USING REGIONAL INSTITUTIONS TO IMPROVE THE QUALITY OF PUBLIC SERVICES

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1. **Introduction and Objectives**

In the past three decades several states in Sub-Saharan Africa, in the Eastern Caribbean and in Europe (and other states as well) have used forms of outsourcing, usually to regional organizations, as a means to reduce the cost and increase the quality of some public services.

In Sub-Saharan Africa: the *Banque des Etats de l’Afrique Centrale*[^1] (BEAC) and the *Banque Centrale des Etats de l’Afrique de l’Ouest*[^2] (BCEAO), established in the 1960s have been pioneer multicountry central banks worldwide. Multicountry security agreements, as in the African Union (AU) or the Economic Community of West African States (ECOWAS), have been increasingly used to prevent or quench local conflicts. These agreements allow the deployment of multinational troops to help stabilize a potentially volatile situation. The *Organisation pour l’Harmonisation en Afrique du Droit des Affaires*[^3] (OHADA) in Central and West Africa founded in 1993 has been established to harmonize business law among member countries and has served as a supranational appeal court on aspects of business law. The West Africa Telecommunications Regulatory Agreement (WATRA), established in 2002 has pursued the harmonization and integration of the telecommunications market in West Africa.[^4] Several members of these regional agreements are fragile states[^5]; for instance: Cameroon, Central African Republic, Chad, Republic of Congo, Ivory Coast, Guinea-Bissau and Togo are members of OHADA and BEAC or BCEAO; Ivory Coast, Guinea, Guinea-Bissau and Sierra Leone are members of WATRA, others are not.

In the Eastern Caribbean[^6]: the Eastern Caribbean Central Bank (ECCB) established in 1983, is a multicountry central bank; the Regional Security System (RSS), established in 1983, is an international agreement for the defense and security of the Eastern Caribbean; the Civil Aviation Authority (ECCAA), established in the 1950s, is the regional regulator of civil aviation within the Organization of Eastern Caribbean States (OECS); the Supreme Court (ECSC), established in 1967, is the regional court responsible for provision of justice within seven members of the OECS; and the Telecommunications Authority (ECTEL), established in 2000, is responsible for the regulation of telecommunications among five countries in the Eastern Caribbean. Members of these regional agreements are small states, defined by the World Bank as states with populations below 1.5 million.

[^1]: Central Bank of Central Africa.
[^2]: Central Bank of the States of Western Africa.
[^3]: Organization for the Harmonization of Business Law
[^4]: These are not the only examples of outsourcing government services in the region. The examples chosen intend to illustrate areas where outsourcing of government functions has been more common in Africa and elsewhere. But even with this caveat in mind I have not included central banking in Southern Africa in the discussion.
[^5]: A fragile state is defined by the World Bank as an International Development Association eligible (IDA-eligible), low-income country or territory with a Country Policy and Institutions Assessment (CPIA) score of 3.2 or below. Core fragile states score lowest within this grouping, with a CPIA score of 3.0 or lower. Marginal fragile states have scores between 3.0 and 3.2.
[^6]: See Favaro, E, 2008, Small States, Smart Solutions, World Bank.
In Europe, the European Central Bank (ECB), established in 1998, is responsible for maintaining price stability within the Euro area; the European Court of Justice (ECJ), established in 1952, is the highest court in matters of European Union Law. Most members of these regional organizations are high income countries.

The rationale underlying a government decision to subcontract provision of some public services to a regional organization is to access higher quality (and possibly lower cost) public services than could be produced domestically. In that respect, contracting out a public service is not radically different from importing private goods and services, when producing these goods domestically is more expensive than purchasing them in the rest of the world. But in many other respects, contracting out public goods and services is very different than importing most other private goods: for instance, there is no market where a country can purchase security, or justice provision; second, there is risk that an arm’s length relationship between the service provider and the client government may result in supplier’s actions that may not represent the interest of the client governments – a risk that is, in general, perceived as being reduced when governments produce all goods and services; third, switching from one to other service provider is orders of magnitude more complex than it is in the case of most private goods and services.

Several examples of contracting out public services examined in this paper are the offspring of political independence following the 1950s. Political independence created an institutional vacuum: public goods and services up until then supplied by colonial institutions had to be, thereafter, provided by national institutions. The transition posed a challenge to fledgling national governments. How could Saint Lucia with about 120 thousand inhabitants, as of the time of independence, afford establishing a national central bank to ensure monetary and financial sector stability? How could Cameroon, with very scarce high skilled human resources establish (within a short time horizon) a central bank, a functioning judiciary and law enforcement? The answer to these questions is that probably they could not.

Yet, for several states the feasible options were broader than colonial versus national institutions, they also included building up on regional arrangements existent during colonial times and adapting these arrangements to the new challenges. And while it is virtually impossible to show that this strategy was better to any possible alternative, it is possible to state that transition was fairly smooth when public goods and services were already provided by multicountry agreements; for instance, in the Eastern Caribbean where there was a tradition of cooperation among countries to provide core state responsibilities (rule of law, money, defense); and in Central and West Africa where most of the countries that formed the central banks in Central and

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7 The paper will not discuss regional provision of public goods in Europe.
8 See Alesina, Angeloni and Schuknecht, 2005
9 In general, most states use forms of outsourcing to improve the quality of some public services. States outsource part of their defense budget through international treaties; monetary policy through fixex exchange rate regimes; and aspects of their legal systems by allowing appeals to, for example the United Kingdom Privy Council or arbitration of business disputes in an international court.
West Africa were already part of a colonial system that favored cooperation in central banking. In turn, the transition was rough when independence implied a vacuum in core state responsibilities.

Despite difficulties and considerable learning the regional model proved useful which has encouraged experiments elsewhere. For instance, in the Eastern Caribbean, the Central Bank, the Civil Aviation Authority and the Supreme Court have been forerunners of the telecommunications regulator established two decades after; moreover, they have encouraged a broader view on the part of politicians and civil servants as to the way to think about provision of public services. Similarly, in Africa BCEAO and BEAC were followed by OHADA in 1993, WATRA in 2002 and increasing consensus as to the importance of effective multicountry security arrangements.

The importance of subcontracting as a way to improve the quality of public services has not been sufficiently studied. What services are easier to contract out? Why do several states use forms of contracting out to provide some but not other services? What circumstances facilitate their establishment? What rules have governed the relationship between the provider of the service and the user (the client governments)? What has been their performance over time?

A deeper understanding of these questions is especially relevant in the context of the development of fragile states. If outsourcing some public service provision is feasible, bridging the gap between current poor quality public services and the type of services necessary to encourage development of a market economy is also possible within relevant development horizons.

The strategy followed in this paper is to study the conditions that facilitate the outsourcing of some public service provision, the governance structure ruling the relationship between the source and the client government and the actual performance of these agreements through the experience of several regional institutions in Sub-Saharan Africa and in the Eastern Caribbean. The second section of the paper describes the characteristics of fragile states and provides indicators of the quality of institutions. The third section describes eight experiences of outsourcing in Sub-Saharan Africa and in the Eastern Caribbean. The fourth section analyzes historical, cultural, technical and economic reasons that have contributed to the development of this type of regional institution in some parts of the world and the rationale underlying the outsourcing of some functions but not others.

2. The Quality of Public Services in Fragile and Small States

In 2009 twenty-four (eight) states were considered as fragile (marginally fragile) according to the definition of the World Bank (see footnote 5).
Table 1 presents four indicators of quality of institutions in these states as of 2009: political stability and absence of violence/terrorism, government effectiveness, control of corruption and rule of law. These indicators are a subset of the Worldwide Governance Indicator Project of the World Bank. Each cell in these columns indicates the percentile in which the country is rated among all other countries in the world. For instance, a 29.7 percentile rating in political stability means that Angola’s rating is below 70.3 percent of the universe of countries considered in the production of the index.

Three important characteristics of the countries in Table 1:

- Most fragile states are located in Sub-Saharan Africa;
- Most non-island fragile states are neighbors of other fragile states. The only exceptions to this rule are (Haiti in Latin America, Kosovo in Europe, Myanmar in South Asia, Zimbabwe in Africa and West bank and Gaza in the Middle East);
- Nine of the thirty-two fragile states are also small states from Africa and the South Pacific; but no small state in the Eastern Caribbean is also fragile.

