, ASEAN was established to achieve peace and stability in the region, in which it succeeded remarkably well. However, when it attracted criticism for not making significant achievements in economic and environmental areas, then Secretary General of ASEAN, Rodolfo Severino pointed out in 1998 that the performance of an RCA should relate to its own characteristics and objectives and that "we must first of all be clear about what ASEAN is and what it is not, what it can and what it cannot or was not meant to do". The important thing is that ASEAN has to be measured against the purposes that it has set for itself and the limitations it has imposed on itself. In a similar manner, some have rejected such criticism by explaining that "critics misunderstand the intentions and self-imposed limits of ASEAN. ASEAN never functioned in any way other than a soft association, and it was wrong to expect it to have behaved as a strong union" even in crises. ASEAN was never meant to evolve in the way the EU did. Norms of non-interference and dislike of strong bureaucracy meant that ASEAN is more an association than an institution.

More importantly, a narrow approach to RCA assessment also risks not being able to recognize valuable achievements and opportunities for cooperation in non-economic spheres that sometimes might be the only realizable ones under conditions of a given RCA. For instance, ASEAN made significant contributions to the sustained high growth of member economies through maintaining peace and stability in the region, and in attracting FDI and global production networks. However, such contributions have often remained underappreciated. Likewise, SAARC's role in providing a valuable (and sole) platform for informal high-level contacts among South Asian decision-makers and, thereby, helping to reduce tensions among them also deserves due recognition. By concentrating too heavily on economic objectives, inadequate attention is given to conceptualizing and encouragement of other forms of regional cooperation of a less intensive, yet more realizable, nature.

## South Asian Association for Regional Cooperation (SAARC)

SAARC, which was established in 1985, has now been in existence for more than three decades. SAARC is characterized by India's centrality to the region and the extreme asymmetry of power balance among member states. India accounts for 75% of SAARC's population and nearly 80% of GDP, while the next largest SAARC member state accounts for about 11% of each. India also holds an overwhelming advantage in military power over all other SAARC members combined. India shares borders with all other member states (except Afghanistan and the Maldives), while no other member (except Pakistan) shares a border with any country other than India. Two member states, Nepal and Bhutan, are land-locked and depend on India for transit to the outside world. Another member, Bangladesh, has direct access to international seas from one side but is surrounded by India on all other sides. There are also unresolved bilateral disputes among members that mostly involve India. The combination of these structural features generates security concerns and domination fears in other SAARC member states.

Against the backdrop of such regional dynamics, the proposal for an RCA was first mooted by Bangladesh on the grounds of achieving peace, stability, and security in the region. The proposal was thus likely aimed more at achieving regional stability and peace, and improved inter-state relations, than promotion of trade among member economies. In the 1970s, when efforts to launch an RCA were initiated, South Asian nations were committed to the goal of self-sufficiency through import substitution. Hence, trade was probably not very high on their agenda at the beginning.

An unintended consequence of the absence of a focal state in SAARC was that there were no resources to compensate poorer states that were not in a position to bear the costs associated with trade liberalization. This created a degree of built-in reluctance among such states to support SAARC's agenda on trade liberalization.

Yet another consequence of the failure to address the security and domination fears of smaller states in the region was that inter-state relations between India and several SAARC states continued to be marked by various issues. As noted earlier, negative public perceptions of partner state/s can turn into an issue-blind barrier to cooperation with them, as seems to happen from time to time within SAARC. A recent survey of public attitudes in SAARC member countries towards fellow member states and the RCA itself revealed considerable negativity towards both, suggesting a lack of strong public support for regional cooperation.

## Trade between India and Pakistan

Since India and Pakistan view each other as adversaries, neither has had much incentive to trade with the other based on the view that nation states are disinclined to trade with present or potential adversaries. Studies of trade possibilities and barriers between the two countries confirm that India and Pakistan limit their mutual trade. Pakistan does not accord most-favored nation (MFN) status to India and reportedly also maintains a substantial negative list specific to Indian goods, thereby effectively banning or crippling potential trade between the two countries.

