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International Drug-Trafficking and Money-Laundering: Remarks

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boundaries. Papua New Guinea was one case where the boundary cut across ethnic groups, with the same peoples living on two different sides. Papua New Guinea and Indonesia not long before had agreed on a bilateral treaty of mutual respect and cooperation under which the border was administered by the two countries as a bilateral issue.

PETER WATSON* referred to the recently completed vote of self-determination by the peoples of the Freely Associated States in the former Trust Territory of the Pacific Islands. He noted that some believed this self-determination process required, as a prerequisite to its validity, that the U.N. Security Council affirm this choice, but there were difficulties in obtaining such an affirmation because of the U.S.S.R.'s intended veto thereof.

Ambassador LOHIA pointed out that the Micronesian states were considered to be part of a strategic territory and that their liberation was a highly complicated problem. He stated that people were the paramount questions, but it was necessary to deal with layers of other issues that also were governed by law. The majority of the people in the Trust Territories had decided to form a political association with the United States but Palau had yet to decide.

ROBIN MAUALA** wanted it noted in the record that she felt that the panel was an inappropriate context in which to discuss Fiji.

Professor ELKIND responded that if one followed that line of reasoning, there apparently were no appropriate fora to discuss Fiji.

Ms. SMITH said that in 1988 the Western Sahara had engaged in self-determination activity because the Organization of African Unity had been trying to hold a self-determination referendum.

Ambassador LOHIA noted that in the South Pacific Forum, Papua New Guinea had said that France had an obligation to ensure that the people in New Caledonia could determine their own final destiny. "People" included the Kanaks. France had refused since 1947 to date to cooperate with this fundamental right of the people. The reason was the huge nickel deposits, which were the largest outside the U.S.S.R. and Canada. These were used for nuclear warheads and powerful airplanes. France deliberately had built up a presence of about 10,000 people in New Caledonia to control the majority voting and had neglected completely to stop nuclear testing.

MYRON H. NORDQUIST***
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Reporters

INTERNATIONAL DRUG-TRAFFICKING AND MONEY-LAUNDERING

The panel was convened at 2:30 p.m., April 22, 1988, by its Chair, M. Cherif Bassiouni.††

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REMARKS BY PROFESSOR BASSIOUNI

As you all are aware, the international control of drugs and money-laundering is an important topic. The costs are great, and the area requires a good deal of attention. The problem of drugs and money-laundering has worldwide implications. Indeed, the problem should be viewed as an international business, multinational in character with no territorial limits. The world community has yet to address the problem as a multinational business. There still exists today compartmentalization by states, that is, an approach that is highly fragmented and individualized.

The nature of the drug problem is similar to that of the multinational corporation in that there exists a manufacturer, a distributor and a consumer. Those who deal in drugs and money-laundering make enormous profits and use the same channels as legal business. Thus, the problem is difficult to control because the channels of operation are the same as those of legitimate business. In point of fact, the drug-trafficking and money-laundering business infiltrates legitimate business so that what emerges is a pattern of recycling, *i.e.*, legal to illegal to legal.

A mixture of national and international strategies is needed to combat the negative impact of drugs. Drugs are corrupting the social and cultural fabric in a variety of ways. The criminal element is present both in organized as well as nonorganized patterns. Drug money is used to fund other illegal activities, including terrorism. For example, drug money has been funneled to the Red Brigade in Italy. In the future, Central America and South American countries such as Peru will be areas for the funding of terrorist acts. As tensions abate in Central America, they no doubt will rise up in the Andean region.

International cooperation in dealing with the impact of drugs is difficult to develop. The most vulnerable point for drug dealing, however, is the initial entry of drug money into legal financial channels. Strategies should focus on this vulnerable point because once the money is in the legitimate financial "pipeline" it is enormously difficult to trace back to its sources.

