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ANASUA BASU RAY CHAUDHURY
ROHIT RANJAN RAI

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ROHIT RANJAN RAI**

ABOUT THE AUTHORS

Anasua Basu Ray Chaudhury is Senior Fellow at ORF, Kolkata.

Rohit Ranjan Rai is a Research Intern at ORF, Kolkata.

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ABSTRACT

The Bay of Bengal region links South Asia and Southeast Asia, with the BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation) serving as a platform of trans-border cooperation. The BIMSTEC's prime assets are the historical and cultural links between the nations, and their spirit of community. However, the lack of both a robust decision-making mechanism and a set of common rules have slowed down the growth of the organisation. This paper analyses the decision-making structure of the BIMSTEC and compares it to those of three other inter-governmental, regional organisations: the European Union, the South Asian Association for Regional Cooperation, and the Association of Southeast Asian Nations. The paper suggests a way forward to forge a unique path for BIMSTEC.

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INTRODUCTION

The Bay of Bengal (BoB) region is home to 1.68 billion people, accounting for almost 22 percent of the world population, with a combined GDP of US\$3.697 trillion.¹

In June 1997, four countries from the region—Bangladesh, India, Sri Lanka and Thailand—began their collaborative journey and established a subregional economic cooperation (BIST-EC) to accelerate economic growth and social progress through joint endeavours.² Accordingly, through the Bangkok Declaration (1997), these four countries decided “to promote sub-regional cooperation in the areas of trade, investment, technological exchange” and contribute to peace and prosperity in the region. Myanmar joined soon after, followed by Nepal and Bhutan in 2004. Eventually, the organisation adopted the name BIMSTEC (Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation).

Twenty-three years since its inception, BIMSTEC has seen both successes and missed opportunities.³ While the organisation has been praised for being innovative, it has also been criticised for underperforming in its goals.⁴ According to Ambassador Pinak Ranjan Chakraborty, who has served as both Indian High Commissioner to Bangladesh and Ambassador to Thailand, BIMSTEC’s failures can be attributed largely to a lack of interest amongst its members.⁵ The Secretary-General of the organisation has made a similar point, stating that despite the BoB being one of the fastest growing regions in the world in terms of economy, inter-country trade amongst the Bay littorals remains insignificant.⁶ A 2018 report by FICCI stated that the intra-regional trade between BIMSTEC countries was US\$40.5 billion in 2016 (about six percent of their total trade.)⁷ After years of inertia, the

littorals are starting to renew their commitment to the grouping, which coincides with the resurgence of interest in the BoB region itself amongst various stakeholders.

A number of initiatives have been undertaken following the Goa Retreat of 2016. For one, the member states have signed the Coastal Shipping Agreement and the BIMSTEC–Motor Vehicle Agreement. Further, the BIMSTEC countries participated in a ports conclave to enhance port connectivity in the region. Efforts are underway to facilitate a more conducive visa regime to promote tourism.⁸ Analysts have suggested that BIMSTEC re-evaluate its status and develop new ideas to forge a stronger BoB community. Indeed, the organisation has attempted institutional reforms, and the commitment to these can be found in the Fourth BIMSTEC Summit Declaration of Kathmandu of 2018.⁹

In a meeting held on 4 March 2020 with Sri Lankan Prime Minister Mahinda Rajapaksa, BIMSTEC Secretary–General Mohammad Shahidul Islam announced that the Charter of BIMSTEC would be ready for adoption at the Fifth BIMSTEC summit meeting, scheduled to be held in Colombo later this year.¹⁰ At least three agreements are expected to be finalised: cooperation in addressing criminal matters; BIMSTEC technology transfer facility; and establishment of diplomatic training institutions. The meeting will also explore other sectors in the BoB region where cooperation can be enhanced, e.g. sharing of intelligence, inter-regional trade, combating drug trafficking, and promoting tourism. In the 16th BIMSTEC Ministerial Meeting in August 2018 in Kathmandu, Thailand proposed to streamline BIMSTEC’s structure to make it more efficient and responsive to emerging challenges and opportunities. It recommended reprioritising the existing 14 areas of cooperation into five pillars: Connectivity, Trade and Investment,

People-to-People Contact, Counterterrorism, and Transnational Crime/Security and Science and Technology..¹¹

This paper has three objectives: to assess the present decision-making process of BIMSTEC; to explore the decision-making structures of three other inter-governmental, regional organisations, i.e. the European Union (EU), Association of Southeast Asian Nations (ASEAN), and the South Asian Association for Regional Cooperation (SAARC); and to suggest fundamental principles that the BIMSTEC can follow to shift its thrust from its project-based approach to a rules-based one.