The indices consistently point to poor quality of public services, a serious obstacle to economic growth; in fact, according to some authors the main cause underlying development differences across countries.

10 Political Stability and Absence of Violence/Terrorism measures the perceptions of the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including domestic violence and terrorism.

11 Government Effectiveness measures the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government’s commitment to such policies.

12 Rule of Law measures the extent to which agents have confidence in and abide by the rules of society, in particular the quality of contract enforcement, the police, and the courts, as well as the likelihood of crime and violence.

13 Control of Corruption measures the extent to which public power is exercised for private gain, including petty and grand forms of corruption, as well as “capture” of the state by elites and private interests.

14 “The aggregate indicators combine the views of a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. The individual data sources underlying the aggregate indicators are drawn from a diverse variety of survey institutes, think tanks, non-governmental organizations, and international organizations.” (from http://info.worldbank.org/governance/wgi/index.asp).


16 See Acemoglu and Robinson (2008)

17 This view is by no means unanimous. For instance Glaeser et. al. (2004)
<table>
<thead>
<tr>
<th>Country</th>
<th>Political Stability</th>
<th>Government Effectiveness</th>
<th>Control of Corruption</th>
<th>Rule of Law</th>
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</table>

Table 2 presents the same indicators for thirty-seven small states in Sub-Saharan Africa, the Eastern Caribbean, South and East Asia; ten of these states (again in bold type) are also fragile states.

Clearly, the quality of public good provision is much higher in small- than in fragile states. There are also remarkable differences across small states located in different regions of the world. Four out of twelve small states in Africa and four out of ten in East Asia are fragile. All small states in the Caribbean and in Southern Africa have fairly high quality institutions and public services.\(^{15}\)

So why consider small states in the analysis? There are three reasons for including small states in a paper analyzing international outsourcing of government functions: first, small states in the Caribbean and in Southern Africa have been pioneers in using regional solutions to improve the quality of some public services. Secondly, the historical roots of subcontracting government functions are in political independence after the 1950s, a history shared by most small states and Sub-Saharan Africa states. Thirdly, most of the challenges relevant to design effective regional provision of public services are relevant to both types of states.

However, the economic reasons why regional solutions make sense for countries in each of these groups are probably different: for small states it is the absence of scale economies, for fragile states it is mostly the scarcity of skilled resources and poverty. Small states spend 18.6 percent of their GDP\(^{16}\) in provision of public goods and services (Sg) (see column 1 row 4 of Table 3), this is 3.0 percentage points of the GDP higher than the median for the universe of states for which there is information in the World Bank data set for 2005.\(^{17}\) The difference mainly reflects higher cost of producing public services originated in indivisibilities in production.\(^{18}\) For instance, the annual cost of maintaining a central bank for a country with 0.5 million people is probably as high as the annual cost of maintaining a central bank in a country ten times this size; however, per inhabitant the cost is significantly higher.

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\(^{15}\) The possible exceptions to this rule are Guyana in South America and Swaziland in Southern Africa.

\(^{16}\) This is the median of 30 small states in Africa, the Caribbean, South Asia and the South Pacific for which there is information available for 2005.

\(^{17}\) 2005 is the most recent year for which there is data for most countries in both groups. The finding is not sensitive to changes in the period of observation.

\(^{18}\) Government consumption of goods and services is the concept in the national accounts more closely related to value of production of public goods and services.
## Table 2
Governance Indicators in Small States
(Percentile rank)

<table>
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<tr>
<th>Country</th>
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<th>Rule of Law</th>
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</tbody>
</table>

The reason contracting out some government functions to regional organizations makes sense for several states in Sub-Saharan Africa is scarcity of high-skilled human resources and low capacity.\textsuperscript{19} The difference between spending in government consumption of goods and services per capita in fragile states and in other states is staggering when measured in dollar terms: fragile states spend $49 annually per inhabitant in provision of public goods and services, the median for the sample is $452 and the median for non-fragile states is $577.\textsuperscript{20} No wonder the institutions of fragile states are weak!\textsuperscript{21 22}

\begin{table}
\centering
\caption{Ratio of Government Consumption of Goods and Services and GDP (Sg) and Expenditure in Public Goods Per Capita (Gn)}
\begin{tabular}{|l|c|c|c|}
\hline
& Sg & Gn & Number of states \\
\hline
Fragile States & 13.4 & $49 & 20 \\
Small States & 18.6 & $558 & 30 \\
Total & 15.6 & $452 & 171 \\
\hline
\end{tabular}
\end{table}

Note: Based on DDP for 2005.
Source: Staff calculations based on DDP, March 31, 2010.

3. **Outsourcing Public Services in Sub-Saharan Africa and in the Eastern Caribbean**

This section documents eight examples of outsourcing of government services: central banking and regulation of the financial system (BCEAO, BEAC and ECCB); justice provision (ECSC, OHADA), regulation of telecommunications (ECTEL and WATRA) and multi-country security arrangements (AU). All the cases correspond to Sub-Saharan Africa and the Eastern Caribbean.

The analysis addresses four questions: What is the function subcontracted? What are the historical roots of the decision to subcontract? What is the governance structure ruling the relationship between the supplier and the client government? What has been the performance?

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\textsuperscript{19} The lack of information on educational attainment of the labor force in fragile states is remarkable. The median literacy in the sample is 88 percent, the median of small states is 87 percent and the median for fragile states is 57 percent.

\textsuperscript{20} The estimate is based on DDP data on government consumption of goods and services measured in constant US dollars of 2000; the year of comparison is 2005.

\textsuperscript{21} While there are good reasons to use this information with care, it provides an order of magnitude about the enormous differences between what fragile states allocate to production of public goods compared to other states, and a solid ground to set realistic expectations about the difficulties inherent to move out of a fragility trap.

\textsuperscript{22} Archive l:\evew\outsourcing.wf1
3.1 Central Banking and Financial Regulation

Central banks are responsible for maintaining monetary and exchange rate stability and, in most cases, the stability of the financial system. Central banks in developing countries often outsource their monetary policy to the US Federal Reserve or the European Central Bank through maintaining a fixed exchange rate between their currency and the US dollar or the Euro --a hard form of this modality is when a country adopts a currency board. However, even in these cases, most central banks have a central role supporting the payment system and maintaining oversight of the financial system.23

The historical roots of BEAC and BCEAO in Sub-Saharan Africa and ECCB in the Eastern Caribbean are in the colonial system that linked countries in Central and Western Africa with France before the 1950s (and with the United Kingdom before the 1980s).24

3.1.1 The West and Central Africa Central Banks 25

BEAC serves six countries: Cameroon, Central African Republic, Chad, Equatorial Guinea, Gabon and Republic of Congo; in turn, BCEAO serves eight states: Benin, Burkina Faso, Cote D’Ivoire, Guinea Bissau, Mali, Niger, Senegal and Togo (see Figure 1). With the exception of Guinea Bissau (former Portuguese colony) and Equatorial Guinea (former Spanish colony) the remainder twelve countries are former French colonies.

