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# The Pacific Alliance and Its Effect on Latin America: Must a Continental Divide be the Cost of a Pacific Alliance Success?

CHRISTINE DANIELS<sup>1</sup>

## I. INTRODUCTION

Ever since the calls of Simón Bolívar in the nineteenth century to unite the newly independent countries of Latin America into one powerful nation, there has been a desire to work together to achieve economic and social success. As the twentieth century unfolded, so did a series of attempts to unite Latin American countries through regional trade agreements. Groups such as the Andean Community in the late 1960s, and later the Bolivarian Alliance of the Peoples of Our America (ALBA, by its initials in Spanish) in the early 2000s, have managed to find common ground in ideological principles. Mercosur was established in 1991 as an organization to achieve free trade, but over time, it has become more politicized, especially with the inclusion of Venezuela in 2012.

The Pacific Alliance, launched in 2011, has focused its energies upon advancing trade and integration while maintaining that the association is strictly apolitical—a first in Latin America. This note argues that while the Pacific Alliance will bring success to its member countries, this same success will divide Latin American nations. The division will in turn cause decreased trade amongst the nations and the region will lose the opportunity to engage in complementary growth. In order to mitigate these negative effects, the Pacific Alliance should make efforts to maintain enduring and meaningful relations with the rest of Latin America. On the eve of its possible expansion, it is essential however,

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that the Pacific Alliance maintain its focus on trade liberalization and not become another refuge for politically like-minded countries.

Part II explains the different levels of integration offered by trade agreements and provides a brief history of regionalism in South America. In order to predict the future of the Pacific Alliance, the structure must be evaluated and the past must be contextualized. Part III presents the first argument of the paper, mainly that the Pacific Alliance will bring success to its member nations. The three factors required for a successful regional trade agreement are: common national characteristics, policies that foster long-run economic growth, and the establishment of both a supranational entity and an effective dispute resolution system. Part IV predicts what effect the Pacific Alliance success will have on the rest of Latin America. Part V gives recommendations that the Pacific Alliance can apply to promote continental harmony while, at the same time, maintain its focus on pragmatic free trade rather than idealistic political aspirations. Lastly, Part VI summarizes the analysis of this paper and offers conclusions about the Pacific Alliance's future role in Latin America.

## II. BACKGROUND

### A. *Theoretical Framework: Trade Agreement Basics*

Multilateralism and regionalism are two general approaches for a nation to achieve trade liberalization, that is, to expand its markets of goods and services beyond its own borders.<sup>2</sup> The goal of multilateralism is to establish an inclusive free trade in which all nations can participate.<sup>3</sup> The World Trade Organization (WTO) is a prime example of multilateralism. Beginning in 1947 with the General Agreement on Tariffs and Trade (GATT) amongst twenty-three countries,<sup>4</sup> the WTO has expanded to 160 member nations as of March 2, 2013.<sup>5</sup> The goal of regionalism, on the other hand, is to establish a preferential trade ar-

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2. Stephen Joseph Powell & Trisha Low, *Beyond Labor Rights: Which Core Human Rights Must Regional Trade Agreements Protect?*, 12 RICH. J. GLOBAL L. & BUS. 91, 94 (2012) [hereinafter Powell & Low].

3. Jagdish Bhagwati, *Regionalism and Multilateralism: An Overview*, in NEW DIMENSIONS IN REGIONAL INTEGRATION 22, 24 (Jaime De Melo & Arvind Panagariya eds., 1993).

4. WORLD TRADE ORGANIZATION, WORLD TRADE REPORT 2011: THE WTO AND PREFERENTIAL TRADE AGREEMENT: FROM COEXISTENCE TO COHERENCE 46 (2011), available at [http://www.wto.org/english/res\\_e/booksp\\_e/anrep\\_e/world\\_trade\\_report11\\_e.pdf](http://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report11_e.pdf) (last visited Nov. 22, 2013) [hereinafter WORLD TRADE REPORT 2011].

5. *Understanding the WTO: The Organization: Members and Observers*, WORLD TRADE ORG., [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm) (last visited Nov. 22, 2013).

rangement among a specific group of nations.<sup>6</sup> The ever-growing number of regional trade agreements<sup>7</sup> demonstrates that regionalism is the preferred way to propel economic growth.<sup>8</sup> Indeed, regionalism is widely perceived by many countries as a faster means of obtaining a deeper level of trade integration than the broader multilateralism approach.<sup>9</sup>

Within the regionalism approach, there are different levels of economic integration in which two or more nations can participate. These levels are listed in the order of least to most economic integration: preferential trade agreement,<sup>10</sup> free trade area, customs union, economic union and complete economic integration.<sup>11</sup> A preferential trade agreement occurs when member nations agree to reduce tariffs on a limited number of products.<sup>12</sup> When member nations agree to eliminate tariffs entirely, but each nation is still free to maintain its own trade restrictions towards nonmembers, a free trade area exists.<sup>13</sup> The following levels build upon the previously mentioned level. A customs union adds to a free-trade area by requiring that all member nations have a uniform tariff with nonmembers (also known as a common external tariff).<sup>14</sup> A common market expands a customs union by terminating any restrictions on the movement of the factors of production—labor, capital, and services—among member nations.<sup>15</sup> Next, a coordination of macroeconomic policies is added to a common market in order to establish an economic union. A principal example of this would be the European Union, where member countries unified their currency when the Euro was established.<sup>16</sup> The most cohesive level is complete economic integration,<sup>17</sup> which requires the unification of “monetary, fiscal and social” policies, a task made possible by implementing a powerful supranational entity.<sup>18</sup>

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6. Bhagwati, *supra* note 3, at 22.

7. *Regional Trade Agreements*, WORLD TRADE ORG., [www.wto.org/english/tratop\\_e/region\\_e/region\\_e.htm](http://www.wto.org/english/tratop_e/region_e/region_e.htm) (last visited Nov. 22, 2013) (“Regional trade agreements (RTAs) have become increasingly prevalent since the early 1990s.” The number of regional trade agreements reported to the WTO by its members is over 575 as of July 2013, 379 of which were still in force.).

8. Powell & Low, *supra* note 2, at 94-95.

9. WORLD TRADE REPORT 2011, *supra* note 4, at 51.

10. Zhenis Kembayev, *Integration Processes in South America and in the Post-Soviet Area: A Comparative Analysis*, 12 SW. J. L. & TRADE AM. 25, 27 (2005).

11. BELA BALASSA, *THE THEORY OF ECONOMIC INTEGRATION 2* (Routledge 2011) (1961).

12. Kembayev, *supra* note 10, at 27.

13. BALASSA, *supra* note 11, at 2.

14. *Id.*

15. Kembayev, *supra* note 10, at 28.

16. *Id.*

17. Complete economic integration is also known as a political union. *Id.*

18. BALASSA, *supra* note 11, at 2.

At this point, a federal state is created.<sup>19</sup>

### B. *Brief History of Regionalism in South America*

South American nations prove to be no exception to the general preference of regionalism over multilateralism. Formed in 1969, the Andean Community (*Comunidad Andina*: CAN) is the oldest trading bloc in South America.<sup>20</sup> Throughout the 1970s, CAN sought to protect its domestic industry by implementing import substitution and high tariffs.<sup>21</sup> In the 1980s, CAN's policies shifted towards an open market model.<sup>22</sup> Since Venezuela's departure in 2011, the Andean Community currently consists of Bolivia, Colombia, Ecuador and Peru.<sup>23</sup> CAN is considered to be an imperfect customs union despite the fact that it established a common external tariff in 1995.<sup>24</sup> Initially, only Colombia, Ecuador, and Venezuela implemented this uniform tariff against non-members, whereas Bolivia and Peru maintained their own national tariff system.<sup>25</sup> Subsequent attempts to have the CAN members adhere to a common external tariff system have not been successful.<sup>26</sup>

Beginning in the mid 1980s,<sup>27</sup> there was an impetus among the Presidents of Brazil and Argentina to create a common market.<sup>28</sup> Paraguay and Uruguay, concerned that they would be excluded from a

19. Kembayev, *supra* note 10, at 28.

20. Lucien O. Chauvin, *Regional Agreements: Chile, Colombia, Mexico, Peru Sign Declaration Creating Pacific Alliance*, BLOOMBERG BNA INT'L TRADE DAILY (June 7, 2012), <http://0-news.bna.com.lucy.ils.edu/tldn/> (search "Pacific Alliance"; then follow 06/07/2012 hyperlink) [hereinafter Chauvin, *Declaration Creating Pacific Alliance*].

21. *Reseña Histórica* [Historical Review], COMUNIDAD ANDINA, <http://www.comunidadandina.org/Seccion.aspx?id=195&tipo=QU&title=resena-historica> (last visited Nov. 22, 2013).

22. "Del modelo de 'sustitución de importaciones' predominante en los setenta, que protegía la industria nacional con altos aranceles, se pasó al modelo abierto a finales de los ochenta." *Id.*

23. Lucien O. Chauvin, *Regional Agreements: Pacific Alliance Presidents Sign Pact Linking Chile, Colombia, Mexico, Peru*, BLOOMBERG BNA INT'L TRADE DAILY (May 2, 2011), <http://0-news.bna.com.lucy.ils.edu/tldn/> (search "Pacific Alliance"; then follow 05/02/2011 hyperlink) [hereinafter Chauvin, *Pacific Alliance Presidents Sign Pact Linking Chile, Colombia, Mexico, Peru*].

24. *Política Arancelaria*, COMUNIDAD ANDINA, <http://www.comunidadandina.org/comercio/union.htm> (last visited Feb. 16, 2014) [hereinafter *Política Arancelaria*, COMUNIDAD ANDINA].

25. *Id.*

26. Gabriel Loza Tellería, *CAN o Mercosur*, LA RAZÓN (Dec. 1, 2012), [www.la-razon.com/opinion/columnistas/CAN/Mercosur\\_0\\_1734426573.html](http://www.la-razon.com/opinion/columnistas/CAN/Mercosur_0_1734426573.html); *Política Arancelaria*, COMUNIDAD ANDINA, *supra* note 24.

27. Rafael A. Porrata-Doria, Jr., *Mercosur: The Common Market of the Twenty-First Century?*, 32 Ga. J. Int'l & Comp. L. 1, 10 (2004) [hereinafter Porrata-Doria].

