

GLOBALIZING CUBA: ALBA AND THE CONSTRUCTION OF SOCIALIST GLOBAL TRADE SYSTEMS¹

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ALBA (Alternativa Bolivariana para los Pueblos de Nuestra América), the command economy alternative to the free trade model of globalization (García 2003), is one of the greatest and least understood contributions of Cuba to the current conversation about globalization and economic harmonization. (Bossi 2004). Originally conceived as a means for forging a unified front against the United States by Cuba and Venezuela (Bossi 2004), ALBA has grown to include Nicaragua, Honduras, and Bolivia. It has also grown to include a number of Caribbean states, including Dominica in 2008, and St. Vincent and the Grenadines in 2009. It has the support of other states, including Ecuador, and Haiti.

ALBA is critically grounded on the idea that internationalization must be effected through states and public action rather than individuals and private markets. ALBA is not necessarily opposed to all private activity, just those activities that have become liberated from precise control by the state. ALBA is thus founded on the notion that traditional divisions between public and private sectors remains valuable and important, and that certain sectors, traditionally overseen by the state as agent for territorially based communities, are essential for the maximization of the welfare of people organized into states. (Bossi 2004). To this is added a fundamental distrust of private markets—markets that are not strictly controlled and managed by the

state. (ALBA Fifth Extraordinary Summit 2009). In a sense ALBA is compelling for those who control the apparatus of states now overwhelmed by new sorts of governance power—private, multinational and governance based. Equally important, ALBA now serves as a means of aggregating and institutionalizing responses to and challenges of American power in the Western Hemisphere. Fidel Castro, for example, has been quite vocal about this since the 1980s. (Castro 1999). These are views refined by the Venezuelan leader, Hugo Chávez (Chávez 2005). ALBA also institutionalizes opposition to the current framework of economic globalization and attempts to challenge the hegemony of the current framework for constituting trade among states (Backer 2006a)—grounded in private economic activity and a passive state regulatory role on which much current global trading frameworks are based. (Stiglitz 2003, 16). Privatization, liberalization, and macrostability are supposed to create a climate to attract investment, including from abroad.” (Id., at 67).

There is little consensus on the nature and value of ALBA, even within the Western Hemispheric community of public and private actors. Some view ALBA as a great threat to the current economic order and the political order of states. Most prominent among these is the United States, which has suggested ALBA as a nexus for radical populist movements. (United States Senate Armed Services Committee 2008). Others

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view ALBA as little more than an ideologically curious variation on the large number of partial preference free trade agreements that have proliferated in Latin America since the 1980s under the Asociación Latinoamericana de Integración (ALADI) framework, described below. The representative of Venezuela to ALADI, in 2004, emphasized this view of ALADI as a forum within which distinct measures for integration could find a space for debate and incorporation. (ALADI, Incorporación al Comité de Representantes de la señora Embajadora María Lourdes Urbaneja Durant 2004). Still others have suggested that there is little, either institutionally or programmatically, that distinguishes ALBA from the machinations of the nation states that comprise its various disconnected programs. (Girvan 2008). ALBA member states, of course, view the enterprise as the greatest innovation in hemispheric integration since the Soviet Revolution of 1917 by combining European Marxism, Latin American nationalist anti-colonialism, and the vision of integration that has haunted Latin America since the 19th century wars of liberation. “Ricardo Alarcón, president of Cuba’s national assembly, has called ALBA the best guarantee for the consolidation of an anti-imperialist front. Addressing an international forum in Caracas January 25, Alarcón asked, why waste time in looking for answers ‘in the air,’ since ALBA ‘is the answer.’” (Johnson 2006).

There is a little bit of truth in each of these views. The purpose of this paper is to carefully examine ALBA as both a system of free trade and as a nexus point for legal and political resistance to economic globalization and legal internationalism sponsored by developed states. Following this introduction, an examination of ALBA is undertaken, focusing on its history, and its conceptual basis and institutionalization. The essay considers the importance of the evolution of Bolivarianism in the globalist ideology of Fidel Castro and its contribution to the governing ideology of ALBA, and its strongly anti-capitalist foundations. It then considers the way in which this governing ideology is institutionalized within ALBA. From the organization of its institutions, the essay turns to implementation, considering the way in which ALBA worked so far, especially in its economic context. The paper then examines the work of ALBA to date, both as trade

organization and as political vehicle for confronting the power of developed states, and especially that of the United States.

The essay then contextualizes ALBA within the dense network of trade and investment treaties that mark the realities of economic relations between Latin American states. The object is twofold, first to examine the extent that ALBA in form represents something new, and second to suggest the extent to which ALBA in fact provides something different in a field with many players. For that purpose, this section first contextualizes ALBA within conventional trade association organization and operation. That examination reveals organizational differences beyond the ideological differences that mark ALBA as distinct from conventional trade associations. However, ALBA’s difference, its heavy emphasis on intergovernmentalism and its avoidance of supra national organization, is only a more extreme form of the tendencies toward intergovernmentalism that mark conventional trade arrangements in Latin America. Yet differences do produce cooperation and challenge. This is most acutely felt in ALBA’s relationships with CARICOM, the Caribbean Community and Common Market, which is examined next. Lastly, ALBA is considered within the networks of bilateral trade agreements and partial preference trade agreements that mark the landscape of Latin American trade relations. These evidence ALBA’s potential to provide a public sector variant on private sector globalization should not be underestimated. It is no longer focused on *eliminating borders* for the production and management of private capital; instead it is focused on *using borders* as a site for the assertion of public authority to control all aspects of social, political, cultural, and economic activity. Yet it is also deeply embedded in the great web of partial economic associations that characterize economic governance in Latin America.

Thus contextualized, ALBA implicates tensions between integration and nationalism; between public and private models of integration; and between internal and external regional trade norms. It also highlights connections between the current form of trade frameworks and the construction of alternative forms of trade arrangements; between anti-Americanism and

integration; and between conventional frameworks of Latin American trade and its challengers. These are examined in the concluding section of this essay. The great lesson of ALBA for the West is that ideology is still a powerful factor in the development of global trade models, and that the growing regulatory complexity of global trade—in which states participate in private markets and non-state actors exert regulatory authority—makes the ALBA ideology particularly powerful among smaller and less developed states. ALBA focuses on changing the terms of debate about trade, the role of states, and the place of private economic activity across borders. In this respect, certainly, ALBA may represent one of Cuba's greatest triumphs and also its greatest challenge to the normative tenets of the current framework of economic globalization. But the framework within which ALBA can grow also sets the limits of its influence.

WHAT IS ALBA?

ALBA is an alternative approach to economic, social, cultural and political integration that aims to foster trade, development and unity among the nations of Latin America and the Caribbean on the basis of a set of principles distinct from those underlying conventional integration efforts. (Venezuela, *Sobre el ALBA* 2006). To the authors of ALBA, traditional agreements, such as the FTAA, have focused on the interests of transnational corporations and capital without taking into account the social and economic needs of the people of Latin America. For example, "At a recent luncheon, outgoing Venezuelan Ambassador Christy Gonzalez stated that she believed the FTAA formula was oppressive for smaller economies, while ALBA or Bolivarian Alternative for Latin America and the Caribbean was a more favorable initiative for countries in the region. 'ALBA represents the first attempt at regional integration based on solidarity, non-interference and complementing, instead of competing,' she said." (FTAA v. ALBA 2009).

In contrast, ALBA focuses its emphasis on eliminating the social and economic disparities that exist among Latin American nations, by creating mechanisms that use cooperative advantage(s) that a nation may possess, as a tool to compensate existing disparities within other nations in the region. (Venezuela, *Sobre el ALBA*

2006). "By employing more effective mechanisms to eradicate poverty, ALBA—as proposed by the Venezuelan government—provides a counterweight to the policies and goals of the FTAA. This alternative model also identifies the most crucial impediments to achieve a genuine regional integration that transcends the prerogatives of the transnational corporations." (Amigos de Cuba n.d.). ALBA's primary emphasis is to create a sub-regional bloc built on a number of strategic agreements grounded in the founding ideology of ALBA—socialist and public law oriented—for the betterment of the peoples in the members states and to serve as protection against other states or economic blocs. (Venezuela, *Sobre el ALBA* 2006). The challenge is to provide a space for unified action that can help smaller states resist the conventional private enterprise oriented systems represented by conventional trade and integration agreements. (Id.).

This section first examines the history of ALBA in its regional and ideological context. It starts with the long efforts to find methods of integration in a climate in which nationalism is privileged. It then briefly describes the genesis of ALBA as an organizational reality form out of ideological opposition to market oriented globalization.