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23 The European Central Bank does not have the function of lender of last resort.
24 Other important experiences of multicountry monetary institutions are the European Central Bank, established in 1998, and the Southern Africa Monetary Union comprising Namibia, Swaziland and South Africa, established in 1974.
The GDP of countries in the BEAC zone ranges from $20.7 billion in Cameroon to $1.7 billion in Central African Republic; in the BCEAO it ranges from $19.8 billion in Cote D’Ivoire to $0.4 billion in Guinea Bissau (see Table 4).
Table 4
CFA Franc Zones Basic Data

<table>
<thead>
<tr>
<th>Country</th>
<th>Population (thousands)</th>
<th>GDP Billions of U.S. dollars</th>
<th>Per capita GDP U.S. dollars</th>
</tr>
</thead>
<tbody>
<tr>
<td>BEAC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cameroon</td>
<td>18533</td>
<td>20.7</td>
<td>1116</td>
</tr>
<tr>
<td>Central Afr. Rep.</td>
<td>4343</td>
<td>1.7</td>
<td>394</td>
</tr>
<tr>
<td>Congo Rep.</td>
<td>3551</td>
<td>7.7</td>
<td>2153</td>
</tr>
<tr>
<td>Gabon</td>
<td>1422</td>
<td>11.6</td>
<td>8135</td>
</tr>
<tr>
<td>Eq. Guinea</td>
<td>642</td>
<td>12.6</td>
<td>19582</td>
</tr>
<tr>
<td>Chad</td>
<td>10763</td>
<td>7.0</td>
<td>651</td>
</tr>
<tr>
<td>Total</td>
<td>39254</td>
<td>61.3</td>
<td>1562</td>
</tr>
<tr>
<td>BCEAO</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Benin</td>
<td>8393</td>
<td>5.4</td>
<td>647</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>14777</td>
<td>6.8</td>
<td>458</td>
</tr>
<tr>
<td>Cote D'Ivoire</td>
<td>20123</td>
<td>19.8</td>
<td>984</td>
</tr>
<tr>
<td>Guinea Bissau</td>
<td>1541</td>
<td>0.4</td>
<td>248</td>
</tr>
<tr>
<td>Mali</td>
<td>12334</td>
<td>6.9</td>
<td>555</td>
</tr>
<tr>
<td>Niger</td>
<td>14195</td>
<td>4.3</td>
<td>299</td>
</tr>
<tr>
<td>Senegal</td>
<td>11893</td>
<td>11.3</td>
<td>950</td>
</tr>
<tr>
<td>Togo</td>
<td>6300</td>
<td>2.5</td>
<td>397</td>
</tr>
<tr>
<td>Total</td>
<td>89556</td>
<td>57.3</td>
<td>640</td>
</tr>
</tbody>
</table>

Note: Data corresponds to 2010.
Source: DDP March 2010.

**Historical origin.** The currency of these fourteen states is the CFA²⁶ franc. The CFA franc was established in 1945 in fixed parity with the French Franc (FF)—currently it maintains a fixed parity with the euro. Since its establishment in 1945 to independence in the 1950s the CFA franc was revalued 15 percent against the FF in 1948 and devalued once 100 percent in 1994.

Political independence in the 1950s presented a problem to the national authorities. Who was going to be responsible for maintaining monetary stability? Which currency was to be used?

The new sovereign nations opted for creating multicountry central banks in Central and Western Africa and introducing a regional currency (the CFA franc) backed by the French Treasury—who became the lender of last resort of the new monetary systems against some disciplining rules the latter committed to maintain. Thus the new system implied three parties: the governments of member countries, the authorities of the new central banks and the French Treasury.

²⁶ CFA means, currently, African Financial Community.
The relationship between BEAC and BCEAO and the French Treasury. The French Treasury guaranteed the free convertibility of the CFA franc into FF (now into the euro) against a commitment on the part of the central banks to: (a) maintain at least 50 percent of the foreign exchange reserves of each zone into operation accounts with the French Treasury; (b) allow, within existing exchange regulations, the free transferability of funds, between the zones and France; (c) maintain a minimum net foreign exchange cover ratio for central bank’s sight liabilities; (d) limit outstanding credit to government to 20 percent of tax revenue; and (d) keep a fixed exchange rate between the CFA franc and the FF and then to the Euro.

The objective of (c) and (d) was to limit the capacity of the central banks to expand domestic credit beyond the limits imposed by net foreign reserves and jeopardize the exchange rate parity. But the rules did not include corrective mechanisms and/or sanctions in case the central banks maintained a deficit in the operational account at the French Treasury.

Governance of the central banks. Between 1959 and 1972-1973 the French Treasury maintained a tight grip on the management of the two central banks: it had one third of the seats in the BCEAO Board and one half of the seats, and the chair of the Board, at BEAC.

However, after the reforms of 1972-1973 France had its position in the boards considerably diluted, it lost the chair of the Board of BEAC and the management of BCEAO was placed under the oversight of the Council of Ministers of Finance of member countries.

Currently, all countries have equal representation in the board of BCEAO but not in BEAC (where Cameroon has 4 and France 3 directors in a board of 13). In general Board decisions require a simple majority.

Performance. From their establishment neither BEAC nor BCEAO had clear limits to their capacity to expand domestic credit to the private sector and/or other non-government institutions and, de facto, had no rules regarding the foreign exchange coverage of the CFA franc. This institutional weakness became overtime important in the context of two trends following independence: the changing characteristics of the local banking systems and the increasing role of the state in production and distribution activities.

Before independence the few commercial banks in these countries were local branches of international, mostly French banks, regulated and controlled by their own auditing system and operating within the bounds of highly regulated credit allocation rules. Following independence there was a sharp increase in state participation in banks, including subsidiaries of foreign banks;

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27 Initially 65 percent.
a rapid increase in the number of domestic commercial banks; and an increase in the number of state-controlled development banks designed to finance long-term investment projects.

The increasing state participation in banking and finance was just one aspect of a new development paradigm which favored a sharp increase in state-owned enterprises and reliance on administrative rather than market mechanisms to govern the allocation of resources. In and of itself these policies did not imply a marked change vis-à-vis the interventionist policy mechanisms of previous decades; but the new policies were implemented at the same time that the developed world was moving in the opposite direction and in an international context that facilitated access to borrowing from the rest of the world.

The fixed parity did not help maintain fiscal discipline, instead, expansionary spending programs found financing resources from the commercial and the central banks and ultimately from the rest of the world. The increasing reliance on commercial bank borrowing by governments, the automatic eligibility to the discount window of specific types of paper (for instance, export crop pre-financing loans) and unviable lending led to a deterioration of the balance sheets of banks which became visible in the late 1980s.

Before the 1990s Bank regulation was very underdeveloped, banking law was not uniform across countries in each of the zones and oversight was mainly the responsibility of weak control offices operating within the Ministry of Finance of each country. In practice these regulatory offices were unable to offset what the governments promoted through their credit policies.

Fiscal mismanagement, the weakening of the balance sheets of the commercial banks, combined with a sharp drop in the terms of trade after the mid 1980s eventually led to a balance of payment crisis and to the collapse of the fixed exchange parity in January 1994. From 1994 on, all countries in the CFA franc zones implemented structural adjustment programs.

In the aftermath governments agreed to introduce regional mechanisms for bank supervision in Central and West Africa and initiated an effort to harmonize business law. The decision followed from the belated realization that national supervision mechanisms were inconsistent with lender-of-last-resort responsibilities vested in regional central banks (and ultimately the French Treasury).

These regional arrangements have certainly led to important savings of financial and human resources, compared with the largely nation-based systems that prevailed until 1990. But their main claims to success have been the improvements in corporate governance, in an industry in which they had been severely lacking, and the professionalization of supervision.

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29 These banks had generally mixed (public-private) ownership.
3.1.2 The Eastern Caribbean Central Bank

The Eastern Caribbean Central Bank (ECCB) serves six sovereign countries: Antigua and Barbuda, Dominica, Grenada, St. Lucia, St. Kitts and Nevis, St. Vincent and the Grenadines, together with a British Overseas Territory, Montserrat.

Despite their relatively high per capita income (see Table 5) the size of the domestic market in these countries is very small which implies considerable cost disadvantages particularly in the production of public goods and in the capacity to diversify risk.

Table 5
Eastern Caribbean: Basic Data

<table>
<thead>
<tr>
<th>Country</th>
<th>GDP Billions of U.S. dollars</th>
<th>Per capita GDP U.S. dollars</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antigua &amp; Barbuda</td>
<td>1217.1</td>
<td>14048</td>
</tr>
<tr>
<td>Dominica</td>
<td>357.3</td>
<td>4883</td>
</tr>
<tr>
<td>Grenada</td>
<td>638.0</td>
<td>6162</td>
</tr>
<tr>
<td>St. Kitts and Nevis</td>
<td>543.3</td>
<td>11046</td>
</tr>
<tr>
<td>St. Lucia</td>
<td>996.4</td>
<td>5854</td>
</tr>
<tr>
<td>St. Vincent and the Grenadines</td>
<td>597.9</td>
<td>5480</td>
</tr>
</tbody>
</table>

Note: Data corresponds to 2008.
Source: DDP June 2010.