A study by the State Bank of Pakistan in 2005 found that 32% of the types of products exported by Pakistan were imported by India from countries other than Pakistan even though the unit price of Pakistani products was lower than that of the competing imports to India. Likewise, nearly 50% of India's export products were imported by Pakistan from countries other than India even though the Indian products were cheaper. The 2005 study estimated that Pakistan was losing between US$400 million and US$900 million annually by obtaining such imports from alternative sources. A similar study in India found that of the top 50 export items from Pakistan, India imported 45 of these items from the rest of the world, but not from Pakistan. A similar examination of India's top 50 export items showed that nearly two-thirds of these items were excluded by Pakistan from its positive list of imports allowed from India, effectively preventing their import. It also found that while India's sensitive products list was small, it included many textile products of high export interest to Pakistan, which slowed their import into India. Moreover, continuing neglect of infrastructure for overland trade by both

countries reflects the collective lack of serious intent to promote mutual trade. As a result, only about 10% of the estimated trade potential between the two countries is considered to be presently realized.

## Trade among other countries

A somewhat comparable situation is observed with regard to trade and cooperation between India and Bangladesh, and India and Nepal. Although trade agreement exists between Bangladesh and India, Bangladesh continues to maintain a restrictive trade regime vis-à-vis India and—in defiance of trade logic—has sometimes refused to trade with India, even in commodities in which it possesses a comparative advantage. There is resistance to allowing greater trade with India on the part of Bangladesh, presumably because it would only further increase its dependence on India.

Bangladesh's trade with India also results in large trade balance in India's favour. Studies by the Research and Information System for Developing Countries (RIS) in 2008 showed that these trade imbalances result from supply constraints in Bangladesh's export industries. However, Bangladesh is reluctant to accept value-adding investments from India in industries of import interest to India. Investment proposals for the development of gas-based industries in Bangladesh from Indian corporates have been under discussion since 1975 without any agreement reached to date.

Likewise, despite the FTA and an investment agreement between India and Nepal, and Nepal's need for FDI, it has shown considerable reluctance to accept Indian investments. Energy-deficient India is potentially an eager buyer for the energy produced by Nepal. However, during the past several decades, capacity of less than 1% of its potential capacity has been jointly developed by the two countries.

## Trade between Sri Lanka and SAARC

Sri Lanka has signed Free Trade Agreements (FTA's) with India, Pakistan and Singapore, and is negotiating a FTA with China. The Sri Lanka-Singapore FTA has not come into force yet.

Following the signing of an FTA between India and Sri Lanka in 1999, there has been considerable expansion in trade and investment between the two countries. The FTAs Sri Lanka has with India and Pakistan provide for duty-free entry as well as duty preferences for manufactured goods. Sri Lanka aims to attract foreign investors interested in entering the Indian and Pakistan markets to establish operations in Sri Lanka under the FTAs, but progress has been slow. Trade between Sri Lanka and India has substantially increased since the beginning of the FTA, although Sri Lanka has yet to realize the full potential of the FTA. Sri Lankan exporters still face significant non-tariff barriers. Tariff concessions for Sri Lankan products include zero tariffs on 4,235 items; 50 to 100 percent reduction for tea and garments under quota; 25 percent reduction for 553 textile items; and no reduction for 431 items on India's "negative

list." Discussions are underway to reduce the negative lists of both countries. Sri Lanka is currently negotiating an Economic and Technology Co-operation Agreement (ETCA) with India. Under the Pakistan-Lanka Free Trade Agreement, Pakistan offers duty-free entry to all Sri Lankan exports, except for items on a negative list. Pakistan's negative list contains 541 items with no duty concessions. Sri Lanka has offered duty-free entry to 102 items from Pakistan. Sri Lanka's negative list contains 697 items.

Domestic value addition of 35 percent is required to qualify for concessions granted under the agreements. Under the India-Sri Lanka FTA, rules of origin criteria are further reduced to 25 percent if the product contains at least 10 percent Indian raw material.

