

**THREAT TO U.S. TRADE AND FINANCE  
FROM DRUG TRAFFICKING AND  
INTERNATIONAL ORGANIZED CRIME**

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**JOINT HEARINGS**  
BEFORE THE  
SUBCOMMITTEE ON INTERNATIONAL TRADE  
OF THE  
COMMITTEE ON FINANCE  
AND THE  
CAUCUS ON  
INTERNATIONAL NARCOTICS CONTROL  
OF THE  
UNITED STATES SENATE  
ONE HUNDRED FOURTH CONGRESS  
SECOND SESSION

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JULY 23 AND 30, 1996  
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# **THREAT TO U.S. TRADE AND FINANCE FROM DRUG TRAFFICKING AND INTERNATIONAL ORGANIZED CRIME**

**TUESDAY, JULY 23, 1996**

**U.S. SENATE,  
SUBCOMMITTEE ON INTERNATIONAL TRADE,  
COMMITTEE ON FINANCE,  
CAUCUS ON INTERNATIONAL NARCOTICS CONTROL,  
*Washington, DC.***

The hearing was convened, pursuant to notice, at 9:05 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the subcommittee) presiding.

Also present: Senators Murkowski and Biden.

## **OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, SUBCOMMITTEE ON INTERNATIONAL TRADE**

Senator GRASSLEY. I would like to call the hearing to order. Because of scheduled votes, I thank very much the Secretary for accommodating us and starting a half hour earlier than our original schedule.

And because of the shortness of time, I am going to put an opening statement in the record, except for one paragraph I want to refer to as a starting-off point. I hope, when my colleagues come, that they will put their opening statement in the record.

We are going to continue this hearing next week because of today's schedule. And so that means we will have the Secretary and his deputy with us for today: the Secretary for a short period of time, the deputy for a longer period of time, and then continue next week.

So I want to thank our distinguished witnesses this morning for their participation in this hearing. This is a joint hearing of the Caucus on International Narcotics Control and also for the Finance Committee specifically, the Subcommittee on International Trade.

I welcome our distinguished members. And I thank them for participating, hopefully that they will be able to participate.

The criminal thugs that bring drugs into this country obviously are not philanthropists. They are in the business to make money. And lots of it.

And that's why they come to the world's largest emporium. And they do very well. But that leaves them with the problem of what to do with all the loot.

How do they turn this dirty money into nice, clean cash? To do it, of course, they exploit our banks and businesses. They smuggle cash out in bulk. They use our electronic highways.

As the Center for Technology Assessment noted last year, our "financial institutions and their wire transfer systems provide the battleground to control money laundering."

Criminal gangs employ a thousand techniques that fertile imaginations—the best that money can buy—can devise. They do all of this in the defiance of our laws, in vicious contempt for common decency.

And when these sorry riches find their way into secure havens, they are then used to corrupt and intimidate individuals, institutions, and whole governments. The vicious cycle is complete and begins again.

So I am pleased with that partial statement of my opening statement to welcome the Secretary of the Treasury, Mr. Robert Rubin, and Deputy Secretary of the Treasury, Mr. Lawrence Summers, to this hearing.

Given the press of Senate business this morning, I hope that my colleagues will submit their remarks for the record. And I ask for this follow-up hearing on Tuesday for any members who have statements to make at that particular time.

The hearing this morning is going to deal with the critical issue of how we protect our financial systems and trade relationships from becoming opportunities for criminal enterprise.

How to respond to this threat goes beyond the simple law enforcement issue and involves high-level policy concerns.

So I welcome the Treasury Department. Particularly I am honored to have Secretary Rubin here to make statements and for Deputy Summers to answer questions on this critical subject.

Mr. Rubin, I now open it up to you.

[The prepared statement of Senator Grassley appears in the appendix.]

#### **STATEMENT OF HON. ROBERT E. RUBIN, SECRETARY OF THE TREASURY, WASHINGTON, DC**

Mr. RUBIN. Mr. Chairman, thank you very much for the invitation to discuss the activities of the Treasury Department with respect to drug trafficking and money laundering.

Let me start by saying, Mr. Chairman, as I mentioned to you a moment ago before we got to the hearing, I think the letter that you sent us framed extremely well the very difficult set of issues that we deal with every day at the Treasury. It was a very thoughtful letter.

There is no question that American jobs, standards of living, and profits depend upon effectively engaging in the global economy.

On the other hand, we also well know, as you pointed out in your letter, that changes in markets, technology, and financial institutions create new vulnerabilities of our society with respect to drugs and money laundering.

There is no greater priority of this government with respect to public safety, public health than dealing with the smuggling of drugs, the use of illicit narcotics, and money laundering, all of which also impose a serious cost on our economy.

With respect to money laundering, which I would like to focus on just for the moment, in order for narcotics criminals to enjoy the profits of their illicit enterprise, they must convert those profits, those illegal profits, into legal resources.

In so doing, they act in ways that damage our financial system and create a new, and very important, problem.

At the same time, however—and I think this is an absolute critical point—money laundering gives a powerful vantage point from which we can attack drug traffickers because while those who run the drug gangs can separate themselves from the street operations in most instances, they cannot separate themselves from their illegal profits.

The Treasury has special expertise in critical areas relating to drug trafficking and money laundering, ranging from interdiction to analyzing financial data for complicated money laundering cases.

We also use the international forums that we are so much involved with—the G-7, the Summit of the Americas, the Financial Action Task Force—to develop common strategies of law enforcement with respect to drug trafficking and money laundering.

And I might add, as finance ministers meet in these various forums, there is no question there is a greater focus today than there has been in the past on these very important problems, particularly on money laundering since so many facets of that come within the purview of finance ministers.

Let me give you a few examples, if I may, Mr. Chairman, of what Treasury has been doing in the area of drugs and money laundering.

First, Customs, our Customs bureau, the United States Customs Service has focused on interdiction problems in the southwest and put in place an operation called Operation Hard Line.

In the first full fiscal year of its operation, seizures of narcotics, illicit narcotics increased by 24 percent and port running decreased by over 50 percent.

Second, as the pressure in the southwest has increased, the drug traffickers have moved to the Caribbean. Customs put in place Operation Gateway in Puerto Rico and the Virgin Islands.

The first half of fiscal year 96, cocaine seizures have increased by 46 percent. And there have been substantial increases in heroin seizures.

We know we cannot rest with respect to interdiction, Mr. Chairman, but I do believe that we are making real progress.

Third, Treasury's bureaus are making important progress through initiatives, such as the combined Customs-IRS anti-money laundering task force called Operation El Dorado and the Customs-DEA led Operation Cornerstone which helped indict four Cali cartel leaders.

Ray Kelly, our Under Secretary for Enforcement, the former police commissioner of New York City, and I visited Operation El Dorado last week.

It is a very good model with respect to how to deal with money laundering. It is a combined operation with the IRS, Customs, the New York City Police Department, and other relevant agencies. It has a high level of energy, and a high level of expertise. And it is

very focused on this very complicated, but important, set of criminal activities.

Fourth, Jim Johnson, our Assistant Secretary for Enforcement, is a principal in the High Level Contact Group which works with Mexican officials on Mexico's narcotics control and anti-money laundering.

Just last week, a delegation from Treasury went to Mexico to work with officials there on developing reporting requirements pursuant to the new legislation in Mexico that criminalized money laundering.

Fifth, the Summit of the Americas, a group of 34 nations, has targeted money laundering and has stated its support for legal, regulatory, and law enforcement measures to increase our focus, our effective focus, and efforts in the hemisphere against these crimes.

The Treasury Department hosted a conference on money laundering for finance ministers and justice ministers in Buenos Aires some months ago. And we followed up at a finance ministers' Western Hemisphere summit in New Orleans a few weeks ago.

Sixth, two weeks ago, General McCaffrey, Attorney General Reno, and I hosted a southwest border conference in El Paso. We heard presentations from the people who were involved in the field, the day-to-day fight against drugs.

What emerged from that conference was an emphasis on the importance, extreme importance, of good intelligence information, particularly information originating from within Mexico, the critical role, that coordination amongst Federal agencies and between the Federal, state, and local law enforcement authorities plays, and the tremendous potential and importance that the attack on money laundering has for getting at those who run drug trafficking organizations.

Seventh, as directed by the President last year, we declared a national emergency against the Cali cartel, and have taken steps against 282 companies and persons either, owned or controlled by or acting for or on behalf of the Cali cartel.

And eighth, the group headed by the Comptroller of the Currency is reviewing issues that could arise with respect to the development of new forms of currency, electronic transfers of value, including smart money, electronic money, and the ways that this could be or may possibly be used in money laundering in the future.

To conclude, Mr. Chairman, Treasury is deeply engaged in the fight against organized crime and international drug traffickers who are intent on using every technological or market development to sell illegal drugs and launder illicit funds.

The problem with drugs is clearly not a partisan issue. We believe that hearings like this are very constructive, and will increase the understanding of all of us with respect to these important issues.

With the leadership of the President and the Congress, we can all continue to work progressively together against illegal narcotics and money laundering and the organizations which are involved in these dangerous activities.

Mr. Chairman, again thank you for providing me with this opportunity to discuss our problems, the issues today. We look forward

to working with you as we go forward on these extremely important matters. Thank you.

Senator GRASSLEY. We thank you very much for kicking off our hearing. We know that you had a very busy schedule and took time out of your busy schedule to come.

And we had an agreement with you that we would not hold you for questions, but that Deputy Summers would respond. So we thank you very much for taking time out of your busy schedule.

Obviously, what you stated and what we are up against as a Nation, the Congress, the administrative branch of government seems to be an impossible task, but it can't be an impossible task that we cannot win.

It seems to me that you have put forth a clear statement of what the administration's policies are and the resources that we are putting in to them. We hope they are successful. Our job is to make sure that they are successful. Thank you very much.

[The prepared statement of Mr. Rubin appears in the appendix.]

Mr. RUBIN. Thank you, Mr. Chairman.

Senator GRASSLEY. Thank you.

Now, we would go to you.

Could we ask you—I know you have a long statement. Could we ask you to summarize your statement in 5 minutes? And we will put the entire statement in the record.

[The prepared statement of Mr. Summers appears in the appendix.]

Senator GRASSLEY. Because, as my colleagues know, we have just—the votes are going to start at 9:30 which means we will probably have to quit here about 9:42 in order to get over there to vote, assuming using the extra 5 minutes up that we have.

I see you are trying to get my attention. You have my attention. What can I do for you, Senator Murkowski?

Senator MURKOWSKI. Senator Grassley, I would like to ensure that the record will reflect that I consider that the United States has a good deal of leverage with Mexico following the tesobono bailout, which the Secretary of Treasury, Mr. Rubin, was instrumental in creating.

And as we note, Mr. Chairman, the influx of drugs coming in from Mexico has greatly increased. We had no cocaine coming through Mexico in the 1980s. Now, the flood of cocaine is coming in.

I am not sure we are utilizing the leverage that we have with Mexico. We are seeing an increase of almost limitless proportions.

It is my understanding, Mr. Summers, that you know that ranches along both sides of the border are now owned by the drug kings. They are owned on the Mexican side. And now, Americans in many areas have just given up and sold out. How are you going to stop drugs from coming over the border if these kinds of conditions exist?

Mr. Chairman, I think this is one of the unfortunate by-products of NAFTA, which liberalized the impediments to trade and, thereby, increased the opportunity for drug smuggling.

As a consequence, I intend to support Senator Domenici's and other's efforts in this regard. I think that Senator Domenici's amendment to restrict foreign assistance to Mexico and the Mexi-

can government will make a clear point to Mexico that we expect better results in stopping the influx of drugs.

I would like to know from Secretary Rubin and Mr. Summers whether they feel the kind of leverage envisioned in Senator Domenici's amendment is appropriate.

If they don't, I would like to know what they propose to do about the problem, which I think is of monumental proportions and has to be addressed immediately, and with what formal capabilities it might take to do so: negotiations, cutting off assistance, you name it.

Thank you, Mr. Chairman.

Senator GRASSLEY. I would ask you to go ahead, Mr. Summers, with your statement. And then, if you want to at the end of your statement, you could respond to Senator Murkowski.

Senator MURKOWSKI. Or the beginning.

Senator GRASSLEY. Well, I want him to go through his statement first.

Senator MURKOWSKI. I understand.

**STATEMENT OF HON. LAWRENCE H. SUMMERS, DEPUTY  
SECRETARY OF THE TREASURY, WASHINGTON, DC**

Mr. SUMMERS. Thank you very much, Senator. I will be very brief, since the Secretary's statement laid out the main work that the Treasury is doing in this vitally important area.

Let me highlight three critical priorities for Treasury in fighting narcotics and money laundering. First, protecting our border, there is no more fundamental responsibility that the Treasury, or that the Customs Service, has.

We have sought to strengthen the southwest border, our border with respect to smuggling against Mexico, through Operation Hard Line which is intensified interdiction efforts.

It has received an extra \$55 million for more officials at ports of entry, more vehicle inspections, more drug sniffing dogs, the extension of drug sniffing dogs to drugs where they haven't previously been used, such as methamphetamines, more questioning of drivers, and so forth.

It is working. Drug seizures were up 24 percent in 1995 and port running incidents declined by 54 percent.

We are seeking from the Congress an additional \$65 million for Operation Hard Line for fiscal year 1997 to pay for more x-ray equipment, automated license plate readers, and additional agents.

The southwest is only part of the focus. Similar efforts in the Caribbean through Operation Gateway, which has involved the Coast Guard and the Defense Department as well, have produced a 300 percent increase in cocaine seizures within the last year.

The second crucial priority is the fight against money laundering here at home. As IRS Commissioner, Margaret Richardson, has pointed out, it took an accountant to catch Al Capone.

We now have 2,821 personnel whose task is investigations of money laundering. The IRS and Customs have successfully prosecuted 6,000 crimes over the last 3 years, and in fiscal year 1995, seized \$200 million.

Since the mid-1980s, the cost of money laundering has tripled according to our best estimates.

And we have produced, I believe in the last 3½ years, a change in the attitude of American financial institutions towards know-your-customer rules, and the like, so that money laundering, which was legal until 1986, is no longer tolerated.

But it is crucial that we carry the battle against money laundering abroad because as we squeezed down on it here, the pressure abroad, particularly in those countries on our border, increased.

President Clinton chose the occasion of the 50th anniversary of the United Nations to say that, "We must not allow them to wash the blood off profits from the sale of drugs, from terror or organized crime."

With PDD-42, he authorized actions under the International Emergency Economic Powers Act to block assets of the Cali cartel. We have sought—and I believe with considerable success—to spread the fight against money laundering.

The United States has played an active role in the Financial Action Task Force as a result of which 25 countries have now taken the step of criminalizing the laundering of money.

At the Summit of the Americas ministerial conference in Buenos Aires, the ministers issued a communique which, for the first time, outlined concrete steps that each country in this hemisphere agreed to take to combat money laundering.

Similar issues were raised at the Asian-Pacific Economic Council meeting, APEC, this March in Japan. We now are in the process of providing technical assistance to a number of countries, to Mexico, to Belarus, to Ukraine, to Argentina, in teaching them the techniques that they want to use in this fight against money laundering.

To take just one example, more than 20 countries now have financial intelligence units, a key tool in the fight against money laundering, up from just 5 years ago.

Let me, if I might, just conclude by responding to Senator Murkowski. Senator, I believe that you have focused attention on what is an absolutely crucial problem: narcotics and money laundering in Mexico.

And it is one that we have made a central priority in our dialogue with the Mexicans.

As you know, when President Zedillo was here last October, he recognized that Mexico faced drugs and narcotics as its number one national security threat.

And in the year of discussion that we have had with the Mexicans, supported by the growing relationship that followed in the wake of the provision of financial support, we have had a number of significant achievements: the legislation in Mexico to criminalize money laundering for the first time, a record amount of eradicated narcotics crops; for the first time, a substantial extradition, the expulsion of Juan Garcia Abrego, a leading narcotics trafficker who was on the FBI's most wanted list; substantially greater coordination with Customs air program, permitting U.S. overflights over Mexico in certain circumstances; and in certain port areas, enhanced enforcement against port runners who are attempting to return to Mexico.

I would be happy to furnish you with a more lengthy exposition of the steps that have been made, and the steps which we are still working on, with the Mexicans.

But I am—I believe that it is fair to say that there has been substantial progress though no one can be satisfied with where we are right now in terms of the problem of drug smuggling from Mexico or from a number of other countries.

Senator MURKOWSKI. In spite of all the efforts, I understand the increase is still very much in evidence, the increase in drugs coming across the border continues despite these actions.

Mr. SUMMERS. I think there is a great deal. I think there are some substantial areas of measurement. It is also true that, with these efforts, the quantity of seizures has been substantially increased.

And, of course, when we are more effective in enforcing in one area, it pushes the pressure elsewhere. And, as we have been more effective in enforcing money laundering laws domestically, for example, it has tended to increase the pressure by those who wish to launder profits in other countries on our border.

As we have been more successful in stopping various kinds of overflights, the pressure for automotive traffic has increased.

So I do not want in any way to minimize the seriousness of these problems, to suggest that—

Senator MURKOWSKI. You don't favor any sanctions of any kind?

Mr. SUMMERS. I don't—

Senator MURKOWSKI. Anything other than what you are talking about?

Mr. SUMMERS. There is a procedure under law which is administered by the State Department—I can provide you with more detail, an answer in writing—which does provide for a certification procedure for countries that are not cooperating adequately with the United States.

Senator MURKOWSKI. How many people have been extradited by Mexico in the last 5 years?

Mr. SUMMERS. I'm sorry.

Senator MURKOWSKI. How many people have been extradited by Mexico?

Mr. SUMMERS. I will have to furnish you with that answer in writing. I don't know the answer to that question.

Senator MURKOWSKI. I understand it is pretty low.

Thank you, Mr. Chairman. I do not want to use up too much time.

Senator GRASSLEY. Okay.

Senator MURKOWSKI. Well, it seems to me that we've got to take some more formal action of a diplomatic nature. That suggests some type of sanctions.

I am disappointed that the Treasury Department is not recommending some hard-nosed action because what we are doing now just isn't working.

What we are doing now is helpful, I grant you, stopping money laundering, continuing crop eradication, increasing Customs enforcement activities, but it is not doing the job well enough.



Senator GRASSLEY. I would like to have the lights so I know when my 5 minutes are up so we don't eat into Senator Biden's time.

Senator BIDEN. I agree with you.

Senator GRASSLEY. And then, the way I'm planning this is that probably about 9:42, if the vote started on time, we are probably going to have to just close this meeting down. And then, we are going to come back next week to finish it. Okay.

Thank you very much. And I appreciate your remarks. I am concerned about something. How do you measure success?

And I suppose that it might be an impossible question for you to answer, but I want you to kind of think about it in terms of several questions I am going to put at you all at once.

And I do not mean that you have to answer each question separately, but kind of give you a flavor for what I am thinking about.

If we had a strategy for stopping large-scale trafficking and money laundering, how do we know when we are winning? How do we judge the cooperation we are getting from others?

As you—maybe as an example, you just had an exchange with Senator Murkowski in the case of Mexico, but with other countries, as well.

Could you give me any sort of a breakdown of Treasury's views on how they might measure success and how this cooperation is integrated into the administration's strategy?

And can you tell me where stopping drugs and money laundering fits in to Treasury's overall outlook? What sort of a priority does it have?

And if you say it has a very high priority, and I know you have, what does that mean in the scheme of all the responsibilities that Treasury has?

Mr. SUMMERS. Let me try to take a crack at that very central set of issues. Yes, it is a very high priority for Treasury.

I suppose that one way of measuring that is to look at the time allocation of senior officials of the department.

I think I can safely say that if you look at the time of the two top officials in the department, Secretary Rubin and myself, and you look at the amount of time that we have devoted to issues of money laundering, issues like Operation Hard Line in comparison to what has been the traditional pattern in Treasury, I think that any of the career people who have been around a long time will tell you that the degree of attention that these enforcement issues have received from the top has increased very, very substantially in recent years from what it had been historically, reflecting the fact that we think that this is an absolutely central responsibility, you know.

If you look at what the Constitution says when it talks about the Treasury Department, one of the things it talks about is Customs and the protection of our borders.

And so it is an absolutely central responsibility that is at the top of our priority list.

For the first time, we have succeeded in getting others to follow our lead.

When finance ministers from different countries get together to talk, whether it is in Latin America, whether it is in the G-7,

whether it is in the APEC group, for the first time, money laundering is now at the center of those discussions, rather than more traditional financial issues.

How do we know when we are winning? As long as there is a single American child lost to narcotics, we cannot say that this war has been won.

So we can talk about doing better or doing worse. But as long as there is a flow of narcotics into this country, we have not won this battle. And no one is under any illusion about that.

I think there are several indicators one can use to gauge progress. One very important indicator is what has happened to seizures of drugs flowing into our country.

And that is why I am gratified that there has been a 24 percent increase in cocaine seizures to date, 27 percent increase in marijuana seizures, 105 percent increase in heroin seizures, and a much larger increase in seizures of methamphetamines in 1996, relative to what we have observed historically.

But, of course, ultimately what is important is not what we get, but what we miss and what gets in. And that is why the number of Americans who are using illegal drugs, the number of Americans who become addicted to illegal drugs is such an important issue.

And that is not just a matter of what we do at the border, but is a matter of a comprehensive strategy that General McCaffrey is directing.

I would defer to him in characterizing our overall progress in the drug effort, but my understanding is that, with respect to a number of important categories, we have observed for several years now declines in the usages of drugs, although there are also a number of drugs where we have very critical concerns and we are not seeing the kind of progress that we would like.

I do not think—if I may just make one final note—I do not think there is any single criterion that we can use in judging the performance of other countries.

I think it has to be judged relative to where those countries have been, the political context in those countries.

And I think we have used, as our treatment to Columbia illustrates, the certification process aggressively to lever improvements in national practices in those countries that pose a particular serious threat.

Senator GRASSLEY. Senator Biden.

Senator BIDEN. Thank you. Mr. Secretary, let me begin by indicating that I think that the Treasury Department has been more involved in dealing with the drug problem than any that I have been involved with, Democrat or Republican, but you are still kind of State Departmentized. You talk like a member of the State Department.

The idea that we are going to ever not have one child addicted to drugs or affected by drugs is one of those kind of things we should not say because it implies an overt promise to the American people.

If the measure is the war is only over when there is no more drugs, then there will never be a war over. We should be realistic with the American people and tell them where we are.

And there is a measure, with all due respect, Mr. Secretary. And it is a real simple measure. Maybe, it is taking a little advantage here because I have spent probably 18 years of my life dealing with this problem.

There is a real simple measure. If the purity is up and the price is down, it ain't working. That is an absolute measure, number one. It has nothing to do with seizures.

We have seized 20 times as much at the borders as we ever have. We are doing a great job. But in fact, there are three times as many drugs roughly on the street as before.

So the measure is not what we seize. We have to seize. That is a good thing.

The second thing I would like to point out to you is you can tell whether Mexico is doing better or worse, or whether Panama was doing better or worse, as the money laundering capital, or whether or not the golden triangle is where the stuff is coming from based on the flows.

Your very success in the Caribbean—you should talk about it more—is the reason why Mexico is a problem. Mexico increasingly becomes a problem as you succeed in the Caribbean. This is like punching a pillow.

And so there is a measure of success as to whether countries in fact relate or don't relate.

I am sorry. I hope—I am sounding like I'm lecturing. I do not mean—I am not being critical. But I think we have to not go out of hearings without people knowing there are empirical data we can look at to determine.

For example, we know what's happening with certain drugs based upon what emergency rooms report. That is a direct and immediate indicator.

And so, there are measures that do not relate to hyperbole about whether or not we are going to end drugs in our time, or not one child is ever going to be addicted.

But I want to get right to a very specific problem. By the way, money laundering also can be determined and the success or efficacy of it, whether we are stopping it, based upon when these guys start shooting each other, real simple basic things.

When the Cali family starts finding out that their source of revenue is being cut off, they start to kill the other guys, you know. I mean, these are real crude measures, but also very precise measures that we know. And we know in the drug world how it works.

But getting into Mexico, it seems to me there is a really strange pressure that is working against our efforts: yours, ours, everyone's. And you are working at it. You are doing a good job, okay, in my view.

But one of the things that, it seems to me, is going to make the job more difficult I would like you to speak to it because my time will be up in just a second.

And that is that there is this whole—as the world moves—when I first got this job years ago, we used to talk about the ability of the central banks to be able to affect money flows.

Well, hell, more money goes over on a push of a computer button between one minute of 12 and one minute after 12 than any central bank in the world controls.

And so we figured out how central banks do not have that much impact anymore, relatively speaking, on the world economy in terms of momentary blips.

One of the things that you are doing, you, this administration, the last administration, is you are modernizing significantly the way in which monies flow,

The whole notion, as the world becomes more integrated and we have trade agreements that encourage that and necessarily so in my view, that we end up with this problem that you have commerce on an electronic cash and cyber cash sort of at odds with the ability of people to manipulate that system.

What I would like to do is look, in the moment I have, is ask you if you don't—you may not be prepared to speak to this now, but if you would in writing I would appreciate it, or maybe for the next hearing, come prepared to talk about. I don't know if you are coming back or whomever.

And that is, what are we going to do about this, for lack of a better, phrase, cyber cash? How does the incredible propulsion of the transfer of monies, and the change in the way in which national and international banking systems do that, and the ability for the drug cartels to use this changing dynamic in a way that it will make it harder for us to deal with money laundering?

You have made real progress in the changes you have made about reporting requirements of \$5,000 cash or more. We have been trying to get the Treasury Department to do that for a long time, not you, previous ones as well.

But what about the future because it seems to me if we have a problem now, this is just going to increase, whether it is Mexico or Bolivia or China? Do you have any comment on that? Or would you like to—

Mr. SUMMERS. Let me make three brief comments in response to your questions, Senator. First, I think you have hit on an absolutely crucial issue of cyber cash and all of that. And we do not have all the answers.

The Secretary has asked the Comptroller of the Currency, Gene Ludwig, to take the lead in formulating our policy in these areas with a particular focus on enforcement and—

Senator BIDEN. I am not suggesting you should have all the answers. I do not know anybody who has the answers.

Mr. SUMMERS. And I will provide you with the detailed answer in writing. But I will highlight one aspect of it which is that we have learned in this area this is not something where Federal cops can do everything.

If institutions are not working—

Senator BIDEN. Right.

Mr. SUMMERS. If major banks are not focused on helping us in this area, we cannot do it.

Senator BIDEN. Absolutely.

Mr. SUMMERS. And so it is major institutions that have much of the capacity to do these transmissions of cash and changing their cultures to one that emphasizes knowing your customers.

And suspicious transaction reporting is at the center of an effective solution. And we have made that a very crucial priority in our

dialogue with the banking and the rest of the financial services industry. But I will provide you with a more detailed account.

Second, Senator, as one whose background is a professional economist, I share your view in the importance of price measures as ways of determining what is a measure of success.

And I would cite one in the money laundering area which is that one way of gauging our progress there in addition to the price measure that you suggested is to look at what the cost on the street is of getting money laundered.

Senator BIDEN. Right.

Mr. SUMMERS. And the estimate is that in the last 5 years, that has gone from 6 percent to 20 percent.

Senator BIDEN. Exactly.

Mr. SUMMERS. But that is an important—

Senator BIDEN. Those are the kind of answers that I wanted you to make for the record.

Mr. SUMMERS. And that is—that, I think is an important sign of progress.

Third, I will report in my—I will provide written information on the extent of the availability price nexus on drugs, drawing on what's available at UNDCP. I wouldn't say—

Senator BIDEN. We have all that information. I mean, I don't think we need that.

Mr. SUMMERS. Okay.

Senator BIDEN. I don't mean to presume.

Mr. SUMMERS. I would say in slight defense of my bit of hyperbole that obviously we need to measure the progress we are making.

But I think it is also true that this is a fight that this country is going to have to carry on indefinitely. And we will be able to do it better. We will make more progress at some points. Hopefully, we will continually make more progress.

But even if we were to have better information than we do that the price was rising, I don't think any of us could relax as long as there still was a threat in this area.

Senator BIDEN. I thank you, Mr. Chairman.

Senator GRASSLEY. With this subject, I think we all agree that going after the major drug organizations in the world is the way to do it.

If we just go after a few drug kingpins, we are spinning our wheels. For the major organizations, we need a lot of effort on intelligence, a lot of effort on agents.

We have seen in the last few years Treasury cut enforcement and intelligence. Is that going to change if we are going to put our major emphasis on the drug war, on major organizations?

Mr. SUMMERS. I would have to look at the specific reference within the enforcement budget that you are making, Senator, before giving you a response.

But it is certainly our intention, as illustrated by what we are doing with Hard Line, to strengthen Treasury's capacity here and not to weaken it.

So I would have to look at the categories you are referring to to make a judgment. I am not in a position to speak to—

Senator GRASSLEY. I would urge—

Mr. SUMMERS. The broader administration priorities.

Senator GRASSLEY. Can you respond in writing to that?

Mr. SUMMERS. I would be happy to.

[The information submitted by Mr. Summers appears in the appendix.]

Senator BIDEN. Mr. Chairman, I don't have a question. Could I say I would like to submit a question about cooperation between the CIA, you, the DEA, and the drug agencies in the Justice Department? I would like to, if you would.

I think that is a critical piece. And I would like to know that.

Mr. SUMMERS. Absolutely.

Senator GRASSLEY. We have had a lot of talk among the three of us, including you, the four of us, about Mexico.

When we decided to certify Mexico, did we have fairly objective standards that we employed in that certification? And what would it take to decertify Mexico if, for instance, say, the Mexicans are not meeting these objective standards?

I assume that when we certified them, we told them what we thought based on information about what they were doing and why they deserved certification.

And by the way, when Mexico was certified, I did not blast the administration for that decision, but I think we need to know on what basis the administration made their decision, on what the message is to Mexico about the amount of cooperation we have to have and what they have to do to keep from being decertified.

Mr. SUMMERS. If I—

Senator GRASSLEY. Yes. Let me tell my colleagues that we have a vote. And I figured that we would need about three or four more minutes. And then, we will have to shut down to go vote and be there on time.

Go ahead.

Mr. SUMMERS. With your permission, Senator, that certification is made by the Secretary of State. And I would refer you to him and I will refer the question to the State Department for an answer that lays out the criteria that would be involved in the subsequent certification.

As you know, this is an annual process. But I think it is fair to say that there is a clear set of expectations as to what Mexico has to do within this year if it is to be certified next year.

Senator GRASSLEY. Okay. Well, one area that does come in your bailiwick when it comes to the free trade arrangements is that of our relations with Mexico.

I am a supporter of NAFTA, I want to emphasize. But we want to make sure that these free trade arrangements do not make it easier to get drugs into the country.

What sort of priority do we place on not allowing these free trade arrangements to become an opportunity for increased drug trafficking?

Mr. SUMMERS. The core of our new border strategy, based on Operation Hard Line and a more strategic approach to enforcement, is precisely to protect our borders at a time when the volume of traffic is going to substantially increase.

That has involved a very substantial increase in the number of border personnel and the use of certain new technologies, such as x-ray machines that are large enough.

It is sort of a CAT scan for trucks that enable us to detect narcotics in situations where we previously would not have been able to. And I think that strategy has worked, as evidenced by the increase in seizures that have taken place along the border.

Senator GRASSLEY. I think we will have to call the meeting closed.

Senator MURKOWSKI. Let me just ask one question.

Senator GRASSLEY. If you want to take—

Senator MURKOWSKI. Thank you very much, Mr. Chairman. I can wind it up if you want.

Senator GRASSLEY. Okay. Mr. Summers, thank you very much for your participation.

Mr. SUMMERS. Thank you.

Senator GRASSLEY. I will go and vote.

Senator MURKOWSKI. Mr. Summers, it is too bad that we have to cut this short. And I hope, Mr. Chairman, we will have an opportunity to get back to it.

Senator GRASSLEY. Yes, we will.

Senator MURKOWSKI. It is so important that we continue this discussion.

Senator GRASSLEY. It is already scheduled for next week.

Senator MURKOWSKI. I think we are a little naive to expect this effort on money laundering to work. I was in the business of banking for 25 years.

And I will tell you, the complexities of the ability to transfer money electronically is such and the availability of the offshore institutions, is such that we have little or no control. The reality is that people will take advantage of transfers for a fee.

In spite of the efforts of the international Financial Activities Task Force, I believe you are going to continue to see unscrupulous investment people out in the hinterland transferring funds in ways that will be very, very difficult to try and stop that, if indeed the return is what it appears to be. And I understand that return is relatively handsome.

I would like for you to provide for the record how many prosecutions of government officials for corruption have occurred in Mexico and how many convictions there have been.

I think there is a noticeable lack of performance by the Mexican government in apprehending some of these people.

And I also would like to have you explain to us what is your next contemplated action if the actions that you have currently undertaken simply won't work.

We can delude ourselves into thinking that we are making progress when we increase interdiction, but it can also mean that the laxity of enforcement is such that the interdictions of drugs will occur more often simply because more is coming across.

You indicate that we are now making larger seizures. The indication is that smugglers believe they can get away with larger seizures. So there are those that are willing to take the risk.

I think what we are doing here is what we have always been doing. We are legitimately concerned about this status-quo approach.

We are taking actions short of real actions with real results. And until we take real actions, we are going to continue to have the status quo.

And, as Senator Biden said, we have simply seen a shift, a shift from drugs coming from the Caribbean to them coming from Mexico because it is easier for the smugglers in Mexico.

Now, we got tough in the Caribbean. We are not tough with Mexico. Instead we are doing partial efforts that simply are not having the effect of curtailing this to a point where we can see substantial relief.

And until we take some diplomatic action, Mr. Summers, it is simply is not going to change.

I will look forward to receiving some figures from you relative to just what the Mexican government has done because I am personally very disappointed.

I guess I've got the obligation of concluding the hearing. I wish you all a good day. And hopefully, we can get on top of this problem.

Mr. SUMMERS. Thank you, Senator.

[Whereupon, at 9:52 a.m., the hearing was adjourned.]



# **THREAT TO U.S. TRADE AND FINANCE FROM DRUG TRAFFICKING AND INTERNATIONAL ORGANIZED CRIME**

**TUESDAY, JULY 30, 1996**

**U.S. SENATE,  
SUBCOMMITTEE ON INTERNATIONAL TRADE,  
COMMITTEE ON FINANCE,  
CAUCUS ON INTERNATIONAL NARCOTICS CONTROL,  
Washington, DC.**

The hearing was convened, pursuant to notice, at 9:00 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Charles Grassley (chairman of the subcommittee) presiding.

Also present: Senators D'Amato, Murkowski, Gramm, and Graham.

## **OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, SUBCOMMITTEE ON INTERNATIONAL TRADE**

Senator GRASSLEY. Hopefully we will be able to complete our hearing today. It was interrupted last week because of 22 votes that we had a week ago. We have three votes scheduled for 10:00 today, but the interruption of those three votes, hopefully, if they take the normal amount of time, will allow us to, except for that interruption, continue today's hearing and to finish it. So we conclude, then, a hearing that was begun last Tuesday.

This is a joint hearing of the Caucus on International Narcotics Control and the Finance Subcommittee on International Trade.

I want to welcome the distinguished panelists that are going to be with us this morning, and the members of the Caucus and the Finance Committee. We are going to have two Senators testify this morning, Senator Phil Gramm and Senator Pete Domenici, and I thank them for their interest.

This hearing today deals with the threat to U.S. financial networks from illegal drug trafficking. It deals with threats to our free trade system from those who would smuggle illegal drugs into this country, and it concerns those who would then launder their illegal gains using our banking and financial networks. It is about what we need to be doing to stop these activities. It deals with the steps that we must take to protect our citizens and the institutions that sustain our prosperity and well-being.

As I noted last week, we have a major drug use problem in this country. Part of that problem stems from the fact that drugs are widely available at affordable prices. The effects of the drug trade

can easily be seen daily here in our Nation's capital, just a few steps from this hearing room.

The drugs that do such damage in Washington also are causing havoc in cities and communities throughout this country. Virtually all of these drugs come to this country illegally from overseas. Also, increasingly they are coming to our shores in commercial cargoes. They are coming hidden in containers in cargo, and as cargo.

The flow, we all recognize, is staggering, including over 350 metric tons of cocaine almost every year. This poison is crossing our borders using the free trade system. The very goods and products that we import are used as camouflage for these illegal drugs and that is, of course, only part of the picture.

Once the drugs are sold, the criminal gangs face the problem of turning their illegal proceeds into legal tender. They do this by exploiting our financial systems through fraud and deception of every sort. They smuggle their illegal gains into international banking and financial systems.

Worldwide estimates place the sum laundered every year at between \$500 billion and \$1 trillion, much of this in illegal drug proceeds. The sums involved are larger than the budgets of many countries.

This money, once laundered, is then used to produce and traffic in more drugs and to fund illegal activities of every sort. It is used to undermine the integrities of banks and commercial establishments. It is also used to bribe and intimidate local officials and whole governments.

The effects of these activities on governments and legitimate enterprises can be seen clearly in Russia, Columbia, Italy, Mexico. In these countries, criminal activities threaten the very stability of political life. They threaten to overwhelm democratic institutions and decent government.

Less visible is the threat to political integrity in countless small countries that do not have the resources or capabilities to fight back. As a result, a threat to our financial and trade systems is more than just a commercial or business concern.

The consequences are important to our national security and to the health of the principles we profess. This is why it is so critical that we understand the scope of the threat and explore necessary responses.

I am concerned, however, about our efforts. I am concerned that our policies and strategies are not up to the challenge. I am troubled about what we see as trends, and I am concerned that the threat is not receiving the focus and sustained attention it deserves. In the last several years, after a decade of declining use, teenage drug abuse is on the rise.

Chart 1 here indicates that in past months use among teenagers has risen very dramatically over 1992 levels. At this rate of increase, we will see all the gains made in reducing teenage use achieved over a decade wiped out in just half the time it took to achieve it.

As these numbers grow worse, so do hospital emergency room admissions, as we see here in Chart Number 2. Although the numbers have yet to be released, I understand the forthcoming household survey of drug use will only confirm this sad trend. We are

seeing more drug use and the associated consequences, and we are seeing no communities immune.

I do not believe that the return of drug use is an historical accident, I believe that it is directly connected to changes in policies and focus of our drug efforts.

In the last several years, until very recently, we have seen less attention paid to dealing with the drug problem. We have seen the issues down-played and neglected. In particular, our interdiction efforts and international programs have suffered. We have Chart 3 here illustrating U.S. and international seizures of cocaine declining steadily, along with a shift in emphasis.

This shift coincides with cuts to our major interdiction efforts, our international programs, and to the Department of Defense support to detection and monitoring.

As U.S. efforts have lagged, so have efforts in Colombia and Mexico. As the chart shows, seizure rates have dropped sharply here and abroad. The so-called control shift in our interdiction efforts in 1993-1994, shown in Chart 4, coincide with a major decline in our disruption rate.

In addition to these disappointing results, Coast Guard's and Customs' efforts have declined as well. Senator Feinstein has noted that, "The Customs focus to facilitate trade at the expense of enforcement has had negative consequences."

It is only recently that there have been moves to try to change this and raise the profile of our efforts. In the meantime, the trafficking organizations have shifted operations to use jet transport to move drugs, and they have moved increasingly to commercial cargo. We have seen that we are, then, behind the power curve.

Moreover, the velocity of money laundering is increasing and our move towards banking without borders is only facilitating the process. As a result, trafficking and money laundering thugs seem to be getting ahead of our law enforcement efforts. As Mexico illustrates, these organizations can defy governments or undermine their very ability to respond.

As we meet today to discuss these issues, the administration is holding talks with the Mexican Government on these very same concerns. I hope, for all our sakes, that we are going to see meaningful efforts and consistent approaches emerge from these discussions. As we approach the 21st century, we need to work smarter and faster. We need to work with others to achieve our common goals, for if we do not do better, the drug thugs are certainly going to get the better of us.

I now call Senator Gramm and Senator Domenici. They are both here. Would you both come at the same time. Thank you for your participation, your interest in this issue. You speak loudly and clearly on this issue on the floor, and we are glad to receive your testimony now.

I would start with Senator Domenici.

**STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR  
FROM NEW MEXICO**

Senator DOMENICI. Thank you very much, Mr. Chairman, Senator Gramm. It is good to be with you. I will try to be brief.

I would say to the Chairman, that in this morning's Washington Post there is an article that should be of interest to you and your staff. It is styled, "Mexican Anti-Drug Drive Called a Fraud." It is an article from an in-depth interview with Ricardo Corvero, who used to be a part of the anti-corruption team that was established to try to apprehend the major cartel leaders in Mexico.

In his interview, he establishes that, from his vantage point, the Mexican Government, at least the policemen at local areas, police chiefs, and others, are pretty much involved with these groups and that the fight is being lost.

Let me start this brief discussion with a quote. "No country in the world poses a more immediate narcotics threat to the United States than Mexico." Now, this is not a Drug Enforcement Agency quotation, it is the conclusion of the State Department's most recent Annual International Narcotics Strategy Report. The State Department, as we all know, is known for its diplomatic way of stating facts, but this is a very forthright statement of fact.

Let me give you my interpretation, briefly, of the situation. The U.S.-Mexican border is becoming a land of laundered drug money, riddled with corruption and violence, a land run by brazen drug cartels.

I have been a long-time friend of Mexico, and I can vividly recall joining my friend, Senator Gramm. We were the first two Senators to introduce the NAFTA resolution. Now, everybody joined thereafter, but I recall going to the floor with you and we said, if it is good for Mexico and good for us, we ought to do it quickly.

So I am not here just to be a critic. This country is a great country, Mexico. It has a vibrant population and the potential for a promising future. But, Mr. Chairman, I would like to say that the drug cartels, in my opinion, are threatening the very sovereignty of Mexico.

We sometimes say in the United States, *mi casa es su casa*, my house is your house. We have reached a point in history where, when it comes to drug trafficking, the old saying can be written, *me problema es su problema*, my problem is your problem.

The Mexican Government should be concerned as we in Congress are. Nowhere are the effects of drug trade more evident than in the border cities in my State, the State of Texas, and the other adjoining States. In my State, cities such as Las Cruces, places like White Sands, and Sundland Park on our side of the border, and Juarez, about an hour and a half drive from Las Cruces, on the Mexican side.

Ranchers on the border say that a few years ago migrant smugglers were cutting through their fences at night. Now, heavily armed Mexican drug gangs terrorize them in broad daylight.

In places like White Sands, New Mexico, ranchers arm themselves when they go out to do their chores or go to get water from their wells. Some of the ranchers in Texas, we understand, have sold their ranches to gangs or their front men. These drug lords are equipped with night vision equipment, cellular telephones, border sentries and their own intelligence network.

According to the Los Angeles Times, the drug smugglers "have outmanned, outgunned, outplanned the U.S. Border Patrol, Customs Service, and the DEA at strategic points on the Rio Grande."

We are seeing more of our young people addicted to drugs that the Tijuana Mexican Cartel has a virtual production monopoly over because they control the supply of one of the necessary ingredients.

Methamphetamine is a growing problem in my own city of Albuquerque. New Mexicans committing crimes, using this drug, have gone up 400 percent in just 2 years. One major trafficking family owns a petroleum company, is said to use tanker trucks for smuggling drugs, according to U.S. and Mexican law enforcement.

In New Mexico, the relationship between drugs and violent crimes, and the statistics about that, are very, very bleak; 75 percent of New Mexicans arrested admitted to using illegal drugs. Cocaine used by the criminals doubled from 1992 to 1994.

The number of gangs in my State is up. In Albuquerque alone, there may be as many as 21,000 young, and even not-so-young, members of gangs. Gangs and drugs go hand in hand in our part of the world.

On the Mexican side of the border, in Juarez, things are already changing for the worse. Last year, homicides were up 25 percent, 70 percent drug-related and unsolved; 450 newly created gangs like Los Gatos, that means The Cats.

The Cats, or El Puente Negro, the Black Bridge Gang, are battling for control of the streets of Juarez. With so much cocaine entering Northern Mexico, an increasing amount never leaves. Last year, 90 people died of overdoses in Juarez alone, up from five the previous year.

One indication of how the drug culture has penetrated Northern Mexico is found on the radio, where the most popular songs are about drug trafficking adventures, where the drug lords are the good guys, the police are the bad guys. "Mess with the Mafia and pay with your hide," one narco-ballad warns.

A few years down the road, it is entirely possible that these Mexican groups could rise to an equal, or superior, footing with the Cali cartel. If this happens, life as we know it in both the U.S. and the Mexican side of the border will change and eventually have an effect on our country.

Now, Mr. Chairman, all of these developments have prompted a number of us to indicate our grave concern. Obviously, we need much greater cooperation between our two countries, but we need a dose of realism on the part of the government of Mexico.

Last week, I offered an amendment—it was not a major amendment—on the floor of the Senate. But what it essentially was addressing was that 99 indictments on our side, American indictments, serious indictments where we spent blood and resources to get them, one of those people have been extradited from Mexico.

Now, the Mexican Government can talk all they want about cooperation, but that kind of record is not a record of real effort to be a real neighbor in recognition of a real, major problem. So I think we ought to start, all of us, insisting that justice be brought to the leaders of the drug cartels in Mexico, and that we continue with our efforts, but Mexico continue with theirs. I hope they still can do this.

Miguel Caro Quintero, one of the top three most wanted Mexican drug lords, called a radio station. He told the radio talk show host, "They, the Mexican Government, do not find me because they do

not want to. The newspaper, El Financiero reported I go to the banks, I drive along the highway, I pass through the military and federal judicial police checkpoints, and it does not matter that they know me. Everybody knows me."

Now, he is one that we have indicted for serious crimes, a whole gamut of indictments has already taken place. Other indicted kingpins live openly and notoriously in Mexico. It makes me wonder whether our indictments are worth the paper they are written on.

Obviously, second, we need more border agents. I believe this year, as in the past, when Senator Gramm and I took the lead in adding significant numbers of border patrols, we will add 200 more than the President requested, up to about 900.

In 1996, our law enforcement agents frequently captured tons of drugs all at one time, and they estimate that they are catching just 5-10 percent, at most, of the drugs moving across the Rio Grande. But I must tell you, at our border entry stations they are telling us that much more illegal drug is passing right there under disguise.

In fact, the night before I arrived at one Border Patrol station they apprehended a gasoline tank filled with cocaine. They had difficulty finding it. The sniffing dogs are about the best, but actually they are getting much, much more brazen and it is not so much in the skies, it is on the ground now.

So this brings me to my last point. We need to do a better, far better job on money laundering laws. That is the subject of this hearing. Frankly, I think we need to convince all nations to enact money laundering laws, because our financial markets have become one global market, with \$30 billion in drug profits, as estimated by the Treasury Department.

It seems that unless and until we can get better at intercepting the money, we will make little progress in stopping the drug trade. Mexico should be commended for enacting tougher money laundering laws, but now we must see some results. A worldwide network is clearly needed at this time.

I commend you for the hearings and, more importantly, for your vital and consistent interest in this issue as the task force chairman.

Senator GRASSLEY. Thank you very much.

Senator Gramm.

#### **OPENING STATEMENT OF HON. PHIL GRAMM, A U.S. SENATOR FROM TEXAS**

Senator GRAMM. Thank you, Mr. Chairman. First of all, let me just say that I agree with everything that Senator Domenici said.