History

The history of ALBA is in essence a continuation of the history of integration in Latin America. This is a history of tensions and interventions. Integration pits the post colonial project of state building against the internationalist project that aims to reduce the sovereign authority of states, both against each other and in their relations with private power. Integration can also serve as a proxy for strong state interventions under the cover of private markets internationalism and in this way also subvert the post colonial projects of national liberation. But it can also serve to liberate individuals from the oppression of cliques and ideologies that hijack the apparatus of states by posing supra national norms against narrow assertions of state power. This section will begin by exploring in greater detail the conflation of these tendencies, focusing on the role of Cuba generally and Fidel Castro specifically, in the construction of a novel form of sovereign internation-

alism, producing ALBA. It then briefly explores the efforts that ultimately produced ALBA itself.

Modern Bolivarianism; From Conventional Integration to ALBA. The integration of Latin America and the Caribbean is not a novel idea. This goal, and the ideals guiding it, traces its roots to Simón Bolívar's vision for the newly freed states that had fought for their independence from Spanish rule in the first quarter of the nineteenth century. The expression of these ideas can be found in his "Letter from Jamaica." (Bolívar 1978 (1815)). The desire of ALBA, to integrate Latin America independent of colonial or neo-colonial powers, is an attempt to make Simón Bolívar's dream of a united confederation of American states a reality. (Bossi 2005). This is a sentiment that was also echoed in the writings of José Martí. (Martí 1891). It is the antithesis and response to the Monroe Doctrine, and presents an age-old confrontation between the people of Latin America and imperialism. (Venezuela, Ministerio de Comunicación e Información de la República Bolivariana de Venezuela, *Sobre el ALBA* 2006 ("...el ALBA responde a una vieja y permanente confrontación entre los pueblos latinoamericanos caribeños y el imperialismo. Monroísmo versus Bolivarianismo, tal vez sea la mayor manera de plantear los proyectos en pugna.")). Bolívar's vision was abandoned in the south but was cemented in the north and led to the strengthening and rise of the union of states that became the United States. (Correa 2005). ALBA, then, is meant to ally like-minded states committed to promoting their sense of the Bolivarian ideals.

Modern regional integration in Latin America is commonly traced to the period immediately after the Second World War and the work of the United Nations Commission for Latin America. (United Nations Economic Commission for Latin America 1950). By 1960 the work of integration produced the Latin American Free Trade Association (LAFTA), which had as its objective the elimination of duties between states. Other efforts followed.

With regional integration very much on the agendas of most Latin American states for much of their modern history, it is no surprise that a number of supra national institutions have been created to attempt to effect integration of one kind or another. But all of them are

iterations of the standard model of regional trade association. (Frankel 1997, 1–17). But there was also opposition to traditional mechanics of integration. Part of the opposition to the traditional trade and investment agreements, like what would become the Free Trade Area of the Americas (FTAA) proposal of the 1990s, was grounded in a well developed world view that sought to synthesize strong elements of Soviet style Marxist-Leninist theory, post colonial theories, especially those coming out of African liberation movements, nineteenth century ethno nationalism, and 20th century socialist internationalism. Basic to these ideas was the positing of the great oppositional forces of the state, as a representative of popular will, and transnational corporations, as representatives of private uncontrolled economic power inimical to the interests individuals, states and society. (Venezuela, *Sobre el ALBA*, 2006 at 5). To the promoters of ALBA, the neoliberal view of granting access to markets through the elimination of tariffs or regulation of commerce and foreign investment has predominantly served the interests of large and developed nations. (Venezuela, Ministerio de Comunicación e Información de la República Bolivariana de Venezuela, *Sobre el ALBA*, 2006). Numerous scientific studies can attest to the fact that the application of current globalization practices, such as the FTAA, have not and will not produce a desired level of development that can guarantee a greater quality of life and living for the people of developing nations. (*Id.*).

At the center of opposition to conventional trade relationships was Fidel Castro and the apparatus of the Cuban state. The development of his ideas about internationalism and his opposition to any systems that appeared to enhance U.S. power drove the development of the conceptions that came to frame ALBA. Castro argued that Latin American unity could only occur through the education and participation of the masses in the process. (*Id.*). Castro also attempts to draw parallels between the economic struggles of Latin American and the need to create a more peaceful new world order. (Castro 1985). He emphasized how the interest generated from the loans of third-world countries, money that could be used to feed, medicate or shelter their people, is instead paid to, and used by, developed nations to invest in weapons and military

build-ups. (Id.). Furthermore, the unequal international economic order continues to add to the debt total and, rather than do something to curtail it, international finance organizations and private banks increase their interest rates while decreasing the loan payment periods. (Castro 1985). These actions result in a coercive system that allows these organizations to continue obtaining economic and political advantages at the expense of Latin American nations. (Id.).

From Internationalism to ALBA. The idea for ALBA first appeared in 2001 proposals advanced by Hugo Chávez in response to the FTAA (ALBA, *Conceptualización de proyecto y empresa grannacional en el marco del ALBA* 2008). It was developed in a series of speeches, and dialogues among Cuba and Venezuela. (Id.). The idea was to reconstruct and reapply the ideals represented by Bolívar, as understood by the leaders of Cuba and Venezuela. (Bossi 2005). The original signatory nations, Cuba and Venezuela, also symbolically represent the home nations of José Martí and Simón Bolívar respectively. The ideas and calls for unity in achieving reformation advanced by Castro were given new impetus after the election of Hugo Chávez in Venezuela. During an address given in Venezuela to commemorate the 40th anniversary of the Cuban revolution, Castro again mentioned the need for Latin Americans to work together to achieve cooperation, integration and unity in order to survive in a world where regional and sub-regional blocs have become the norm. (Castro 1999). Castro also pointed to the disastrous consequences that have resulted when the neoliberal policies of the IMF are applied to any country, calling their help a “kiss from the devil.” (Id., at 23). For Castro, it is not globalization per se that is the problem, but rather the ideology that is the current driving force behind it. (Id., at 24). Under the current system, countries with varying degrees of development and needs are all treated with the same fix-all formulas that serve to benefit the wealthy and powerful such as the IMF and WTO. (Id., at 25).

Thus, according to Castro, the need for Latin America to join forces in creating a regional entity, with a shared culture and language, is indispensable in order to prevent their division through mechanisms such as the FTAA. (Id., at 33–34). Latin American nations

need to unite in order to have enough strength to prevent the loss of their independence and annexation by the U.S. (Id., at 34). However, Castro saw a resurgence of hope and opportunity, not only in Venezuela, but in Latin Americans and other people around the world, that the world will move forward towards a globalization for all; there are no alternatives and no way around it. (Id., at 40–41). What was to become ALBA emerged from the notion that something different was needed from the trade associations and trade structuring that had been created before, both as an oppositional force to market based globalization and as a site for aggregating state opposition to the United States. ALBA, in this sense, was to serve as a concrete step toward the elaboration of a *public* markets and *public* economics regime. It was to elaborate a socialist vision of globalization as a successor to the now no longer fashionable socialist internationalism of the first half of the 20th Century. (Backer 2006a).

The first concrete steps taken to create ALBA as an instrument to achieve the dreams of Bolívar and Martí, as interpreted and refashioned by Caribbean leaders in the late 20th century, occurred after Hugo Chávez’s success in the 2004 Venezuelan referendum. (ALBA, *Acuerdo entre el presidente de la Republica Bolivariana de Venezuela y el presidente del consejo de estado de Cuba* 2004). This resulting agreement was to structure the relation between the two states on principles of solidarity and the exchange of goods and services, at the state-to-state level, in a manner mutually beneficial to the parties (Id.), which was memorialized at a ceremony held on December 14, 2004 at Havana, Cuba. (Id.). The document committed the parties to make a concerted effort to eliminate illiteracy in third world nations (Id., art. 5), investments that are mutually beneficial (Id., art. 6), and the establishment of a reciprocal credit system. (Id., art. 7). Of note are articles 11 and 12, in which consideration is given to the asymmetrical social, economic, juridical and political positions of each nation and how, given these asymmetries, steps were to be taken to ensure that integration and mutual cooperation can indeed be achieved. (Id., arts. 11, 12).

The first report of the steps toward implementation was described in the Spring of 2005. (ALBA, *Declaración*

cion final de la primera reunión Cuba-Venezuela para la aplicación de la Alternativa Bolivariana para las Américas, 2005). The joint declaration made part of that report reiterated the nature of the organization in terms of social and political goals through economic policy. (Id.). These have been followed by a large number of agreements, declarations and actions that have been meant to develop the conceptual framework of ALBA, and to construct a number of projects that are supposed to apply those principles in specific sectors and among a variety of shifting groups of ALBA members. And the organization has grown. By 2009, an ALBA report listed fifteen projects that were to involve the political commission of ALBA states. (ALBA, Acta de la VIII Reunión de la Comisión Política del ALBA—TCP 2008).

Conceptual and Institutional Basis: Structure and Ideology of ALBA

At the heart of ALBA is its ideology. ALBA's framework provides the greatest mark of its distinction from other efforts at integration. And indeed, ideology is the critical first product of this form of integration. Integration requires harmonization of an ideological base for action. (Raúl Castro 2009).