## Dynamics in the SAARC Region

The underlying reluctance of SAARC member states to allow the free flow of trade among themselves is reflected in the very low level of intra-regional trade at about 5% of members' total trade. While studies confirm the huge potential for expansion of intra regional trade, there has been only a mild response from member countries in seeking to realize it. In fact, the business environment and infrastructure for trade and exchange within the region pose serious impediments to the growth of intra-regional trade. Private sector participants have identified several key impediments such as restrictive business visa rules, dysfunctional land customs stations, the lack of regional vehicular agreements, and unclear and vague laws. Actions to remedy such impediments would go a long way towards facilitating stronger trade flows among SAARC members. Against this backdrop while the economic opportunities can be limited, there is always potential and opportunities to be exploited within the SAARC region.

If political differences among countries can be ignored, South Asia offers several desirable features for regional cooperation. It is an inter-connecting land mass, with several rivers overlapping the region. The region has a common history, languages, and cultures, as well as common inherited legal and administrative systems. And over the last decade, all of the region's economies have been liberalizing and generally growing at respectable rates, which should further facilitate deeper cooperation in the region. However, politics continues to play a role in deeply constraining SAARC's performance.

Within a few years of its establishment, SAARC launched dozens of initiatives for promoting regional cooperation in several priority areas, including region-level action on food security, poverty alleviation, the suppression of terrorism, energy development, and the environment. The initiatives also aimed at creating SAARC Regional Centers, people-to-people contact programs, and a SAARC Development Fund. While some visible progress has been made, much of it remains on paper and comprises the repeated summit declarations of members' commitment to underlying objectives. Even very important regional initiatives such as poverty alleviation, food security, and the suppression of terrorism have made little progress over the past 2 decades. As a result, none of the activities and initiatives has had any major direct impact on strengthening the regional cooperation and integration process in South Asia so far.

SAARC's attempt to fast-track trade liberalization among members under a Preferential Trading Arrangement also failed to produce worthwhile growth in intra-regional trade. As a result, SAARC's achievements to date have remained very modest. But should these initiatives be actioned, the SAARC region can grow exponentially.

Several factors have contributed to this sub-par performance in regional cooperation. The constraining influence of regional politics and poor inter-state relations among members have been the most important factors as discussed in the previous section. However, from an overall perspective, there seems to be an increasing trend in cooperation between the countries. Harmony among member states and their good levels of commitment to SAARC so far has resulted in the successful implementation of agreed-upon programs. However lack of progress can be observed because of a divergence among members about the priority goals of SAARC. India has attached primacy to the goal of economic cooperation, while the other members are focused on issues of domestic importance. Consequently, SAARC initiatives have made great progress only when tensions among members were low and political relations were relatively normal. At other times, although there is progress, the pace of progress can be painfully slow. The constraining role of regional politics on SAARC operations is reflected by the lack of progress and the inability to pinpoint at big initiatives that have helped the region in the past. However, with the increase in globalization, the countries have realized the value of the SAARC region and begun to work towards a positive relationship within the SAARC region. This is evident from the fact that many western and other countries and other countries with string trade agendas participate in SAARC meetings as observers.

Another major enabler of SAARC's performance has been the well-established institutional capacity to support and monitor implementation of its initiatives. The SAARC Secretariat, while well organized, sometimes do suffer from inadequate budgetary and human resources, and lacks technical and professional expertise to plan, monitor, and support implementation of SAARC initiatives. Despite these constraints the Secretariat has carried out the mandate to initiate proposals and explore possibilities for expanding cooperation. As such, it has been able to actively help in converting high-level recommendations and summit meeting declarations into actionable programs and concrete achievements. However, these achievements have not done much towards the harmonization of policy, and rather focused on lower level objectives such as one off projects.

The absence of civil society champions for regional cooperation has also been a factor in SAARC's mediocre performance. While substantial support for regional cooperation exists among constituents of civil societies in all member countries, this has not as yet crystallized into informal but effective support groups for cooperation at the regional or national levels. As a result, support for regional cooperation from sections of civil society (e.g., private sector, nongovernmental organizations [NGOs], professionals, and academia) does not aggregate into effective demand for cooperation. On the other hand, the presence of such groups within SAARC would contribute to the more effective articulation of public demand for regional cooperation and put pressure on governments to pursue it more vigorously.