Let me try to just put this in the context of where we live and what is happening there. Two years ago, the problem you faced along the border, in an agency like the Border Patrol, was that you had illegal aliens coming into the country, and basically these were people who, at worst, were going to run from you.

So standard practice in the Border Patrol is, you spot these people, you say for them to stop, they run, you catch them, you apprehend them, you send them back to Mexico. It was a dirty, hard job, but it was not a terribly dangerous job, under most circumstances.

In 2 years, everything has changed along the border. We are now dealing with drug gangs who, for all practical purposes, control their side of the border. They have command posts on their side of the border. They come into our country with automatic weapons, with night vision capacity, with cellular telephone-based communications.

They intimidate farmers and ranchers, they shoot their livestock, they ransack their houses. We have growing evidence that they are pressuring people to sell their property on our side of the border, using fronts to buy that property, in essence giving them control of both sides of the border.

To give you an idea of the kind of problem we are talking about, and the lack of resources, along a roughly 200-mile stretch of border, when you take the number of people who are actually out along the line, along the border, you look at the fact that you have got to patrol 24 hours a day, we will normally have about 80 people in the Border Patrol. We have more police officers guarding the U.S. Capital in Washington, D.C. than we have members of the Border Patrol. We have between 5,000-6,000 in the Border Patrol.

Until very recently, and for all practical purposes, this has not totally changed, they are using 1960s-vintage equipment. They are using sensing devices that were used in Vietnam. We recently got a transfer from the military. I think they got 700 sensors. They had to cannibalize 300 of them to get 400 of them operational.

The active-duty military is now using new generation equipment that is far superior. We have equipment in warehouses and with active-duty military personnel that is far superior to what we are using along the Mexican border, and we have a much greater threat, it seems to me, to American security along the Mexican border than we do in Germany, and, while the threat is certainly different in Korea, it is more clear and present along the Mexican border.

The plain truth is, long ago we should have doubled the size of the Border Patrol. We have the same problem in Customs. In fact, we have a greater problem in Customs because, by and large, their number of agents have not kept pace with the Border Patrol. We need a crash program to train more people, we need to bring sensing devices, and night vision, and infrared capacity directly in from the military, in my opinion.

It is amazing to me that we can transfer out of active-duty military equipment to Israel, we can transfer it to South Korea, when we face a time of potential danger, but we are not doing that to the Border Patrol. We are taking old, obsolete equipment and making that transfer.

I think, to add to what Senator Domenici said, let me make the point that this problem of massive corruption is not something that respects borders. I think the next thing we are going to see, unless something changes dramatically, is an increasing degree of corruption on our side of the border, where the level of intimidation is very, very high, where tremendous amounts of money are involved.

And, while we have great professionalism in the Border Patrol, in Customs, in the DEA, and a long history of people who have been dedicated to law enforcement in our sheriffs' departments and our police departments, the fact that the amount of money involved

is so large, I think, represents a danger that we are going to lose control of our border.

We are seeing all along our border trucks backed up as we try to come to some kind of compromise between letting legitimate commerce through and keeping drugs out. It is a very, very difficult task to perform. In each and every border crossing, we have too few people.

Let me make one other point. It is a little bit off the subject, but I do believe we have a problem in Mexico. Mexico, like many under-developed countries, has not had a long tradition of professional law enforcement. I think they're going to have a very difficult time in going back, beginning at the federal level, where we do have people who are reliable, who work with us, and then down to the State level, where the degree of reliability starts to fall, and to the local level, where it falls further.

I think it is important that we try, to the degree that they're willing to take our help, to help Mexico there. But I think we need to be concerned about the same things in our own country.

Finally, we have got to do something about the demand for drugs as well. I was on the conference, and perhaps the Chairman was sitting there, on our welfare bill. I have an amendment that denies welfare benefits—now we have focused it better than the amendment we passed on the floor—to people who have drug felonies. Since many of these people are not going to prison, especially for possession and consumption, it represents a deterrent, in my mind.

One of our colleagues in the House, in opposing this amendment, basically tried to make the point, well, look, I am hard-over on this subject. I am willing to invade Colombia, I am willing to do all these things in every other country in the world. But we are trying to help these people who are using drugs on welfare in America.

We are going to continue to lose this war as long as we treat the people selling drugs as criminals and we are not willing to treat the people buying drugs as criminals. Today we try to treat them as victims. The problem is, every time we have a success in interdiction, price goes up. When price goes up, profits go up. When profits go up in selling drugs, more people devote more energy and more talent to getting drugs into the country.

If we could reduce consumption, demand would go down, price would go down, profits would go down, and the incentives to bring the drugs into the country would go down. We are going to have to do both if we are going to do something about this problem.

Senator GRASSLEY. Well, I have no questions, but I do want to thank you for appearing because you and your people are obviously on the front lines of this drug war. You see it even more than we do. To have your expertise brought to our committee, and for the permanent record, is very important for a complete understanding of this.

We thank you, and I look forward to working with you as we try to find more solutions. Senators, thank you very much.

I will call the second panel. While you are coming, I will ask Senator Murkowski to make his opening statement.

We are fortunate to have Mr. George Weise, the Commissioner of Customs; Ambassador Jeffrey Lang, the Deputy Trade Representative; Mr. Stan Morris, Director of the Financial Crime En-



forcement Network; and Mr. Jonathan Winer, Deputy Assistant Secretary of State for the Bureau of International Narcotics and Law Enforcement.

Their expertise covers a range of policy and enforcement concerns that we have in this hearing, and that we have as a country. These concerns are involved in developing responses to the challenge of drug smuggling and money laundering.

Senator Murkowski?

**OPENING STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S.  
SENATOR FROM ALASKA**

Senator MURKOWSKI. Thank you. Let me wish the panel a good morning. I listened with great interest to our two Senators, Senator Phil Gramm and Senator Domenici, relative to their firsthand observations and their constituents' experience with regard to this terrible problem.

You will recall, Mr. Chairman, last week we had Secretary Rubin, and I think I brought to the attention, or at least it was my concept, to suggest that Mexican cooperation in apprehending and extraditing the drug traffickers left a lot to be desired.

I also questioned Mexico's commitment to enforcing its own laws on government corruption and money laundering. I feel it is going to be very difficult to just expect that we are going to be able to get a handle on this money laundering when there are so many avenues out there and offshore facilities that are available for money laundering.

But I do want to applaud Senator Domenici and Senator Gramm for their leadership in this area, and you, too, Mr. Chairman. I think the action proposed by Senator Domenici for convincing this body to basically rise up and say enough is enough to the scourge of drugs that are flowing across the border is to be commended.

I think we had, Mr. Chairman, an overwhelming vote of 96 to 3 to send a strong signal to Mexico that it simply must live up to its promises. I co-sponsored that measure, which will condition U.S. military training and assistance on the extradition of indicted drug kingpins now hiding in Mexico.

What I think we have here is a situation where no one wants to damage the special partnership and the relationship that we have with Mexico, but there are limits to our patience.

The situation, I think, is rapidly deteriorating. It just is not getting better. Corruption runs rampant within the Attorney General's Office; the federal police, even the former President's family has been involved; laws to root out corrupt civil servants have not been enforced, while recently passed legislation criminalizing money laundering are simply gathering dust and we all know it.

Prosecutions are bogging down, trials never seem to end. All the while, agents on both sides of the border are out there risking their lives. Each day, they are outgunned, they are outmanned, they are under-financed.

I think it was rather curious this morning to find this issue so prominent in the morning papers. I am sure we have seen it, and I think Senator Domenici mentioned the article, "Mexican Anti-Drug Drive Called Fraud."

This is a top Mexican drug enforcement agent saying he discovered that the Mexican Government's top crime fighting organization was so corrupt that his own colleagues were escorting massive shipments of drugs to the U.S. border, serving as bodyguards for drug trafficking, and misusing U.S. anti-drug funds.

The situation, perhaps, makes me fearful for the Colombianization, if you will, of Mexico. I am not quite ready to acknowledge that, but it is a priority of the American people that the drug flow be stopped. Stopping Mexico's slide into corruption, I think, will go a long way in doing just that. Yet, despite this obvious logic, this administration appears to talk tough on drugs and then bend over backwards to accommodate failure. That is unacceptable.

Instead of sending a signal to Mexico of our growing concern by issuing a national security interest waiver, as we did with Colombia last year, the President simply chose to certify that Mexico was fully cooperating with U.S. and international counter-narcotics efforts.

Instead of conditioning aid to prod Mexico to enforce their own laws, the administration increased military education and training money to a million dollars. I do not know what kind of a signal that sends to the Mexicans, but I think it is certainly contradictory.

So I think we are going to have to ensure that the increase in funding for international counter-narcotics efforts, which we passed last week, becomes law. We must also finalize an extradition treaty with Mexico that will allow us to bring to justice the indicted fugitives, and examine whether the annual narcotics certification process is sufficient.

We have to serve notice to Mexico that we expect results and cooperation, not excuses and failures, in bringing indicted drug smugglers to justice. I think the administration has to change its message. You cannot indicate that you are satisfied with the progress on one hand by rewarding them, and simply turn around on the other and expressing your dissatisfaction.

So, Mr. Chairman, I would encourage that the witnesses give us a little enlightenment relative to the inconsistencies that this administration apparently has communicated to the Mexican Government.

Senator GRASSLEY. Senator Graham, I have the first panel ready to go, but if you want to say something in the way of an opening statement, I accommodated Senator Murkowski and I would accommodate you.

#### **OPENING STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM FLORIDA**

Senator GRAHAM. Thank you, Mr. Chairman. Just briefly, of course, to express my appreciation for the panel's presence here today and the insight they will give us.

I had three experiences in the last few months relative to money laundering. One, the concern about the use of the Southwest border and the activities which surround increased economic relations between the United States and Mexico as a new mask for money laundering; second, the HIDA program in Miami, which has had as its principal focus money laundering, and the concern expressed there relative to the use of highly-sophisticated communications

techniques, such as new applications of the Internet for money laundering; and, finally, just three weeks ago, with five Prime Ministers from the Eastern Caribbean who are concerned that their small, vulnerable islands are becoming targets, not only for the traditional drug transit activities, but also for money laundering. So this is a very serious issue. I appreciate the fact that you are bringing this attention to it.

I hope that, with the information that we will develop here today and the common initiatives that the Executive and Legislative branches can take, we can make an impact on this insidious aspect of drug trafficking.

Senator GRASSLEY. We will now turn to the panel the same way you were introduced, Winer, Morris, Weise, and Lang. I would suggest that your entire statement will be put in the record. If the staff would turn the lights on, I would like to have you observe the five-minute rule.

It would be my goal that we would finish this panel by the time we have to cast our first vote, which will start at 10:00, but hopefully I will not have to leave here until 10:15.

Would you start, Mr. Winer?

**STATEMENT OF JONATHAN M. WINER, DEPUTY ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS, WASHINGTON, DC**

Mr. WINER. Yes. Thank you, Mr. Chairman, and members of the Caucus and Subcommittee. I appreciate the opportunity to discuss the multiple threats which drug trafficking and organized crime pose to U.S. trade and finance.

I ask that my full written statement be entered in the hearing record.

[The prepared statement of Mr. Winer appears in the appendix.]

Mr. WINER. Last month, a report to the European Parliament on money laundering considered some of the key questions in an EU context of the subject of today's hearing. The June 6th report stated, "An aspect of money laundering which has not been examined in detail or in depth is its effect on world liquidity, national money supplies, and volatility of exchange rates."

Noting that such inquiries were in their infancy, the report asked the European Commission to find answers to such questions as the velocity of money affected by flows of illegal funds, the impact on money supplies on countries involved in the circuit of laundering, how illegal funds are invested, and the impact of money laundering on the stability of national and regional financial markets.

These are critical, urgent questions that the U.S. and its major partners in the global marketplace need to answer in the future to protect our national security.

For the most part, we do not have answers to these questions today. Both internal and external jurisdictional gaps exist that make it difficult for governments to protect themselves.

In the United States, as in most countries, those who pay attention to money laundering and financial crime in law enforcement have distinctly different jobs and information than those who pay attention to banking safety and soundness, the regulators, as distinct again from those who worry about transnational money flows,

central banks and finance ministries, as distinct again from diplomats who worry about managing diplomatic relationships. The data is broken up in different places, so are the responsibilities.

But, although we do not have all of the data, we do have enough information to analyze the threat and our response from two distinct frames. First, building upon the strategy used to attack major drug kingpins, we seek to identify major criminal organizations and adopt strategies to oppose and disrupt those organizations at every level of their operations.

That approach is articulated in Presidential Decision Directive 42, PDD 42, issued by President Clinton October 21, 1995, to focus the U.S. Government's attention against transnational crime.

The take-down of the Gloria Canales alien smuggling operation in Central America this past year, which involved close collaboration between U.S. law enforcement agencies, the Department of State, and a number of foreign governments, is a perfect example of the broadened use of a linear strategy to take on transnational crime.

In the same manner, we are targeting Nigerian fraud organizations who prey on American businesses. We are also using old tools in new ways to take down drug trafficking and criminal organizations. An example, was President Clinton's innovative use of the International Emergency Economic Powers Act, or IEEPA, in connection with PPD 42, to freeze the assets and attack the front companies of the Cali cartel.

Second, even as we identify organizations that may pose a special threat, we also are seeking to map out the geopolitical infrastructure being used by the criminals, the places of special vulnerability to major economic crime and the places most attractive to major economic criminals. No nation anywhere in the world is immune from having its financial and governmental institutions damaged by drug and crime-related corruption.

Accordingly, we are identifying countries and institutions that are at particular risk and we are adopting strategies to strengthen political will, law enforcement, and regulatory capability so as to make the work of the bad guys more difficult.

Where there are obvious vulnerabilities, the U.S. is not waiting for more data but is acting now to reduce risks to U.S. trade. I would like to provide two examples: Russia and Mexico.

As Russian President Boris Yeltsin, among others, has warned, criminal activity in the former Soviet Union creates serious risk to democracy, free markets, and trade in Russia and among the newly-independent states. Criminal activity is a special threat to Russian banks.

Since mafias, by definition, do not play by anyone else's rules, mafia-controlled and influenced banks create transactional risks for customers and competitors alike that are very hard to predict, as well as systemic and reputational risks to Russian institutions and their partners.

Last year, the Administration identified Russian banking as a key vulnerability for Russia and decided to try to do something about it with funding from the Freedom Support Act. We met with the Russian Central Bank and put together a U.S. Government team of experts from federal regulatory, law enforcement, and for-

eign affairs agencies to work together with their counterparts in Russia to develop new laws, regulations, and investigative capabilities to strengthen the framework for international cooperation against financial fraud and money laundering.

That mean has already begun working with the Russians to build capabilities there. We are doing mutual cooperative bank examinations and inspections, working on drafting of laws, and relationships are being built.

Turning to Mexico, in the context of NAFTA, we are doing the same kind of thing. We needed to streamline and improve narcotics control efforts. Both the U.S. and Mexican Governments are keenly aware of the seriousness of the threat posed by drug trafficking and organized crime, and we are working on various levels to strengthen cooperative mechanisms to counter that threat.

We have established technical working groups to advance cooperation in specific areas. Senior law enforcement personnel meet regularly to oversee the whole scale of cooperation, and we have established a military working group which coordinates anti-drug cooperation between the U.S. and Mexican militaries.

There are some other things that we are doing in Mexico, Mr. Chairman, but I am sure we can get to that in the Q&As. I do not want to go over my time. Thank you very much.

Senator GRASSLEY. Mr. Morris.

**STATEMENT OF STANLEY E. MORRIS, DIRECTOR, FINANCIAL  
CRIMES ENFORCEMENT NETWORK, U.S. DEPARTMENT OF  
THE TREASURY, VIENNA, VA**

Mr. MORRIS. Thank you, Mr. Chairman. As you pointed out, both in your letter setting up the hearing and reaffirmed in your remarks this morning, as well as the comments that Senator Graham made, as the 20th century draws to a close, the globalization of financial and commercial systems is becoming a reality.

The advent of the 21st century is also ushering in new technologies which are further restructuring the way commerce and finance are being conducted. A more open trade environment and the development of advanced technologies is inevitable and there is going to be an important and exciting change in our marketplace.

But, just as those changes provide great new opportunities for new entrepreneurs, they also provide new opportunities for the criminal element. They make our job more difficult. They make us change, those of us in law enforcement, as well as those looking at the whole area of financial matters. We look more creatively at how to deal with these issues.

The small agency that I head, the Financial Crimes Enforcement Network, really has four principal functions. First, it is a regulatory agency. We administer the regulations that are the counter-money laundering initiatives established by the Congress over the last 25 years.

It is also an analytic agency. We provide support to our Customs colleagues, as well as IRS, FBI, and literally over 150 others in terms of support in what goes on in the movement of money, both in this country and abroad. We try to serve as an intelligence agency.

Finally, and most importantly, we are a network. We try to bridge as Mr. Winer says, those chasms that exist between how governments are organized. Clearly, the way central banks look at issues are different than the way finance ministries look at issues, and the like.

In our agency, we have over 25 different agencies represented, with full-time people from all of those components working together in a collaborative way.

There are really three ways we address this very complex and changing issue. They are through partnership, through innovation, and through flexibility. We are seeing, we believe, some results.

In terms of partnership, it is clear that the government cannot address this problem alone. We have built a very solid foundation with our financial sector. The banks of this country are as concerned about the problem of illegal money as we are, and they provide a very useful support to us. We have set up new systems in terms of trying to do that. We have also developed partnerships with other countries and other components around the world.

Innovation. Technology is good for law enforcement, and it provides opportunities for criminals. It seems to me that we need to use the new technologies aggressively. We just put in place some 3 months ago, for the first time, a comprehensive, new system by which all suspicious reports, as they relate to money laundering or bank fraud, will go to a single place, and that single place is the law enforcement agency I belong to.

But they will be accessible to all of the appropriate Federal law enforcement agencies, to State and local law enforcement agencies, as well as to the bank regulators, so that we take a data system and we make it useful to as many different players as possible. All of those organizations that I mentioned that have to be dealt with the problem, as Mr. Winer said, if we are going to successfully address this problem.

Finally, we need to be flexible, and we can do that as a network. We do, indeed, need to engage all of the necessary players if we are going to be successful. We have done things such as aggressively using the Internet. We have looked at the changing nature of financial services as we approach the 21st century. It is clear that there are potentials for great threat to us in law enforcement. Secretary Rubin has been looking closely at both the opportunities and risks of new payment services, microchip cards, abilities to move money over the Internet, and the like.

We are recognizing the complexity. There are some results, however. I think it is a mistake if we do not focus a little on where we have been. Ten years ago, the United States criminalized money laundering, the first major Nation to do that. Today, 60 nations have anti-money laundering laws.

Four years ago, there were only four agencies like ours bridging those gaps; today there are 22. The cost of money laundering, the cost to the criminal element, was about five percent of their operating expenses in the mid-80's. It is more than 20 percent of their operating expenses today.

So, progress is being made. But change is an opportunity and a risk, and we look forward to working with our colleagues through-

out the Executive branch, with the Congress, and with this committee to try to address it.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Morris appears in the appendix.]  
Senator GRASSLEY. Mr. Weise.

**STATEMENT OF HON. GEORGE J. WEISE, COMMISSIONER, U.S. CUSTOMS SERVICE, WASHINGTON, DC**

Mr. WEISE. Thank you, Mr. Chairman and members of the subcommittee. It is a pleasure to be here today. I would like to thank you for your support, and also thank you, Mr. Chairman, for your strong letters of endorsement for Operations Hard Line and Gateway, two Customs anti-drug smuggling initiatives which promise to be tremendously successful.

The role of the United States Customs Service in the campaign against drug smuggling is absolutely critical. Our job is to stop illegal drugs from coming into this country and to stop the profits from illegal drug sales from going out of this country.

I want to make absolutely clear for the record, Mr. Chairman, that there is no mission more important to the U.S. Customs Service and has a higher priority than achieving just that.

Some have argued that our priorities are misplaced, that we spend too much time trying to facilitate trade. But one of the things that I think the committee has to understand is the challenges we faced in terms of the sheer volume of trade in which we try to do this enforcement work.

Last fiscal year, Customs processed almost 15 million commercial entries. By the year 2010, this number is expected to increase to 40 million entries, nearly a 300 percent jump. In addition, the number of passengers passing through our ports of entry will increase from about 425 million people to nearly 650 million people.

Couple these developments with tight budgets which extend into the foreseeable future and it is clear that we have our work cut out for us. We need to find a way to prioritize our work to get our enforcement work done, which is our top priority. If facilitation was our mission, we could stand aside and let the trade flow. But we have to prioritize and use risk analysis and try to do the best we can with very tight resources.

Senator Gramm talked about the need for more people in both the Border Patrol and the Customs Service. Over the course of the last 3 years, the Immigration and Naturalization Service budget, which includes the Border Patrol, has increased by 72 percent, while the budget of the U.S. Customs Service has remained static.

Although the challenges we face are substantial, they are not insurmountable. Expanding trade and tightening budgets may give smugglers new advantages, but, given sufficient resources, the shrewd use of these resources, and innovative law enforcement ideas and technology, we can turn the tide against drug smugglers.

Operations Gateway and Hard Line are perfect illustrations of this point. Gateway is a relatively new program, with early successes, while Hard Line has a proven track record. Initiated early in fiscal year 1995, Hard Line was the principal reason for record-setting drug seizures along the Southwest border last year: 51,000 pounds of cocaine, 137 pounds of heroin, and just over 400,000

pounds of marijuana. This year, the number of seizures and the amounts we have seized continue to climb nationwide.

We are also turning increasingly to the private sector, trucking companies, importers, shippers, and airlines to help us in the fight against drug smugglers. I am pleased to report that in the next few weeks American manufacturers with plants in Mexico will unveil plans to dramatically increase security at these plants to prevent internal smuggling conspiracies.

In the area of money laundering we are also scoring significant victories, although, again, the challenges that we confront are difficult. The drug lords have found ingenious ways to use legitimate businesses and financial institutions to clean the proceeds from drug sales.

Let me describe a few recent Customs cases. Operation El Dorado. Thanks to this multi-agency investigative operation based in New York, we seized more than \$100 million primarily destined for Colombia. Smugglers relied on storefront wire remitters to make amounts of cash under \$10,000 and transfer them outside the country.

American Express Bank International. In 1992, Customs seized a portfolio valued at \$30 million from American Express Bank International. The money laundering scheme in this instance represents a good example of the ease with which dirty money can find its way into the economy.

Two Texas bank employees opened accounts in Switzerland and New York with cash flow across the border from the infamous Garcia Abrego gang in Mexico. These two individuals subsequently went to work for American Express Bank as directors.

Using the drug money as collateral, American Express issued a series of loans for meat packing companies, real estate companies, computer companies, and car dealerships. To date, this investigation has yielded more than \$47 million in drug proceeds, more than 10,000 pounds in seized cocaine, and indictments lodged against 40 people.

Operation Cornerstone. This Customs/DEA investigation lasted 4 years and produced some truly spectacular results. It began with the discovery of 32,000 pounds of cocaine smuggled into the United States in concrete fence posts.

Investigators eventually were led to a number of car and truck dealerships owned by the notorious Cali cartel that were used both to smuggle drugs within the United States and to launder drug sales' profits. Ultimately, 78 people were indicted in this case, including a former Chief of the Office of International Affairs at the Department of Justice.

As the three cases I have summarized illustrate, the opportunities for introducing drug money into the legitimate economy are numerous. We are moving forward against money laundering, just as we are against drug smugglers. We continue to commit to work with you and this committee to do even better in the future.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Weise appears in the appendix.]  
Senator GRASSLEY. Mr. Lang.



**STATEMENT OF HON. JEFFREY M. LANG, DEPUTY U.S. TRADE REPRESENTATIVE, WASHINGTON, DC**

Mr. LANG. Thank you, Mr. Chairman. I am pleased to be here today with my colleagues to supplement the testimony of Secretary Rubin and Deputy Secretary Summers. I hope our testimony will underscore the administration's unyielding commitment to combat this sophisticated menace of international illegal drug trafficking and money laundering, and the strong efforts of my colleagues from the Customs Service, the Department of Treasury, State, and the Office of National Drug Control Policy.

With respect to trade policy, the President has pursued an aggressive trade policy to open markets in both developed and developing countries. The reason is very straightforward: it improves the standard of living in the United States. For that reason, the administration's policy is to continue open markets.

This has had a substantially beneficial effect on our economy which we cannot forget. U.S. exports to the world have risen 31 percent since 1992. Trade accounts for roughly one-third of our Gross Domestic Product. Jobs supported by exports pay 13-16 percent more than other jobs and are generally more secure. The number of export-supported jobs has risen by an estimated 1.1 million people between 1992 and 1995. There are 11 million people now involved in trade.

We are the world's most competitive, large economy. We can continue to succeed as exporters, but we must have an aggressive market opening strategy.

In the case of NAFTA, the story is pretty good, too. U.S. exports to Canada and Mexico support about two million U.S. jobs, and the number is growing as the exports continue to grow.

In the first 5 months of 1996, U.S. exports to Mexico are up 31 percent over 1993, which was the year prior to NAFTA implementation. Exports to Canada in the same period were up 35 percent. Our first and third largest trading partners will continue to serve as major sources of our export growth, thanks to NAFTA.

Now, it is true, as my colleagues have said, that drug traffickers want to take advantage of these facts. That is not a reason to turn our backs on international trade, trade agreements, and the enforcement of those agreements, but it is a reason to do everything we can to root out this illegal activity.

Our trade policy should reinforce law enforcement. Specifically, first, all of our trade preference programs—GSP, the Caribbean Basin Initiative, the Andean Initiative—are subject to conditionality related to narcotics and drug trafficking. These trade laws also provide us the flexibility to withdraw the preferential treatment and take other steps to the extent necessary to encourage a country in an area of counter-narcotics cooperation and performance.

Second, in our reciprocal trade agreements, such as NAFTA and the WTO, we have reserved for the United States the absolute right to protect ourselves on law enforcement matters. Not to put too fine a point on it, our moral and legal domestic obligations to protect our citizens and police our borders take precedence over any trade agreement.

Finally, USTR will continue to work with our law enforcement agencies to ensure their input into the trade negotiation process.

The expansion of legitimate international trade and the continued administration effort to conclude and enforce new trade agreements, we think, go hand-in-hand with the vigilant effort by the administration to stop cross-border illegal drug trafficking and money laundering.

The administration is committed to take the necessary steps at home and with our trading partners to address the menace, and we at USTR will continue to work in a coordinated administration effort toward that goal.

I appreciate the opportunity to testify, and will be glad to answer your questions.

[The prepared statement of Mr. Lang appears in the appendix.]

Senator GRASSLEY. Thank you. We will take five-minute rounds now, and hopefully then we will be done with this panel by the time the first vote is about ready to end.

We have heard this morning reference to this newspaper article about serious doubts about Mexico's performance. In addition, a former Mexican senior law enforcement official said recently, and it is in this article as well, "The Mexican Government is lying to the American people when they say they are fighting drugs."

I know the administration is holding discussions with senior Mexican officials today. We have also glowing words from the administration about Mexico's cooperation. The administration is also seeking to give more counter-narcotics assistance to Mexico.

I would ask each of you, or, if it is not appropriate to ask each of you, those who feel you can speak for the administration, just what confidence do we have in the ability or willingness of Mexican authorities to use this equipment or other aid that we are giving them to take meaningful action, particularly in light of what was spoken of today in the paper?

Mr. WINER. Thank you, Mr. Chairman. I think I would like to, first, briefly analogize the situation in Russia with the situation in Mexico on this point. Russia has its share of corruption problems, which Russian government officials acknowledge.

What we have done, is we have looked for places that we can go to try to build capability, build transparency, and, over time, develop institutional capabilities which, by themselves over time, begin to create more integrity to the system and improve the functioning of the system in order to reduce risk overall, reduce corruption, and reduce crime.

We have essentially the same strategy in Mexico. We believe it is possible for a nation to combat organized crime and widespread corruption, but you cannot do it in 24 hours, or in a week, or in a month. It takes considerable political will and it takes years of concerted effort.

The drug trafficking problem in Mexico is very serious, and the pervasiveness of narcotics-related corruption is making President Zedillo's task even more difficult. President Zedillo has, however, taken a broad institutional approach to the problem.

A few days, or maybe it was a couple of weeks, before he came into office he met with some senior U.S. officials and talked about the priorities for his presidency. This was before the peso crisis. He

said, my predecessors focused on economic issues, I hope to focus on law enforcement and legal institutional reform efforts; it is absolutely critical to consolidate Mexican democracy.

What then happened was the peso crisis, which took an awful lot of attention in the months to come. What we have also seen, however, is that President Zedillo has taken a broad institutional approach to the problem.

He and Mexican Attorney General Lazano have focused much of their energies during the first year of the administration on reorganizing and reforming the law enforcement and judicial systems, including measures to attack and prevent corruption. These have included background checks and drug testing.

They have also developed an expansive legislative reform package to provide Mexican authorities the legal tools they need to combat sophisticated modern organized crime.

Mexico did not have money laundering laws prior to this spring, now they do. The next question will be enforcement, but that is a major significant change. It is a commitment that was made and a commitment that was carried out.

These are long-term efforts. No nation solves these problems overnight. The United States still has its problems with corrupt officials, every country in the world has problems with corrupt officials. It is something that you have to be absolutely, formidably aggressive against.

Senator Gramm talked about the lure of drug money and how he is concerned about the impact of that on our side of the border. It should be of concern. These are not easy issues. Thank you, Mr. Chairman.

Senator GRASSLEY. Anybody else want to comment on that for the administration, particularly as it relates to Mexico?

Mr. MORRIS. Let me just make one brief comment, Mr. Chairman. We have become much better in the United States, at least at dealing with the access to our banks by drug traffickers and the like; the ability to bring satchels of cash into the banks in New York and Miami or anywhere, no longer exists. In fact, this was the case just a short while ago. It is no longer the case.

The drug problem, the U.S. drug demand problem, has pushed some of these problems into Mexico. Indeed, a lot of the money laundering problems you see in Mexico are there because we have gotten better in the United States in dealing with those problems.

We have a special obligation, it seems to me, in light of the fact that much of this is U.S. dollars buying Colombian narcotics and it is trafficking through Mexico, either dollars going down or drugs coming back up, to work with them.

Teams have been down there, both from my agency, State, Customs, and the like, working with the Mexican Government. They have over 100 people assigned in Hacienda, the counterpart agency to the Treasury Department, dealing with this issue, which has grown significantly since, as Mr. Winer said, they criminalized money laundering last spring. Thank you.

Senator GRASSLEY. I am going to go to Senator Graham. Just let me say in closing on this point, that we have not seen the progress in extradition that we should see if there is cooperation.

Then articles, such as the one in The Washington Post today, ought to cause each of us to think in terms of the extent to which we may be hoodwinked into thinking that we are getting more cooperation than we are actually getting, still understanding the seriousness of the problem and that you cannot do it within 24 hours, as was suggested. But the point is, we may not be making the progress we think we are making and we ought to be looking at it a little more seriously.

Senator GRAHAM. Thank you, Mr. Chairman. In the first 5 minutes I would like to focus on the issue of the international effort to combat money laundering. At the Summit of the Americas in December of 1994, the participating countries undertook a series of commitments relative to drug laundering.

I wonder, Mr. Morris or others, if you could comment, first, as to the extent to which the United States has come into compliance with the commitments that we undertook, and, second, what is the status of the other participating nations?

Mr. MORRIS. I can answer, Senator Graham, on the somewhat narrow area of money laundering, which is the primary subject of this hearing. The President brought the heads of government together in Miami in December of 1994, and then we went through a series of working-level meetings in 1995, culminating in a meeting of about 30 different nations in Buenos Aires, chaired by Secretary Rubin. In Buenos Aires, we establish a communique and a commitment by all of the countries of this hemisphere to bridge the necessary gaps that had existed in our money laundering laws.

As we all know, this is a little like pushing on a balloon. You push it in one place, if we get better, we will push the problem to Mexico and Canada. If Mexico and Canada get better, we will push the problem elsewhere, and on and on. So, clearly, there needs to be a level playing field. Those minimum standards were established in Buenos Aires.

In my own sense, it was perhaps even more important that the Secretary met with all of the finance ministers, as a follow-on to the Summit of the Americas, in New Orleans in April. Finance ministers, as you know, get together, historically, and discuss economic development, capital markets, problems of poverty, problems of loan repayment, and the like. A major item on the agenda of that meeting was money laundering.

A commitment was made by the finance ministers to pay attention to this issue. Just as Mr. Winer said, this is not just a law enforcement matter, it really needs to bring all of the elements of the governments together.

I think, as importantly, the finance ministers called on the Inter-American Development Bank to support programs of anti-money laundering within the hemisphere, the first major effort by an international lending institution for a commitment outside of traditional areas.

So, clearly, there is a commitment to deal with this issue, although I will say, again, as Jonathan said, this is a long-term effort, not something that is going to be measured in even months or years, but probably decades. Thank you.

Senator GRAHAM. On the second part of the question, in terms of the degree to which other countries have done the sorts of things

that were suggested and to which they committed themselves at the Summit of the Americas to increase their bank regulatory systems to pass appropriate legislation, not only against money laundering but also to facilitate forfeiture of money laundering funds, is there a record, country by country, of where we stand in terms of coming into compliance with those commitments?

Mr. MORRIS. There certainly is. The cable traffic that I see daily is almost breathtaking. Just within the last week I have seen major steps being taken in Paraguay, and in Brazil, and, of course, we have been working with Panama, and the like. Of course, the State Department—and I will turn the podium over to Mr. Winer—monitors this as well.

Mr. WINER. Senator Graham, in the International Narcotics Control Strategy Report mandated by Congress, which came out in March, we actually decided to list every single anti-money laundering standard we could think of in an appendix and country-by-country lists of which countries has passed which laws. There are, in fact, an enormous number of Ys, for yes, next to, does this country put this kind of law in place against most of the standards. There are still some noes, but there is very dramatic movement.

Organizations like the Financial Action Task Force, which Mr. Morris has run during the U.S. Presidency out of Treasury, have, bit by bit, been ratcheting up their standards.

For example, a major achievement of the administration and of Mr. Morris and the Treasury this spring was obtaining agreement by the Financial Action Task Force, which is an outgrowth of the G-7 and the OECD, to broaden the predicate offenses for money laundering from narcotics only, to all serious crimes.

What that does, is that allows law enforcement officials, when you have done that, not to have to prove that money which they can show is dirty money came explicitly from narcotics trafficking. It makes it much easier to enforce anti-money laundering laws.

It was very hard to ratchet up that standard further. We could not have done it 3 or 4 years ago, but we did do it in June. It is a very impressive achievement. We are, similarly, seeing the same kind of action in the Caribbean Financial Action Task Force, which got started very slowly but is now gathering speed. Costa Rica is leading the charge on that. They want the Central American countries to ratchet up their capability.

We are seeing the Caribbean countries coming to us saying, we need training, we need help, we want to do it. It is a very different atmosphere and we are very encouraged by it.

Senator GRAHAM. Mr. Chairman, if I could just make one concluding comment. First, I am encouraged by the report that we just received. One area that I hope that Treasury might give some increased focus to is the development of the process that would lead towards tax treaties in the hemisphere, of which today we have very few.

One of the typical preliminary steps is the development of a framework with the country which includes things such as effective financial regulatory control systems, which not only help enhance our commercial relationships, but also strengthen our law enforcement capabilities. I hope that the Treasury would give a new priority to moving towards tax treaties in the Western Hemisphere.

Senator GRASSLEY. Senator D'Amato.

**OPENING STATEMENT OF HON. ALFONSE M. D'AMATO, A U.S.  
SENATOR FROM NEW YORK**

Senator D'AMATO. Thank you very much, Mr. Chairman. I know we are racing the clock here; I think the votes are going to start at 10:15. But I want to commend you, seriously. I know these hearings always start out with, "Mr. Chairman, I want to commend you for the timeliness of this hearing." Most of that is just superficial claptrap; we all say it. When I am chairing a hearing they say, "oh, Mr. Chairman, thank you." They are sorry they are even there.

But, in this case I mean it and I think you are to be commended because this is overdue and this shows initiative on your part, and it is so important

I would also like to take just a couple of seconds to say that one of the truly remarkable things that this administration has done, and I commend them, is picking someone like Stanley Morris, who has just done an outstanding job over the years in attempting to really fight the drug cartel and the money launderers.

He has been on the forefront and has been a great U.S. Attorney, so I am delighted and pleased to see that and to welcome Stanley, in particular, as well as the other panelists, but I know of his work, having read of it, having worked with him, having followed in a number of cases. So that is an outstanding accomplishment.

Thereafter, we are tragically, tragically lacking. Tragically. Mr. Winer, when I hear your remarks, I have to tell you something. I mean, do not talk to us where you compare Russia and organized crime and Mexico. Mexico is on our border. We are sending billions and billions of dollars to help an ally. We have a treaty with them that has been in existence since 1978 in terms of extradition, the Chairman alluded to it.

I am sorry; I just got off a plane a little late to get here and did not know the hearing had been moved up, and did not hear the comments of some of my colleagues.

But I am certain that they have alluded to, as the Chairman has, the lack of progress. It is laughable. It is absolutely unacceptable. Unacceptable. Killers, people who have killed our own agents, and we cannot get them extradited. You really think we have done something and we have made this a priority? We ought to be ashamed of ourselves.

Let me read you a part of the testimony. "On January 19, 1996, Border Patrol Agent Jefferson Barr was shot and killed while interdicting a group of drug smugglers in Eagle Pass, Texas. One of his assailants was wounded in the exchange. He fled to Mexico, where he was captured." He killed a U.S. agent. Worked for you, did he not, this agent, Mr. Weise?

Mr. WEISE. No. Border Patrol is INS.

Senator D'AMATO. Yes. Killed him. FBI interviewed the suspect in the hospital. The United States subsequently charged him with murder and sought his extradition. The government in Mexico has refused to extradite him.

Now, when you have a U.S. agent who gets killed, the FBI identifies the killer, cannot extradite him—99 requests for extradition. One. Just before we called the hearing we got one. It is laughable.

There is no enforcement. These articles where the drug agents who are trying to do a job in Mexico speak out, they are truthful.

Now it is Zedillo the Great; before, we had the other guy who was great. You have a country that is being taken over, our borders are being penetrated, banks are being purchased by the drug lords. They are taking them over. We are not demonstrating any sufficient muscle to get the Mexican Government to do anything.

Between now and the election we will do a lot. Previous administrations, always between now and an election, they run out, they put in more border agents, et cetera. After the election it is different. Come on, Stanley. You have been through this. Agents disappear, hiring freezes.

But I want to tell you something. For you to get up here, Mr. Winer, and tell us that we have to be patient, that is nonsense. You have had an extradition law since 1978 and we cannot extradite any criminals, and now you tell us, "oh, guess what, they just passed a money laundering bill and that is real progress." It is not progress if this is the kind of thing that is taking place.

Your own State Department says, "Mexican criminal group facilitates the movement of hundreds of metric tons of cocaine from South America. 50-70 percent move through Mexico." Later on it says, "Mexico's banking and financial sector lacks—lacks—adequate controls on money laundering and has become one of the most important money laundering centers in the Western Hemisphere." That is from the State Department, March 1996.

If we lack the will to not only request but demand of our allies and friends basic cooperation by giving us back killers who have been tracked down, minimum—they could not even let go of one low-level guy—then I just have to tell you, I do not think you should be participating, I think you should be up here saying, look, they are not cooperating. It is obvious.

I think you ought to be ashamed of yourself, telling us we have to be patient, they are making progress. For you to suggest they are making progress is unacceptable. Unacceptable. It is wrong. I do not understand why we have to run around and make believe. It is like the king who has no clothes, and we say he has got a wonderful suit. He does not have a wonderful suit, and everybody sees it.

We should not be continuing to countenance that, because we send the wrong signal to our friends and our allies. We should be letting them know very clearly, very visibly, very forcefully. We did not do much better in past administrations either, as related to dealing with the border. Whenever you have an election approaching everybody got more resources, et cetera. Then afterwards, why, it just happens to go off the table. So what do you think allies think?

Mr. Chairman, again, I thank you for calling these hearings and I just hope we can develop the kind of attitude that says we are not going to countenance what is taking place. It is wrong. It is killing our kids, killing our neighborhoods, and we can, and should, be doing better.

Thank you, Mr. Chairman.

[The prepared statement of Senator D'Amato appears in the appendix.]

Senator GRASSLEY. Senator Gramm and Senator Domenici painted a picture, but I think the most important thing to emphasize about their statement would be the extent to which they said, just in the last two years, how things in drug trafficking and law enforcement and violence along the borders that they would see and their people would see every day, how it has deteriorated so much in the last 2 years.

Albeit good intentions of all of the departments who are testifying here about how things are being done to stop, still, I do not know whether there is a realization of how bad things have gotten in just the last 2 years and that our response parallels that deterioration in two years.

Our response may be more in tune with the way things were 3, 4, or 5 years ago. What are we doing recently? Now, it takes a while to gear up, but we have to recognize that things are getting dramatically bad in order for improvements to take place, is what I would suggest.

Senator D'AMATO. Mr. Chairman, if I might, and with the graciousness of our colleague Senator Graham, it really seems to me, though, that we are not going to get any place or make any significant progress without real cooperation—real cooperation—from the Mexican authorities at the highest levels.

They have got to become involved in it. They have got to really be doing the job as it relates to breaking up the kind of incredible controls in some of these provinces that exist where the drug lords have taken control of the local government, et cetera. Without that, the agents on the border just can not do it. They cannot win it.

So unless we tell our ally and our friend, wait a minute, we are not going to continue business as usual, we are not going to continue the normal traditions because you are allowing these cartels to operate in such a way that they are doing violence to your friend and neighbor, the United States, the best of operations cannot succeed unless we get the cooperation—real cooperation, not just lip service—from the Mexican Government.

Senator GRASSLEY. Extradition would be the one thing that would show very visibly that cooperation.

Senator D'AMATO. And that is just a minimal effort, Mr. Chairman.

Senator GRASSLEY. Minimal, yes.

Senator D'AMATO. That is just a minimal effort. They cannot even reach the minimal effort.

Senator GRASSLEY. Senator Graham.

Senator GRAHAM. Mr. Chairman, I know we have a vote under way. If I could turn, for a moment, to Commissioner Weise, who made the comment about the relative allocation of resources to his agency as contrasted to some of the others with responsibility for border protection.

I am very concerned about some of the evidence of the use of the Southwest border for increased traffic for both the transfer of illegal drugs and as a subterfuge for the laundering of money.

Some information which your agency has distributed indicates that last year there were some seven seizures of cargo on the Southwest border, and during the first 9 months of this year, there



have been 11 such seizures, which would indicate both an increased use of the border and increased enforcement.

My question is, do we have a system that attempts to allocate our resources for drug enforcement in some consistent pattern that creates a balanced response, that is, that we provide an adequate amount of money for all of the different agencies that have a responsibility for drug enforcement from the front-line agencies such as yours, through the back-end prosecution and judicial processing?

Senator GRASSLEY. Before he answers, I want to suggest that we will go vote, and then when you are done getting your question answered you can dismiss the committee. We will take a recess.

You folks will not have to come back, but we will have questions for you to answer in writing, please, from members who were not here, as well as even myself, because of time. Then we will have, just as soon as the votes are over, the third panel.

So, thank you all very much for your participation.

[The questions appear in the appendix.]

Senator GRASSLEY. Go ahead and respond to Senator Graham.

Senator GRAHAM. If I could just supplement the statement that I made in terms of quantity. During fiscal year 1995, there were 3,189 pounds of cocaine seized in commercial cargo shipments along the Southwest border. Again, through the first 9 months of this year that has gone up to 13,655 pounds of cocaine in cargo.

Mr. WEISE. Senator Graham, there seem to be two aspects to your question. One, in the macro sense, how the budget is allocated between agencies and amongst agencies, and, second, you seem to be asking, how do we do it within Customs; with the resources have, how do we make allocations? If I am correct in summarizing your questions, I will try to address both of those.

First of all, I think that there is some frustration within various bureaus and departments as to how the overall picture is put together. I think a lot of it is inherent in terms of the structure, both the committee structure of the Congress with the Judiciary Committee overseeing the Justice Department bureaus, and other committees overseeing the Treasury Department.

There has been a long frustration, I think, in the Treasury Department that, as far as law enforcement is concerned, frequently the Treasury Department gets the short end on that. That is something that I think is not new. It has been going on for many, many, many years.

As I said, the specific example they gave is that we work side by side on the Southwest border with the Immigration and Naturalization Service and the Border Patrol. They have announced that their budget has increased by 72 percent. There was a very real need for that increase, and they have done a remarkable job.

I would give them all the credit in the world for the way they have spent the money in a very productive way to deal primarily with illegal immigration, but also the spill-over doing effective work on drugs.

We, in the Customs Service, have had pretty static budgets for the last 3 years. We have done an awful lot of things within our own power, including completely restructuring ourselves, reorganizing ourselves, eliminated regions, reduced the size of our head-

quarters, reinvested up to 1,000 people from our existing structure to try to put those people in the most effective place.

We have measurement standards, and some could question how you measure it, and we try to measure the productivity of our inspectors, of our agents, in various geographical areas.

As you know, you have been through it in South Florida, where, in the 1980's, that was where the battle line was drawn. We put virtually everything we could put down in South Florida to deal with that problem. We had a significant air program, a marine program, lots of inspectors and canine enforcement officers, and I think we had a tremendous impact.

Frankly, I think many would acknowledge that one of the reasons that we have a lot of problems on the Southwest border now is because of our success in the Southeastern part of the United States because, as Mr. Morris mentioned, this balloon effect is not only true in money laundering, but also in narcotics smuggling. They will try to take the path of least resistance. I think we, as a government, have difficulty being swift in moving resources.

One of the reasons is it is very costly. It costs between \$50,000 and \$70,000 a person to make a permanent change in station to move an agent from one location to another. That makes it very difficult to be very quick in responding as the changes occur.

We try to continue to study the trends, the patterns. We are in the process now of gearing up for Operation Gateway, which is a threat that we see happening through Puerto Rico. We are transferring via temporary duty station (TDY) a number of people there. We have done it in the Southwest. We try, through measurement standards, to put our resources where they can be most effective.

Senator GRAHAM. I apologize that I am going to have to leave to make this vote. As the Chairman requested, I will recess this hearing. I would like to make some comments before I leave relative to this issue.

First, it would seem to me an appropriate responsibility someplace in the Executive branch, maybe in the office of General McCaffrey, to be responsible for developing a budget that balanced our resources in terms of our objective of restraining drugs coming into the country and give to the Congress at least a benchmark in which if we are doing stupid or ill-advised things, we will be made aware that we are acting in such a manner.

I would like to raise that with you as to, do you think there is a need for such an oversight within the Executive branch, and if so, where is it most appropriately placed? Second, there has been approximately a 50 percent increase in the volume of fresh fruits and vegetables coming across the Southwest border in the last 3 years. That has apparently created some additional opportunities for drug trafficking.

I would like, Mr. Weise, subsequently in writing, any particular comments that you might have as to what additional capacity, if any, is going to be required in order to deal with that surge of activity across the Southwest border.

With those comments, the meeting is recessed until resumed by the Chairman at the completion of this series of votes. Thank you very much, and thank you to this panel.

[Whereupon, at 10:30 a.m., the hearing was recessed.]

[After recess.]

Senator GRASSLEY. There could be some change in the Senate scheduled because the third vote did not come off on schedule. There is not an absolute limit on debate on the amendment that we are now on.