28. Rafael A. Porrata-Doria, Jr., *Mercosur at Twenty: from Adolescence to Adulthood?*, 27 Temp. Int'l & Comp. L.J. 1, 15 (2013) [hereinafter Porrata-Doria, *Mercosur at Twenty*].

common market composed of their most valuable trading partners, quickly sought entry into this trade agreement.<sup>29</sup> The Common Market of the South (*Mercado Común del Sur*: MERCOSUR) was established in 1991 under the Treaty of Asunción.<sup>30</sup> Initially focused on the promotion of free trade,<sup>31</sup> the nations of Mercosur—especially Argentina and Brazil—have turned to more protectionist measures in the last few years.<sup>32</sup> Despite its name, Mercosur has not realized its goal of establishing a common market and, as a result, there is no free movement of factors of production across borders.<sup>33</sup> Nonetheless, for the last two decades, Mercosur members have maintained a mostly free trade area with one another and have adhered to the implementation of a common external tariff.<sup>34</sup>

In the early 2000s, there were serious talks to expand NAFTA (a free trade area comprised of Canada, Mexico and the United States) into Central and South America.<sup>35</sup> Unfortunately, the movement to form the thirty-four country Free Trade of the Americas (FTAA) was unable to take hold, in part due to Brazil's decision to leave the negotiations.<sup>36</sup> Another factor that took the wind out of the sails of the FTAA was the Bolivarian Alliance for the Peoples of Our America (*Alianza Bolivariana para los Pueblos de Nuestra América*: ALBA) guided by the ideological principles of Venezuela's Hugo Chavez.<sup>37</sup> Created as the alternative to the FTAA, which promoted a free-market neoliberal approach, ALBA's mission is to execute its own political and economic model based on academic Heinz Dieterich's Twenty-first Century Socialism.<sup>38</sup> Currently, ALBA members include Antigua, Barbuda, Bolivia, Cuba,

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29. *Id.* at 18.

30. Treaty Establishing a Common Market, Arg.-Braz.-Para.-Uru., Mar. 26, 1991, 30 I.L.M. 1044, 1044 (1991).

31. Porrata-Doria, *Mercosur at Twenty*, *supra* note 28, at 35.

32. *Trade in Latin America: Unity is Strength*, ECONOMIST (Mar. 10, 2012), available at <http://www.economist.com/node/21549939>.

33. Mark Keller, *Explainer: What Is Mercosur?*, AM. SOC'Y / COUNCIL OF THE AMS. (Aug. 2, 2012), <http://www.as-coa.org/articles/explainer-what-mercosur-0>.

34. *Id.*

35. *Trade in Latin America: Unity is Strength*, *supra* note 32.

36. *Id.*

37. Susan Schmidt & Gabrielle Doyle, *The Pacific Alliance: Will Latin America's Newest Regional Initiative Be Able to Keep its Eyes on the Prize?*, BLOOMBERG BNA INT'L TRADE DAILY (June 14, 2013), <http://0-news.bna.com.lucy.lls.edu/tldn/> (search "Pacific Alliance"; then follow "next" hyperlink; then follow "06/14/2013: The Pacific Alliance: Will Latin America's newest regional initiative be able to keep its eyes on the prize?" hyperlink) [hereinafter Schmidt & Doyle].

38. Joel D. Hirst, *A Guide to ALBA: What is the Bolivarian Alternative to the Americas and What Does It Do?*, AMS. QUARTERLY, <http://www.americasquarterly.org/hirst/article> (last visited Nov. 22, 2013).

Dominica, Ecuador, Nicaragua, Saint Lucia, Saint Vincent, the Grenadines, Suriname, and Venezuela.<sup>39</sup>

In 2008, negotiations began to unite the Andean Community and Mercosur into the Union of South American Nations (*Unión de Naciones Suramericanas*: UNASUR).<sup>40</sup> The twelve-nation UNASUR became a legal entity upon the signing of the Constitutive Treaty on March 2011.<sup>41</sup> Its long-term projects include the construction of an inter-oceanic highway to open passage from Brazil to the Pacific Ocean, the establishment of free trade, and a goal to implement a single currency in the future.<sup>42</sup> UNASUR's membership currently includes Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay, and Venezuela.<sup>43</sup>

In the summer of 2012, the composition of Mercosur was suddenly altered. On June 21, 2012, the Paraguayan President Fernando Lugo was impeached—almost unanimously.<sup>44</sup> This occurred after his leftist ambitions to distribute land resulted in the death of eleven peasants and six policemen during an eviction proceeding, just six days prior to his impeachment (June 15, 2012).<sup>45</sup> The speedy turn of events was seen by many to be evidence of a plot by the right wing to regain control of the nation.<sup>46</sup> In response, the three other members of Mercosur—Argentina, Brazil and Uruguay—decided in July to suspend Paraguay for a year.<sup>47</sup> By the end of July, Venezuela was subsequently admitted to Mercosur<sup>48</sup> despite Paraguay's prior contentions that Venezuela did not “meet the democratic standards to participate.”<sup>49</sup> With Paraguay's temporary suspension, Argentina, Brazil, and Uruguay were able to turn a blind eye to

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39. Schmidt & Doyle, *supra* note 37.

40. *Historia*, UNASUR, <http://www.unasursg.org/es/historia> (last visited Nov. 22, 2013) (“Al entrar en vigencia el *Tratado Constitutivo* en marzo de 2011. . . La Unión de Naciones Suramericanas impulsa una serie de proyectos a largo plazo que integrarán a Suramérica en forma y fondo: la construcción de una carretera interoceánica que abrirá el paso de Brasil hacia el Océano Pacífico, el establecimiento del libre comercio y en un futuro, probablemente una moneda única”).

41. *Id.*

42. *Id.*

43. *Id.*

44. *Paraguay's impeachment: Lugo out in the cold*, *ECONOMIST* (June 30, 2012), available at <http://www.economist.com/node/21557802>.

45. *Id.*

46. *Id.*

47. *The expansion of Mercosur: In by the back door*, *ECONOMIST* (Aug. 3, 2012), <http://www.economist.com/blogs/americasview/2012/08/expansion-mercursosur>.

48. *Id.*

49. Rossella Brevetti, *Paraguay Wants Mercosur Fixed Before Rejoining Group*, *Envoy Says*, *BLOOMBERG BNA INT'L TRADE DAILY* (July 24, 2013), <http://0-news.bna.com.lucy.lls.edu/tldn/> (search “Pacific Alliance”; then follow 07/24/2013 hyperlink) [hereinafter Brevetti, *Paraguay Wants Mercosur Fixed*].

Mercosur's requirement of unanimity to admit a new member.<sup>50</sup>

What began as a lofty initiative of Peruvian President Alan Garcia to create a widespread free trade area in the Americas, the Pacific Alliance (*Alianza del Pacífico*) developed into a four-way agreement between Chile, Colombia, Mexico, and Peru.<sup>51</sup> It was launched by heads of state in 2011,<sup>52</sup> formally established in 2012,<sup>53</sup> and officially signed at UN headquarters in 2013.<sup>54</sup> Desiring a free trade area as a prerequisite to founding the Pacific Alliance, all four nations had already established bilateral free trade agreements with one another by February 1, 2012.<sup>55</sup> The official UN signing on September 25, 2013 immediately eliminated tariffs on 92% of goods between members.<sup>56</sup> On February 10, 2014 the four presidents signed an eighteen-chapter trade protocol in which the remaining tariffs on eight percent of goods (consisting of politically sensitive agricultural products) are to be phased out in a specified number of years.<sup>57</sup> The Pacific Alliance aims to promote the development of its member countries through deeper economic integration that will facilitate "the free movement of goods, services, capital and persons."<sup>58</sup> The Pacific Alliance also seeks to become a platform for member na-

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50. *The expansion of Mercosur: In by the back door*, *supra* note 47.

51. Chauvin, *Pacific Alliance Presidents Sign Pact Linking Chile, Colombia, Mexico, Peru*, *supra* note 23.

52. April 28, 2011. *Id.*

53. Chauvin, *Declaration Creating Pacific Alliance*, *supra* note 20.

54. September 25, 2013. Lucien O. Chauvin, *Regional Agreements: Latin America's Pacific Alliance Signs Deal to Eliminate Tariffs on 92 Percent of Goods*, BLOOMBERG BNA INT'L TRADE DAILY (Sept. 30, 2013), available at <http://0-news.bna.com.lucy.ils.edu/tldn/> (search "Pacific Alliance"; then follow 09/30/2013 hyperlink) [hereinafter Chauvin, *Latin America's Pacific Alliance Signs Deal*].

55. Chauvin, *Declaration Creating Pacific Alliance*, *supra* note 20.

56. Chauvin, *Latin America's Pacific Alliance Signs Deal*, *supra* note 54.

57. Lucien O. Chauvin, *Latin America Countries Ink New Trade Deal Eliminating Tariffs on 92 Percent of Goods*, BLOOMBERG BNA INT'L TRADE DAILY (Feb. 11, 2014), <http://0-news.bna.com.lucy.ils.edu/tldn/> (search "Pacific Alliance"; then follow 02/12/2014 hyperlink) [hereinafter Chauvin, *Latin America Countries Ink New Trade Deal*]. All that is left to fully implement these measures is to submit the trade protocol to the legislatures of the respective Pacific Alliance countries for approval. Lucien O. Chauvin, *South America's Pacific Alliance Moved Toward Agreement on Zero-Tariff Zone*, BLOOMBERG BNA INT'L TRADE DAILY (Feb. 7, 2014), <http://0-news.bna.com.lucy.ils.edu/tldn/> (search "Pacific Alliance"; then follow 02/10/2014 hyperlink) [hereinafter Chauvin, *South America's Pacific Alliance Moves Toward Agreement*].

58. *The Pacific Alliance ABCs*, ALIANZA DEL PACIFICO, <http://alianzapacifico.net/wp-content/uploads/2013/07/ABC-ALIANZA-DEL-PACIFICO-PRENSA-INGLES.pdf> (last visited Oct. 20, 2013) [hereinafter *The Pacific Alliance ABCs, 2013*]; see also Rossella Brevetti, *Pacific Alliance Countries Will Establish Integration Agendas*, BLOOMBERG BNA INT'L TRADE DAILY (Oct. 1, 2013), <http://0-news.bna.com.lucy.ils.edu/tldn/> (search "Pacific Alliance"; then follow 10/01/2013 hyperlink) [hereinafter Brevetti, *Pacific Alliance Countries Will Establish Integration Agendas*].



tions to coordinate trade with Asia.<sup>59</sup> Thus, the Pacific Alliance has taken steps to implement a genuinely free trade area, as evidenced by the UN signing. In contrast to CAN and Mercosur, the Pacific Alliance does not intend to become a customs union or a common market.<sup>60</sup> Instead, it seeks to maximize its benefits by adopting elements of a common market while avoiding the limitations of a customs union. The aim of the Alliance is to deepen its integration with the free movement of factors of production,<sup>61</sup> a characteristic present in common markets. At the same time, the Pacific Alliance encourages its members to engage in free trade agreements with non-members,<sup>62</sup> a characteristic that would be implicitly discouraged if a common external tariff were to be established.