However, even though these limitations exist, some countries have pursued trade deals that are mutually beneficial to each other. For example, in April 2010 trade agreement known as SATIS (SAARC Agreement inTrade in Services) was ratified by Bangladesh, India, Pakistan and Sri Lanka. The agreement includes 12 service sectors and 160 sub sectors. Some of the sectors identified for possible liberalization include tourism, transportation, insurance and banking. SATIS proposes the facilitation of freer movement of natural persons and mutual recognition (of educational qualifications) to boost trade in services. SAARC countries are undertaking the liberalization of services on the back of a growing body of literature on the benefits of liberalization of trade in services, as most of the analysts suggest that liberalization of trade in services at the intra- regional level will generate more benefits as compared to inter- regional trade. The services sector entails closer people- to- people contact among SAARC member countries. This has not been happening much despite their common preindependence history, shared borders, customs, cultural practices and, for the most part, even a common spoken language. In this context, deeper economic integration through liberalization of trade in services should make good economic sense.

The rising significance of the service sector in South Asia notwithstanding, the trade in services has not grown significantly within the region. At the global level, however, SAARC countries have significantly liberalized their services sector, permitting 100 per cent foreign direct investment (FDI) in several sectors.

## South Asia Free Trade Agreement

SAFTA is a regional co-operation agreement signed between the member countries of SAARC with the commitment to strengthen intra-SAARC economic cooperation to maximize the realization of the region's potential for trade and development for the benefit of their people, in a spirit of mutual accommodation, with full respect for the principles of sovereign equality, independence and territorial integrity of all States, in line with the charter objective of promoting economic co-operation.

The Agreement on South Asian Free Trade Area (SAFTA) was signed on 6 January 2004 during the Twelfth SAARC Summit in Islamabad and entered into force on 1st January 2006. The agreement outlines a 10 year schedule for trade liberalization, which aims at reducing and eliminating customs duties on cross-border trade.

However, SAFTA commitments do not cover some services which have been opened up to foreign international participation. Thus, commitments for the region clearly indicate the failure on the part of SAFTA members to lock into the developments at the global level, and the proportion of intra- regional trade and investment is still quite modest despite recent talks and initiatives. In 2001, the intra- regional trade was only 4.9 per cent of total trade (with members and non- members) of SAARC countries; in contrast, intra- regional trade in ASEAN and Mercosur (Southern Common Market) was about 22.4 per cent and 20.7 per cent, respectively. In 2006, intra- regional trade in South Asia constituted less than 2 per cent of GDP against 20 per cent

in East Asia. Contrary to East Asia, region- wide corporate joint ventures (JVs) and mergers and acquisitions (M&A) in South Asia are practically non- existent. As a result, the culture and practice of trust and requisite institutions for handling JVs and M&A are weak and it is hard to find in South Asia the kind of success stories common in East Asia.

The share of world trade of SAARC region amount to only 4.5% in 2015 (UN). This shows the potential that the SAARC region countries have by increasing their trade by building better cooperation among the SAARC countries.

## US – China Trade War

With the current trade war between United States and China it is widely reported in the media that ASEAN Region is likely to have a net benefit due to companies choosing to relocate or shift production to these countries. This is an opportunity that can be exploited by the ASEAN region as they have the necessary policy and infrastructure in place to accommodate the new investments. As shown in the table below, foreign companies are given a plethora of opportunities within the ASEAN region to invest. Contrasting it with the SAARC region, that opportunity may not be available as the harmonization of policies cannot be seen across the region.