The efforts by the United Nations in developing a new drug convention are laudable, but the results are nonetheless ambiguous. New norms are needed to deal with enforcement matters, particularly extradition procedures, international judicial cooperation and cooperation in the control of money-laundering. Further, the effective development of these norms requires us to focus on the following two aspects: (1) cooperation in the criminal law area and (2) cooperation in tracking the flow of drug money into legitimate financial channels.

As concerns the first aspect, what is needed is an integrated approach in the modalities of international cooperation. The resort to these modalities currently is fragmented. An integrated approach is needed especially in the areas of extradition and judicial assistance. Under the second aspect, as I mentioned earlier, the ability to trace the flow of drug funds is most effective at the point of entry. In this regard, of particular concern for enforcement and interdiction purposes is the use of corporate safe havens by drug dealers. These havens provide illegal financial transactions with the cover of legality. The flow of drug money through legitimate financial channels threatens the integrity of legal corporate structures. Likewise, governmental stability in some countries is imperiled. The flow of drug money into corrupting governmental structures undermines the political, social and economic well-being of a country. Drug-oriented economies, such as in Bolivia and Colombia, also prevent sound economic development.

In conclusion, no single strategy will suffice to control drugs effectively. Strategies at the local, regional and international levels must be coordinated. What is clear is

that the present strategies of the world community are fragmented and thus are incapable of coping with the problem. Finally, at the national levels, bureaucratic hurdles must be removed. In the United States, there is bureaucratic infighting and misdirection among the various interested agencies. Such bureaucratic limitations must be eliminated at the national and international levels. Furthermore, the new strategies must be proactive rather than reactive. The time for imaginative and creative approaches is before we become so overwhelmed by the problem that we are unable to cope with its devastating human, social, political and economic consequences.

REMARKS BY EDWARD G. LEE*

I have been asked to speak on the draft Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances,[1] which is currently being developed under the auspices of the United Nations. I propose to begin by reviewing briefly the background leading to the present draft. Then, for the sale of brevity, I will focus on those draft articles that deserve special attention. Finally, I will offer some views on prospects of the draft convention serving as an effective instrument against illicit international traffic in narcotic drugs.

The Single Convention on Narcotic Drugs (1961), as amended by the Protocol of 1972,[2] and the Convention on Psychotropic Substances of 1971[3] are the key legal instruments on which the U.N. action in the field of narcotic drugs has been based. The primary object of these conventions is the control of the production and manufacture of narcotic substances and synthetic narcotics so as to limit their abuse and prevent their diversion into illicit traffic. The General Assembly, however, recognizing the inadequacy of these instruments in combating the increasingly sophisticated techniques being employed by international drug traffickers, adopted Resolution 39/141 in December 1984.[4] This Resolution requested the U.N. Commission on Narcotic Drugs to initiate the preparation of a convention against illicit traffic in narcotic drugs and psychotropic substances.

The initial draft prepared by the U.N. Division on Narcotic Drugs was forwarded to states for comment, after which an open-ended intergovernmental experts group was established to review the text and, where necessary, revise it. To date, the experts' group has met for three two-week sessions. It is likely to complete its work in a fourth session this summer with a view to the presentation of a further draft at a plenipotentiary conference in November and December of this year.

The draft convention as it currently stands contains 15 main elements deemed essential in meeting the increasingly serious challenge being mounted by international drug traffickers. Each of these elements is dealt with in a specific article. These articles are as follows: (1) offenses and sanctions; (2) jurisdiction; (3) identification, tracing, freezing, seizing and confiscation; (4) extradition; (5) mutual legal assistance; (6) other forms of cooperation and training; (7) controlled delivery; (8) measures to monitor substances frequently used in the illicit processing or manufacture of narcotic drugs or psychotropic substances; (9) materials and equipment; (10) measures to eradicate narcotic plants cultivated illicitly and to eliminate illicit demand for drugs; (11) commercial carriers; (12) labeling and commercial documents; (13) illicit traffic

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[1] 28 ILM 493 (1989).

[2] 11 ILM 804 (1972).

[3] 10 ILM 261 (1971).