The section starts with a consideration of that ideology in order to extract its underlying substance. It then considers the bases on which it has sought to distinguish itself ideologically from the growth models that gave rise to the United States and European Union, for example. The section concludes by examining the way that ideological distinctions are realized in organizational differences from standard free trade arrangements.

The ideology of ALBA. ALBA is built on the idea of the inherent potential for Latin America development independent of the United States and Europe, a development which has thus far failed to materialize. (Bossi 2005; Punto 3). Although prior attempts at unity have been unsuccessful, globalization presents a new opportunity for Latin America to join forces in dealing with the challenges and demands associated with this phenomenon. (Correa 2005). The power and advantages of integration, and the resulting economies of scale, which are best observed in the creation and result of the unification of the U.S., serve as an example how

economic prosperity is best achieved. (Id. at 7–8). The development of ALBA, however, is meant to be different from that of the U.S. (Bossi 2005; Punto 2). The founders of ALBA also did not wish to follow the European Union (EU) model, because in the eyes of ALBA, the unity of the EU was built under capitalistic parameters of amassing strength, and as a defense mechanism to counter and compete versus the strong economies of the U.S. and Japan. (Id.).

ALBA is grounded on an opposition to capitalism as an economic and political ideology. (ALBA, Fifth Extraordinary Summit of the ALBA Final Declaration 2009). ALBA member states have taken the position that “Capitalism is exhausting mankind and the planet. The crisis we are experiencing is a global, systemic and structural crisis which cannot be considered just one more cyclic crisis. Those who believe that a fiscal injection and regulatory measures alone will resolve the crisis are mistaken.” (Id.). ALBA member states also believe that “Capitalism has caused an ecological crisis, by subordinating the conditions necessary to support life in the planet to the demands of markets and profitability.” (Id.). Consequently, ALBA bases its actions on four anti-capitalistic values: complementary action (based on the strengths that each country may possess); mutual cooperation; solidarity; and respect for the national sovereignty of each country. (Bossi 2005; Punto 4). These actions stand in stark opposition to the “transnational imperialist and capitalist strategy” that, under the guise of the market, aims to impose the rights of capital above the social, political, cultural and human rights that states have achieved for their citizens through centuries of struggle. (Valencia 2005). Hence the participation and incorporation of the masses in building the framework for integration is vital to the success of ALBA. (Bossi 2005; Punto 5). However, the task is enormous because Latin American unity is not deemed enough, the process of creating a new non-capitalist world-order, in which people and nations can peacefully co-exist with one another, nature and the environment, must also be something the people struggle to achieve. (Bossi 2005; Punto 6.).

Opposition to the FTAA was a primary reason for attempting to create an alternative system of commercial trade embodied in the ALBA agreements. (Correa

2005, at 4). However, the movement has transformed into a rallying flag and hope for a common and prosperous future for Latin America that is possible through the betterment of the social, political, economic, environmental and cultural areas of the region. (Id.: “El ALBA...se ha transformado en una bandera latinoamericana, una bandera de esperanza que despierta emoción sobre un futuro posible y orgullo de participar en su construcción.”). ALBA thus marks a strategic shift in the actions of Latin American and Caribbean people because it encompasses a proposal created by these nations while simultaneously serving as a protest against the imposing of agreements by external powers. It is an offensive act rather than a defensive response that rests on three major pillars of action (Bossi 2005; Punto 9): education to inform others about the necessity for ALBA; expanding the distribution of informational material among the masses about the benefits of ALBA; and mobilizing and organizing concrete steps that will foster the integration of Latin American people. (Id.: “Debemos dar el salto de la etapa de la protesta, a la etapa de las propuestas. La resistencia es necesaria, pero es hora ya de pasar a la ofensiva.”).

Ideological Praxis: The Four Anti-Capitalist Values of ALBA. The general conceptual basis of ALBA outlined above is more specifically elaborated in the development of (i) the four anti-capitalist values of ALBA, (ii) the three pillars of ALBA, and (iii) the goals of ALBA. ALBA articulates four so-called anti-capitalist values around which ALBA interventions are built. These include: (1) complementary action based on the strengths that each country may possess; (2) mutual cooperation; (3) solidarity among the member nations; and (4) respect for the national sovereignty of each country. (Bossi 2005; Punto 4). It is not clear whether these are anti-capitalist or anti colonialist values, and more particularly whether the solidarity and action suggested is meant to be reactive—that is deployed against the policies and interests of the United States. Indeed, except for the oppositional stance within which ALBA is situated, it would be difficult to suggest that these values are not as amenable to capitalist systems.

The difference comes in the form of application of these values—targeting not markets and private activities, but mass social movement programs and state action. These are articulated through the development of a theory of stages of development to which ALBA states are committed: (1) Education to inform others about the necessity for an ALBA; (2) Expanding the distribution of informational material among the masses about the benefits of ALBA and; (3) To mobilize and organize concrete steps that will foster the integration of Latin American people. (Bossi 2005; Punto 9). These were elaborated through the announcement of twelve goals to be achieved in the service of ALBA values and to foster progress through the stages of ALBA socio-political development. The goals are both programmatic and ideological. They are grounded both in the value of political expression and the construction of a framework for implementation of specific activities to be undertaken by the Member States through the ALBA framework. It is not clear, though, that the goals, singly or in the aggregate, are of greater value for their ideological power or their effect on the ground.

In addition to these goals, ALBA also has four major objectives that seek to weave values and implementation. The first is to promote the integration and development of Latin America through cooperation, solidarity and unity in an effort to place the interests of the people above those of transnational capital. (ALBA, *¿Qué es ALBA?*, n.d.). The second aims to promote integration agreements that develop the industrial and social infrastructures of a nation, and the region, with the goal of eliminating poverty, social exclusion and to assure better living conditions for all the inhabitants of Latin American nations. (Id.). The third is to counter Neo-Liberal policies, particularly the attempt by the U.S. to create a Free Trade of the Americas, that traditionally benefit developed nations at the expense of developing nations. (Bossi 2005). The fourth is to use complementary action based on the strengths that each country may possess, mutual cooperation, solidarity and respect for the national sovereignty of each country. (Id.).

Together these values, objectives and goals present a unified ideological position. It serves as a basis for ap-

proaching all issues of transnational arrangements. It privileges the state against private actors. It suggests a tighter control of individuals and their arrangements by the state, and also suggests that those interests must be subordinated to the needs of the state (as understood by those in control of the apparatus of state governance). Private markets are incidental to the development of large sectors of state control. Because neither politics nor economics can be left to the private sector, and because the private sector might well serve as proxy for the interests of those states from where those private activities originate, then state to state arrangements must be the basis of any movement of people, capital, goods or services. Lastly, the ideological position combines a long tradition of anti colonialism, nationalism with anti-Americanism to produce an ideological system in which states are essential to combat the direct and indirect interventions of the United States (and to a lesser extent the old European colonial powers) in the development of adhering states. For many states in Latin America this is an intoxicating mix. It serves to legitimate stronger state control over a private sector that had been relying on the development of global markets to liberate itself from local barriers to development. It shifts power to direct markets from the private to the public sector. It provides an avenue for transferring blame to a demonized “other” against which state activity is directed. It provides a basis for the maintenance of control through the form of democratic mass movements by linking state action to the maintenance of the masses, and by so doing, marginalizing the relationship between the masses and other institutional or civil society elements.

Most importantly, this ideology preserves to states control over the nature and extent of actual arrangements with entities beyond its borders. Packaged in this form, the ideology of ALBA has become its most critically successful product. It is to the institutional manifestation of the ALBA ideology and its implementation that we turn next.

Institutionalizing and Implementing ALBA: Ideology in Action

The Institutional Organization of ALBA, the Extent of Its Regulatory Authority, and Its Relationship to

the Member States. ALBA is comprised of seven Commissions each dealing with a separate area (Political, Social, Economic, Investment and Finance, Energy, Environment and Youth). The Commissions report to the Council of ALBA Ministers and Council of ALBA Social Movements, who in turn must report to the Council of ALBA Presidents. (ALBA, Organizational Structure of ALBA, n.d.). The Commissions are headed by the national Ministers of the respective areas of each of the member nations and together form the Council of ALBA Ministers. The Council of ALBA Presidents is made up of the respective presidents of each ALBA member nation. (Id.). Because ALBA seeks to respect the national sovereignty of member nations, by nature the interaction among member states take the form of agreements that must be accepted by the national legislative bodies of the member nations. (Id.). There are calls, however, for the creation of an ALBA Constitution, with supranational authority to coordinate and delegate ALBA policies that can better achieve the social and political integration of Latin American nations. (Acuña Mendoza 2007).