Because of the great accommodation of people who had to come from out of town, I thought I had better make use of this period of time, when I do not know exactly what the Senate is doing and the institution might not know, to take advantage of the time we have to hear testimony. I hope I am not inconveniencing my colleagues, because, as they know, I said we would have this after the third vote.

We have now a distinguished panel that brings together a wide range of experiences in financial fraud and trade policy. They represent private sector views on problems of money laundering, trade facilitation and government corruption.

I want to welcome Mr. Alan Abel, of Coopers & Lybrand; Dr. Robert Leiken, president of New Moment; and Mr. Michael Miles, executive vice president of Rudolph Miles & Sons, The Miles Group. There was also a fourth person, Mr. Lloyd Foley, executive vice president and chief operating officer at Barclay's Bank, who was to attend, and is unable to appear today because of a medical emergency. We do have the benefit of his statement, and we will put that in the record.

[The prepared statement of Mr. Foley appears in the appendix.]

Senator GRASSLEY. I now move to your testimony, and we will start with Mr. Abel, Dr. Leiken, and then Mr. Miles.

**STATEMENT OF ALAN S. ABEL, DIRECTOR, COOPERS & LYBRAND, L.L.P., WASHINGTON, DC**

Mr. ABEL. Thank you, Mr. Chairman. Thank you for the opportunity to talk to you today about the threat to U.S. trade and finance from drug trafficking and international organized crime.

I have deposited written testimony for the record. In the interest of time, I would like to briefly summarize my statement.

Money laundering is like a big blob of mercury; trapping it so that it cannot move is not easy. Like mercury, the business of money laundering is highly fluid. To understand, one need only note the year-to-year changes in the country money laundering assessments in a few annual State Department International Narcotics Control Strategy reports.

To immobilize money launderers, we have to continue to build our global security net—another kind of Worldwide Web—to effectively deter money laundering, a safety net to protect our financial systems. The problem is, until the net is substantially woven, it is not much better than no net at all, because where there are holes, that is where and how the mercury will flow.

Here is what we need to do to get closer to completing the net to achieve effective deterrence.

We need to persuade all countries to sign, ratify and implement the 1988 U.N. Vienna Convention. Ratifying the Convention means declaring war on drug trafficking and money laundering.

We need to persuade all governments to implement the Financial Action Task Force (FATF) 40 recommendations and their amend-

ments. The FATF 40 are the best recipe for a government to protect itself against money laundering and to help out its neighbors. The FATF 40 prescribes that governments fully cooperate with each other and freely exchange information.

A worldwide network of bilateral treaties, agreements, competent authorities, and programs would be a powerful safety net if every country were to form and maintain these connections and relationships globally.

An important means to achieving the FATF 40 goal is to continue to support, promote, and accelerate FATF's regional initiatives, like Caribbean FATF, and the compliance assessment process. The FATF assessment process is powerful in helping governments to develop and implement comprehensive money laundering deterrent systems.

We need to nurture and strengthen a recent initiative, government's joint venturing with the legitimate private sector. The private sector has everything at stake: people, reputations, assets, and operations. The financial system is the medium through which the money launderer navigates and it is also his victim. The legitimate private sector must be, and wants to be, a partner in the global war against money laundering.

Within a span of only 2 years, the U.S. has forged a strategic alliance between the public and private sectors in this war. Specifically, I refer to FinCEN's bringing about and coordinating the activities of the Bank Secrecy Act Advisory Group.

This partnering arrangement has provided Treasury an opportunity to test-drive new regulations and their compliance requirements and systems before they become fully implemented. This means that a regulation can be made smarter, more effective, and better targeted to its objective, and easier and cheaper to comply with.

The new National Suspicious Activity Reporting (SAR) system, composed of calibrated government processes and private sector processes, is a good example of the power and success of this strategic alliance. Already, Treasury is working on replicating this partnering strategy internationally. Recently, FATF held its first international forum with financial services' industry representatives.

Globally, the private sector plays an important role in maintaining continuity when governments change. When conducting for my firm the first FATF-directed money laundering vulnerability assessment of the Caribbean region a few years ago, I learned how sensitive the relationship building process was to even the most orderly of democratic transitions.

When working to help build an anti-money laundering regime with another government and a new cast of characters, the momentum of progress slows as the new government takes time out to formulate its policies, make new assignments, and train new people. When this happens, we have to build new working relationships and push for progress as fast as we can before the next change.

With the private sector as partner in relationship building and management, continuity and momentum are better maintained and meaningful progress is more assured.

Finally, we should develop a computerized global money laundering war model. During the past 7 years, we have made much progress in observing, describing, and explaining the activity of international organized crime; through our very powerful and comprehensive transactions and suspicious activity reporting and other intelligence networks we have learned a great deal about money laundering behavior and techniques.

Through our guiding and tracking progress of governments in detecting and preventing money laundering, we have learned much about their legal and financial systems and their strengths and vulnerabilities.

I believe that we are on the verge of being able to monitor and portray this activity graphically in the same manner that the meteorologist anchor on the evening news displays the motion of weather patterns.

We have become better at predicting the criminals' behavior intuitively, like artists, but we are also learning to predict their behavior empirically, like scientists. Developing this modeling capability can help us to determine where the mercury is going to flow next and how to plan for it.

Thank you.

[The prepared statement of Mr. Abel appears in the appendix.]  
Senator GRASSLEY. Thank you.

Mr. Leiken.

**STATEMENT OF ROBERT S. LEIKEN, PRESIDENT, NEW  
MOMENT, INC., WASHINGTON, DC**

Mr. LEIKEN. Thank you. I am going to summarize my prepared statement, as well.

In the globalized electronic late 20th century, overseas corruption is no longer something far away. With the lowering of technological and political barriers to trade and finance, the United States has become a new frontier to foreign criminal organizations and they have found fertile field in some areas of American society.

At the same time, the competitiveness of the U.S. economy has come to depend, to a significant degree, on winning business in sometimes corrupted overseas markets.

The Mexican drug cartels' methamphetamine invasion into the heartland of America—to which you, Senator Grassley, have called attention—is one stunning illustration of the vulnerability of the average American to foreign corruption and to crime. The Asian crime wave is another, and there are many more, which I have indicated in my testimony.

Less sensational but perhaps more significant, is the competitive damage caused by bribery in international transactions. U.S. intelligence sources have estimated that from April 1994 to May 1995 U.S. firms lost nearly 100 foreign contracts, worth \$45 billion, to transnational bribery. The annual procurement market in developing countries may be approaching \$1 trillion.

The transparency of these bidding processes will determine not only who builds tomorrow's economies, but how well they will be built.

Transnational bribery costs Americans jobs and it costs developing countries efficiency, which is what they need most. Studies

show corrupt procurement practices scare off foreign investors and as much as double the price developing countries pay for goods and services.

In developing countries, graft and bribery do not simply line the pockets of a few officials, they ravage the entire economy by wasting resources and skewing public policy. Corruption creates not only unsafe buildings, bridges, roads, water, air, et cetera, but negligent, cynical, and inept officials who owe their jobs to nepotism and patronage.

Corruption destroys the people's trust in their government, breeds mutual distress among citizens, subverts the rule of law, and undermines the worth ethic. Public office is seen as the road to riches; productive enterprise, and hard work is risky.

Nigeria is one example of the broader impact of corruption. I have given a few others in my prepared statement. Nigeria once had an agricultural system which was the pride of black Africa and has now regressed to primitive conditions due to the hoarding of pesticides, fertilizers, and tractors by officials. Nigeria has become a food importer.

Nigeria is rich in oil, but Nigerians themselves stand in mile-long fuel lines for gas. Why? Unfinished pipelines, financed by loans from multilateral development banks, pocketed by government officials, tell a large part of the story.

Oil earnings do not feed average Nigerians, but rather enrich their corrupt rulers who instantly transfer their revenue to foreign banks. Official corruption has also devastated Nigeria's political life. Rulers consolidate power with payoffs to kinsmen and cronies, widening the country's regional, class, religious, and ethnic fault lines.

Nigeria has become a drug smuggling emporium and the home of major drug rings. The American sailors arrested in Naples in May for narco-trafficking were working for Nigerian drug lords.

Corruption has not only impoverished Nigeria and turned it from productive pursuits, it has made it into a crime exporting country. When corruption rages out of control, criminal organizations can virtually absorb the government. Under these conditions, the country may become an exporter of organized crime.

In the past, we have seen tyrants, such as Nazi Germany, Stalin's Russia, Saddam's Iraq, or Castro's Cuba export political violence and tyranny.

Today, corrupt Nigeria, Colombia, Russia, China, and others have become what we might call crime exporting countries. They export crime not as an objective of public policy, but as a consequence of organized crime's penetration of government structures and the paralysis of law enforcement agencies.

As in the case of the Colombian cocaine cartels, or the new Russian mafia, or Nigerian heroin couriers, or Central American and Chinese alien smugglers, official corruption overseas provides a kind of greenhouse for criminal organizations, protecting them from punishment and offering the stable environment needed to sprout and to grow into international combines.

There is, nonetheless, some important good news to report. Clean Government movements have now blossomed all over the world and corruption has become a political lightning rod. This makes

possible an intriguing alliance between U.S. business, U.S. Government, and democratic reformers in developing countries.

The first part of 1996, our initiatives, often led by the United States, in the OECD, the G-7, the World Trade Organization, the International Chamber of Commerce, and a number of others. Most important, the OAS Inter-American Convention Against Corruption. It is the first anti-corruption treaty instrument in the world.

Henceforth, when the U.S. raises issues of corruption in international fora it can do so in unison with Canada and the developing nations of the hemisphere. We should now bend our efforts to utilizing that convention as a precedent for an international convention against corruption, so as to universalize the convention's measures against transnational bribery, money laundering, illicit enrichment, and forfeiture of property, extradition, and so forth.

An international convention against corruption would bring together in one instrument the diverse anti-corruption initiatives undertaken in separate fora. One important advantage of an international convention would be its binding effect on bilateral relations. For example, it would cover Japanese assistance to developing countries.

The convention would bolster the political will of reformist officials and protect whistle-blowers. The ratification process would raise locally the issue of corruption and provide international legitimacy to anti-corruption organizations.

One final point. Just as with international organizations, U.S. anti-corruption policy has consisted of separate initiatives in different areas: the Departments of State, Commerce, Justice, Treasury, AID, Office of Government Ethics, USDA, USTR, FBI, CIA, et cetera.

How will these pieces find each other in the darkness? How will the private sector be consulted? It may be time to form a joint public/private bipartisan Presidential-Congressional commission to develop a coordinated anti-corruption policy, one which takes on not only bribery in international transactions, but also considers the interface between corruption and international organized crime. Thank you.

[The prepared statement of Dr. Leiken appears in the appendix.]

Senator GRASSLEY. I am going to have to go vote now; we have six minutes left in this vote. But I will be right back, then we will finish your testimony, and I have a few questions.

[Whereupon, at 11:34 a.m., the hearing was recessed.]

[After recess.]

Senator GRASSLEY. I apologize, and thank you for being accommodating. We will hear Mr. Miles.

**STATEMENT OF MICHAEL M. MILES, EXECUTIVE VICE PRESIDENT, RUDOLPH MILES & SONS, INC./THE MILES GROUP, INC., EL PASO, TEXAS**

Mr. MILES. Good morning. My name is Michael Miles. I am a licensed U.S. Customs broker from El Paso, Texas. My firm, Rudolph Miles & Sons, has brokerage offices at all major ports of entry along the U.S.-Mexico border.

I am here today representing the Border Trade Alliance, the El Paso Foreign Trade Association, and the Greater El Paso Chamber

of Commerce. These organizations all deal with trade and economic development of border communities.

Trade has flowed through the U.S.-Mexico border for over 450 years and has increased to where, today, the annual trade volume between the United States and Mexico exceeds \$62 billion.

Border communities have developed by being involved in these legitimate trade activities. We applaud all responsible efforts to halt the flow of illegal drugs into our country.

Border businesses are assisting in this task. We currently participate in Customs programs such as line release, cargo selectivity, and the tripartite sealed trailer program.

We are encouraging participation in a new program designed to work in conjunction with the shipper, carrier, broker, importer, and Customs, called the Business Anti-Smuggling Coalition.

This program intends to train, educate, and screen all participants involved in the border trade, including how to secure cargo and conveyances so contraband cannot be introduced into the environment of legitimate trade.

These efforts also include educating shippers about additional security systems available in the marketplace to help maintain a workable, closed system that will not readily allow the interdiction of contraband. This includes U.S. Customs performing background checks on all people in contact with the process of importing goods.

Over the years, we have been frustrated by the ever-increasing delays experienced while crossing the international border between the United States and Mexico. These long delays hurt the economic and cultural ties between our two countries.

Our frustration has been amplified when we have tried to address these delays and have run into the wall of reality: that both Customs and Immigration equally share the responsibility of handling primary inspections at our land border ports of entry.

Both agencies invariably lay blame on the other for delays and state there is insufficient staffing in their agency to handle the volume of traffic crossing our borders. It is our belief that, while both agencies may require additional personnel, a far greater problem is the lack of responsible management.

Since no one person or agency is in charge, no one person is willing to take responsibility for whatever goes on within the port. The Border Trade Alliance has been a proponent for many years of unified port management, where one agency would have responsibility for the management of our ports of entry.

We feel this would eliminate many problems and inefficiencies in port operations. Border cities' economies and cultures are not separated by international borders.

In El Paso, a major driving force of our economy is international trade with the MAQUILADORA industry in Mexico. There are over 100 Fortune 500 companies with production facilities located in the State of Chihuahua, Mexico that participate in this program. The shipments involved are legitimate trade and should not be considered or treated as a high risk for the interdiction of contraband or narcotics into the United States.

Yet, to statistically show that we are at war with the drug smugglers, these shipments are continuously off-loaded at the border and checked for contraband, without success in discovering drugs.



No doubt you could argue that this is a deterrent and deduce from that that if there was not an aggressive examination program there would be drugs entering the United States in commercial cargo. We just say, no.

The introduction of illegal merchandise into a legitimate environment creates much too high a risk of being discovered. Legitimate companies already have a great incentive to ensure illegal drugs are not in their cargoes; their reputation is at stake. No company desires the negative publicity that would accompany having illegal drugs found in their shipments.

We understand the pressures that Customs and Immigration officials are under to locate and seize narcotics at our borders without interfering with the legitimate flow of commercial traffic. It has to be difficult to balance the scale between enforcement and facilitation. However, there are importers who need and deserve the facilitation necessary to compete in international trade.

The continued focus on drug interdiction is an important part of the war on drugs. However, this effort must be carried out responsibly and in a manner that will not disrupt the flow of legitimate commercial trade. Are we giving our inspectors the most modern tools available to perform their inspections as rapidly, accurately, and unobtrusively as possible? We have been a part of this process for many years and firmly believe the answer is a resounding no.

We understand the need for drug interdiction efforts. We ask you to understand that the economies and cultures of the border communities are tied to trade crossing the international border in rail cars, trucks, automobiles, and even by foot.

Our business is trade. Waiting for hours to cross the border after conducting business in a sister city is not acceptable. Tens of thousands of our residents must cross the border daily.

The economic loss in time reduces our competitiveness by increasing our total cost of business. Our economic growth and prosperity, not only on the border but for the whole United States, depends heavily on establishing a competitive position in the global market.

Please help us by eliminating these excessive costs of transacting legitimate business. Importers are concerned about drugs entering the United States and have been working in cooperation with the Customs Service to keep legitimate trade from being a vehicle for entry of illegal commodities for many years. All we ask in return is to be treated with dignity and that proper respect be shown for law-abiding citizens. Thank you.

[The prepared statement of Mr. Miles appears in the appendix.]

Senator GRASSLEY. Thank you very much. Each of you were very good in keeping within the allotted time. I appreciate it very much.

I would have one or two questions of each one of you. But, just in case I forget to say it, either for the benefit of the staff or you, because members could not be here because of all of these votes, if you get questions in writing from any of us, we would like to close the record in two weeks. We would appreciate it very much if you would respond that way.

I will start with you, Mr. Leiken. I am interested, as your whole statement showed your interest, in greater international cooperation in dealing with corruption. I suppose I could ask you to give

a long list, but, because of time, I would just simply say, what would be the one most important move we could make, if you were giving advice, to increase international cooperation in dealing with corruption?

Mr. LEIKEN. The single most important move.

Senator GRASSLEY. I say that, because you could give me 10.

Mr. LEIKEN. Yes. In the long run it would be this international convention against corruption which, in some ways, would be internationalizing, or universalizing, the very important breakthrough, the Inter-American Convention Against Corruption. If I had to boil it down to one single move, that would be the one, because it would help groups in the individual countries the most.

In the long run, in places like Mexico and others, it is going to be the people, the democratic process, which is going to put pressure—as is already happening in Mexico—on corrupt officials so that they will reform and so that that will enable us to, for example, cooperate with the Mexican Government rather than have to obstruct trade. If we had good cooperation with the Mexican Government we might be able to avoid some of those measures.

Senator GRASSLEY. And, as I recall from your statement, this builds upon your idea that we should further in an international sense what we try to accomplish through our own Foreign Corrupt Practices Act.

Mr. LEIKEN. Yes.

Senator GRASSLEY. I guess the only thing I would challenge you on is the extent to which other cultures might not see the necessity of business ethics the way we do. That is really what we are trying to do, is promote international business ethics through the Foreign Corrupt Practices Act, whether or not you have thought that is too idealistic of a way of accomplishing what you want.

Mr. LEIKEN. Well, I think 10 or 15 years ago I would have said yes, it would be quixotic to imagine that this could be implemented elsewhere. But again, the OAS treaty shows, and parallels clearly show, that now in a lot of developing countries you have "Clean Hands" or anti-corruption movements. You also have a competition for foreign investment.

There has been a mood change in a lot of countries, faster in some, slower in others, but we are seeing quite a bit of progress, the OECD's recent decision to recommend banning tax deductions for bribes to their member countries and, most important, the change in public opinion. That is partly a consequence of the democratization, the new wave of democracy around the world.

All this has created a situation in which impatience with official corruption and toleration for official corruption has just reached the limit. So we have a real opportunity now, whereas we would not have had it 10 or 15 years ago.

Senator GRASSLEY. Let me assure you, even though we have a pending vote, we will be able to finish before I go to vote so you will not have to stay beyond the next roll call vote.

Mr. Abel, would you tell us what more we need to be doing to ensure that everything possible is being done to prevent money laundering? I know your statement was centered around that, but I would ask, as I did Dr. Leiken, if you could kind of prioritize the one most important move that we could take, assuming it is things

we are not doing now or to do better what we are doing now, that would accomplish that goal of preventing money laundering.

Mr. ABEL. Certainly. I think the most important thing that we can do, is I think we really need to beef up and support—and, to the extent possible, push—our activities with the Financial Action Task Force, as I will call it, the world's money laundering watch dog, and its regional efforts to get countries in regions of the world to talk to each other.

The regional approach is very powerful, because countries who are neighbors tend to trust each other and work more with each other, and of course they have relations with each other. That seems to be far more effective than just the big powers, the G-7 industrial democracies, running everything centrally.

We found that the regional approach was very effective when we were handling the Caribbean assessment a few years ago. I mean, there are obviously a lot of governments in this world, some of whom are made up of very independent jurisdictions that have to work together to get anywhere. For example, the U.K.-Dependent territories.

I think there are so many relationships to manage in every government, there are so many ministries and agencies which have to be involved in their own efforts and to work together with other countries internationally that this relationship building—and then subsequently the relationship management—is a big deal, takes a lot of people, and a lot of resources. I think there is a lot more we can do there now to make that happen, because it really is a huge job and I think it requires a lot more than what we are applying right now.

Senator GRASSLEY. Are you seeing, though, a positive trend in this direction, or are you talking about something that still is in the genesis stage?

Mr. ABEL. I think there are some genesis issues, but I am very positive; I think we are making a lot of progress. Again, like the Great Wall of China, when it was 90 percent complete it still was not a very good wall, but when it was 100 percent complete it was pretty powerful.

Senator GRASSLEY. Mr. Miles, Custom brokers are licensed by the Service and, as such, you assume some responsibility in ensuring that all government regulations are complied with by the importing community. You also have a responsibility to provide efficient service for your customers. You spoke strongly about our respecting your responsibilities to your customers as well.

What can Customs brokers do to help the Customs Service meet its responsibility to protect our Nation's borders from an increase in threat from drug traffickers and organized criminal groups, while at the same time trying to facilitate the movement of international trade?

Mr. MILES. We can work with the government Customs Service, educate our customers regarding the programs that Customs has, support these programs and encourage them to participate in these programs to tighten up security, not only within their plants but within the movement of the cargo from their plants to the international border to where there is less likelihood for narcotics to be introduced into a sterile environment.

As Customs brokers, we are the liaison between the government and the importers and exporters, and we can definitely act as that liaison and cooperate with both sides.

Senator GRASSLEY. All right.

Now, more specifically, as I talked to Mr. Leiken and Mr. Abel about laundering money, these laundering organizations are turning to international trade as a really viable avenue to launder larger amounts of illegal profits, including the shipment of the cash in commerce.

What can Custom brokers do to help keep legitimate import and export activities free of abuse by international criminals, particularly the international laundering of money, or the shipment of money, I should say? When you ship it it is not the laundering of money, but it is still the movement of the money back to headquarters.

Mr. MILES. The trade that we are involved in, Senator, is finished products coming from a manufacturing facility or from a shipping point in Mexico across the border back into the United States, and vice versa. We have a lot more control on the imports of merchandise coming in and work much more closely with the importers with the northbound move than on the southbound move. I guess money laundering goes both ways; I can only address the northbound.

But, on the northbound, there are areas where we can help, again, by educating our customers to this threat and advising them, along with the Customs Service, as far as any programs that are out there, any new systems that are available to secure their merchandise.

Importers are concerned about security as well, not only for the interdiction of drugs, but for the safety of their cargo. They want to make sure that their cargo reaches its destination in a good and orderly fashion, with a minimal amount of disruption.

So, they are very open to any types of suggestions to where they can enhance their security to meet the government's expectations and to minimize any delays at the international border, and we can assist in that area as well.

Senator GRASSLEY. To what extent in the daily activities do you and your employees run into enticement to somehow wink at the law, avoid the law, avoid the regulations?

Mr. MILES. None at all. I have never been approached in that manner.

Senator GRASSLEY. I thank you all very much for your cooperation once again. Most importantly, I apologize for the interruption not only of today's schedule, but of the week's lapse that we had between the two meetings. I thank you very much.

[Whereupon, at 12:05 p.m., the hearing was concluded.]

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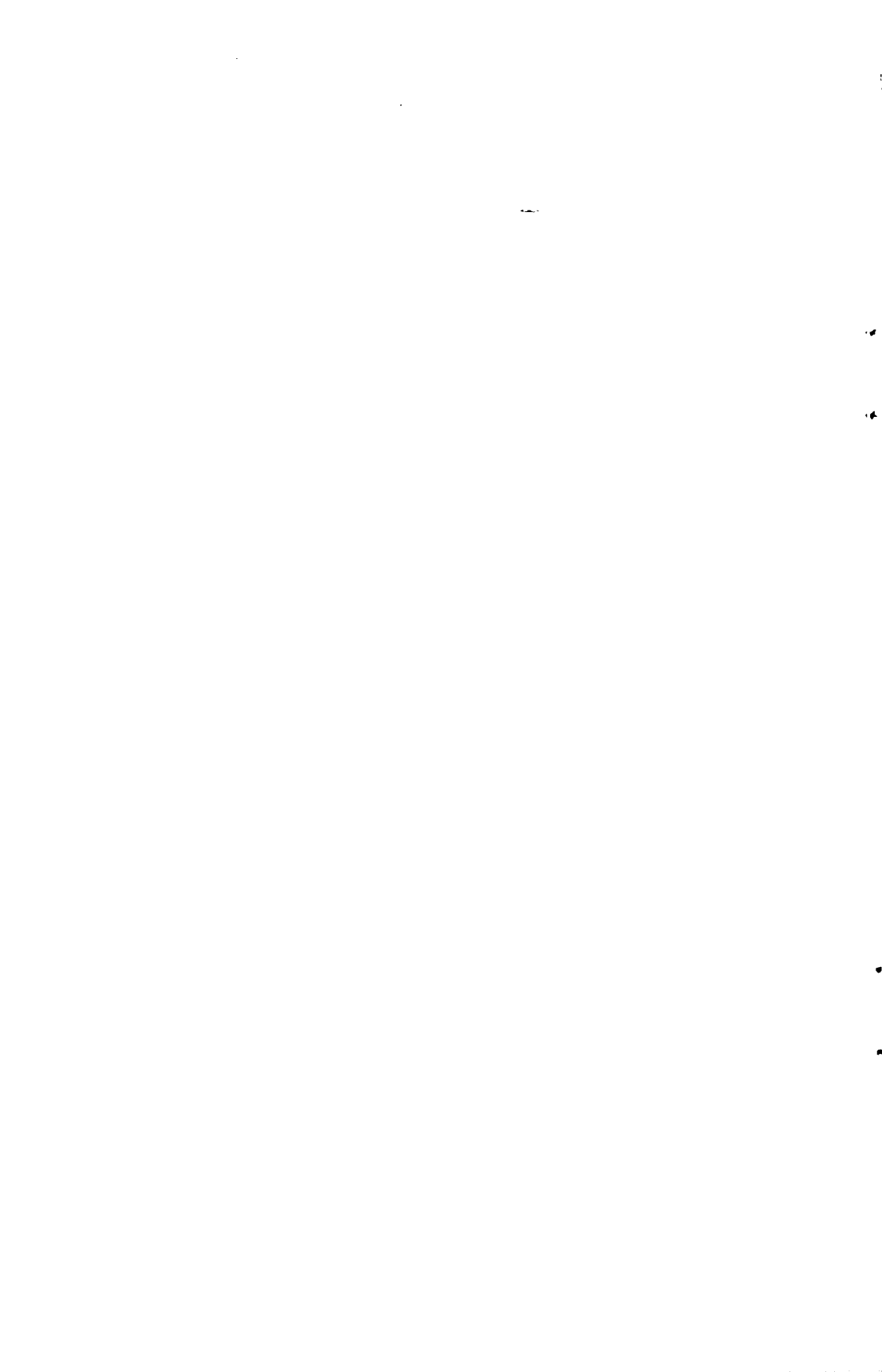
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**APPENDIX A**

**Prepared Statements**

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**Statement of Alan S. Abel**

Mr. Chairman and Members of the Caucus and the Subcommittee -- thank you for the opportunity to talk to you today about the threat to U.S. trade and finance from drug trafficking and international organized crime.

Combatting international organized crime whose business is narcotics trafficking and money laundering is one of the greatest challenges facing us today. This effort involves nothing less than a full-scale war, a world war -- one enlisting all governments and the legitimate international private sector. As in any war, this one requires an appropriate strategy, a tactical plan, and well-executed operations.

Achieving success also requires that governments have the will and are committed to doing battle. Many governments have clearly demonstrated their will and commitment in a number of meaningful ways. Many governments have gone through the motions but have yet to demonstrate commitment substantively. Many governments who do have the will and who have demonstrated their commitment fall short of being effective because they lack experience and resources to govern their anti-narcotics money laundering units, systems and programs. Smaller or newer governments who do ask us and other major powers for help usually get it -- we have developed and we operate and rotate a number of highly-effective training programs which help our neighbors reform their legal and financial systems and set up anti-money laundering programs in their financial institutions. However, it's one matter to help a neighbor set up an anti-money laundering regime, a major undertaking in itself, its quite another to fund its administrative operations. Nevertheless, effective deterrence requires both investments.

This war, our war against narcotics money laundering, in contrast to a game of chess, has many thousands of pieces. Winning will not only require our continued commitment of substantial

resources, but also, our continuing to build and manage important working relationships -- relationships between governments, and between governments and the private sector. Winning this war will require total coordination of these resources and comprehensive coordination of alliance members' war efforts with symphonic precision. Winning this war will require well-defined, clear and open lines of continuous communication, and unrelenting vigilance, or in the parlance of operations -- adequate maintenance.

### **The Challenge of Deterrence**

The narcotics money laundering business is like mercury at room temperature. If you push your finger into it, it moves out of the way -- it flows to where there is less pressure. If pressure is applied in one place, it easily and quickly flows to another. As long as there are low pressure opportunities for the money laundering business to exist and to thrive, then that is exactly where the business and the activity will flow to. To get a good sense of how easily the mercury flows, one needs only to thumb through the last few annual State Department International Narcotics Control Strategy Reports (INSCR), and look at the money laundering and financial crime trends, country by country, and how quickly they change from one year to the next. Our achieving substantial deterrence will require nothing less than the completion of a very large project we and our allies have already invested much time and resources in-- building a global safety net or screen.

Deterrence can be analogous to screening a porch. There is no protection until all of the cost has been incurred and all of the screening has been installed. Anything less provides no protection at all. Subsequently, the screening will require preventive maintenance. And maintenance has a cost associated with it - a high cost. As I pointed out earlier, running a system is more expensive than implementing it because the cost is indefinitely recurring. But we must incur this cost, otherwise



holes will appear and edges will unravel, and the flies and moths will get through our screening. They will manage to find their way to the bright incandescent light inside the porch, which in our case, is the ever-growing and seemingly insatiable demand for the drug traffickers' products.

Unfortunately, the struggle against narcotics trafficking and money laundering is not as simple as screening a porch. To the contrary, it is anything but simple -- not simple to portray, and certainly not simple to engineer. It is difficult to know what level of expenditure will constitute successful deterrence and what level of expenditure will provide for adequate preventive maintenance. It is difficult to know where we stand now in terms of percentage of completion. It is even difficult to recognize important indicators of success, because successful deterrence means preventing crimes from ever happening in the first place. It's hard to measure something that never happens. What we can do is count and monitor the crimes we are aware of and we can point to cases successfully concluded. We can also speak to assets and their proceeds which have been successfully seized, forfeited, confiscated and shared thanks to our network of MLATs (Mutual Legal Assistance Treaties) and other agreements which facilitate this process.

We clearly have a lot of work yet ahead of us, and very important work. The Great Wall of China wasn't so great until it was finished. But then it was formidable.

Having defined the problem and having painted a fairly sobering picture of how big our job is to conquer it, I would like to now highlight what I think are our most important screen-building and relationship building initiatives and accomplishments in combatting money laundering and organized crime.

### **Strategy Development and The Financial Action Task Force (FATF)**

One of the most important things we've accomplished in the war against drug money laundering is that we have actively spearheaded the development of a global deterrence strategy and have already realized some major gains as a result. And while we have led this effort, we have led it cooperatively, and we have developed important working relationships at many levels with fellow governments in the process. Building and maintaining close working relationships at multiple levels is very important because when governments change, hopefully through an orderly democratic election process, it's the civil service ranks who provide the continuity.

As a result of establishing and nurturing these relationships, we have developed a sturdy, consensual framework for deterrence, one which is continually and reliably demonstrating its effectiveness, one which is increasingly serving as a powerful springboard for tactical maneuvers, and one which readily lends itself to augmentation and modification in response to the changing battlefield.

Just seven years ago this month, at their annual economic summit, the G-7 leading industrial democracies' decided together, at the urging of the U.S., that the problem of international drug trafficking and money laundering had reached "devastating proportions." This conclusion constituted the first time that the G-7 collectively agreed that we had a very serious problem -- again, only seven years ago. Prior to that summit, I don't know that there was a "global vision" to speak of. Arguably, one could say that a global vision gelled one year prior with the establishment of the 1988 UN Vienna Convention (full title: The United Nations Convention Against the Illicit Trafficking in Narcotics Drugs and Psychotropic Substances), but until G-7 Summit #15 there was not much momentum. Beyond recognizing the problem, the Summit's result was a clear declaration of war, an agreement that the G-7 countries and others needed to work together as

allies in this war, and that there needed to be a mechanism to coordinate our efforts, to scope out the enemy and to develop a war strategy. The Financial Action Task Force (FATF) was to become this mechanism.

Within a year, in April 1990, FATF I (the first session) unveiled the first global profile of the enemy, the nature of the industry and its business activity, and a ballpark assessment of the size of the problem - i.e. its gross revenue. This was a valuable first step because through gaining a better understanding of the illegitimate industry we have since learned how important it is to try to make its cost of doing business as high as possible.

The most important thing that came out of FATF I, however, was a comprehensive war strategy -- the 40-point prescription for governments to take to effectively combat and reduce vulnerability to money laundering -- the now landmark "FATF 40 Recommendations". The message was clear: "If you, a fellow government, adopt this strategy and make it your priority to achieve compliance with these 40 recommendations, you will have substantially completed your role in building the all-important global safety net or screen. Your piece of the screen, will be substantially completed, and you will have done most of what you need to do to be a team player, to establish the necessary links with everybody else, and you will have the structure and the forward-looking preventive-maintenance culture to govern and to maintain your piece of screen. You will also have the mechanisms and channels up and running necessary for you to quickly and smoothly get help from others when you need it, and conversely, to help others when they need it. Finally, you will have harmonious and mutually supportive relations with your legitimate private sector [primarily your bank and non-bank financial institutions (NBFIs)] to help you monitor, police and uproot narcotics money laundering activity and its captains."

It is also important to note that the very first FATF recommendation was that United Nations (UN) members should sign, ratify, and effectively implement the 1988 UN Vienna Convention (full title: The United Nations Convention Against the Illicit Trafficking in Narcotics Drugs and Psychotropic Substances). Because a UN convention serves as a multi-lateral treaty mechanism for all member nations, it was designated to serve as the basic frame for building our screen.

The FATF 40-point strategy was masterful in 1990 and remains so today. It has been subsequently augmented by changing environmental circumstances and by our having grown smarter in understanding and in keeping up with our enemies' tactics.

Among FATF's shining stars, I think that the most shining has been the U.S. led FATF compliance assessment program. Having administered the first FATF 40 compliance assessment for Caribbean region jurisdictions in 1991 and 1992 [concurrently with the formation of the Caribbean Financial Action Task Force (CFATF)], I would like to share with you some highlights of my own experience. I found it highly encouraging that in most cases the assessment process itself had extraordinary "wake up" power and therapeutic value for governments. The assessment process actually became a primary driver for compliance.

The assessment process forced governments to confront some grim realities not previously confronted or acknowledged. Governments which went into assessment thinking that they weren't really that vulnerable to narcotics money laundering came out feeling like large slices of Swiss cheese ripe for invasion by criminal mice. Among common reactions were: "Well, we hadn't really thought about that". "Well, it never occurred to us that competent authority over NBFIs wasn't really well-defined by our regulations". "Well, we did criminalize money laundering with respect to narcotics but we hadn't considered other predicate offenses, and no, it had not occurred to us

that we should develop regulations that financial institutions should develop anti-money laundering programs. Those are great ideas, especially if you can help us".

Also, I found that the assessment process itself created the foundation of jurisdictions' anti-narcotics money laundering regimes. To be comprehensively responsive to the assessment's diagnostic, the subject government had to involve the right people, the key players. Common responses were: "Well, that's not a question for the Attorney General, that question should be directed to our Minister of Finance. And thinking it through, our Minister of National Security should also have a role." "There is someone in our central bank who specializes in that area -- I think we should get him involved." By the time the first assessment process was completed, the major players of the assessed government's first anti-money laundering team were identified, interested, and enlisted.

#### **A New Strategic Alliance Between the Regulator and the Regulated**

A more recent but already highly-successful initiative in the war against narcotics money laundering is Treasury's campaign to develop strategic alliances between the public and private sectors to coordinate implementation of new BSA regulations and to facilitate the development and implementation and maintenance of communication channels so critical to helping law enforcement officials identify, monitor and intercept criminal activity. This relationship-building activity ties back to what I said in the beginning -- that successfully waging the war against money laundering requires enlisting both governments and the legitimate private sector. They must work together in close coordination and harmoniously to be effective.

Earlier I also spoke to the will and commitment of governments. I think that the will and commitment of the legitimate private sector is highly visible and far more compelling. Consider that our bank and non-bank financial institutions are seriously victimized as the unsuspecting and

unwilling vehicles of the money launderers' commerce. Businesses have a great deal at stake -- their assets, their operations, their people, and their reputations. Speaking of reputation, nothing can kill a business more quickly than a major scandal. A scandal complete with its obligatory newspaper headlines is just about one the worst nightmares a chief executive can have. I can think of no greater incentive for a business to do everything in its power to steer clear of organized crime, and to have systems and controls in place to prevent fraud and to comply with regulations designed to help a business protect itself and its employees, its industry, and the economy. A healthy financial system helps businesses to achieve their fundamental missions -- to survive, to grow and prosper, and to contribute to the health and well-being of the U.S. and the world economy. Finally, as we have seen happen in a number of other countries once an illegitimate business operation is allowed to take root in an economy, it gets harder and harder to control and to eliminate -- it grows like cancer. The business financed by dirty money has a significant competitive advantage over its legitimate competitor -- its cost of capital is far cheaper.

The two-year old Bank Secrecy Act Advisory Group (BSAAG) chaired by the Financial Crimes Enforcement Network (FinCEN) at Treasury serves as the central coordinating mechanism of the public and private strategic alliance or partnership dedicated to helping the United States combat money laundering and organized financial crime. This partnering arrangement, its open discussion format and its task force approach have in just these two short years actually worked out better than I imagine even its designers originally conceived.

BSAAG has provided Treasury (as the regulator) and financial institutions (as the regulated) the opportunity to virtually test-drive new regulations and their compliance requirements and systems before they are actually implemented. This means that a regulation can be crafted in its implementation to be smarter, more effective, and easier and cheaper to comply with. By the time a proposed regulation which has been brainstormed by BSAAG hits the Federal Register, it has

been rigorously "debugged" -- a number of important improvements have been made, and any unanticipated or undesired consequences have already been dealt with. The BSAAG partnering arrangement also gives financial institutions a chance to prepare for and to be ready to comply quickly -- to hit the ground running. I think that a good example of this is the new Suspicious Activity Reporting System (SARS). To fulfill its mission to detect money laundering, Treasury needed a powerful, comprehensive, high-technology suspicious activity reporting system, one which could reach and integrate with thousands of financial institutions almost seamlessly. Meeting these tough requirements and working out lots of potential bugs were made possible through the BSAAG process. SARS was recently implemented, plugged in, and is now collecting lots of new and improved suspicious activity reporting information.

BSAAG serves as an important forum for discussion. Bank and non-bank financial institutions will know immediately or will quickly figure out how new regulations will effect them, what systems, controls and reporting mechanisms they will need to comply, and what all of this will cost to set up and to run and maintain. Its structure and process facilitates the contribution of industry representatives and other experts to the regulatory development process. The BSAAG approach almost guarantees that BSA regulations will be more effective and better thought out in their implementation, and can only improve treasury's ability to detect and to prevent money laundering in our financial system.

Clearly, BSAAG serves as a public-private sector partnership model for other countries which can be replicated around the world. Just a few months ago FATF held its first international forum with financial services industry representatives -- an important first step.

## Recommendations

In conclusion, I recommend the following:

1. As a matter of national policy, we should maintain and foster our sense of urgency, that combatting international organized crime is a major war effort requiring the full collaboration of governments and the legitimate private sector globally. As a major war effort, we need to continually reassess our strategy and our tactics to keep up with highly-mobile, rapidly changing criminal activity and techniques. At the same time we should continue and even accelerate the deployment of our core strategy, to encourage and help as many governments as possible to achieve compliance with the FATF 40 and supplemental recommendations. "Sticking to our guns" will help us and other governments to achieve the substantial deterrence we're seeking -- our global screen or safety net.
2. We should support, promote and accelerate FATF's regional proliferation and strategy implementation activity. The FATF 40 compliance assessment process is highly effective in helping governments to develop and implement comprehensive money laundering deterrent systems. Regional assessment is easier to engineer than central assessment.
3. We should continue our joint venturing policy between the public and private sectors to help implement BSA regulations and to improve their effectiveness and the private sector's ability to be responsive, to make financial institution reporting faster and more meaningful, and to better leverage new technology. More broadly, we should continue to explore ways in which private industry can assist government in combatting money laundering.
4. We should develop a computerized global money laundering war model. During the past seven years we have made much progress in observing, describing and explaining the activity of



international organized crime. Through our very powerful and comprehensive transactions and suspicious activity reporting and other intelligence networks, we have learned a great deal about the money launderer's behavior and techniques. Through our guiding and tracking progress of governments in detecting and preventing money laundering, we have learned much about their legal and financial systems, their strengths and vulnerabilities. I believe that we are on the verge of being able to monitor and portray this activity graphically, in the same manner that the meteorologist-anchor on the evening news shows us the motion of weather patterns. We've gotten better at predicting the criminal's behavior intuitively like artists, but we're on the verge of being able to predict aspects of their behavior empirically, like scientists. I think that developing this modeling capability can help us to figure out where the mercury is going to flow next, and how to plan for it.

PREPARED STATEMENT OF SENATOR ALFONSE M. D'AMATO

This is a very important hearing. Over the past 10 years, our world has become a much smaller place. A company in Southeast Asia can transport goods to New York City in a day. Millions of dollars can be transferred from Mexico City to Zurich with the click of a button.

Unfortunately, these developments have not been lost on sophisticated criminals. Just as legitimate businesses rely on new technologies to sell their goods around the world, criminals have taken advantage of the tools of global trade to sell billions of dollars in drugs to our children.

Increasingly, drug cartels use international financial institutions and borderless trade to launder money and to smuggle illegal drugs. It is estimated that, on a global basis, \$300 billion is laundered each year with \$40 to \$80 billion coming from profits earned on drug sales in the United States. That's incredible.

The United States has won the Cold War. But, every day in every city in America, we are still losing the war against illegal drugs. Here's just one startling statistic. After years of decline, illegal drug use among our teenagers is on the rise. In 1994, according to one study, 2.9 million teenagers used marijuana, a 1.3 million increase from 1992.

We need to hit drug dealers in their pockets. We need to make it harder for them to launder their drug money, which is funding their drug operations.

If we slow the laundering of drug money, we will slow the flow of drugs to the United States. Drug cartels will not be able finance their operations. They will not be able to buy jets to transport cocaine to our country. They will not be able to pay off corrupt officials in their own countries.

I am particularly concerned about whether Mexico is doing enough to stop the flow of drugs to the United States. Just last year, the Clinton Administration sent billions of American dollars to Mexico. The President told us that we had to extend an economic life line to our friends south of the border. We were told that we had to put out the fire in the Mexican economy, that we had to be good neighbors.

Good neighbors are supposed to help each other out. It does not appear to this Senator that the Mexican government has returned America's friendship in our war against drugs. In fact, there is very disturbing evidence that the Mexican government has allowed Mexican drug lords to flood our streets and schools with illegal drugs.

Here are some very disturbing facts about the drug trafficking in Mexico:

- 70% of the cocaine found on U.S. streets came from Mexico;
- Mexico has been supplying marijuana, heroin, and in increasing amounts, methamphetamine, to the U.S.
- The State Department has stated that "Mexico has become one of the most important money-laundering centers in the Western Hemisphere."
- The Treasury Department's Financial Crimes Enforcement Network was quoted as saying that as much as \$10 billion a year is laundered through Mexico.
- Mexico has not extradited one Mexican-national drug lord.

Just last week, I supported an amendment to the Foreign Operations Appropriations Bill that demands that Mexico prosecute the drug kingpins, or extradite the indicted Mexican kingpins to the United States.

Earlier this year, my colleague, Senator Feinstein, and I introduced legislation requiring the President to certify that the Mexican government has taken ten critical—but reasonable—steps to stop the flow illegal drugs before any more funds are sent to bail out Mexico.

This Congress must ask whether our trading partners are taking adequate steps to stop the flow of illegal drugs to the United States. Do they cooperate with U.S. officials to combat money laundering? Do they have and enforce strict laws against money laundering?

**STATEMENT OF SENATOR PETE V. DOMENICI**  
**Before the Subcommittee on International Trade and**  
**the International Narcotics Caucus**  
**July 30, 1996**

"No country in the world poses a more immediate narcotics threat to the United States than Mexico."

This not a Drug Enforcement Agency quotation. It is the conclusion of the State Department's most recent Annual International Narcotics Strategy Report. The State Department is known for its diplomatic way of stating the facts.

Let me give you my interpretation of the situation: The U.S./Mexico border is becoming a land of laundered drug money, riddled with corruption and violence--a land run by brazen drug cartels.

I have been a long time friend of Mexico and I don't cavalierly say these things. It is a great country with a young and vibrant population and the potential for a promising future. But the drug cartels are threatening the very sovereignty of Mexico.

It is sometimes said, "Mi casa es su casa"--"my house is your house." We have reached a point in history where when it comes drug trafficking, the old saying can be rewritten: "Mi problema es su problema." "My problem is your problem." The Mexican government should be as concerned as we in Congress are.

Nowhere are the effects of the drug trade more evident than in border cities such as Las Cruces or Sunland Park and places like White Sands on our side of the border and Juarez, about an hour and half drive from Las Cruces.

Ranchers on the border say that a few years ago migrant-smugglers were cutting through their fences at night. Now, heavily armed Mexican drug gangs terrorize them in broad daylight.

In places like White Sands, New Mexico ranchers arm themselves when they go out to do their chores or to get water from their wells.

Some of the ranchers in Texas have sold their ranches to the gangs or their front men.

These drug lords are equipped with night-vision equipment, cellular telephones, border sentries and their own intelligence network. According to the Los Angeles Times, the drug smugglers "have out manned, outgunned and out-planned the U.S. Border Patrol, Customs Service, and DEA at strategic points on the Rio Grande."

We are seeing more of our young people addicted to methamphetamine--a drug that the

Tijuana Mexican cartel has a "virtual production monopoly" on because they control the supply of one of the necessary ingredients. Methamphetamine is a growing problem in Albuquerque. Methamphetamine use by New Mexicans committing crimes has gone up 400 percent from 1992 to 1994.

One major trafficking family owns a petroleum company and is said to use its tanker trucks for smuggling drugs, according to U.S. and Mexico law enforcement officials.

In New Mexico the relationship between drugs and violent crime are related and the statistics are bleak:

- 75 percent of New Mexicans arrested admitted to using illegal drugs.
- Cocaine use by criminals doubled from 1992 to 1994.
- The number of gangs in New Mexico is up. In Albuquerque, alone there may be as many as 21,000 gang members. Gangs and drugs go hand in hand.
- On the Mexican side of the border in Juarez things are already changing for the worst. Last year, homicides were up 25 percent, of which police estimate 70 percent were drug-related and unsolved.
- About 450 newly created gangs (with names like Los Gatos--the Cats or El Puente Negro--the Black Bridge gang) are battling for control of the street sale of drugs in Juarez.
- With so much cocaine entering northern Mexico, an increasing amount never leaves. Last year, 90 people died of overdoses in Juarez. Up from five the previous year.

One indication of how drug culture has penetrated the northern Mexico is found on the radio, where the most popular songs are about daring drug trafficking adventures. The drug lords as the good guys and the police as the bad guys. "Mess with the mafia and pay with your hide." one "narco-ballad" warns.

A few years down the road, it's entirely possible that these Mexican groups could rise to an equal or superior footing with the Cali cartel. If this happens, life as we know it in both the U.S. and Mexico side of the border will change and will eventually have an effect throughout the U.S.

#### AGENDA

All of these developments have prompted me to call for an era of greater cooperation and resources along the border. Last week I offered an amendment to the Foreign Operations Appropriations bill to encourage Mexico to either apprehend and try in Mexico, or extradite to the U.S. a list of DEA's ten most wanted drug kingpins who have been indicted in the U.S.

