Much has been written about the changes the international community has undergone since the end of the Cold War. Of these, globalisation is only one aspect, intensified regionalism is another. This regionalism is often referred to as “New Regionalism” and manifests itself, inter alia, in revived or newly founded economic integration schemes. The classification as “new” is justified in so far as there was a “natural” re-orientation towards neighbouring countries after the economic (and ideological) support of super powers in many areas of the world had faded. “New”, too, are the economic policies pursued compared to those of regional economic cooperation during the 1970s and 1980s. The old policies aimed, broadly speaking, at regional self-sufficiency and import substitution. The new schemes focus on regional integration as part of efforts to integrate into the (semi-)liberalised world market. This is partly demonstrated by the fact that most of these organisations have sought or are seeking the status granted as a regional organisation under Art. XXIV of GATT.

Parallel to this development of regional integration runs the increased institutionalisation of dispute settlement in public international law over the past ten to fifteen years – be it the WTO panels and its Appellate Body, the creation of special-purpose criminal tribunals paving the way for the International Criminal Court, or new mechanisms for dispute settlement in the field of human rights or international environmental law. This trend toward institutionalising dispute resolution has also found its way into regional economic organisations.

This paper aims to provide an overview of six of these new or revived regional economic organisations which have formed outside Europe – Mercosur, the Andean Community, the Caribbean Community, the Economic Community of West
African States, the Common Market for Eastern and Southern Africa, and the East African Community. The case studies have been selected for their approach to regional integration: they all follow the “classic” path of integration from a free trade area, via a customs union to a common market and – potentially – to an economic and monetary union (unlike e.g. NAFTA or ASEAN which are for this reason not included in this study). This path is, of course, familiar to most readers from the history of European Integration. Unsurprisingly, the EC/EU has served as a role model for many of these integration efforts. Some regional associations have tried to copy the EU model (owing, perhaps, to intellectual and financial support provided by the EU for the setting up), while others have modified the institutional structure and legal system according to their needs or potential. The respective institutional and legal make-up of each organisation will be briefly described. Besides actual advancements made towards a common market, the following structural aspects appear particularly relevant for a comparative legal analysis of integration schemes: the respective composition of the organs (intergovernmental or supranational), their decision-making procedures (consensus or majority decisions), and the nature of the “community law” (direct application/effect or implementation into national law). Further attention will be paid to the various modes of dispute settlement (arbitration or compulsory settlement by community courts) and their different forms of proceedings (including the question of locus standi for private entities). While the formal features of supranational legislation, majority votes and binding and compulsory dispute settlement mechanisms are usually viewed as reflecting a high level of integration – since they require substantial transfer of sovereignty which states are often reluctant to do – the case studies reveal a different picture. To supplement the empirical description of the various non-European integration schemes and their dispute settlement mechanisms, conclusions and hypotheses will be drawn from a comparative analysis of them.

In 1991, Argentina, Brazil, Paraguay and Uruguay founded Mercosur (Mercado Común del Sur) which at the time was widely celebrated. The size of the combined national markets makes Mercosur one of the “heavyweights” of regional integration in the world. It is also, when viewed as a whole, the most developed region among the case studies discussed here. Although there have been setbacks on the path towards integration in recent years, Mercosur can still be called a successful endeavour. Its ultimate objective is the creation of a common market. So far, Mercosur can be classified as a free trade area and as yet incomplete customs union. However, the introduction of a common currency (re-) appears frequently on the agenda. The institutional structure is notably and intentionally “modest”, i.e. it relies on intergovernmental organs. Cooperation is thus invariably carried out by government