THE BIMSTEC IN A CHANGING GEOPOLITICAL MILIEU

Both the establishment of the BIMSTEC many years ago, and the efforts in recent years for revitalisation, are results of geopolitical changes in the regional milieu. Bangladesh, for example, views the BIMSTEC as a platform to not only position itself as more than just a small state in the BoB but also push its economic development. Sri Lanka regards this grouping as an opportunity to fulfil its aspirations to connect with Southeast Asia and serve as the subcontinent's transshipment hub for the wider Indo-Pacific region. For the two landlocked Himalayan member states, Nepal and Bhutan, BIMSTEC is an opportunity to gain access to the BoB. For Myanmar and Thailand, the BIMSTEC provides an opportunity to access India's burgeoning consumer market and reduce their overdependence on China.¹²

For India, BIMSTEC is key to two major goals: national development, and fulfilling the country's strategic aspirations to cater to the wider concept of 'Indo-Pacific' and an Indian Ocean community. The grouping brings together India's strategic peripheries (South, East and North).¹³ Former Foreign Secretary of India, Sujata Singh, considers BIMSTEC a potential game changer for Northeast India's quest for

prosperity,¹⁴ which is a part of India's larger goal of transforming its remote Northeastern region into an engine of growth.¹⁵ Thus, BIMSTEC is crucial for New Delhi's key foreign-policy priorities, the 'Act East' Policy and the 'Neighbourhood First Policy'. BIMSTEC also serves the country's purpose of developing a new subregional grouping, especially with SAARC meeting with little success so far.

According to Rajiv Bhatia, former Indian Ambassador to Myanmar, BIMSTEC was previously at the "risk of being little more than a rebound relationship whenever New Delhi fails to pursue regional cooperation through SAARC ... No matter what happens to SAARC, we should be committed to BIMSTEC."¹⁶ While delivering the 20th Anniversary Speech in 2017, Indian Prime Minister Narendra Modi said, "BIMSTEC not only connects South and Southeast Asia, but also the ecologies of the Great Himalayas and the Bay of Bengal. With shared values, histories, ways of life, and destinies that are interlinked, BIMSTEC represents a common space for peace and development. For India, it is a natural platform to fulfil our key foreign policy priorities of 'Neighbourhood First' and 'Act East'.¹⁷ Immediately after taking office as external affairs minister in 2019, S. Jaishankar noted that India saw a mix of "energy, mindset and possibility" in BIMSTEC.¹⁸

While BIMSTEC has gained momentum in recent years, however, it largely remains driven by cooperation on two areas: trade and investment, and transport connectivity. The member states are busy finalising the BIMSTEC Transport Master Plan comprising 167 priority projects (worth US\$45–50 billion) along with the BIMSTEC Coastal Shipping Agreement. The Master Plan is intended to serve as a strategic document to guide actions and promote synergy amongst various connectivity frameworks, such as the ASEAN Master Plan on Connectivity 2025 (MPAC 2025) and the Ayeyawady–Chao

Phraya–Mekong Economic Cooperation Strategy (ACMECS), to achieve enhanced connectivity and sustainable development in the region.¹⁹ The same FICCI report of 2018 observed that the potential of BIMSTEC countries in the domain of trade is US\$ 250 billion, with intraregional trade accounting for US\$40.5 billion.²⁰ Thus, intra-regional trade between the BIMSTEC members can become the cornerstone of cooperation and a driving force for developing a more connected BIMSTEC. In this regard, one of the most pressing demands from industry bodies is to introduce institutional changes in BIMSTEC's structure and increase the government–business interface.²¹