ALBA, then, is organized more as a space through which mutual cooperation on the basis of ALBA principles can be effected, rather than a more conventionally constituted international organization. It has been criticized as such. “When ALBA was conceived, it was not a Treaty organisation and its principles resided in economic cooperation arrangements which appeared to benefit countries that joined it with Venezuela being the principal donor. As Professor Norman Girvan argued in a May 2008 paper, ‘ALBA does not take the form of an international or intergovernmental organisation, treaty or integration scheme in the normal sense.’” (Sanders 2009).

Yet, this institutional organization reflects the objectives of the organization. Each of these objectives thus carries with it an institutional component that is reflected in the institutions of the ALBA and their relationships to the Member States of the organization. The result is substantially less autonomy for the institution at the supra-national level, and more control at the member state level. The supra national element of ALBA serves more as a pass through and reflection of

Member State consensus than as the locus of an autonomous aggregate power reflecting a ceding of sovereignty up to the supra-national level. It emphasizes the central position of the state in the construction of internationalist frameworks. This state centering integration project critically affects the implementation of the system, a subject which we consider next.

Implementation—Economic Agenda. Conception, ideology and organization can only take a supra national organization so far. The real value of an organization beyond its ideological purpose is measured by its implementation. ALBA is a young organization. Still, it has begun to elaborate a series of programs to provide a basis for understanding how the Member States intend to translate ideology and concept to reality on the ground. The principal effect of ALBA has been an increase in state to state trade, especially among the ALBA founders. Indeed, the volume of commercial trade between Venezuela and Cuba went from \$973 million (U.S.) in 2001 to \$2.4 billion (U.S.) in 2005. (Lomas Morales 2006).

ALBA's most important efforts have centered on the establishment of Petrocaribe, an energy cooperation agreement proposed by Venezuela to Caribbean nations which aims to resolve the asymmetries that said nations have in accessing energy resources. (ALBA, Petrocaribe, Energía para la unión, n.d.). It aims to create a new order that is more equitable and just. (Id.). Its objective is economic and political: social transformation, removal of social inequalities, promotion an improvement of quality of life through the effective participation of the people in the determination of the affairs of their respective states. (Id.). Signatory nations include: Cuba, Venezuela, Antigua and Barbados, Bahamas, Belize, Dominica, Grenada, Guyana, Jamaica, the Dominican Republic, Saint Vincent and the Grenadines, Saint Lucia, Suriname, Saint Kitts and Nevis, Haiti, and Nicaragua. (Id.). The program has produced a number of trade agreements that represent state to state barter relations centered on the provision of Venezuelan petroleum.

The most interesting development has been the efforts to build the Banco de ALBA. (ALBA, *Acta fundacional del Banco del ALBA*, 2008). Its founders hope that it will serve as the blueprint for the future financial sys-

tem through which ALBA's social, cooperative, and grandnational projects are to be funded. (ALBA, *Declaracion politica de la VI Cumbre de la Alternativa Bolivariana para los Pueblos de Nuestra América*, 2008). The primary purpose of the Banco de ALBA is to provide the economic and financial credit needs of ALBA member countries in financing and completing the thirty-two Grandnational Projects agreed to during the fifth ALBA Summit. (ALBA, Grandnational Projects agreed to during the V ALBA Summit, 2007). The Banco de ALBA, like ALBA itself, is founded on the principles of solidarity and mutual cooperation, and extends those ideals into the banking sector. (ALBA, *Memorandum de Entendimiento*, 2007). In the area of finance, however, Banco del Sur has emerged as another project that, although not within the framework of ALBA, is also being promoted in an effort to create a wholly South American source of funding and economic solidarity. (Cardona, n.d.). Argentina, Bolivia, Ecuador and Venezuela are founding members of the banking entity. (ALBA, *En breve, Banco del Sur*, n.d.).

In addition to serving as the financial center for ALBA, the members have also began talks to create a national currency of the south, to be known as the sucre. (ALBA, *ALBA impulsa lanzamiento del sucre como nueva moneda del sur* 2009). The object is to aid efforts at integration in a way that avoids the incidental and perceived detrimental effects of national economies bound by connections to the U.S. dollar. (Id.). This has been taken seriously by other regional organization, including ALADI. The bank hopes to deliver better financing options for completing the Grandnational Projects by combining the economic forces of each nation to achieve a greater economy of scale that counts on a greater economic base on which to build. (ALBA, Grandnational Projects agreed to during the V ALBA Summit, 2007).

Grandnational projects were newly developed and present one of the most interesting features of ALBA applied ideological work. During the Fifth ALBA summit, the members expanded their programs to include "Grandnational" aspirations in the areas of education, culture, fair trade, finance, nutrition, health, telecommunications, transportation, tourism, mining,

industry, and energy. (ALBA, V Cumbre del ALBA, *Proyecto Grannacional* 2007). The first is to focus on the production and distribution of certain agricultural products within ALBA. (ALBA, *ALBA Impulsa lanzamiento del sucre como nueva moneda del sur* 2009). Grandnational enterprises are structured both to invert traditional private enterprises as well as to ground them in a socialist form of corporate social responsibility regime. (ALBA, *Conceptualización de proyecto y empresa grannacional en el marco del ALBA* 2008). These enterprises can be state owned or mixed, and may enter into joint ventures with private enterprises. (Id.). They are transnational in the sense that they may be owned and operated by more than one ALBA state (Id., at 7), and are meant to operate across borders, though principally in the ALBA zone alone. (Id.). The corporate social responsibility of these enterprises are said to be essentially the same as those that drive ALBA itself. (Id., at 6–7). It is not clear what the model will be for their operation. However, it would not be unreasonable to assume that the model of the enterprises currently run through the *Fuerzas Armadas Revolucionarias* (FAR) might not provide the prototype. (Mora & Wiktorowicz 2003).

Lastly, since the close of an Extraordinary Summit in April 2008, ALBA has created the ALBA Network of Food Trade and the ALBA Food Security Fund, funded initially with \$100 million. (Cumbre residencial de Managua 2008). In February 2009 it was announced that “Venezuela, Nicaragua, Ecuador, Bolivia, Honduras, and Dominica created a joint food production company and laid out plans to guarantee food security in the Caribbean, Central, and South American regions during an extraordinary summit of the regional trade bloc known as the ALBA in Caracas on Monday.” (Suggett 2009). Chávez is quoted as declaring: “We are going to create a supranational company, like a transnational company, but in this case with the concept of a great nation, to produce food with the goal of guaranteeing food sovereignty to our people.” (Id.). It

is to be funded from out of the \$100 million fund created in April of 2008. (Id.).

Implementation — Social Agenda. Despite the prominence of the ideological element, ALBA has managed to initiate a number of programs, many initiated in 2005. Though all are in the initial stages of development, they suggest the ways in which ALBA may be implemented. One group of programs is focused on education. *Misión Robinson* was a program to reduce illiteracy with a focus on the illiteracy of indigenous people. (Lomas Morales 2006). Phase II of the project is intended to guarantee at least a sixth grade level education for all. (Id.). Another program, *Misión Ribas*, extends Robinson’s goal in its attempt to guarantee high school education and diploma to all those who lack this basic education. (Id.). In addition, another program, *Misión Sucre*, sought to give thousands of Venezuelans access to university education with an emphasis on graduates in much needed specialties.

Implementation has also focused on programs of delivery of medical care. One, *Misión Barrio Adentro*, brought Cuban health care workers to Venezuela (Lomas Morales 2006, 3).² A large number of Venezuelan students were also admitted to Cuba to study health related professions. Thus, in addition to the services and facilities that Venezuela is receiving, there are 3,328 Venezuelan students studying General Medicine in Cuba. There are also 12,940 Venezuelans in Venezuela pursuing a career in Social Health who are being trained by 6,525 Cuban specialists who work as part of Barrio Adentro. (Id.). Another program, *Misión Milagro*, resulted in the provision of medical care for Venezuela in exchange for Venezuelan goods for Cuba (Id., 4; ALBA). But social agenda programs are particularly susceptible to charges of violation of conventional views of international human rights norms, especially with respect to labor rights. The extent of the incompatibility between Cuban socialist notions of state authority over labor and the public law

2. Under phase I of the program, 23,601 Cuban health workers rendered health related services to a population of over 17 million Venezuelans. (Lomas Morales 2006). Under phase II, 133 Integral Diagnostic Centers were built, as were 171 Integral Rehabilitation Wards and 5 High Tech Diagnostic Centers, all distributed throughout Venezuela’s territory. In addition, another 300 centers are near completion. In total, 1,235 projects are being carried out that upon successful completion will transform Venezuela’s health care system into a modern and efficient system without social barriers to accessing the services offered. Id.

sourced obligations of citizens to the state, both embedded in ALBA, and emerging global standards of forced labor was sharply drawn in the language of an American court that the Cuban policy of bartering labor for services or other goods violated international norms against forced labor. (*Licea v. Curacao Drydock Co., Inc.* 2008). But the labor policy condemned as forced labor is at the heart of ALBA's policy of bartering capital and labor as instruments of state policies meant to maximize aggregate welfare under the direction of the state.