### III. FACTORS FOR SUCCESS

#### A. *Common National Characteristics*

Chile, Colombia, Mexico, and Peru independently possess characteristics in common that will facilitate the integration process ushered in by the Pacific Alliance. These countries share a common heritage since all possessed an indigenous inheritance, became Spanish Colonies in the sixteenth century, and gained independence from Spain in the early nineteenth century.<sup>63</sup> Mexico, Peru, Chile, and Colombia also share a cultural resemblance in that the principal language spoken is Spanish and the predominant religion is Roman Catholic.<sup>64</sup> These two innate characteristics establish the context from which nations communicate and perceive one another. Also of note, these countries share a favorite pastime—soccer. Chile, Peru, Colombia, and Mexico's shared Hispanic roots enable these nations to rapidly advance towards the essential topics of integration rather than tiptoeing around unfamiliar customs.

Admittedly, geographical proximity is not a particularly prevalent characteristic for the Pacific Alliance members given that northern

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59. Chauvin, *Declaration Creating Pacific Alliance*, *supra* note 20; *see also The Pacific Alliance ABCs, 2013*, *supra* note 58.

60. Jesper Tvevad, *The Pacific Alliance: Regional integration or fragmentation?*, EUR. PARLIAMENT 1, 17 (Jan. 10, 2014), [http://www.europarl.europa.eu/RegData/etudes/briefing\\_note/join/2014/522318/EXPO-AFET\\_SP\(2014\)522318\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/briefing_note/join/2014/522318/EXPO-AFET_SP(2014)522318_EN.pdf).

61. *Id.*

62. *Id.*

63. Roger A. Kittleson, *History of Latin America*, ENCYCLOPEDIA BRITANNICA, <http://www.britannica.com/EBchecked/topic/331694/history-of-Latin-America> (last visited Nov. 22, 2013).

64. *Id.*

Mexico is roughly as far from the southernmost tip of Chile as England is from South Africa.<sup>65</sup> However, the need for geographical proximity is lessened where ocean transportation is available, especially since each member-nation has significant Pacific Ocean borders. In fact, the distance between these nations may even be considered an opportunity. Antoni Estevadeordal of the Inter-American Development Bank sees the Pacific Alliance as an incentive for its member-nations to further expand and enhance their transportation systems.<sup>66</sup>

In addition to common heritage, cultural resemblance, shared language, and geographical accessibility, these countries also possess similar per-capita GDP levels, outward-looking trade policies and stable democratic government regimes.<sup>67</sup> Upon the initial launch of the Pacific Alliance in 2011, the GDP per capita<sup>68</sup> levels were \$20,154 (Chile), \$15,887 (Mexico), \$10,429 (Peru), and \$11,332 (Colombia).<sup>69</sup> The difference in GDP levels between the Pacific Alliance countries is not much when compared to that of the nations of Mercosur.<sup>70</sup> The GDP per capita levels of Mercosur members in 2011 were \$17,645 (Uruguay), \$14,301 (Brazil), and \$7,186 (Paraguay).<sup>71</sup> Even twenty years after the establishment of the Mercosur customs union, the per capita GDP of Uruguay is almost two and a half times more than that of Paraguay.<sup>72</sup> While GDP per capita cannot plainly represent the average quality of life, it does indicate the general development of the country and the quality of programs that can be carried out by its government.

As indicated by the numbers above, Paraguay is in fact suffering from a lack of infrastructure. In 2007, Mercosur established a Structural Convergence Fund (FOCEM) to alleviate the disparity between its members.<sup>73</sup> Since then Paraguay has been allocated approximately \$201 million in funds for “road construction, water system improvements,

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65. *Latin American geoeconomics: A continental divide*, ECONOMIST (May 18, 2013), <http://www.economist.com/news/americas/21578056-region-falling-behind-two-alternative-blocks-market-led-pacific-alliance-and>.

66. *Id.*

67. For a similar analysis of Mercosur nations, see Kembayev, *supra* note 10, at 38-39.

68. *GDP per capita, PPP (current international \$)*, THE WORLD BANK, <http://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD/countries?display=default> (last visited Nov. 22, 2013).

69. *Id.*

70. *Id.*

71. *Id.* Argentina's GDP per capita was not specified here because there were no reported values for Argentina at any point in time in the World Bank GDP per capita, PPP (current international \$) data.

72. Uruguay's GDP (\$17,645) ÷ Paraguay's GDP (\$7,186) = 245.55%.

73. Porrata-Doria, *Mercosur at Twenty*, *supra* note 28, at 20-21.

and electrical infrastructure improvements.”<sup>74</sup> Nonetheless, Paraguay’s infrastructure and markets are so far behind those of Argentina, Brazil and Uruguay that, to date, even the substantial FOCEM funding has not been able to improve Paraguay’s position relative to the other Mercosur members.<sup>75</sup>

In contrast, the difference is not as prevalent for the Pacific Alliance members: the per capita GDP of Chile is only about two times greater than that of Peru.<sup>76</sup> Furthermore, even the two lowest GDP per capita values (\$11,332 in Colombia and \$10,429 in Peru) of the Pacific Alliance members are not far below the 2011 world average of \$13,410.<sup>77</sup> Having substantially similar GDPs per capita suggests that these nations have comparable levels of infrastructure. As a result, the Pacific Alliance members can instead focus on what future steps to take to maximize trade benefits rather than expending resources in hopes to get one nation at the same economic level as the others.

The four Pacific Alliance nations are notable for their extensive number of trade agreements and their domestic regulations favoring the creation of business—demonstrating their common outward-looking trade policies. While the average member of the WTO is involved in thirteen trade agreements,<sup>78</sup> Colombia, Peru, Mexico, and Chile have fifteen, seventeen, nineteen, and twenty-two trade agreements, respectively.<sup>79</sup> And these trade agreements result in preferential trade terms with sixty-two, fifty, fifty-two, and sixty countries, respectively.<sup>80</sup> A similar, shared view of trade policies facilitates cohesion and cooperation among Pacific Alliance members because it implicitly establishes a commonly agreed upon goal. Additionally, the Pacific Alliance countries are among the top thirty percent of 189 nations ranked for “Ease of Doing Business” in 2013.<sup>81</sup> Finally, within Latin America and the Caribbean’s thirty-three nations, the Pacific Alliance members rank first (Chile), third (Peru), fourth (Colombia) and fifth (Mexico).<sup>82</sup> A mutually

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74. *Id.* at 21-22.

75. *Id.* at 24-25.

76. *GDP per capita, PPP (current international \$), supra* note 68. Chile’s GDP (\$20,154) ÷ Peru’s GDP (\$10,429) = 193.25%

77. *GDP per capita, PPP (current international \$), supra* note 68.

78. WORLD TRADE REPORT 2011, *supra* note 4, at 47.

79. *The Pacific Alliance ABCs*, ALIANZA DEL PACIFICO, <http://alianzapacifico.net/documents/2014/AbeceINGLES%202014.pdf> (last visited Oct. 20, 2014) [hereinafter *The Pacific Alliance ABCs, 2014*].

80. *Id.*

81. *Economy Rankings*, WORLD BANK GROUP, <http://www.doingbusiness.org/rankings> (last visited Feb. 26, 2014).

82. *Id.* In contrast, Mercosur nations rank fourteenth (Uruguay), twenty-first (Paraguay),

high ease of doing business, which facilitates “the starting and operation of a local firm,”<sup>83</sup> increases the returns for the Pacific Alliance nations when they open their borders to increase trade since growth in demand can be quickly met by increase in production.

Moreover, the Pacific Alliance members have, on the whole, embraced and upheld democratic governments.<sup>84</sup> The Vienna-based Global Democracy Ranking ranks 110 nations each year, with the number one rank being the “most democratic” nation.<sup>85</sup> Between 2008 to 2013, Chile and Colombia increased their ranking (thirty-one to twenty-four and sixty to fifty-four, respectively).<sup>86</sup> In the same time frame, Mexico and Peru decreased in rank (forty to fifty-three and forty-one to forty-six, respectively) but are still in the top 50% of the world’s most democratic nations.<sup>87</sup> By having relatively stable, democratic governments, the Pacific Alliance nations can confidently rely on one another to adopt the necessary measures to achieve the goals of the Pacific Alliance. In contrast, political unrest results in nations with inherently unpredictable objectives that could cause potential members of a trade bloc to hesitate or turn away from the initiative for fear that the other nations will not uphold their promises.

### B. *Policies That Foster Long-Run Economic Growth*

Neo-classical trade theory, in its most basic interpretation, states that all parties will be better off where there is free trade.<sup>88</sup> This theory is the justification for many countries’ entry into trade agreements,<sup>89</sup> and Latin American countries are no exception.<sup>90</sup> Nonetheless, the traditional trade theory does not take into account the market failures, which are

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twenty-third (Brazil), and twenty-seventh (Argentina) in Latin America and the Caribbean for Ease of Doing Business.

83. *Id.*

84. *The Pacific Alliance ABCs, 2014, supra* note 79.

85. *Full dataset for the 2011 ranking*, GLOBAL DEMOCRACY RANKING, [http://democracyranking.org/wordpress/ranking/2011/data/Scores\\_of\\_the\\_Democracy\\_Ranking\\_2011-letter.pdf](http://democracyranking.org/wordpress/ranking/2011/data/Scores_of_the_Democracy_Ranking_2011-letter.pdf) (last visited Nov. 22, 2013)

86. *Id.*

87. *Id.*

88. Rachel Denae Thrasher & Kevin P. Gallagher, *Twenty-First Century Trade Agreements: Implications for Development Sovereignty*, 38 DENV. J. INT’L L. & POL’Y 313, 314-15 (2010) [hereinafter Thrasher & Gallagher].

89. *Id.* at 314.

