

LEGAL SCIENCE

Kazmiryk I.I.

Legal aspects of regional economic integration

Kazmiryk Iuliia Ivanivna Postgraduate student, Institute of International Relations
Taras Shevchenko National University of Kyiv, Kyiv, Ukraine

Abstract. The article is devoted to theoretical and legal aspects of economic integration. This work is an attempt to highlight and analyze the main forms (stages) of regional economic integration, their definitions and peculiarities. Apart from legal basis the article also examines the institutional mechanism of regional economic integration.

Keywords: regional economic integration, free trade zone, custom union, common market, economic union.

Regional economic integration is a major phenomenon of the modern world. Regarding the recent regional integration trends some researchers consider that modern international relations can be characterized by the so-called "the integration boom" phenomenon [1, p.3]. Regional economic integration is one of the basic elements of the current international relations. Thus a deep and comprehensive research and analysis of the theoretical background as well as legal framework of the main economic integration forms and mechanisms are of great importance.

Economic integration seems to be one of the main themes among scientific circles. It is a matter of research for economists, lawyers, political scientists and sociologists. Among the most famous works on integration one can mention a book of Bella Balassa "The Theory of Economic Integration" [6], Fritz Machlup's research "A history of thought on economic integration" [10], Jacob Viner's "The Custom Union Issue" [14] and many others. Economic and legal aspects of regional integration are presented in United Nations Conference on Trade and Development (UNCTAD) 2007 Report "Regional Cooperation For Development" [12]. Regional integration agreements and other international instruments are also being analyzed in this research.

The **purpose** of this article is to examine and analyze the legal background of the major regional economic integration forms (stages).

According to the World Trade Organization (WTO) website data [16] and UNCTAD 2007 Report the regional economic integration is gathering momentum. Simon Lester and Bryan Mercurio explain the intense development of regional economic integration by the following reasons:

- integration agreements facilitate trade between natural trading partners (for instance, neighboring states);
- such form of regional cooperation foster trade and investment in developing countries;
- moreover it is easier to reach the consent and agreement between the states at regional level than at multilateral one;
- regional integration agreements often address specific issues not covered by multilateral trade agreements [9, pp. 346-347].

Speaking about the history of regional integration it should be noted that early versions of regional trade agreements appeared in nineteenth and, even, in eighteenth centuries [9, p.344]. The development of regional trade cooperation started in the first half of the twentieth century including the agreements between European

countries, states in Africa, South America [9, p.344]. Countries with colonial ties were parts to a number of such agreements [9, p.344]. The intense development of integration in Europe started after World War II when the necessary economic, political and other prerequisites emerged in the continent.

Some researchers mark out three main centres of economic integration around the world. They are: Western Europe (represented by The European Union (EU), The European Free Trade Association), North America (represented by North American Free Trade Agreement (NAFTA)) and Asia-Pacific Region (represented by Association of Southeast Asian Nations (ASEAN)). The recent events demonstrate the intense development of regional economic integration ties between post-soviet states (Custom Union between Russian Federation, Republic of Belarus and Republic of Kazakhstan).

Economic integration can be defined in various ways [8, p.133]. Kahnert associates the economic integration with the process of removing the discriminatory barriers at national borders [8, p.133]. Balassa defines the integration process as the abolition of discrimination within a certain territory [8, p.133]. Integration in Malchup's point of view is a process of uniting separate parts into one system [8, p.133]. According to a broad definition economic integration is the evolutionary process of deep and strong economic ties' development between countries based on common interstate institutional mechanism and coordination of national policies.

Usually regional economic integration is associated with free trade agreements, custom unions. The advanced forms of integration process deal with the formation of common market and economic union. Some researchers also mark out preferential trade agreement as the simplest form of integration [12, p.89]. The preferential trade agreement obliges parties to grant lower tariffs for the goods originating from the territory of each state party.

In case of free trade zones states agree to remove tariffs and barriers in trade of goods between each other. Para 8 of Article XXIV of General Agreement on Tariffs and Trade (GATT) provides for the legal definition of free trade zone. Thus according to Article XXIV GATT "...A free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce are eliminated on substantially all the trade between the constituent territories in products originating in such territories" [7].

North American Free Trade Agreement between United States, Canada and Mexico is an example of this integration form.

A more advanced form of integration between states takes place in case of custom union. Analyzing the legal definition of custom union the reference to Article XXIV GATT should be made. According to para 8, Article XXIV "A customs union shall be understood to mean the substitution of a single customs territory for two or more customs territories, so that:

(1) duties and other restrictive regulations of commerce are eliminated with respect to substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories, and,

(2) substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union"[7].