The implementation of the ideological component of ALBA is also well tended in a series of programs designed to reshape the political and economic culture of the masses. These programs are tied to notions of mass social mobilizations in the service of social justice ideals as conceived by the directing states. One such program, *Misión Vuelvan Caracas*, seeks to train and educate the Venezuelan people so that they may work alongside the government in transforming the social and economic landscape of the country. (Lomas Morales 2006). In a sense, trade and trade cooperation at the supra national level is meant to transform the ideological basis of society at the grassroots level. Government use the supra national apparatus of the ALBA organization to effect large social changes that might have been impossible if undertaken as a domestic matter.

But ALBA has also begun to assert its influence within the Caribbean in increasingly powerful ways. It is also becoming an important force within regional organizations, like the Organization of American States. For doubters, the influential role played by ALBA and its member states in the international reaction to the aborted constitutional coup of Honduras' former President Zelaya, and his removal by the legislative and executive branches of that country should serve as a reminder that ALBA is starting to be a force to be reckoned with, at least in the Caribbean. (Backer July 4, 2009).

ALBA WITHIN THE WEB OF TRADE AND INVESTMENT ARRANGEMENTS IN LATIN AMERICA

For all of its purported uniqueness, ALBA operates in a regional context rich with traditional trade arrange-

ments that are layered on each other. (Ayllon 1997). This section seeks to contextualize the similarities and differences of ALBA, not on its own terms—the object of an earlier section of this essay—but in terms of the construction of traditional trade associations in the Western Hemisphere. For that purpose, ALBA will be compared to MERCOSUR and the FTAA. The comparison will show that ALBA is the only agreement that explicitly mentions as a goal the elimination of poverty and social exclusion for all the inhabitants of Latin America. ALBA is also unique in its calling for solidarity and cooperation in order to place the interests of the people above those of transnational capital. The other agreements focus the bulk of their attention to the establishment or augmentation of markets through the exchange of goods and capital. ALBA and MERCOSUR do, however, make reference to the goal of attaining Latin American unity. Yet ALBA remains embedded in a large web of trade arrangements among its member states that bind them in different ways under different arrangements. That produces both cooperation and challenge. This is most acutely felt in ALBA's relationships with CARICOM.

Lastly, the ideological framework of trade relations is not merely the subject of customs and trade unions; it is especially telling in the context of bilateral trade agreements. These arrangements suggest the limits of the social justice and state to state focus of ALBA within a trade environment in which even the most committed states, engage with the private markets oriented global economic system on its own terms. And Latin American unity can be as easily expressed in conventional free trade and economic cooperation agreements targeting private markets, as they can be expressed in inter governmental arrangements, like ALBA. It is those similarities, tensions and connections that are explored here.

Regional Trade Arrangements

Regional trade agreements form the basis of much of efforts toward economic integration within Latin America, and between the region and its neighbors in the Hemisphere. There are a number of these arrangements that bind some but not all of the states of the region. The only effort to effect such a unitary arrangement, the FTAA, has stalled. This section examines

these regional trade arrangements in terms of their institutional form and their approaches to integration. The only effort to effect such a unitary arrangement, the FTAA, has stalled. This section examines these forms of trade arrangements to suggest the way in which their ideology and objectives are institutionalized. The object of this examination is to draw out similarities and tensions with ALBA.

There are useful examples of other state-to-state organizations that seek to achieve some form of Latin American or South American unity. The first is the Andean Community of Nations, (Comunidad Andina de Naciones—CAN) comprised of Bolivia, Colombia, Ecuador, and Peru, created with the purpose of obtaining a faster, more equitable and autonomous development among the four member nations. (Comunidad Andina de Naciones, *Quiénes Somos*, n.d.). It aims to deepen the process of integral integration of Andean, South American and Latin American nations and to contribute to equitable and sustainable human development that respects the diversity and asymmetries existent in each nation. (Id.). This organization is implemented through a series of weak supra national organs whose operation is strictly controlled by the state organs of the member states. To date, the Andean Community has served as a basis for political solidarity and small efforts to reduce customs and tariff barriers to trade. Inter-governmentalist approaches to the facilitation of private economic activity, harmonization of legal regimes to the extent necessary to effect those more integrated markets combined with a suspicion of devolution of power to effect these changes in institutions other than the political organs of each member state marks ideology and organization of this institution.

The second is the Latin American Association for Integration (Asociación Latinoamericana de Integración—ALADI), created in 1980 through the Treaty of Montevideo, with the primary objective of creating a common Latin American market. (Asociación Latinoamericana de Integración, *Tratado de Montevideo* 1980). ALADI might be usefully understood as a successor to the Latin American Free Trade Association (Treaty Establishing a Free Trade Area and Instituting the Latin American Free Trade Association) (hereaf-

ter “LAFTA Treaty”). LAFTA was generally regarded as a failure. The common market is to be created through the use of preferential tariff treatment among member nations, as well as through the signing of regional and bilateral agreements. The scope of proposed agreements can include: financial cooperation, complementary economic action, exchanges of scientific and technological information and preservation of the environment. (Id.). ALADI’s membership currently includes: Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela. Under ALADI, a large number of partial trade agreements, customs and free trade areas have sprung up among widely varying groupings of ALADI members. “In short, ALADI seems to be primarily a framework within which member states can negotiate and enter into economic integration agreements with each other and a ‘keeper of the flame’ for the ideal of integration in Latin America.” (Porrata-Doria 2005, 16). ALADI has set the conceptual stage for the proliferation of a wide variety of arrangements among its members. It, in a sense, made ALBA possible.

The third is the South American Community of Nations (Unión de Naciones del Sur—UNASUR), formed through the Declaration of Cusco in 2004, which aims to promote an integrated approach the development of South America, Latin America and the Caribbean region. UNASUR aims to unite the Andean Community of Nations and the Common Market of the South as part of a single economic, social and developmental trade bloc in accordance with ALADI. All twelve sovereign nations of South America are members of this community.

The last, and perhaps most important, is the Common Market of the South (Mercado Común del Sur—MERCOSUR), discussed in greater detail in the next section, which also has as its objective the creation of a common market among its member states. (MERCOSUR 1991). However, it also aims to achieve economic development and social justice through integration in order to secure their members a proper place in the international economy. (Id., at art. 1). In addition, the founding document of MERCOSUR specifies that the organization should serve as a step in the greater

process of achieving Latin American integration as envisioned in ALADI. (Id., at arts. 1 & 3).

MERCOSUR was established in 1990 among Brazil, Argentina, Uruguay and Paraguay to promote trade among its members. Its history is well known. (Porra-ta-Doria 2005; 7–21). Through MERCOSUR, these states sought to establish a common market that permits more unimpeded movement of goods, services, modes of production through the elimination of customs duties and non-tariff restrictions on goods of the member states. (MERCOSUR 1991). It was also meant to expand the domestic market of each member state, through integration, in order to achieve economic development with social justice, in order to secure the member countries their place in the international economy. (Id.). Additionally, MERCOSUR serves as a site for the co-ordination of the macroeconomic policies of the member states in a way that optimizes the use and mobility of modes of production to achieve greater and more efficient operations. (Id.). Lastly, it serves as a step in the greater process of achieving Latin American integration, as envisioned in the Latin American Integration Association (ALADI). (Id., Ch. 1, art. 8). MERCOSUR is organized like many organizations of this type, framed around a governing institution composed of representatives of all member states and a secretariat to keep operations running.

A similar model, with similar imitations, was proposed for the now dormant Free Trade Area of the Americas (FTAA). Both models reflect the inter-governmental, passive and consensus framework that has characterized the creation of supra-national organs to supervise economic integration in Latin America since ALADI. (Treaty of Montevideo 1980). ALADI, itself is institutionalized through a Council of Ministers, a Conference of Evaluation and Convergence, and a Committee of Representatives. (Treaty of Montevideo 1980, at art. 28). Providing limited technical and administrative support is a General Secretariat. (Id., at art 29 (“órgano técnico de la Asociación”). The inter-governmental nature of ALADI is grounded in the character of its highest institutional body, the Council, which is to be made up of foreign ministers of member states and which has overall authority to direct the work of ALADI. (Id., at arts. 30–31). This intergov-

ernmental body is convoked only at the instance of the Committee of Representatives that constitutes the permanent body of the ALADI (Id., at art. 35) and is made up of representatives of each of the member states (Id., at art. 36). The consensus aspect of the character of ALADI is assured by the imposition of a high vote requirement. (Id., at art. 37 (requiring a 2/3 vote of all member states)).