90. *See generally New Trade Agreements as Tools for Policy Reform and Economic Integration*, INTER-AMERICAN DEV. BANK, [http://www.iadb.org/en/topics/trade/new-trade-agreements-as-tools-for-policy-reform-and-economic-integration,8555.html#\\_UmSK9iCYyDJ](http://www.iadb.org/en/topics/trade/new-trade-agreements-as-tools-for-policy-reform-and-economic-integration,8555.html#_UmSK9iCYyDJ) (last visited Oct. 6, 2013) [hereinafter *New Trade Agreements as Tools*] (stating that Latin American and Caribbean nations have turned to free trade agreements as a way to fuel growth and reduce poverty).

prone to occur in developing nations after implementation of trade agreements.<sup>91</sup>

The four principle market failures that typically result in these situations are coordination failures, information lapses, technological stagnation, and sub-optimal formation of human capital.<sup>92</sup> Coordination among members of a trade agreement is key to attract foreign firms and investors, and the free flow of information is vital to ensure that producers are creating a desirable product for consumers.<sup>93</sup> Without proper incentives, domestic entrepreneurs will continue to invest in “historically profitable industries in the primary products sectors”<sup>94</sup> rather than taking the necessary risks associated with inventing new technologies.<sup>95</sup> Human capital formation—such as education and training—is indispensable for long-term economic growth.<sup>96</sup> Government-supported human capital formation programs are necessary because private markets alone are usually insufficient to maintain a socially optimal level of human capital.<sup>97</sup>

The key for trade agreements among developing nations, such as the Pacific Alliance members, would be to implement policies that could reduce the severity of such market failures. East Asia’s steady growth over the last forty years demonstrates that region’s successful execution of such policies in order to reap the benefits of trade liberalization.<sup>98</sup> Experts agree that four general policies used by East Asian nations rectified market failures while fostering dynamic comparative advantages: (1) the movement of people across borders, (2) investment in both human capital and public infrastructure, (3) effective public-private communication paths paired with results-based industry subsidies, and (4) loose intellectual property rules.<sup>99</sup> These four categories shall be examined below to determine whether the Pacific Alliance has the necessary foundation to promote long-run economic growth.

First, the Pacific Alliance has made great strides in augmenting the movement of people across its borders. The foreign relations ministers of the four Pacific Alliance members have eliminated visas for interre-

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91. Thrasher & Gallagher, *supra* note 88, at 314-15.

92. *Id.* at 316.

93. *Id.* at 316-17.

94. *Id.* at 317.

95. *Id.*

96. *Id.* at 318.

97. *Id.*

98. *Id.* at 319-20; see also Zhaoyong Zhang, *Trade Liberalization, Economic Growth and Convergence: Evidence From East Asian Economies*, 16 J. ECON. INTEGRATION 147, 147 (2001).

99. Thrasher & Gallagher, *supra* note 88, at 319-20, 322.

gional travel in 2013 and plan to release a “Pacific Alliance” visa that permits members to travel to the rest of the world in 2014.<sup>100</sup> The Pacific Alliance has demonstrated its long-term commitment to the free movement of persons by dedicating one of its fourteen technical groups to “Movement of Business People and Facilitation of Migration.”<sup>101</sup> Additionally, the Pacific Alliance has signed an agreement on tourism cooperation<sup>102</sup> to increase the tourism travel within Pacific Alliance nations.<sup>103</sup>

Second, the Pacific Alliance has already begun investment in education and research and in doing so revealed a concern for the continued development of human capital. Beginning in 2013, scholarships were awarded to undergraduate and postgraduate students and professors to use in the universities of Pacific Alliance countries.<sup>104</sup> In 2013, 100 scholarships per country were allotted and distributed subject to an application process.<sup>105</sup> The Pacific Alliance has also asserted that it will establish a fund to support research topics affecting long-run human productivity such as climate change, small and mid-sized businesses, and social development.<sup>106</sup>

To date, the Pacific Alliance’s investment in infrastructure is noteworthy since it demonstrates the Alliance’s foresight and capacity to coordinate. The Pacific Alliance nations are very close to uniting their stock markets into the Integrated Latin American Market (*Mercado Integrado Latino Americano*: MILA).<sup>107</sup> Peru, Chile, and Colombia have already joined their markets into MILA in 2011,<sup>108</sup> and as of late 2013, Mexico, close to obtaining legislative approval, is predicted to be joining in 2014.<sup>109</sup> By consolidating their stock markets, Pacific Alliance members will benefit from lowered exchange costs and increased vol-

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100. Chauvin, *Latin America’s Pacific Alliance Signs Deal*, *supra* note 54.

101. *The Pacific Alliance ABCs, 2013*, *supra* note 58.

102. *New Trade Agreements as Tools*, *supra* note 90.

103. *The Pacific Alliance ABCs, 2013*, *supra* note 58.

104. *Id.*

105. *Id.*

106. Alejandro Rebossio, *La region mira al Pacifico: alianzas que dejan fuera al Mercosur*, LA NACION (June 9, 2013), <http://www.lanacion.com.ar/1589843-la-region-mira-al-pacifico-alianzas-que-dejan-fuera-al-mercosur>.

107. Lucien O. Chauvin, *Export Policy: Currency Rise, Trade Harmonization, Top Agenda of Pacific Alliance Meeting*, BLOOMBERG BNA INT’L TRADE DAILY (Apr. 29, 2013), <http://0-news.bna.com.lucy.lis.edu/tldn/> (search “Pacific Alliance”; then follow “next” hyperlink; then follow “04/29/2013: Export Policy: Currency Rise, Trade Harmonization, Top Agenda of Pacific Alliance Meeting” hyperlink) [hereinafter Chauvin, *Currency Rise*].

108. *Id.*

109. Brevetti, *Pacific Alliance Countries Will Establish Integration Agendas*, *supra* note 58; Chauvin, *Currency Rise*, *supra* note 107.

umes of traded stock, thus attracting more companies (both domestic and international) to sell stock through MILA.<sup>110</sup> The finance ministers of the Pacific Alliance nations are currently working on adopting Chile's single windows method to streamline trade flows.<sup>111</sup> The single windows system "group[s] all necessary procedures for exporting and importing goods and services into one single body or agency" and in Chile has resulted in a 50% decrease in foreign trade operations expenses.<sup>112</sup> Furthermore, the trade promotion agencies of the four Pacific Alliance members have united their efforts to increase their global presence. In 2012, a joint trade promotion office was opened in Istanbul, Turkey.<sup>113</sup> In 2013, the Pacific Alliance opened a joint diplomatic mission in Ghana<sup>114</sup> and made its official launch in Dubai.<sup>115</sup> The Alliance plans to open other joint trade promotion offices in Mumbai (Bombay), India, and Casablanca, Morocco.<sup>116</sup>

Third, the Pacific Alliance has set up an effective communication path between itself and private businesses within the Alliance, which has allowed the future possibility of result-based industry subsidies. The Pacific Alliance Business Council (*Consejo Empresarial de la Alianza del Pacífico*: CEAP)—composed of fourteen high-level business people from the four member nations—was established in August 2012 to give business-perspective feedback and recommendations to the Pacific Alliance.<sup>117</sup> Since its founding, the CEAP has met on four occasions.<sup>118</sup> To evaluate and apply the suggestions of the CEAP, the Pacific Alliance created the Expert Committee for the Pacific Alliance Business Sum-

110. *Pacific Alliance Bourses, MILA, Planned to be integrated by end of year*, MERCOPRESS (June 21, 2014), <http://en.mercopress.com/2014/06/21/pacific-alliance-bourses-mila-planned-to-be-integrated-by-end-of-year>.

111. Chauvin, *Currency Rise*, *supra* note 106; Chauvin, *Latin America's Pacific Alliance Signs Deal*, *supra* note 54.

112. *Chile expedites and lowers costs of foreign trade processes with IDB support*, INTER-AMERICAN DEV. BANK, <http://www.iadb.org/en/topics/trade/chile-expedites-and-lowers-costs-of-foreign-trade-processes-with-idb-support,8263.html> (last visited Oct. 6, 2013).

113. Chauvin, *Latin America's Pacific Alliance Signs Deal*, *supra* note 54.

114. *Id.*

115. Issac John, *Latin American Economic Bloc Makes Debut in Dubai*, KHALEEJ TIMES (Dec. 11, 2013), [http://khaleejtimes.com/biz/inside.asp?xfile=/data/uaebusiness/2013/December/uaebusiness\\_December116.xml&section=uaebusiness](http://khaleejtimes.com/biz/inside.asp?xfile=/data/uaebusiness/2013/December/uaebusiness_December116.xml&section=uaebusiness).

116. *The Pacific Alliance ABCs, 2014*, *supra* note 79.

117. Nneka Etoniru, *Explainer: What is the Pacific Alliance?*, AM. SOC'Y / COUNCIL OF THE AMS. (May 17, 2013), <http://www.as-coa.org/articles/explainer-what-pacific-alliance>.

118. *Pacific Alliance Business Council Meets in New York*, INTER-AMERICAN DEVELOPMENT BANK, <http://www.iadb.org/en/topics/trade/pacific-alliance-business-council-meets-in-new-york,8825.html> (last visited Feb. 26, 2014).

mit.<sup>119</sup> This formalized path between the public and private sectors can enable the Pacific Alliance to “‘discover’ what the most pertinent market failures and other impediments to industrial development are in an economy, and what assets there are in the economy that can be built upon, and to pick activities that will have the largest economy-wide effects.”<sup>120</sup>

Traditionally, trade bloc or government involvement in picking specific industries to subsidize often results in inefficiency due to rent-seeking behavior and creates a risk that the government may pick “losers” instead of “winners.”<sup>121</sup> Such problems can be circumvented, or at least reduced, if the renewal of subsidies depends on the performance of those who received the subsidies.<sup>122</sup> Then, a governing body can objectively justify terminating investment in projects that are not producing positive results, and the possibility of losing the subsidy will incentivize the recipients to be efficient in order to retain government aid.<sup>123</sup> Although the Pacific Alliance has not implemented targeted industry subsidies, the Alliance could use such a tool in the future to boost growth in key industries.

Fourth, the important policy of loose intellectual property rules is not an end in itself but instead describes an environment where learning from foreign nations is encouraged and where public research and development is accessible.<sup>124</sup> A prime example is Chile’s funding program, which began in 2010. “Start-Up Chile” gives founders of promising firms (both international and domestic) \$40,000 and a one year visa with the condition that recipients work in Chile for 6 months and in the meantime share their knowledge with Chileans—for example, as event speakers or as coaches to local entrepreneurs.<sup>125</sup> With the success of this program, which has resulted in the nickname “Chilecon Valley,”<sup>126</sup> the Pacific Alliance could very well implement a similar program on a larger scale. Even though additional funding and coordination is necessary in order to expand this program, such a move would be wise. Expanding the program will not only increase innovation domestically, but also disincentivize free-rider behavior that may arise if Chile continues the pro-

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119. *The Pacific Alliance ABCs, 2014*, *supra* note 79.

120. Thrasher & Gallagher, *supra* note 88, at 322.

121. *Id.* at 321.

122. *Id.* at 322.

123. *Id.*

124. *Id.* at 320.

125. *Entrepreneurs in Latin America: The lure of Chilecon Valley*, *ECONOMIST* (Oct. 13, 2012), available at [www.economist.com/node/21564589](http://www.economist.com/node/21564589).

126. *Id.*



gram while factors of production flow freely among members.