Historical origin. The countries that signed the ECCB Agreement Act of 1983 had more than three decades of experience with regional currency board arrangements, but much of that experience was based on a governance structure supported by colonial rule and a banking industry dominated by branches of foreign banks that were self-regulated and self-supervised by their head offices.

Similar to the experience of West and Central Africa political independence presented a challenge to the national authorities. Who was going to be responsible for maintaining monetary stability? Which currency was to be used? Who was responsible for the regulation of financial institutions? The decision to pool resources and supervise banks through the ECCB had a clear appeal in exploiting economies of scale; but for this to work in practice the governments of the member countries and the management of the ECCB had to develop: a unified legal framework for commercial banks operation, allocate a stable budget to build the necessary cadre of human

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resources to manage the central bank, and had to establish rules to protect against outright, overt political interference in the regulatory and supervisory role of the ECCB.

**Central bank technical issues.** From the outset the authorities addressed four fundamental problems: the distribution of seigniorage across member countries; the foreign exchange coverage of the Eastern Caribbean dollar, the regulation of the rapidly changing banking sector and independence.

After considerable debate member countries agreed to distribute seigniorage in proportion to the contribution each country had to overall money demand and to maintain a foreign exchange coverage of 60 percent.\(^{31}\)

The financial sector had started to change already in colonial times. The first domestic banks were the cooperative banks and the government and postal savings banks, founded in the 1950s; in the 1970s most of the countries established national banks with full or part government ownership. The third challenge was regulating and supervising these banks. To facilitate the task member countries agreed on passing a uniform banking law that would provide a common legal framework for financial operations.\(^{32}\)

The fourth challenge was to establish how much sovereignty country governments were willing to sacrifice in exchange for the efficiency gains they would obtain by participating in the common central bank. This was dealt with through: the governance rules established for ECCB, maintaining government jurisdiction in the licensing of new banks, and unwritten rules developed during a quarter of a century of bank operation.

**Governance of ECCB.** The relationship between the ECCB and the governments of the member countries is governed by the Monetary Council which is integrated by the Ministers of Finance of the participating governments; the Board of Directors, comprising the Governor, Deputy Governor and one Director appointed by each of the participating countries, responsible for policy and general administration of the Bank and the Governor and Deputy Governor responsible for the management of the Bank (see ECCB website).

While the governance rules do not provide political independence to the Bank, they have encouraged autonomy regarding day to day operations, mainly through the de facto budgetary independence and the modalities of operation of the Board.

The unanimity rule in the Monetary Council governing the relationship between the country governments and the regional central bank has been important to isolate the bank and its policies from the vagaries of political fads.

\(^{31}\) Some countries led by Grenada wanted to reduce the coverage to 40 percent; they argued that this decision would increase the funds available for development (see Favaro, E. et. al., op. cit. 2008).

\(^{32}\) Passing a uniform law regulating financial operations in all member countries was supported by the leading international banks operating in the region.
The licensing of new banks is the responsibility of the finance ministry of each member country; the ECCB has an advisory role. This division of responsibilities has caused occasional tensions; even so, in practice it has worked satisfactorily and time and reputation have won a de facto veto for the ECCB in this area.

The other area where member governments have kept their jurisdiction is enforcement of the law and sanctions. Following a bank inspection, the central bank may issue a Memorandum of Understanding summarizing necessary corrective measures, but it depends on the country government to enforce its recommendations.

**Performance.** The process of bringing the central bank into fruition took a long time. None of the *technical problems* was solved overnight and some remain to this day only partially solved. But the direction was clear and the relationship between the country governments and the management of the bank has always favored cooperation rather than confrontation.

The ECCB has been highly successful at providing monetary stability for the sub-region. For instance, the members of ECCB have had much lower inflation than Guyana or Trinidad and Tobago during the past three decades. However, the fixed peg has only been effective at keeping the Bank shielded from pressures to finance sustained fiscal deficits of member countries, which have accumulated fairly large public debt to GDP ratios in the past two decades.

### 3.2 Justice Provision: the Supreme Court in the Eastern Caribbean and OHADA in West Africa

This section discusses two examples of outsourcing aspects of the provision of justice in the Eastern Caribbean and in Africa.

#### 3.2.1 The Supreme Court in the Eastern Caribbean

The ECSC is the superior court of record for six independent states (Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines) and three British Overseas Territories (Anguilla, British Virgin Islands and Montserrat).

The functions of the court include the interpretation and application of laws of the Organization of Eastern Caribbean States (OECS) member countries deciding both civil and criminal cases and hearing appeals.

**Historical origin.** In 1967 several Eastern Caribbean states changed their status from colonies to states in free association with the United Kingdom: from then on each state had control over its constitution and internal self-government; the United Kingdom had responsibility for external affairs and defense.

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The establishment of the ECSC was a natural step in this transition: it facilitated building politically independent courts able to take over responsibility from colonial courts and allowed pooling scarce resources among member countries. The final appellate function was, to this day, outsourced by the group of countries as a whole to the Judicial Committee of the Privy Council in London.\textsuperscript{34}

With the formation of the Caribbean Community Single Market and Economy under the Revised Treaty of Chaguaramas in 2001, the parties to the Treaty created the Caribbean Court of Justice (CCJ) as a court specialized for the interpretation and application of its provisions. The CCJ interprets and applies the treaty, and is seen as eventually replacing the Judicial Committee of the Privy Council of London as a final appellate court for hearing appeals for the parties.

\textbf{Governance.} The regional character of the Supreme Court implies that no state executive or legislative power can interfere with the court’s operation. In addition, the requirement of unanimity to introduce change in rules is a powerful incentive to maintain stability of the functioning of the court.

Judicial appointments are made by the Judicial and Legal Services Commission integrated by five members and chaired by the Chief Justice. Judges can be appointed to the ECSC from the pool of judges in the Commonwealth of Nations, allowing for diversity of the courts. The chief justice is appointed by the British monarch, at the unanimous request of the six prime ministers along with the three chief ministers for the colonies of the ECSC.

The ECSC is financed by the nine members of the OECS. The decision to approve the budget must be unanimous. The preparation of the draft- and the execution of the approved budget are responsibilities of the court.

\textbf{Performance.} Table 6 illustrates the rule of law indicator rating for 2008 estimated by the World Bank Institute based on enterprise, citizen and expert survey respondents. The results show that countries under the ECSC rank high against the benchmark of countries in the region that are not part of the ECSC (for instance Belize, Guyana, Jamaica, Suriname and Trinidad and Tobago) and against all other countries included in the study as well.

\textsuperscript{34} Several former British colonies kept the Privy Council as highest court of appeal for decades after their independence: for instance, Canada maintained the relationship until 1949, Australia until 1968, Malaysia until 1985 and New Zealand until 2003 (see http://en.wikipedia.org/wiki/Judicial_Committee_of_the_Privy_Council).
### Table 6
Rule of Law in Caribbean States