Consequently the custom union provides for two aspects of cooperation between states: internal and external. Internal element of cooperation means elimination of duties and other restrictive regulations of trade in goods between each other while the external component obliges the members of custom union to apply the same duties and common tariff policy in relation to the third states non-members of the custom union. Thus the functioning of the custom union needs the certain level of foreign trade policy coordination between its members.

A custom union is the basis for establishment of a common market, which is considered to be the next stage of integration process. In addition to free movement of goods common market agreement obliges member states to provide free movement of services, labour as well as capital within the territories of common market members. So a common market is the area consisting of the custom territories of its members where the free movement of goods, services, labour and capital is provided. For example, Southern Common Market (MERCOSUR) Agreement established a common market between Argentina, Brazil, Paraguay, Uruguay [16]. By this agreement states agreed to provide free movement of goods, services and factors of production within the common market.

The economic union is the most advanced stage of economic integration. This form of cooperation stipulates for coordination and harmonization of economic policies between member states in addition to free movement of goods, services, labour and capital [12, p.88]. It should be noted that integration process between European Union members goes even further establishing Economic and Monetary Union.

Each of the above forms of economic integration entails certain legal and institutional mechanisms. Legal mechanism is a system of agreements signed by the members so as to provide the legal basis for the functioning of a certain form of integration. Institutional mechanism is presented by the system of organs or institutions established according to integration agreements. The main goal of this institutional mechanism is to facilitate the integration process. The competence of each integration body is strictly envisaged by the agreement between the members and varies depending on the level of integration.

It should be pointed out that each form of integration entails deeper obligations by members and requires higher levels of policy coordination [12, p.89]. In course of inte-

gration process when a certain level of integration is achieved states members may transfer a part of their national sovereignty to regional integration institutions established according to the agreement between the states. For instance members of a custom union give up their right to set their own import tariffs. The common tariff policy in relation to foreign trade is negotiated and agreed at regional integration institutions established to this end by the participants. Usually the next stage of integration demands members to delegate a higher level of competence to the integration institutions. Thus countries of economic union have to harmonize and coordinate their economic policies within a framework of the integration bodies.

The institutional system of a certain integration unity has its own peculiarities. The structure, forms as well as competence of such bodies may vary and depend on different factors such as forms of integration, political and legal systems of participants. For instance, Article 90 of ASEAN Trade in Goods Agreement provides for establishment of ASEAN Free Trade Area Council [16]. The European Union, which is considered to be the most advanced and successful form of regional integration, has its own unique institutional mechanism represented by 7 institutions and other subsidiary bodies and agencies. Chapter 1 of Part six of Treaty on Functioning of European Union regulates the establishment and competence of the EU institutions' system which includes: The European Parliament, The European Council, The Council, The Commission, The Court of Justice of the European Union, The European Central Bank, The Court of Auditors [16]. These organs are considered to be supranational as they act independently from states members within a competence delegated to them according to agreements between the states. Members have transferred a part of their sovereign authorities in certain spheres to the institutions and correspondingly granted a supranational status to these organs [3, p.138].

In the result of the present research the following **conclusions** could be made.

- The economic integration stipulates for the step-by-step cooperation process evolving from the simplest form of integration to the more advanced one [2].

- Each form (stage) of economic integration has its own peculiarities and entails the certain commitments on behalf of members. The levels of these obligations are defined by integration agreements signed by the participants.

- Free trade zone agreements obliges states parties to eliminate barriers in trade of goods between each other while custom union entails in addition to this commitment the obligation to establish common foreign tariff in relation to third states not members of a custom union.

- More advanced integration forms include common market and economic union. In case of a common market members agree to provide free movement of goods, services, labour and capital. Here the harmonization and coordination of economic policies between members are recommended but not obligatory in contrast to economic union where members have to harmonize their economic policies.

- In course of integration process states may transfer a part of their sovereign authorities to organs or institutions established to this end in accordance with agreements signed by the states. In some cases these institutions may have the supranational status as the members delegate them a certain part of their sovereignty in some spheres. Thus institutions of the European Union are

considered to be supranational as they act independently from members within a competence delegated to them by states members.

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Казмирик Ю.И. Правовые аспекты региональной экономической интеграции.

Аннотация. Статья посвящена теоретико-правовым аспектам экономической интеграции. В работе рассмотрено и проанализировано основные формы (этапы) региональной экономической интеграции, их юридические определения и особенности. Особое внимание сфокусировано на исследовании институционального механизма интеграционных процессов.

Ключевые слова: региональная экономическая интеграция, зона свободной торговли, таможенный союз, общий рынок, экономический союз.