ALBA follows a similar decentralized model, even as it furthers an ideological framework inimical to those of these other entities. It has developed a similar set of institutions—all tightly dependent on the will of and serving the interests of, the member states. Divided on functional bases, ALBA is divided into a series of commissions through which common positions might be taken and agreements among ALBA member states concluded. ALBA is more horizontally constructed than ALADI, but it takes ALADI’s intergovernmentalism one step farther. There is no autonomy in the supra-national bodies that constitute ALBA. The focus remains on state sovereign rights, and tight control of integration. There is little in the construction of these organizations that suggest any move toward the development of autonomous supra national governance institutions with any sort of independent regulatory power. These are passive, flow through, organizations. They are more joint venture than integrative body. In that respect, ALBA evidences similarities in its institutionalization to MERCOSUR, ALADI and even its ideological nemesis, the FTAA.

But there are important differences as well. MERCOSUR has embraced a greater willingness to construct a supra national organizational apparatus under which integration efforts are overseen. These include primitive dispute resolution provisions, that though essentially inter governmental in character, suggest mechanisms beyond the state and mere political consultation. (Barral 2007, at 131). On the other hand, ALBA suggests the possibility of building a framework of sector driven integration through the work of its commissions—producing knowledge and suggestions, but leaving the actual construction and implementation of any recommendations to willing member states. In each case, though, the supra national element of these organizations tend to give way to its

inter governmental character. As a consequence there is a weak relationship between the goals of integration and institutional apparatus created to further that goal. Sovereignty concerns, and an unwillingness to trust a supra national apparatus with its exercise, even in tightly controlled delegated form tends to reduce the efficacy of these systems as vehicles for integration. Instead, they serve as portals through which integration efforts can be undertaken directly between willing member states.

ALBA and Trade Networks in the Caribbean — the CARICOM Connection

In addition to its own programs, ALBA, especially through its member states, has also sought to reach out to other trade associations. From these, it appears, that ALBA seeks both to engage globally, at least within the region inhabited by ALBA states, and also to use the connection to influence the way in which other regional trade associations function. The relationship of CARICOM, a conventionally structured private markets oriented regional trade zone, with ALBA may provide insights into the compatibility and tensions between the ideological frameworks and implementations of these systems especially when they collide.

The CARICOM agreement (treaty) aimed its efforts at establishing a “Common Market” whose aims it is to: strengthen, coordinate and regulate the economic and trade relations among Member States in order to promote their accelerated harmonious and balanced development; to achieve the sustained expansion and continuing integration of economic activities, the benefits of which shall be equitably shared taking into account the need to provide special opportunities for the Less Developed Countries; and to achieve a greater measure of economic independence and effectiveness of its Member States in dealing with states, groups of states and entities of whatever description. (Caribbean Community (CARICOM) Secretariat, *Treaty Establishing the Caribbean Community* 1973, Annex, Art. 4).

In December of 1993, Cuba and the members of CARICOM established a joint commission “to promote co-operative relations between the Caribbean Community and Cuba in economic, social, cultural and technological fields.” (Caribbean Community

(CARICOM) Secretariat, *Agreement Establishing the CARICOM-Cuba Joint Commission* 1993, Article III Objectives). At first glance the Cuba-CARICOM agreement appears to be a precursor to the framework that ALBA would later adopt. For instance, both agreements call for developmental assistance by the more wealthy to the less wealthy. Similarly both agreements, at least on paper, seem to focus the bulk of their emphasis in promoting greater welfare for the majority of a member nation’s population. The means by which this is accomplished, however, varies. CARICOM, we would argue, falls more in line with regional trade agreements such as the FTAA or MERCOSUR. To CARICOM’s credit, the emphasis of their agreement is mutual cooperation, growth and prosperity for all members. This, although, spelled out in the text of both the FTAA and MERCOSUR, do not apply in practice as much as is the case with CARICOM. ALBA, in contrast, is based more on a barter system, in which the specialty of one nation (i.e., Cuban doctors) is exchanged for what is abundant in another (i.e., Venezuelan petroleum). Conversely, an increasing number of CARICOM member states have sought to remain within CARICOM and also join ALBA. Dominica is one state with membership in both organizations. Other states have sought to adhere to the ideological principles of ALBA but not join it. (*St. Vincent Treading Cautiously With Chávez’s ALBA Deal* 2008). Others have worried that joining ALBA might somehow impact on their CARICOM obligations. (Id.). These moves have caused some controversy within CARICOM. But the real lessons in Cuba-ALBA-CARICOM relations are the multiple vectors of that framework. The issues arising among the states with connections to both trade groups exist precisely because the web of trade relationships is both complex and dense. But it is denser than suggested merely by looking at trade relationships. For that purpose, it is worth looking briefly at the construction of webs of investment relationships through bilateral investment treaties, a subject taken up in the next section.

ALBA in a Region of Bilateral Investment Treaties (BITS) and Partial Preference Trade Agreements

In some ways, more important to regional trade than these multilateral trade arrangement, bilateral investment treaties (BITs) among Latin American States

have become more important over the last thirty years. It is true that BITS do not cover the same ground as many trade agreements—but there is enough of an overlap to suggest an approach to an important sector of trade relations between states, one that focuses on investment and services.

The American BITs can serve as a benchmark of sorts. They come closest to the private global market ethos of modern economic globalization. (Backer 2006). These BITs are variations on the standard form of bilateral investment treaty that the United States uses as a basis for its BITs. (United States Department of the Treasury, 2004 Model BIT). The provisions limiting state power to legislate with respect to inbound investment is important. It serves both as a limit on sovereignty but also an assurance that capital can flow freely between jurisdictions without impediment. The focus is on capital flow and on the preservation of the consistency of the operation of investment entities across borders. For that purpose, national rules and national peculiarities must play a dependent role. In the U.S.-Nicaragua BIT, for example, the treaty prohibits national legislation, applicable to covered investments, prohibitions against host country investments that mandate particular levels of local content, purchases or preferences to local goods or services, limitations on the import of products or services, the export of services, limits on sales in the host state territory, mandatory rules for transfers of technology, and mandatory local investments in research and development. These limits are reproduced in the U.S. Bolivia BIT.

One would expect to see the trade philosophy of ALBA reflected to some extent in the way in which BITs between ALBA members, and especially in BITs with Cuba, are structured. Yet, on examination, it is clear that whatever differences exist between these investor arrangements and the U.S. BIT model are subtle. The most prominent difference is with respect to conditions to investment. The provisions in U.S. BITs with Nicaragua and Bolivia limiting host state power to legislate rules burdening inbound investment with respect to labor, investment and other factors in operation, are absent in the BITs among ALBA states, including those with Cuba. The effect can be substantial. Moreover, the BITs among ALBA members include a

“shut down” clause, permitting a host state to suspend free movement of investments during times of exceptional economic difficulties. (Bolivia-Venezuela BIT art 6). Indeed, in the Bolivia-Cuba BIT, all investments are made subject to local law without limit. (Bolivia-Cuba BIT, art II.2). The idea is that Cuba and its investment partner will promote and create unspecified conditions favorable to investment in their respective territories and on that basis authorize investment in conformity with its laws. The Bolivia-Cuba BIT also exempts from its most favored nation provisions the benefits of any arrangements effected through free trade agreements or customs unions.

This discussion of BITs highlights certain tensions and incongruities. First, ALBA member States have not deepened their trade arrangements with each other through bilateral investment treaties to any great extent. This is curious, given the importance of control and coordination implicit as an ALBA ideal. Likewise, Venezuela, has no bilateral investment arrangements with either the United States, China or other ALBA states. It is possible to rationalize that omission by reference to ALBA’s principles privileging trade at the state to state level. But Venezuela is not consistent in this regard, maintaining private sector investment treaties with a number of European and Latin American States. (Id.). Bolivia, on the other hand, has entered into such arrangements with Cuba and Venezuela, but not with Nicaragua or Dominica. And it has arrangements with the United States, Chile and Argentina, but not Brazil.

Second, those BITs entered into by ALBA state parties tend to reflect the same private market orientation one encounters in BITs with the United States. There are notable exceptions—and principally focused on the extent of the application of local law to require local participation in inbound investments. But otherwise, the form is similar. This is not to suggest that the substantive differences in implementation may not be significant. Because of the conformity with local laws provisions in the Cuba BITs, for example, it may be more difficult to obtain the necessary permits to invest in Cuba than in more private market oriented States. That is the intended result. That provision defines in-

vestment by reference to conformity to the laws of the host state irrespective of treaty requirements.