THE CURRENT BIMSTEC DECISION-MAKING PROCESS

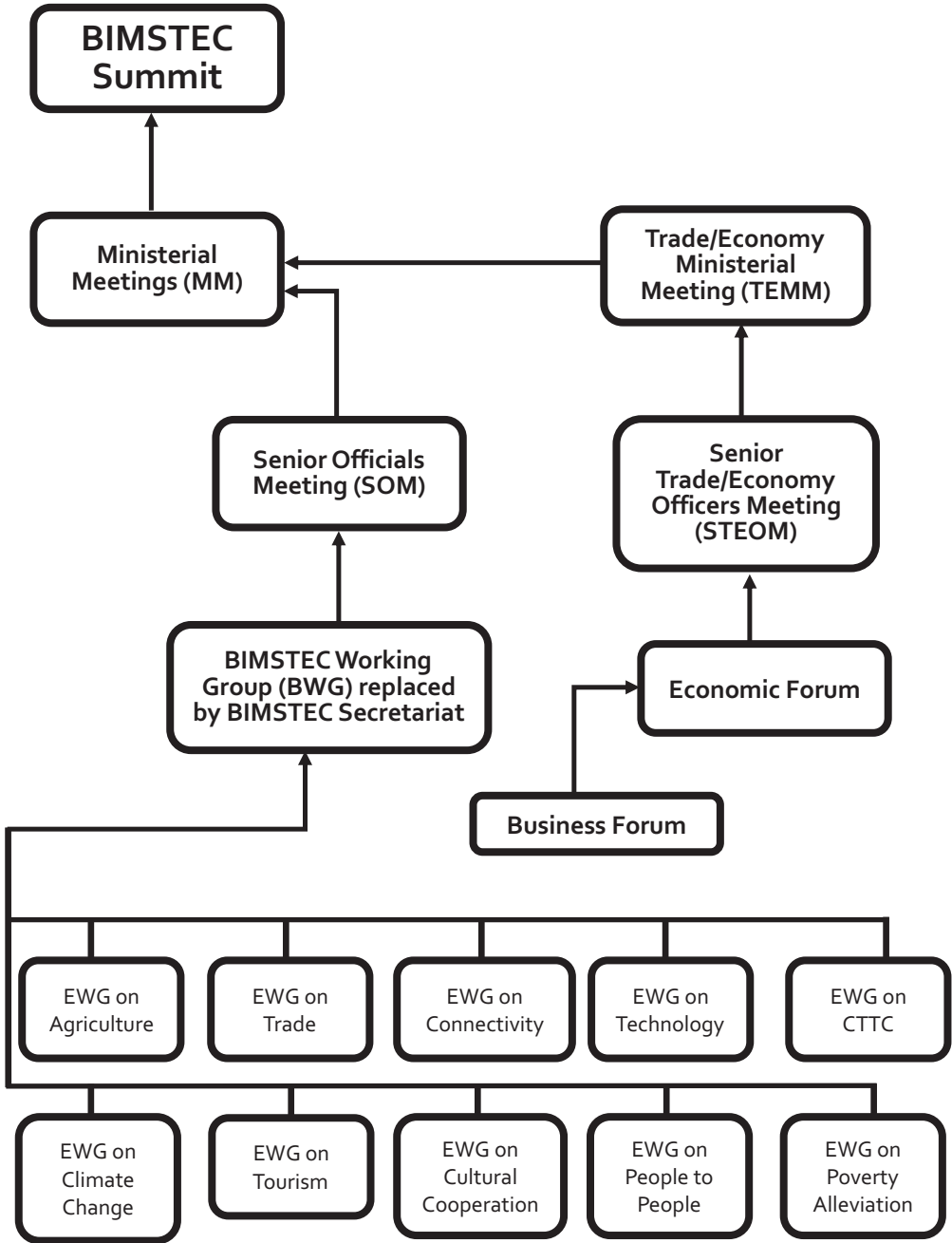
In the Bangkok Declaration (of the then BIST–EC), the member nations agreed to establish an institutional mechanism and create four bodies: Annual Ministerial Meetings (AMM); Senior Official Committee (SOC); Working Group; and Specialised Task Forces. The AMMs were to be held every year and comprised ministers from member states; the SOCs were to meet as and when required; the Working Group (known as Bangkok Working Group) formed under the Chairmanship of Thailand, with each member state represented by their Ambassador to Thailand, was to work between AMMs and coordinate between the member states; and the Specialised Task Forces would explore other mechanisms that were deemed necessary for cooperation across sectoral areas.²² Over the years, this institutional mechanism has evolved to include various other entities, including the permanent BIMSTEC Secretariat, which was established in Dhaka in 2014 by replacing the Bangkok Working Group as main coordinating body.²³

Amongst the changes that the organisation has made is the expansion of sectors for cooperation from the original six priority

sectors^a to 14: trade and investment, technology, energy, transport and communication, tourism, fisheries, agriculture, public health, poverty alleviation, counterterrorism and transnational crime, environment and disaster management, cultural cooperation, people-to-people contact, and climate change. For ease of working, each sector has been assigned a 'Lead/Chair Country' and is run through 'Expert Working Group' (EWG). The role of the Lead/Chair Country is to spearhead the discussion regarding sectoral areas, organise sectoral workshops and meetings, and report the decisions to the Senior Officials Meetings (SOM). Currently, the BIMSTEC does not provide a clear decision-making or organisational structure, but one can be visualised using information available on the BIMSTEC Secretariat website (See Figure 1).²⁴

a (1) Trade and Investment; (2) Technology; (3) Energy; (4) Transportation and Communications; (5) Tourism and (6) Fisheries.

Figure 1: Decision-making Structure of the BIMSTEC



Source: Authors' own.

Note: Direction of arrow shows direction of reporting.

The most important body in the BIMSTEC decision-making structure is the BIMSTEC Summit, which comprises heads of states/governments of all BIMSTEC countries. This body is responsible for taking strategic decisions regarding the BIMSTEC. Next, there are two policymaking bodies: Ministerial Meetings (MM) and Trade/Economic Ministerial Meetings (TEMM). The MM plays the important role of coordinating and deciding major policy areas before the summit meetings. It also receives reports on the working of the BIMSTEC Secretariat and the 14 expert groups. The MM is the most crucial of all the policymaking bodies, since it meets frequently and has a mandate to take decisions regarding sectoral policies. TEMM is a specialised body with a mandate to monitor and accelerate the implementation of economic activities. It provides inputs to the MM.

The two operational bodies called Senior Officials Meeting (SOM) and Senior Trade/Economic Officials Meeting (STEOM) are next in order of significance. The SOM has a large mandate, and monitors and provides overall direction to the MM. Similarly, the STEOM provides support to the TEMM. The Economic Forum (EF) then acts as a platform between private-sector representatives and governments. The EF reports the outcomes of its meetings to the STEOM, which forwards the same to the TEMM. The main coordinating body is the BIMSTEC Working Group (BWG, now replaced by the BIMSTEC Secretariat), which coordinates between the 14 sectoral Expert Working Groups (EWG) and reports their progress to the SOM. Amongst the core decision-making bodies in the BIMSTEC, the number of times each body has met is varied (See Table 1).