<table>
<thead>
<tr>
<th>Country</th>
<th>Sources</th>
<th>Year</th>
<th>Percentile Rank (0-100)</th>
<th>Governance Score (-2.5 to +2.5)</th>
<th>Standard Error</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANGUILLA</td>
<td>1</td>
<td>2008</td>
<td>92.8</td>
<td>+1.72</td>
<td>0.34</td>
</tr>
<tr>
<td>ANTIGUA AND BARBUDA</td>
<td>2</td>
<td>2008</td>
<td>82.8</td>
<td>+0.97</td>
<td>0.33</td>
</tr>
<tr>
<td>BAHAMAS</td>
<td>4</td>
<td>2008</td>
<td>87.1</td>
<td>+1.20</td>
<td>0.26</td>
</tr>
<tr>
<td>BARBADOS</td>
<td>4</td>
<td>2008</td>
<td>88.5</td>
<td>+1.28</td>
<td>0.24</td>
</tr>
<tr>
<td>BELIZE</td>
<td>10</td>
<td>2008</td>
<td>50.2</td>
<td>-0.20</td>
<td>0.18</td>
</tr>
<tr>
<td>DOMINICA</td>
<td>5</td>
<td>2008</td>
<td>68.4</td>
<td>+0.63</td>
<td>0.22</td>
</tr>
<tr>
<td>GUYANA</td>
<td>11</td>
<td>2008</td>
<td>27.8</td>
<td>-0.70</td>
<td>0.17</td>
</tr>
<tr>
<td>JAMAICA</td>
<td>12</td>
<td>2008</td>
<td>39.2</td>
<td>-0.49</td>
<td>0.15</td>
</tr>
<tr>
<td>ST. KITTS AND NEVIS</td>
<td>3</td>
<td>2008</td>
<td>72.7</td>
<td>+0.75</td>
<td>0.25</td>
</tr>
<tr>
<td>ST. LUCIA</td>
<td>4</td>
<td>2008</td>
<td>76.6</td>
<td>+0.83</td>
<td>0.22</td>
</tr>
<tr>
<td>ST. VINCENT AND THE GRENADINES</td>
<td>4</td>
<td>2008</td>
<td>78.0</td>
<td>+0.87</td>
<td>0.22</td>
</tr>
<tr>
<td>SURINAME</td>
<td>7</td>
<td>2008</td>
<td>44.5</td>
<td>-0.33</td>
<td>0.22</td>
</tr>
<tr>
<td>TRINIDAD AND TOBAGO</td>
<td>10</td>
<td>2008</td>
<td>48.8</td>
<td>-0.25</td>
<td>0.15</td>
</tr>
</tbody>
</table>


#### 3.2.2 The Organization for the Harmonization of Business Law in Africa

OHADA, is a system of business laws and judicature serving 16 countries: Benin, Burkina Faso, Cameroon, Central African Republic, Comoros, Congo, Ivory Coast, Gabon, Guinea, Guinea-Bissau, Equatorial Guinea, Mali, Niger, Senegal, Chad and Togo. All members of BCEAO and BEAC are members of OHADA; in addition, Comoros and Guinea, former French colonies, also form part of the organization. Figure 2 shows the geographical location of member countries:
**Figure 2**  
Members of OHADA

Note: Members of OHADA appear in light green, DRC, a candidate to become member, appears in dark green.  
Source: See http://en.wikipedia.org/wiki/OHADA.

**Historical origin.** OHADA was established in 1993 with the objective of harmonizing and modernizing the corps of business law in the region and of introducing transparency and predictability on dispute resolution.

At the time there was a general perception that business law heterogeneity and unpredictability discouraged foreign investment in the region. In the aftermath of the 1994 devaluation of the CFA Franc this weakness became a serious obstacle to the reform of state-owned and public-private enterprises in the region.

Specifically, the OHADA nations established a legislative and judicial system devoted to business laws, operating parallel to their national analogue.

**Governance.** The legislative arm of OHADA is the Council of Ministers (CM) comprising the Ministers of Finance and Justice of each Member State. The CM adopts uniform laws known as Uniform Acts by unanimous vote. The Uniform Acts prevail over member state’s national laws.
The Common Court of Justice and Arbitration (CCJA) is responsible for interpretation of the uniform laws and is the ultimate jurisdiction to appeal on court rulings regarding the Uniform Acts. Implementation of the Acts depends on the national court systems (disputes have to be initiated in the country courts) and the CCJA only intervenes on appeal. The CCJA also offers a forum for international arbitrage.  

The system also includes the Permanent Secretariat responsible for drafting the Uniform Acts and providing administrative support to the organization and the *Ecole Regionale Superiere de la Magistrature* (ERSUMA) to educate judges and legal professionals in OHADA member countries.

**Performance.** Most OHADA member countries have weaker business indicators than the average for Sub-Saharan Africa (see Table 7). Is that indication that OHADA has not been a development force in the sub-region or is this reality precisely the reason why OHADA was created? This question can only be approached by conducting a detailed analysis of how OHADA’s performance has broadened (or narrowed) the range of economic transactions within the sub-region and between the region and the rest of the world, a task that is beyond the scope of this paper.  

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36 The training institute for judges from the region.
37 Even this strategy to assess the performance of OHADA is difficult to analyze. For instance, several Bank colleagues argue that OHADA has been used to strengthen monopoly practices in the region rather than to strengthen competition. While this may be correct, arguing that this fact detracts from the merits a regional solution is skin to arguing against efforts to improve literacy in China before 1978 on grounds that they facilitated, for years, ‘brain washing’ rather than development. When China changed abruptly its policies it greatly benefitted from the pool of educated workers it had created through decades of effort.
Table 7
Doing Business Indicators in OHADA Countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Protection of investors</th>
<th>Enforcing contracts</th>
<th>Minimum capital to start a business</th>
<th>Cost to export</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benin</td>
<td>3.3</td>
<td>64.7</td>
<td>290.8</td>
<td>1951</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>3.7</td>
<td>83.0</td>
<td>428.2</td>
<td>2262</td>
</tr>
<tr>
<td>Cameroon</td>
<td>4.3</td>
<td>46.6</td>
<td>182.9</td>
<td><strong>1250</strong></td>
</tr>
<tr>
<td>Central Af. Rep.</td>
<td>4.0</td>
<td>82.0</td>
<td>507.1</td>
<td>5491</td>
</tr>
<tr>
<td>Chad</td>
<td>4.0</td>
<td>77.4</td>
<td>369.3</td>
<td>5497</td>
</tr>
<tr>
<td>Congo, Rep.</td>
<td>3.3</td>
<td>53.2</td>
<td><strong>96.5</strong></td>
<td>2490</td>
</tr>
<tr>
<td>Ivory Coast</td>
<td>3.3</td>
<td><strong>41.7</strong></td>
<td>204.9</td>
<td>1969</td>
</tr>
<tr>
<td>Gabon</td>
<td>3.3</td>
<td><strong>34.3</strong></td>
<td><strong>26.5</strong></td>
<td>1945</td>
</tr>
<tr>
<td>Guinea</td>
<td>2.7</td>
<td><strong>45.0</strong></td>
<td>489.7</td>
<td>855</td>
</tr>
<tr>
<td>Guinea-Bissau</td>
<td>4.0</td>
<td><strong>25.0</strong></td>
<td>779.9</td>
<td>1545</td>
</tr>
<tr>
<td>Eq. Guinea</td>
<td>4.0</td>
<td><strong>25.0</strong></td>
<td>779.9</td>
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<tr>
<td>Mali</td>
<td>3.7</td>
<td>52.0</td>
<td>334.6</td>
<td>2075</td>
</tr>
<tr>
<td>Senegal</td>
<td>3.0</td>
<td><strong>26.5</strong></td>
<td>206.9</td>
<td><strong>1098</strong></td>
</tr>
<tr>
<td>Togo</td>
<td>3.7</td>
<td><strong>47.5</strong></td>
<td>514.0</td>
<td><strong>940</strong></td>
</tr>
<tr>
<td>SSA</td>
<td>5.3</td>
<td>49.3</td>
<td>144.7</td>
<td>1941.8</td>
</tr>
<tr>
<td>East Asia and P.</td>
<td>4.4</td>
<td>48.5</td>
<td>21.3</td>
<td>909.3</td>
</tr>
</tbody>
</table>

Note: Protection of investors: Index 0-10; Enforcing contracts: Cost as % of claim; Minimum capital to start a business (as % of per capita income); Cost to export (US$ per container). Countries in bold have better indicators than the average for Sub-Saharan Africa (SSA).

Source: Doing Business Indicators: [http://www.doingbusiness.org/ExploreTopics](http://www.doingbusiness.org/ExploreTopics)


The CCJA is well respected for its integrity and the quality of its judgments. The court has contributed to improve transparency by publishing its own decisions, including detailed reference to the lower courts’ decisions from which the appeal arose.

A challenge for the future is to broaden the scope of the organization and integrate states under common law jurisdictions (for instance, Ghana and Nigeria).39

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3.3 The Regulation of Telecommunications

This section discusses two examples of outsourcing aspects of the regulation of telecommunications in the Eastern Caribbean and in Africa.

3.3.1 The Eastern Caribbean Telecommunications Authority

The Eastern Caribbean Telecommunications Authority (ECTEL) was established in 2000 as the agency responsible for the regulation of telecommunications in Dominica, Grenada, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines.