1. We have to bring to justice those who we have already indicted. We need to restore drug dealers' respect for the law and put a stop to what one former U.S. official calls "in-your-face corruption." Let me give you an example:

Miguel Caro Quintero, one of the top three most wanted Mexican drug lords called a

local radio station. He told the radio talk show host:

"They [the Mexican government] don't find me because they don't want to," the newspaper El Financiero reported. "I go to the banks, I drive along the highways, I pass through military and federal judicial police checkpoints and it doesn't matter that they know me, everybody knows me."

Other indicted drug kingpins live openly and notoriously in Mexico. It makes me wonder whether our indictments are worth the paper they are written on.

2. We need more agents on the border. The Senate subcommittee version of the State, Justice, Commerce Appropriations bill would provide for 900 new border patrol agents--200 more than requested by the President.

In 1996, our law enforcement agents frequently capture tons of drugs at a time and they estimate that they are catching just five to ten percent --at most-- of the drugs moving across the Rio Grande. Some 70 percent of the cocaine entering the U.S. comes over the southwest border.

The border was crossed last year by about 232 million people, making it the world's busiest international border. Customs officials can check barely five percent of the 87 million vehicles that cross each year. We can't count on interdiction alone.

3. This brings us to the need for better money laundering laws and the subject of your hearing today. Frankly, I think we need to convince all nations to enact money laundering laws because our financial markets have become one global network. With \$30 billion in drug profits (as estimated by the Treasury Department), it seems that unless and until we can get better at intercepting the money we will make little progress in stopping the drug trade.

Mexico should be commended for enacting tougher money laundering laws but a worldwide network is what is really needed.

Mr. Chairman, I commend you for holding this hearing.

Thank you for allowing me to testify.

**STATEMENT OF**

**LLOYD E. FOLEY**  
**Executive Vice President and Chief Operating Officer**  
**BARCLAYS BANK PLC**  
**Latin American Region**

**“Knowledge of Customers and Monitoring of Financial Transactions”**

**The Senate Caucus on**  
**International Narcotics Control**  
**and the**  
**Senate Finance Committee’s Subcommittee**  
**on**  
**International Trade, joint hearing on July 23, 1996**

## SUMMARY

The most basic tenet for protecting any bank and our overall funds transfer system is for each banking enterprise to establish and enforce stringent "Know your Customer" policies, particularly on account relationships overseas. Satisfactory identification of potential customers and a sound understanding of their businesses is crucial in this regard. Banks need to know the funds flow parameters within which their customers will operate.

Complementing this knowledge, banks need to assure that they have appropriate monitoring systems in place which provide the means to adequately and comprehensively review the funds flow through customers' accounts. The ability to readily determine any deviations from what has been profiled as typical funds flow through a given account is essential. Moreover, the bank must have a clear and detailed plan of action which it will implement immediately upon ascertaining that money is passing through an account which is in excess of defined cash flow parameters. The objective of following up on this break from the norm must be to completely satisfy the question of why. Whatever information is required to do so must be obtained and, if not, the account should be closed and a report filed with U.S. regulators, if deemed appropriate and prudent.

This is one area where the overseas customer cannot be given the benefit of the doubt. The stakes are too high and the primary purpose of any banking entity is to protect its interests and reputation and it must, therefore, have the data it needs to evaluate the details underlying the transmission of money through its funds transfer system. By assiduous tracking of funds flow, banks can spot unusual activity; take appropriate action and, thereby, do their part in the struggle to inflict serious damage on those who would attempt to use the funds transfer system to process their illegally obtained funds. Furthermore, where banks cannot obtain all of the information they need on a prospective client, they should not establish an account relationship.

Chairman Grassley and committee members, the concern about the manipulation of our financial mechanisms by those who intend to move illegally procured funds is one shared by all interested parties, whether governmental or in the banking community. This kind of hearing is crucial to our joint efforts in fighting those who would attempt to process their illegal gains through our banking funds transfer systems.

### Know your Customer

The responsibility of all banks to establish precise, well defined new account opening procedures has taken on an importance today that few of us would have contemplated in earlier years. The nomenclature for this relatively new vision has been designated: "Know your Customer". Three seemingly simple words that literally impose an enormous burden of proof on the part of bankers to demonstrate that they are adequately protecting their institutions from what I call funds flow criminals and that they are in full compliance with U.S. law and regulations vis a vis the illegal transmission of money. "Know your Customer" policies have been widely promulgated and well defined by U.S. regulators and banks. I believe that the paper by Mr. Richard Small, Special Counsel at the Federal Reserve Bank, is as succinct and graphic a definition of "Know your Customer" procedures that is available. For the purposes of our discussion, I would emphasize certain specific facets of a bank's "Know your Customer Policy."

The most important work that a bank can perform with a new account relationship is to undertake vigorous steps to properly ascertain the identity of the customers.

We know that there are numerous personal documents that tell us something about a person, i.e., a driver's license, property deed, birth certificate and the like. Corporations provide articles of incorporation and corporate resolutions duly sealed. It should not be an onerous task for banks to satisfy themselves as to the



identity of would be customers, particularly in their own backyards. But what about the overseas customers? How can banks be sure of with whom they are dealing? Are passports and articles of incorporation and such from foreign countries good enough proof of identity? I doubt that any of us would say yes. So, what ought we to do and what can we do? There is no substitute for first hand contact with a potential customer, i.e., meeting him on his own ground; seeing his businesses and identifying his resources and developing historical references in terms of the family's reputation and longevity in a community and what generates its funds flow.

Furthermore, periodic visits to the customers and careful follow-up on dynamic changes in their business activities, e.g., significant sales growth, acquisitions, new personal wealth and other money generating factors need to be substantiated by direct review; observation and analysis. In short, customer relations are not static, they require ongoing attention in every respect. Moreover, bankers always need to give special attention to changes in ownership of businesses and meticulously verify the background and references of new owners. A variety of factors can influence funds flow.

### Funds Flow

Let's talk about funds flow which really represents the crux of a "Know your Customer" policy and provides banks with a formidable monitoring mechanism to penetrate the essence of a customer's financial activity in the bank. If banks do not know the dollar amount of transactions which are expected to flow through a given account, they do not know their customer. Funds flow is essentially all of the money that processes through a bank's money transfer system and teller windows. Banks have done an excellent job of severely curtailing abuses which have occurred in the past at the teller's window. The sophisticated money launderer has learned that the teller window is not the banking stop it once was.

However, the teller window could never compete, in any case, with the funds transfer system. All the big dollars processed through a bank go through its funds transfer system. Loan disbursements, letter of credit payments, securities purchases and account transfers being the most significant. Where large dollar amounts are moving through a customer's account there is a fundamental question: what is the source of funds? We need to know what created the money flow. How do we do this? We go back to "know your customer." Have we as banks fully satisfied ourselves as to the identity and business activities of the customer? Have we developed a financial transactions profile of the customer that is subject to adequate monitoring? Are we able to detect deviations from the standard flow of money? What action do we take if we do find irregularities? Again, we go back to the essential need to know where the money is coming from; why it is moving; what initiated its movement and what is its destination. Obviously, these questions would come into play only if unexpectedly large sums of money moved through an account in contrast to its normal activity.

### Compliance Monitoring Systems

This leads us into a bank's compliance monitoring systems. Every bank should have the capability to evaluate and analyze large dollar activity moving through its money transfer system where, again, such financial activity significantly increases from what is normally the case. It would be virtually impossible for any bank to check every large dollar transfer, but, this is not necessary, if the bank has already carefully substantiated its customer's identity and funds flow parameters.

This can be accomplished by developing a sound knowledge of the business involved and establishing a funds flow schematic which details the normally expected dollar amounts which will be processed through the given account. The customer would be expected to provide such information but the bank would have to corroborate it by reviewing financial statements which justify the data. We can

accomplish a great deal in terms of doing our part to check and prevent the illegal transmission of money by monitoring by exception. This is really the basis of the suspicious activity reporting requirements which are enforced by our bank regulators.

Of course, computer systems are the underpinning for any monitoring that a bank does. The production of daily and periodic reports which highlight unusual activity is crucial, and, through these reports the processes of investigations are initiated to obtain the relevant data which will support variances in funds transfer amounts on given accounts. Without this kind of evaluative information, knowing your customer in the full sense is very difficult. And, banks must designate staff and management who are responsible for reviewing said reports and taking relevant action to deal with accounts which are flagged as exceeding typical dollar activity.

I would emphasize that establishing effective monitoring systems is not an easy task. Some banks have thousands of accounts and the effort to implement financial profiles is extraordinary. The main difficulty would be in obtaining the appropriate data from customers; having a means to substantiate its correctness and then developing the means to monitor transaction activity. This would be cumbersome enough for large banks which have sophisticated infrastructures, but, for smaller banks, it can be a costly, labor intensive endeavor.

### Conclusion

It is only by means of absolute insistence on knowing everything we need to know about potential customers that we can reasonably represent that we are confident about the propriety of money moving through our institutions. That's why historical data on customers is so vital. We are well aware of the ability of criminals to purchase or start legitimate businesses and once this is accomplished, they are at liberty to move money through these entities. However, we can still

contain them by knowing how often and how much money will move through a particular kind of business, i.e., what is the reasonable amount of funds flow under normal expectations and what do we do when that quantity is breached. Having knowledge about specific industries; the local economy, the principals of the business; the local bank of the business and holding pertinent financial data on the entity, e.g., regular financial statements and annual reports are all vital factors in separating the wheat from the chaff. In the end, if a bank cannot obtain what information it needs to fully satisfy its "know your customer" policies, it must not open an account with the potential customer, or, in the case of established accounts, they should be closed and reported as suspicious situations, if circumstances warrant. The beauty of having comprehensive, well defined "know your customer" procedures and cogent, internal financial transaction monitoring systems is that it makes the bank accountable for its customer base and obviates the need for further legislation or regulation which is in line with the government's policy of providing relief in this area to the banking industry.

Statement by Senator Charles E. Grassley

Hearing on the Threat to US Trade and Finance  
from International Criminal Organizations and Drug Trafficking

23 July 1996

A few steps from this hearing room is a combat zone. In just a few blocks from here, lies the killing ground that is one of the consequences of the illegal drug trade in this country. On average, over 400 people in Washington are murdered every year. That is roughly 60 lives lost per 100,000 population. The national average is 6 per 100,000. That makes Washington the nation's murder capital. Those casualties, the lives lost and maimed, occur in just a few neighborhoods. They are not spread out over the whole city. Much of this carnage is directly the result of drugs and the harm that they cause, a harm that falls disproportionately on a few neighborhoods.

Now, virtually every ounce of illegal drug you can buy within a stone's throw of here--and that is just about any drug you could want in any quantity you care to buy--is produced overseas. It is imported into this country. Washington is not on the border with Mexico. We don't grow poppies in Ward 6 or coca in Anacostia. These drugs find their way here in commercial cargo, in motor homes, in peoples' stomachs. They fly, walk, drive, and float into this country every day in a thousand ways. That availability is killing us. But the story does not stop here.

The criminal thugs that bring drugs into this country are not philanthropists. They are in the business to make money. And lots of it. That's why they come to the world's largest emporium. And they do well. But that leaves them with the problem of what to do with all the loot. How to turn all that dirty money into nice, clean cash. To do this, they exploit our banks and business. They smuggle cash out in bulk. They use our electronic highways. As the Center for Technology Assessment noted last year, our "Financial institutions and their wire transfer systems provide the battleground to control money laundering." Criminal gangs employ a thousand techniques that fertile imaginations--the best that money can buy--can devise. They do all of this in defiance of our laws, in vicious contempt for common decency. And when these sorry riches find their way into secure havens, they are then used to corrupt and intimidate individuals, institutions, and whole governments. The vicious cycle is complete and begins again.

These criminal gangs, to push their drugs and launder their millions, make use of the very same systems that are the sources of our prosperity. They smuggle drugs in and they sneak the cash out. They exploit our financial processes and our commercial mechanisms to do this. We must not permit this to happen. There in, lies our dilemma.

The hearing today concerns this dilemma. It deals with a problem that we can neither escape or ignore. The hearing today is to discuss that dilemma and the responsibility that we have to deal with it.

On the one hand, we must decide on those policies and practices that will most effectively facilitate

our trade and finance. We must do this in order to sustain our continued prosperity and competitiveness. On the other hand, we must decide how best to discourage the criminal exploitation of our financial systems and our commercial arrangements. This clash of interests is no easy problem to deal with, but deal with it we must.

Unfortunately, this country has a major drug problem. As it is in virtually every other area of economic activity, the United States is the world's largest market for illegal drugs. Americans have more money and more time than do many other people. This means that every entrepreneur in the world is out to make it big in the US market. Some of the most skilled, intelligent, and ruthless of these entrepreneurs are drug traffickers.

We are not dealing here with mom-and-pop operations. We are dealing with well-financed, international business enterprises with a global reach. They are sophisticated and dangerous. Let there be no mistake, the criminal organizations that traffic in drugs or other illegal goods are among the most significant threats to our well being that we currently face.

The major international criminal organizations, based in Asia, Europe, Africa, and Latin America, now dispose of economic resources that enable them to defy local and international law. They are richer than many countries. They are ruthless. And they are remorseless. Either through a process of threat and intimidation or by bribery and financial manipulation, they are able to challenge the authority of governments. They are able to undermine the integrity of public and private institutions. Where they cannot suborn they subvert. Where they cannot corrupt they kill.

The roll call of countries currently facing direct and serious challenges from these groups is disturbing. Today, criminal gangs in Russia, China, Italy, Nigeria, Mexico, and Colombia openly operate or have been able to penetrate into the depths of the political, social, and economic systems in those countries. Many smaller countries, without the range of resources available elsewhere, are simply overmatched and outmaneuvered in trying to enforce their own sovereignty. In some cases, criminal penetration has become so serious that it raises questions about the future stability of the country in question. There is growing concern about the ability of many governments, often deeply penetrated by criminal corruption, to respond meaningfully, if at all, to these criminal gangs.

In addition, banks and businesses pay out billions of dollars every year, directly or indirectly, to these same criminal gangs. Whether in protection money or in losses suffered from sophisticated scams. Whether in extortion or swindles, individual businesses and national economies are routinely ripped off, to the tune of billions of dollars annually, by ruthless criminal thugs. The cost of their activities are not paid out just in the crimes that they commit. They also exact a cost in terms of trust. They undermine good faith. When left unchecked, they pervert the very ideas of a free market. They bleed public establishments of public support. They threaten democratic institutions and the social, political, and economic circumstances that must sustain those institutions. We can see that process at work in Colombia, and Russia, and next door in Mexico. But the problem does not stop here.

In this country, these criminal gangs daily kill and maim more Americans than have suffered at the hands of terrorist bombs. They have done more damage to our social fabric and well being than has

any rogue political leader in Libya or Iran. They have caused more real harm in a day than all the illegal video tapes produced in China. Through the drugs that these scoundrels make and sell, they sow havoc in our homes and neighborhoods, on our streets and in our clinics.

We must take the steps necessary to ensure that our citizens are secured from harm and that the very processes of our well being be protected from abuse. We must ensure that the free-trade highway does not become an expressway for drug smuggling. We have to ensure that banking without borders does not become an opportunity for banking without conscience. But how to do that without smothering legitimate activity? We must devise the means to disrupt criminal enterprise without destroying free markets. We must ensure effective international cooperation and yet work with countries often incapable of taking effective action. We must lead but we cannot succeed without cooperation.

That is what this hearing is about. We must look at what we are doing and what we can do better. We need to consider what works and what does not. We need to cast a critical eye on our actions and those of our allies and friends to determine what more we can do. I am concerned that our policies are not up to the task. I am concerned that we have put our priorities in the wrong places. Frankly, we have a long way to go and a lot of work ahead of us. More kids are starting to use drugs. We are seeing more calls for legalization. We have dropped the ball on fighting back.

In the meantime, the criminals are getting richer and more sophisticated. As we face 21st Century thugs, we need 21st Century G-men. We need to be smarter and faster. We need to be focused and consistent. As one Treasury official put it, money laundering is a "crime hidden in the details of legitimate commerce." The same is true for smuggling. The devil is in the details. It is the details that we want to get at. It is how to respond effectively to the details of these criminal activities that we must address in our policies.

The witnesses here today, both public and private, are experts in this area. I hope that we can have a serious and frank discussion of what we need to do and how to do it better.

Statement by Senator Charles E. Grassley

Hearing of the Senate Caucus on International Narcotics Control

and

The Finance Committee, the Subcommittee on International Trade

on

The Threat to US Trade And Finance from International Criminal Organizations

and

Drug Trafficking

30 July 1996

Today's hearing concludes a hearing begun last Tuesday. This is a joint hearing of the Caucus on International Narcotics Control and the Finance Subcommittee on International Trade. I want to welcome the distinguished panelists this morning and the members of the Caucus and the Finance Committee. I particularly want to welcome Senator Phil Gramm and Senator Pete Domenici.

This hearing today deals with the threat to US financial networks from illegal drug trafficking. It deals with threats to our free trade system from those who would smuggle illegal drugs into this country. And it concerns those who would then launder their illegal gains using our banking and financial networks. It is about what we need to be doing to stop these activities. It deals with the steps we must take to protect our citizens and the institutions that sustain our prosperity and well being.

As I noted last week, we have a major drug use problem in this country. Part of that problem stems from the fact that drugs are widely available at affordable prices. The effects of the drug trade can be seen daily here in the nation's capital just a few steps from this hearing room.

The drugs that do such damage in Washington are also causing havoc in cities and communities across the country. Virtually all of these drugs come to this country illegally from overseas. And increasingly, they are coming to our shores in commercial cargo. They are coming hidden in containers, in cargo, and as cargo. The flow is staggering, including over 350 metric tons of cocaine alone every year. And this poison is crossing our borders using our free trade system. The very goods and products that we import are used as camouflage for these illegal drugs. But that is only part of the picture.

Once the drugs are sold, the criminal gangs face the problem of turning their illegal proceeds into legal tender. They do this by exploiting our financial systems. Through fraud and deception of

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every sort, they smuggle their illegal gains into the international banking and financial system. Worldwide estimates place the sum laundered every year at between \$500 billion and \$1 trillion, much of this in illegal drug proceeds. The sums involved are larger than the budgets of many countries. This money, once laundered, is then used to produce and trafficking in more drugs and to fund illegal activities of every sort. It is used to undermine the integrity of banks and commercial establishments. It is also used to bribe and intimidate local officials and whole governments. The effects of these activities on government and legitimate enterprise can be seen clearly in Russia, Colombia, Italy, and Mexico. In these countries, criminal activities threaten the very stability of political life. They threaten to overwhelm democratic institutions and decent government. Less visible is the threat to political integrity in countless small countries that do not have the resources or capabilities to fight back.

As a result, the threat to our financial and trade systems is more than just a commercial or business concern. The consequences are important to our national security and to the health of the principles we profess. This is why it is so critical that we understand the scope of the threat and explore necessary responses. I am concerned, however, about our current efforts. I am concerned that our policies and strategies are not up to the challenge. I am troubled about what I see as trends. And I am concerned that the threat is not receiving the focus and sustained attention it requires.

In the last several years, after a decade of declining use, teenage drug abuse is on the rise. As chart 1 indicates, past month use among teenagers has risen more than 50 percent over 1992 levels. At this rate of increase, we will see all the gains made in reducing teenage use achieved over a decade wiped out in half that time. As these numbers grow worse, so do hospital emergency room admissions, as we see in chart 2. And although the numbers have yet to be released, I understand that the forthcoming Household Survey of drug use will only confirm this sad trend. We are seeing more drug use and the associated consequences. No community is immune.

I do not believe that the return of drug use is a historical accident. I believe that it is directly connected to changes in policy and focus in our drug efforts. In the last several years, until very recently, we have seen less attention paid to dealing the drug problem. We have seen the issue downplayed and neglected. In particular, our interdiction efforts and international programs have suffered. As chart 3 illustrates, US and international seizures of cocaine have declined steadily along with the shift in emphasis. This coincided with cuts to our major interdiction efforts, to our international programs, and to DoD support to detection and monitoring. As US effort has lagged, so have efforts in Colombia and Mexico. As the chart shows, seizure rates have dropped sharply here and abroad. The so-called "control shift" in our interdiction efforts in 1993-94, shown in chart 4, coincided with a major decline in our disruption rate.

In addition, to these disappointing results, Coast Guard and Customs efforts have declined as well. Senator Feinstein has noted that Customs' focus to facilitate trade at the expense of enforcement has had negative consequences. It is only recently that there have seen moves to try to change this and raise the profile of our efforts. In the meantime, the trafficking organizations have shifted operations to use jet transport to move drugs. And they have moved increasingly to commercial cargo. We seem to be behind the power curve.

Moreover, the velocity of money laundering is increasing. And our move towards banking without borders is only facilitating the process. As a result, the trafficking and money laundering thugs seem to be getting ahead of our enforcement efforts. As Mexico illustrates, these organizations can defy governments or undermine their very ability to respond.

As we meet today to discuss these issues, the Administration is holding talks with the Mexican Government on these same concerns. I hope for all our sakes that we are going to see meaningful efforts and consistent approaches emerge from these discussions. As we approach the 21st century, we need to work smarter and faster. We need to work with others to achieve a common goal. If we don't do better, the drug thugs certainly will get the better of us.

**STATEMENT OF  
SENATOR ORRIN G. HATCH**

Mr. Chairman:

I would just like to take this opportunity to personally commend Senator Grassley for holding this hearing which will highlight what is, unfortunately, yet another example of the many problems confronting our society as a direct result of the ever increasing flow of illegal drugs into the United States. The compromise and of our international financial system by criminal elements, spearheaded by international drug cartels, illustrates the sophistication with which these enterprises now operate.

Unfortunately, over the last three and one-half years we have seen an abdication of responsibility in the war on drugs. This has led to renewed confidence in drug smugglers to use innovative methods to ferry their product into the United States. In fact, no longer are these criminals satisfied with simply crossing our borders to ply their trade. In this climate of tolerance, drug dealers have seen fit to actually force owners of private property along the borders of this great nation to sell their land. This, in turn, gives these dealers a virtual private highway to import their product. In short, we are literally losing ground in the war against drugs.

I am deeply concerned over the decay of our society at the hands of criminals, particularly drug dealers. For this reason, next week the Judiciary Committee will hold a hearing to examine the erosion of our borders at the hands of international drug cartels. It is my hope that hearings such as these will highlight some of the many problems which have been heightened as a result of this administration's apathy on the drug issue.

For these reasons, I look forward to today's testimony.

**Testimony of Ambassador Jeffrey M. Lang  
Deputy United States Trade Representative,  
Executive Office of the President,  
before the United States Senate  
Subcommittee on International Trade and  
Caucus on International Narcotics Control  
July 30, 1996**

I am pleased to be here today with my colleagues to provide further testimony to that provided last week by Treasury Secretary Rubin and Deputy Secretary Summers. I hope this testimony underscores the Administration's unyielding commitment to combat the sophisticated menace of international illegal drug trafficking and money laundering and the strong efforts being led by my colleagues at Treasury, State, the Office of National Drug Control Policy and other enforcement agencies to stop such illegal activity.

Illegal drug trafficking and money laundering is a global phenomenon that we must fight with ever more energy. This Administration has taken unprecedented steps to lead a cooperative international effort to clamp down on this phenomenon. We will continuously intensify our efforts to tap the growing economic opportunity of the global economy through market opening trade agreements and strong international economic policies, while remaining vigilant in our efforts to eradicate the evils of international and cross border drug trafficking and money laundering.

The question implicit in my invitation to appear before you today is the connection between trade agreements and drug trafficking. Let me state very clearly at the outset that

trade agreements are not responsible for the illegal narcotics problems of the United States.

Specifically, trade agreements which reduce barriers to trade, establish transparent and enforceable trade rules and encourage investment do *not* encourage, or condone, illicit trade and investment in narcotics. As proof, I would note that our most comprehensive free trade agreement, the North American Free Trade Agreement (NAFTA), does not restrict or inhibit the three member countries from taking aggressive action against this serious threat to our societies. Indeed, as my colleagues have testified, we have seen unprecedented action in the United States and Mexico, both domestically and at the border, through other forms of international cooperation, to step up efforts in narcotics control and interdiction. Furthermore, the World Trade Organization (WTO) does not inhibit the ability of the U.S. or other nations to take appropriate action against drugs. In fact, no trade agreement to which the U.S. is a signatory inhibits our ability to protect our citizens from the scourge of illicit narcotics.

However, we are aware of the argument that simply increasing the volume of trade between countries increases the opportunities for smuggling, and, by increasing the work load of our border agents and inspectors, increases the likelihood that illicit narcotics do enter the United States. I would make these comments in response.

First, to state that drugs traffickers will try to take advantage of increased trade, while a cause for concern, is not a reason to question trade expansion and trade

agreements. Obviously the drug lords and international traffickers use every advantage that modern technology provides. Instant communications, advanced transportation, sophisticated banking systems all perform valuable legitimate functions which have become essential to the modern economy, but all are also cleverly perverted by drug cartels. While we are rightfully concerned about this parasite that can infect many of our most fundamental institutions, we have not rejected the overwhelmingly beneficial role those institutions play in society, nor questioned the wisdom and necessity of eliminating this scourge by maintaining these valuable engines of economic growth. International trade and investment is also essential for a growing United States economy and its prospects for the future. Trade agreements are a key tool to help ensure that the benefits of the global economy are available to the citizens of the United States. To reject trade agreements because increased trade flows are a potential vehicle for illegal drug trafficking both assumes that increased trade flows only stem from trade agreements, which is not true, but also ignores the benefits that the U.S. economy and the legitimate industries of our trading partners derive from trade agreements that open previously closed markets.

In addition, trade agreements offer additional important advantages in the fight against illegal trade in drugs:

First, trade agreements are designed to make it easier for exporters and importers to exchange goods and services. This also means such agreements reduce the time and

resources that border agents must devote to processing routine, legitimate trade. Customs will continue to pay due attention to processing goods; however, trade agreements that eliminate tariffs and other requirements do free up these same resources to search out and interdict *illegitimate* trade. Instead of allocating increasing amounts of time classifying goods into one of 11,000 categories, reviewing valuation statements, assessing and collecting modest duties, these officials can, and do, devote their time to enforcement. This has been our experience under the NAFTA and the enforcement of our import regime in general.

Second, the fundamental purpose of trade agreements is to let market forces determine which producers have a competitive advantage, and to permit these growers, manufacturers, and service providers, to benefit from larger markets. As a result, trade agreements offer an avenue for legitimate employment, trade and growth that provide real alternatives to participation in the drug culture.

Regarding the NAFTA specifically, it is neither the cause of, nor an impetus for, illegal drugs entering the U.S. from Mexico. The NAFTA is a trade agreement that is designed to eliminate barriers to legitimate trade and make the rules governing trade in North America fair and equitable. At the same time, the NAFTA in no way weakens U.S. laws or enforcement efforts related to drugs. In fact, they have been strengthened.

Well before the NAFTA's implementation, drug smugglers began using a variety of methods to move their contraband into the U.S. Cars, trucks, RV's private aircraft, backpackers, four wheel drive vehicles between ports of entry, port runners through the ports, tunnels and boats, including high speed boats, are among the methods utilized. There has been no evidence of a shift to commercial cargo as a method of choice for smuggling as a result of the NAFTA's implementation. Under the NAFTA, Customs has retained the authority to target and search any cargo shipment and conveyance entering or exiting the U.S.

However, as indicated earlier in my testimony, illegal drug trafficking across the border is a scourge that the Administration is committed to fight. The Administration is working with the Government of Mexico to an unprecedented degree to do everything possible to stop such trafficking. U.S. - Mexican cooperative efforts are a key element if we are to make real progress in this battle. Furthermore, the Administration has taken unprecedented action to step up border enforcement - a notable effort being "Operation Hard Line." It is in response to measures such as Operation Hardline that smugglers shift routes to avoid detection, not the NAFTA. Operation Hardline is designed to make it as difficult as possible to bring illegal drugs into the U.S. by land, air or by sea. In short, it aims to shrink the methods and routes smugglers can use. In fact, it is in part because of increased interdiction efforts in the southeastern U.S. over the last decade that drug smugglers originating in South America began to shift their focus to the U.S. - Mexican



border - a 2,000 mile stretch of land. Operation Hardline is in response to this phenomenon, and Customs plans to extend the reach of Operation Hardline across the entire southern U.S., from California to the Caribbean.

Operation Hardline, in the face of a well funded and insidious effort, has had an impact according to our Customs Service. The total amount of drugs seized on the southwest border from fiscal year 1994 to 1995 was up 24 percent, from 370,000 pounds to 459,000 pounds. Specifically, the amount of cocaine seized was up 19 percent, the amount of heroin seized was up 108 percent, the amount of marijuana seized was up 25 percent, and the number of overall drug seizures in commercial cargo was up over 100 percent. In fact, a record number of cocaine seizures in commercial cargo was made. The amount of cocaine seized circumventing legal ports of entry was up 49 percent, and the amount of marijuana seized between ports of entry was up 24 percent in the same period.

In 1995, 2.8 million trucks, 84 million cars, and 232 million people crossed the U.S. - Mexico border. The first priority of the Customs Service has been drug interdiction in the face of this massive movement of people and goods at the border. The NAFTA has not stood in the way of stepped up enforcement against illegal drug trade across the border. Enforcement efforts have been expanded.

The President has pursued an aggressive trade policy to open markets in both

developed and developing countries. This Administration will continue this effort because it has helped to expand the economy, ensure its competitiveness, create higher wage jobs for American workers, and benefited consumers. The Uruguay Round Agreement and the NAFTA, to name the two most comprehensive accords, have opened new markets to U.S. commerce that were once closed. U.S. exports to the world have risen 31 percent since 1992 and accounted for roughly one-third of our gross domestic product (GDP) growth. Jobs that are supported by exports pay 13-16 percent more than other jobs and are more secure. The number of export-supported jobs has risen by an estimated 1.1 million between 1992 and 1995 to 11 million. We have no doubt that as the world's most competitive large economy, we can and will continue to succeed, but one necessary ingredient to that continued success is an aggressive market opening trade policy.

The NAFTA has proven the critical factor in opening the economies of our North American trading partners, even during the worst economic downturn in Mexico's modern history, and in protecting U.S. exports and jobs. U.S. exports to Canada and Mexico support over 2 million U.S. jobs, and this number is growing as U.S. exports continue to surge. For the first five months of 1996, for example, U.S. exports to Mexico are up 31 percent over 1993, the year prior to NAFTA implementation, and exports to Canada were up 35 percent over the same period. The NAFTA has positioned the U.S. more than ever to continue as the most competitive supplier to the large Mexican market. Our first and third largest trading partners will continue to serve as a major source of our export growth

thanks to the NAFTA.

The expansion of legitimate international trade, and the continued Administration effort to conclude and enforce new trade agreements, go hand-in-hand with the continued vigilant effort by the Administration to stop cross border illegal drug trafficking or money laundering. This Administration is committed to take the necessary steps both at home and with our trading partners to address this menace. The Office of the United States Trade Representative will continue to work in the context of a coordinated Administration effort under the leadership of the President to both enforce our borders and work cooperatively with other countries to combat illegal drugs and money laundering.

Thank you for the opportunity to appear today along with this distinguished panel.

Robert S. Leiken, President, New Moment,  
*Testimony to the Joint Hearing of the Senate Caucus on International Narcotics Control & the Senate Finance Committee's Subcommittee on International Crime, July 30, 1996*

Since the Puritans arrived on these shores, Americans have been denouncing overseas corruption -- sometimes with the mission of fostering reform abroad, sometimes exhorting against foreign entanglements. But, in the globalized, electronic late 20th century overseas corruption is no longer something faraway. With the lowering of technological and political barriers to trade and finance, the United States has become a new frontier for foreign criminal organizations which have found fertile field in some areas of American society. At the same time, the competitiveness of the U.S. economy, hence our prosperity, has come to depend in some part on winning business in sometimes corrupt overseas markets.

U.S. companies encounter overseas corruption as a fact of business life. Especially in developing or newly independent countries, U.S. firms must deal with politicians and officials who demand kickbacks and bribes in return for issuing permits, licenses, contracts, etc. But under the 1977 Foreign Corrupt Practices Act (FCPA) American businessmen can be prosecuted at home for bribing foreigners. This has created a serious dilemma as well as an uneven playing field for U.S. business.

Overseas corruption provides the indispensable nurturing habitat for criminal organizations, protecting them from punishment, offering the stable environment needed to thrive and to grow into international combines.

For the first time in six decades there is no international threat of tyranny. U.S. security and prosperity are threatened more immediately today by the unconventional dangers of international crime cartels, arms and drug smuggling, transnational bribery, the spread of pestilent viruses and -- all of which entail corrupt government officials. (One horrifying illustration of the latter was the exportation of AIDS-tainted blood plasma from Europe which caused fatalities in Japan, where an official had reportedly was bribed to receive the blood.) At the 50th anniversary of the U.N. President Clinton spotlighted 'the increasingly interconnected groups that traffic in terror, organized crime, drug smuggling and the spread of weapons of mass destruction.' Charles Curtis, Deputy Secretary, Department of Energy, recently described Russia's nuclear materials as 'very, very vulnerable to theft and black market transactions.' Senators Sam Nunn and Richard Lugar have developed legislation directed at this threat.

Clearly, Americans can no longer afford merely to deplore foreign corruption -- or to shrug it off as a necessary transaction costs of doing business. ✓

One disturbing illustration of the vulnerability of everyday Americans to the effects of foreign corruption is the Mexican methamphetamine invasion into the heartland of America to which Senator Grassley has called attention. A few years ago Mexican drug dealers

wrested from Western 'bikers' what was then a small-scale trade in 'speed.' Operating from a home base secured by official corruption and with resources garnered from the heroine and cocaine trade, the Mexican drug cartels 'modernized' the business. Methamphetamines are especially pernicious because their effects last far longer than cocaine and heroine -- which also renders them more 'cost-effective.' As far north as Iowa Mexican dealers have installed laboratories in vacant barns and employ local drug dealers to sell their damaging product to high school students and overworked adults, ravaging families and dramatically raising crime rates. We can anticipate Mexican methamphetamines making their way eastward towards Chicago, New York and Washington D.C., challenging the crack-cocaine and heroine market controlled by Colombian drug cartels.

Last week, in a scene out of John Grisham movie, a ranking U.S. immigration agent was arrested by Hong Kong's renown Independent Commission Against Corruption carrying five forged Honduran passports. Jerry Wolf Stuchiner, who was the top Immigration and Naturalization Service official in Hong Kong from 1990-94 and is now the INS' officer-in-charge in Tegucigalpa, had been instrumental in unraveling the alien-smuggling ring run by Gloria Canales. Canales reportedly smuggled more than 10,000 Chinese and Indian immigrants a year through Central America into the United States by bribing government officials. Now Stuchiner is suspected of collaborating with corrupt Honduran and Hong Kong officials to set-up a replacement operation.

The fall of Communist regimes or their embrace of free market reforms has let loose endemic corruption and crime which now reaches into the U.S. In May federal agents seized 2,000 AK-47 fully automatic rifles bootlegged into San Francisco by two state-owned Chinese companies. It was the largest seizure of contraband automatic weapons in American history. Before the Bureau of Alcohol and Fire Arms sting operation was cut short by press investigations, Chinese officials promised to provide antitank rockets and shoulder-fired anti-aircraft missiles 'capable of destroying a Boeing 747.' A senior administration official called the incident: 'a straightforward criminal operation.' But one of the companies involved is run by Deng Xiaoping's son-in-law, a specimen of the surge of nepotism and corruption which has overrun China in the past two decades.

Since 1991 Russian crime syndicates, based in the emigre community in Brighton Beach, Brooklyn have been operating in the United States, sometimes in league with the mafia and with Colombian drug cartels.

These are somewhat sensational illustrations of the dangers of overseas corruption to the U.S. Less sensational but perhaps more significant is the competitive damage caused by bribery in international transactions. U.S. intelligence sources have estimated that from April 1994 to May 1995 U.S. firms lost nearly 100 foreign contracts worth \$45

billion to transnational bribery. The annual procurement market in developing countries may be approaching \$1 trillion. In coming years economic reform in emerging markets will bring to international bidding nearly \$250 billion worth of large-scale capital projects alone. The transparency of these bidding processes will determine not only who builds tomorrow's economies but how well they will be built.

If transnational bribery costs Americans jobs, it costs developing countries efficiency -- which is what they need most. Studies show corrupt procurement practices scare off foreign investors and as much as double the price developing countries pay for goods and services. To extract bribes, bidding processes are concealed, market access heavily regulated, bureaucratic red-tape lengthened, creating a massive non-tariff barrier to trade. Bribes raise prices and costs and reward corruption and inefficiency. The most egregious bribers, according to U.S. government and business officials, are companies from France, Japan, Germany, Spain, Britain, Taiwan and South Korea. Many of these countries (half of the members of the OECD) actually permit tax deductions for illicit payments.

#### COSTS AND CONSEQUENCES OF CORRUPTION IN DEVELOPING COUNTRIES

A recent Washington Post editorial observed :

Developed countries usually have the established institutions and historical self-confidence to survive a measure of corruption. In developing countries, as in Russia and other transitional economies, corruption threatens to swallow whole nations, destroying all faith in democracy and making saps of any one who behaves honestly. It discourages investment and ensures that such investment as appears benefits only the meritless elite while leaving populations impoverished ("The Greased Palm Issue," Washington Post, June 1, 1996:A14).

Graft and bribery in developing countries do not simply line the pockets of a few officials, they butcher the entire economy by wasting resources and skewing public policy. The 'public bads' which corruption creates include not only bad policy and bad and unsafe buildings, bridges, roads, water, air etc. but also bad attitudes (Robert Klitgaard, Controlling Corruption). Corruption produces negligent, cynical government and inept officials who owe their jobs to nepotism and patronage. It destroys the people's trust in their government, breeds mutual distrust among citizens, subverts the rule of law and undermines the work ethic.

Corruption perverts incentives: public office is seen as the road to riches, productive enterprise and hard work as risky. 'Rent-seeking' (profiting from official privileges) absorbs the energies of officials and citizens who could be doing something useful and productive.

'Rent-seeking' lives next-door to plunder. And corruption, as we have seen, is the

silent partner of organized crime. Inveterate corruption in Mexico, Colombia, Russia and China have turned them into what we might call crime-exporting countries. Perhaps the clearest example is Nigeria. And, since the exportation of crime-exportation requires corrupt government, Nigeria is also a dramatic illustration of the consequences of corruption.

According to a survey published last month by the non-profit anti-corruption organization Transparency International, businessmen regard Nigeria as the most corrupt country surveyed. Rich in oil, Nigeria once boasted an agricultural system that was the pride of black Africa. Nigerian farming has regressed to primitive conditions thanks to corrupt local officials hoarding pesticides, fertilizers and tractors. Nigerian farmers scratch out a living without basic tools and supplies -- or property rights. Agricultural output has plummeted, and Nigeria has become a food importer.

During the oil boom of the 1970s Nigeria shifted its export base from agricultural to petroleum. Currently oil brings in about 90% of the country's foreign exchange and raises 80% of its revenue. (The United States, its biggest customer, buys about half of the country's crude oil.) However, Nigerians themselves stand in mile-long fuel lines for gas and Nigeria now imports nearly 70% of its petroleum. Why? Unfinished pipe lines, financed by loans from multilateral development banks pocketed by government officials, tell a large part of the story.

Oil earnings do not feed Nigerians but rather enrich their corrupt rulers who instantly transfer their revenue to foreign banks. Since the oil boom Nigerian per capita income, which rose 3.3% annually between 1956 and 1966, has declined. Per capital GNP fell from \$770 in 1983 to \$320 in 1992.

Official corruption has devastated not only Nigeria's economy but also its political life. A report by the International Forum for Democratic Studies of the National Endowment for Democracy calls Nigeria 'a prime example of a patrimonial regime' in which government takes the form of a 'prodigious dispensation of corruption funded patronage.' Nigerian rulers consolidate power with pay-offs to kinmen and cronies and by buying off opponents (and launching 'anti-corruption drives' against the hold-outs). At party conventions votes are routinely bought and sold, candidates routinely bribed. As Larry Diamond (*Journal of Democracy*) has shown neo-patrimonialism and clientelism have exacerbated Nigeria's regional, class, religious and ethnic fault lines.

One consequence of Nigerian clientelism has been a monumental fiscal hemorrhage. The International Forum estimates that some \$12.2 billion in government revenues was divested to 'extra-budgetary accounts' between 1988 and 1994 with no records of how these funds were used.

If petroleum revenue is the major source of state revenue, it competes with bribes

from foreign business and drug money in lining the pockets of government officials, politicians and generals. Nigeria is now not only a major transshipment point for narcotics heading from Asia or Latin America to Europe or North America but also a primary drug smuggling emporium. In 1995 Interpol listed Nigerian couriers (or "mules") as the world's third largest heroin smuggling operation. Nigeria has become a virtual narco-state, the home of major drug rings. The American sailors arrested in Naples in May for narco-trafficking were working for a Nigerian drug ring. Nigerian "mules" have been reported buying cocaine and heroine in Colombia which they carry to Europe, Asia and Japan where prices are higher than in U.S. Nigerian mules languish in prisons all over the world. Often they are the forlorn off-spring of farmers who can no longer make a living in Nigeria's once bountiful, now impoverished, hinterland.

The bottom third of the 54 countries of Transparency International Corruption Index is occupied exclusively by developing and former socialist countries. Nigeria brings up the rear, China is ranked 50th, Russia 47, India 46, Colombia 42. Italy, the lowest ranked of Western countries occupies 34th place. This suggests that there is a long-run relationship between corruption and underdevelopment.

Studies of a broad cross section of countries by Paolo Mauro at the Harvard University and the IMF indicate a 'negative association between corruption and investment, as well as growth' (*Quarterly Journal of Economics* 1995). Mauro research shows that where corruption is rampant, investments in physical and human capital, crucial determinants of long-term growth, tend to be lower. Businesses invest less in plant and equipment and, because it is easier to collect bribes on graft-ridden "public works" projects, governments spend less on education.

Last year the National Bureau of Economic Research circulated a study by James R. Hines of Harvard University which showed that U.S. businesses invest less in high corruption country. (The study also confirmed the intelligence findings cited above which indicated that overseas corruption hurts U.S. business.) Collaterally, the study shows that the Foreign Corrupt Practices Act had a dramatic effect on one key sector U.S. business especially prone to bribe demands. Sales of U.S. aircraft declined 17% in the five years after passage in "corrupt countries" but only 1.5% in "less corrupt countries."

To be sure, not all high-corruption countries are economic basket-cases. Italy, South Korea, Mexico, Taiwan and Indonesia demonstrate that. Indonesia ranked last in TI's 1995 Index, but its annual per capital income has soared from \$75 in 1966 to nearly \$1000 currently. Yet, Indonesia's development hardly matches its potential and natural wealth, and it has been accompanied by severe disparity in incomes, one of the world's largest foreign debts, and a current account deficit expected to reach \$10 billion in 1997. Local businessmen and foreign investors complain about *pungli* ("hidden taxes" or



bribery). In January Indonesia's own Government Audit Agency acknowledged nearly a \$1 billion in graft-related losses to state agencies in fiscal year 1994-5. The recent award of the national car project to a joint venture run by the son of President Suharto has alienated many local and foreign investors. Recent protests against military rule suggest that nepotism and corruption and a closed political structure may be bringing Indonesia toward a major political crisis -- which, of course, has also been the fate of Italy, Mexico and South Korea. Economic growth may choose to walk the path of corruption, but it is a path strewn with pitfalls not a broad high-way to sustained development.

#### 'CRIME EXPORTING' COUNTRIES

Criminal organizations are capable not only of corrupting but of virtually absorbing the government. According to Robert Gelbart, assistant secretary of State for International Narcotics & Law Enforcement Affairs, Nigerian crime rings are 'protected and nourished by the government.' Nigerian crime rings procure passports and other travel documents from the military government which 'nets billions of dollars' from organized crime.

When corruption rages out of control, organized crime groups may merge with the state. Under these conditions the country may become an exporter of organized crime. In the past we have seen tyrannies, such as Nazi Germany, Stalin's Russia, Saddam's Iraq, or Castro's Cuba, export political violence and tyranny. Today corrupt Nigeria, Colombia, Russia and China have become what we might call crime-exporting countries. They export crime not as a objective of public policy but as a consequence of organized crime's penetration of government structures and the paralysis of law enforcement agencies.

Crime and corruption usually went unreported in the Soviet bloc press since they were considered 'intrinsic to the capitalist mode of production,' and rare exceptions under socialism. Lifting that censorship may have led the widespread public impression of soaring corruption. But statistical and anecdotal evidence confirm that there has been a spectacular rise in crime, bribery and corruption in all the 'transition economies' of the former Soviet bloc especially in Russia itself. (Richard Lotspeich, 'Crime in Transition Economies,' *Euro-Asia Studies* v. 47, no.4, 1995)

It would be a mistake to attribute this increase, as many Russian politicians and several Western commentators have, to capitalism or democracy. Crime and corruption are rooted in the Soviet past.

Combining terror with socialist rhetoric, traditional bureaucratism and feudal patronage, Stalin's 'nomenklatura' or 'special Party-bureaucratic stratum' (Andrei Sakharov) came to monopolize the highest state and party positions. Leading comrades would be invested with a ministry or a region, placing their clients in lower offices. Their embezzled perks, hidden from the Soviet masses, included opulent dachas, access (blat) to exclusive shops, resorts, and schools as well as foreign travel.

In all the Soviet-bloc countries an illegal shadow economy became the life-support system of the official economy. Bribes and kickbacks got supplies to where they were needed. The shadow economy featured professional bribers who provided entrepreneurs access to the bureaucracy. Commissars and comrades absorbed the practices and mores of illegality which were grafted onto everyday business activity. In the last decade of Soviet rule stories of crime and corruption involving Communist Party leaders began to circulate: officials who had amassed huge private fortunes from bribes and kickbacks, massive influence peddling, vast embezzlement schemes and drug trafficking. As Soviet power began to wane, the nomenklatura rushed to set up dummy corporations abroad to whisk party or state funds out of the country.

Post-Soviet market reforms kicked over a rotting log, disclosing and liberating the bribery, theft and mayhem of the underground. Bribery has increased since higher profits can be extracted from the access granted by the many venal officials still in power. And privatization compounds the difficulty of law enforcement. Under the old regime theft and corruption were easier to detect, because trading itself was criminal. Now the underfunded heirs of the Soviet police state have become Keystone Cops, boarding sputtering buses to chase thieves in BMW's, shambling into crime scenes long since departed by telecommunicating mobsters.

Market reforms dumped into the Soviet patrimonial pot have made 'corruption boil and bubble/ Till it overruns the stew' (Measure for Measure). With obsolete laws, a state incapable of enforcing them, in a climate of moral and social confusion, criminal organizations bred under the old regime have emerged as a power brokers and patrons. Upward of 70% of all businesses claim they must pay protection money to organized crime. The popular reaction has led to the meteoric ascendancy of anti-corruption crusader General Alexandr Lebed as new chief of security and the dramatic sacking of Boris Yeltsin's closest and most corrupt advisers.