Table 1: Meetings under each BIMSTEC Body

BIMSTEC Body	Number of meetings held	Date/Year of Last Meeting
BIMSTEC Summit	4	30-31 August 2018
Ministerial Meetings	16	29 August 2018
Senior Officials Meeting	20	10 March 2020
Trade/Economy Ministerial Meeting	5	7 Feb 2004
Senior Trade and Economy Officers Meeting	4	2004

Source: Authors' own, using data from the BIMSTEC Secretariat Website.

It has been proposed by Thailand that the current decision-making mechanism should undergo further changes, with the number of priority sectors to be streamlined to bring greater focus. Thailand has submitted a concept paper proposing five pillars: cooperation-connectivity, trade and investment, people-to-people contact, counterterrorism and transnational crime/security, and science and technology. This sentiment has also been expressed by the Secretary-General of BIMSTEC, Shahidul Islam, who suggested that the priority areas of cooperation must be identified to bring back the focus to the BIMSTEC's work.²⁵ The Report of the Sixteenth BIMSTEC Ministerial Meeting promises to introduce institutional reforms and set up a BIMSTEC Permanent Working Committee (BPWC), which will consider the draft charter prepared by the BIMSTEC Secretariat. The Charter is expected to define "...a long-term vision and priorities for cooperation, clearly delineating roles and responsibilities of different layers of institutional structure and decision-making processes..."²⁶

DECISION-MAKING IN EU, ASEAN AND SAARC: AN OVERVIEW

The European Union (EU) is the oldest and perhaps has the most comprehensively defined decision-making process, despite its current crisis in relation to BREXIT.^b While the EU focuses on regional integration, the SAARC and ASEAN promote regional cooperation amongst the member states.

In its decision-making structure, the EU has three major organs: the European Commission, European Council and European Parliament. The Commission acts as the bureaucratic arm that makes policy decisions, while the Council is the group of national government ministers of^c the EU members and “is an essential decision maker”²⁷ supported by the European Parliament. Under ordinary circumstances, the Council takes decisions in concurrence with the European Parliament, through the decision-making process called

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- b Brexit - British exit - refers to the UK leaving the EU. The UK formally left the EU on 31 January 2020 and immediately entered into an 11-month transition period. The country joined in 1973 (when it was known as the European Economic Community) and became the first member state to leave the Union. At <https://www.bbc.com/news/uk-politics-32810887>
 - c Qualified majority voting (QMV) is a mechanism used within the EC, to take decisions without the need for unanimity but which goes beyond a simple majority of members. Two forms of qualified majority: standard and reinforced. In the former, decisions are adopted if they are approved by at least 55 percent of the member states, representing at least 65 percent of the EU population. In the latter, at least 72 percent of the member states must approve, representing the same proportion of the EU population. A standard qualified majority is the ordinary procedure used for most EU legislation, whereas a reinforced qualified majority is used if the Council is acting on a proposal that hasn't come from the Commission or High Representative for Foreign Affairs, such as when electing key posts, e.g. the European Central Bank President and High Representative. In recent times, the QMV has been the most widely used voting method in the Council. About 80 percent of all EU legislation is adopted using this procedure. At <https://www.consilium.europa.eu/en/council-eu/voting-system/qualified-majority/>

‘codecision.’ The Commission sends a proposal to the Council and the Parliament, which have equal power. In case a consensus is reached, the legislation can be passed in the ‘first reading.’ In case of an impasse, there is the provision of a ‘second reading’ where the two bodies must decide on the legislation again. For certain special cases, the Council adopts special legislative procedures called ‘consent’ and ‘consultation’.²⁸

As the main decision-making body, the Council is further assisted by 150 working parties²⁹ and committees that examine the proposals from the Commission and help the national government ministers take informed decisions. During each reading in the Council, a legislative proposal passes through three subsidiary bodies: a) the Working Party; b) the Permanent Representatives Committee (COREPER); and c) the Council Configuration. This process ensures not only thorough technical scrutiny in the working party stage and ambassadorial scrutiny during the COREPER stage, but also political accountability at the level of national government ministers. Moreover, the EU ensures strong public participation by inviting public opinions during the proposal-making stage in the Commission and also during the first reading of the legislative proposal. Thus, the EU has created a strong decision-making mesh, with ample checks and balances required for the democratic functioning of the institution.

While the EU has a highly formalised decision-making process, in Asia, there are multiple approaches to decision-making. One of the most prominent regional groupings of nations in Asia is the Association of Southeast Asian Nations or ASEAN. Due to the growing threat of communism at that time and the economic dominance by Japan, Southeast Asian nations such as Indonesia, Malaysia, Thailand, the Philippines and Singapore formed the