The objective of ECTEL is to design and maintain a transparent, competitive and investor-friendly licensing and regulatory regime to be implemented at the national level, to manage number and frequency allocations in each of the member states, and to create a forum for coordination of OECS telecommunications policies and regulations.

**Historical origin.** The establishment of ECTEL had roots in the independence of member countries and on the evolution of mobile phone technology since the 1980s. Before independence the sole telephone service provider was Cable and Wireless (C&W) who operated a monopoly. The responsibility of controlling C&W fell on the British colonial authorities; the capacity of these authorities to exercise control was based on a global relationship with C&W’s worldwide network. Political independence created a vacuum. Who was going to regulate the incumbent?

The second force underlying change was the radical transformation of the market and institutions in the telecommunications sector worldwide caused by the technological revolution in mobile-phone technology. Technological change urged competition, preserving monopoly in the context of these changes was impossible.

The tradition of cooperation among Eastern Caribbean states provided a model to base the design of the new regulatory institution; the final design of ECTEL has similarities with that of the prestigious Eastern Caribbean Central Bank.

The debate preceding the establishment of ECTEL was over how much sovereignty national governments would delegate. The consensus was to establish ECTEL as a regional advisory rather than as an independent body vested with executive power. In addition, National Telecommunications Regulatory Commissions (NTRCs) responsible for implementation of regulations and policies, with technical assistance from ECTEL, were established in each of the member countries.

**Governance.** The governance of ECTEL is based on a Council of Ministers (CM), the Board of Directors and the Secretariat. The CM comprises the ministers responsible for
telecommunications in the member states and the Director General of the OECS as an ex office member. The CM is responsible for approving the budget and ensuring the Board is responsive to the needs of member states.

**Performance.** The liberalization of telephone markets and the establishment of ECTEL as the sub-regional telecommunications regulator in the Eastern Caribbean happened simultaneously, which makes it impossible to disentangle the role of each of these steps in performance over the next five years. Be it as it may the spread of mobile phone services in the region was explosive: as of 2002 the average number of mobile phone subscribers among ECTEL countries was low, 9.2 per 100 people), one year after it had jumped to 47 and it reached 119 in 2008.40

While power is vested at the national level but, in practice, ECTEL seems to have the ultimate decision-making authority --the NTRCs always seem to abide by the recommendations made by ECTEL.41 ECTELs’ counsel concerns general issues regarding the use of the spectrum, interconnections, pricing policies, and the harmonization of the regulatory system across the region. Daily issues such as license applications or interference complaints are more the domain of the NTRCs.

The pooling of regional technical knowledge into one body is seen as a major advantage. The organization has been able to accumulate a relatively well-respected pool of engineers, lawyers, and economists that might have been impossible to duplicate on a national level.

Regulatory consistency has value for the investors. Because of regulatory consistency companies can treat the member nations as a single market when doing business.

**3.3.2 The West Africa Telecommunications Regulator Assembly**

The West Africa Telecommunications Regulator Assembly (WATRA) is a forum to facilitate: the adaptation of the regulatory environment in telecommunications and information and of infrastructure to the evolution in this technology worldwide; the harmonization of telecommunications regulation; and the integration of the telecommunications market in West Africa.

**Historical origin.** It was established in 2002 by seven countries. Since then it has grown to a membership of 15 countries: Benin, Burkina Faso, Cape Verde, Cote D’Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal and Sierra Leone (see Figure 3).

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WATRA membership consists of the established independent National Regulatory Authorities (NRAs) and departments for the regulation of telecommunications services of member states. The NRAs are responsible for implementing WATRA’s recommendations.

**Governance.** WATRA has three institutions with clearly defined roles. The Conference of Regulators is the highest decision making body and is responsible for defining general policy framework and guidelines for implementation. The Executive Committee (EC) comprises the Chairman and two Vice Chairmen and oversees the implementation of WATRA programs and activities. The Executive Officer serves as Secretary of the Committee. And the Secretariat implements WATRA programs and activities with the Executive Officer as Head of Secretariat.

**Figure 3**
**Members of WATRA**

Note: Members of WATRA appear in color.
Performance. The impetus for reform of telecommunications policy in Western Africa arose from the poor performance of domestic incumbent operators and the realization of the opportunities opened by mobile-telephone technology.

As of 2001, the average number of fixed- and of mobile phone lines among WATRA member countries was very low (about 1.8 per 100 people each). The introduction of mobile telephone technology during the decade abruptly altered this reality and, by 2008, the number of mobile phone subscribers had increase to 38.8 per 100 people.

The diffusion of mobile telephone technology in the region created a demand for regulatory services to manage the spectrum, and settle disputes among market participants and between consumers and producers of services. Regional coordination and integration of regulatory offices helped to overcome country capacity limitations at the country level and develop more competitive telephone service markets.

Obtaining consensus from all governments in a region for a regional regulator has not been easy, due to different attitudes, approaches and commitments to reform, as well as concerns about national sovereignty. As a first step, WATRA has facilitated information exchange, has provided non-binding advice on procedural issues (such as dispute resolution), and has made substantive recommendations on policy matters (such as standardization, interconnection, and methods for estimating costs and setting prices).

Currently, the West African Telecommunications Regulatory Assembly (WATRA), is collaborating with the Economic Community of West African States (ECOWAS), to introduce a law that will mandate mobile phone operators across the sub-region to adopt roaming services at the cheapest possible cost.

3.4 Multi-Country Security Agreements in Africa

Africa has the largest demand for conflict resolution and peacekeeping operations in the world. The United Nations (UN) has played a leading role in the peacekeeping activities in the continent; for example in 2008, 11 of total 19 peace operations conducted in Africa were led by the UN. In recent years, regional organizations mainly African Union (AU) and the Economic Community of West African States (ECOWAS) are building up their capacity in dealing with regional security problems and playing more active role in the peacekeeping of the continent.

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42 In nearly all cases these were state-owned enterprises within a Ministry of Telecommunications.
43 See series: Mobile Cellular Phone Subscriptions (per 100 people) and Telephone lines (per 100 people) in Information and Communications for Development database in DDP, October 15, 2010.
44 Same as footnote 42.
45 See Kessides, Ioannis et. al., 2010.
3.4.1 The Peace and Security Council of the African Union

The Africa Union (AU) serves 53 Africa countries. The objectives of the AU are to achieve unity and solidarity among African countries, promote the political and socio-economic integration of the continent, and promote peace, security and stability on the continent.

The Peace of Security Council (PSC) is the arm of the AU in charge of peace promotion and conflict prevention on the continent. The council may legally intervene in any member country that experiences genocide, crimes against humanity, undemocratic change of government or an uprising by rebel forces. Any decision to intervene in a member country has to be made by the Assembly of AU with the recommendation of PSC.

The African Standby Force (ASF) is the PSC’s associated military force. It is expected to become fully operational in 2010. The ASF under direction of PSC is intended for the rapid and effective deployment to the member nation in or on the verge of the conflict to perform the peace promoting tasks such as conflict prevention, peacekeeping, peace building post conflict disarmament, demobilization and humanitarian assistance. The planned force are comprised of five standby brigade level forces, one in each region supported by civilian polices.

Historical origin of PSC. The AU was established in 2002 and its predecessor the Organization of Africa Unity (OAU) was established in 1963. The PSC was established in 2004 under the Protocol Relating to the Establishment of the Peace and Security Council of the African Union.

Governance of PSC. The composition of the PSC is similar to that of the United Nations Security Council. Fifteen member countries are elected to the Council, of which five countries have three years term and 10 other countries have two years term. The composition of the Council intends to provide equitable representation across five regions - Central, East, North, Southern, and West Africa. Under the principles of peaceful settlements and early response to the crisis, the Council also has the power to authorize the mounting and deployment of military mission to crisis nations and regions.

Performance of PSC. AU and PSC have been actively involved in the peacekeeping operations in the continent. The first peacekeeping operation by AU was launched in 2003 to Burundi (AMIB) in an effort to end the decade long conflict in the country with authorization of UN Security Council. Most recently, the AU has involved in three military peacekeeping operations in the continent. Two missions to Somalia (AMISOM) and the Comoros are independently conducted by AU so far and one is a hybrid mission with United Nations in Darfur, Sudan.
3.4.2 Economic Community of West African States (ECOWAS)

The Economic Community of West African States (ECOWAS) is a regional organization composed of 15 western African Countries\textsuperscript{46}, and is the most experienced multinational body in Africa in operating peace-keeping tasks.