[4] 24 ILM 1157 (1985).

by sea; (14) free-trade zones and free ports; and (15) suppression of the use of the mails for illicit traffic.

You will appreciate from the length of this list that the draft convention is meant to deal comprehensively with almost all aspects of drug-trafficking not addressed or not dealt with adequately in either the Single Convention or the Psychotropic Convention. For this reason, I will focus only on a few of the draft articles and touch briefly on some others.

Article 2 addresses a new subject area. For the first time there is the mandatory requirement on parties to establish serious offenses for the manufacture of illicit narcotic drugs and psychotropic substances. Perhaps more important, we now have a specific requirement to establish the laundering of proceeds from illicit traffic as an offense. This is, of course, essential given the increasing sophistication of today's international trafficker who has the means to shield himself from the reach of the law by the conversion of illicitly derived property and proceeds into legitimate assets.

The political and legal problems, particularly of European civil law countries, in establishing the offenses of possession of property derived from illicit traffic, of possession of materials or equipment for illicit production, of conspiracy, and of aiding and abetting, have meant that these offenses have been established subject to the limitations of each party's legal system.

Article 2 also provides an illustrative list of circumstances that courts should consider when evaluating the seriousness of offenses before them. These circumstances range from the involvement of organized crime to the fact that the illegal activity is connected with the holding of public office.

Article 3, probably more than any other article, establishes a new direction in multinational cooperation in the field of crime prevention and control. It requires parties to adopt such measures as would allow their competent authorities to follow the narcotics money trail with a view to the eventual confiscation of the proceeds from illicit traffic. It is worth noting that most countries with large banking and financial sectors have supported this article. Indeed, there is a provision in this article that precludes parties from declining to act on the basis of bank secrecy.

Article 3 also contains a paragraph that provides that proceeds are subject to the measure outlined in the article (that is, identification, tracing, freezing, seizing and confiscation), notwithstanding that they have been intermingled with or transformed into property acquired from other sources. While this general antilaundering provision has been accepted, there remains disagreement as to whether it should be mandatory or discretionary. There is also disagreement whether confiscation should be restricted to those proceeds that can be identified clearly as being derived from illicit activity or rather should also include property not derived directly but nevertheless tainted by so-called "dirty" money. The adoption at the last experts' meeting of a paragraph that protects bona fide third parties addresses this latter concern and may well allow acceptance of the stronger formulation.

The foundation of Article 4 is the principle of extradition or prosecution common to the antiterrorist conventions negotiated under the auspices of the International Civil Aviation Organization, the United Nations, and the International Atomic Energy Agency. Unlike the Psychotropic Convention, which merely recommends that offenses contained in that convention be deemed extraditable in existing extradition treaties, the draft convention makes this assumption mandatory. In the case of inclusion of convention offenses in future extradition treaties, however, the draft convention, like the Psychotropic Convention, is merely hortative. For those parties that make extradition conditional upon the existence of a treaty, the draft convention can

be used as a legal basis for extradition. Those parties that do not make extradition conditional on the existence of a treaty are compelled to consider article 2 offenses as extraditable.

The original draft of article 4 contained an ambitious paragraph that would have excluded certain traditional grounds for refusal of extradition. These included: that the person sought is the national of the requested state; that the offense was committed outside the territory of the requesting party although the offense was intended to have effects in the requesting party's territory; and that the offense was political in character. After considerable debate, the first two refusal grounds will be allowed. It is expected that the political refusal ground also will be allowed except for those requests that obviously are motivated politically.

Those aspects of article 4 which in the original draft dealt with the establishment of jurisdiction by parties have been placed in a separate article, presently entitled 2 BIS. To take into account the concerns of countries that were unwilling to countenance certain jurisdictional grounds being mandatory, it was necessary to place them in a separate subparagraph and make them discretionary. The mandatory grounds are those offenses committed on the territory of the party establishing jurisdiction or committed on board a ship or aircraft registered under its law. The discretionary grounds include nationality or habitual residence of the offender in the state establishing jurisdiction. Also discretionary are offenses committed outside the territory of the party establishing jurisdiction with a view to the commission of an article 2 offense within the party's territory. It is interesting to note that the recently signed International Maritime Organization Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation also sets out separate lists of mandatory and discretionary grounds for the establishment of jurisdiction.[5] This suggests that a new trend in international criminal law may be emerging in this regard.