The incongruities become larger when understood in the context of the networks of private sector-oriented free trade arrangements in which ALBA member states also participate, in addition to the great organizations like MERCOSUR and the Andean Community. In some respects, these seem to mimic the networks of investment arrangements that are formed by the large number of crisscrossing bilateral investment treaties among these states. Indeed, ALDI describes these arrangements as the instrument most often used to effect steps toward integration, noting both the flexibility of this form of trade arrangement and the variety of forms that they may take, producing a great dynamism within integration efforts. All of these treaties, perhaps in the aggregate, are meant to advance the project of Latin American economic integration—a project also near to the core of ALBA values. And, indeed, many fall within the free ranging framework of ALADI and article 14 of the Treaty of Montevideo. (Asociación Latinoamericana de Integración, *Tratado de Montevideo* 1980). ALADI is meant to serve as the umbrella organization through which webs of trade and investment relationships among the members may ultimately produce, in the aggregate, and economically unified Latin America. Within the context of ALADI, ALBA is both unconventional but simultaneously an integral step toward integration.

So, What Makes ALBA Different?

The description of the conventional forms of regional trade and bilateral investment agreements suggest the contours of the differences between the approach of ALBA—in theory and operation—and traditional approaches to these relationships. This section first highlights those differences and then analyses whether those differences matter.

Differences in Theory. The difference that stands out the most when comparing these two systems is the fundamental focus of the arrangements. Conventional agreements relating to trade and investment are focused on *private* and market activity. To the extent that states are involved, it is as guarantors of that private activity under sets of identifiable rules. States may participate in these efforts, but only as private parties.

The essence of these notions is well articulated in efforts directed at states seeking to intervene in private global financial markets as participants rather than as regulators. ALBA represents a significant effort to reorient private markets to public purpose, and to transfer authority from the private to the state sector. But ALBA does not represent the only current attempt through which states have sought to intervene in global private markets. Sovereign wealth funds represent another potent vector of that activity, though in that case, states seek to enter markets as private rather than public actors.

The ALBA system presents almost the inverse proposition: the principal focus is on the public activities of states. Where private activity is an issue, it is deemed to exist to serve the greater interests of public policy represented solely by and through the state. The foundation is socialist, but in the Stalinist tradition rather than in its modern Chinese form. Supra national interaction must be controlled by the state, serve the interests of states, and focus on public policy. Trade and investment are instruments of public policy, as are the economic activities of non state actors within and between ALBA states. Private capital and its creation, exchange and accumulation is viewed as incidental to a primary focus grounded in political assessments of actions constituting advances in the general welfare of all the inhabitants of the nations involved. (Blake 2009, 82, 98). That is not to say that capital is not important or necessary, but rather, that the character of arrangements between states has changed. It is no longer focused on *eliminating borders* for the production and management of private capital; instead it is focused on *using borders* as a site for the assertion of public authority to control all aspects of social, political, cultural, and economic activity. These ideological foundations produce second order effects as well. Most importantly, it serves as a vehicle for the transfer of power from non-state to state actors. The object is not to clear a space for private activity, rather it is to enlarge the space for state action and control over the means of the production of economic, political, social and economic power. This is a necessary consequence of ideologies based on mass social movements politics.

Differences in Organizational Operation. ALBA and the FTAA have much more in common when it comes to the area of operation than one would suspect. Unlike MERCOSUR, where supranational decisions can be made and enforced through the Common Market Group, ALBA and the FTAA rely on each respective nation to adopt any policy decisions or changes made at the regional level. This could be interpreted as being a weakness in the ability to enforce said decisions or changes. Conversely though, it could be argued that this method allows a nation, and its people, a greater say in what its country will and will not do. The main difference, ALBA proponents would argue, is that under ALBA it is indeed the people who make the decisions, and not the multinational corporations, as would be the case under the FTAA. Along these lines, another noteworthy operational difference between ALBA and the FTAA involves the beneficiaries of the policies enacted.

Do the Differences Matter? The differences between the ALBA approach and the FTAA approach are revolutionary in the sense that, under ALBA, the state is attempting to become the main player within the traditional capitalist system. Yet that revolutionary approach is, in a sense, a reaction as well. ALBA seeks to invert the vectors of social and political movements back to framework that privileged the state over all other institutions, and that sought to invest the state, and its apparatus, with a monopoly of authority over politics, society and economics. The now ancient, and from a Chinese perspective, anachronistic, framework is heavily grounded on traditional Marxist Leninist notions from the first half of the twentieth century. (Backer 2004). Rather than continue with the existing process of transnational integration within which private multinational corporations are the main players and main beneficiaries of bilateral and multinational trade agreements, ALBA aims to construct both public markets and public multinational enterprises. ALBA would use the government apparatus as a public leveraging mechanism that can compete with and against these corporations within markets that are grounded in public rather than private incentive structures. Yet this difference is also embedded in larger global systems that remain firmly framed within dominant pri-

vate and state-less system of global intercourse. That has consequences that remain to be worked through.

Among the more interesting are those attached to the new state multinational enterprise program. The power and ability of ALBA's grannational enterprises to compete will depend on the size and success of ALBA and its members. But it may also entangle these enterprises within the matrix of global soft regulation of multinational enterprises. Cuban corporations operating within the jurisdictions within which these regulatory regimes are strong would have to reconcile their own ALBA norms with those of the OECD. It is not clear that ALBA's grannational principles are compatible with those of the OECD or the Global Compact. It is possible that they might overlap, but they are distinct in several respects. Within ALBA that may make no difference. However, outside of ALBA, and especially within Global Compact or OECD adhering jurisdictions, the potential for conflict intensifies. Moreover, operating in the form of grannational enterprises may also affect the extent and nature of sovereign immunity as these enterprises seek to project their activities beyond ALBA.

The grannational enterprise, like the ALBA food bank, and like the ALBA emphasis on asymmetrical trade arrangements grounded on public needs as determined by states deepens the conclusion that ALBA represents a substantially distinct conception of regional trade associations. In the place of a model grounded in an active role of private economic actors and a passive regulatory role for states, ALBA posits an active role for states in trade as principals, as well as a regulatory role in that trade. In effect, it suggests that states remain sovereign entities and economic bodies simultaneously. This suggests an amalgamation of the public and private spheres almost the inverse of that developing in the United States and Europe. (Backer 2008). This is effected, however, through an organizational structure that remains heavily dependent on the state, tightly controls the ability of ALBA to evolve into an autonomous organization furthering its own ideological basis, and mimics, in substantial respect the outward forms of traditional approaches to integration in Latin America. That mixed message both helps ALBA—by emphasizing its attachment to conven-

tional forms of organization and implementation. But it also hurts ALBA—by appearing to reduce it to just another variation in traditional approaches to integration well understood within the ALADI umbrella. That mixed message is ultimately confusing, both internally and externally to the construction of the sort of institution implied by its organizing ideology.

Yet the differences between ALBA and conventional free trade arrangements ought not to be completely dismissed. Those differences extend beyond its ideological basis to its implementation. Though the organization is still quite young, it has been active enough to give us a sense of its operation. It commodifies public as well as private goods—from teachers to doctors, along with goods and services the usual subject of trade and trade regulation. In this sense, at least, ALBA represents, in part, a return to a command economy basis of economic organization—and an extension of command economy principles to economic relations among states. Whether plural systems—combinations of command and private economy can co-exist in a way that is efficient or stable, however, has yet to be seen. ALBA will serve as a great experiment in this respect. Its outcome is by no means certain.

For the moment, however, ALBA's greatest contribution might well be its ideology. Its mere existence serves as a basis for challenging assumptions in the creation and implementation of methods of integration. It provides a base through which this distinctive ideological voice can be leveraged. Understood as an ideological joint venture among its participants, ALBA represents a space within which a consensus on alternatives to the existing preeminent economic model of globalization might be constructed. For that purpose it provides a safe space—not within the territory of any of the state participants, and detached from the governments of each of them. In this aspect, ALBA may make its most potent contribution to current debates about the form and principles of economic integration grounded in trade relations among states and their populations. This is a potent weapon in states with large classes of poor people—people who vote. Even the smallest implementation of the ideological framework of ALBA has the potential to change the political dialog in many states in Latin America. This may rep-

resent Cuba's most imposing challenge to the developed world. If successful, ALBA could reign in a new era of trade and commerce whose primary interest is the welfare of all people, and not merely just profits, as the standard mode of operation. Still, whether Bolivar's dream can indeed become a reality remains to be seen. In the face of a flexible and resourceful opponent, one that can embrace ALBA's core ideology without its politics, that challenge will not go unmet.

ALBA IN THE CONTEXT OF TRADE IDEOLOGY: SIX POINTS OF TENSION AND CONNECTION

This article has suggested both the singularity of ALBA and its connection with the now almost ancient tradition of trade integration that has also marked Latin American state to state economic relations. In lieu of a conclusion—for conclusion is premature with respect to an entity that is so young and unformed—six great points of tension and connection that ALBA represents within traditional models of trade and investment, on the one hand, and among the state system in Latin America will be outlined.