**Historical origin of PMAD.** ECOWAS was founded in 1975 to promote economic integration within the region. Realizing that “economic progress cannot be achieved unless the conditions for the necessary security are ensured”, ECOWAS strengthened cooperation between member states and adopted broad and sophisticated systems in the areas of conflict prevention, management, resolution and security.

The ECOWAS nations signed a non-aggression protocol in 1978 obligating member countries not to use force to settle dispute and urging member countries to “refrain from the threat or use of force or aggression” and to “refrain, from committing, encouraging or condoning acts of subversion, hostility or aggression” against other member countries.

A Protocol Relating to Mutual Assistance on Defense (PMAD) was signed on 1981 claiming mutual defense and assistance against military threat or aggression to member nations and also providing for the establishment of an Allied Armed Force of the Community (AAFC). Other security related treaties adopted subsequently include ECOWAS Convention on Mutual Assistance in Criminal Matters and on Extradition signed on 1992 and 1994, the Declaration on the Moratorium on the Importation, Exportation and Manufacture of Light Weapons of 1998 and the Program for the Co-ordination of Assistance of Security and Development of 1999.

In 1999 the Community adopted the Protocol establishing Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security clearly defining the institutions and procedures to manage and resolve regional security issues.

**Governance.** The institutions of the Mechanism cover the Authority, Mediation and Security Council, the Executive Secretary, Defense and Security Commission, Council of Elders, Early Warning Observation and Monitoring System and ECOWAS Cease-fire Monitoring Group (ECOMOG). While the Authority is the supreme decision maker, it has delegated its power to Mediation and Security Council which was launched in 2000.

Similar to the UN Security Council, the Council is authorized to make the policies regarding to regional security matters and take all forms of intervention, including deployment of political and military missions. The Defense and Security Commission is a technical and administrative

\textsuperscript{46} The member nations of ECOWAS are Benin, Burkina Faso, Cape Verde, Cote d’loire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.
organ to access the logistical requirements of peace-keeping operations. The Council of Elderly is comprised of eminent personalities to engage in preventive diplomacy. The hub of Early Warning System is the Observation and Monitoring Centre that has four Observation and Monitoring Zones within the sub-regions.

ECOMOG is the military component of ECOWAS, made up of several standby forces (civilian and military) in their country of origin and able to be deployed immediately.

**Performance.** The ECOMOG has engaged in several military interventions within the region. In August 1990, the ECOMOG intervention force entered Liberia to prevent the overthrow of the government; the mission left the country in 1998 after the peace accords were signed and new government was elected under its overseeing. Since September 2002, the ECOMOG mission deployed 1,400 troops to Cote d’Ivoire in response to a military rebellion (ECOMICI). From April 2004 the mission is integrated into the UN operation in Cote d’Ivoire. A second peacekeeping mission was deployed to Liberia due to the renewed conflict since September 2003. The mission was converted into a UN International Stabilization Force one month later.

4. **A New Development Trend: Regional Arrangements to Provide Quality Public Services**

The use of regional institutions to improve quality of public services has spread in recent years. This section analyses why. In addition, it discusses: What services have been easier to contract out and why? Why have some states contracted out public services and others have not? What models of subcontracting have developed? What circumstances facilitate successful subcontracting? How have these experiments worked? What are the lessons regarding the complexity of reforming institutions and of improving quality of public services? How replicable are these experiments and what challenges they pose to development organizations?

*Why has contracting out public services spread in recent decades?*

Demand for regionally provided public services has increased considerably in the past three decades; five out of eight of the organizations described in section three did not exist before 1980. The main reason underlying the surge is the increase in the number of politically independent states after 1950: fifty-seven out of 62 countries in tables 1 and 2 became independent after 1950; forty-six after 1960 (see Figure 4).
Political independence brought self-determination but also implied that services formerly provided through colonial institutions had to be supplied by fledgling national institutions. The response to these challenges varied considerably, some countries developed national institutions; others pooled resources regionally and subcontracted some public service provision from these organizations; still others maintained their links to the former colonial powers.

The second reason underlying the surge is demand originated in the expansion of world trade. For instance, the increase in regional trade associated with preferential trade agreements has generated a demand for provision of justice at the regional level: the European Court of Justice, in Europe, and the Caribbean Court of Justice in the Caribbean, among others, are the response to these demands.

*What services have been easier to contract out and why?*

In most of the examples examined sovereign states subcontract the advisory aspects of some core government services rather than the executive aspects of these services or non-core public
services. They outsource monetary and financial sector stability or regulation of telecommunications rather than non-core government services such as social security or public health and education. They contract out advisory aspects of banking supervision and rely on each country sovereign government for the enforcement of the recommendations.

Understandably, contracting out advisory functions, as distinguished from executive functions, raises less political resistance, as governments maintain their right to accept or reject the recommendations of the regional bodies.

In the future, aspects of non-core public services may, and probably will, be outsourced internationally. Aspects of higher education are a prime candidate to be outsourced regionally and there are already examples of regional cooperation such as the University of West Indies and the University of the South Pacific. More examples will certainly develop as countries learn the organizational intricacies involved.

It is likely that outsourcing of aspects of core public services, as in OHADA, rather than the entire service as in the ECSC will expand. There is a growing demand for countries to simplify and modernize business regulation and to reduce transaction costs of firms operating across borders. Satisfying this demand requires a great deal of coordination and organization effort.

A pure economic approach suggests that plausible reasons underlying the contracting out of some core government services are economies of scale in production and capacity limitations at the individual country level. Both arguments are important among the small states of the Eastern Caribbean and also for most Sub-Saharan Africa countries; but clearly this is only part of the story.

Why have some states contracted out public services while others have not?

The economic approach suggests that the benefits from subcontracting some public service provision in the South Pacific would be high; even so, the costs of coordination and organization of service provision are also high and so far have been a barrier to their development. These costs originate in geographic distance, in historical and cultural differences and in the lack of experience these countries have with this type of organization.

Geographical proximity is very important. The distances among island states in the South Pacific are vast which makes physical interaction more difficult to happen than among small states in the Eastern Caribbean or in Southern Africa or among states in West Africa.47 However, the advances in information and telecommunications technology worldwide are likely to reduce the role of this factor in the near future.

47 But it is not a sufficient condition by any means. Barbados opted out of the Eastern Caribbean Currency Union and did not become part of the ECCB; Antigua and Barbuda, a member of ECCB and the ECSC is not a member of ECTEL.
History matters. The countries that established BEAC, BCEAO and ECCB were part of colonial systems that favored cooperation in central banking, a tradition that also existed in justice, civil aviation regulation and security within the Eastern Caribbean region. This tradition helped develop formal mechanisms for cooperation after the countries became independent. In turn, cooperation was probably more costly when countries had different traditions, culture or language.

Lack of experience at coordinating and interacting with other countries is an important barrier to develop these initiatives. Who is going to take the leading role and incur the initial coordination costs? What models are appropriate? The example of the University of the South Pacific in the region is an initiative to learn from. It is supported by 12 Pacific Island Countries - Cook Islands, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu; it started operations in 1968 and was established by royal charter in 1970.

Neither geographic nor historical or cultural barriers are obstacles impossible to surmount. Burundi and Rwanda, former Belgian colonies, have recently joined the East African Community (EAC), an intergovernmental organization also integrated by three former British colonies: Kenya, Tanzania and Uganda. This radical move is indicative of the perceptions the governments and the civil societies of these countries have about the sub-region.

**What models of subcontracting have developed?**

The most common model is outsourcing to a regional organization; less frequent but important is outsourcing provision to another country. The eight cases described in section three are examples of the first type; however, in the cases of BEAC and BCEAO the model includes a relationship with the French Treasury who remains as lender of last resort of the central banks; and the countries served by the ECSC maintain their link to the Judicial Committee of the Privy Council as highest court of appeal.48 50

The regional institutions can be classified, in turn, in two types. First type consists in those whose members have about the same economic size (for instance in the Eastern Caribbean), and/or each country has a single vote at the Board (ECCB or ECTEL); second type is those institutions whose members have different economic size (for instance BEAC or BCEAO) or when member countries have different voting representation at the Board (as in the case of BEAC).