As we have seen, article 3 is aimed at equipping domestic authorities with the means to fight trafficking. Article 5, on the other hand, is designed to enhance cooperation among states. In particular, its objectives are to: (1) identify what obligations parties must undertake; (2) provide a consistent procedure and minimum requirements for requests made pursuant to the article; (3) provide adequate protection against possible abuses by the requesting state; and (4) enhance international cooperation without weakening either informal cooperation arrangements or provisions contained in the increasing number of bilateral treaties in this field.

There is considerable work that remains to be done on article 5. It is expected that this article will occupy much of the experts' time in their final session this summer. Issues likely to dominate the debate are the following: the types of cooperation that should be obligatory; whether there should be provisions for the transfer of proceedings between states, and what form requests for assistance should be required to take.

Without going into detail, I would like to highlight some notable aspects of certain other articles. Article 7, for instance, deals with controlled delivery. This article is unique in international conventions. It provides for cooperation among parties to allow illicit consignments to pass into, through, or out of a party's territory under the surveillance of their competent authorities, with a view to identifying those persons involved in illicit traffic and to take legal actions against them. Article 8 is also notable. It goes beyond measures to monitor the diversion of narcotic and psychotropic substances as provided for in the earlier conventions to include immediate precursors and essential chemicals used in the production of such substances. Article 11 sets

[5]27 ILM 668 (1988).

standards for the labeling and documentation of exports of narcotic drugs and psychotropic substances. This is intended to facilitate interdiction efforts that are currently hampered by improper and varying documentation of legitimate exports. Finally, article 12 provides guidelines for the search and seizure of vessels engaged in illicit traffic that are beyond the external limits of the territorial sea of any state. This article is, of course, aimed at eliminating the high seas as a haven for traffickers.

The greatest weakness in the draft convention is the inclusion of safeguard clauses in most of the key articles. These clauses generally require parties to implement measures only insofar as they conform with their basic legal principles. While earlier drug conventions contained similar safeguard clauses, it was thought that the growing menace of international drug-trafficking and the trend toward stronger obligations in international criminal law instruments, as seen in the antiterrorist conventions to which I referred earlier, might result in the elimination of such loopholes, but achieving consensus on such a complex document has proved a formidable challenge and the inclusion of safeguard clauses seems to be the unavoidable price to pay for doing so. It is hoped that parties will hesitate to invoke these clauses for fear of domestic and international criticism. Also, we may hope their inclusion will persuade states to support the exclusion or severe limitation of their right to enter reservations at the time of becoming parties to the convention.

The strategy followed thus far of strong, innovative provisions with a large degree of flexibility in their implementation undoubtedly offers the best chance for early adoption of the draft convention by a large number of states. The liberal use of safeguard clauses, however, makes it difficult at this point to judge how effective the draft convention will be in practice. Obviously, much will depend on the will of the parties to cooperate. Assuming that this will exists, I believe that it will provide a good basis for addressing the growing problem of international drug-trafficking.

Professor BASSIOUNI: The provisions concerning jurisdiction, extradition and related judicial matters should be removed from the body of the draft convention and placed in a separate portion of the instrument. They also should be expanded to include more detail and other modalities of international cooperation not now included, such as transfer of prisoners. Conversely, the "political offense" exception should be removed. But if the exception remains, then a better formula is the "nondiscrimination" one of the 1967 Protocol amending the 1951 Refugee Convention.[6]

REMARKS BY MICHAEL DE FEO:*

Since my title as Deputy Chief of the Organized Crime and Racketeering Section, U.S. Department of Justice, is not particularly self-explanatory, I should mention that for the last 25 years I have been a prosecutor engaged exclusively in the development and trial of organized crime cases. That period of experience yields the following observations, which may suggest some topics for discussion later in the open session.