By the early 1990's the former Soviet Union was exporting 'professional hit men, icons, gold, drugs and radioactive isotopes instead of spies' (Steven Handelsman, Comrade Criminal:257) A German intelligence agency's report (BND) alleges that Nordex, a dummy-corporation established in Vienna in 1989 by the KGB, launders money, exports arms, trafficks in narcotics and smuggles nuclear material. The report states that Nordex 'demonstrates the interweaving of criminal structures with the old and, to a limited extent, the new leadership in the former Soviet Union.' (Time, July 8, 1996).

Perhaps only the moral imagination of a Dante could have envisaged Sicily as the last stop from Finland Station

Sicily itself of course is a traditional exporter of organized crime. In northern Italy markets and democracy have thrived along with the civic engagement and 'impersonal

trust' which Alexis de Tocqueville prized in early America. In Sicily, Sardinia and parts of southern Italy, on the other hand, clientelism dominates and contracts are enforced by patrons not law. The most formidable patron is the Mafia. In these areas, Robert Putnam reports, "Corruption is widely regarded as the norm...."(Robert Putnam Making Democracy Work:115).

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So pervasive has bribery become in China that dealing with the government resembles 'an auction of state resources and official services'(Yufan Hao and Michael Johnston, 'Reform at the Crossroads: An Analysis of Chinese Corruption,' Asian Perspective). The Secretary General of the Chinese Communist Party Jiang Zemin has warned that corruption 'will bury our party, our people's regime, and socialist modernization if we do not attack it seriously....'

Chinese hypercorruption dates from market reforms begun in 1978 by Deng Xiaoping. Officials and managers quickly seized the opportunity to forage in 'a no-man's-land between plan and market' (Hao and Johnston). They bought at low planned prices and sold at market rates and trafficked in business licenses, import permits, foreign exchange and scarce goods. Along with stunning growth, reform generated not a shadow economy (as in the old Soviet Union) but a sprawling, murky marsh in which patrimonial, command and market practices consort, submerging the boundaries between public and private, state and society, individual and collective, administration and politics. As was the case in the Soviet Union, the surge of corruption is a consequence not of market economy but its insertion into a socialist-patrimonial institutional environment. Nearly 60% of businessmen in capitalist Hong Kong, known for its effective anti-corruption policies, fear that imminent absorption into socialist China will revive corruption with a vengeance.

One consequence of rampant corruption in China has been the export of organized crime. Immigrants from Fujian province, the main source of the recent influx of Chinese illegal immigrants, are at the crest of the Asian organized crime wave. Last year more than half New York City's kidnap suspects and victims hailed from Fujian province. Often ransom in China is demanded for victims held in New York.

That creates a compelling need for crime cooperation with China. In May New York City officials travelled to Fujian weeks after the central government launched operation 'Strike Hard,' the most sweeping anti-crime crackdown in more than a decade. Fujian which boasts a free-wheeling economy as well as rampant corruption gave the American officials a decorously polite back of the hand.

#### A NEW PROGRESSIVE ERA?

*When considering the prospects for reform in countries where corruption is so embedded in institutional and attitudinal remnants of traditional society and where*

*almost everything that happens increases incentives and opportunities for personal gain, the public outcry against corruption must be regarded as a constructive force.* (Gunnar Myrdal, *Asian Drama*)

Clean government movements have now sprouted in countries as diverse as Italy, Cambodia, Argentina, Hungary, Pakistan, Saudi Arabia, El Salvador, South Korea, Switzerland, Taiwan, Tanzania, Thailand, Venezuela, New Zealand and Zimbabwe. Founded only three years ago, Transparency International already has indigenous chapters in more than 50 countries.

Latin American clean government activists, such as Sergio Arguayo, head of *Alianza Civica*, the Mexican umbrella group of civic organizations, find inspiration in American 'progressive movement' which developed at the end of the 19th century. That archetypal anti-corruption movement was built on urban consumers and an emerging white collar class, the same groups who are growing rapidly in emerging countries. Alienated or marginalized under the old patrimonial order, they could play a critical role in the construction of a transparent and accountable democracy. As the historian of the progressive era Richard Hofstadter, observed:

The development of regulative and humane legislation required the skills of lawyers and economists, sociologists and political scientists, in the writing of laws and in the staffing of administrative and regulative bodies. (*Age of Reform*)

The organization of non-governmental watchdog groups is another promising activity for would-be 'agents of change' disillusioned with national liberation, socialism and other chliastic adventures. But if the new progressivism becomes one more species of vanguardism, with social-engineering prosecutors and judges egged on by a sensationalist media, then exposing corruption will have become a spurious surrogate for civic virtue.

### THREE DIMENSIONS OF ANTI-CORRUPTION STRATEGY

In developed countries pressure from private interests, voluntary civic associations and political parties have helped convert the state from an interested party seeking a share in transactions to an impartial guarantor of commerce. That was essential to evolution of capitalist democracy in the West. As James Madison explained in *Federalist 51* the contention of private ambitions checks government oppression as well as the concentration of power in a single branch of the government.

It follows that strengthening civil society and modernizing the state are complimentary not antithetical. Together they comprise a crucial dimension of an anti-corruption strategy.

In Sri Lanka, Switzerland, Peru, Germany, Guatemala, Uganda, Dubai, Chile, Italy, and Botswana special government agencies have recently been formed to combat

corruption; other governments, such as Bolivia have redoubled their efforts through existing agencies. Recently, Malaysia and Singapore each declared foreign firms caught bribing officials ineligible to bid on future contracts. Several governments have engaged what Michael Skol has dubbed the 'credibility services' of reputable Western firms in such tasks as inspection procurement, accounting and auditing.

Transparency International and authorities such as Robert Klitgaard make a strong case for customized packages of political, administrative, legal and financial anti-corruption reforms. These packages might include: laws protecting whistle-blowers and penalizing illicit enrichment, financial disclosure, mandatory reporting of bribe offers, strong enforcement mechanisms, management information systems and public-private partnerships.

Stiff penalties for corrupt officials (especially conspicuous 'big fish') should be accompanied by rewards for competent, honest ones. Performance-based pay-raises mean collecting taxes, not to just to raise revenue but also to develop a 'relationship between equitable compensation and probity in public service' (Inter-American Convention Against Corruption, Art. III, Sec. xii). Recent efforts of such countries as Argentina to combat widespread tax evasion has aroused public anger. Support might be more forthcoming if tax collection were coupled with tough anti-corruption measures. When the people pay government servants decent salaries, they are buying a layer of insulation against patron and briber. And the official gains the security and the self-respect of a civil servant, so profoundly corrosive of patrimonialism.

Presently I shall discuss measures for controlling corruption in international transactions. But it is worth pointing out that most of the major recent corruption scandals overseas have not involved international transactions. The South Korean political slush funds came from South Korean chaebols; the Indian scandal involved pay-offs from a New Delhi business family to political leaders, the Italian kickbacks from national businesses and Mafia collaboration; Japanese scandals have centered around local payments to political parties along with banking and real estate fraud; 'privatization' (often embezzlement) of state assets play the main role in Russian and Eastern European graft. Scandals in Venezuela, Brazil, Mexico and Colombia have generally concerned national businesses and drug cartels not international corporations.

Scandals centering on vote-buying, illicit donations and other corrupt campaign practices in countries such as South Korea, Mexico, Nigeria, India, Thailand, Spain and Colombia show that as elections come to play an enhanced role in determining political power, campaign finance has become a major arena of corruption. Full financial disclosure, limits on contributions and liberal, equitable and complimentary access to the public airways are needed in established democracies as badly as fledgling ones, as

recent scandals in Japan, Europe and the U.S. have demonstrated.

But anti-corruption reforms will remain dead letters unless officials themselves are determined to implement them. "Public outcry" at home combined with diplomatic and economic pressure from the outside has a way of instilling political will in public officials. This brings me to the third dimension of anti-corruption strategy: the advanced countries, corruption's international "supply-side."

#### COOPERATING AGAINST TRANSNATIONAL BRIBERY

Transnational bribery represents a hazard to free trade and investment, a threat to democracy and development, and, in collusion with international crime, a danger to national security and public health and safety. No foreign policy issue affects Americans more, yet few get less attention from the foreign policy community.

But the "public outcry" against corruption is transforming this issue, a shift that has large implications for international commerce, developing nations and the American economy. Corruption is stealing into the province of foreign policy, becoming a subject of diplomacy, a preoccupation of intelligence and law-enforcement agencies, an agenda item in meetings of international trade organizations and a problem for foreign assistance programs and development banks.

"Whose blame is greater though both do wrong/ She who sins for pay or he who pays for sin?" asked the great Mexican poetess Sor Juana. Among the latter are narcotraffickers, international firms, government assistance programs and multilateral development banks.

The war against organized international crime and the drug cartels merits separate treatment. Drug trafficking has become a major source of corruption not only in Colombia and the Caribbean but also in Mexico and Brazil, and not only in Latin America but also in Africa, Europe and Asia.

Transnational bribery and graft deliver more dirty money to the laundry than narcotrafficking and illicit arms deals. Sometimes the bribe is not financial but political -- such as a vote in the U.N. U.S. intelligence sources have estimated that firms offering bribes win approximately 80 percent of foreign contracts.

These facts are creating an intriguing community of interests between U.S. corporations and proponents of development and democracy. For the solution to transnational bribery lies not in a futile attempt to repeal the Foreign Corrupt Practices Act but in universalizing it and supporting reforms in emerging countries.

A little more than two decades ago the public outcry against human rights violations started resonating in the U.S. foreign policy community. Human rights groups blossomed, congress developed legislation, successive administrations made human rights a policy criterion and raised the issue at international fora. Today the public outcry against

corruption has begun to influence the attitudes of diplomats and politicians. Bribery and corruption are no longer unmentionables in international diplomacy. Under U.S. prodding the OECD recommended this spring that its members cease allowing tax write-offs for bribery. Sources close to those protracted negotiations said that the public reaction to recent bribery scandals weakened resistance to the measure led by France, Germany and Japan. Under similar pressures Latin American officials took a leading role in forging the Inter-American Convention against Corruption.

Here are some of the relevant international sites for anti-bribery. In all of these arenas anti-corruption measures have been proposed and/or approved and or/implemented.

#### The Organization of Economic Cooperation and Development (OECD)

Half of the twenty-six members of the OECD permit corporations to write-off taxes paid to foreign officials. The April 1996 OECD recommended that member countries end this practice and also passed another recommendation to criminalize transnational bribery altogether. These recommendations demand practical implementation, a more difficult and more critical stage. Moreover, two other measures are critical: (1) a prohibition against the use of local 'consultants' and partners whose function is to deliver illicit payments; (2) prohibiting 'off-the-books' or secret accounts, as recently suggested by the International Chamber of Commerce.

#### The Group of Seven

The OECD recommendations were in significant both in themselves and as a catalyst for world-wide action. The June G-7 Summit in Lyon "resolved to combat corruption in international business transactions," took note of "the commitments of the OECD Ministers to criminalize [transnational bribery]" and "urged that the OECD further examine the modalities and appropriate international instruments to facilitate criminalization and consider proposals for action in 1997" (Economic Communique, June 28, 1996, sec. 26). We may now have a timetable for concrete action to criminalize bribery. But what shall be the "international instruments?" Below I suggest one worth considering.

#### The Financial Action Task Force (FATF)

This organization was created by the G-7 in 1989 to combat money-laundering. Along with the financial intelligence units of individual countries, such as the U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN), FATF spearheads the effort to combat illicit money flows. These flows have been accelerated by the adaptation of emerging technologies to criminal uses, by the conversion of Russia into a vast new crime center, and the proliferation of off-shore financial centers. International crime-fighting frequently gets enared in tangled questions of jurisdiction and sovereignty. This makes the coordinating role of FATF all the more crucial. It is important that twenty-six

have joined the Task Force, but it is even more important to multiply that number and to press for modification of national bank secrecy legislation, as Switzerland did recently, so as to closed down money laundries.

#### The World Trade Organization

If the OECD is the natural arena to bring pressure for reform to countries which supply bribers, the World Trade Organization is a crucial international arena for effecting reforms among the countries which demand bribes, especially in area of procurement practices. The United States is pressing that the WTO expand the pluri-national "WTO Government Procurement Agreement." This agreement covers procurement of goods and services by government and quasi-government entities and requires transparent bidding, published solicitations, elimination of preferences for national bidders and other rigorous steps to make the process open, transparent and competitive. At present, subscribers are confined to the developed world: Europe, the U.S. Canada, Israel, Japan and most recently South Korea. It is hoped that Singapore and Taiwan will soon join South Korea.

However the main anti-bribery effort at the November WTO meeting in Singapore will probably center on a U.S. proposal for negotiating a less rigorous but universal interim arrangement. This agreement would call for transparency, openness and due process in procurement. The advantage of the interim agreement would be in securing the agreement of all members of the WTO to the basic principle of transparency. Accession would not preclude subsequent accession to the more rigorous pluri-national agreement. Indeed the interim agreement could be the first step toward universalizing that more rigorous agreement. Malaysia and the Phillipines are opposed to addressing the matter in the WTO, but at a mid-July meeting in Christ Church, New Zealand, APEC ministers agreed to explore the issue.

The interim agreement is an important step, but bribery and corruption should be addressed head on in the WTO. When that happens corruption should be made a permanent WTO agenda item, not shunted off to a special committee.

#### Multilateral Development Banks

It was a step forward that the Lyon Summit of the Group of Seven commended efforts by Multilateral Development Banks "to make procurement processes more transparent" and encouraged "all the multilateral institutions to support reforms that will help to promote good governance and to reduce corrupt commercial practices." The communique added that "a sustained effort is needed in reforming the development banks to achieve better results on the ground."

The banks should consider corruption in their assessments of institutional credit-worthiness and project feasibility, insist on accountability in the management of resources and monitor closely day-to-day operations. Macroeconomic moderation was made a



condition of concessionary loans in the past decade, today transparency and accountability should be added.

Despite the express anti-corruption commitment of World Bank president James Wolfensohn, high officials in the permanent staff balk. They sometimes wield an argument previously invoked against human rights campaigns: 'How countries manage the funds we lend them is an internal matter. We are bankers not missionaries.' But funding corruption does not promote development -- as the African experience tragically illustrates. Moreover, 'internal' to an increasing number of the bank's member-nations are citizens who have lost their patience with corruption and are shocked to learn that as much as 3/4's of foreign aid is pocketed by politicians through bribery and graft (and then laundered in foreign banks).

#### International Chamber of Commerce (ICC)

Multilateral Development Banks are important in the fight against corruption because of the strategic and concentrated character of their loans to governments. Vigorous policies would send an important signal. Nonetheless, their loans are only a small portion of the \$230 billion in capital flows to developing countries. The World Bank's modest concessional loans to the poorest of these countries amount to about \$5 billion a year. Its net disbursements at normal interest rates have dwindled, reflecting the maturity of its loan portfolio (see Financial Times, April 22, 1996). Moreover since 1990 private capital flows have quadrupled while overseas development assistance has stagnated.

Thus transparency in private capital flows is crucial. That makes the action on procurement in Singapore essential. But it also underscores the importance of self-discipline by private businesses. To this end, the ICC March 1996 Rules of Conduct to Combat Extortion and Bribery in International Business Transaction represent a major advance. The new rules stringently prohibit bribery, kickbacks and extortion under all conditions and stipulate that 'there must be no 'off-the-books' or secret accounts.' The ICC urges enterprises to draw up their own codes consistent with ICC rules and that businesses establish control systems aimed at preventing corruption.

#### The United Nations

The U.N.'s 1988 approval of a Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances constituted a major step in international cooperation against narcotrafficking. The Convention's provisions for the confiscation of property and profits and the seizure of financial records notwithstanding bank secrecy (Art. 5), extradition ( 6), for mutual legal aid and international cooperation ( 7 & 10), for monitoring free trade zones (18) could be useful instruments in combating corruption and money-laundering and set a precedent for a new stage of international cooperation against corruption.

#### The Organization of American States

This spring's 'Inter-American Convention Against Corruption' was a dramatic advance both in its own right and as a precedent and prototype for broader cooperation. The Convention includes provisions for extraditing fugitive corrupt officials, for criminalizing transnational bribery and the 'illicit enrichment' of government officials and for transparency in hiring and procurement as well as a number of 'preventative measures.' The Convention has been signed by virtually all the countries of the hemisphere. Now the politically and culturally consequential process of ratification begins. The Inter-American Development Bank is expected to play an important role in implementing the agreement.

#### AN INTERNATIONAL CONVENTION AGAINST CORRUPTION

The State Department hailed the Inter-American Convention as 'the first anti-corruption treaty instrument in the world' and has suggested that it 'may help advance the criminalization of transnational bribery in other fora.' Indeed, henceforth when the U.S. raises these issues in international fora, it can do so in unison with Canada and the developing nations of the hemisphere. Moreover, Article XXIII stipulates that 'the Convention shall remain open for accession by any other State.' The accession by states outside the region is one way of expanding the reach of the Convention's measures against transnational bribery, money-laundering, forfeiture of property, extradition, and so forth.

But what about an International Convention Against Corruption that would bring together in one instrument the various anti-corruption initiatives now being undertaken in different fora? An important advantage of an international convention would be its binding effect on bilateral relations of all sorts. For example, it would cover Japanese assistance to developing countries. The convention would provide incentives and safeguards for 'whistle blowers' and the non-governmental organizations which protect them. Most critically, the ratification process in each country could raise the issue of corruption and provide international legitimacy both to anti-corruption organizations and whistle-blowers.

Most citizens as well as many influential officials in both developed and developing countries would welcome an international convention. Such a convention would protect and encourage officials, politicians and NGO's who oppose corruption much as the Universal Declaration of Human Rights and the Helsinki Accord aided human rights dissidents in the 1970's and 80's.

Indeed, the way impatience with corruption is crossing frontiers recalls the human rights campaigns of past decades. It can be no accident that Transparency International is modeled on the human rights organization Amnesty International. Yesterday the guilty's first line of defense was that human rights was 'an internal matter.' But dissidents welcomed and were emboldened by international attention. Human rights subsequently became a universal watchword. Today opponents of corruption insist that 'sunlight is the

best disinfectant." During this crucial stage when democracy must institutionalize or perish, 'transparency' may emerge as a banner.

As we have seen the pace of anti-corruption proposals and measures in a variety of arenas is quickening. The first part of 1996 saw initiatives in the OECD, the G-7, the WTO, the ICC, and the Multilateral Assistance Banks, the European Parliament, the International Bar Association. In international fora the United States should not only place corrupt practices on the agenda but press for concrete action and timetables. Moreover, the U.S. should be ready, as our former ambassador to Venezuela Michael Skol has urged, "to blow the whistle when it has the music available," i.e. when it has the goods on bribery by foreign competitors. To date U.S. anti-corruption policy has consisted of separate initiatives in different arenas involving USAID, the US Office of Government Ethics, the White House Task Force on Barriers to Trade, the U.S. Trade Representative, the Commerce, Treasury, Justice and State Departments, the FBI, the CIA and the U.S. Congress. How will these pieces find each other in the darkness? Moreover, has suggested that U.S. firms be more regularly consulted on what the government can do, "as Ron Brown did with a group of CEO's shortly before he died." Various departments in the U.S. government are charged with different elements of anti-corruption policy. It may be time to form a joint Public-Private, Bi-partisan Presidential-Congressional Commission to develop a coordinated anti-corruption policy, one which takes on not only bribery in international transactions but the also consider the interface between corruption and international organized crime.

We are faced with a paradox. The spread of democracy has sparked disclosure of corruption East and West. Corruption has become a political lightning rod in dozens of countries which had tolerated it for generations. Similarly increased trade and investment has brought the issue of transnational bribery to the fore. But free trade, democracy and economic globalization have engendered corruption itself as well as its disclosure. This is especially the case in the newly independent and developing countries. The foreword to the ICC Rules of Conduct stresses that continued extortion and bribery "could undermine the most promising development of the post-Cold War era -- the spread of democratic governments and market economies worldwide. Freer trade must be accompanied by fair competition [or else] trading relations will be increasingly strained to the common detriment of governments and enterprises." That is to say, reducing bribery, smuggling and kickbacks is part and parcel of free trade; anti-corruption is part and parcel of democracy. Today's decisive battles for free trade, development and democracy may well be fought on the terrain of corrupt practices.

*Robert S. Leiken is the president of New Moment, a non-profit organization incorporated in 1996 which works on issues of international democracy.*

Testimony of Michael M. Miles before the  
Senate Subcommittee on International Trade and the  
Senate International Narcotics Control Caucus

July 30, 1996

Good afternoon, my name is Michael Miles. I am a licensed U.S. Customs Broker from El Paso, Texas. My firm has offices at all major ports of entry along the U.S./Mexico border. We are the largest Customs Brokerage firm headquartered along the border and currently handle a major share of imports through our Customs ports of entry. I am representing several organizations that deal with trade and economic development of border communities.

These organizations include the Border Trade Alliance, a public-private coalition of individuals, entities and corporations conducting business across the United States borders. I currently chair the Ports of Entry committee in this organization. I also represent the El Paso Foreign Trade Association and the El Paso Economic Development Division of the Greater El Paso Chamber of Commerce.

As you are certainly aware, the Southwest border has been in the trade business since Coronado came through this area over 450 years ago in search for the Seven Cities of Gold. Trade has flowed North and South along the established trading routes since that time and has increased over the years to where today the volume between the United States and Mexico is in excess of 62 Billion dollars. All along the border between these two countries, communities have developed and prospered by assisting in legitimate trade activities.

I have not found any legitimate importer that does not support the Drug Interdiction program. We applaud your efforts to halt the flow of illegal drugs into our country and we, as border communities, stand ready to assist in this task wherever possible. We are currently participating in Customs programs such as Line release, Cargo Selectivity, and the Tripartite sealed trailer program. We are encouraging participation in a new program being designed to work in conjunction with shippers, carriers, brokers, importers, and Customs called the Business Anti-Smuggling Coalition. This program will include training, educating, and screening all participants involved in border trade including how to secure cargo and conveyances so that contraband can not be introduced into the environment of legitimate trade. This program includes educating shippers about additional security systems available in the marketplace to help maintain a workable closed system that will not readily allow the interdiction of contraband. A major component of this program is the cooperation between importers, shippers, carriers, brokers and U.S. Customs in performing background checks on all those who come in contact with the importation process of the goods.

Over the years we have been frustrated by the ever increasing delays experienced while crossing the international borders between the United States and Mexico. These long delays have caused the economic and cultural ties between our two countries, and between sister border communities, to become stymied and unable to grow at the rate necessary to remain competitive in today's fast paced world. This frustration is exaggerated when we have tried to address these delays and have been met with the reality that both Customs and Immigration share the responsibility of handling primary inspections at our land border ports of entry. Each of these agencies lay blame on the other for the delays and state there is insufficient manpower in their agency to sufficiently handle the volume of traffic crossing our borders.)

It is our belief that, although the agencies may need additional staffing, a far greater problem is that of management of our ports of entry. We have found that there is not any one person or agency in charge or willing to take responsibility for whatever goes on within the port. The border trade alliance has been a proponent for many years of a concept called "Unified Port Management" where one agency would have responsibility for the management of our ports of entry. We feel this would eliminate many problems and inefficiencies in the operations of the ports. I have attached in the printed record more detailed information on this proposed program.

Border city economies and cultures are not separated by the international border. In El Paso, a major driving force of our local economy is international trade from the MAQUILADORA program in Mexico. There are over 100 Fortune 500 companies currently located in Cd. Juarez, Chih., Mexico participating in the Maquiladora program. The shipments involved are legitimate trade and should not be considered a high risk for the interdiction of contraband or narcotics into the United States. Yet, in order to statistically show we are at war with the drug smugglers, these shipments are continuously off loaded at the border and checked for contraband even though there has been no success in discovering drugs.

Perhaps you could argue that this poses as a deterrent and if there were not an aggressive examination program there would be drugs entering the United States in commercial cargo. We think not because to introduce illegal merchandise into a legitimate environment would be too risky for the smugglers with the likely result of being discovered by the driver, shipping clerk, receiving warehouseman, or any number of other people that come in contact with each shipment coming across the border. Remember most companies have an incentive to ensure that illegal drugs are not on their trucks; their reputation is at stake.

We understand the pressures that our Customs and Immigration officials are under to locate and seize narcotics at our borders and yet not interfere with the legitimate flow of commercial traffic. It has to be hard to balance the scale when on one hand we have the enforcement side of their job and on the other hand we have the importers who need and deserve the facilitation that is necessary in order to compete in the international market place.

The continued focus on drug interdiction at our border ports of entry continues to be important in the war on drugs. However this effort must be carried out RESPONSIBLY and in a manner that will not disrupt the flow of legitimate commercial trade. Are we giving our Inspectors the best most modern tools available to perform their inspections as rapidly, accurately, and unobtrusively as possible? We have been a part of this process for many years and firmly believe the answer is a resounding NO. Although there is X-Ray capabilities at the Otay Mesa port of entry there is not X-Ray equipment at the other ports of entry along our borders. It is my understanding that this much needed equipment will not be permanently available for another couple of years. This is much too long if we are serious about winning this war on drugs. There is other technology that we have and should use in this fight. We have satellite technology we should be able to use to provide better intelligence as to when and how the drugs are crossing our borders. It should not be necessary to disrupt the flow of legitimate trade to the extent that currently exists.

The message I want to leave you with on behalf of the importers and communities is we do understand the need for the drug interdiction efforts. We ask you to understand that the economies and cultures of the border communities are tied to trade crossing the international border in rail cars, trucks, cars, and by foot. Our business is trade. It is not acceptable having to wait for hours, not minutes, to cross the border after conducting business in a border sister city. Tens of thousands of our residents must cross the border daily. A significant number of these people involved in legitimate trade must cross the border several times per day.

This economic loss in time reduces our international competitiveness by increasing our total cost of doing business. Our economic growth and prosperity (not only on the border but also for the whole United States) depends largely on establishing a competitive position in the global market. Please help us by eliminating these excessive costs of transacting legitimate business and help us remain competitive in the global economy.

Importers are concerned about drugs entering the United States and have been working in cooperation with the Customs Service to eliminate trade as a vehicle for entry of illegal commodities for many years. All we ask for in return is dignity and respect be shown our law-abiding citizens.

BTA  
BORDER TRADE ALLIANCE

Position Paper on Unified Port Management

Over the years, all along our borders, we have been frustrated by the ever increasing delays experienced while crossing the international borders between the United States and Mexico. These long delays have caused the economic and cultural ties between our two countries and more importantly, between the sister border communities to become stymied and unable to grow at the rate necessary to remain competitive in today's fast paced world. This frustration is exaggerated when we have tried to address these delays and have been met with the reality that both Customs and Immigration share the responsibility of handling primary inspections at our land border ports of entry. Each of these agencies lays blame on the other for the delays and states there is insufficient manpower in their agency to sufficiently handle the volume of traffic crossing our borders. The Border Trade Alliance has been instrumental in securing additional customs inspectors along the U.S./Mexico border in the past, but yet, this problem of congestion and long lines continues. It is time that the Border Trade Alliance begin a campaign to consolidate the management of the primary and secondary inspections along the borders into one government agency.

Over the years, there have been many efforts to consolidate the management of the land border ports of entry into either the U.S. Customs Service or the Immigration and Naturalization Service. Without recapping the history of these efforts, it is suffice to say they have all failed. The principal reason for this failure is because it has been perceived as favoring one agency over the other. We do not believe that consolidation of management necessarily leads to that conclusion. Both agencies have valid roles to play in our border crossing activities. Given today's budgetary limitations and the benefits that can be realized from consolidation, we feel that the time is right to reach a compromise that is agreeable to all parties.

We do not make these recommendations lightly and feel that there are valid reasons that shared inspection responsibilities do not work efficiently. With today's financial condition of the U.S. Treasury, it is important to find ways to cut costs of government and yet improve efficiencies. We feel that Unified Port Management is one such method to eliminate the inefficient practice of dual inspection and substitute it for a more progressive and efficient inspection system. The following are some of the problems and inefficiencies that can be eliminated under Unified Port Management.

- \* LACK OF ACCOUNTABILITY FOR BORDER INSPECTION PROCESS
- \* OVERLAP AND DUPLICATION OF EFFORT
- \* REDUNDANT SUPPORT SYSTEMS
- \* ABSENCE OF COHERENT BORDER POLICY
- \* CONFUSION OVER BORDER RESPONSIBILITIES BY PUBLIC, OTHER AGENCIES & CARRIERS
- \* POOR COOPERATION AND COORDINATION BETWEEN AGENCIES
- \* INEFFICIENT USE OF PERSONNEL AND RESOURCES
- \* POOR PUBLIC IMAGE OF GOVERNMENT, AGENCIES AND PROCESS
- \* DIFFICULTY OR INABILITY TO INTRODUCE CHANGE AND INNOVATION
- \* DEMONSTRATION OF CONGRESS INABILITY TO OVERCOME BUREAUCRATIC RESISTANCE TO RESOLVE A SEVERE MANAGEMENT PROBLEM

As trade between the United States and Mexico increases, we can no longer continue under the current system of management of our ports of entry. Unified Port Management would offer the following benefits to our governments and boost the economy by facilitating trade. We believe that the following benefits would be gained by implementing Unified Port Management.

- \* ESTABLISHES ACCOUNTABILITY FOR BORDER INSPECTION IN A SINGLE AGENCY
- \* ELIMINATES THE OVERLAP AND DUPLICATION OF EFFORTS
- \* PREVENTS THE DEVELOPMENT OF REDUNDANT SUPPORT SYSTEMS AND REDUCES PAPERWORK WHERE POSSIBLE
- \* BEGINS THE DEVELOPMENT OF A COHERENT BORDER POLICY
- \* FACILITATES AND STREAMLINES THE PROCESSING OF TRAVELERS AND THE FLOW OF INTERNATIONAL TRADE
- \* IMPROVES UTILIZATION OF RESOURCES AND PERSONNEL
- \* IMPROVES THE ENFORCEMENT OF OUR LAWS AT OUR BORDERS
- \* ALLOWS FOR SMOOTH IMPLEMENTATION OF INNOVATIVE INSPECTION PROCESSES

We, therefore, propose that the following plan be put forth to both the U.S. Customs Service and Immigration & Naturalization Service.

1. We recommend that the U.S. Customs Service be given the responsibility for all primary and secondary inspections at land border crossings and primary inspection responsibility at all airports and seaports of entry.
2. That the Immigration & Naturalization Service have an enlarged manpower and responsibility inside the ports of entry for secondary documentation.
3. The Immigration & Naturalization Service's Border Patrol needs to be beefed up to handle interdiction efforts between the land border stations.



4. The INS Border Patrol should have a much greater presence at the inland check points on all highways leading from the border areas. Currently, these check points are all open approximately 75 to 80% of the time. These should be open 100% of the time.
5. The INS should have an enlarged program of education and enforcement of the employer sanction regulations. This is important not only in the border communities, but also in our inland urban areas. To a great extent, many businesses, particularly the smaller ones, are not aware of the requirements for filling out I-9's for all new employees and on the procedures for staying legal in its reporting responsibilities. This increased educational role would assist businesses to comply with our immigration laws and help the INS to become partners with business and be less adversarial in this endeavor.
6. That legislation be drafted authorizing the INS to issue visas for business and professional people, as well as tourists at all ports of entry, without advance notification. The only requirement would be that proper documentation be presented, i.e., passports, birth certificates, etc.

The whole idea of Unified Port Management is to increase efficiency at our ports of entry by making each agency accountable to provide a different service to the public. This division of responsibilities also gives us a better opportunity to support the budgetary process of both agencies so long as we can show the benefits gained by the separation and increased responsibility of each agency.

We have discussed this matter in private with several public and private organizations and have received support from each organization. It is apparent that this is not only a border issue, but also an airport and seaport issue. We are in the process of finalizing a plan of how to address this issue on a national level so that the politics that has caused this consolidation effort to fail in the past does not play a part in our efforts.

# An Open Letter To The Participants Of The Southwest Border Counterdrug Conference

**I**t is our honor to welcome the Border Conference to El Paso del Norte—El Paso/Juárez, international twin cities, an area that was culturally and economically linked long before the national boundaries of the United States and México were considered—a region separated only by the Rio Grande.

We acknowledge and appreciate our nation's concern about drug traffic intervention and illegal immigration. Every community in America, including El Paso, witnesses the horrible destruction of society caused by the abuse of illegal drugs, and the El Paso community accepted Operation Hold the Line as an effective and creative means of protecting the sovereignty of the United States. All we ask is dignity and respect for our mutual law-abiding citizens.

For more than 400 years, El Paso del Norte has been the gateway to trade between the United States and México. From México City, through the major cities of our region, to Albuquerque and Santa Fe, the Camino Real corridor has flourished as the most important trade route of the West.

Today, the El Paso/Juárez border accounts for more than 25% of all goods and services traded between the United States and México, nearly \$20 billion annually.

NAFTA is rapidly accelerating this trade, projected to grow by more than 40% in the next four years. This expanded trade will provide both an economic opportunity, in terms of the potential for jobs and investment, and a bureaucratic challenge, in terms of our ability to move goods and people across our bridges.

Each year, our three international bridges must accommodate:

- more than 32 million private vehicles
- more than 1.2 million cargo vehicles
- more than 80 million people

El Paso is the 19th largest city in the United States, with a population of 625,000. Juárez, México's 4th largest city, has a population of 1.75 million people in its greater metropolitan area.

If our binational community is to fully capitalize on the economic opportunity afforded us by NAFTA, we will require the help and support of the federal government to resolve the lack of infrastructure and human resources that have created problems on our international bridges.

1. EPA cites El Paso for not adhering to minimum air quality standards, a situation significantly exacerbated by carbon monoxide fumes released from 33 million vehicles that often sit for an hour, sometimes as long as two hours, waiting to cross northbound into the United States.
2. Millions of potential productive hours are wasted. Often, hundreds of automobiles and transport vehicles are kept waiting to pass through only two or three checkpoints, while other checkpoints are unused and unstaffed.
3. Shipments are delayed. Goods often sit for days waiting to clear customs, another barrier to the flow of trade upon which our global economy depends.

Resolution of these issues surrounding our international bridges would significantly impact the over two million people who live in the largest international metropolitan border region in the world.

In this regard, we an alliance of citizens united for the common interests of our community, respectfully request your support for the following proposals:

1. Unified Port Management—As was resolved and recommended by the Government Accounting Offices report, it is essential for effective and efficient operation of the bridges that one federal agency be responsible for port management.

2. **The Allocation of Adequate Resources** — The INS and Customs authorities must receive responsible funding to be able to pursue their respective mandates with adequate personnel, reducing crossing time to a desired maximum of 20 minutes.
3. **Support of El Paso/Juárez as a Site for the Creative use of Science, Technology and Innovation:** That such simple potential solutions as Designated Commuter Lanes (DCLs) and High Occupancy Vehicle Lanes (HOVs) be immediately created along with any other new and innovative technological advances, for the improved and accelerated flow of people and commerce.

We, as citizens of El Paso/Juárez, thank President Clinton for his far seeing vision and support for NAFTA, which has given this region a wonderful opportunity to improve the quality of life for its inhabitants. Your assistance in eliminating the barriers that are impeding our economic growth and development is respectfully solicited.

#### PARTICIPATING ORGANIZATIONS

Downtown Development Association  
 El Paso Hispanic Chamber of Commerce  
 Greater El Paso Chamber of Commerce  
 The South El Paso Revitalization & Redevelopment Association  
 World Trade Center/ El Paso/Juárez  
 Border Trade Alliance  
 The El Paso Foreign Trade Association  
 El Paso Custom Brokers Association  
 The El Paso City International Bridge Commission  
 El Paso/Juárez Incentive Group

Asociación de Maquinistas de Cd. Juárez  
 Asociación de Transportistas de Cd. Juárez  
 Cámara Nacional de la Industria de la Transportación  
 Cámara Nacional de Comercio  
 Cámara Nacional de la Industria Restaurante  
 Cámara Nacional de la Industria de la Construcción  
 Confederación Patronal de la República Mexicana  
 Desarrollo Económico de Cd. Juárez  
 Presidencia Municipal de Cd. Juárez

## PREPARED STATEMENT OF STANLEY E. MORRIS

Mr. Chairman and Members of the Caucus and of the Subcommittee, thank you for giving the Financial Crimes Enforcement Network this opportunity to discuss the serious problem of international organized crime and its impact -- complex, global and increasingly threatening. Criminal organizations now dwarf some of the world's largest legitimate business enterprises, laundering enormous sums of money throughout the international financial system. These organizations buy and sell drugs, deal in weapons, sponsor terrorism and corrupt government officials. No nation is immune and no nation acting alone can eradicate this national security threat of the 21st century.

As the 20th century draws to a close, we are seeing the globalization of financial and commercial systems become an accepted reality. The advent of the 21st century is also ushering in new technologies which are further restructuring the way commerce and finance are being conducted. Electronic payment systems are creating a virtually seamless international network through which funds can be dispersed worldwide. In addition, a more open trade environment and the development of advanced technologies offer exciting opportunities for the marketplace. At the same time, these developments can also provide exploitable avenues for criminals who, because of law enforcement's efforts, are forced to constantly seek new methods of laundering the profits of their illegal activities.

The United States is a world leader because we have never allowed progress and our free market system to be held hostage to this threat. As Secretary Rubin and Deputy Secretary Summers have described, we are putting in motion policies to address today's problems while developing a long range, global system of relationships at the diplomatic, enforcement and private sector levels.

**FinCEN's Mission**

Before I discuss what we are doing to prevent criminals from taking advantage of fast-paced technological progress and commercial restructuring, let me first describe the mission of the Financial Crimes Enforcement Network--FinCEN. Just over six years old, FinCEN serves as one of the primary agencies that establishes, oversees, and implements Treasury's policies to prevent and detect money laundering.

As its name implies, FinCEN is a network, a link between the law enforcement, financial, and regulatory communities. It brings together government agencies and the private sector to identify ways to prevent and detect financial crime. FinCEN's unique staffing emphasizes its network approach. In addition to its permanent workforce of about 200, approximately 40 individuals from 21 different regulatory and law enforcement agencies are assigned as long-term detailees.

FinCEN serves as a network in several ways. First, it provides analytical case support, through the use of state-of-the-art technology and intelligence analyses to many federal agencies, including the U.S. Secret Service, IRS's Criminal Investigations Division, U.S. Customs Service, FBI, and the Drug Enforcement Administration. FinCEN also administers the Bank Secrecy Act, which is a key component of Treasury's efforts to fight money laundering. And finally, in response to the growing international dimensions of money laundering, it promotes global efforts to build effective money laundering policies and cooperation.

**Partnering • Innovation • Flexibility**

My testimony today will focus on three principle concepts guiding the strategies Treasury and FinCEN are pursuing to beat criminals at their own game--partnering, innovation, and flexibility.

### **Partnering**

Let me first discuss how FinCEN is strengthening its network through partnering. Just as crime groups are developing ties with their counterparts in other countries, we are building alliances of our own within and between the global diplomatic, enforcement, regulatory and financial services communities.

In the multilateral arena, FinCEN has played an active role in the world's leading anti-money laundering organization, the Financial Action Task Force--FATF. It was created by the G-7 countries in 1989 to address the global problem of money laundering, and today is comprised of 26 countries and two organizations, the European Union and the Gulf Cooperation Council.

Like any multi-national effort, this process has appeared to move slowly--perhaps more slowly than we would like at a time when transnational crime is on the rise and money laundering is reaching serious levels. Considering that the FATF is only seven years old, it has achieved remarkable success.

A solid foundation of member and non-member countries committed to promoting the adoption and implementation of internationally-recognized counter money laundering measures is steadily evolving. Known as the 40 Recommendations, these are acknowledged worldwide as the standard for countries to follow in establishing anti-money laundering programs.

The U.S., which held the presidency of the Task Force between July 1995 and July 1996, recently hosted FATF's annual meeting for the first time ever here in Washington from June 25 to June 28. High on the agenda was obtaining consensus on revisions to the 40 Recommendations which had not been changed since their adoption in 1990. Agreement was reached on significant aspects of effective anti-money laundering policy-- which only a few months ago some FATF members were reluctant to accept. For example, members agreed to: extend money laundering predicate offenses to serious crimes beyond drug trafficking; require mandatory suspicious transaction reporting; include non-financial businesses as part of counter money laundering measures; and focus attention on the money laundering implications of emerging electronic money technologies.

Moreover, task force members are pursuing an aggressive external relations program to reach out to all regions of the world. I can point to increasing progress in this area. In 1990, a Caribbean initiative, or CFATF, was created which now includes 26 countries from the region. Member countries with poor compliance records in the past such as the Cayman Islands are realizing the political and economic ramifications of being labeled a "money laundering haven" and have taken significant steps to implement counter policies. In the case of the Caymans, for example, contrary to that government's fear that depositors would remove funds if money laundering controls were instituted, depository assets are actually increasing.

Panama, another country with serious money laundering problems, has, for the first time, participated in the CFATF mutual evaluation process. This review is conducted by

an independent, outside team of experts drawn from other member nations. The Panama assessment team recently concluded the on-site portion of the evaluation. Results of this evaluation will be carefully reviewed by all members. Demonstrating Treasury's commitment to the region, FinCEN has provided a senior specialist to serve as Deputy to the Director of the CFATF Secretariat.

The Task Force process will not reduce the drug trade and money laundering which exists in the region overnight. But it is beginning to have an effect on governments in countries such as the Cayman Islands, Panama, and Mexico. Attitudes are slowly beginning to change and attitudes must change before real systemic reform can take hold.

The strategic and economic importance of the Asia Pacific region has been a catalyst in the establishment of an Asian FATF Secretariat. And, efforts are on-going in countries of the former Soviet Union and Eastern and Central Europe to promote the adoption of the Forty Recommendations.

As more and more countries scramble to join the global marketplace and attract potential investors, FATF's influence is having an effect. These nations are realizing the consequences of playing outside established international standards. When countries pass laws which are blatant invitations to money launderers, the FATF reacts publicly and swiftly. The Seychelles passed such a law earlier this year. Political pressure was applied on that government through the FATF collectively and by individual member countries--including the United States--to change its law or be branded as a country which responsible financial institutions and investors would be urged to avoid. In this regard,



FinCEN has issued an *Advisory* to U.S. financial institutions advising them to scrutinize all financial transactions in or out of the Seychelles.

In addition, FinCEN is active in other multi-lateral efforts such as the Summit of the Americas--a process which President Clinton began in 1994 to develop a coordinated hemispheric response to money laundering.

In December of 1995, Secretary Rubin took the process a step further and chaired a ministerial conference in Buenos Aires attended by 29 of the original 34 Summit of the Americas participating nations. A Communiqué was adopted in Buenos Aires in which the ministers committed their respective governments to take a series of actions to combat money laundering. These actions include the completion of ongoing assessments to determine each country's progress in implementing the Communiqué's anti-money laundering measures. An Inter-American Drug Abuse Control Commission experts group, working in conjunction with the Organization of American States (OAS/CICAD), has been tasked with developing an operating framework for implementation reviews.

As a natural outgrowth of its leadership role in FATF, FinCEN is also spearheading an effort it started a little more than a year ago to encourage other countries to establish their own domestic financial intelligence units--known as FIUs. There are approximately 20 countries with established intelligence units and several others in various stages of development. The Egmont Group, named after the site of its first meeting held in June of 1995, is made up of established FIUs and has met several times since to improve our information-sharing capabilities. FinCEN also is preparing training and

technical assistance programs to assist countries seeking to set up FIUs, such as Panama, Russia, the Czech Republic, and Poland.

FIUs were the topic of discussion at the annual meeting of a working group within another international organization in which FinCEN is active, INTERPOL. INTERPOL's Working Group on Financial Analysis--FOPAC, focuses on financial crime and held its annual meeting this year in San Francisco on April 18-19. The meeting was attended by 35 countries and resulted in a productive exchange of information about the importance of FIUs.

The Department of the Treasury is also engaged on a bilateral level with key countries and neighbors such as Mexico. An interagency team is working in Mexico City with our counterparts in that country's Finance Ministry--or Hacienda as it is known. Our experts are providing technical assistance to Hacienda on the development of a suspicious and large transaction reporting data base and on the drafting of regulatory policies. It has taken time to develop this rapport between our respective ministries but we are seeing results. In the last two years, we have signed a Financial Information Exchange Agreement (FIEA) with Mexico which has facilitated the money laundering case support we are providing to the Mexican Hacienda as well as the case information we are receiving in turn. Several of these cases are directly tied to drug-related cases in the United States.

FinCEN recognized early on that the battle against money laundering cannot be effective without the support and cooperation of the private sector. We have enjoyed an excellent working relationship with the financial sector which has been fostered in part by the Bank Secrecy Act Advisory Group (BSAAG). Representatives from the financial

services industry including banks, securities dealers, money transmitters and casinos and officials from federal and state government meet quarterly to discuss issues relating to anti-money laundering regulations and policies. This is partnering at its best and Treasury was instrumental in using this model to encourage FATF to conduct the first-ever international meeting of the Financial Services Forum. At this meeting, international financial industry experts discussed ways to promote better cooperation between law enforcement agencies and the financial sector. Representatives at the Forum also suggested changes to the 40 recommendations which in part have been included in the revisions.

### **Innovation**

FinCEN is continuously exploring innovative ways to use technology to enhance the information and intelligence we provide to law enforcement while reducing the reporting burden to the financial sector. As part of this effort, we worked in concert with our bank regulatory and law enforcement partners to institute, just three months ago, a new national Suspicious Activity Reporting System--called SARS--merging and revolutionizing two older reporting systems that had been in place for more than a decade. The BSA Advisory Group was also extremely helpful to FinCEN during the development of the SAR System.

The activity reported under SARS can include bank fraud, misdeeds by bank officials, tax fraud, check kiting, credit card fraud, embezzlement or money laundering. Under the old system, banks filed more than two million pieces of paper, usually through the mail, in order to report suspicious activity occurring at or through banks. In addition

separate filings were made with numerous law enforcement and regulatory agencies, and no uniform mechanism for tracking the referrals was in place. Simply put, the new SARS system helps law enforcement investigate criminal activity by consolidating information and making it available electronically to all interested agencies.

In the context of technology and keeping one step ahead of criminals, SARS is already significantly improving our ability to detect, analyze and understand criminal activity. In the short amount of time the system has been operating, we have received over 10,000 reports of suspicious activity. FinCEN analysts are already planning creative applications of the SARS to further enhance the quality and timeliness of the data and trends provided to law enforcement.

### **Flexibility**

This brings me to the third concept guiding our strategy, flexibility. As new developments such as cyberpayment systems or electronic money systems appear on the horizon, we strive to anticipate and stay abreast of these new advancements. FinCEN views its ability to quickly adjust its sights to emerging technologies as a central component to the successful execution of its mission. We have the luxury of being small and flexible. We are making every effort to take advantage of this unique position to stay abreast of new payment systems which are utilizing cybercash, smart cards and the global Internet.

To effectively counter criminal exploitation of cyberpayment technologies, it is necessary to understand what they are, how they work and their implications for law enforcement. Last September, anticipating this revolution in traditional payment systems,

FinCEN brought together law enforcement, bank regulators, credit card companies, CEOs from the United States and Europe as well as prosecutors and academics to share their views in a day long colloquium held at New York University.

Earlier this year, FinCEN held war game exercises to begin identifying the possibilities for criminal abuse of new technologies. We plan to continue these and other studies in emerging payment systems in concert with other agencies, regulators and industry. Our objective is to provide timely information about developments surrounding these new systems so that policies can be adopted which effectively counter exploitation without inhibiting innovation. Flexibility combined with partnerships are key to this effort. It is essential, for example, that we, at the government level, encourage industry to voluntarily build anti-money laundering safeguards into advanced payments systems during the formative stages of development.