### C. *Lessons to be Learned From Mercosur*

Establishing a supranational entity and an effective resolution system are key for the longevity of the Pacific Alliance. Without a supranational entity, the implementation and progress of the regional trade agreement must rely on the perpetual consensus of all the member nations.<sup>127</sup> Thus, a regional trade agreement's progress might be paralyzed if the members do not agree. An ineffective dispute resolution system provides no meaningful penalties against the member who violates community norms, resulting in little incentive to comply with such norms.<sup>128</sup> In turn, the effectiveness of the regional trade agreement is weakened.<sup>129</sup> As predicted and later confirmed by Temple University Law Professor Rafael A. Porrata-Doria Jr.,<sup>130</sup> Mercosur's failure to effectuate these two establishments has added both to the discontent felt by Mercosur's smaller nations as well as the ineffectiveness of Mercosur's measures to further integration.

Mercosur has endeavored to establish a supranational entity by creating the Committee of Permanent Representatives (COREPER) in 2003 and the Mercosur parliament (PARLASUR) in 2005.<sup>131</sup> These attempts, however, have been unsuccessful given that the institutions were given neither binding authority nor legislative powers. COREPER, lacking in both decision-making and implementation powers, has ceased to be active.<sup>132</sup> PARLASUR's powers are of a "liaison and consultative nature" since a majority of the organization's work is to make recommendations.<sup>133</sup> According to Mercosur's official website, there has been no PARLASUR activity since 2010.<sup>134</sup> Therefore, Mercosur has continued to resort to the decisions of the Brazilian and Argentinian presidents as its "principal policy-making and agenda-setting instrument."<sup>135</sup> As a consequence, Paraguay and Uruguay have felt increasingly discontent regarding their second-class status within Mercosur.<sup>136</sup>

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127. Porrata-Doria, *Mercosur at Twenty*, *supra* note 28, at 1.

128. *See id.* at 33.

129. *Id.*

130. *Id.* at 1-2.

131. *Id.* at 26, 29.

132. *Id.* at 30.

133. *Id.* at 27-28.

134. *Id.* at 28.

135. *Id.* at 19.

136. *Id.* "[Uruguay and Paraguay] described a situation of 'sub-imperialism,' arguing that 'Argentina and Brazil had long orchestrated programs within Mercosur that disproportionately benefitted their larger domestic markets' and noted that radical changes in regional policy were

The Pacific Alliance has yet to establish a supranational entity whose actions are binding upon all members, and it is unclear if there are plans to create such an entity in the future.<sup>137</sup> The Pacific Alliance's current structure begins with the Presidents of the four member countries, who are the ultimate decision makers.<sup>138</sup> Next, the Council of Ministers has the authority to make lesser decisions but only as permissible within the Framework Agreement.<sup>139</sup> As an example of a durable regional trade agreement, the European Union has established various supranational entities that together have binding legislative authority, such as the European Parliament, the European Council, the Council, and the European Commission.<sup>140</sup> Even though the members have not encountered significant discord amongst themselves to date, the Pacific Alliance would highly benefit from establishing a supranational entity, as it would act as a safeguard against otherwise immobilizing disagreements that may come up in the future.

Mercosur has also been unable to establish an effective dispute resolution system.<sup>141</sup> In order to have an effective dispute resolution system: (1) it must be regularly used; (2) it should generate a body of jurisprudence that is cited and followed; and (3) the parties must agree to be bound by its decisions.<sup>142</sup> Despite the additional legislative support brought forth from the Brasilia and Olivos Protocols,<sup>143</sup> Mercosur's arbitration and Permanent Revision Tribunal has failed to exercise meaningful authority.<sup>144</sup> Both tribunal levels were hesitant to impose sanctions when violations of Mercosur norms were present; and even when sanctions were imposed, the member states simply ignored the tribunals.<sup>145</sup> Furthermore, the tribunals were seldom used and their decisions did not create a cohesive jurisprudence.<sup>146</sup>

In contrast, the Court of Justice of the European Union, since it's

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needed." *Id.*

137. Tvevad, *supra* note 60, at 17-18.

138. *Structure and Organization Chart*, THE PAC. ALLIANCE, <http://alianzapacifico.net/en/home-eng/structure-and-organization-chart/> (last visited Feb. 26, 2014).

139. *Id.*

140. *How the European Union Works*, EUROPA, <http://bookshop.europa.eu/en/how-the-european-union-works-pbNA0113090/> (last visited Feb. 26, 2014) (click the download link).

141. Porrata-Doria, *Mercosur at Twenty*, *supra* note 28, at 30-33.

142. *Id.* at 25.

143. *Id.*

144. *Id.* at 33.

145. *Id.*

146. *Id.* at 31. For a more in-depth discussion of why Mercosur's dispute resolution system is ineffective, see Porrata-Doria, *Mercosur at Twenty*, *supra* note 28, at 30-33.

establishment in 1952, has given 28,000 judgments<sup>147</sup> containing comprehensive fundamental principles derived from case law.<sup>148</sup> The Pacific Alliance has generally stated that it has established an agency that will resolve disputes, but it is unclear if the results of this agency are binding and if they have the means to enforce their decisions.<sup>149</sup> The Americas Society / Council of the Americas (AS/COA) hosted a panel examining the Pacific Alliance on May 24, 2013.<sup>150</sup> There, it was predicted that the Pacific Alliance was likely to “resolve disputes with panels consisting of representatives of all the parties to the [trade] agreement” similar to the system used in NAFTA.<sup>151</sup>

Despite these two long-run issues, the Pacific Alliance is likely to address these issues with more success than Mercosur, due to the Alliance’s innovative “early harvest” approach.<sup>152</sup> Rather than coming to an agreement only when all the issues have been resolved, the early harvest strategy encourages the easiest issues to be resolved first and for agreements to be made at various intervals.<sup>153</sup> The early harvest method has been used by the Pacific Alliance members since its conception and the rapidity of the ensuing agreements has “buil[t] momentum and confidence” in the Alliance’s integration process.<sup>154</sup> By addressing one issue at a time, the Pacific Alliance countries have had an opportunity to update their respective national assemblies periodically rather than all at once.<sup>155</sup> This has increased national support and awareness for the process with minimal opposition, since it is highly unlikely that a single issue will attract a significant amount of protest.<sup>156</sup>

Additionally, the Pacific Alliance is still in its infancy, so there is no immediate rush to establish a formidable bureaucracy. Nonetheless, the Pacific Alliance’s infancy can be a weakness because it is uncertain how a change in a member-nation’s president will affect the Pacific Al-

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147. *General Presentation*, COURT OF JUSTICE OF THE EUR. UNION, [http://curia.europa.eu/jcms/jcms/Jo2\\_6999/](http://curia.europa.eu/jcms/jcms/Jo2_6999/) (last visited Feb. 26, 2014).

148. *Presentation*, COURT OF JUSTICE OF THE EUR. UNION, [http://curia.europa.eu/jcms/jcms/Jo2\\_7024/](http://curia.europa.eu/jcms/jcms/Jo2_7024/) (last visited Feb. 26, 2014).

149. *The Pacific Alliance ABCs, 2014*, *supra* note 79.

150. Andres Sada, *The Pacific Alliance: Pivoting to Asia*, AM. SOC’Y / COUNCIL OF THE AM. (May 24, 2013), <http://www.as-coa.org/articles/summary-%E2%80%93-pacific-alliance-pivoting-asia>.

151. *Id.*

152. Carlo Dade & Carl Meacham, *The Pacific Alliance: An Example of Lessons Learned*, CENTER FOR STRATEGIC & INT’L STUD. 1, 6 (July 11, 2013), [http://csis.org/files/publication/130711\\_CDadeCMeacham\\_PacificAlliance.pdf](http://csis.org/files/publication/130711_CDadeCMeacham_PacificAlliance.pdf).

153. *Id.* at 2, 6.

154. *Id.* at 6.

155. *Id.*

156. *Id.*

liance.<sup>157</sup> Future presidents—not familiar with the creation and early hurdles of the Pacific Alliance—may be tempted to steer the Pacific Alliance away from its presently effective and pragmatic system.<sup>158</sup> In Peru, it was believed unlikely that the new Peruvian President, Ollanta Humala, would continue Peru’s participation in the Pacific Alliance.<sup>159</sup> In anticipation of such an outcome, the former Peruvian President, Alan Garcia, invited the then presidential candidate Humala to attend a Pacific Alliance meeting in 2011.<sup>160</sup> As a result, Humala has seamlessly maintained Peru’s involvement in the Pacific Alliance.<sup>161</sup> In Chile, time has yet to tell whether the presidency of Michelle Bachelet (in her second, non-consecutive term) will result in continued support of the Pacific Alliance. Even before her term began on March 2014, Bachelet welcomed Brazil’s ex-president, Luis Inácio Lula da Silva, who visited to promote Mercosur on November 2013.<sup>162</sup> Bachelet also maintains close relations with the presidents of Brazil (Dilma Rousseff) and Argentina (Cristina Fernández).<sup>163</sup> Although it is vital to retain good relations with Mercosur, Bachelet’s center-left political agenda might leave the Pacific Alliance as a secondary concern.<sup>164</sup> Despite the changing presidencies of the member nations, the Pacific Alliance’s current success is a great incentive for future presidents of Peru, Chile, Mexico, and Colombia to continue working together.<sup>165</sup>

#### IV. THE POLARIZING EFFECT OF THE PACIFIC ALLIANCE’S SUCCESS

##### A. *Damaging Perceptions*

The Pacific Alliance is likely to attract criticism even if this trade bloc is successful in accomplishing its goals. In fact, it already has attracted criticism. In July 2013, various officials of Mercosur’s member-

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157. Moisés Naim, *The Most Important Alliance You’ve Never Heard Of*, THE ATLANTIC (Feb. 17, 2014), <http://www.theatlantic.com/international/archive/2014/02/the-most-important-alliance-youve-never-heard-of/283877/>.

158. Dade & Meacham, *supra* note 152, at 9.

159. *Id.* at 7.

160. *Id.*

161. *Id.*

162. Benedict Mander, *Chilean Companies Face Change, Not Revolution*, FIN. TIMES (Dec. 13, 2013), available at <http://www.ft.com/intl/cms/s/0/22725972-633e-11e3-886f-00144feabdc0.html#axzz2rlqVRN9W>.

163. *Id.*

164. *Id.*; Chauvin, *South America’s Pacific Alliance Moves Toward Agreement on Zero-Tariff Zone*, *supra* note 57.