Money-laundering, although much in the news of late, is no novelty to sophisticated criminals. Congressional hearings reaching back to the 1920s reveal ample references to uses of foreign accounts and entities to defeat taxation and domestic laws. The famous *Klein* conspiracy doctrine, which established the prosecutability of a conspiracy to defraud the Internal Revenue Service in its tax collection function, involved

[6] 6 ILM 78 (1967).

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classic money-laundering techniques of Canadian and Cuban entities, bank accounts and negotiable instruments to hide World War II liquor profits.

International money-laundering not only predates current narcotrafficking but is used by organized crime in many other criminal activities. Before World War II, revenue authorities had most exposure to what our Italian colleagues call "il riciclaggio," which translates into the "recycling" of money of illegal or untaxed origin into the legal economy, often through foreign intermediaries. Since that time, the entire criminal justice system community, nationally and internationally, has had to contend with the phenomenon.

In Las Vegas in the 1960s, we saw clear evidence that skimmed casino income was being transferred to tax haven countries. Moreover, to add insult to injury, those funds often were loaned back to their true owners through some conduit at a high interest rate to create a fictitious deduction. Enough of these instances were documented by the mid-1970s that we were able to secure the first Mutual Legal Assistance Treaty with Switzerland and the requirement for the reporting of foreign bank accounts in order to address this money-laundering opportunity.

The massive drug profits earned during the 1970s and 1980s revealed the vulnerability of national economies and governmental systems to laundered money and sophisticated criminal organizations. Southern Florida real estate experienced a disproportionate inflation almost certainly due to drug investment. Some South American and Central American economies and societies were and are threatened with virtual domination by drug dealing. In reaction, more effective currency control and money-laundering legislation has been devised and is just now making its influence felt in the United States. Other countries are reacting the same way to the drug money stimulus. At a recent U.N. interregional conference on crime prevention and control in Vienna, I was greatly impressed by the interest in money-laundering legislation exhibited by representatives from all over the world, and most particularly by Eastern bloc countries. I think it highly instructive that many countries in which government control of the economy is an article not just of economic but also political faith, are sufficiently concerned with addressing the phenomenon of laundering.

Now that controls are in place in the United States, our society, including our taxpayers, our financial institutions and our opinionmakers, need to reach a consensus on what results we really want from these controls. If our goal is only to develop evidentiary leads and auxiliary prosecutions on narcotraffickers then enforcement can be concentrated in areas and on individuals that present drug-related profiles. Congress clearly did not limit the money-laundering and cash reporting statutes to a tactical role in the antidrug warfare, however. Legally and conceptually, these controls can serve the strategic purposes of protecting the legal economy from illegal capital infiltration and of weakening the organized crime groups by creating barriers to their operation and economic success.

While harassment and interdiction of narcotrafficking must be today's priority in currency control, we should recognize the adaptability of organized crime. Traditional organized gangs in America controlled prostitution when that trade was lucrative in a society of immigrants and abandoned it when changing social conditions diminished its profitability. Bootlegging gangs did not atrophy with the end of Prohibition. These gangs remain with us today as syndicated gamblers and labor racketeers. Members of the Sicilian Mafia served as extortionists and monopolists for most of its history, and what had been a heroin sideline became its principal profit center only recently. Virtually by definition, organized criminals are entrepreneurial oppor-

tunists determined to maximize profit without regard for law or morality or any sentiment attached to any particular means of doing so.

At this moment in history we reflexively think of the Medellin cartel as cocaine merchants and the Sicilian Mafia as heroin processors. In only a few years those organizations may have mutated into arms dealers, high-tech smugglers or extortionists like the American La Cosa Nostra. In many countries of the world, the labor movement is a hotbed of political idealism, even radicalism, but it is free of corruption. If demand reduction diminishes the profitability of heroin and cocaine, gangs now dealing those drugs may replace that income by violently seizing the economic and social power available through labor organizations or by developing other illegal products and/or services.