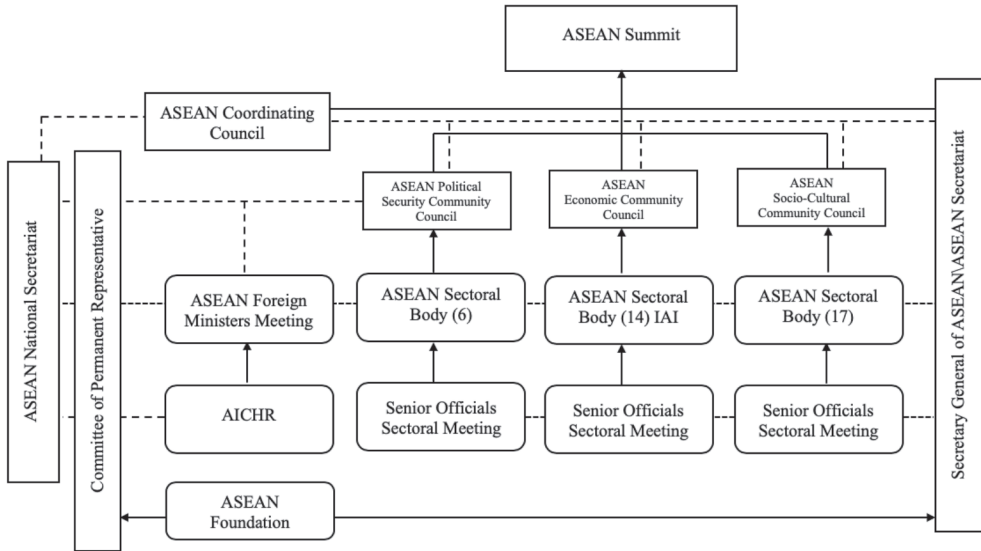
ASEAN in 1967. Brunei, Vietnam, Laos, Myanmar and Cambodia joined subsequently.^{d,30}

The ASEAN follows a more flexible model of decision-making, based on the principles of consultation and consensus. This decision-making process is rooted in the tradition and culture of the Southeast Asian region, with the Malay village councils' idea of *musyawarah* (consultation) and *muafakat* (consensus) serving as the organisation's core decision-making principles.³¹ This focus on consultation and consensus as the key to institutional design is a unique feature of the ASEAN,³² particularly in the way these two principles are followed at the core of all of its activities. It is the process that is central, rather than structures.³³ The organisation has neither a strong bureaucratic framework, like the European Commission does, nor a parliament; most of the decisions are made at the ASEAN Ministerial Meet (AMM), which contains all the ministers of national governments of the ASEAN. The AMM is not only the apex decision-making body in ASEAN (See Figure 2) but also meets bi-annually as the ASEAN Summit, since the coming of the ASEAN Charter in 2007. This fosters a sense of understanding and bonding amongst members, which improves the quality of negotiations.³⁴

Additionally, other principles such as the non-binding nature of treaties, the idea of political suasion, and non-interference in another country's domestic matters come together to form the 'ASEAN Way' of decision-making.

d The first nine years of the Association did not see much change to its organisation, structure and functions. It was in 1976 that the first Summit Meeting took place in Indonesia. Finally, the Declaration of the ASEAN Concord signed at the 1976 Summit became a major step for the establishment of the ASEAN Secretariat.

Figure 2: ASEAN Decision-making Structure



Source: Authors' own, based on Olsen, Teoh and Miyazawa³⁵

The South Asian Association for Regional Cooperation’s (SAARC) decision-making process, for its part, shows a clear hierarchy, with a four-tier structure. The first tier is the summit, which is the highest decision-making body; the second is a Council of Ministers, comprising national ministers; the third is a Standing Committee, which is a meeting of officials from SAARC nations; and the fourth comprise the Technical Committees, which are at the bottom of the hierarchy, with representatives from the member states. The SAARC decision-making process is based on two core values: i) no contentious or bilateral issues must be discussed in the forum; and ii) all decisions must be taken with unanimity. This is a notable departure from the other two multilateral organisations. While both the EU and ASEAN encourage constant dialogue, even on contentious issues, their primary focus is not on unanimous decision-making. The ASEAN never adopted the unanimity clause due to its belief in the principle of “agreeing to disagree,” and the EU has evolved over time to shun the concept and adopt more

flexible processes. This principle of unanimity is central to the SAARC decision-making process that it has been argued that “without this principle, SAARC most probably would not have been formed at all.”³⁶

Analysts believe that a common membership of the SAARC has not modified perceptions and behaviours of its members, whose relations are characterised by deep mistrust and antagonism.³⁷ Further, the Council of Ministers does not play as important a role in decision-making as it does in the European Council and the AMM, which act as core decision-making bodies in their respective organisations.

This brief survey of the decision-making processes of the three regional organisations raises the question: What role does the decision-making structure play in the smooth functioning of a regional organisation?