"The U.S.-China trade war may be attracting more firms to set up in ASEAN to circumvent the tariffs," Maybank economists Chua Hak Bin and Lee Ju Ye said in the note. "Sectors such as consumer products, industrial, technology & telecom hardware, automotive and chemicals have indicated interest in Southeast Asia."

| COMPANY | SECTOR | NOTE |
|---|---|---|
| **Harley Davidson Inc.** | Motorcycles | Shifted part of its processes to Thailand |
| **Panasonic Corp.** | Electronics | Closed its U.S. plant in early 2017 and switched to consignment production and exports from Malaysia |
| **Steven Madden Ltd.** | Shoes and accessories | Announced that it has been shifting production of handbags to Cambodia from China |
| **Kayamatics** | Internet of Things devices | Has two Chinese factories but plans to set up production lines in Kuala Lumpur and Penang in Malaysia |
| **Delta Electronics Inc.** | Supplies power components to Apple Inc. | Offered $2.1 billion in July to purchase a Thai affiliate to expand production |
| **Merry Electronics Co.** | Makes headphones for firms like Bose Corp. | Intends to move some of its production to Thailand from southern China |

Companies that shift their production due to these one off events, are likely to stay as this allows companies to spread their risks around different geographic locations, thus reducing the dependency on one country. This could have been an opportunity that could have been exploited by the SAARC region had the region been more harmonized in terms of policy.

## Regulatory Harmonization in the Financial Services sector

In order to achieve regional congruence in the SAARC region, a proposed or in force framework should include guidelines for: the synchronization of existing regulations, regulatory policy initiation and development, effective regulatory implementation, cross-border supervision, high transparency standards, and enforcement of the harmonized regulations. Each one of these will help to ensure regulatory harmonization between the countries of the SAARC region, as well as spur economic growth through increased access to markets outside the SAARC region. Consistency across borders is best achieved if cooperation starts at the beginning, facilitates the flow of information between parties, provides a mechanism for quick and effective implementation, and gives an effective mode of communication and transparency between regulators and industry

The real challenge that SAARC faces in harmonizing financial regulations is how to implement a process that will yield meaningful cooperation between the SAARC countries without infringing on the sovereignty of either party. This will discuss potential solutions that an organization like SAARC could come up with to drive regional harmonization that could positively impact the regional growth. The Institute of International Finance (IIF) developed a sixteen-point plan that would facilitate greater international regulatory consistency. This Part draws on this plan and applies many of the concepts in the specific context of the SAARC instead of a general global manner.

### Synchronization of Existing Regulatory Policies

Stakeholders of the SAARC region should create a multilateral independent committee or any other body charged with evaluating each party's existing financial regulations and the disparities between the members. This committee should consist of top regulators from all sides and should have an aggressive schedule of deadlines to ensure progress in major areas of divergence. Additionally, this committee should identify key loopholes in their regulations that firms exploit and come up with a joint solution to close them. This committee should also serve as the starting point for new regulations and standards. It should also identify appropriate standard setters for the various areas of financial regulations such as the IASB for the accounting system.

For example; a trade agreement between the US and the EU known as TTIP suggests ways in which this harmonization of policy could be achieved.

## Guidelines for Regulatory Policy Initiation and Development

"Consistency is easiest to deliver if right from the start there is a common analyses of the risks and how to address them rather than after national regulators have developed their own approaches." The committee should establish best practices guidelines for national regulators to use in identifying and addressing emerging risks and concerns. Not only will this foster and encourage cooperation between the regulators in the South Asia region, but it will also enhance communication through a common regulatory language and approach to problems. When these concerns arise, the committee should answer the following questions to determine the appropriate remedy: is a common or national approach needed; what is the regulation's priority; and what are the impacts of the proposed regulation. If it is determined that a national approach is needed instead of a common approach, the committee should serve as an intermediary between the multiple national systems to mitigate possible divergences and assess any external impacts of the regulation. Committee and national regulators should work towards regulations that effectively balance international consistency and local flexibility. This balance should be considered when determining whether a minimum or maximum harmonization approach is taken with respect to the proposed regulation. All proposed regulations or standards should have comprehensive impact assessments completed to determine the effects on both the micro- and macro-economic levels. Committee should set appropriate deadlines for agreement based on the urgency and priority of proposed regulations.