Currency- and money-laundering controls are remedies useful in counteracting all forms of economically motivated crime, and the more organized and successful the crime the more helpful these mechanisms are to law enforcement. Such a broad concept clearly is favored in other countries that have monetary controls. In the United States, however, I can envision that substantial segments of society, including every taxpayer with an untaxed cash hoard, might have reservations about effective currency control measures. From the viewpoint of an administrator in a criminal justice system in which prosecutors ultimately must persuade jurors and judges that money-laundering is and deserves to be a crime, even if not related to drug dealing, it is obviously dysfunctional to be too far out in front of public opinion.

Consequently, I feel the obligation to close my remarks with an invitation to you to examine the need to enforce currency controls as a countermeasure to drug-trafficking today and other forms of organized crime tomorrow. In combating drugs, we have been educated as to how vulnerable any society, any economy, any criminal justice system is to foreign criminal activity because of the ease and prevalence of international commerce. One-hundred-percent physical control of our borders is simply impossible. Without the deterrent effect of currency regulations and the paper trail created by financial institutions in compliance with our money-laundering legislation, we have no chance to combat effectively either narcotrafficking or other forms of sophisticated or organized criminality.

We all know the ease with which international drug traffic is accomplished, *e.g.,* air drops by private planes, smuggling by small boats from mother ships, cargo smuggling by land, air and sea. At least, however, narcotics are physical contraband, a tangible object that is illegal to possess or to import. The crime is thus apparent. The evidence is concrete—often impressive quantities of drugs, money and guns ready to be presented to sympathetic juries.

Contrast that situation with what law enforcement faces in an international stolen credit card ring, a global insurance scam or a boiler room operation selling phony stock or commodities in the U.S. from a foreign location. The cost of international communications and the relative obviousness of international travel and transactions are fast disappearing as deterrents to international criminality. When high-pressure telephone sales of worthless or nonexistent stocks and services were driven out of California by licensing legislation, the "bucket shop" operators moved to Nevada, where they were nonetheless still vulnerable to federal investigative and prosecutive efforts. What do we do when the cost of satellite communications makes it possible for these types of individuals to move their phone banks and high-speed automatic dialers across the border into Mexico, or, for that matter, to Panama or the Caribbean? Credit card rings now have to exhaust a stolen card in days because of the prompt security systems of credit card companies. Foreign use of that card evades

many of those safeguards, however, and multiples the usable life of the card. Forged, stolen or fraudulent securities deals always have been an area of organized crime expertise. The ease of commission and the probability of success of such scams increase dramatically when the victim pool becomes global in character.

Every border crossing introduces investigative and prosecutive delays, language difficulties, voids in jurisdiction. These problems may escape the amateur criminal but they are golden opportunities for the organized professional. Many legal and administrative tools are necessary to address such sophisticated criminality, namely, treaties for mutual legal assistance and extradition, intergovernmental channels of cooperation, and effective currency controls and money-laundering legislation. Large-scale criminality is profit-oriented criminality.

Money-laundering and currency control legislation attack such criminality both tactically and strategically. Tactically speaking, law enforcement is alerted to criminal activity. As such, it can prove its occurrence and punish its financial consequences as well as or beyond the underlying source activity. Strategically, the vulnerability of organized crime proceeds to identification, seizure and forfeiture strikes at the basic motivation of large-scale criminality. Indeed, this vulnerability deters the commission of crime for fear of detection and offers an inducement to a return to legitimate conduct (or, at least, a lower scale of criminality where the risks are generally less).

We in organized crime law enforcement are accordingly highly enthusiastic about the international movement to control money-laundering. I hope that these remarks have helped to explain some of the considerations that underlie that enthusiasm.