#### **Conclusion**

In this broad brush sketch of FinCEN's overall approach to the problem of global money laundering, I have tried to illustrate a strategy designed to provide timely, case-specific support to law enforcement while promoting long-range, anti-money laundering policies worldwide. There is no question that criminals are successfully finding ways to continue disguising the proceeds of their illegal activities, however, we have also been successful in making money laundering more difficult and more costly. Estimates indicate that the cost of money laundering to criminals since the early 1980s has increased from less than 5 percent to as high as 20 to 25 percent. Clearly Treasury's policies are having an effect. It is FinCEN's goal to continue doing all it can to help make the "business of crime" even more difficult and costly.

STATEMENT OF ROBERT E. RUBIN  
SECRETARY  
DEPARTMENT OF THE TREASURY  
BEFORE THE SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL  
AND THE SENATE SUBCOMMITTEE ON INTERNATIONAL TRADE  
July 23, 1996

Mr. Chairman, thank you for the invitation to meet with you and your colleagues this morning. I welcome the opportunity to address the critical issue of how drug trafficking and money laundering may pose threats to our trade and our financial systems. Mr. Biden, I would also like to thank you for your commitment and leadership on the issue of combatting drug trafficking and abuse.

Mr. Chairman, in lieu of my own testimony, I wish I could simply read the letter you sent to me about this hearing. It captured in precise terms the great challenge we face every day at Treasury. We believe American jobs, wages, and profits depend upon our nation embracing the competitive pressures and possibilities of the international marketplace. At the same time, we understand that changes in markets, technology, financial institutions, and in the ways criminal enterprises do business make our country vulnerable to the trade in illegal drugs and the laundering of criminal profits. You have identified the gravity of this problem, and we share your concerns about it.

Rapidly expanding commerce helps the American people, but more activity can also provide greater opportunities to criminals to misuse the trade and financial systems that facilitate the flow of goods and services between countries. As the volume of goods and funds crossing our borders grows, governments must increasingly combat threats to trade and national security. With the increased sophistication of financial systems, governments must address the vulnerabilities of these systems in a world where it is easier than ever to transfer money from one financial institution to the next, and from one country to the next.

Our government has no greater priority for public safety and public health than stopping the smuggling, trafficking, and use of illicit narcotics, and the movement of illicit financial gains from the illicit narcotic trade. Drugs poison our youth, lead to violence throughout our society, and adversely affect our economy. Money laundering allows criminals to hide and enjoy their illicit gains, while threatening legitimate financial institutions. At the same time, however, money laundering can also be a vulnerability for the traffickers. Criminals try to separate themselves from their illegal operations, but they cannot separate themselves from their illegal profits. That means that money laundering gives us a powerful vantage point from which we can address both the threats posed to our financial system from illegal profits and the criminal activities that produce those profits.

The men and women who protect our borders face daily challenges from the smuggling of weapons, technology, drugs, counterfeit commercial products, and unfit agricultural products. The Departments of Defense, Treasury, Justice, State, ONDCP, and other agencies as well, are joined in a partnership to address every facet of this problem, and we are proud to work with the field general who coordinates these efforts, Barry McCaffrey.

Treasury has special expertise in the matters you are addressing today. Interdiction is a principal mission of the Treasury Department, and remains the number one priority of our bureau, the U.S. Customs Service. Treasury has also developed a powerful program to combat money laundering, because hitting traffickers in the pocketbook and preventing them from laundering drug profits is an effective way to undermine the trafficking organizations themselves.

That program includes the Criminal Investigative Division of the IRS and Customs which target money laundering operations in their own investigations and in Task Forces such as the Organized Crime Drug Enforcement Task Forces and High Intensity Drug Trafficking Areas. These operations are aided greatly by the Financial Crimes Enforcement Network which serves as a central collection and dissemination point for financial information crucial to money laundering investigations.

Treasury also operates through international organizations such as the G-7, the Summit of the Americas, and the Financial Action Task Force to develop common law enforcement strategies, legislation and regulation against drug traffickers and money launderers.

Now, let me give you a few examples of what Treasury has been doing in these areas to combat drugs and money laundering:

First, Customs is focused on the interdiction problem in the Southwest and has instituted Operation Hard Line. Because of Hard Line, Customs now has more agents, more inspectional resources, more physical barriers against port running, and more secondary inspections to stanch the flow of illegal drugs across the border. In a single year, this operation has led to a 24% increase in narcotics seized at the border. Moreover, it has resulted in an over 50% decrease in port running incidents.

Second, because traffickers are migrating from the Southwest to the Caribbean as a major entry point for narcotics, Customs is implementing Operation Gateway in Puerto Rico and the Virgin Islands. Cocaine seizures in Puerto Rico for the first half of FY96 have increased by 46%, from 10,458 pounds in FY1995 to 15,284 pounds in FY96. During that same period, heroin seizures in Puerto Rico have increased substantially as well.

Third, Treasury's bureaus are active participants in the Organized Crime Drug Enforcement Task Forces and High Intensity Drug Trafficking Areas program. We are making important progress through initiatives such as the Customs-IRS anti-money laundering Task Force, "Operation El Dorado," and the Customs-DEA led "Operation Cornerstone," which helped lead to the indictment of four of the Cali cartel leaders.

Recently, Ray Kelly, the Treasury Department's distinguished Undersecretary for Enforcement, and I visited with the men and women who run El Dorado in New York. This operation is doing very impressive work. The Task Force focuses on money transmitters and supplements the enforcement efforts of New York State financial authorities who can devote only a handful of experts to track the illegal activities of hundreds of suspect firms and individuals. In the last three years, they have seized literally tens of millions of dollars and tons of illegal drugs.

Fourth, the Assistant Secretary of Treasury for Enforcement, Jim Johnson, is a principal in the High Level Contact Group with Mexico. This group, coordinated by General McCaffrey, meets directly with high level officials to urge even greater efforts by Mexico on narcotics control and anti-money laundering matters. Treasury has the lead role with respect to money laundering issues, and we use the group to stress the importance of Mexico expanding the work it began with the criminalizing of money laundering. Just last week, a Treasury delegation went to Mexico to discuss mandatory reporting requirements for banks and other financial institutions which will make the Government of Mexico better able to track illicit proceeds.

Fifth, the Summit of the Americas nations have targeted money laundering. Last December, I chaired a ministerial conference in Argentina where the nations of the hemisphere stated their support for legal, regulatory, and law enforcement measures, including the need to criminalize money laundering, to implement regulatory measures such as currency transaction reports, and the creation of financial intelligence units to better disseminate important financial information to investigatory authorities.

Sixth, two weeks ago, General McCaffrey, Attorney General Reno and I co-hosted a southwest border conference in El Paso. At the conference, there were strong presentations on the drug smuggling corridors along the borders each of the states, the importance of good intelligence information, the critical role coordination plays among law enforcement agencies at all levels of government, and the importance of even greater coordination with, and support from, the Mexican authorities. In addition, there was great emphasis on money laundering strategies and their great potential for attacking the operations of narco-traffickers.

Seventh, we are working with the Departments of State and Justice to respond to President Clinton's call for international dialogue on money laundering problems through a money laundering initiative. As directed by President Clinton last October, we have declared a national emergency against the Cali Cartel, and have taken steps under the International Economic Emergency Powers Act to block assets of companies owned by this group, and to prohibit all economic transactions by U.S. persons with these parties. We have taken those steps against 282 companies and persons either owned or controlled by or acting for or on behalf of the Cali Cartel, and are continuing to review information to add more names to this list.



Eighth, a group headed by the Comptroller of the Currency reviews issues arising with the development of new forms of currency, including how the enhanced use of electronic money relates to money laundering. FinCEN and the other law enforcement bureaus are members of this group, and they are reviewing new means for tracking and reporting such transfers so we can continue following all kinds of illicit proceeds.

As you can see, Mr. Chairman, Treasury is deeply engaged in the fight against illegal drugs. We are standing against organized crime and international drug traffickers who are intent on using every technological or market development to sell illegal narcotics and launder illicit funds.

These are clearly crimes that involve the cutting edge of technology and which search for weak links across national borders. They place at risk not only the soundness of the financial system but the kind of society in which our children will grow up. Because Treasury presides at the junction where trade, finance and enforcement meet, we are focusing on this issue with great intensity -- using the unique assets Treasury has in the finance and enforcement areas, and collaborating effectively with our Cabinet and White House colleagues, wherever and whenever we can.

The problem of drugs is not a partisan issue. We believe that hearings like this advance our own understanding of the issue and our effectiveness in addressing it. We hope to hear from you, formally and informally, about how we can wage this fight more effectively. With the leadership of the President and the Congress, we will continue to work aggressively against illegal narcotics, the profits they generate, and the organizations which ply this very dangerous trade.

I thank you for providing the opportunity to discuss these problems today and I look forward to working with you in the future.

**STATEMENT OF LAWRENCE SUMMERS  
DEPUTY SECRETARY  
DEPARTMENT OF THE TREASURY  
BEFORE THE SENATE SUBCOMMITTEE ON INTERNATIONAL TRADE,  
CAUCUS ON INTERNATIONAL NARCOTICS CONTROL  
U.S. SENATE  
July 23, 1996**

Mr. Chairman and members of the Subcommittee, thank you for inviting me to meet with you this morning. I welcome this opportunity to address the vitally important issue of Treasury's efforts to combat the scourge of drug trafficking and the laundering of the profits derived from drug trafficking as they relate to trade and finance.

**Treasury's Efforts to Combat International Drug Trafficking and Money Laundering**

Increasing international trade is a fact of the global economy. As the Secretary has said, while the expansion of trade provides many benefits to the American people, it also provides an expansion of opportunities for those who will misuse the trade and financial systems that regulate and facilitate the flow of goods and services between countries. The Treasury Department and its bureaus have been entrusted with ensuring the soundness of our financial system and protecting our borders. We are vigilant in our efforts to combat crime which threatens our nation's financial security.

At Treasury, fighting international drug trafficking and money laundering is a top priority and we utilize all of our resources and the expertise of all of the Treasury bureaus, to combat these problems. For example:

- The Customs Service actively pursues border interdiction, and anti-smuggling and money laundering investigations.

- Agents of the Criminal Investigation Division of the Internal Revenue Service conduct intense financial investigations to follow the trail of dirty money to its source.
- The Secret Service utilizes its financial expertise in countering white collar crimes pursued by the traffickers as ends in themselves and as means to hide other illicit assets.
- ATF attacks drug distribution networks by disrupting their trafficking in illegal firearms and uncovers money laundering activities during the course of its investigations into illegal alcohol, tobacco, firearms and explosives schemes.
- The Financial Crimes Enforcement Network (FinCEN) provides a wealth of financial information and analytical skills to the investigating bureaus and local law enforcement.

We are applying a multifaceted approach to combat drug trafficking and money laundering. We are working smarter and focusing our energies where they are most needed. Our efforts include:

- strengthening the physical barriers at our borders,
- increasing our interdiction efforts at the borders,
- applying more sophisticated techniques to reviewing the individuals and vehicles crossing our borders,
- upgrading our technology,
- assigning an increased number of agents to problem areas along our borders,
- increasing our efforts at interdiction efforts at sea,
- pursuing intensive investigations in coordination with other law enforcement agencies,
- actively participating in anti-drug trafficking and anti-money laundering task forces,
- promoting international cooperation and uniformity of anti-money laundering laws,

- posting of Treasury agents to strategic posts outside the US, and
- conducting training for law enforcement agents in other countries.

### **Drug Trafficking**

In our anti-drug smuggling activities, much of our effort is directed at interdicting narcotics at our border. As you know, the Southwest border is a principal entry point for narcotics. The Customs Service has intensified its efforts to combat drug trafficking at the Southwest border. A primary example of these efforts is "Operation Hard Line", a Customs Service program to harden our border defense against drug smuggling by focusing on smuggling in vehicles and commercial cargo, investigations, and intelligence support at ports of entry. Operation Hard Line recently concluded its first year of operation on the Southwest border.

As a part of Operation Hard Line, Customs officials at ports of entry are increasing the frequency of inspections of the lines of trucks and cars waiting to cross the border, increasing the use of drug-sniffing canines, questioning more drivers, and increasing the use of instruments to detect structural irregularities, such as empty spaces and false floors, which can provide a hiding place for narcotics or cash, without having to climb into or dismantle the vehicle. Customs has also strengthened Southwest border enforcement efforts by transferring 117 Special Agents to the Southwest border. These additional agents will allow Customs and other anti-narcotics agencies to enhance tracking of intelligence and leads that should reduce drug smuggling and trafficking even further. Moreover, Customs has built physical enhancements, such as movable and stationary barriers and tire-deflating devices, to deter "port runners" - those drug couriers who would run over our law enforcement personnel and innocent civilians to evade inspections which would reveal their contraband.

Thus far, \$55 million have been allocated to Operation Hard Line, allowing for more inspections, as well as greater collection and use of intelligence to build complex anti-smuggling cases. This allocation has financed enhanced technology, such as truck x-ray systems, as well as the construction of the stronger physical barriers.

The results of Operation Hard Line thus far are encouraging, and seizures along the Southwest border in Fiscal Year 1995 increased dramatically from the previous fiscal year. Overall, Customs reports that the total amount of drugs seized on the Southwest border in Fiscal Year 1995, in pounds, is up 24 %. Operation Hard Line has also reduced the incidents of violent port running by over 54 percent.

#### Seizures

Customs seizes more drugs than all other federal agencies combined. In fiscal year 1995 Customs seized over 85% of the heroin, 61% of the cocaine, and 51% of the marijuana seized by all Federal agencies.

Every day, all along the border, shipments of drugs are cut off, thanks to the dedicated men and women of the Customs service, the increased cooperation with other federal agencies, and the additional support in terms of personnel, equipment and technology through Operation Hard Line. For example:

- Hidalgo, Texas, November 1995 - a tractor with a refrigerated trailer filled with broccoli yielded 749 pounds of cocaine.
- Nogales, Arizona, February 1996 - inspectors found 1,257 pounds of cocaine hidden in a transformer.
- Tecate, California, March 1996 - agents seized 4,200 pounds of marijuana in a phony UPS

truck.

- Brownsville, Texas, April 1996 - follow up investigations on a previous big cocaine seizure led to another 3,080 pounds in a tractor trailer.
- Laredo, Texas, April 1996 - another 2,301 pounds of cocaine was found in a refrigerated trailer by a drug sniffing canine and his handler.
- Grande City, Texas, May 1996 - a refrigerated trailer yielded 2,039 pounds of cocaine.
- San Ysidro, California, June 1996 - a Volvo was stopped with 44 pounds of heroin.
- In Operation Cornerstone, one of the most comprehensive investigations into the operations of the Cali Cartel, Customs and DEA uncovered six major smuggling routes used by the Cartel to move hundreds of thousands of pounds of cocaine inside shipments of lumber, concrete fence posts, frozen vegetables, and coffee into the US since the early 1980s. Operation Cornerstone has provided a unique understanding of how the Cali Cartel conceals its drugs, smuggles them into the US, distributes them within the US, collects and launders drug monies and provides a sophisticated system of facilitation and support to the members of their organization in the US.

We are building on these successes. The President's Fiscal year 1997 budget includes an additional \$65 million for Operation Hard Line. These funds will pay for more and improved x-ray equipment for examination of cargo, more and better targeted examination of passenger vehicles, automated license plate readers, and more agents for the collection of intelligence and the building of cases against trafficking organizations. By the end of 1997, 657 additional Customs agents and inspectors will be on the job to better stop the smuggling of narcotics across the Southwest border. Customs will also receive 170 more support personnel from the National

Guard to assist in narcotics detection and anti-smuggling.

Line Release Program and Land Border Carrier Initiative

Commissioner Weise took another important step last October to strengthen the border against smuggling by restricting participation in the Line Release Program. Line Release is a program begun in 1987 to pre-screen shipments of companies with a clean record, but still subject them to random full-scale inspections. Since last October, approval of new applicants for participation in the Line Release Program has been restricted to importers who ship their cargo using carriers who have agreed to become part of the Land Border Carrier Initiative. The Land Border Carrier Initiative strengthened the Line Release Program by requiring participants to provide information about the trucking companies and drivers they use, and to use only trucking companies and drivers approved by Customs. The program is designed to encourage the carriers to police their own facilities and conveyances thereby making them less vulnerable to narcotics smuggling. The approval process essentially requires trucking firms to give background information on themselves and their employers, to create, under the guidance of Customs, anti-smuggling safeguards at their warehouses and lots, and to open these facilities to unannounced inspections by Customs officials. As of May, 1996, 525 carriers had signed up to participate in the Land Border Carrier Initiative Program and to date 280 carriers have been certified by Customs. As of July 1, 1996, all Line Release shipments entering at the Southwest border can only be carried on Customs approved trucks.

The Line Release Program and Land Border Carrier Initiative are important examples of how we are working more effectively in dealing with the increased trade volume to counter smugglers and money launderers. By reviewing and evaluating shipments before the trucks even

reach the border, Customs is able to strategically target vehicles for inspection. This focus developed by Commissioner Weise is an important example of how more resources can be targeted at higher risk shipments as a result of strategic enforcement.

#### Operation Gateway

Treasury is also responding to the shift of certain smuggling efforts to other parts of the country. In part because of enhanced enforcement at other locations, Puerto Rico and the Virgin Islands have become major entry points for narcotics being smuggled into the US and for money laundering into major Latin American banking networks. In response, a long term initiative - called "Operation Gateway" - was initiated in March 1996. Operation Gateway encompasses all areas of interdiction, including expanded marine and air enforcement, heightened cargo examination and expanded small vessel searches. The program also calls for enhanced use of technology, additional inspection and investigative support, and a joint collaborative effort by Customs, the Coast Guard, the Defense Department, and the Department of Justice. Operation Gateway involves the deployment of high speed vessels, the use of 2 additional helicopters, the use of a portable x-ray system to examine cargo and baggage, and the assignment of additional personnel to the island. Since March 1996, Customs has already seized 68.3 pounds of heroin and 2,727 pounds of cocaine in Puerto Rico. This represents an increase of 68.3% and 307% percent, respectively, over the same period in 1995.

#### Cooperation by Carriers

Customs is also promoting efforts by air, sea and land carriers to deter smugglers of illegal drugs. Currently 3,500 carriers have signed agreements with Customs to share the burden of stopping the flow of illegal drugs into this country by inspecting their own vehicles and notifying



Customs of any illegal cargo. During 1995 alone there were 93 documented instances in which carriers alerted Customs to narcotics aboard their conveyances upon arrival in the US, or in which carriers intercepted the narcotics prior to the carrier leaving for the US. Combined, these carrier actions accounted for the seizure of 25 pounds of heroin, 8,096 pounds of cocaine and 46,624 pounds of marijuana. These cooperating carriers saved themselves millions of dollars in possible penalty actions by passing along information that they received or observations that they made.

#### Improved Targeting

The interdiction of drugs concealed in commercial shipments can be very labor intensive and requires skill in sorting out the appropriate targets from the millions of shipments. Customs has implemented and is preparing to implement a variety of programs which enhance targeting and interdiction at cargo facilities while maintaining/enhancing processing times of legitimate cargo. In support of our automated systems, Customs employees are formed into multi-disciplinary contraband targeting and intelligence units that constantly review commercial documentation and research information in various databases. At the largest ports these cross-functional teams are made up of agents, intelligence analysts and inspectors to identify targets and provide employees with up to the minute information on smuggling threats. Later this year, Customs will place a prototype advanced Automated Targeting System (ATS) at select high risk ports of entry. This system will separate high risk shipments from legitimate ones.

#### **Money Laundering**

In addition to our efforts to stop smuggling at the border, Treasury's law enforcement bureaus also attack traffickers and their organizations by following their illicit profits. Treasury has enacted an aggressive and comprehensive anti-money laundering program which hits criminals

in the pocketbook. This prevents them from laundering drug profits and is an effective way to undermine the activities of the trafficking organizations themselves.

In addition to taking away traffickers' profits, money laundering investigations are also important because following the money trail can lead to prosecution of the upper levels of the trafficking organizations. Drug lords can keep themselves far removed from street-level deals, but they cannot divorce themselves from their profits. Denying traffickers access to their profits robs them of the benefit of their trafficking.

To evaluate the success of anti-money laundering programs, one must first realize that money laundering is a relatively new concept. It has only been criminalized in the United States since 1986 when Congress enacted the money laundering law, 18 U.S.C. sections 1956 and 1957.

As a result of U.S. attention to the problem as well as global focus from the Financial Action Task Force and other multilateral initiatives, more than 60 countries have criminalized money laundering in the last 10 years.

The efforts of the Financial Action Task Force has resulted in the establishment of Financial Intelligence Units (FIUs) in various nations around the world to protect the banking community, to detect criminal abuse of its financial system and to ensure adherence to its laws against financial crime. The Financial Crimes Enforcement Network is one model of an FIU and others exist in such countries as Great Britain, France, Belgium, the Netherlands, Argentina and Australia. Where five years ago, there were fewer than five FIUs in the world, today there are more than 20 countries with financial intelligence units focused on money laundering issues. As world policy efforts intensify in addressing international crime, Treasury, State and Justice are assisting with the establishment of FIUs in countries such as Poland, Panama and Ecuador.

Many criminal organizations are desperate to move their cash out of the United States because its just too risky to launder it here. Presently, the safest way for criminals to repatriate criminal proceeds to Colombia is to sell their U.S. dollars to Colombian businesses. This procedure of hiding their money is complicated, involves many steps and is therefore expensive. According to reports, the cost of laundering has risen from six percent in the mid 80's to more than 20 percent today. We are having an effect on the day-to-day laundering operations.

Treasury is attacking money laundering on all fronts - through enforcement, intelligence, and investigations.

#### Enforcement

Treasury's commitment to anti-money laundering enforcement is evidenced by the number of agents assigned to investigate these cases and the number of cases successfully prosecuted. Our efforts have met with great success. Treasury has committed the full time equivalent of 2,821 personnel, including 1,100 agents, to investigating money laundering and, in the last six years, IRS and Customs have successfully prosecuted more than 12,000 money laundering and currency crimes. Since 1993, we have seized over \$500,000,000 and have obtained the largest penalty ever assessed against a bank for money laundering - \$30 million. On average, every Customs agent working money laundering investigations seized \$600,000 per agent per year. In Fiscal year 1995 alone, the Treasury bureaus seized and forfeited over \$200,000,000.

Thus, Treasury is using its resources in an efficient and coordinated way and our systematic approach to financial crime enforcement is paying off. Let me give you a few examples of our cases:

- Operation El Dorado is a task force of approximately 150 law enforcement officers in the

New York/New Jersey metropolitan area from Customs, IRS, Secret Service, HHS, New York and New Jersey police, and federal and state prosecutors. The task force investigates illicit proceeds that have entered the banking system disguised as normal business earnings and the illicit proceeds that cannot be traced to their origin because numerous financial transactions were conducted to disguise the paper trail. Investigations include the narcotics smuggling cartels of South America, traditional organized crime, African and European organized criminal organizations and terrorist groups. To date, over \$70 million in cash and assets have been seized, approximately 1000 kilograms of cocaine have been seized and over 100 arrests have been made for money laundering.

- Operation No Mas is an on-going Customs investigation which has resulted in the dismantling of a criminal organization responsible for the importation of approximately 30,000 kilograms of cocaine and 6 million pounds of marijuana into the US. Thus far, this investigation has resulted in the seizure of real estate in Florida, \$3.5 million dollars, and the freezing of \$210 million dollars in Swiss bank accounts. Through this investigation, Customs exposed the infrastructure of unique drug smuggling organizations and their ability to hide huge quantities of money in bank accounts throughout the world.
- As a part of Operation Dinero, an undercover international money laundering investigation, IRS and DEA established and operated an undercover bank to gain knowledge of the illegal activities of the Cali Cartel. The operation resulted in 74 arrests in the US, 43 arrests in Nova Scotia, Spain and Italy, seizures of 25 kilos of cocaine, 41 tons of hashish, 2,777 pounds of marijuana, over \$38,000,000 in currency and over \$65,000,000 in property.

Intelligence

As part of our effort to obtain better intelligence leading to additional criminal prosecutions we have recognized the need to improve the international tracking of the flow of laundered money. To enhance this goal, Treasury has authorized FinCEN to use nearly \$700,000 in asset forfeiture funds to upgrade and expand significantly our communications with, technical assistance to, and training of the other financial intelligence units (FIUs) - the counterparts of FinCEN - around the world. This network of anti-money laundering intelligence organizations has been growing rapidly in the last year. There are now 20 FIUs around the world, with almost an equal number of countries poised to create these units in the near future. The success of this initiative will continue to increase the vulnerability of money launderers and decrease the havens where they can hide and enjoy their ill-gotten gains.

Continuing Challenges

Despite these successes, we still face many challenges in the years ahead. For example, the Bank Secrecy Act, which was enacted to make it more difficult for criminals to launder their illegal profits, created reporting requirements for financial institutions and individuals. Financial Institutions are required to report cash transactions over \$10,000 and individuals are required to report international transportation of currency and monetary instruments over \$10,000. Nevertheless, electronic money - such as "smart cards", electronic banking, and computer transactions - does not expressly fall within the definition of "monetary instrument". This creates a loophole to avoid reporting requirements. Cash can be converted to a stored value card and does not have to be reported. This allows for wholesale avoidance of reporting requirements and the movement of digital currency across borders by money launderers. Likewise, money

transferred internationally through the Internet is not subject to reporting requirements. Although wire transfers are not reportable, banks are required to maintain records of transfers. Audit trails exist. Transfers through the Internet on the other hand can be completed without the use or intervention of banks. As a result, there is no audit trail.

An added challenge lies in the fact that many countries lack the capacity to investigate criminal cases with global implications, especially those requiring substantial technical proficiency. The rise in use of computers and alternative payment technologies present new opportunities for those intent on perpetrating electronic fraud. As commerce, banking and all other facets of business and exchange are digitized, our ability to deal successfully in shutting down these schemes will become crucial.

#### **International Cooperation is Vital to our Success**

The ease with which money can be moved internationally makes the laundering of money easier for traffickers and smugglers. As a result, it is more necessary than ever to have all nations actively involved in anti-money laundering efforts. The cash available, for example, to the cartels or the "mob" organizations gives them an extraordinary opportunity to dominate fledgling sectors of the legitimate economy as few legitimate firms or business people can. Financial fraud and money laundering schemes have a major impact upon global financial systems. It is estimated that transnational organized crime groups are responsible for billions in financial losses.

Therefore, the efforts of the international community must be focused on these potential abuses.

Treasury is actively engaged in the international arena. Our activities have included:

- The Summit of the Americas communique (Buenos Aires) involved 34 governments of the Western Hemisphere endorsing a coordinated multilateral plan committing hemisphere

governments to combat money laundering. The nations agreed on the need to criminalize the laundering of the proceeds of drug trafficking and other serious crimes, authorize the seizure and forfeiture of the proceeds of these crimes, promote regulatory efforts such as requiring reporting of suspicious financial transactions; and create financial information units, similar to Treasury's FinCEN.

- As a follow-up to the Summit, in May 1996, the Secretary hosted a meeting of the finance ministers of the western hemisphere at which, for the first time, money laundering was included on the agenda. The Secretary further stressed the initiatives of the Summit.
- Just weeks ago, the Financial Action Task Force completed an update of its 40 recommendations which had been issued in 1990 to ensure that the countermeasures address today's money laundering threat. These new recommendations will serve as a benchmark for the next century.
- In March 1996, the Asia Pacific Economic Counsel (APEC) met and, for the first time, discussed the importance anti-money laundering measures.
- Interpol recently adopted resolutions aimed at thwarting international financial crimes, including the first major anti-money laundering declaration in its history. This was done with considerable US backing and leadership by Treasury's Office of Enforcement.
- As previously mentioned, a global network of anti-money laundering Financial Intelligence Units - the counterparts of Treasury's FinCEN - is being organized to facilitate the exchanges of money laundering information and other financial data.
- A coordinated effort employing modern technology and program management; the use of multi-agency task forces to investigate these formidable groups; sharing investigative

information and working on specific cases; and planning and organizing international training seminars that lead to notable international law enforcement partnerships, is needed and is being encouraged through a number of venues, including the G-7 nations.

- A US government team of experts from federal regulatory, law enforcement, and foreign affairs agencies is working with their counterparts in Russia to develop new laws, regulations and investigative capabilities that will strengthen the framework for international cooperation to prevent money laundering and financial fraud.
- Treasury bureaus are actively involved in international training activities. Customs has provided overseas anti-narcotics training, emphasizing containerized cargo, to Mexican customs agents in Mexico City and four other large cities along the border. Customs also provided anti-money laundering training in 16 countries in Europe, Asia, and Central and South America. IRS has provided anti-money laundering and financial crimes training in Russia, Belarus, the Ukraine, Argentina and at the International Law Enforcement Academy (ILEA) in Budapest, Hungary. In the next two months they will be teaching classes in Eastern Europe, Brazil and Budapest.

We recognize that we have to make concerted efforts to obtain cooperation with some countries that are engaging in money laundering practices. Last October, President Clinton directed that we work directly with countries to ensure cooperation against money laundering. The Treasury Department is working with the State and Justice Departments to strengthen the international dialogue on this topic.

As directed by President Clinton last October, we have declared a national emergency against the Cali cartel, and have taken steps under the International Economic Emergency powers



Act to block assets of companies owned by this group, and to prohibit all economic transactions by US persons with these parties. We have taken those steps against 282 companies and persons either owned, controlled by, or acting for or on behalf of the Cali Cartel, and are continuing to review information to add more names to this list.

The Southwest border has been an area of concern, and so our dealings with Mexico deserve particular note. I strongly believe that we are seeing real change in Mexico due greatly to the leadership of President Zedillo in coming to grips with the law enforcement issues, but also due to the strengthening of US-Mexico relations that occurred in the wake of NAFTA and the US financial assistance package last year. Let me deal with each of those issues in turn.

As to the enforcement issues, we are heartened by President Zedillo's, Attorney General Lozano's, and Finance Minister Ortiz' commitment to anti-narcotics matters. Over the last year, this commitment has manifested itself in a new law criminalizing money laundering, the expulsion of a leading narco-trafficker to the United States, and the record number of eradicated acres of certain narcotics crops.

Our dialogue with Mexico reflects our mutual understanding that, notwithstanding improved efforts, some of the problems associated with narcotics crossing from Mexico into the United States persist. While we are pleased by some of the recent measures, we view them as a starting point for even more vigorous actions -- within Mexico and in coordination with the U.S. - to stop the flow of drugs across our Southwest border.

However, just as our own anti-narcotics fight depends in great part on a healthy underlying economy and society, Mexico's counter-drug efforts in the future also depend on its remaining financially stable and economically strong. Instability and poverty would render

remaining financially stable and economically strong. Instability and poverty would render Mexico less able to enforce its laws and more susceptible to the corrupting influence of drug traffickers. Had we not provided assistance and had Mexico defaulted on its obligations in late 1994 and early 1995, we would be facing an even more serious drug problem today.

#### **Conclusion**

We at Treasury will continue to direct our efforts both nationally, through our regulatory and investigative efforts, and internationally, through our cooperative relationships with our trading partners and through forced bilateral discussions, to work toward eliminating drug trafficking and money laundering.

Thank you.

**STATEMENT OF GEORGE J. WEISE  
COMMISSIONER  
U.S. CUSTOMS SERVICE'**

**BEFORE THE  
SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL  
AND THE SUBCOMMITTEE ON INTERNATIONAL TRADE  
JULY 23, 1996**

Mr. Chairman and Members of the Caucus and Subcommittee, it is a pleasure to be here today and to discuss the accomplishments of Customs in our mission to deter the use of international trade by the cartels and other international crime groups for the purpose of trafficking narcotics and money laundering. Although Customs' mission is extremely diverse, none of the challenges we face is more important than stemming the flow of drugs into this country. Stopping this flow also stops organized crime groups from using international trade to launder money.

However, before I address this issue, Mr. Chairman, on behalf of the U.S. Customs Service, I would like to extend our appreciation to you for your strong support of Customs' interdiction mission. Recently, you have written very supportive letters on our behalf to your colleagues urging them to support Operations Hard Line and Gateway. I want to personally thank you for those letters.

According to the "National Drug Control Strategy, 1996: Program, Resources and Evaluation," the Administration's FY 97 budget requests \$15 billion for drug control funding throughout the Federal government, including \$65 million for Operation Hard Line. In addition, the President requested, in April 1996, an FY 96 supplemental appropriation, which included \$111 million to augment the Customs air program and Operation Gateway, and place additional non-intrusive inspection devices on the Southwest border.

**BACKGROUND**

The term "globalization" became the business buzzword of the eighties, and it appears likely to be the key word for describing business practices into the 1990's. Globalization causes one to visualize multi-national firms obtaining raw materials from one national market, financial capital from another, producing goods with labor and capital equipment in a third, and selling the finished product in yet other national markets.

This, too, is the world of the international criminal. Criminal organizations are not limited by national borders and have exploited this globalization of commerce. Some organized

criminal groups such as the Colombian cartels conduct business in the same manner as legitimate international businesses. Their product is grown in one country, refined in a second, and transhipped through one or more additional countries before it arrives in the country where it will be consumed. To ship their illicit product into this country, the cartels rely upon other criminal organizations which are located mainly in Mexico and other countries in Latin America and the Caribbean.

Just as the globalization of commerce has increased, so has the globalization of criminal activity. Globalization requires that we initiate cooperative efforts, both foreign and domestic, to deprive the criminal organizations' opportunity to infiltrate legitimate international trade. It is in this regard that the role of the U.S. Customs Service has never been more evident than it is today. The air, land, and sea ports of entry are experiencing a marked increase in international passenger travel and commercial traffic. This has vastly increased the window of opportunity for criminal organizations that use international trade for trafficking narcotics and laundering money. The Central/South American/Caribbean region has become a highly vulnerable area for smuggling illegal contraband (drugs and money laundering) via international trade by criminal groups.

As the nation's principal border narcotics interdiction agency at the ports of entry, Customs faces the daunting task of confronting Mexican and other trafficking organizations along the 2,000 mile long Southwest Border, while simultaneously processing the more than 2.8 million commercial trucks, trailers, and rail cars that entered the United States at our Southwest border during fiscal year 1995. Of those conveyances, Customs conducted narcotics examinations on more than 640,000.

During fiscal year 1995, more than 4.4 million containers arrived at our sea ports. There is every reason to expect that the number of commercial conveyances will increase in 1996 and 1997. Nationwide, during fiscal year 1995, Customs made 201 narcotics seizures in cargo shipments totaling 33,019 pounds of cocaine, 113,800 pounds of marijuana, and 147 pounds of heroin.

#### MONEY LAUNDERING

The Customs Service, or specifically the Offices of Investigations and Field Operations, has a broad grant of authority and attendant responsibility in the area of countering international financial crimes and money laundering. Customs jurisdiction in money laundering crimes is derived from both the Bank Secrecy Act and the Money Laundering Control Act.

Generally, any funds derived from illegal activity which ultimately traverse our borders are subject to Customs jurisdiction. One important strategy, employed by Customs special agents to meet this challenge, is the application of an aggressive money laundering investigations program.

The Office of Investigations is also an active participant in several multi-agency initiatives combating the money laundering problem. These include: Organized Crime Drug Enforcement Task Force (OCDETF); High Intensity Drug Trafficking Area (HIDTA); as well as several other local and regional multi-agency efforts. As a measure of our degree of cooperation with state and local law enforcement, Customs returned over \$44 million in the form of asset sharing during FY 95.

In addition, Customs participates in Memorandums of Understanding with other domestic law enforcement entities and is an active participant in the Interagency Coordination Group (ICG) which coordinates international drug-related issues among U.S. law enforcement.

Customs is faced with the enforcement challenge of fostering the free flow of legitimate trade while preventing the use of U.S. financial services, businesses, and international trade to transfer or conceal assets of illicit criminal enterprises. Customs places a high priority on the fight against these smuggling organizations, including their money laundering apparatus, by enforcing laws regarding cash transactions and physical transportation, scrutinizing businesses susceptible to laundering, conducting sophisticated undercover operations, establishing national outreach programs, working with other federal agencies and private industry, and forming mutual assistance agreements with foreign nations. Customs has also made a significant attempt to share its money laundering expertise with our foreign counterparts. During FY 95, the Office of Investigations was responsible for conducting money laundering training in 17 countries. This effort has not only enhanced the host countries' investigative capabilities, but helped to develop further international cooperation in combating money laundering. Asset sharing with foreign governments by Customs totaled over \$7.3 million during FY 95.

Money laundering is a very serious problem despite a global response to the issue. Reports issued by the Financial Action Task Force (FATF), Department of State and other international bodies point to both an increase in money laundering activity, as well as increased sophistication of the schemes and techniques utilized. Despite this assessment, attacking both the financial

infrastructure and profit motive of criminal organizations remains one of the most effective tools available to law enforcement.

One goal of narcotics smuggling and related money laundering organizations is to smuggle narcotics into the United States and, through a variety of electronic transactions or physical smuggling techniques, export their proceeds out of the United States. These narcotics smuggling organizations are very adept at placing narco-dollars into the U.S. financial system, which by nature of their processing becomes layered and integrated into the international payments system. Often, these illicit proceeds are repatriated as legitimate dollars into the U.S. banking system. Through the integration process, these drug proceeds make tracing the origin very difficult. The process is complete when the violator reinvests the funds in legitimate business transactions.

International criminal organizations are not limited by resources, locality, or sovereignty. Global trade is supported by high-tech, state of the art computerization, which is accessible to criminal organizations. Containerization, air transport, faxes, modems, and international banking are used by criminal organizations to facilitate and camouflage their criminal activities. Rerouting of merchandise from country to country, and destination port-shopping are common occurrences.

In today's trade practices it is common for an importation's paper trail (formerly a method of following a transaction from purchase order to receipt and payment) to involve multiple countries, international businesses and financial institutions. This allows ample opportunities to use the paper trail to cover-up smuggling and money laundering activities through international commerce.

Trend analysis, based upon investigations, seizures, informant information, and undercover operations has pointed to a marked increase in bulk shipments of cash. Within the past several years, multimillion dollar seizures of bulk cash shipments, secreted in ocean and air freight, have been made in New York, Miami, Los Angeles, and Houston. Customs strategies are coordinated, multi-disciplined and focus on the pursuit, seizure and forfeiture of criminal assets rather than on individual instances of criminal activity.

Although a significant quantity of the money that is currently being laundered offshore is moving there electronically, a great deal of currency is smuggled in bulk. There are many problems

associated with the illegal export of bulk currency. In \$100 denominations, cash is three times the weight of the drugs that generated it; 450 paper bills weigh one pound. In the common denominations of \$10 and \$20 bills, it is at least 15 to 30 times the weight of its equivalent value in cocaine. Cash is heavy and unwieldy; moving cash around the world in the quantities and speed demanded by the operations of major cartels requires ingenuity and imagination.

Rather than return dollars derived from narcotics smuggling to the source countries, criminal organizations use legitimate commercial exportations of goods to those source countries or importations of goods into the United States as sophisticated methods of laundering illegal proceeds. The investigation of such cases may involve violations of undervaluation, overvaluation, double invoicing, commodity transfers, and securities and insurance fraud.

#### Case Examples

A series of unique special operations targeting the financial infrastructure of Core Colombian Cocaine smuggling organizations has resulted in the seizure of more than \$653 million in drug cash and monetary instruments since 1988. The aforementioned operations have also produced some 1,975 arrests and the seizure of 81,500 pounds of cocaine. The two largest single seizures of drug cash in the history of Federal law enforcement were made as a result of Customs operations in Miami (\$22 million) and in Los Angeles (\$19 million). Moreover, it was Customs special operations that first exposed the criminal money laundering activities of both the Bank of Credit and Commerce International (BCCI) and American Express Bank International (AEBI) and their involvement with Mexican drug kingpin Juan Garcia Abrego.

In 1995, the U.S. Customs Service instituted a coordinated, nationwide asset forfeiture program through the creation and implementation of asset identification and removal groups in 15 field offices. These groups, consisting of special agents, intelligence research specialists, and forensic auditors, provide the necessary expertise enabling the Customs Service to identify, seize and forfeit major violators' illegally derived assets, in concert with criminal investigations and prosecutions, thereby permanently disabling the criminal enterprises. The program has already proven to be a success, playing a major role in the Ruiz Masseur investigation, resulting in the identification and seizure of approximately \$8 million. In this program's first two fiscal years of operation, it was responsible for the seizure of over \$60 million in ill-gotten gains.

A joint Organized Crime Drug Enforcement Task Force (OCDETF) investigation for money laundering and narcotics violations targeted a drug cartel whose members were involved with the importation and distribution of cocaine into the U.S. The investigation identified five corporations being operated by the organization members to facilitate the importation of cocaine and the laundering of the proceeds. The organization, via the corporations, would cause formal entries for cocoa and other food products to be filed. These commodities were destined for breakdown warehouses and no legitimate customers have been identified. A review of 977 currency transaction reports (CTRs) revealed approximately \$22 million was deposited for the corporations in various accounts.

During the investigation, it was learned that cash from drug transactions would be given to various organization members. The cash in turn would be converted into money orders and deposited into various accounts in Philadelphia and New York. Bank accounts would be maintained to service the importation, warehousing, and distribution of cocaine. The written money orders would contain the names and addresses of various fictitious businesses for payment of fictitious sales invoices, giving the appearance that the money orders were for products received. The result of the investigation yielded the seizure of 1,007 pounds of cocaine and two arrests.

#### **Resale of Consumer Goods**

The purchase of consumer goods with narcotics proceeds or the exploitation of a commercial transaction involving consumer commodities is a technique designed to distance the source of the funds from any drug connection, and to place the narco-dollars into the banking system.

The primary reason to possess foreign exchange, in the case of U.S. dollars abroad, is the involvement in international trade, tourism, and commerce. Therefore, crimes that generate cash, like cocaine smuggling, often entail efforts to make the funds appear legitimate through schemes that involve international trade. Customs often encounters this phenomenon in conjunction with Free Trade Zones, such as the Colon Free Trade Zone (CFTZ) in Panama. The CFTZ provides for the free movement of goods and cash with minimal government scrutiny. Since Panama has a dollar-based economy, the presence of large amounts of U.S. currency in the CFTZ can be justified. Money laundering schemes often involve commingling ill-gotten gains with legitimate business receipts. The CFTZ has dozens of consumer electronics business and other "traders."



For example, a money broker or "cambista" in Colombia will have access, through cartel accountants, to drug money denominated in U.S. dollars. A Colombian importer has a need to import "stereos," however has pesos to purchase them. The broker pays the business in the CFTZ with drug dollars, the importer gets his merchandise, and the drug trafficker gets pesos to invest locally or fund attendant drug operations. This scheme is also employed when legitimate Colombian businessmen need to purchase goods or services in the U.S. with dollars. It is sometimes called the "parallel market" and is a common method of bypassing foreign exchange controls in Colombia, as well as serving cartel money laundering needs.

#### **Over-Invoicing**

Over-invoicing is another scheme used by the drug organizations. Over invoicing is achieved by inflating the value of consumer goods exported from a country to the United States. For instance, textile products are declared to Colombian Customs upon exportation to the U.S. or Panama for twice their value. This allows the Colombian exporter to justify twice the amount of foreign exchange in his accounts.

Another layering technique designed to make the transaction appear even more legitimate is the infusion of a letter of credit (LOC) into the process. The following is an example of this technique.

- Step 1: The "cambista" finds an electronics trading firm in Panama with a contract to sell the equivalent of \$900,000 in VCRs to a wholesaler in Colombia.
- Step 2: The cell boss in Los Angeles delivers the cash to the cambista representative in Los Angeles. \$500,000 is structured in small amounts (smurfed) into cashiers' checks and \$500,000 is packed in an air compressor and prepared for export.
- Step 3: The checks are mailed to Panama and the compressor is air freighted to the CFTZ. The funds are deposited into an account of a shell corporation controlled by the "cambista." A LOC to "fund" the trade transaction using the deposits as collateral is secured.
- Step 4: The "cambista" pays the electronics trading firm in dollars and the Colombian traffickers in pesos. The VCRs are delivered to the Colombian importer and the LOC is either liquidated or canceled. The "cambista" takes 10 percent or \$100,000 profit for his services.

### Overvaluation

The scheme of overvaluation occurs when organized criminal entities have access to foreign suppliers of goods imported into the U.S. in massive quantities, i.e., textiles, electronics, food, steel products, etc., from emerging countries or those that otherwise benefit or receive preferential treatment regarding customs tariffs.

### Misdescription of Imported Goods

Similar to the overvaluation scheme is the misdescription of goods, i.e., gem quality, Karat, or material quantity and weight which allows the fraudulent importer to invoice a low quality product as a high quality product. Subsequently, large amounts of narco-dollars are delivered to the importing entity who in turn exports the cash from the U.S. declaring it as the proceeds from the sale of overvalued products, thus, legitimizing the exported cash for subsequent deposit into the international banking system.

### Currency Smuggling through International Commerce

Money launderers physically transport bulk currency out of the U.S. for deposit in banks in countries without sufficient transparency in their banking industries (i.e., Panama, Aruba). Customs has focused its efforts on interdicting and investigating currency concealed in outbound shipments of air and sea cargo through the Outbound Enforcement Program.

Outbound Enforcement Teams have been established, consisting of special agents, inspectors, analysts, intelligence research specialists, canine enforcement officers, and national guardsmen in those locations where risk has been determined to exist.

Three recent cases illustrate the quantities of cash involved in currency smuggling, the method used, and the means through which the smuggling was detected.

- An outbound currency interdiction team consisting of inspectors and canine enforcement officers conducted an examination of cargo in a warehouse near the Miami airport. The team discovered currency concealed in air compressors readied for export. The team also discovered a separate shipment of speakers with currency secreted inside. The currency from the two seizures totaled \$5.2 million. An additional investigation by special agents led to two more seizures worth \$5.2 million, at another warehouse. Also, a related seizure, worth \$2.6 million, was made by an

inspector who recognized similarities in the cargo shipment methods. The total of all seizures was \$13 million.

- In July 1994, Customs inspectors were conducting an examination of cargo in a warehouse in Miami. Examination by a mobile x-ray van revealed small bundles concealed within 10 rolls of fiberglass wallpaper. Further examination revealed U.S. currency totaling \$1.6 million.
- Customs inspectors at Newark seaport seized \$7.1 million from two 20-foot containers loaded with dried peas on board a vessel destined for Colombia. The violator, a packing and shipping company, had freshly painted each container to conceal the false front walls. A subsequent investigation by special agents led to the seizure of an additional \$4 million.

#### DRUG SMUGGLING

The smuggling organizations do not limit themselves to concealing their illicit product in cargo. They also go to great lengths to conceal it in sea containers and in tractor trailers. As recently as April 1, 1996, Customs discovered 3,080 pounds of cocaine concealed in the roof of a "meat rail" tractor trailer unit that was entering this country from Mexico. Shortly before this seizure, two other shipments of cocaine, which were concealed in this manner, had been discovered. The other two seizures were of 1,800 pounds and 2,265 pounds of cocaine.

In February 1996, an examination of a sea container led to the seizure of approximately 73 pounds of heroin and 46 pounds of cocaine secreted in hollow sections in the wall of the container.

Narcotics are not the only illicit items that are smuggled into this country through cargo shipments. Recently, a container which had a manifested cargo of hand tools arrived on the West coast. The hand tools were actually 2,000 fully automatic AK-47 rifles that had been shipped from the Far East.