165. “The biggest protection we have for the [Pacific Alliance] system in place today is that it has worked,” says Jorge Errázuriz, who is involved in the promotion of the Pacific Alliance. Mander, *supra* note 162.

countries claimed that the Pacific Alliance's focus on free trade would distract Latin American countries from their social objectives.<sup>166</sup> Those opposed to the Pacific Alliance say that free trade will continue the export of raw commodities, which is not sustainable in the long run.<sup>167</sup> Additionally, they believe that the Pacific Alliance's market driven growth will not lead to inclusive development.<sup>168</sup> Such vocal opposition against the Pacific Alliance from Mercosur supporters seems to suggest a growing resentment and an "us versus them" mentality. Contrary to the criticisms, the Pacific Alliance has taken steps to address social objectives. As mentioned previously, the Alliance has allotted a total of 400 undergraduate and postgraduate scholarships in 2013 and has declared that it will establish a fund to support research topics such as climate change, small and mid-size businesses, and social development.<sup>169</sup> Even though social objectives are not being grossly overlooked by the Pacific Alliance, the fact that non-Pacific Alliance nations of the Latin American community perceive otherwise might be damaging to the Pacific Alliance's future trade relations with these nations.

The way in which Paraguay was suspended from Mercosur is an example of the extensive damage that can result from other countries' perception of controversial events. Soon after the lightning-fast impeachment of the Paraguayan President Fernando Lugo on June 21, 2012, Argentina and Venezuela declared that they would not recognize the new President Federico Franco.<sup>170</sup> Venezuela also said it would stop sending oil to Paraguay.<sup>171</sup> Then, one week later on June 28, 2012, Paraguay's Mercosur partners—Brazil, Uruguay, and Argentina—decided to suspend Paraguay for a year.<sup>172</sup> This suspension meant that Paraguay's unfavorable vote regarding Venezuela's inclusion in Mercosur was overlooked.<sup>173</sup> Furthermore, upon lifting the suspension in July 2013, Paraguay was not permitted to assume the remaining months of the rotating presidency of Mercosur as scheduled.<sup>174</sup> These political sanctions, which had an expansive economic effect, occurred despite the fact that the impeachment of Lugo was carried out in strict accordance with Par-

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166. See *Mercosur Social Summit Criticizes the Pacific Alliance and Blasts Free Trade*, MERCOPRESS (July 12, 2013), <http://en.mercopress.com/2013/07/12/mercosur-social-summit-criticizes-the-pacific-alliance-and-blasts-free-trade>.

167. See *id.*

168. *Id.*

169. Rebossio, *supra* note 106.

170. *Paraguay's Impeachment: Lugo out in the cold*, *supra* note 44.

171. *Id.*

172. *The expansion of Mercosur: In by the back door*, *supra* note 47.

173. Brevetti, *Paraguay Wants Mercosur Fixed*, *supra* note 49.

174. *Id.*

aguay's constitution.<sup>175</sup> Even compliance with their own law and an almost unanimous senate vote was not enough to demonstrate legitimacy of the process to neighboring nations, and this perception of wrongdoing resulted in serious consequences for Paraguay.<sup>176</sup> Paraguay's unfortunate case is an important lesson for Pacific Alliance nations to remember.

Another damaging external perspective that various nations have of the Pacific Alliance is that the Alliance is an extension of US power that seeks to undermine socially-focused regional integration efforts and instead, impose a market-driven free trade economy.<sup>177</sup> On August 6, 2013, the Foro de São Paulo, an organization that supports and evaluates Mercosur, claimed that in addition to being a US tool, the Pacific Alliance had generated crises and divisions within Mercosur itself.<sup>178</sup> Here, not only is the Pacific Alliance criticized, but it is also blamed for Mercosur's problems. Atilio Borón, an Argentinian intellectual, believes that the U.S. organized the Pacific Alliance with the purpose of eroding UNASUR.<sup>179</sup> This perception is damaging—whether or not it is true, or to what extent—because it will cause nations that are wary of U.S. involvement in Latin America to stop or limit their trade relationships with Pacific Alliance members. The criticisms expressed against the Pacific Alliance could result in strained relations with non-member countries and impede the regional flow of trade, thus dampening economic growth.

### B. *One or the Other*

Now that there will be two major trade blocs in South America (Mercosur and the Pacific Alliance), any country that joins or becomes affiliated with either bloc will necessarily have revealed its values, whether ideological or pragmatic. Since July 2013, Bolivia and Ecuador have both been associate members to Mercosur, meaning that they can participate in Mercosur discussions, but cannot vote.<sup>180</sup> Both nations as-

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175. *Paraguay Becomes Observer of the Alliance of the Pacific, Despite Brazil and Mercosur*, MERCOPRESS (May 25, 2013 4:29 UTC), <http://en.mercopress.com/2013/05/25/paraguay-becomes-observer-of-the-alliance-of-the-pacific-despite-brazil-and-mercosur> [hereinafter *Paraguay Becomes Observer of the Alliance of the Pacific*].

176. *Paraguay's impeachment: Lugo out in the cold*, *supra* note 44.

177. Detlef Nolte & Leslie Wehner, *The Pacific Alliance Casts Its Cloud over Latin America*, GERMAN INST. OF GLOBAL & AREA STUD. 1, 4 (2013), [http://www.giga-hamburg.de/en/system/files/publications/gf\\_international\\_1308.pdf](http://www.giga-hamburg.de/en/system/files/publications/gf_international_1308.pdf).

178. *Id.*

179. *Id.*

180. *Venezuelan parliament approves incorporation of Bolivia to Mercosur as full member*, MERCOPRESS (July 18, 2013, 8:26 UTC), <http://en.mercopress.com/2013/07/18/venezuelan>

pire to join Mercosur as full members, but that requires the approval of all five Mercosur nations (Argentina, Brazil, Uruguay, Paraguay and Venezuela).<sup>181</sup> Indirectly aimed at the Pacific Alliance, Ecuadorian President Rafael Correa stated that Ecuador would never join a bloc that offered only a free market or an open economy.<sup>182</sup> Furthermore, Bolivian President Evo Morales said that the Pacific Alliance is part of a U.S. conspiracy to divide UNASUR and so “can’t advance the definitive liberation of our peoples.”<sup>183</sup> In choosing to join Mercosur, it appears that these countries have found it necessary to also announce their disapproval of the Pacific Alliance rather than remaining open to the idea that both trade blocs can work together.

On the other hand, Mercosur nations Paraguay and Uruguay have both obtained observer membership to the Pacific Alliance.<sup>184</sup> Their decision to create stronger bonds with the Pacific Alliance seems to stem from their growing discontent with Mercosur.<sup>185</sup> Paraguay’s status as an observer to the Alliance as of May 2013 was met by strong opposition by Brazilian lobbyists who felt that Paraguay’s suspension should have prevented Paraguay from seeking trade ties with other countries.<sup>186</sup> Regarding its suspension from Mercosur, Paraguay’s ambassador to the United States, Fernando Pfannl Caballero, felt that it would be difficult for Paraguay to move forward considering that the nation’s dignity had been offended in the process.<sup>187</sup> As early as 2006, Uruguay’s finance minister felt that it depended too much upon the goodwill of Argentina and Brazil, and since then, Uruguay has sought to expand trade relations beyond Mercosur.<sup>188</sup> Uruguay became an observer to the Pacific Alliance in early 2013, a month or two before Paraguay.<sup>189</sup> Even so, Uruguay has found it difficult to expand its trade partners since Mercosur rules state that third party agreements require the unanimous consent of the other Mercosur nations.<sup>190</sup> Uruguay and Paraguay seem to be turning

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parliament-approves-incorporation-of-bolivia-to-mercosur-as-full-member.

181. *Id.*

182. *Ecuador’s Correa pondering whether to join Mercosur or the Pacific Alliance*, MERCOPRESS (July 31, 2013, 6:09 UTC), <http://en.mercopress.com/2013/07/31/ecuador-s-correa-pondering-whether-to-join-mercosur-or-the-pacific-alliance>.

183. *Bolivian president claims US and Pacific Alliance conspiring to divide UNASUR*, MERCOPRESS (Oct. 14, 2013, 23:40 UTC), <http://en.mercopress.com/2013/10/14/bolivian-president-claims-us-and-pacific-alliance-conspiring-to-divide-unasur>.

184. *Paraguay Becomes Observer of the Alliance of the Pacific*, *supra* note 175.

185. *Id.*

186. *Id.*

187. *Id.*

188. *Porrata-Doria, Mercosur at Twenty*, *supra* note 28, at 19-20.

189. *Chauvin, Currency Rise*, *supra* note 106; *Schmidt & Doyle*, *supra* note 37.

190. *Paraguay Becomes Observer of the Alliance of the Pacific*, *supra* note 175; *Mercosur*

towards the Pacific Alliance as an alternative to the stringent limitations imposed by Mercosur.

The Pacific Alliance was founded with a pragmatic emphasis on achieving global competitiveness rather than having a geopolitical or ideological focus.<sup>191</sup> Mercosur's agenda has lately been characterized by an increasingly ideological focus, especially after the admission of Venezuela.<sup>192</sup> Despite the fact that the Pacific Alliance and Mercosur are operating on two distinct planes of thought, the geographic juxtaposition of the two trade blocs makes it easy to contrast the two. Nonetheless, it is vital for South American nations to refrain from entering the mindset that the two trade blocs are incompatible rivals.

### C. *Lost Opportunities*

It may be counterproductive for Pacific Alliance nations to put forth so much effort into integrating with one another if it results in alienating these nations from their Latin American neighbors. Popular dislike from non-Pacific Alliance nations may lead to lowered or stagnant levels of intra-regional trade within the continent. If that happens, Latin America will be at a patent disadvantage in the path to becoming developed nations. On January 4, 2014, the Economist recommended that twenty-year-old NAFTA expand its links beyond its members and warned against "building a Fortress North America in which the three countries try to boost their mutual competitiveness at the expense of the rest of the world."<sup>193</sup> The Economist's advice to NAFTA is applicable to Mercosur, who has of late opted for protectionist measures.<sup>194</sup> This advice is also relevant to the Pacific Alliance, which in spite of being very open to trade on a worldwide scale,<sup>195</sup> may not be making the most of its trade relations with other Latin American nations.

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*Waking up to the Significance and Impact of the Pacific Alliance*, MERCOPRESS (July 1, 2014, 10:16 UTC), <http://en.mercopress.com/2014/07/01/mercosur-waking-up-to-the-significance-and-impact-of-the-pacific-alliance>.

191. Dade & Meacham, *supra* note 152, at 2.

192. *Latin American geoeconomics: A continental divide*, *supra* note 65.

193. *NAFTA at 20: Ready to Take Off Again?*, ECONOMIST (Jan. 4, 2014), available at <http://www.economist.com/news/briefing/21592631-two-decades-ago-north-american-free-trade-agreement-got-flying-start-then-it>.

194. *Latin American geoeconomics: A continental divide*, *supra* note 65. The Economist did in fact urge Brazil to pursue increased free trade in March 2012 stating, "Regional integration, not protectionism, is the right response to fears of deindustrialization." *Trade in Latin America: Unity is Strength*, *supra* note 32.