Professor BASSIOUNI: With reference to international cooperation, we have a tendency to rely only on bilateral treaties, whereas multilateral treaties can be helpful. The United States also should reconsider the efforts of 1981–84 to revise extradition legislation, which basically dates back to 1848, with the latest amendments in 1965. Congress also should consider comprehensive legislation, such as that of Switzerland, Austria and the Federal Republic of Germany to integrate all modalities of cooperation in a single statute. Finally, I should point out that prosecutors and Justice Department officials should stop bending the rules and using evidence obtained under international cooperation for purposes other than those for which the evidence was provided. Cooperation needs confidence.

REMARKS BY FRANCIS A. KEATING, III*

Let me begin by noting that "money" can be divided into three types, namely, white, gray and black. White money, as you can guess, is used in legal business transactions. Gray money involves a kind of middle ground in which parties seek to avoid taxes. Black money, as the term suggests, is connected with illegal business activities (*i.e.*, drugs and terrorism).

Another term that needs defining is "money-laundering." Laundering is a mechanism used to effect the concealment of illegal business activities. Although it is difficult to imagine, money-laundering was not made an offense until 1981. Generally speaking, laundering can be described in two ways: (1) smuggling drug money outside the United States to a country with bank secrecy laws that hinder interdiction efforts (such as Switzerland); and (2) transferring money via interbank mechanisms. The Bank Secrecy Act as promulgated by the U.S. Congress is designed to control and

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preclude these types of money-laundering schemes. The act requires banks to provide the U.S. Government with financial reports that record certain money transfers and transactions. The reports assist Internal Revenue Service and Customs Service officials in tracing drug-related funds.

It must be noted that the enforcement measures under the act are part of a larger strategy for controlling and prosecuting money-laundering activities. There is a great deal of interagency work done under the framework of Operation Alliance. This interagency work is designed to coordinate enforcement activities, particularly between the Internal Revenue Service and the Customs Service. These agency efforts thus far have proved quite successful. For example, in 1987 the Internal Revenue Service initiated some 400 cases with a concomitant increase in the rate of conviction. The Department of the Treasury employs its civil penalty authority as well as its criminal enforcement powers.

It cannot be overemphasized that the utility of the act depends on a good database. Thus, it is important to assist banking institutions in complying with the act and its regulations. To this end, a draft booklet, which explains the disclosure and recording requirements, is being made available. The cooperation of banks is vital. The ability of government authorities to enforce the law is premised upon the banks' assistance in maintaining correct and comprehensive records. We in government want to "teach" banks the importance of being good citizens in our fight against the laundering of drug money.

Remarks by Ethan Nadelmann*

Basically, there is a single reason why it is difficult to deal with the drug abuse problem: namely, the large degree of analysis done is captured by the rhetoric, and ofttimes this analysis is, for the sake of public consumption, cloaked in politically sexy terms. It is clear that the time has come for a rational discussion of the drug problem. Indeed, there is no indication that worldwide drug abuse is declining. In fact, the current American approach to the problem is exacerbating most aspects. A new drug policy is needed which attempts to distinguish the problems of drug abuse, on the one hand, from the problems that result from drug prohibition policies, on the other. An optimal drug policy must aim to minimize not just drug abuse but also the costs to society imposed by drug control measures.

The current policies are failing and will continue to fail. Although there are extensive police crackdowns and the pervasive use of the criminal justice system for enforcement, the current policies have done little to slow the drug abuse problem. Demand has not been reduced. Even in the event of successful police operations, the drug traffickers move to a new area, thus the "push-down/pop-up" paradox. Equally so, the drug commodity is easy to transit. As such, the costs of the repressive police actions do not outweigh the profits and gains made by traffickers in the continued flow of drugs. During the Prohibition years, most Americans demonstrated an ability to distinguish between the problem of alcoholism and alcohol abuse, and the costs imposed by the Prohibition laws. This same distinction needs to be applied.

Legalization is one answer to reducing and minimizing the societal costs. Yet Congress is not discussing this alternative, even to the extent of reviewing a continuum of legalization policies. There is no single legalization option. Legalization may mean a free market, or one closely regulated by the government, or even a government monopoly.

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