Mexico is a major transit area for cocaine destined for the United States. The level and intensity of smuggling activity along the Southwest border have mobilized the U.S. and Mexican governments to strengthen law enforcement, but intelligence

suggests that traffickers continue to view Mexico as a major conduit for narcotics shipments to the U.S.

CUSTOMS' INITIATIVES

As a result of a review of the potential narcotics interdiction vulnerabilities in the commercial importation process on the Southwest border, a strategic plan was developed which includes the following initiatives:

- Implementation of a Land Border Carrier Initiative Program on the Southwest border to enlist the support of land border carriers to police their own facilities and conveyances to be less vulnerable to narcotics smuggling.
- Restriction of participation in the Line Release Program to importers who ship their cargo utilizing signatories of the Land Border Carrier Initiative Program.
- Redirection of intelligence collection efforts to focus on the Southwest border. To help accomplish this, Customs has established cross-functional Intelligence Collection Analytical Teams (ICAT) at seven major ports of entry for commercial cargo.

**Operation Hard Line**

In response to the increased level of narcotics trafficking and related violence along the Southwest border, Customs developed a long-term strategy focusing on permanently hardening our interdiction and investigative efforts at the ports of entry. In February 1995, I formally announced the beginning of Operation Hard Line. The major operational components of Operation Hard Line focus on: smuggling in vehicles and commercial cargo; investigations; and intelligence support. Customs was able to initiate Operation Hard Line by reallocating some of our own resources. Subsequent Congressional appropriations of \$39 million for FY 96 enabled us to continue implementing the initiative.

Hard Line II, which we are implementing in FY 96, is an expansion of the Hard Line strategy to include the entire southern tier of the U.S., from San Diego to San Juan. To address the problem of increased drug smuggling and money laundering in the Puerto Rico area, Customs, with support from the Commonwealth of Puerto Rico, is implementing Operation Gateway as an element of Hard Line II.

**Operation Gateway**

Operation Gateway is a multi-disciplinary, multi-agency approach to the problem of narcotics smuggling and money laundering in the Caribbean. This initiative encompasses all areas of

interdiction, including: expanded marine and air enforcement, increased cargo examinations, outbound initiatives (international and continental U.S.), and expanded small vessel searches. It also calls for use of advanced technology, additional inspectional and investigative support, and the resources necessary for a more effective interdiction strategy. Customs has reallocated \$5 million to support the various elements of Gateway and plans to receive an additional \$2.5 million from the Commonwealth of Puerto Rico for the operation.

#### **Carrier Initiative**

The Carrier Initiative Program (CIP), which was established in 1984, has been very successful at deterring smugglers from using commercial air and sea conveyances to transport narcotics. More than 2,700 air, sea, and land border carriers have entered into agreements with U.S. Customs. This inexpensive and highly effective compliance and training program addresses the problems that private air, sea, and land carriers face in preventing drugs from being placed on their carriers. This voluntary program provides for training and site surveys to carriers which have a CIP agreement with Customs.

#### **Air and Sea Carrier Initiative**

U.S. Customs administers Air and Sea Carrier Initiative Programs designed to help international cargo carriers in keeping drugs off their conveyances and out of the cargo they transport. By signing agreements with U.S. Customs, carriers agree to enhance their security at foreign locations, aboard their aircraft and vessels, and at their facilities in the United States. U.S. Customs views the carriers and their overseas security departments as force multipliers for our interdiction efforts.

U.S. Customs understands that voluntary compliance (sound security practices at overseas locations) by carriers, in addition to our own interdiction enforcement efforts, will ultimately result in an increased amount of narcotics seized. U.S. Customs and the State Department provide the funds to operate the Carrier Initiative Program, and the costs of conducting Carrier Initiative Seminars are frequently subsidized by private carrier organizations. Approximately 20 training seminars are conducted at foreign locations each year.

In addition to these specific initiatives, Customs works closely with its NAFTA trading partners in many areas of enforcement, including the Enforcement Working Party. Other cooperative efforts include the development of Customs Mutual Assistance Agreements with other customs administrations in the Americas.

These agreements are useful for dealing with a variety of Customs offenses, such as smuggling and money laundering. Customs is also heavily involved in seminars and special meetings with the 34 customs administrations, importers, exporters, and major foreign corporations in the hemisphere, where strategies are developed to counter the money laundering and smuggling threat.

#### **Land Border Initiative**

The Land Border Carrier Initiative program (LBCIP) was developed, as part of Operation Hard Line, to address the threat of drug smuggling along the Southwest border and to enlist the support of the land border carriers in the war on drugs.

The purpose of the LBCIP is to deter narcotics smugglers from using land border commercial conveyances to transport their contraband; to give carriers incentives to improve their own cargo terminal and conveyance security; to enhance their awareness of drug smuggling; and to encourage carriers to recognize and report suspected illegal activities to U.S. Customs. This program was established at the major ports of entry along the Southwest border.

As of July 1, 1996, 648 land border carriers have signed Carrier Initiative agreements with U.S. Customs. Pursuant to the agreements, training of the carriers and site surveys of the carriers' facilities in Mexico and the United States are being conducted at the local level.

#### **THE FUTURE**

In FY 96, Customs continues to build on the National Drug Control Strategy and its enforcement successes. As Customs advances into the year, we will continue to introduce and use new technologies and techniques to identify narcotics smuggled into this country concealed in cargo. These include:

- Use of a prototype truck x-ray: Customs has one truck x-ray in place and is in the process of placing four more units based on site survey and risk assessment. The President's Budget for FY 97 requests four more units.
- Mobile support system tool trucks containing a wide array of inspectional equipment that can be used on trucks, trailers, cargo, and rail cars will be placed in eight high-risk ports on the Southwest border by the end of 1996.
- A major component of Operation Gateway which is underway in Puerto Rico is to enhance our ability to detect narcotics concealed in cargo shipments. This involves increasing the number of x-ray systems and other technologies available to

search cargo shipments. The number of Customs inspectors assigned to conduct narcotics examinations of cargo shipments has also been increased.

#### **Funding**

According to the "National Drug Control Strategy, 1996: Program, Resources, and Evaluation," the Administration's FY 97 budget requests \$15 billion for drug control funding throughout the Federal government of which an additional \$65 million is requested for Operation Hard Line. The \$65 million will provide for 657 new positions for Customs inspectors, special agents, canine enforcement officers, and investigative support personnel on the Southwest border, as well as for the acquisition of additional technology for non-intrusive inspection of trucks, portable computer terminals and improved security for seizure storage vaults.

We hope that the Members of this Caucus and Subcommittee will support these important budget requests. The additional permanent positions on the Southwest border, along with the implementation of the other HARD LINE elements, such as physical improvements to port facilities, acquisition of high technology devices, and Operation Gateway in Puerto Rico, will "Make a Difference" and force the narcotic traffickers to resort to more desperate, high-risk smuggling routes and methods.

#### **CONCLUSION**

Again, these "modern times" have created a "modern criminal": one who comes armed not only with a gun, but also with a briefcase full of phony documents, fake credit cards, fraudulent export documents and bogus bills of sale.

I have given an overview of the use of international trade by the cartels and other international criminal organizations, and provided a description of dangers we face today.

Thank you again for this opportunity to appear before this Caucus. You have been very supportive of Customs in the past, and I look forward to a very productive future working with you.

I would be glad to answer any questions you may have at this time.

**TESTIMONY**  
**DEPUTY ASSISTANT SECRETARY WINER**  
**July 30, 1996**

**Senate Caucus on International Narcotics Control**  
**Senate Finance Committee Subcommittee on Trade**

**"The Threat To US Trade and Finance**  
**from Drug Trafficking and**  
**International Organized Crime"**

**Mr. Chairman and Members of the Caucus and Subcommittee:**

Thank you for this opportunity to discuss the multiple threats which drug trafficking and organized crime pose to U.S. trade and finance. The Administration is deeply concerned about transnational organized crime for two basic reasons. First, it is a direct threat to the physical safety and economic well-being of Americans at home and abroad. Money laundering is the lifeblood of narcotics trafficking, and organized crime fuels criminal activity, including violence, in the United States. Second, transnational organized crime threatens America's national security and foreign policy interests in a number of regions of the world, undermining legitimate economies and threatening emerging democracies.

As requested, I will examine how major criminal organizations and drug traffickers are exploiting international financial mechanisms to launder illicit proceeds, how they are using trade mechanisms to smuggle drugs and contraband and what the Department of State and the interagency community are doing about it. I will also address the adequacy of our laws and those of other nations to balance the competing demands of industry for financial services and of law enforcement for evidence.

As we know so well, the international financial community today has become a world in which banks and investment houses, like the national and international corporations they serve, conduct financial operations around the clock, through a network of branches, subsidiaries, and customers, all linked by computers and other electronic communications media. It is a complicated, fast-paced process, making proper regulation and oversight all the more difficult. It makes the cooperation we receive from other financial center countries and trading partners in our efforts to prevent criminal utilization of our financial and trade industries all the more urgent and important.



**MONEY LAUNDERING: THE HEART OF THE PROBLEM**

Money is a commodity: that is the key to understanding the global money laundering phenomenon. Indeed, the bedrock of the global financial system is the purchase and sale of money as a commodity. Just as investors buy and sell securities and monetary certificates, businessmen buy and sell money foreign exchange on both formal and informal markets, both to finance trade and investment transactions and for speculative reasons. Professional money launderers working for organized crime syndicates often use the same techniques in foreign exchange markets as corporate money managers. A corporate money manager enters into the foreign exchange markets to buy and sell currencies at the most favorable rate in a constant effort to improve the manager's average position at the time of payment. Similarly money launderers use a bidding system to buy/sell drug proceeds, especially U.S. dollars. Just as a sound investment portfolio will contain a variety of financial instruments, both legitimate and criminal money brokers vary their holdings.

Competitiveness is the operative word in the international banking system. Speed is often critical to competitiveness. Profits are won or lost with even a small shift in exchange rates. Compounded by the sheer volume of such transactions, the demand for speedy confirmation of prices and conclusion of transactions complicate the ability to spot questionable transactions.

Competitive pressures on both businesses and countries can give rise to "gray markets," often in special zones with lax government regulatory oversight. These gray markets can be exploited by drug traffickers and other criminals as fertile ground for illicit transactions and money laundering. Take the example of Panama's Colon Free Zone. The estimate is that as much as 80 percent of the goods sold in the Colon Free Zone -- which generates in excess of \$10 billion in sales each year -- are purchased by Colombian importers. In many cases, importers buy dollars and especially dollar-denominated instruments, including personal checks, from money brokers who have purchased these instruments from money merchants in the hire of the cocaine cartels. In some cases, the actual sale is paid for by personal checks or bearer instruments, none exceeding three thousand dollars even though the total sale is in six or even seven figures.

While the Panamanian example provides a glimpse of the problem, we do not have accurate estimates of the extent to which drug traffickers and other criminal organizations have penetrated legitimate business through money laundering. Nevertheless, we know the problem is large enough to raise serious commercial concerns. First, given the high profit margins associated with most criminal activity, and particularly with drug trafficking, criminal organizations which venture into legitimate business fields have a tremendous competitive advantage which enables them to outbid honest vendors. Second, there is concern that criminal groups overtly and covertly control financial institutions, including banks, which, as BCCI proved, renders our laws moot.

I draw your attention to a report issued last month to the European parliament on money laundering which considered some of the key questions of the EU that are the subject of today's hearing. The June 6 report stated: "an aspect of money laundering which has not been examined in detail or in depth is its effect on world liquidity, national money supplies and volatility of exchange rates," noting that such inquiries were "in their infancy," and calling on the European Commission to seek answers to such issues as the velocity of money affected by flows of illegal funds, the impact on money supplies on countries involved in the circuit of laundering, how illegal funds are invested, and the impact of money laundering on the stability of national and regional financial markets. For the most part, we do not have answers to these questions today, though we are upgrading our data analysis to begin to obtain them.

#### **THE CHALLENGE TO LAW ENFORCEMENT**

The term money laundering involves a seemingly endless range of illegal activities. It is an especially difficult problem to tackle because most of the techniques used to convert, transform, exchange or simply move money and/or monetary instruments are normal, legal practices of our financial community and are critical to both its competitiveness and to the competitiveness of economies in general.

In the broadest sense, the means used to move assets are only considered illegal when they are used to convert, transform, exchange or move proceeds in a deliberate manner to conceal the origins which may involve illegal activities such as drug trafficking, arms smuggling and the like. Hence, the problem is to separate the vast bulk of international trade and finance that is legitimate and necessary from the percentage which is pursuant to criminal activity.

Disturbing, too, is the trend of criminal enterprises to rely on the services of disreputable money brokers who are increasingly crafting effective schemes to evade normal monitoring, detection and reporting devices.

Often, these money brokers will commingle funds from licit and illicit enterprises. Thus, legal and enforcement problems begin, for example, with the fact that the final sale by a Panamanian agent to a Colombian importer can be -- and often is -- quite legitimate. The importer does not know the origins of the dollars or instruments he buys. Moreover, he may be doing business with a money broker who has no connection to the cartels, other than buying dollars and instruments from a cartel-controlled source. These businessmen and even the money broker are operating at least one level removed from the drug trade itself, thus compounding the problems of enforcement and prosecution in every jurisdiction, which limits the application of its anti-money laundering laws to the single predicate offense of drug trafficking.

#### **STEMMING CORRUPTING INFLUENCES ON MODERN BANKING**

Today, financial institutions are vulnerable to money laundering in large part due to the same features that have facilitated the growth in international trade and finance -- the combination of correspondent banking relations and electronic transfers. The electronic highway now links banks and non-bank financial institutions (NBFIs) worldwide to facilitate expanding world trade and financial services, placing ever-greater priority on banks to establish the legitimacy of transactions, including, as necessary, the identity of beneficial owners and their sources of funds. There are few controls on electronic transfers, and, compounding the problem, the bank or non-bank of origin is increasingly based outside major financial centers in jurisdictions which do not adequately control money laundering and other financial crimes.

Moreover, there is emerging concern about possible misuse of some new financial services, such as direct access banking which permits customers to process transactions directly through their accounts by computers operating off software provided by the bank. While such services enhance customer access and choice, they can also limit the bank's ability to monitor account activity, such as of joint accounts and pass-through banking schemes which have been a traditional method of layering. Beneficial owners of funds can now manipulate the identity of the ultimate recipient of the funds without the review by bank officers. We need to ensure that these new bank services do not limit the utility of systems in place to have both originator and recipient information travel with the electronic funds transfer.

Governments throughout the world also need urgently to address the problem of uneven regulation of non-bank financial systems, especially with regard to the placement stage for cash. Non-bank financial institutions include a wide variety of exchange houses, check cashing services, insurers, securities and commodities dealers and gold and precious metal dealers. Even in the United States, which is taking a leadership role in ensuring effective oversight of non-bank financial institutions, we are still in the process of reviewing how best to balance the overall need to maintain a vibrant financial system with ways of addressing problems like money laundering and illicit transactions.

It is still difficult to assess the degree to which newer electronic banking practices -- such as financial transactions via the internet -- may render banks more or less vulnerable to money laundering. Few governments even have control mechanisms adequate to identify and trace such transactions when they occur.

Similarly, concerns about the regulation of offshore banking have not lessened, although more jurisdictions now have laws which subject offshore banks to the same degree of regulation as onshore institutions. The assurance of absolute secrecy by many jurisdictions which license such facilities makes it possible for such facilities to be manipulated to move and conceal or generate illicit proceeds.

#### **THE U.N. CONVENTION: A VEHICLE TO COMBAT FINANCIAL CRIMES**

Over one hundred governments have ratified the 1988 U.N. Convention, which remains one of the most effective vehicles we have to force concerted action against money laundering and other financial crimes. However, inconsistent enforcement of the Convention's anti-money laundering provisions is an important factor in the continued high level of global financial crime.

Lamentably, the pace of implementation of the U.N. Convention, and the scope of its application, varies. Recent analyses of results reported by key financial centers relative to the generation of suspicious transaction reports indicate that several such centers have numbers of suspicious transaction reports which are disproportionately small, given their volume of financial activity. Moreover, too many affected or vulnerable governments have not criminalized all forms of money laundering and financial crime, nor given sufficient regulatory authority to central banks. And too many governments continue to place limitations on money laundering countermeasures, particularly the requirement that the offense of money laundering must be predicated upon conviction for a drug trafficking offense.

Quick international action on a number of fronts can help thwart money laundering and other financial crimes:

- Governments must share information about financial transactions with other governments to facilitate multinational money laundering investigations.
- Bilateral and multilateral international communications must be improved to inform governments and financial systems systematically about the methods and typologies of drug and non-drug related money laundering and financial crime.
- Asset forfeiture laws must keep pace with anti-money laundering investigative authority; there is a conspicuous gap between the number of institutions and accounts identified by government investigations with money laundering and the authority of many governments to seize and forfeit drug and money laundering proceeds.
- Corporate and individual sanctions must be imposed against financial institutions that repeatedly fail to take prudent measures to prevent their institutions from being used to launder money.
- Bilateral and multilateral strategies to define responsibilities and objectives on a country-by-country basis and set specific goals for cooperating with the various money laundering and money transit countries must be refined.
- Reporting requirements must be imposed on financial systems, in a way that ensure continued competitiveness, to help guard against criminal abuse of financial systems.
- Major international banks should ensure that governments and regulatory agencies in all jurisdictions they serve are enforcing the same high standards as charter governments.
- When implementing free trade agreements and regional compacts, appropriate steps need to be taken to discourage the use of international trade as mechanism for laundering proceeds of criminal enterprises.
- As an incentive to multinational efforts, countries which cooperate on money laundering investigations and prosecutions should share forfeited proceeds so as to reflect equitably their respective contributions.

## **U.S. ACTIVE MEASURES OVERSEAS**

The President and Secretary Christopher have placed the battle against transnational organized crime at the forefront of the U.S. foreign policy agenda and have committed the diplomatic community to work closely with law enforcement, intelligence and other relevant agencies to find effective responses to this problem. In the international arena, the Department of State plays a leadership role in three key areas: foreign policy and national security initiatives, international training and technical assistance, and overseas coordination.

### **Foreign Policy and National Security Initiatives**

In the broadest sense, we are advancing our law enforcement and national security interests by raising the issue of money laundering and financial crime in a wide range of international fora to improve international cooperation in these areas. An important example is our ongoing discussion with the G-7 countries and the Russian government. After the Halifax Summit last year, an experts group agreed to 40 specific anti-crime recommendations which President Clinton and the other heads of state adopted last month in Lyons, France. These measures will form the basis for cooperative efforts against drug trafficking, terrorism and organized crime over the course of the next year and when the United States assumes the G-7 presidency.

The Department is also working closely with Treasury, Justice and other agencies on a full range of international initiatives. We worked closely with Treasury on the Summit of the Americas process and will continue our joint efforts to ensure that measures agreed to by nations of this hemisphere become a reality. We also work closely with Treasury to support the Financial Action Task Force (FATF) which has become the leading anti-money laundering organization in the world and an important mechanism for multilateral cooperation. Treasury's efforts in the last year to ensure that FATF recommendations fully reflect the best advice the international community can give on money laundering countermeasures were rewarded last month when important changes to FATF's recommendations were adopted at its plenary session in Washington. We are also pushing a reform agenda in the U.N. Crime Commission to help it become an effective voice for reform and international cooperation in the financial crimes area.

Similarly, we are working closely with Treasury and Justice to implement the President's important money laundering initiative, which calls for a broader international dialogue and increased cooperation to combat global money laundering. We continue to work

closely with Treasury and Justice to support the President's use of the International Emergency Economic Powers Act (IEEPA) against Colombian drug traffickers. IEEPA allows the President to freeze assets of Cali Cartel leaders, their associates and front companies in the United States. Most importantly, it prohibits U.S. persons from doing business with these individuals and entities. Even businessmen in Colombia have praised the President's action and have used it to close bank accounts and limit financial transactions with these entities. We are also working on an interagency basis to determine whether we can use IEEPA to target other criminal organizations.

### **Training and Technical Assistance**

The United States is fortunate to have the best trained and most knowledgeable law enforcement officers in the world. However, in facing transnational crime, this is only part of the battle. We must work with effective counterparts overseas in order to accomplish our goals. Unfortunately, our law enforcement officers are often called upon to work with law enforcement officials in other countries that do not benefit from the same level of training and have not developed the expertise we have. This is especially a problem in the areas of money laundering and financial crime which can involve complex financial transactions that require equally sophisticated investigative work. Thus, U.S. international law enforcement training is critical to meeting U.S. objectives.

In undertaking international training efforts, the Department has two basic goals in mind. The first is to build institutional expertise and capability in foreign countries so that they can cooperate with us more. The second is to foster close working relationships between us and foreign law enforcement authorities. We do this recognizing that resources are limited, so we must work to reduce unnecessary overlap. This is especially important in the money laundering and financial crime areas because investigative and regulatory authority is spread among a number of agencies in the United States, as well as in many foreign countries. It is also important, of course, that these programs be administered with our broader foreign policy interests in mind. To accomplish these objectives, the Department is working closely with federal law enforcement agencies to establish priorities and implement effective and coordinated training programs.

A good example is our current training program in the former Soviet Union and Central Europe. The State Department chairs a working group on law enforcement training consisting of all of the relevant federal law enforcement and regulatory agencies. Using Freedom Support (FSA) and Supporting Eastern European Democracy

Act (SEED) funds, we are funding a number of money laundering and financial crime training courses in Eastern Europe and the countries of the former Soviet Union. We are carrying out a similar effort through the International Law Enforcement Training Academy in Budapest. With the Federal Reserve and various U.S. law enforcement agencies, we have also launched an important initiative to provide training and technical assistance to the Central Bank of Russia.

For many years, the United States has provided countries with the full range of narcotics control training conducted principally by DEA, Customs and the U.S. Coast Guard. It is an effort which has paid important dividends, especially in this hemisphere. Such training and general bilateral and multilateral cooperation become all the more urgent as the movement of goods and services between countries are stimulated by the reduction in trade barriers. The North American Free Trade Agreement (NAFTA) is a prime example. Increasing volumes of trade mean additional pressure on law enforcement in terms of inspection procedures. Streamlined customs processing means that our relationships with law enforcement counterparts, the training we provide and their high level of expertise become all the more important.

Despite the challenges presented to law enforcement by the increased flow of people and goods, we believe that trade agreements are beneficial to our counternarcotics efforts. NAFTA and other trade agreements create new economic opportunities for trading partners by lowering U.S. tariffs applied to their products making them more competitive in U.S. markets. As a result, competitive manufacturers are likely to grow faster, thus creating new jobs. Higher economic growth in legitimate industries creates more jobs and improved living standards for the same lower-income people that, absent such opportunities, might resort to illegal activity. Therefore, opening U.S. markets complements our drug-fighting strategy by helping to create new economic opportunities for people in drug producing countries. In addition, the goodwill created by improved trading relations also serves to improve cooperation in other areas of the bilateral relationship; we have seen this in the increased willingness to cooperate on drug law enforcement.

In the NAFTA context, increasing legitimate trade with a country through which there is significant illicit drug trafficking, narcotics control efforts become even more imperative. The U.S. and Mexican governments are keenly aware of the seriousness of the threat posed by drug trafficking and organized crime -- to both the safety and wellbeing of our citizens and to our economies -- and we are working on various levels to strengthen cooperative mechanisms to counter the threat.



Since President Zedillo took office in December 1994, Mexico's counternarcotics effort has intensified significantly -- in eradication, law enforcement action against trafficking organizations, and interdiction -- and he has launched a broad-sweeping reform of the justice sector. In addition, the U.S. and Mexico have significantly expanded legal and law enforcement cooperation, not only in combatting drug trafficking, but in addressing problems of fugitives, arms trafficking, alien smuggling, money laundering, and so on. We have established technical working groups to advance cooperation in specific areas, which also serve to coordinate training and technical assistance, and to resolve problems. Senior law enforcement personnel meet regularly to oversee the whole scope of cooperation. In addition, we have established a military working group which coordinates anti-drug cooperation between the U.S. and Mexican militaries.

In March 1995, President Clinton and President Zedillo established the High Level Contact Group to ensure that this important area of the bilateral relationship receives regular attention at the most senior levels of government, both to press for even greater cooperation and to resolve any issues that cannot be addressed at technical levels. This Group, in fact, is meeting this week in Washington. One of the major goals of this meeting will be to approve the outline for a joint threat analysis, the first step toward development of a joint counternarcotics strategy. This is an unprecedented action demonstrates the seriousness of the commitment by each government to a serious and focused assault on this shared problem.

#### Overseas Coordination

U.S. success in achieving foreign policy and law enforcement objectives abroad depends on coordination within the U.S. Government of overseas law enforcement activity. The placement of U.S. law enforcement personnel abroad is an important response to the growing threat of transnational organized crime. Indeed, our missions overseas are the forward bases for protecting and advancing U.S. national interests, including our law enforcement interests.

Both the Secretary of State and the U.S. Chief of Mission have statutory responsibilities for coordinating activities of U.S. government personnel abroad. As the President's personal representative in country, the Chief of Mission is charged by the President and statutorily responsible for the direction, coordination and supervision of all U.S. Government personnel in country, except certain military personnel. The Chief of Mission must play an important role in the fight against transnational organized crime.

The Department of State's responsibilities are so important in this regard that they must not be undermined through insufficient resources to operate our missions abroad. DEA, FBI, Secret Service, INS, Customs, IRS, ATF, FAA and a number of other agencies have important law enforcement functions to perform abroad. We currently have close to two thousand law enforcement personnel overseas and virtually all of these agencies seek to expand their presence. Unfortunately, Chiefs of Mission must consider cost and resources available in making decisions to enhance our law enforcement presence overseas.

Because the Department's own resources are shrinking as law enforcement agencies seek to expand their presence in U.S. missions, Chiefs of Mission must carefully consider such issues as space limitations, costs and manageability when assessing whether to approve new positions, even where they agree that enhanced numbers would otherwise be desirable. I therefore urge members of Congress, when reviewing the issue of law enforcement activity overseas, not to forget the State Department's responsibilities and the resources it needs to support these activities.

#### **THE ROAD AHEAD**

Though the problem of transnational organized crime appears daunting, the Administration is taking the steps needed to counter the threat. The problem is well recognized around the world; we have brought it to the forefront of the international agenda and practical mechanisms are being organized to counteract it.

There is no question, however, that much more needs to be done, especially in the areas of money laundering and other financial crimes. In an electronic world in which the banking system operates 24 hours a day, there must be increased emphasis upon thorough vetting of personnel and monitoring of company and financial institution accounts at the bank of origin, wherever in the world it is located. There is no substitute for a thoroughly applied "know-your-customer" policy.

Likewise, considerable attention must be focused on establishing international standards, on obtaining agreements to exchange information, establishing linkages for cooperative investigations, and on overcoming political resistance in various key countries to ensure such cooperation.

International standards are urgently needed to thwart corruption in commercial activity, especially bribery linked to organized crime. In fact, organized crime now uses bribery as one of its primary tools to establish front countries, gain control of legitimate businesses penetrate the legitimate economy and further

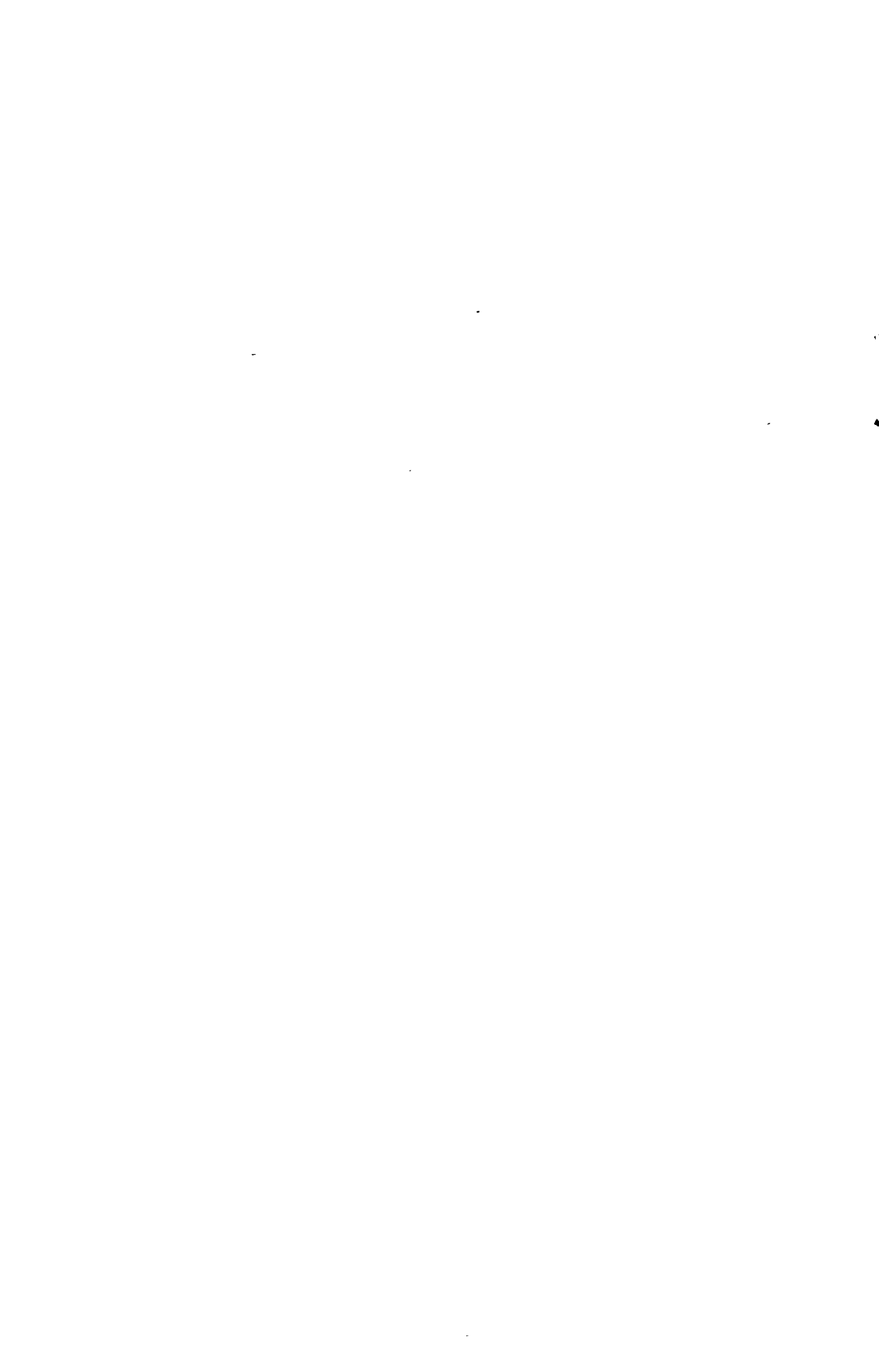
its criminal activities. This corruption can spread like a virus in the public and private sectors. Foreign governments, including our allies and trading partners, can no longer afford to condone bribery and other corrupt practices. In so doing, they not only harm legitimate U.S. businesses, which are legally prohibited from engaging in this activity, but they further the interests of organized crime. Bribery and corruption must be criminalized, investigated and prosecuted both at home and abroad.

In this regard, we have made real progress. In a significant victory, we pushed through an agreement among OECD countries to deny tax deductibility for bribes and to find a means to criminalize the bribery of foreign officials. We have also put forward an initiative in the World Trade Organization to enhance transparency and openness in government procurement as a means of combatting bribery and corruption in government contracts.

Further, governments need laws which establish corporate criminal liability for bank and non-bank financial institutions; apply to all manner of financial transactions not limited to cash at the teller's window; apply reporting and anti-money laundering laws to a long list of predicate offenses not limited to drug trafficking; criminalize investments in legitimate industry if the proceeds were derived from illegal acts; and enable the sharing of financial and corporate ownership information with law enforcement agencies and judicial authorities.

But governments also need strategies which project change and progress along the same continuum as the changes in both financial system procedures and the methods criminals develop to exploit them -- strategies which focus on specific governments and specific financial systems.

Above all, a unified international front against criminals who corrupt our values and institutions is required. As the President said earlier this year, "Whether the threat is the aggression of rogue states or the spread of weapons of mass destruction, or organized crime or drug trafficking, or terrorism, no nation can defeat it alone. But together, we can deal with these problems and we can make America more secure."



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**A P P E N D I X   B**

**Responses of Witnesses to Written Questions  
Submitted by Committee Members**

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## MR. LANG'S RESPONSES TO QUESTIONS FROM SENATOR GRASSLEY

**Q2a:** Given Mexico's proximity to the U.S. and the fact that Mexico now serves as a conduit for drugs coming to the U.S., what priority do we currently place on not allowing our free trade arrangements to become an opportunity for increased drug trafficking?

**A2a:** This Administration is committed to combatting illegal drug trafficking, wherever it occurs, as evidenced by the strong efforts being led by the Departments of Treasury, State, the Office of National Drug Control Policy and other enforcement agencies. "Operation Hardline" has been one of the Administration's notable efforts to strengthen our border enforcement, making it as difficult as possible for smugglers to bring illegal drugs into the U.S. by shrinking the number of methods and routes they can use.

Of course, drug smugglers will use whatever means at their disposal to move their deadly products, including attempting to infiltrate the heavy traffic across our 2,000-mile border with Mexico. In the face of the massive movement of people and goods at the border -- 2.8 million trucks, 84 million cars and 232 million people in 1995 -- drug interdiction remains the clear first priority of the U.S. Customs Service. In part because increased trade with Mexico has brought increased cooperation on many fronts, the U.S. and Mexican governments are also working together on an unprecedented scale to stop the movement of drugs across our shared border.

The international trade agreements of this Administration contain provisions to reinforce the efforts of law enforcement agencies in the war on drugs. First, our trade preference programs, such as GSP, CBI and ATPA, are subject to conditionality related to narcotics and trafficking, providing us the flexibility to withdraw preferential tariff treatment and take other necessary steps to encourage a country in its counternarcotics cooperation. Second, in our reciprocal trade agreements, such as the NAFTA and the WTO, we have reserved the absolute right to protect ourselves on law enforcement matters. Simply put, our moral and legal domestic obligations to protect our citizens and police our borders take precedence over any trade agreement. Finally, in all our trade agreements, we seek to work with our law enforcement agencies to ensure their input into the trade negotiations process.

**Q2b:** What is the right balance to strike between facilitating trade and stopping illegal trade?

**A2b:** The question implies that trade in illegal goods can be stopped only at the expense of legitimate trade. We would contend, however, that fostering a more open system of legal international trade actually increases our ability to fight the war against trade in illegal goods.

First, trade agreements like the NAFTA reduce, or eliminate, the barriers that exporters and importers face in the exchange of goods and services, thereby reducing the time and resources that border agents must devote to processing legitimate trade. This frees up the time and resources needed to more effectively search out and interdict illegitimate trade. Second, trade agreements like the NAFTA foster growth in the economies of the trading partners. Stronger economies provide greater employment opportunities and economic alternatives to participation in drug-related activities.

- Q4:** In the area of international trade agreements, how much emphasis do we place on tying strong anti-drug and anti-money laundering enforcement, on the part of our trading partners, to our pursuit of trade agreements?
- A4:** The economic interests of the U.S. and all aspects of our relationship with a country, or countries, are considered in evaluating whether to pursue trade agreements, and that is particularly the case when considering whether to pursue a reciprocal free trade agreement (i.e., the comprehensive elimination of barriers to trade, investment and services). Therefore, the willingness of a country to cooperate with us in addressing illegal narcotics has been, and will continue to be, a serious consideration. As also mentioned previously, our international trade agreements contain provisions to reinforce the efforts of law enforcement agencies in the war on drugs. In negotiating trade agreements, we also seek the input of law enforcement agencies so that resulting agreements provide us the flexibility to strengthen ongoing enforcement activities. Finally, our trade agreements send a clear message to trading partners about the priority this Administration places on its moral and legal domestic obligations to protect our citizens and police our borders.
- Q5:** When negotiating international trade agreements do we take into consideration the organized crime activity that is associated with the nation with whom we are negotiating?
- A5:** We consider all aspects of a country, and our relations with the country, before we embark in the pursuit of a reciprocal free trade agreement. In fact, to the degree we pursue trade agreements of any kind, we consider the full range of factors that may have a bearing on our economic and political relationship with any given country, or countries. Therefore, to the degree organized crime in a country, or countries, has significant implications for a more involved and comprehensive trade agreement agenda, it can be an important consideration in our decisionmaking process.



## MR. MORRIS' RESPONSES TO QUESTIONS FROM SENATOR GRASSLEY

**Question 1.**

What more do we need to do to close money laundering loopholes? The following countries have been identified as "high priority" money laundering areas whose financial systems are most likely to be penetrated by international money laundering organizations: Aruba, Canada, Cayman Island, Colombia, Germany, Hong Kong, Italy, Mexico, Netherlands, Netherlands Antilles, Nigeria, Panama, Russia, Singapore, Switzerland, Thailand, Turkey, United Kingdom, United States and Venezuela\*.

- What actions are the Treasury Department, Customs Service, and FinCEN taking to reduce the threat of money laundering from these areas?

\* Source: 1996 International Narcotics Control Strategy Report (INCSR).

**Answer**

The United States is continuing to stress not only the adoption/acceptance of the FATF 40 Recommendations by these countries but also the effective implementation of anti-money laundering programs based on the FATF standards. In those countries that already possess some of the necessary legislation or anti-money laundering measures, the United States is urging the immediate and full implementation of those measures.

Multilaterally, the United States is promoting the adoption and implementation of effective anti-money laundering programs through such international fora as the United Nations, and the Organization of American States, as well as through FATF, CFATF, and the FATF Asian Secretariat.

The United States can also bring about some change in the high priority money laundering areas by engaging other countries that have effective systems in exerting pressure on problem nations. This can be done through joint high level visits and coordinated demarches, as well as by working together in the above mentioned international fora. For example, earlier this year the United States, together with France and Great Britain, presented a demarch to the government of the Seychelles to protest the enactment of an investment law, the Economic Development Act. The law provided for the liberal granting of immunity to investors who placed US\$ 10 million or more in approved investments in the Seychelles regardless of the nature or reputation of the investing organization or the derivation of its investment funds. The United States also actively worked within FATF to successfully urge FATF members to collectively condemn the enactment of the law which blatantly provides a protected and attractive investment environment for international criminal enterprises.

In addition, the FATF has also taken action against Turkey, the only member of FATF which has not yet passed anti-money laundering legislation. In accordance with its rules for members who are out of compliance with the FATF 40 recommendations, FATF members agreed that their financial institutions should now pay special attention to business relations and transactions with persons, companies and financial institutions that are domiciled in Turkey.

The United States Government is also working with the United States financial industry to further sensitize them to the money laundering problem areas in the world and solicit their assistance in developing and implementing countermeasures.

The Customs Service is increasing its inspection of outgoing mail and foreign-bound packages to curb the flow of outbound currency, in conjunction with the intensive scrutiny which it places on outbound cargo. Significant seizures of outbound currency are increasing in numbers as a result of this aggressive posture. Treasury has stationed agents abroad who are actively involved in working to reduce the threat of money laundering.

The Treasury Department, Customs Service and FinCEN are all active participants in the Financial Action Task Force (FATF), and support the 40 recommendations set forth by the FATF and its 26 member nations to curb this activity. In addition, these same agencies are also active participants in the Caribbean Financial Action Task Force (CFATF), a 26 member organization, with five FATF donor members, which adheres to the FATF's 40 recommendations and to an additional 19 recommendations specifically tailored to the Caribbean region.

#### **Question 2.**

Where is the US financial system most vulnerable to infiltration by organized crime? What levels of corruption do you find in American financial institutions and what role does this play in international money laundering? We have all heard of the influence that drug money is suspected to have played in elections in Colombia and Mexico. Has there been any evidence of this in the US?

#### **Answer**

As opportunities for easy or low risk placement of funds directly into the banking system have dried up, launderers have come to move illicit funds through non-banks. By this we mean a range of large to small less-traditional financial intermediaries that includes currency exchange houses, money transmitters, check cashers. Non-banks are subject to fewer regulatory requirements and examinations, making them potentially more vulnerable to money laundering.

Please note that the overall jurisdictional expertise for organized crime issues lies with the Department of Justice (DOJ) and you may also wish to contact DOJ for additional comments.

**Question 3.**

What additional resources would be most beneficial in the monitoring of international money transactions? What role do existing intelligence assets play in monitoring international money transfers?

**Answer**

Through its regulatory authority as well as its partnership efforts with financial institutions, FinCEN works to ensure that law enforcement is supported in its efforts to monitor international money transactions. For example, in late May 1996 FinCEN and the Federal Reserve Board enacted new recordkeeping rules affecting certain transmittals of funds to help ensure that a detailed paper trail is maintained for large wire transfers. These rules are discussed in greater detail in the answer to the Committee's "Question 1" on page 8 of this document. Additionally, in response to growing concern about the illicit use of foreign bank drafts and, in particular, Mexican bank drafts, FinCEN has just issued an Advisory for the more than 19,000 depository institutions in the United States alerting them to the concerns associated with Mexican bank drafts coming into US financial institutions particularly those along the southwest border. FinCEN is also drafting a proposed rule to require reporting of certain foreign bank drafts transported into the United States. FinCEN's ultimate objective is to craft a rule which counters the abuse of foreign bank drafts without impeding legitimate commerce. Once a proposed rule has been cleared within the Department of the Treasury, a Notice of Proposed Rulemaking will formally be issued and a public comment period will commence.

The intelligence community works closely with federal law enforcement to the extent permitted by law to ensure that their programs are complimentary and add value to programs prioritized by law enforcement/regulatory agencies. The intelligence community, for example, has pledged to support the Interagency Coordination Group (ICG) which targets major money launderers in Colombia, Panama and Mexico. The ICG will make use of FinCEN facilities to enable real time access to FinCEN's databases and analysts.

**Question 4.**

What monitors exist to look at private Check Cashing locales and other wire-transfer organizations that operate outside the conventional banking system? Other than transfers through banks and physically moving cash, what other methods are available to transfer money out of the country? Do we have an estimate of the amount of money that is laundered every year? How is that estimate reached? Do we know how much of this money moves in non-traditional banking sources, such as *casa de cambio*, or underground or non-bank banking networks in Asia, Africa, and the Middle East?

**Answer**

FinCEN is redefining certain non-bank financial institutions (NBFIs) to provide greater clarity to the business community and to fashion regulatory requirements to prevent the abuse of these financial service businesses by their customers. FinCEN will propose a regulation which will require check cashers, money transmitters, currency exchangers and issuers and sellers of money orders and travelers checks to register with the Department of the Treasury on an annual basis. It is often estimated that there are over 200,000 non-bank financial institutions operating in this country. A national registration system will give Treasury, for the first time, an opportunity to identify the businesses and their locations that provide non-bank services to the public, such as check cashing and money transfer services. It will also provide Treasury with much-needed information concerning the nature and volume of these services, allowing us to more accurately evaluate programs to guard against money laundering and other crimes through these businesses.

One of the most significant challenges to our anti-money laundering program is the recognition that there are a variety of ways in which to move funds out of the US--many of which by-pass the traditional banking community. Of course, currency smuggling is a favored technique and as banks become more adept at recognizing and reporting suspicious and large currency activity, we have seen a significant increase in the amount of illicit dollars smuggled out of this country. In addition, money transfers are possible through numerous businesses, from banks to international "money transfer" services such as Western Union or Money Gram, to small, one or two employee businesses that specialize in moving funds to specific countries and which cater to clientele from those countries. In addition, money can be transferred abroad in the form of money orders, travelers checks, foreign currency, checks and other monetary instruments. Many of these instruments, when in bearer form, must be reported when entering or leaving the US in amounts exceeding \$10,000. In addition, financial institutions must keep records of the purchase of these instruments in amounts over \$3,000 in currency and must report all currency transaction which exceed \$10,000.

The extent of the money laundering problem worldwide, including illicit funds moving through *casa de cambios* in Asia and the Middle East, is extremely difficult to quantify. Treasury is in the process of exploring ways to develop a scientific methodology as a basis by which to determine the amount of money being laundered. It should be noted that the FATF requested the United Nations to make an assessment of amounts of laundered money but to date that organization has been unable to arrive at a formula for doing so.

**Question 5.**

I understand that money laundering has become an increasingly important topic of discussion at G-7 country gatherings. What efforts are being made to coordinate an anti-money laundering strategy among the G-7 nations? Have there been discussions as

to what kinds of pressure that the G-7 nations could bring to bear on countries with poor money laundering regulations? If so, what is the nature and status of such discussions?

**Answer**

The world's leading anti-money laundering body, the Financial Action Task Force (FATF), was created by the G-7 countries, through the Organization for Economic Cooperation and Development, whose representatives continue to be actively engaged in the work of the FATF and its efforts to promote the adoption of the FATF 40 Recommendations throughout the world. Please refer to Question 1 above for additional comments on the work of the FATF.

**Question 6.**

What is the relationship between NDIC and FinCEN? Is there any overlap between the two agencies? Does anything need to be done to enhance the relationship between the two agencies?

**Answer**

FinCEN has an excellent working relationship with NDIC. A key component of the operation of the Financial Crimes Enforcement Network is its ability to function as a network bringing together information and expertise from its partners, which includes from a broad perspective, members of the intelligence community as well as the other intelligence support operations within elements of the law enforcement community. Communication is the key to success. FinCEN serves as a principal member of a joint law enforcement and intelligence community initiative which facilitates the sharing of information. The intelligence functions within the Federal structure are partners of FinCEN. We work joint projects and share information. As an example, FinCEN is coordinating with EPIC, NDIC and various other intelligence support operations, the support to the enforcement and regulatory communities, of a major international anti-money laundering initiative. No one agency or organization working alone is going to have a positive effect on money laundering; it takes a coordinated effort, a networking of talent and information.

**Question 7.**

What can FinCEN tell us about the infiltration of the international trade community by international organized crime groups that launder their profits through the use of complex trade schemes involving domestic and foreign financial institutions? How do our international trade partners view this issue? Is there concern or does no one else see any reason for alarm in this area?

**Answer**

This question has been referred to the Customs Service which has jurisdictional responsibility for these matters. Please refer to the answer in Question 18 of the response package from Customs. It should be noted, however, that FinCEN is aware that certain forms of money laundering are effected using trade finance instruments conducted through the financial sector, such as letters of credit and banker's acceptances. FinCEN continues to work closely with the financial sector to alert it to this potential.

**Question 8.**

How effective is FinCEN in supplying the Customs Service with information regarding money laundering operations that use international trade facilities as a means of laundering or trafficking in illicit funds?

**Answer**

This question has been referred to the Customs Service. Please refer to the answer in Question 15 of the response package from Customs.

**Question 9.**

Does FinCEN have a mechanism in place to monitor the incidence of use of international trade operations by money laundering organizations? What organized criminal groups are more likely to use this avenue to launder their money? How is this information made available to the investigative agencies that can use it?

**Answer**

As mentioned above in Question 3, FinCEN's role is to assist law enforcement by providing them with regulatory, analytical and case support in their efforts to monitor money laundering. Please refer to the discussions of wire rules and foreign bank drafts in Questions 3, pg. 3 and "Question 1" pg. 9 of this document.

**Question 10.**

How does FinCEN support federal law enforcement agencies either in the areas of identifying prospective targets for money laundering investigations and providing investigative support in ongoing money laundering through the use of its analytical capabilities? Cite examples of past successes where possible.