195. This is especially true in regards to Asia: "The Alliance countries already have more trade agreements with Asia than the rest of the Americas combined." Dade & Meacham, *supra* note 152, at 9.



As of 2012, intra-regional trade in Central and South America is only 26.9% of the region's total merchandise exports whereas it is 68.6% in Europe, 53.4% in Asia, and 48.6% in North America.<sup>196</sup> The International Monetary Fund Survey Magazine considered high intra-regional trade to be the key to Asia's economic growth in the early 2000s.<sup>197</sup> In November 2012, Consultancy Africa Intelligence asserted that Africa, with a 12.8% of intra-regional trade as of 2012,<sup>198</sup> could boost growth by overcoming barriers to intra-regional trade.<sup>199</sup> While the ultimate goal for the Pacific Alliance members may be economic globalization, a focus on increasing intra-regional trade will aid these countries in "addressing many of the constraints to [their] trade, such as poor infrastructure, complex domestic regulation and insufficient productive capacity."<sup>200</sup> By addressing such problems, the Pacific Alliance will enhance its capacity for intra-regional trade and simultaneously improve their extra-regional trade.<sup>201</sup>

Furthermore, there are immediate benefits to trading within Latin America, such as lowered transportation costs and decreased time for delivery. Short-run benefits include increased gains from trading products where countries have a comparative advantage,<sup>202</sup> long-run benefits include greater specialization in response to the trade growth and, thus, augmented productivity and economies of scale.<sup>203</sup> These immediate, short-run and long-run benefits will be applicable to both nations within a trading relationship, and as a result, the entire region itself would also experience mutual growth. One more benefit to trading within Latin America is that nations who engage in commerce are more apt to maintain peaceful relations because trade has made the nations "reciprocally

196. WORLD TRADE ORGANIZATION, INTERNATIONAL TRADE STATISTICS 2013 21 (2013), [http://www.wto.org/english/res\\_e/statis\\_e/its2013\\_e/its2013\\_e.pdf](http://www.wto.org/english/res_e/statis_e/its2013_e/its2013_e.pdf) (last visited Feb. 26, 2014).

197. Paul Gruenwald & Masahiro Hori, *Intra-regional Trade Key to Asia's Export Boom*, INT'L MONETARY FUND (Feb. 6, 2008), <https://www.imf.org/external/pubs/ft/survey/so/2008/CAR02608A.htm>.

198. WORLD TRADE ORGANIZATION, INTERNATIONAL TRADE STATISTICS 2013, *supra* note 196, at 21.

199. Tapiwa Mhute, *Africa Must Overcome Barriers to Intra-African Trade to Boost Growth*, CONSULTANCY AFR. INTELLIGENCE (Nov. 16, 2012), [http://www.consultancyafrica.com/index.php?option=com\\_content&view=article&id=1166:africa](http://www.consultancyafrica.com/index.php?option=com_content&view=article&id=1166:africa).

200. Sean Woolfrey, *Boosting intra-regional trade in Africa: An end in itself?*, INT'L CENTRE FOR TRADE & SUSTAINABLE DEV. (June 4, 2012), *available at* <http://ictsd.org/i/news/bridges%E2%80%90africa%E2%80%90review/134375/>.

201. *Id.*

202. Douglas Irwin, *Free Trade Under Fire*, in INT'L TRADE L. 32, 33-34 (Daniel C.K. Chow & Thomas J. Schoenbaum eds., 2013).

203. *Id.* at 34-36; *Trade in Latin America: Unity is Strength*, *supra* note 32.

dependent” upon one another.<sup>204</sup>

## V. THE QUEST TO COMPLEMENT RATHER THAN SEGREGATE

### A. *Expanding Pacific Alliance Membership*

Therefore, in order to mitigate the negative effects that may arise from unconfirmed perceptions and reap the benefits of intra-regional trade, the Pacific Alliance should permit other Latin American countries to join. In order to discuss the merits of this proposition, it is essential to become familiar with the current process of becoming a full member of the Pacific Alliance. Observer status nations to the Pacific Alliance are invited to work on strategic issues alongside members.<sup>205</sup> While any country can obtain observer status,<sup>206</sup> such nations are expected to agree with the principles and goals set forth in the Pacific Alliance’s Framework Agreement.<sup>207</sup> As of February 10, 2014, the Pacific Alliance has thirty observer states.<sup>208</sup> To apply for membership, an observer must have bilateral free trade agreements with at least half of the Pacific Alliance countries.<sup>209</sup> There are four requirements to become a full member of the Pacific Alliance. The first and principal requirement is that the nation seeking membership must establish bilateral free trade agreements with all other Pacific Alliance members.<sup>210</sup> The second and third requirements are that nations drop tariffs (most, if not all of them) and

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204. Rebossio, *supra* note 106; This idea is originally from Montesquieu, but its effects have been evident in a worldwide scale since increased globalization in the latter half of the twentieth century. Irwin, *supra* note 202, at 37.

205. *Five new Observer States to the Pacific Alliance*, THE PAC.ALLIANCE (Nov. 29, 2013), <http://alianzapacifico.net/en/five-new-observer-states-to-the-pacific-alliance/>.

206. Chauvin, *Latin America’s Pacific Alliance Signs Deal*, *supra* note 54.

207. *Five new Observer States to the Pacific Alliance*, *supra* note 205. These principles and goals generally include favoring “open markets, foreign investment and lesser government interference in the economy.” *Paraguay becomes observer of the Alliance of the Pacific, despite Brazil and Mercosur*, *supra* note 175.

208. The observer states include Uruguay, Canada, Guatemala, Panama, Paraguay, Honduras, El Salvador, the United States, the Dominican Republic, Spain, France, Portugal, Turkey, Germany, Japan, China, South Korea, Australia, New Zealand, Germany, Italy, the Netherlands, the United Kingdom, Switzerland, Finland, Morocco, Israel, India, Singapore and Costa Rica. *Observer States of the Alliance, key companions in the process of regional integration*, THE PACIFIC ALLIANCE (Feb. 19, 2014), <http://alianzapacifico.net/en/observer-states-of-the-alliance-key-companions-in-the-process-of-regional-integration/>. Costa Rica is expected to become a full member in 2014. Brevetti, *Pacific Alliance Countries Will Establish Integration Agendas*, *supra* note 58.

209. Schmidt & Doyle, *supra* note 37.

210. Lucien O. Chauvin, *Regional Agreements: Pacific Alliance Hopes to Expand Regional Trade, Links With International Forums*, BLOOMBERG BNA INT’L TRADE DAILY (Sept. 6, 2012), <http://0-news.bna.com.lucy.lls.edu/tldln/> (search “Pacific Alliance”; then follow 09/06/2012 hyperlink) [hereinafter Chauvin, *Pacific Alliance Hopes to Expand Regional Trade*].

eliminate visitor-visa requirements for citizens of the Pacific Alliance nations.<sup>211</sup> The fourth and most questionable requirement is that the nation seeking membership must possess a Pacific Ocean coastline.<sup>212</sup> This last requirement will necessarily exclude various Latin American nations.

### B. Coastline Contention

While some countries such as Costa Rica, Panama and Guatemala can pursue membership due to their favorable geography, other nations such as Uruguay and Paraguay are, by definition, excluded from further integration with the Pacific Alliance despite their intentions.<sup>213</sup> On May 23, 2013, Costa Rica was invited to become a member at the VII Presidential Summit in Cali, Colombia<sup>214</sup> and is expected to officially join in 2014.<sup>215</sup> Panama, which already has free trade agreements with all the Pacific Alliance members,<sup>216</sup> is in the process of meeting the other requirements.<sup>217</sup> Guatemala expressed an interest in becoming a member at the Cali Summit, but has not yet completed the requirement of free trade agreements with all four Pacific Alliance nations.<sup>218</sup>

The argument that the Pacific Coastline limitation is beneficial because it controls the growth of the Pacific Alliance<sup>219</sup> is not convincing. By already requiring each prospective member to have free trade

211. Campbell Clark, *Canada Called 'a Natural Fit' for Pacific Alliance*, THE GLOBE AND MAIL (May 20, 2013), <http://www.theglobeandmail.com/news/politics/canada-called-a-natural-fit-for-pacific-alliance/article12032919/>.

212. Schmidt & Doyle, *supra* note 37.

213. Lucien O. Chauvin, *Regional Agreements: Pacific Alliance Members Anticipate Creation of Trade Zone Similar to EU*, BLOOMBERG BNA INT'L TRADE DAILY (May 23, 2013), <http://0-news.bna.com.lucy.lls.edu/tldn/> (search "Pacific Alliance"; then follow 05/23/2013 hyperlink) [hereinafter Chauvin, *Pacific Alliance Members Anticipate Creation of Trade Zone Similar to EU*].

214. Schmidt & Doyle, *supra* note 37.

215. In fact, Costa Rica's anticipated entry is so certain that the Peruvian Ambassador to the U.S. (Harold W. Forsyth) has predicted that Costa Rica's digital market expertise will bring "tremendous added value" to the Pacific Alliance. Rossella Brevetti, *Peru's Envoy Says Costa Rica's Expected Accession to Pacific Alliance Would Bring Value*, BLOOMBERG BNA INT'L TRADE DAILY (Mar. 14, 2014) <http://0-news.bna.com.lucy.lls.edu/tldn/> (search "Pacific Alliance"; then follow 3/14/2014 hyperlink) [hereinafter Brevetti, *Peru's Envoy Says Costa Rica's Expected Accession to Pacific Alliance Would Bring Value*].

216. Chauvin, *Pacific Alliance Members Anticipate Creation of Trade Zone Similar to EU*, *supra* note 213.

217. Brevetti, *Pacific Alliance Countries Will Establish Integration Agendas*, *supra* note 58.

218. Schmidt & Doyle, *supra* note 37. At the eighth summit meeting of the Pacific Alliance in February 2014, the perceived ascension of these Central American countries would be Costa Rica first, Panama second, and Guatemala third. Chauvin, *Latin America Countries Ink New Trade Deal*, *supra* note 57.