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48 For instance, Burundi and Rwanda have legal systems based on the French law tradition, the rest of the countries in the EAC have legal systems based on the common law tradition.

49 To make things more complicated the relationship has historically been influenced by the views of other institutions within the Government of France, most notably the Presidency (see Stasavage, op. cit.)

50 The ECSC model is interesting also in that it sees judges from the rest of the Commonwealth of Nations as part of the pool from which it selects its judges. This has allowed a permanent flow of new blood renovating the quality of the magistrates.
A second criterion of classification is independence. Some regional organizations are independent and some are not. In turn, there are regional organizations that are de jure independent (like ECSC) and those who are de facto independent (arguably ECCB). De facto independence, or day-by-day independence from political interference, is more likely to develop when the agency providing the service has some budgetary independence. The latter is facilitated when the agency has its own resource. For instance, central bank seigniorage, in the cases of the ECCB, the BEAC and the BCEAO, and fees from managing the communications spectrum, as with ECTEL, limit day-by-day interference in budget management and facilitate the building up of a highly-qualified cadre of civil servants. De facto independence is also a by-product of reputation, an asset built overtime.

Both the regional institutions and the bilateral models are evolving and will continue to do so. However, it is unlikely that one model will dominate for all aspects of government services and for all regional circumstances. The regional model may not be feasible for many small states in the South Pacific or for states such as Afghanistan. A feasible model in these cases would be to contract out provision aspects of some public services from an international organization or a country bilateral while maintaining the executive capacity (to accept or reject recommendations) within the sovereign government. The role of the bilateral is particularly important in the initial stages to facilitate coordination and help ease start up costs.

**What circumstances facilitate successful subcontracting?**

Rules anchoring some regional bodies to a third party with recognized prestige may strengthen fledgling institutions. For instance, the role of the United Kingdom Privy Council as a final appellate court for the ECSC, and the position of the French Treasury as lender of last resort for the Central Banks in Central and West Africa, may have helped keep the regional institutions stable, especially in their early years.

Governance rules may contribute to the stability of policies of a regional body. An example is the ECCB, where the requirement of unanimity among board members on major policy decisions has helped ensure the stability of its policies. In the case of the BEAC and the BCEAO in Central and West Africa, governance rules did have a stabilizing effect, but loopholes in the rules were instrumental in undermining stability during the 1980s.

Clear rules and member countries abiding by those rules are important. The Eastern Caribbean Central Bank (ECCB) was set up as a central bank, but it retained some currency board characteristics and has in fact generally followed quasi-currency board practices. To insulate it from pressures to expand credit, its statutes place strict limits on the amounts of credit it can

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51 But, absence of an independent source of revenue is not always a deterrent to the prestige and effectiveness of an institution, as is shown by the experience of the ECSC.
extend to individual member governments through a variety of prescribed instruments. By contrast, the statutes of the Central and West African central banks were not equally effective in controlling expansion of credit to the development banks or the liberal use of rediscount mechanisms. The consequent excessive credit growth contributed to balance of payments crises after 1985.

Legislation and regulation among member countries is consistent. Disharmony in the underlying banking legislation and regulation would greatly reduce the benefits from centralizing the regulatory function. A uniform legislative framework has been crucial for the efficient operation of the multicountry regulatory solution in the Eastern Caribbean. In Africa, in the aftermath of the 1980s financial crisis, countries embarked on a regional effort to harmonize their legal and regulatory frameworks for conduct of business (OHADA).

**How have these experiments worked?**

Assessing the performance of the regional organizations examined in this paper is complex for at least three reasons. First, there is no counterfactual; it is possible to examine the experience of BEAC or BCEAO but it is impossible to benchmark this experience against the background of what would have happened had the member countries chosen a different path. Second, there is no information on the cost of government services to support assertions on the cost-efficiency of regional—vis-à-vis single country provision of services. Third, most of the regional institutions examined do not have a sufficient track record to support a thorough analysis.

Against this background this paper relies on the perceptions of public and private sector actors in each of the countries as to the quality of the services received and, secondly, on whether the model has inspired applications in other domains or not.

In general, there is consensus in both the Eastern Caribbean and in West and Central Africa that the provision of some government services by regional institutions has facilitated access to higher quality services than countries could have afforded otherwise; and that it has allowed building up a high-quality cadre of civil servants which would have been prohibitively expensive had the countries gone separately.

The evaluation of the quality of services provided by BEAC and BCEAO is complicated. The reason is the difficulty of separating the working of the regional solution from the policies pursued during part of the period examined. Regarding the latter, loopholes in operational rules undermined the functioning of the banks. But these were not, mostly, technical problems; in fact, the loopholes facilitated implementation of credit and development planning strategies that were very popular within the countries. Would countries have promoted more disciplined monetary policies if they had been on their own? The experience of several other countries in Sub-Saharan Africa at the time counsels skepticism.
Have the experiences of regional provision of services inspired new initiatives? The answer is unambiguously yes. ECCB and the Civil Aviation Authority inspired ECTEL and all of them have a high reputation in the sub-region.\textsuperscript{52} BEAC and BCEAO inspired OHADA and to a certain extent WATRA.

**What are the lessons regarding the complexity of reforming institutions and of improving quality of public services?**

The cases examined caution about the long maturation time to build a functioning institution and the learning process institutions go through until they find a stable organizational and legal form. For instance:

- BCEAO, BEAC had their roots in 1945, became central banks in the early 1960s, underwent important statute reforms in 1972-73, suffered a major crisis in 1994 and assumed responsibility for banking regulation in the following decade.
- The history of ECCB is also half a century long and peppered with major learning incidents. It has roots in the currency board of 1950, later replaced by the EC Currency Union in 1965, became a central bank in 1983, suffered severe tensions resulting from Antigua and Barbuda (and sometimes Grenada and Dominica) chronic fiscal deficits, strengthened its role after the passage of the uniform banking law 1988-92, and is currently facing the challenge of the expansion of activities of non-bank financial intermediaries in the region.
- The ECSC has roots in the West Indies Federation courts in the early 1960s, became a sub-regional court in 1967, and may be superseded by the Caribbean Court of Justice according to the Treaty of Chaguaramas signed in 2001. Major issues pending are whether, and for how long, the UK Privy Council remains as the Highest Appeal Court of the EC legal system.
- ECTEL has a few years of history and has inspired the possibility of a regional regulator of other public utilities in the sub-region.
- OHADA has already sixteen years of existence and has had difficulties integrating the civil law with the common law traditions and thus to integrate Ghana and Nigeria.

**How replicable are these experiences and what challenges they pose to development organizations?**

There are many vibrant regional initiatives already being tested in the world. Some of these initiatives have developed as a result of demands from businesses; others as a result of demands to coordinate decisions regarding the building of infrastructure that affects more than one sovereign country, or management of a common natural resource.

\textsuperscript{52} See Favaro E. op. cit.
It is too early to predict which legal and organizational form some of these initiatives will evolve into but it is hard to dispute that studying about other similar experiences elsewhere in the world has importance to avoid errors of design and to understand the demands on coordination and organizational skills different solutions have.

The subcontracting of government services to regional and bilateral sources will continue to expand. However, initiatives are only likely to succeed when there is political will to yield sovereignty in some public domain area. This decision, in turn, is easier to adopt when: the service subcontracted is advice on aspects of some core government services; there is a clear definition of what is outsourced; and the rules include enough flexibility to accommodate the need to adapt to unforeseen events. Rules preserving day-by-day independence of regional agencies vested with responsibility to provide a government service are important (and an adequate budget is critical to this effect).

Two challenges facing international development institutions are that the time horizon within which these institutions design, implement and evaluate their development programs is unrealistic. Secondly, the unit of analysis in country strategies continues to be the nation; the regional context is generally not treated candidly and the relevance of regional solutions to development challenges remains unexplored as often times the countries involved belong to more than one country department.
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