

Owais Hasan Khan

Strengthening Regional Trade Integration in South Asia

A SAARC Perspective

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Owais Hasan Khan
Department of Law
National Law University Odisha
Cuttack, Odisha, India

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Dedicated to

World Peace, Prosperity and Harmony

To the people of South Asia

*In the loving, grateful and blessed memory
of my parents*

Ms. Nikhat Naseem

&

Mr. Aosaq Hasan Khan

Foreword

Regional integration exercise which first began in the post-war Western Europe ushered in a new era of multilateralism into world politics. Integrating regional economies is more a political act whereby willing states express their resolve to minimise interstate conflicts and foster a sense of regional fraternity by integrating their economies into a single multilateral framework. Encouraged by the success of the European Economic Cooperation (EEC), now renamed as European Union, states in other parts of the world too created regional groups for not only interstate economic but also interstate political cooperation. Rather surprisingly, African continent, despite the myriad intra-regional conflicts and feuds, forged more regional groups, followed by the Arab, Latin American, South East Asian states. In comparison with these cooperative (not integrationist) efforts across the global regions, SAARC is a lateral entity. As the author referred, intra-regional, mainly Indo-Pak, rivalry was the main reason for this delayed and hesitant start.

SAARC agenda, as its Charter conveys, is a modest one as it forbids regional security cooperation. Nor does it allow bilateral issues of any type to be debated in the SAARC forums. SAARC economic agenda is also not an ambitious one. It undertook to promote intra-regional trade cooperation (investment added later) albeit in limited goods. As this South Asian multilateral association moved ahead from mid-eighties—lowly and hesitantly, impeded by periodic Indo-Pak political feuds—it obviously had been a limited one. Regional free trade area pact, called SAFTA, had been able to register a modest 5% intra-regional trade. Investment and services sectors, despite formal agreements, are awaiting implementation. The reasons for this poor progress by the SAARC are many which the author has analysed systematically with sound documentation. Mutual political trust is the basic prerequisite for the growth of a regional group, a factor lamentably is nearly absent among the South Asian countries. Not only Pakistan but also India's other neighbouring countries are not exhibiting much trust in the region's largest economy, for her smaller neighbours suffer from a sense of Indian political and economic hegemonism. India too, traditionally reluctant to encourage regional economic cooperation, prefers bilateral strategies of deepening trade and investment ties with her neighbours. The Indian regional political behaviour, like intervention in Sri Lanka and intimidation of Nepal,

did not serve to help sustain a deepened political bond between Delhi and the other countries of SAARC.

At present, SAARC is dormant following the Indian boycott of the Islamabad summit. But then such periodic suspension of the SAARC gatherings and activities raises questions about the very relevance of this group. Natural though for such scepticism, SAARC needs to be supported and sustained for more than one reason. It is the only multilateral agency for flagging South Asian identity, even a faint one, in global politics. Its functioning, limping though, brings together regional civil servants and experts representing different fields which help them gain knowledge about their respective developmental problems. In the past, SAARC summits helped discuss or find solutions to bilateral issues, mainly Indian and Pakistani, on the sidelines of the SAARC summits. There is therefore a positive diplomatic dividend borne out of the summit meetings of the regional body, though bilateral issues are disallowed at the formal level. One only hopes the current impasses in the SAARC activities will be ended, as it should be in the overall interest of the countries and their people.

I congratulate the author whom I have known as an active and engaging scholar at the NALSAR, University of Law, Hyderabad. His approach to the book is not one of those stereotyped versions as he competently tried to examine the SAARC origin and activities from the perspective of regional integration models like functionalism and neo-functionalism. Equally, there is a serious effort in this book to examine the critical issues relating to regional trade such as tariff and non-tariff barriers, cross-border illegal transactions and the problems created by non-state regional actors like drug traffickers and smugglers. South Asian borders, given their fragile and unmanageable security character, are smugglers' hubs which severely inhibit official regional trade. This book, well organised and competently analysed, in my view, will surely help future scholars of regional cooperation not only in South Asia but also in other regions of the world over.

September 2020

Prof. (Dr.) P. V. Rao
Emeritus Professor
National Fellow ICSSR
Director (Rtd.) UGC-IOC
Osmania University
Hyderabad, India

Preface

The central theme of this book is based on the belief that international cooperation, based on the principles of transnational democracy and equity, is the most important tool through which lasting peace and prosperity can be ensured on this blue planet.

Mother nature created the world without borders—a white globe. Borders are artificial constructs which are morally questionable and economically disadvantages. Human problems and their solutions are transnational. Be it climate change, poverty and unemployment, diseases and pandemics, conflicts and wars, all require transnational cooperation and efforts. There is a basic dichotomy between domestic territorial jurisdiction and human problems.

I see SAARC as a ‘stepping-stone’ towards the wider aim of multilateralism, global cooperation and integration.

A well functioning, equitable and strong SAARC can secure regional peace in South Asia and facilitate its socio-economic empowerment. Considering the historical baggage and mutual political distrust amongst the South Asian nations, the good offices of SAARC, where member nations can formally and informally air opinion and iron differences, can work wonders for regional stability, peace and development.