SAARC: LEARNING FROM ‘FAILURE’

Regional cooperation in South Asia is ‘home-grown’.³⁸ The first initiative to form a South Asian regional grouping came from Bangladesh, which culminated in the establishment of the SAARC in 1985, as a grouping of seven South Asian neighbours with ambitions “to promote the welfare of the people of South Asia, to accelerate economic growth, social progress, and cultural development, strengthen collective self-reliance and to promote active collaboration in the various fields of South Asian states.”³⁹ In 2007, Afghanistan joined as its eighth member. The goals set by the SAARC were lofty but its performance in the 35 years of its existence has been less than stellar. Amongst the several reasons attributed to this failure, the one that stands out is the structural design and decision-making process of the organisation. The two core principles of decision-making followed by SAARC are ‘unanimity’ and “no discussion of bilateral issues.” These

principles are so central to the decision-making process of the SAARC that they have been added in the SAARC Charter under Article X.^e However, this Article has become the biggest hurdle in the smooth functioning of the organisation, since by insisting on unanimity, the organisation virtually allows ‘veto’ power to all its members on any issue of their disliking. Moreover, the Article prohibits any discussion on ‘bilateral and contentious issues.’^{f,40} Indeed, the very institutional procedures adopted for the safe navigation of the SAARC have made any navigation impossible.⁴¹ The power asymmetries as well as the persistent bilateral conflicts have made unanimity increasingly difficult amongst the member states on any of the important issues.⁴²

Moreover, SAARC does not have an arrangement for dispute resolution, and the unresolved disputes affect consensus-building. This slows down the decision-making process even further.⁴³ According to Kripa Sridharan, “Charter is a minimalist document and its only virtue is that it makes SAARC a legal entity. The need for conflict management through cooperation is obvious but the commitment is lacking and there is no agreement among the member states on what should be the guiding force of regionalism.”⁴⁴

e Article X of SAARC Charter:

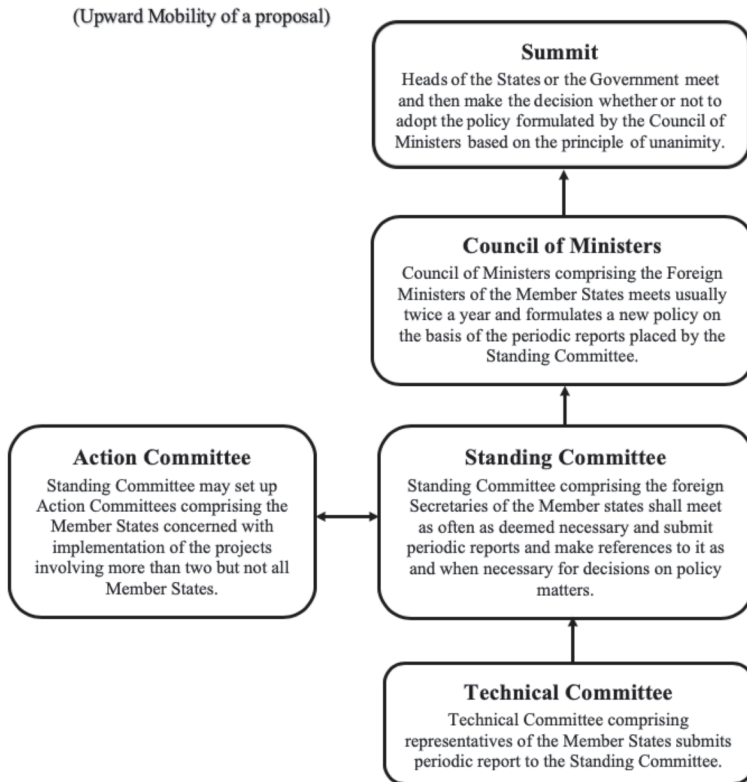
- Decisions at all levels shall be taken on the basis of unanimity.
- Bilateral and contentious issues shall be excluded from the deliberations, accessed at <http://www.saarc-sec.org/SAARC-Charter/5/>

f SAARC Secretariat (2018), SAARC Charter, accessed at <http://www.saarc-sec.org/SAARC-Charter/5/>

f While the experts argue that the SAARC is a victim of these two irreconcilable notions, some members believe that without achieving peace and security in the region and without providing for any mechanism to resolve bilateral conflicts, it is impossible to expect meaningful progress in regional cooperation. Pakistan and, to some extent, Sri Lanka have adopted this view and would prefer the Charter to be amended to correct this shortcoming. In contrast, India and Bangladesh have strongly opposed any change in the present arrangement, since they are convinced that altering the provisions will not yield desirable results.

Under SAARC’s structure, the Summit Meeting acts as the sole ‘plenipotentiary organ’, reducing the role of the SAARC Council of Ministers to a minor one. Another factor is the ‘upward’ movement of decisions in the hierarchy of the SAARC, with decisions flowing from officials to the ministers and from the ministers to the summits (See Figure 3).⁴⁵ The Summit Meeting, being the highest body and the heart of the decision-making system, has frequently served as arena of power struggles. This has led to a decrease in the frequency of Summit Meetings (only 18 till date) as well as their duration, which affects the quality of discussions. This paralyses any form of formal decision-making in the organisation.⁴⁶

Figure 3: SAARC Decision-making



Source: Anasua Basu Ray Chaudhury, *SAARC at Cross Roads: The fate of Regional Cooperation in South Asia* (New Delhi: Samskrit, 2006), 87.

One of the most striking and important features of the SAARC decision-making mechanism is that despite bilateral issues being formally excluded from its domain, SAARC leaders regularly discuss bilateral issues of urgency during the Summit Meetings. However, the member states restrict their discussions to economic or functional issues instead of political or territorial disputes. Thus, the effectiveness of SAARC has been limited in this as well.⁴⁷

The rigid decision-making process, combined with a top-down hierarchical structure has resulted in the stalling of important dialogue amongst the SAARC partners. The SAARC case is evidence that an inflexible decision-making process and an absent dispute resolution mechanism can cause negative impact on a multilateral organisation.