219. *Id.*

agreements with the existing members, it will take longer for each new member to obtain the required free trade agreements as the Pacific Alliance membership expands. Thus, there is already a structural limitation in the rate of growth. Furthermore, the first three requirements would aid in the self-selection of like-minded, prospective members. The ubiquitous nature of these requirements would cause the prospective member to operate under the Pacific Alliance's open regionalism model<sup>220</sup> even before obtaining membership. Notably, the Pacific Ocean requirement does not add to the benefit described above but rather, it functions as an absolute barrier to cooperation with Latin American nations that otherwise match the mentality of the founding Pacific Alliance members.<sup>221</sup>

It seems uncharacteristic for an otherwise pragmatic Pacific Alliance to make a vital distinction such as membership based on an arbitrary fact such as a particular coastline. A shared coastline requirement is also clearly not intended to maintain geographical proximity given that Tijuana (Mexico) is about as far from Punta Arenas (Chile) as London is from Cape Town.<sup>222</sup> Conversely, the only geographic requirement needed to become a member of the European Union is that the country be located in Europe.<sup>223</sup> As evidenced by its fifty-seven years of maintaining a common market among its members,<sup>224</sup> the European Union is a successful example of a stable yet growing trade integration, with its geographic requirement appropriately enhancing regional cohesion. A requirement that new members come from the same continent is effective because it ensures some geographic proximity and makes it more likely for member nations to communicate more effectively due to shared culture and history. As discussed in Part III, both of these characteristics were considered to be factors for the success of a regional trade agreement, and conversely, the absence of these characteristics in

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220. Open regionalism is based on the theory "that opening up to world trade would be more advantageous if combined with creating a deeper regional market, to reap economies of scale." *Latin American geoeconomics: A continental divide*, *supra* note 65; Nolte & Wehner, *supra* note 177, at 3.

221. This requirement also notably excludes all Mercosur members, since Argentina, Brazil, Paraguay, Uruguay, and Venezuela lack a Pacific Ocean coastline. Schmidt & Doyle, *supra* note 37, at 4.

222. *Latin American geoeconomics: A continental divide*, *supra* note 65.

223. *Enlargement: Conditions for Membership*, EUR. COMM'N, [http://ec.europa.eu/enlargement/policy/conditions-membership/index\\_en.htm](http://ec.europa.eu/enlargement/policy/conditions-membership/index_en.htm) (last visited Feb. 26, 2014).

224. "In 1957, the Treaty of Rome creates the European Economic Community (EEC) or 'common market.'" *The history of the European Union*, EUR. UNION, [http://europa.eu/about-eu/eu-history/index\\_en.htm](http://europa.eu/about-eu/eu-history/index_en.htm) (last visited Feb. 26, 2014).

future members would make it more difficult to effectively integrate. Under the current requirements, Japan or Canada could join the Pacific Alliance and therefore the coastline requirement fails to promote geographic proximity and cultural similarity in new members.

Like Costa Rica, Panama, and Guatemala, both Uruguay and Paraguay had expressed intentions to join the Pacific Alliance as full members.<sup>225</sup> However, these nations currently have two limitations. First, under Mercosur's rules, Paraguay and Uruguay must obtain unanimous consent from the other Mercosur members to do so.<sup>226</sup> This is unlikely to occur given the animosity and suspicion expressed by Mercosur members against the Pacific Alliance. Second, neither Uruguay nor Paraguay could join the Pacific Alliance since Paraguay is landlocked and Uruguay only has access to the Atlantic Ocean.<sup>227</sup>

Whereas Mercosur nations could over time change their opinion about the Pacific Alliance and consent to Uruguay's request to become a Pacific Alliance member, the Pacific Alliance's coastline requirement is fixed and unchanging. This prevents the possibility of Mercosur and the Pacific Alliance from working together in the long run. Moreover, this requirement has negative short-run effects: it may serve to exacerbate the already tenuous relationship between Mercosur and the Pacific Alliance, which was previously discussed above in Part IV. Not only does this requirement conclusively deprive Mercosur nations the opportunity to join the Pacific Alliance, but its rigidity may also prevent nations without a Pacific Ocean coastline from conceiving a deeper integration with the Pacific Alliance.

### C. *Maintaining Standards*

Therefore, the restriction limiting membership to countries with Pacific Ocean Coastlines should be lifted. Latin American nations should be allowed to join the Pacific Alliance if they wish, so long as the Pacific Alliance maintains its other standards for entry intact. It is critical that the Pacific Alliance not accept members who disagree with

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225. Chauvin, *Pacific Alliance Members Anticipate Creation of Trade Zone Similar to EU*, *supra* note 213; *Paraguay Becomes Observer of the Alliance of the Pacific, Despite Brazil and Mercosur*, *supra* note 175.

226. *Paraguay Becomes Observer of the Alliance of the Pacific, Despite Brazil and Mercosur*, *supra* note 175. In contrast to Mercosur's requirement, the Pacific Alliance allows its members to freely participate in other trade agreements. Schmidt & Doyle, *supra* note 37.

227. This is in spite of the fact that Uruguay satisfies the condition of having free trade agreements with all four Pacific Alliance members. *Paraguay Becomes Observer of the Alliance of the Pacific, Despite Brazil and Mercosur*, *supra* note 175.

the Pacific Alliance's values and objectives.<sup>228</sup> Much of the success of the Pacific Alliance to date has been attributed to the similar mindset of the four founding nations.<sup>229</sup> On June 17, 2013, a Bloomberg BNA article evaluating the Pacific Alliance explained: "[w]hat makes the Pacific Alliance different? The member countries have demonstrated through existing policies that they share market and international economic outlooks and goals."<sup>230</sup>

Mercosur's admission of Venezuela illustrates the complications incurred by accepting a nation who does not uphold the original values of the group. The 1991 Treaty of Asunción, which established Mercosur, was based upon "an ideology of open markets and free trade."<sup>231</sup> And since its creation, the four founding members (Argentina, Brazil, Paraguay, and Uruguay) had maintained these values.<sup>232</sup> However, on July 31, 2012, Mercosur accepted Venezuela as a full member and in doing so deviated from its original principles.<sup>233</sup> In addition to taking advantage of Paraguay's suspension and thereby overlooking Paraguay's strong opposition to Venezuela's entry, the remaining Mercosur members accommodated Venezuela's entry by making an exception to Venezuela's contrary position to Mercosur's founding values.<sup>234</sup> Venezuela's entry into Mercosur has placed a greater emphasis on increasing socio-political activities<sup>235</sup> at the cost of neglecting the cultivation and expansion of their trade relations with other nations as initially intended.

Another related concern for the Pacific Alliance is to avoid the temptation of expanding its objectives to include a political ideology. In the past, many regional trade agreements in Latin America have tended to neglect their trade relations over time in order to address social objectives such as the unequal distribution of wealth. While their objective is honorable, the method is seldom effective because these reoriented trade agreements attract new members solely for political rather than econom-

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228. Dade & Meacham, *supra* note 152, at 11. "Core policies that create Pacific Alliance cohesiveness could erode if exceptions are made to accommodate new members." Schmidt & Doyle, *supra* note 37.

229. Dade & Meacham, *supra* note 152, at 5; Nolte & Wehner, *supra* note 177, at 3. For a discussion on the similar mindset of these nations, see *supra* Part III.A. Common National Characteristics.

230. Schmidt & Doyle, *supra* note 37.

231. Porrata-Doria, *Mercosur at Twenty*, *supra* note 28, at 35; *Latin American geoeconomics: A continental divide*, *supra* note 65.

232. Porrata-Doria, *Mercosur at Twenty*, *supra* note 28, at 35.

233. *Id.*

234. *Id.* at 35-36.

235. *Id.* at 39.

ic reasons.<sup>236</sup> Unlike the founding members, who began with a similar economic outlook to establish the agreement, these new members may disagree on the economic operation of the agreement and cause discordance among the existing members, which can ultimately reduce the effectiveness of the trade bloc. In contrast, the Pacific Alliance's commitment to be an "explicitly apolitical"<sup>237</sup> trade agreement can enable these nations to focus exclusively on expanding their trade relations on a global level and kick start economic growth. Then, using a growing economy and increased GDP as a motor for reform, these nations can independently decide through their respective political process how to redirect wealth to alleviate inequality and address social concerns.

## VI. CONCLUSION

The Pacific Alliance is close to achieving long-term economic success. Already possessing numerous common national characteristics, the Pacific Alliance nations have not had much difficulty cooperating in their shared goal of a free trade area accompanied by the free movement of factors of production. Also, the Pacific Alliance nations have had the foresight to implement policies that foster long-run economic growth, such as establishing a pathway of communication between the Alliance and private businesses and investing in public infrastructure. Nonetheless, maintaining a trade agreement is difficult, especially after the momentum wears off, and therefore requires strong institutions for decision-making and enforcement. This is why it is critical for the Pacific Alliance to construct a supranational entity whose decisions are binding and create an effective dispute resolution system. As a relatively new regional trade agreement, the Pacific Alliance still has time to establish these institutions. Its "early harvest" approach will also bring these nations to confront these important topics in a timely manner.

The predicted Pacific Alliance success will bring forth a distinct set of international concerns. Other Latin American nations have already expressed disapproval of the Pacific Alliance's objectives and means. True or not, these negative perceptions are damaging to the Pacific Alliance. It leads Latin American nations to view the Pacific Alliance as an alternative to Mercosur and vice versa. This mentality leads to lost opportunities since it discourages Latin American nations from engaging in intra-regional trade, which could result in mutual economic

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236. Chauvin, *Pacific Alliance Members Anticipate Creation of Trade Zone Similar to EU*, *supra* note 213.

237. Dade & Meacham, *supra* note 152, at 11; Brevetti, *Peru's Envoy Says Costa Rica's Expected Accession to Pacific Alliance Would Bring Value*, *supra* note 215.

growth.

Therefore, the Pacific Alliance needs to allow other nations to join. While it is wise to have requirements that encourage the inclusion of a new member with the same economic goals, the requirement that the nation possess a Pacific Ocean coastline is arbitrary at best, and at worst, prohibits neighboring Latin American nations from considering further integration. Even so, the Pacific Alliance must be careful in maintaining its substantive standards when it adds new members, lest the economic-based trade integration dissipate into a political forum. Despite the feelings of animosity from some Latin American nations, Uruguay's attitude about the possibilities for the two trade blocs is admirable. Uruguayan Vice President Danilo Astori said that the membership of the two groups is "not incompatible."<sup>238</sup> Hopefully this attitude, paired with the Pacific Alliance's commitment to inclusiveness, can result in complementary growth and so enhance Latin American development.

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238. *Belonging to Mercosur and the Pacific Alliance is 'not incompatible' says Uruguay*, MERCOPRESS (July 12, 2013), <http://en.mercopress.com/2013/07/12/belonging-to-mercosur-and-the-pacific-alliance-is-not-incompatible-says-uruguay>. Colombia's President, Juan Manuel Santos and Brazil's President, Dilma Rousseff, met in June 2014 to discuss the possibility of the Pacific Alliance and Mercosur working together, nonetheless it is unclear whether and when these words will turn into action. *Colombia-Brazil consider closer links between Pacific Alliance and Mercosur*, MERCOPRESS (June 20, 2014), <http://en.mercopress.com/2014/06/20/colombia-brazil-consider-closer-links-between-pacific-alliance-and-mercosur>.