I hope I have done justice with the subject. I wish the readers a happy reading.

Cuttack, India
September 2020

Owais Hasan Khan

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I am extremely grateful to my family for their love and support: Late Nikhat Naseem, Late Aosaif Hasan Khan, Dr. Naved Hasan Khan, Farheen Arif and Enaya Farheen Khan. I owe them whatever little I have achieved in my life.

My interest in SAARC as the area of study and research began from my post-graduation days at NALSAR, University of Law, Hyderabad, India, where I was associated with the M K Nambyar SAARCLAW Centre under the guidance of Prof. (Dr.) P. V. Rao and Prof. (Dr.) V. Balakista Reddy. Their thought-provoking and insightful discussions motivated me to pursue research in the area of SAARC.

I am most indebted to Prof. (Dr.) Sandeepa Bhat B. for his generous guidance in my work. I am sincerely grateful to him for his encouragement, endless patience and intellectual stimulation in the progress and completion of this book.

I also appreciate the active help and support extended by Librarians and staff of WB-NUJS Library, NALSAR Library, NLUO Library and ILNU Library in the conduct of this research.

I extend my deepest gratitude to Springer Nature and the entire editorial team for believing in my work and agreeing to publish it. Special thanks to Ms. Nupoor Singh for her generosity and continuous support.

Last but not least, I wish to thank all my friends, teachers and colleagues for providing me encouragement and a supportive environment.

Dr. Owais Hasan Khan

About This Book

The objectives of the present book are three-fold. Firstly, it brings forth the philosophical, conceptual and practical contours of the regionalism exception under the GATT/WTO. Secondly, it examines the functioning of SAARC as a regional integration organisation of the South Asian region, focusing specifically on trade regionalism. Lastly, it identifies the problems faced by SAARC as the regional forum and suggests the ways through which it can achieve fuller integration.

The research in this book extends to the study of the regional integration in South Asia under the aegis of SAARC as a regional integration organisation. About regional integration, it predominantly focuses on trade regionalism. However, other areas of integration which have an impact on the trade regionalism are also examined. The book also deals with the comparative analysis of SAARC regional integration with the regional integration under EU and ASEAN.

Out of sixteen areas of cooperation under SAARC, only one area that is 'economic and trade' cooperation is the part of the present study. Rest of the fifteen other areas of cooperation are not covered in the scope of this research, although brief discussion wherever necessary has been included.

Concerning comparative regionalism, the discussion has been confined only to the EU and ASEAN. The EU has been chosen because it is established as one of the most successful regional organisations in the contemporary world. ASEAN has been chosen because of its similarity to the SAARC's economy, society and political structure.

Aligning with the objective of the research, this book is divided into six chapters demonstrating three broad themes. These are, first, exploration of the philosophical, conceptual and practical contours of the regionalism exception under GATT/WTO; second, the critical and comparative analysis of SAARC as the forum of regional cooperation in the South Asian region; third, identification of the problems faced by SAARC as the regional forum and suggestion of ways through which SAARC can achieve fuller integration.

A brief overview of the six chapters is given as under:

Chapter 1 Introduction: Introduces the topic under consideration. In this chapter, the author has given a brief outline and background of the present work relating to the trade regionalism and SAARC. He attempts to demonstrate the spirit of the

regionalism exception under GATT/WTO along with highlighting its application in the South Asian region under the aegis of SAARC.

Chapter 2 Trade Regionalism Under GATT/WTO: This chapter discusses the philosophical and conceptual overview along with the practical application of 'regionalism exception' under GATT Article XXIV. It further demonstrates the rationale behind regionalism exception through literature surrounding it and through different rules, regulations and understandings under the ambit of GATT/WTO.

Chapter 3 Barriers to Trade and Trade Facilitation in Reference to SAARC Region: Chapter three is the critical study of regional integration in South Asia ushered by the South Asian Association for Regional Cooperation. It appraises the development and functioning of SAARC, primarily focusing on various barriers to trade which hampers intra-regional trade. The chapter covers both tariff and non-tariff barriers to trade in the South Asian region, along with trade facilitation measures.

Chapter 4 Comparative Regionalism: SAARC, ASEAN and EU: This chapter is a comparative study of regional cooperation in South Asia under the aegis of SAARC with ASEAN and the EU. ASEAN has been chosen for comparative analysis because of its economic, political and geographical similarity with South Asia.

The EU has been chosen predominantly because it is one of the most successful regional integration setups of the world which has been able to achieve regional integration on almost all fronts. The main idea behind the comparative study is to find out the different nuances a particular phenomenon can have in different situations. Lessons for comparative studies can help in strengthening the host phenomenon by adopting good practices from others and learning from others' mistakes, as the case may be.

Chapter 5 Strengthening Trade Regionalism Under SAARC: This chapter covers the ways and methods through which problems and bottlenecks faced by the SAARC can be countered and a fuller integration can be brought amongst the South Asian Nations under the aegis of SAARC as an organisation of South Asian cooperation and integration.

The final chapter of this book deals with the conclusion and suggestions.