THE 'ASEAN WAY'

Compared to the SAARC, the ASEAN is viewed as a model for a more successful multilateral engagement in Southeast Asia. Since its inception, it has given importance to continuous and informal diplomacy, referred to as the 'ASEAN Way'. The phrase was first coined by an Indonesian military official, who remarked that "the system of consultations that has marked much of its [ASEAN's] work, what may I call the ASEAN Way of dealing with a variety of problems confronting the member states."⁴⁸ Acharya (1997) defines the ASEAN Way as "code of conduct for interstate behaviour as well as decision-making process based on consultations and consensus."⁴⁹

This unwritten code is unique to the ASEAN, being steeped in the cultural values of the Malayan peninsula. It is from this cultural background that the two core principles of the ASEAN emerge, i.e. consultation and consensus. According to Amitabh Acharya,⁵⁰ this approach "involves a high degree of discreetness, informality,

pragmatism, expediency, consensus-building, and non-confrontational bargaining styles which are often contrasted with the adversarial posturing and legalistic decision-making procedures in Western multilateral negotiations.” Given the informality of its decision-making process, the ASEAN has opted for a loose organisational structure. The process has further benefitted from the dispute-resolution mechanism, which has evolved with the growth of the ASEAN and the induction of new members to the organisation. Tuan (1996)⁵¹ has identified five key features in the dispute-resolution mechanism of the ASEAN: a) adhering to the organisation’s ground rules; b) following self-restraint by the member states; c) embracing the custom of *musyawarah* and *muafakat*; d) allowing third-party mediation to settle disputes; e) agreeing to disagree and not allowing disagreements on specific issues paralyse the working of the organisation. Through these five techniques, the ASEAN has not only fulfilled its mandate of providing security and stability to the region but also expanded to include other issues under its ambit, e.g. cooperation in trade and commerce, and sectoral issues such as agriculture, cultural ties and people-to-people contact.

The dispute-resolution techniques are not the only principles that make ASEAN a robust multilateral organisation. The ASEAN’s non-rigid organisational structure allows for better interactions and more interpersonal relations between officials/representatives of different countries. For example, during the finalisation of the ASEAN Charter, the officials agreed that pre-existing familiarity helped them understand each other’s positions and come to a consensus with ease.⁵² Over the years, the ASEAN has also developed several informal mechanisms to help its members exercise their sovereign rights while also being able to participate in regional efforts. Some of these are ‘frontline state’, a concept that allows the member state most affected by a particular situation to lead the decision-making;⁵³ and ‘political suasion’” through which member states can put ‘peer-group pressure’

on the reluctant or recalcitrant state, to bring it back to the negotiation table and reach a consensus amongst the members.⁵⁴

ASEAN puts a high value on decision-making and dispute resolution, as is evident from the fact that in its Charter of 2007, chapters VII and VIII⁵⁵ comprising 11 articles are dedicated to these two aspects. This aspect of the ASEAN has been its cornerstone since inception, even before a written charter was adopted. The principles of consultation and consensus have helped the ASEAN to thrive for more than five decades. However, the ‘ASEAN Way’ has its detractors, who feel that this approach is not only slow and incremental but also promotes national interests over regional ones.⁵⁶ Most ASEAN member states find bilateralism more beneficial, especially when dealing with major powers, than taking a united multilateral route through the group.⁵⁷ Nonetheless, the ASEAN Way has yielded tangible results and provides a pragmatic model of regional cooperation based on mutual trust and continuous engagement.

BIMSTEC: A WAY FORWARD

Of the three decision-making processes discussed in this paper, the ASEAN Way of combining dialogue and consensus seems to be the best approach for BIMSTEC to achieve its dual goals of connectivity and socioeconomic growth in the BoB region. To be sure, however, the ASEAN was formed in a different context—that of providing regional security and stability at the height of the Cold War and a power tussle between the US and the USSR in the South-East Asia and Malayan region.⁵⁸ The BIMSTEC, on the other hand, was established to promote economic cooperation amongst rising economic powers in South Asia and Southeast Asia and act as a bridge between the two regions to provide better connectivity in the BoB. Functional synergy between India’s ‘Look East’ and Thailand’s ‘Look West’ was the initial catalyst

behind the creation of this multilateral grouping. Therefore, the decision-making process of BIMSTEC must be established based on common historical experiences and cultural heritage. Some of the principles that have been laid out in the Bangkok Declaration of 1997 do provide the basis towards increasing cooperation amongst the member states. The principles based on which the BIMSTEC was formed are “...sovereign equality, territorial integrity, political independence, non-interference in internal matters, peaceful coexistence and mutual benefit...”⁵⁹ These principles highlight the intent of the member states, i.e. each member must be treated equally and the sovereignty of the members must not be encroached upon by the organisation. The Declaration further states “...BIST-EC (BIMSTEC) will constitute an additionality to and not to be substituted for bilateral, regional or mutual cooperation involving member states...”⁶⁰ This allows the member states the flexibility to tackle disputes and develop cooperation outside of the BIMSTEC as well.