## Regulatory Implementation

Joint committee should provide national agencies with detailed interpretations that facilitate mutual understanding and recognition between jurisdictions. This will help to prevent inconsistent outcomes across jurisdictions and eliminate uncertainty within international firms. National regulators must buy into the system. They must communicate and coordinate with the committee throughout the implementation process in order to prevent unilateral divergence. If national regulators identify fundamental problems in international standards, they should notify the committee of the issue and work together to find appropriate solutions that preserve cross-border consistency as much as possible. If it is determined that exceptions or extensions need to be unilaterally applied then they should be approached with a collaborative effort to limit the divergence. Committee should create a system to catalogue all financial services regulations, interpretations, and standards of all parties. This system must be easily accessible by national regulators and will help to identify and prevent conflicting regulations. National regulators and the committee should work together to identify and report any material inconsistencies between national and international standards. Committee should have a forward looking approach that focuses on long-term regulatory consistency that will safeguard and promote sustainable financial prosperity.

## Cross-border Supervision

In order to effectively detect risks and coordinate swift and appropriate responses to these risks, regulators must have access to data about both a firm local and international operations. Without this information, a firm might be able to hide significant risks from one or any number of regulators. Because of this potential to mask risk, it is imperative that regulators identify any unnecessary barriers to cross-border sharing of data and information between regulators. However, they should place an emphasis on protecting proprietary information and high data protection standards, while eliminating excessive barriers to data sharing between regulators. Regulators must communicate with each other and companies to ensure that decisions in any jurisdiction are understood by all, so as to promote coordination and consistency. Committee should be able to appoint crisis management groups that consist of top regulators in the various areas of financial services. These groups should meet regularly to identify potential crisis areas and develop preventative and reactionary plans to promptly correct financial crises. Committee should periodically examine the effectiveness of inter-agency communication and address any problem areas if they arise.

## Transparency Standards

To establish a strong agreement, a high level of regulatory harmonization, transparency in rule-making, implementation, and enforcement are absolutely necessary. In order to preserve an appropriate level of transparency, most actions of both national regulators and the committee should be within the public purview and subject to scrutiny. Throughout the regulatory and supervisory process, committee should be open to input from industry leaders, consumers, and other stakeholders. Indeed, committee should have regular meetings with industry advisory committees, consumer protection groups, and national lawmakers to discuss economic and regulatory issues. Additionally, committee should have continuous interaction with other global standard setters. This will not only help it stay on top of other global trends but also help to exert its influence on those trends.

## Enforcement

Enforcement of regulations should follow the procedure of each country's established court system. A collaborative effort to harmonize mutually beneficial regulations will not infringe on nations' abilities to enforce their own laws, because the harmonization is not all-encompassing. A collaborative effort to harmonize mutually beneficial regulations will not infringe on the ability of nations to enforce their own laws. Therefore, all enforcement actions must be solely up to the party whose regulation was violated. If a firm violates regulations in multiple jurisdictions, then it can be held liable in every jurisdiction.

These suggestions could provide an adequate base for regulators to effectively harmonize the South Asian financial industry in a timely manner so that opportunities within the region can be exploited to gain competitive advantage in the global trading landscape. The negotiation

process will surely foster other innovative and effective options for successfully harmonizing regulations. The above discussion shows a potential path towards harmonizing policy in the financial industry of South Asia.

## Conclusion

Diverging policies and regulations in the financial services industry can have catastrophic consequences on the global scale. Ignoring the risk of global financial instability, there are still significant costs associated with differing regulatory regimes. These costs, outlined earlier, range from duplicative costs to firms, to increased costs to the consumer, to lost opportunities that can only be alleviated through the harmonization of financial regulations.

If financial services regulations are included in an agenda in the region to drive harmonization and policy consistency within the region, several major areas need to be addressed. As noted earlier as well, these include but are not limited to: a single accounting standard, closing loopholes in existing regulations, and minimizing unnecessary risk taking by financial institutions. Even if only these three areas are harmonized, SAARC region will have gone further than any other cooperative effort in financial regulation.

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