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About the Author

Dr. Owais Hasan Khan is an author and academician, who is presently working as an Assistant Professor of Law at National Law University Odisha, India. Dr. Khan's research interest lies *inter alia* in the areas of SAARC Law studies, South Asian regional integration, WTO studies, personal laws, and law and religion. He is an alumnus of West Bengal National University of Juridical Sciences (NUJS) Kolkata, from where he obtained his PhD, National Academy of Legal Studies and Research (NALSAR), Hyderabad and Faculty of Law, Aligarh Muslim University, Aligarh. He has also authored the book "Critique of Anti Dumping Law".

Abbreviations

A.D	Anno Domini
ABTC	APEC Business Travel Card Scheme
ADB	Asian Development Bank
Agri.	Agriculture
AICHR	ASEAN Intergovernmental Commission on Human Rights
AIPO	ASEAN Inter-Parliamentary Organisation
ALDMK	All India Anna Dravida Munnetra Kazhagam
APEC	Asia-Pacific Economic Cooperation
APT	ASEAN Plus Three
APTA	Asia Pacific Trade Agreement
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asian Nations
ASSOCHAM	Associated Chambers of Commerce and Industry
AU	African Union
BIMSTEC	Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation
BOP	Balance of Payment
Brexit	British Exit
CAP	Common Agricultural Policy
CERT	Computer Emergency Response Team
CEU	Council of the European Union
CFSP	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
CNN	Cable News Network
COE	Committee of Experts
CoR	European Committee of the Regions
CRTA	Committee on Regional Trade Agreements
CTD	Committee on Trade and Development
CU	Customs Union
DMK	Dravida Munnetra Kazhagam
DSB	Dispute Settlement Body
DSU	Dispute Settlement Understanding

EAS	East Asian Summit
EC	European Community
ECA	European Court of Auditors
ECB	European Central Bank
ECOWAS	The Economic Community of West African States
ECSC	European Coal and Steel Community
EDPS	European Data Protection Supervisor
EEAS	European External Action Service
EEC	European Economic Community
EESC	European Economic and Social Committee
EIB	European Investment Bank
EP	European Parliament
EPSO	European Personnel Selection Office
EU	European Union
EURATOM	European Atomic Energy Community
FICCI	Federation of Indian Chamber of Commerce
FOSWAL	Foundation of SAARC Writers and Literature
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
Gds	Goods
GEP	Group of Eminent Persons
HS	Harmonised System of Classification
ICT	Information and Communication Technology
IGEG	Inter-Governmental Expert Group on Financial Issues
IR	International Relations
LAFTA	Latin American Free Trade Agreement
LCM	Land Customs Station
MEP	Members of European Parliament
MERCOSUR	<i>Mercado Común del Sur</i> /Southern Common Market
MFN	Most Favoured Nation
MoU	Memorandum of Understanding
MTN	Multilateral Trade Negotiations
MV	Mega Volt
NAFTA	North American Free Trade Agreement
NDA	National Democratic Alliance
NER	North Eastern Region
NGO	Non-Government Organisation
NLC	National Logistic Cell
NTBs	Non-tariff barriers
OAS	Organisation of American States
OECD	Organisation for Economic Co-operation and Development
PAFTA	Pacific Free Trade Agreement
PFA	Prevention of Food Adulteration Act

PJCCM	Police and Judicial Cooperation
PPA	Protocol of Provisional Application
PSA	Partial Scope Agreement
PSI	Pre-shipment Inspection
PTA	Preferential Trade Agreement
QMV	Qualified Majority Voting
RAND	Research and Development Corporation
RTA	Regional Trade Agreement
SAARC	South Asian Association for Regional Cooperation
SAARCLAW	South Asian Association for regional cooperation in law
SAC	SAARC Agricultural Centre
SADC	Southern African Development Community
SAEU	South Asian Economic Union
SAF	South Asia Foundation
SAFA	South Asian Federation of Accountants
SAFTA	South Asian Free Trade Agreement
SAI	Supreme Audit Institution
SAIEVAC	South Asia Initiative to end violence against Children
SAPTA	SAARC Preferential Trade Agreement
SARCO	SAARC Arbitration Council
SARSO	South Asian Regional Standards Organisation
SATIS	SAARC Agreement on Trade in Services
SAU	South Asian University
SCC	SAARC Cultural Centre
SCCI	SAARC Chamber of Commerce and Industry
SCM	Subsidies and Countervailing Measures
SCZMC	SAARC Coastal Zone Management Centre
SDF	SAARC Development Fund
SDMC	SAARC Disaster Management Centre
SEC	SAARC Energy Centre
SFC	SAARC Forestry Centre
SFRP	SAARC Fund for Regional Projects
SHRDC	SAARC Human Resources Development Centre
SIC	SAARC Information Centre
SMRC	SAARC Meteorological Research Centre
SMVA	SAARC Motor Vehicle Agreement
SPS	Sanitary and Phytosanitary
STAC	SAARC Tuberculosis and HIV/AIDS Centre
STC	Specific Trade Concerns
TBT	Technical Barrier to Trade
TFA	Trade Facilitation Agreement
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TRP	Target Rating Point
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development