Since BIMSTEC is still in a nascent stage, it needs a robust and inclusive mechanism to identify its cultural roots and explore its own vocabulary for decision-making. Ideally, BIMSTEC should adopt an approach that involves negotiations; regular meetings of the community; and encouragement of free and fair discussions. Experts argue that community-based deliberations and engaging other stakeholders in the decision-making process will make the organisation more inclusive.⁶¹ Based on these ideas, BIMSTEC can forge its own path in developing an understanding between the members, to formulate a dispute-resolution mechanism that operates on the principles of deliberation and create a community of BoB nations that can act as ‘normative powers’ to suggest a suitable path for regional architecture. As Samir Saran, President of the Observer Research Foundation, has framed the challenge: “Can we create a normative framework both on

the economic realm, security realm and political realm together? Can all of us agree to this that anyone who wants to participate in the Bay of Bengal community must agree to the principles of deliberative dispute resolution mechanisms? . . . Can we create such norms to safeguard this Bay of Bengal community?”⁶²

Moreover, a decision-making process based on extensive discussions will help foster a closer relationship amongst the member states and enhance mutual trust, creating a strong sense of community. The process of creating a deliberative body will be aided by the fact that two of the seven members, Thailand and Myanmar, are members of ASEAN while one, India, is a dialogue and strategic partner, which makes these three countries familiar with the ASEAN Way of ‘consensus and consultation’ in decision-making and informal dispute-resolution mechanisms.

While drawing lessons from the ASEAN model, BIMSTEC member countries must keep in mind that while the ASEAN was formed as a security organisation, BIMSTEC is primarily an economic partnership. For an economic partnership, some form of rule-making is necessary. Thus, while an informal approach to regular deliberations can be useful, it is not an exhaustive condition. BIMSTEC needs to formulate rules of economic cooperation amongst its members based on the values laid down under the 1997 Bangkok Declaration. To this end, formulating a BIMSTEC Charter is crucial to provide sustained guidance.

Learning from the SAARC’s experiences of stalled negotiations due to a lack of regular Summit meetings, the desire for unanimity, and the lack of adequate dialogue, BIMSTEC members can adopt a more flexible structure that combines formal and informal mechanisms, while finalising the Charter—a blueprint for articulating an organisational vision and defining its mandate. Constant and seamless dialogue

amongst the member states will allow BIMSTEC to adopt the dynamics of ‘agreeing to disagree’.

Some analysts have argued that to maximise BIMSTEC’s effectiveness, it is necessary to address its lingering organisational weaknesses, e.g. weak institutional coordination; an overburdened and underfunded bureaucratic body; infrequent high-level meetings; and a lack of engagement of other stakeholders who can help strengthen institutional coordination.⁶³ The imperative is for a strong and proactive secretariat which can be a driving force for the sustainable functioning of the organisation.⁶⁴ Instead of depending on Summit Meetings for final decisions, the Secretary–General must be given the autonomy to implement new initiatives in consultation with the key stakeholders.


It took 17 years for the member states to establish the BIMSTEC’s secretariat. Since it was set up in 2014, its role is yet to be clearly specified. The secretariat continues to face a variety of obstacles that hinder its effectiveness, including budgetary and staffing limitations.⁶⁵ BIMSTEC’s members must consider increasing the funding for the secretariat. Currently estimated at around US\$200,000, its annual budget is inadequate in light of the organisation’s vast mandate and the magnitude of 14 different sectors under its purview.⁶⁶

CONCLUSION

If BIMSTEC is to realise its full potential, it must overcome its long-standing inertia and find its unique decision-making process to guide its way. The stakeholders in the BoB region should share the burden of pushing each other towards not only finalising the BIMSTEC Charter but also forging the BIMSTEC path. Without a robust BIMSTEC, there would not exist a BoB community, and in the absence of a dynamic BoB community, the region will be caught in a continuous power

struggle between world powers over its resources. An active BoB community that participates in rich deliberative traditions will go a long way in not only rekindling regional cooperation but also creating a new vocabulary of partnership and institutional development for multilateral organisations around the world.

Indeed, a regional organisation's decision-making apparatus forms the basis for how the organisation functions. However, equally important are an abiding sense of identity; the sustained support it receives from governments of member states and other stakeholders; and the political commitment displayed by its member-states. In this regard, it is crucial to formulate a decision-making structure that is both grounded in the context of the region and has a larger outlook on the world.

The BIMSTEC should strive to play a role in major developments that unfold in the region. The COVID-19 health crisis has affected the globe in an unprecedented manner, and both SAARC and ASEAN have engaged in virtual meetings to address the pandemic; BIMSTEC has not. This does not serve BIMSTEC well, as it creates a negative impact on how the world perceives the organisation. If BIMSTEC wants to develop a BoB community based on a robust and inclusive framework, it must be actively involved in ongoing issues and work towards garnering community support and involvement. 

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ENDNOTES

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Ph. : +91-11-35332000 Fax : +91-11-35332005

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