First, ALBA implicates the tension between integration and nationalism. This tension implicates the construction of hierarchies between states. It also implicates hierarchy between national and supra national governance organs. ALBA tilts heavily toward the ALADI model of partial integration. The great innovation of ALBA is that partial integration under its model is heavily controlled by states, rather than by individuals acting through private markets that cross state borders. But ALBA is more leery of the use of integration as a doorway for the creation of autonomous supra-national organs. The Model of European Union integration, and even of the much milder form of MERCOSUR integration, is rejected in favor of substantial intergovernmentalism. ALBA provides an ideological space through which *states* can trade at the *public level* among each other and with everyone else. Beyond that lies the great unknown.

Second, ALBA implicates the tension between integration that is controlled or directed by or for the *private sector* and that controlled or directed for the *public sector*. This tension implicates the understanding of the fundamental nature of trade and investment poli-

cy, or at least, of the fundamental driving force of trade. It suggests a tension in the understanding of borders—either as the marker of the limits of state economic power to be deployed by with or against other states, or as a porous barrier to certain activities (population movements and the provision of social welfare benefits) by not to others (economic activities) which respect to which borders essentially disappear. It thus also suggests the limits of state power over economic activity both as a physical reality and as a substantive policy value. ALBA tilts heavily toward a public market model. This model appears to manifest a traditional socialist internationalism. It is it hardly that: this is socialist internationalism updated by the incorporation of the symbols and institutions of modern private markets economic globalization but now turned to the use by states as primary economic actors. The grannacional enterprises present a stark model of that updating and the embrace of modern forms of economic activity. But so does the ALBA bank. ALBA suggests that private markets ought to be incidental to and fill in gaps in public market activity. The engine that drives the economy is the state. Integration under ALBA is merely another aspect of sovereign relations. It should be directed to enhance rather than reduce national power over its internal and external economic policies and the production of economic activity. But this presents a fundamental assumption completely incompatible with those on which the last half century of economic integration has been based.

Third, ALBA implicates the connections between the fight against the form of the current international system of economic regulation and the construction of trade frameworks. Ideology matters; fundamentals and grounding assumptions about the operation of state and non state actors, and their powers and prerogatives matter. Indeed, ideology has been the principal motivator of much of what has been developed by the Cuban state apparatus. Ideology drives implementation. If one can control the ideological basis for the approach to an issue—like trade and investment—one can effectively control the parameters through which the issue is understood and systems constructed. Ideology and ideological education may well be the principal aim of ALBA, at least in its initial stages of development. (Azicri 2008). Ideology may well be its most

important product—to the extent that through ALBA, the consensus assumptions about trade and investment might be modified. ALBA represents a practical implementation of the ideological framework for the state system and the relationship of that system to economic regulation that the Cuban state has been developing since the 1970s. (Backer 2006). That framework emphasizes a focus on public commerce, on inter-governmentalism as the basis for integration, on attacking the private markets system and the privileging of private actors as controllers of economic decision-making and on a shift back to public control over the economy at the state level. It suggests that the basis for such activity is public rather than investor welfare, as determined by the state, and that all economic activity is tinged with a primary social rather than a more narrow economic purpose. ALBA expresses these views in its four anti capitalist values, its schedule of objectives, in the corporate social responsibility framework of the grannacional enterprises and in the unequal barter arrangements at the heart of Petrocaribe.

Intimately related to this is the conflation of economic and political goals inherent in ALBA. This represents an inversion of the regulatory model that is fundamental for economic globalization. Under that model, the clear divisions between public and private space is reflected in the separation between the political and economic spheres. When states participate in markets, the expectation is that such participation is legitimate only when states act like an “idealized private investor.” Likewise, there appears to be an emerging consensus, at the international level at least, that when states operate through state owned enterprises, they are expected to be organized in a way in which management is separated from political control. Conversely, private actors are supposed to exercise no significant political power. ALBA presents a model grounded in the political use of economic power. More specifically, it represents an attempt to conflate the economic and political at the state level, and eventually, to unify public and private markets under the direction of the state. But this inversion may serve as a site of sharp conflict with developing standards of human rights as applied to economic activity—whether carried on by state or private actors. (*Licea v. Curacao Dray Dock, Inc.* 2008).

Fourth, ALBA implicates the connections between anti-Americanism and integration. One of the great tragedies of Latin American integration has been its conflation, sometimes more sometimes less powerfully, with a fear or loathing of the United States or its actions and policies. It also reflects a related connection held by many of these states—that private markets based integration is a cover for western and particularly American neo colonialist aggression, the object of which is to subordinate and exploit Latin American states indirectly to the same effect as under the old more direct colonial system. This is the essence of neo-colonialism as understood in Latin America. It also speaks to notions of American neo-colonialism and private markets based globalization. And, of course, it has had significant application to Latin American-U.S. relations.

Challenging the model of private markets based globalization is a way of challenging American power under the cover of the same issues which the Americans have been using to assert that power. The ferocious attack on the FTAA at the heart of the early ALBA efforts reflects this quite starkly. The conflation of the FTAA and the United States provided a vehicle for the conflation of ideological and political opposition a global set of factors tied to perceived American aspirations in the region the United States; the United States itself, private markets based globalization as an indirect challenge to assertions of American national power, and private markets as an attack by the United States on the power of newly decolonized states to direct and protect their internal economic life and set the policies thereof.

Fifth, ALBA implicates the close connection between traditional models of Latin American integration and its challengers. This connection implicates the importance of institutionalization models both for the allocation of power even among state and supra national organizational actors and for the way those allocations of power among supra national endeavors cannot be avoided. The traditional models, from that of the European Union to those of NAFTA and MERCOSUR, represent to varying degrees efforts to institutionalize power within a supra national entity, and consequentially, to remove discretionary power over economic is-

ues from states. Clearly, the extent of that divergence of institutional governance power varies greatly, from the almost negligible shift in MERCOSUR to the substantial divestment of power among the member states of the European Union over those economic affairs set out in their respective organizational instruments. ALADI on the other hand represents a different model—one that sacrifices virtually any framework for consolidating power in a supra national administrative or governance entity in favor of intergovernmentalism that is limited only by the values represented by the parties to the agreement. ALADI's focus on partial trade agreements among diverse parties (for these agreements need not include all ALADI member states) finds its investment analogue in the growing number of bilateral investment treaties between ALADI member states and others. But each of these is grounded in a consistent set of trade and investment assumptions. ALBA presents a conscious *inversion* of the dominant private markets model on which contemporary trade and investment agreements are framed.

However, that inversion is grounded precisely in the forms adopted for the implementation of that model and its ultimate integrationist aspirations. Both ALBA and ALADI present trade frameworks that serve as umbrellas for regional integration grounded in sector and nation specific layers of agreement that in the aggregate will achieve the desired integrative result. Indeed, ALADI's self conception nicely frames ALBA as well. The partial trade agreements for which ALADI is famous is nicely mimicked by the current crop of ALBA projects—from the Bank of ALBA to the “grannacional” enterprises and efforts at monetary union. Likewise, the form of investment treaty finds echoes in Petrocaribe and even in the model of asymmetrical trading between different groups of ALBA states. The intergovernmentalism of ALBA is the hallmark of ALADI.

Sixth, ALBA implicates the tension between internal and external trade and investment frameworks. This tension implicates the goals of solidarity among states, and the consequences of integration grounded in partial arrangements that distinguish among states, and groups of states. This tension also implicates the ten-

sions between mutual advantage and competition among states. Borders, even the borders of trade and investment arrangements include those within it and exclude those outside. Those effects are sharply drawn within traditional private markets oriented trade and investment regimes, but they cannot be avoided under ALBA's framework of multiple joint venture arrangements. Indeed, the tension is quite acute in the construction of ALBA simultaneously as an internal mechanism for trade among ALBA members and ALBA as an aggregation of trade with non-ALBA states. These tensions are quite visible in relation to CARICOM, where there is ambiguity in ALBA's position as either partner to or a competitive and a destabilizing force that would threaten CARICOM's cohesion. As Moreover, the relationship of ALBA's state trade vehicles to outside markets may produce differences in outcome and operation from their internal constitution. This will become particularly evident in coming years with respect to issues of sovereign immunity, conformity to foreign law, disclosure and trans-

parency requirements beyond ALBA states, and the form and implementation of global corporate social responsibility rules that may be different from those developed within ALBA.

Ultimately, the issue around which all of these tensions and connections revolve can be reduced to a single image—the character, effect and purpose of borders. ALBA reminds us that these issues and connections are not limited to political borders—ideological, cultural, economic, class, gender, race, and ethnic borders can be as important, and as immersed in dialogues of integration, solidarity and respect. They all play a critical role in the ways in which integration is understood and practiced. But they also play an equally important role in the construction of hierarchy, subordination and exploitation of all such relationships. ALBA represents another way of advancing the former and resisting the later. But the borders that have confronted other efforts at integration within Latin America will also confront ALBA.

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