**Answer**

FinCEN develops cases proactively utilizing three primary resources - the FinCEN Artificial Intelligence System (FAIS); Suspicious Activity Reports (SARS), and Criminal Referral Forms (CRFs).

FinCEN's AI system is primarily proactive and effectively utilizes BSA data to detect highly suspect financial activities. Internal logic is programmed into the AI System that utilizes the BSA data to identify individuals and businesses that have a high probability of being involved in laundering money. Once a person or business is identified by FinCEN's AI system, FinCEN Analysts conduct additional research and construct a quality profile of the suspect. The suspect's overall profile is evaluated, and if deemed of value, is subsequently referred to appropriate law enforcement agencies. The cases developed by FinCEN provide the law enforcement community with exceptionally valuable lead information that assists investigating agencies in establishing underlying crimes supported by money laundering. FinCEN's AI System coupled with additional database resources continues to lay the foundation for law enforcement investigations throughout the United States. The AI System track record has been consistently successful and provides an excellent means for developing high-quality cases for law enforcement agencies. On a continual basis the AI Program makes referrals to law enforcement agencies at the local, state, and federal levels.

Suspicious Activity Reports (SARs) which are filed by financial institutions, also provide an excellent means for alerting law enforcement agencies to illegal activities. The SARs contain data which is not normally captured in CTRs, and that which enables FinCEN to more readily identify probable criminal activities. After evaluating SARs, appropriate law enforcement agencies are provided a copy of the SAR together with additional information developed by FinCEN.

Criminal Referral Forms (CRFs) are another method of proactively developing cases. FinCEN Analysts review CRFs, and utilize the data in a similar fashion as for SARs and AI suspects. A case is developed and referred to law enforcement agencies who have primary jurisdiction over the suspected criminal activity identified by FinCEN. Such activities vary considerably - ranging from drug trafficking to insurance fraud.

**Question 11.**

What countries currently do not permit US examiners from inspecting overseas branches of US banks because of bank secrecy or data protection laws? What steps are being taken to broaden the ability to audit US branch banks? What is the status of Federal Reserve Board efforts to implement anti-money laundering examinations of US branch banks overseas?

**Answer**

U.S. banking organizations routinely direct their global operations from the United States head office of the organizations. For this reason, the thrust of the Federal Reserve's examination effort for the domestic and foreign operations of U.S. banks is focused at the head office in the United States. In order to focus examination procedures on the areas of greatest risk, a risk assessment of the organization is performed in advance of on-site supervisory activities. The risk assessment process highlights both the strengths and vulnerabilities of the banking organization's worldwide operations and provides a foundation from which to determine the business areas to be reviewed during an examination.

U.S. banks are required to maintain effective risk management processes, operational controls and compliance programs to ensure that top-level management is kept informed of the overall condition of their organization's operations, and that local management is taking appropriate steps to identify, measure, report and control risks in their business activities. All of this information is required to be made available to examiners at the U.S. head offices of the banks. Examiners use this information in the conduct of their on-site supervision of the banks.

Wherever possible, because there are no legal or regulatory restrictions, the Federal Reserve conducts regular on-site examinations of the foreign operations of U.S. banks that it supervises. The Federal Reserve has developed agreements with certain host country authorities intended to enhance the sharing of supervisory information. The Federal Reserve also is continuing in its efforts to obtain the authorization to conduct on-site examinations of U.S. bank operations in locations where the access is presently restricted, and to establish frameworks for the conduct of these examinations. As an example, in part as a result of these efforts, Singapore amended its banking law in July of this year to permit, on a restricted basis (i.e. information relating to deposits of customers can not be accessed) the examination of local branches by home supervisors. Also, both the Basle Supervisors Committee and the Offshore Supervisors have adopted principles designed to enhance the availability of, and access to, bank books and records maintained in jurisdictions with strict privacy laws.

In many countries, privacy laws prohibit or severely restrict the Federal Reserve's ability to conduct on-site examinations. When on-site examinations cannot be conducted, examiners frequently conduct "desk" examinations of certain operations of a bank. In these cases, examiners employ the financial records and management reports utilized by management at the head office to conduct the desk examination, supplemented by internal credit reviews and internal and external audits of the foreign operations. Taken together, utilization of this information by examiners during the examination process has enabled the Federal Reserve to meet its responsibilities with respect to supervising the worldwide operations of U.S. banks.



In April of 1996, the Federal Reserve issued examinations procedures for anti-money laundering controls in foreign offices of U.S. banks (attached). These procedures were developed and implemented by the Federal Reserve to address the Federal Reserve's concern that the conventional means of assessing the efficacy of anti-money laundering programs in banks -- the Federal Reserve's Bank Secrecy Act examination procedures -- were not directly applicable to operations outside of the United States. These procedures were, therefore, designed to provide a systematic approach for the review of the anti-money laundering controls established in foreign operations of U.S. banks.

#### MR. MORRIS' RESPONSES TO QUESTIONS FROM SENATOR GRAHAM

##### Question 1.

At the Summit of the Americas in December of 1994, the participating countries undertook a series of commitments relative to drug laundering. To what extent has the United States come into compliance with the commitments that we undertook? What is the status of the other participating nations? Can you please provide the degree to which all of the participating countries have complied, and what efforts they are taking to come into compliance?

##### Answer

The Summit of the Americas' (SOA) Buenos Aires Communiqué was designed to begin the process of bringing the countries of this hemisphere into compliance with internationally accepted anti-money laundering standards such as criminalizing money laundering beyond drug-related offenses and establishing financial intelligence units (FIUs). The United States, an active leader in the Financial Action Task Force which originally spearheaded the adoption of such standards worldwide, is in compliance and is working with other SOA participants to provide assistance to those who are in various stages of compliance.

The finance ministers of the SOA countries consider the issue of money laundering so serious that they have agreed to fund an international development program (IDP) to conduct on-going assessments to determine each country's progress in implementing the Communiqué's anti-money laundering measures and to provide technical assistance and training where needed. An Inter-American Drug Abuse Control Commission experts group has been tasked in conjunction with the Organization of American States to develop an operating framework for these implementation reviews.

## MR. MORRIS' RESPONSES TO QUESTIONS FROM SENATOR MURKOWSKI

**Question 1.**

The threat of currency counterfeiting, money laundering, and other illegal electronic transactions is clearly on the rise with the advent of greatly advanced copying and electronic technologies. The first major casualty was our \$100 bill, touching off widespread concern, even panic in places such as Russia, where inflation and changes of currency are endemic. Given the rise in electronic transfer where no actual bills exchange hands, what is your estimate of the danger of international electronic commercial crime to individual businesses and the US economy? Can you explain how FinCEN tracks and pinpoints electronic crime? How are your activities related to the international Financial Action Task Force and other international crime-fighting efforts?

**Answer**

As indicated in the answer to Question 9 of the questions directed to Deputy Secretary Summers, FinCEN is in the process of studying electronic payments systems and is engaging in on-going simulation exercises to identify vulnerabilities and ascertain their impact on law enforcement. The topic is also receiving on-going discussion within the FATF and was raised during the FATF-sponsored Financial Services Forum.

FinCEN does not track and pinpoint financial crime. That is the purview of the Internal Revenue Service and law enforcement agencies. In exercising its regulatory authority under the Bank Secrecy Act, FinCEN issues rules which implements the Secretary's power to require financial institutions to keep records and make reports that have a high degree of usefulness in civil, criminal and administrative proceedings. These records and reports comprise the "paper trail" relied upon by law enforcement as an essential component of every financial investigation. FinCEN is continually working with law enforcement, the financial services industry and regulators to ensure that Bank Secrecy Act regulations meet the needs of law enforcement without imposing an undue burden on the financial services industry.

In the case of transmittals of funds for example, FinCEN and the Federal Reserve Board implemented two rules in May 1996 that affect such transactions over \$3,000. The first rule requires both domestic banks and non-bank financial institutions to collect and retain information about transmittals of \$3,000 or more; it also requires the verification of the identity of parties to transmittals of funds without an established relationship with the institution. The second rule (known as the travel rule), issued by Treasury alone, requires each domestic financial institution that participates in a transmittal of funds to pass along certain information about the transmittal to any other financial institution that participates. These rules will better ensure that a detailed paper trail is maintained for larger wire transfers. The funds transfers rules, along with Suspicious Activity Reports, should help to deter illicit or suspect cash transfers.

A sub-group of the BSA Advisory Group has been created to monitor the rules affecting transmittal of funds to ensure their usefulness to law enforcement and assess their affect on the payments systems and the institutions involved. This group will make recommendations for modifications as appropriate. The American Bankers Association has volunteered to lead a group of financial institutions regulated by the Bank Secrecy Act, including a wide variety of non-banks, in a review of the entire range Bank Secrecy Act regulations.

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## MR. SUMMERS' RESPONSES TO QUESTIONS FROM SENATOR GRASSLEY

Question 1

Mexico is the entry point for most of the illegal drugs that come into the U.S. It is a site of major money laundering activities. In just the past few years, Mexican methamphetamine smuggling has created major addiction and violence problems in my own state of Iowa and in the Southwest and Midwest of this country. Mexican criminal organizations are also responsible for a major addiction and violence problems in my own state of Iowa and in the Southwest and Midwest of this country. Mexican criminal organizations are also responsible for a major problem of corruption in Mexico, raising questions about who really is in charge of drug policy. Mexican authorities have identified the drug problem and the threat from drug trafficking organizations as one of their biggest threats. If press accounts are to be believed, the Administration seriously considered de-certifying Mexico over questions of lack of cooperation or progress in dealing with drug trafficking.

- Given Mexico's proximity to the U.S. and the fact that Mexico now serves as a conduit for drugs coming to the U.S., what priority do we currently place on not allowing our free trade arrangements to become an opportunity for increased drug trafficking?
- What is the right balance to strike between facilitating trade and stopping illegal trade?
- What more do we need to be doing?

Answer

Increasing international trade is a fact of the global economy. As Secretary Rubin has said, while the expansion of trade provides many benefits to the American people, it also provides an expansion of opportunities for those who will misuse the trade and financial systems that regulate and facilitate the flow of goods and services between countries. The Treasury Department and its bureaus have been entrusted with ensuring the soundness of our financial system and protecting our borders. We are vigilant in our efforts to combat crime which threatens our nation's financial security.

Facilitating trade and stopping contraband, however, are not incompatible or even necessarily conflicting. With finite resources the Customs service must concentrate on that trade which presents the greatest risk. Customs selects shipments for intensive examination based on intelligence reports, the experience of inspectors, and systematic analysis of factors indicating risk such as a shipments' origin, importer, exporter and the nature of the goods. Customs uses sophisticated statistical techniques to ensure that its resources are focussed

on the appropriate shipments and to measure its own performance. In this manner Customs can concentrate on the actual drug flow without wasting resources slowing legitimate trade.

Customs' use of advanced equipment and techniques also facilitates trade and enhances enforcement at the same time. For example, high speed x-ray equipment specially adapted to inspection and trained sniffer dogs provide the capability for even more thorough inspection to be done more quickly. Use of such can be increased but is, of course limited by funding.

Increasing trade with Mexico and drug activity there make the Mexican border an obvious priority of the Customs Service. Operation Hard Line is a concrete example of the Customs attention to problems on the border. In addition, because NAFTA is a cooperative effort between the governments involved, regular consultations with Mexico under NAFTA have promoted cooperation on drug interdiction between the two governments.

#### Question 2

What relationship has been established with the Money Laundering Directorate, a division within the Ministry of Finance in Mexico? What are the shortcomings in Mexico's recent money laundering statute? How will the new law be implemented?

#### Answer

##### Treasury's Relationship to Hacienda's Money Laundering Directorate

The Treasury Department has established a productive working relationship with the Mexican Finance Ministry's, or Hacienda's, Money Laundering Directorate (the "Money Laundering Directorate"). A cornerstone of this relationship is a Financial Information Exchange Agreement ("FIEA") entered into between the Treasury and Hacienda. The FIEA provides for the exchange of large currency transaction information in connection with financial investigations. Pursuant to this agreement, information is shared routinely in furtherance of financial investigations touching upon both sides of the border.

The Money Laundering Directorate works closely with U.S. law enforcement authorities at Treasury and other agencies to investigate suspected money laundering schemes. For example, the Directorate has been investigating 53 cases with U.S. authorities during 1995 and the first half of 1996. In addition, representatives of the Directorate have testified on behalf of the U.S. Government in two money laundering trials, both of which resulted in convictions.

The Treasury Department also provides advice and assistance to the Money Laundering Directorate on enhancing the Government of Mexico's anti-money laundering capabilities. For instance, Treasury consistently has urged Hacienda to enact regulations mandating reporting of both suspicious (SAR) and large-value cash (CTR) transactions by banks and non-bank financial institutions. Although Hacienda originally expressed some resistance, in May 1996 Hacienda Minister Ortiz pledged to Deputy Treasury Secretary Summers that Hacienda would adopt SAR and CTR rules.

To aid Hacienda in this endeavor, from June 2-6, 1996, a team of regulatory and technical experts from the U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN) traveled to Mexico City for the purpose of following up on the agreement reached between Minister Ortiz and Deputy Secretary Summers. The team also was to work with its Mexican counterparts to identify procedures required to create a computerized, central database to house reporting and other relevant information. Based on the FinCEN team's recommendations, Hacienda's Money Laundering Directorate has developed a plan to introduce SAR and CTR regulations. The first phase of that plan, calling for the adoption of SAR rules, is to take effect in or about the early part of 1997. In furtherance of that plan, the Money Laundering Directorate has drafted a proposed SAR regulation.

Treasury and other U.S. authorities will continue to consult with the Money Laundering Directorate as the process unfolds, and to press for its speedy completion. Once the necessary rules are in place, moreover, Treasury and its partner agencies will encourage the Money Laundering Directorate to enforce those rules swiftly and effectively.

Beyond counseling the Money Laundering Directorate on the SAR and CTR initiatives, Treasury is actively involved in discussions with the Directorate on a range of issues of mutual concern. In March 1996, at the direction of Mexican President Zedillo and U.S. President Clinton, a working group comprised of senior officials from both governments was established with the goal of further invigorating the U.S.-Mexican partnership in the war on illicit narcotics. The so-called "High-Level Contact Group" has been working to address every aspect of the drug problem -- from production to consumption to the financial aspects of the trade. U.S. efforts under the HLCG are coordinated by ONDCP Director McCaffrey. The U.S. side also includes high-ranking officials representing Treasury, Justice, State and Defense.

Within the context of the High-Level Contact Group, a special subgroup has been formed to confront the problem of money laundering. This money laundering subgroup is led by Treasury, and includes experts from Justice, State, the OCC, FBI, DEA, IRS-CI, FinCEN and Customs. The subgroup first met with its Mexican

counterparts -- a team led by the Money Laundering Directorate and including representatives of the Mexican Attorney General's Office -- in July 1996. Plans are in place to reconvene on a regular basis to discuss issues of mutual concern including information sharing, legislative and regulatory developments, training and technical assistance, and money laundering methodologies.

Mexico's New Money Laundering Statute

On April 29, 1996, the Mexican legislature added Article 400 Bis to the Criminal Code, establishing for the first time a criminal offense of money laundering. The law became effective on May 14, 1996. In pertinent part, it reads:

A five to fifteen years penalty and a fine from one to five thousand days of the minimum wage shall be imposed on any individual that by himself or through a third party carries out any of the following behaviors: purchase, sale, management, custody, warranty, investment, transportation or transfer, from Mexico to abroad or from abroad to Mexico, knowing that resources, rights or assets of any nature originated from or represent the product of an illicit activity, with the purpose of concealing or attempting to conceal, disguising or attempting to disguise, the origin, nature, ownership, destination or location of the referred money or assets as well as promoting any illicit activity.

Article 400 Bis applies equally to "employees and institution officers that integrate [sic.] the financial system, that wilfully assist or cooperate with a third party. . ." The statute defines the "product of an illicit activity" broadly to include "resources, rights or assets of any nature which are assumed to be directly or indirectly obtained from the commission of any offense, or that represent the asset value or any other profit thereof, in the event that its legitimate origin cannot be proven."

Article 400 Bis contains many strong features, including a wide range of predicate offenses and the provision of substantial penalties. Moreover, while facially the law requires an individual to have actual knowledge that the proceeds being laundered came from an illicit source, discussions with Municipal Prosecutors from the Mexican Attorney General's Office's (PGR) National Institute to Combat Drugs suggested that the knowledge requirement also encompasses "willful blindness." U.S. experience has demonstrated that this standard is an important

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<sup>1</sup> Quotation is based upon Mexican translation of the statute.

means of compelling vigilance among financial professionals and others who act as facilitators in the laundering process but whose nexus to the underlying criminal activity is more tenuous.

Implementation of Article 400 Bis

Article 400 Bis contains a "grandfather clause," permitting cases begun under Article 115 Bis to be disposed of under that new statute. Numerous investigations initiated under Article 115 Bis are pending. Hacienda has indicated that investigations and prosecutions under Article 400 Bis will not change significantly. Accordingly, an analysis of Article 115 Bis investigative and prosecutorial procedures is an appropriate point of departure.

Prior to the passage of Article 115 Bis, Hacienda had exclusive authority to conduct money laundering investigations. The PGR was solely responsible for conducting investigations into the predicate offense which constitutes a necessary element of the money laundering violation. As a practical matter, Hacienda and PGR could initiate investigations simultaneously. Or, Hacienda could conduct a money laundering investigation and then present its findings to PGR, which in turn would initiate an investigation to determine whether a predicate offense exists. In the alternative, a PGR investigation into a predicate offense could stimulate a Hacienda investigation into related money laundering.

When conducting an investigation under Article 115 Bis, Hacienda obtains information from numerous sources. For example, pursuant to a 1990 agreement Hacienda is given notice of, and can request information relating to, PGR investigations into suspected drug offenses. It also can request criminal history information from the PGR relating to other kinds of offenses. Hacienda is authorized to instruct the National Banking and Securities Commission or the Insurance and Bonding Commission<sup>2</sup> to obtain financial records including account information. Hacienda analyzes identifying information governing transportations into Mexico of currency or monetary instruments in excess of \$10,000 U.S.<sup>3</sup> And it reviews public records pertaining to real estate, tax, customs import-export transactions and corporate activity. Hacienda examines media information it has compiled in a database. It further requests information from the U.S. and

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<sup>2</sup> National Banking and Securities Commission and the Insurance and Bonding Commission are Hacienda agencies with supervisory authority over financial institutions.

<sup>3</sup> Article 9 of the Mexican Customs Law mandates reporting of inbound transportations of cash and/or checks in excess of U.S. \$ 10,000.

other governments pursuant to mutual legal assistance, financial information exchange and other agreements.

If, at the conclusion of its investigation, Hacienda determines that sufficient evidence exists to prove all of the elements of a money laundering offense, a formal referral, or *querrela*, is presented to the PGR. It is the responsibility of PGR Municipal Prosecutors to "integrate" the money laundering and predicate act components of the case and file formal charges.

Recent statistics suggest that there are a number of cases awaiting "integration." The U.S. considers it imperative that the Government of Mexico take the steps necessary to expedite integration and ensure that these pending cases be disposed of. Further, the U.S. will urge the Government of Mexico to promote swift and certain prosecutions in the future under Article 400 Bis.

By placing Article 400 Bis within the Mexican Criminal Code, the Government of Mexico effectively has extended jurisdiction to conduct the financial side of money laundering investigations to the PGR. At the same time, the statute deliberately retains Hacienda's threshold jurisdiction by providing that Hacienda must file a formal accusation before a money laundering case may be prosecuted.

### Question 3

Where do the countries in the Caribbean stand on realizing FATF recommendations to enact money laundering legislation? What are the obstacles to implementing the laws currently in place? What pressure can we bring to bear on nations that have not yet implemented the FATF money laundering recommendations? Which nations fall into this category? Have you seen any evidence of countries passing legislation without enforcement intent? How effective have the recent measures taken by Panama and the Bahamas been?

### Answer

With the assistance of the federal financial regulators and the IRS Examination Division, FinCEN actively investigates reported violations of the record keeping and reporting requirements of the Bank Secrecy Act (BSA) and pursues civil sanctions, including money penalties, against those who fail to comply.

Among the many positive results of the work of the Financial Action Task Force (FATF), is the development of a regional affiliate, the Caribbean Financial Action Task Force (CFATF). CFATF is in the process of obtaining concrete commitments from its members as to the terms of their membership--terms which



closely follow the requirements for FATF membership. The CFATF members currently number 26 countries and five FATF donor countries (see attached list). CFATF is engaged in a variety of initiatives to encourage adoption and implementation of effective anti-money laundering regimes. In particular, CFATF is focusing on the process of mutual evaluations. To date, Trinidad and Tobago and Costa Rica have undergone evaluations and Panama is in the process of a mutual evaluation review. Fincen is providing technical assistance to Panama in the establishment of a Financial Intelligence Unit as well as assistance in drafting regulations and laws.

CFATF is also holding a Ministerial in Costa Rica on October 9-10, 1996. The main objective of the meeting will be to obtain agreement on a Memorandum of Understanding among the CFATF countries in order to solidify CFATF as an organization.

Treasury places a high priority on furthering the work of the CFATF. To demonstrate its commitment in this respect, Fincen has placed a senior anti-money laundering expert in the CFATF Secretariat to function as the Deputy to the CFATF Executive Director and assist in the effort to bring CFATF members into compliance with the FATF forty recommendations.

The crucial test of any legislation, of course, is the degree to which it is implemented. Because the countries of the Caribbean including Panama and the Bahamas are in initial stages of instituting and implementing anti-money laundering regimes, a track record of good compliance has not yet been established. It is encouraging, however, that these countries are demonstrating a willingness to cooperate in the establishment of anti-money laundering programs and that they are basing them on internationally-accepted standards. The importance of the Mutual Evaluation process is not only to alert countries to weaknesses in their anti-money laundering laws but also provide opportunities to work with countries to address such weaknesses. The U.S., through its training and technical assistance efforts, making every effort to provide such assistance when requested.

The two functional commissions of the United Nations that deal most directly with anti-money laundering activities are the Commission on Narcotic Drugs (CND) and the Commission on Crime Prevention and Criminal Justice (CCPCJ), both of which come under the purview of the UN Economic and Social Council.

The CND is the central policy-making body within the UN for dealing with all drug-related matters and provides an oversight function for the United Nations International Drug Control Programme (UNDCP). In March 1992, the CND adopted a U.S.-sponsored resolution entitled Encouraging the Reporting of Suspicious or Unusual Transactions to a National Organization in Each State, and the Development of Effective Communication Among

**Competent Authorities to Facilitate the Investigation and Prosecution of Money Laundering Activities.**

In 1992, UNDCP and the Financial Action Task Force (FATF) agreed on a mutually supportive division of labor, with UNDCP focusing its efforts on non-FATF countries. Activities include advisory services, anti-money laundering training, working aids, and model anti-money laundering legislation.

The CCPCJ also takes an interest in money laundering, particularly as it relates to transnational and organized crime. CCPCJ and UNDCP are working together on a three-year project to focus on areas sensitive to money laundering. In late May 1995, the CCPCJ held its fourth session in Cairo, Egypt at which money laundering was among the topics discussed.

**Question 4**

Who currently enforces uniform standards for anti-money laundering activities among banks? Businesses? With other governments? What role does the U.N. play in establishing consistent standards?

**Answer**

Although governments cannot "enforce" another government's implementation of uniform standards of anti-money laundering measures, there are bilateral mechanisms and multilateral organizations in place by which governments can encourage, and when necessary, bring political and financial pressure to bear on those countries which refuse to make a good faith effort to adopt and implement anti-money laundering policies.

**Multilateral Organizations**

At the multilateral level, the Financial Action Task Force (FATF) and its sister organization, CFATF are the leading organizations designed to encourage adoption of anti-money laundering policies by asserting international political pressure. The FATF under FATF Recommendation 21 has the authority to publicly denounce countries which blatantly violate anti-money laundering standards. Under Recommendation 21, the FATF can also take a series of steps including suspension and even expulsion to bring pressure on a FATF member who is seriously out of compliance with the obligations that member took as a member of the FATF.

In addition, Secretary Rubin played a key role in the recent Summit of the Americas (SOA) process which resulted in the establishment of a working group to implement the anti-money laundering commitments made by SOA countries in December of 1995.

The United States has several tools at its disposal which may be used with foreign governments, businesses, as well as individuals

who violate certain agreed upon anti-money laundering standards. In his address to the United Nations General Assembly on its 50th Anniversary, the President called for international cooperation to address the threat posed by international crime, narcotics trafficking and terrorism, and stated that the United States would be working with other countries to help them bring their banks and financial systems into conformity with anti-money laundering standards. These are the strategies being pursued:

#### **No Trade with Front Companies**

To meet the problem of narcotics traffickers investing their ill-gotten gains into so-called "legitimate" front companies in order to multiply these assets and gain the facade of respectability, the President signed an Executive Order under the International Emergency Economic Powers Act (IEEPA). The order finds that the activities of significant foreign narcotics traffickers centered in Colombia, including the so-called Cali cartel, constitute an unusual and extraordinary threat to the national security, foreign policy and economy of the United States. These traffickers are responsible for more than 80% of the cocaine entering the United States. The President ordered that the leaders, cohorts, and front companies of these traffickers be identified; that U.S. individuals and companies be barred from trading with those identified individuals and front companies; and that the assets in the U.S. of these individuals and companies be blocked. IEEPA was initially directed against four principal leaders and 80 other individuals (cohorts) and front companies of identified Colombian narcotics traffickers. In early March, 198 new individuals and companies affiliated with the Cali cartel were added.

#### **International Crime Bill**

The President stated in his United Nations address that he had directed the Department of Justice and the Secretaries of State and the Treasury to develop a comprehensive piece of legislation to enhance U.S. efforts in the fight against international organized crime. In an address at the George Washington University on August 5, 1996, President Clinton announced plans to submit the International Crime Control Act to Congress in September. The President noted that the bill would "expand our fight against money laundering so criminals and terrorists will have a tougher time financing their activities. It strengthens our extradition powers and border controls to keep more criminals and terrorists out of America. It increases the ability of American law enforcement to prosecute those who commit violent crimes against Americans."

#### **Question 5**

What actions would you recommend for countries that are not

taking any action to combat money laundering activities that are occurring through their banking systems?

**Answer**

In recent years, organizations have been developed to pursue anti-money laundering initiatives. If a country is a member of FATF, CFATF, the Asian Secretariat or other multi-national or regional organization focused on money laundering, efforts can be made through the organization to encourage the country to initiate or improve its anti-money laundering efforts. If a country is not a member of such an organization, our efforts would include encouraging it to join one of the organizations which focuses on money laundering, or to adhere to the norms recommended by these organizations. We would also use bilateral discussions to urge them to pass anti-money laundering laws in their country. Any assistance necessary for establishing an FIU could be provided. If, after all multilateral and bilateral steps have been taken, no progress has been made, we can then consider further actions.

**Question 6**

Many agencies maintain databases on the activities of suspected drug smugglers and organized crime organizations.

- What efforts are being made to facilitate the sharing of information between agencies under your jurisdiction?
- How well is this presently coordinated?
- What resources are necessary (personnel, equipment, etc.,) to facilitate the transfer of this information?

**Answer**

Two programs involving FinCEN were initiated this year which exemplify Treasury's efforts to foster greater exchange of information between Treasury bureaus as well as other federal agencies such as the FBI. The first is the Suspicious Activity Reporting System (SARS) which reflects an effort to streamline and improve reports filed by banks under the Bank Secrecy Act. The SARS helps law enforcement investigate potential criminal activity by consolidating information through FinCEN's data processing center and then making it available electronically and swiftly to law enforcement at the federal and state levels.

The second initiative is a reactivation of the Interagency Financial Coordination Group (ICG) which targets major money launderers in Colombia, Panama and Mexico. The group will utilize FinCEN's facilities to enable quick access to FinCEN's databases and other real time financial intelligence.

The Treasury bureaus maintain extensive databases relative to active Title 18, 26 and 31 criminal investigations. Through memorandums of understanding (MOUs), the bureaus disseminate to FinCEN, on a monthly basis, the databases on open money laundering investigations. Because of provisions of 26 USC 6103 and disclosure regulations, the IRS is generally prohibited from disseminating Title 26 federal tax information to other law enforcement agencies. Additionally, each of the Treasury bureaus details employees to FinCEN to utilize the available databases.

The IRS Detroit Computing Center processes all Currency Transaction Reports (CTR) and IRS Forms 8300. The CTR reports are disseminated to other federal law enforcement agencies through the Treasury Enforcement Communications.

Legislation has recently been enacted to allow a sharing of Forms 8300, and the IRS is in the process of determining dissemination procedures.

There has been an increase in agencies gathering and analyzing intelligence on money laundering and narcotics. Improvements in computer equipment and technology will facilitate the sharing of information.

#### Question 7

Much is made of the susceptibility of emerging nations' financial systems to money laundering due to their lack of monitoring capability.

- How much cooperation do you receive from more developed countries (Western Europe, Japan) in tracking suspected money laundering transactions? Is this a common conduit?
- Are there tracking methods in place in other countries that we should consider implementing here in the U.S.?
- Is the United States taking any steps to offer Mexico and other countries who lack monitoring capability assistance in training and intelligence gathering for the detection of money laundering activities?

#### Answer

There is growing cooperation between the United States and foreign countries in money laundering investigations. Mutual legal assistance treaties (MLAT), tax treaties and financial information exchange agreements (FIEA) are allowing U.S. access to more information than in the past. There is general recognition by most of the developed countries that international organized crime and money laundering is a global problem. The Financial Action Task Force (FATF), consisting of 26 governments,

is organized to bring about international cooperation in addressing money laundering.

Nonbank financial institutions are registered, licensed and regulated in many of the developed countries. In the United States, the industry is not as closely regulated. United States law enforcement agencies have identified various nonbank financial institutions, such as currency exchange houses, casa de cambios, giro houses, check cashers, and travel agencies, engaging with foreign nationals in money laundering activities. These nonbank financial institutions assist individuals and criminal organizations in moving money from the United States to offshore banking centers. This offshore money movement utilizes many money laundering techniques such as currency and monetary instrument smuggling, and use of wire transfers, shell corporations, and foreign bank accounts.

Training courses on money laundering and financial investigations have been presented to Mexican law enforcement officials. In Mexico, Treasury has special agents assigned to the American Embassy. Our attachés actively work with the Mexican Hacienda and PGR (federal police). Currently, Treasury is working on many joint investigations with Mexican officials. Our attachés have aided the Mexican government in drafting money laundering legislation and have assisted in the Mexico money laundering assessment team.

The U.S. presently is developing an offer of training and technical assistance to the Government of Mexico designed to address both short-term and long-term needs. The training package will embrace financial investigative training for Hacienda and PGR, training for Hacienda analysts in the evaluation of SAR, CTR and other relevant data, bank supervisory procedures, and prosecutorial issues.

In addition to the Mexico training initiative, the U.S. is actively training law enforcement authorities worldwide in anti-money laundering techniques. Just this week, for example, the Department of Justice hosted a delegation of Colombian prosecutors for a training session in financial investigations. The FBI, the DEA, the Customs Service and IRS/CI were among the agencies providing instruction. IRS/CI, Customs and FinCEN have conducted extensive money laundering training in numerous other foreign countries.

#### Question 8

An article in "the Commercial Appeal" (December 24, 1995) highlights the fact that money launderers are buying commercial quantities of commodities such as, liquor, computer software and household appliances which they ship to Latin America and sell at reduced prices as a method of

laundering the proceeds of criminal activity.

- What action has been taken by the Treasury Department and the Customs Service to close off this international trade avenue from abuse by money launderers?
- Does any member of the intelligence community support law enforcement efforts in this area? If so, how? If not, why not?

**Answer**

Making cash purchases of commodities for shipment outside the U.S. is a method which can be employed by money launderers. One deterrent to this type of activity is the requirement that, if over \$10,000 in cash is paid to the seller of the commodities, the seller is required to file a Form 8300, and can be prosecuted for failure to do so. Using shipments of household appliances and other commodities to smuggle cash is also a method frequently used by money laundering organizations. Customs routinely identifies new trends and patterns based upon information gained from prior seizure activities. The Customs Service is actively combating this threat through covert operations in the key cities where this type of money laundering activity is centered. The operations concentrate on dismantling the money laundering cells responsible for moving the narco-dollars to industry. This type of enforcement strategy by the Customs Service has, and continues to be, an effective way to address the threat, considering our manpower resources.

The intelligence community does support law enforcement in the collection of money laundering information to the extent permitted by law.

**Question 9**

What steps has the Treasury Department taken to prevent money launderers from abusing the "smart cards" which some experts claim will replace cash, to a great extent, in the future?

**Answer**

Electronic payment systems or cyberpayment systems offer the consumer and the financial community alike significant benefits as a means by which to transfer financial value immediately, securely and conveniently worldwide. The technology, already in use in some markets in the U.S. and abroad, is developing at a rapid pace and is dramatically impacting traditional methods of conducting financial transactions.

Eugene Ludwig, the Comptroller of the Currency, is coordinating the Department of the Treasury's efforts to study these new

systems and develop informed, policy recommendations which seek to prevent abuse without inhibiting legitimate commercial development. The Financial Crimes Enforcement Network (FinCEN) has been designated as the coordinator for the Treasury law enforcement bureaus which include the U.S. Customs Service, the Bureau of Alcohol, Tobacco and Firearms, the U.S. Secret Service, and the Internal Revenue Service's Criminal Investigations Division.

Because of the international dimension of cyberpayments systems, a key focus of the Treasury Department's effort is concentrated on building bridges globally with our foreign counterparts in law enforcement and with the financial services industry. To this end, Treasury has raised the issue at international forums such as the Financial Action Task Force (FATF) and the FATF-sponsored Financial Services Forum which was held in January 1996. FinCEN will also be fostering a discussion of cyberpayments systems and related security issues within the Egmont Group, an organization created in 1995 of countries which have established Financial Intelligence Units. FinCEN is proposing to enlist the cooperation of Egmont members in conjunction with a study FinCEN is coordinating to provide a prospective picture of what the payment industry will look like at the turn of the century.

FinCEN's cyberpayment study has been on-going for about 18 months and in addition to compiling data about the cyberpayments industry in general, the study will seek to ascertain how the new technology will impact law enforcement. Simulation exercises to determine some of these vulnerabilities have been and will continue to be held. Further, Treasury is sponsoring a conference on September 19-20, 1996 in Washington, D.C. entitled: Toward Electronic Money & Banking: The Role of Government. Some of the key topics to be discussed are: International Cooperation; Security; Privacy; E-Money Systems Case Studies; and Law Enforcement Perspectives. The keynote address will be delivered by Secretary Rubin, and Alan Greenspan, Chairman of the Federal Reserve Board and Congressman Michael Castle, Chairman of the House Subcommittee on Domestic and International Monetary Policy will be among the panelists.

In addition, at the Lyon Summit, the G-7 Heads of State requested a study of the international implications of technological advances that make possible the creation of sophisticated methods for retail electronic payments. Treasury is working with other G-7 Finance Ministers in shaping the terms of reference for this study, which will likely involve cooperative efforts of financial supervisors, central banks, and law enforcement agencies, including the participation of the Financial Action task Force.

Treasury believes the best approach at this stage of the development of electronic money payment systems is to continue to study their evolution, engaging whenever possible and appropriate



the support of the financial services industry. It is hoped that by working together with industry at this early juncture vulnerabilities can be identified and industry can be urged to build safeguards into the systems thereby minimizing the need for regulation. Electronic payment systems are creating a revolution in the financial services industry. Government's role should be one which helps stimulate and create a climate in which industry can compete in the global marketplace while working cooperatively with law enforcement to prevent criminal abuse of an exciting 21st century technology.

#### Question 10

It appears as though a large portion of the estimated hundreds of billions of dollars per year that are laundered around the world are generated by international organized crime operations based right here in the United States. Drugs, illegal weapons exports, stolen vehicles exports, financial fraud, trade fraud, violations of Intellectual Property Rights and a host of other types of profit generating crimes are responsible for producing the illicit proceeds that must be laundered before they can be used in the United States.

- In addition to Treasury's participation in international dialogue encouraging strong anti-money laundering enforcement overseas, what is Treasury doing in the United States to encourage more aggressive law enforcement activity in this area amongst its own bureaus and other law enforcement?

#### Answer

Treasury and its bureaus are in the forefront of anti-money laundering law enforcement efforts. Treasury is attacking money laundering on all fronts -- through enforcement, intelligence, and investigations.

Treasury's commitment to anti-money laundering enforcement is evidenced by the number of agents assigned to investigate these cases and the number of cases successfully prosecuted. Our efforts have met with great success. Treasury has committed the full time equivalent of 2,821 personnel, including 1,100 agents, to investigating money laundering. Since 1993, we have seized over \$500,000,000 and have obtained the largest penalty ever assessed against a bank for money laundering - \$30 million. On average, every Customs agent working money laundering investigations seized \$600,000 per year. In Fiscal Year 1995 alone, the Treasury bureaus seized and forfeited over \$200,000,000.

As part of our effort to obtain better intelligence leading to additional criminal prosecutions we have recognized the need to

improve the international tracking of the flow of laundered money. To enhance this goal, Treasury has authorized FinCEN to use nearly \$700,000 in asset forfeiture funds to upgrade and expand significantly its communications with, technical assistance to, and training of the other financial intelligence units (FIUs) - the counterparts of FinCEN - around the world. This network of anti-money laundering intelligence organizations has been growing rapidly in the last year. There are now 20 FIUs around the world, with almost an equal number of countries poised to create these units in the near future. The success of this initiative will continue to increase the vulnerability of money launderers and decrease the havens where they can hide and enjoy their ill-gotten gains.

The Customs Service has created multi-disciplined task forces in various areas of the country to deal with the money laundering problem. These task forces are comprised of special agents, inspectors, state and local police and, depending upon the area, National Insurance Crime Bureau agents as well as FBI agents. These task forces have had success in targeting high risk shipments and infiltrating several organized crime groups through undercover operations. The Customs Service is also conducting training for inspectors and agents to combat this rapidly growing problem.

The Customs Service, through the Office of Investigations, has sponsored several foreign training sessions in South America, Central America, the Caribbean, the Former Soviet Union (FSU) and some Pacific Rim countries. This training has been given to all levels of law enforcement within these countries including customs, national and local police, prosecutors, and judges. Other foreign training has been conducted jointly with the FBI to address this issue. Customs' Attaches also keep in close contact with foreign officials to address not only this problem but other issues that have an impact on the American public.

No agency has been more aggressive in the enforcement of the money laundering and currency reporting statutes than the IRS. IRS Criminal Investigation Division's (IRS/CI) investigations include both domestic and foreign criminal organizations. IRS/CI has initiated and prosecuted more money laundering and currency violations than any other federal law enforcement agency. IRS/CI is a member of the Organized Crime and Drug Enforcement Task Forces (OCDETF), as are Customs and ATF. The participation of IRS/CI in OCDETF investigations is second only to DEA. These task forces are geared to target, investigate, and prosecute high-level drug trafficking organizations (HIDTA), both domestic and international, including large-scale money laundering organizations. Additionally, IRS/CI devotes considerable resources to HIDTA initiatives involving narcotics and money laundering investigations.

The IRS/CI, on a nationwide basis, engages in active criminal case development of both domestic and international money laundering cases. These cases are investigated through analysis of the various CTRs, reviewing suspicious activity reports and criminal referral reports, conducting undercover operations, and working with other law enforcement agencies. From FY 1992 to the present, IRS/CI has recommended over 6,000 cases for prosecution relative to money laundering charges.

Question 11

Panama has been a money laundering center and a major cocaine transshipment site for many years. On both counts it poses a major threat to U.S. counter-drug and anti-money laundering efforts. Some progress has been made by the Government of Panama especially given the fact that money laundering legislation has been enacted. The Colon Free Trade Zone is still an area of great concern.

- What is being done to encourage and assist Panama to continue on its present course?
- How much of a threat does the Colon Free Trade Zone continue to pose?
- What kind of a threat do we face from other free trade zones in the Caribbean?
- Does Panama's recent legislative initiative include reform of its laws regarding the formation of anonymous corporations that have been used to thwart international criminal investigative efforts in the past?

Answer

The Colon Free Trade Zone is a concern to Treasury law enforcement. With its close proximity to Colombia and over 1,400 businesses, it is a hub of activity for Central and South America. With its tradition of bank secrecy protecting corporations and trusts, it has a reputation as a major money laundering center. According to law enforcement sources, last year 80% of the \$4 billion conducted by Colombian businessmen in the Colon Free Trade Zone, in checks or wire transfers, came from black market drug money. IRS/CI has documented the flow of drug proceeds through this zone. Substantial drug currency is being used to pay for commodities and goods. The zone accepts dollars and dollar-based negotiable instruments. This makes it attractive for Colombian and Mexican money launderers and businessmen who purchase their macro dollars at discount and purchase goods in the zone.

To counter the money laundering threat, the Treasury Department has been working in concert with the Caribbean Financial Task Force (CFATF) process to urge and assist the Panamanian authorities in the development of anti-money laundering programs. Panama is in the process of undergoing a CFATF mutual evaluation of its progress. A team of experts, which includes a U.S. expert, has just visited Panama to conduct the first part of its evaluation. A report of the team's findings will be presented to CFATF members at a ministerial meeting scheduled for October 9-10 in Costa Rica.

Additionally, FinCEN has provided Panama's Financial Analysis Unit (FAU) with technical assistance and guidance in the establishment of their unit, and assisted with the procurement of computer hardware and software, the installation of a database system and the training of FAU personnel on its use.

Although Panama has a disturbing drug trafficking and money laundering problem, that country has taken a number of legislative measures to combat money laundering over the past two years. A Presidential money laundering commission was established in Panama to direct the government's money laundering control efforts, and formalize the national "Drug Czar" position. In November 1995, Panama amended its criminal statute against money laundering. Legislation was passed requiring financial institutions to implement a suspicious transaction reporting regime and "know-your-customer" procedures with protection for bank officials who report suspicious transactions. Banks are required to record large transactions in currency or monetary instruments, keep records of large or unusual transactions, and cooperate in authorized investigations involving or initiated by third party governments. Non-bank financial institutions are required to meet the same customer identification standards and adhere to the identical reporting requirements as the banks. The law also authorizes the tracing, freezing and forfeiture of assets related to money laundering.

However, widespread corruption in the law enforcement and judiciary arenas remains a problem. Additionally, the government of Panama has not yet addressed the problem of non-drug money laundering, such as the smuggling of illegal goods, and regulation of both its active financial services industry and the Colon Free Zone is too weak.

#### Question 12

The recent money laundering case involving Raul Salinas, brother of the former President of Mexico, has received great international notoriety. It emphasizes the extent of the money laundering problem.

- What are we doing with regards to Mexico and other countries

to encourage the criminalization of money laundering?

- What pressure can the Treasury Department bring to bear on Mexico to influence that government to institute anti-money laundering measures that would not be limited to drug related money laundering activity?

**Answer**

On April 29, 1996, the Mexican legislature added Article 400 Bis to the Criminal Code, establishing for the first time a criminal offense of money laundering. The law became effective on May 14, 1996.

The Treasury Department, along with the Departments of Justice and State, has been pressing the Government of Mexico to institute measures to address money laundering stemming from all predicate offenses, not solely drug trafficking.

For example, Treasury consistently has urged Hacienda to enact regulations designed to insulate banks and non-bank financial institutions from penetration by criminally tainted proceeds. Specifically, Treasury has been encouraging the adoption by Hacienda of regulations mandating reporting of both suspicious activity (SAR) and large-value cash transactions (CTR), as well as civil and criminal penalties for wilful violations of such rules. Treasury likewise has been pushing Hacienda to ensure that bank secrecy provisions will not impede a financial institution's ability to file a report of suspicious transactions in good faith.

Although Hacienda originally expressed some resistance, in May 1996 Hacienda Minister Ortiz pledged to Deputy Treasury Secretary Summers that Hacienda would adopt SAR and CTR rules. Hacienda is now working with Treasury to develop a plan to implement these rules. A draft SAR regulation has been completed as of this writing, and the final rule is to be scheduled to enter into effect in or about early 1997.

Treasury and its partner agencies will continue to press for the speedy implementation of these initiatives, and for their swift, effective enforcement.

**Question 13**

What more do we need to do to close money laundering loopholes? The following countries have been identified as "high priority" money laundering areas whose financial systems are most likely to be penetrated by international money laundering organizations: Aruba, Canada, Cayman Island, Colombia, Germany, Hong Kong, Italy, Mexico, Netherlands, Netherlands Antilles, Nigeria, Panama, Russia, Singapore, Switzerland, Thailand, Turkey, United

Kingdom, United State and Venezuela\*.

- What actions are the Treasury Department, Customs Service, and FinCEN taking to reduce the threat of money laundering from these areas?

\* Source: 1996 International Narcotics Control Strategy Report (INCSR).

#### Answer

The United States is continuing to stress not only the adoption/acceptance of the FATF 40 Recommendations by these countries but also the effective implementation of anti-money laundering programs based on the FATF standards. In those countries that already possess some of the necessary legislation or anti-money laundering measures, the United States is urging the immediate and full implementation of those measures.

Multilaterally, the United States is promoting the adoption and implementation of effective anti-money laundering programs through such international fora as the United Nations, and the Organization of American States, as well as through FATF, CFATF, and the FATF Asian Secretariat.

The United States can also bring about some change in the high priority money laundering areas by engaging other countries that have effective systems in exerting pressure on problem nations. This can be done through joint high level visits and coordinated demarches, as well as working together in the above mentioned international fora. For example, earlier this year the United States together with France and Great Britain demarched the government of the Seychelles to protest the enactment of an investment law, the Economic Development Act. The law provided for the liberal granting of immunity to investors who placed USD 10 million or more in approved investments in the Seychelles regardless of the nature or reputation of the investing organization or the derivation of its investment funds. The United States also actively worked within FATF to successfully urge FATF members to collectively condemn the enactment of the law which blatantly provides a protected and attractive investment environment for international criminal enterprises.

The United States Government is also working with the United States financial industry to further sensitize them to the money laundering problem areas in the world and solicit their assistance in developing and implementing countermeasures.

The Customs Service is increasing its inspection of outgoing mail and foreign-bound packages to curb the flow of outbound currency, in conjunction with the intensive scrutiny which it places on outbound cargo. Significant seizures of outbound currency are increasing in numbers as a result of this aggressive posture.

Treasury has stationed agents abroad who are actively involved in working to reduce the threat of money laundering.

The Treasury Department, Customs Service and FinCEN are all active participants in the Financial Action Task Force (FATF), and support the 40 recommendations set forth by the FATF and its 26 member nations to curb this activity.

#### Question 14

What additional international measures do we need to be more effective in the area of combating international money laundering activity? Should the U.S. advocate sanctions against countries that do not make an effort to comply with international standards?

#### Answer

As previously noted, the United States has several tools at its disposal to go after foreign governments, businesses, as well as individuals who violate certain agreed upon anti-money laundering standards. In his address to the United Nations General Assembly on its 50th Anniversary, the President called for international cooperation to address the threat posed by international crime, narcotics trafficking and terrorism, and stated that the United States would be working with other countries to help them bring their banks and financial systems into conformity with anti-money laundering standards.

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To meet the problem of narcotics traffickers investing their ill-gotten gains in so-called "legitimate" front companies in order to multiply these assets and gain the facade of respectability, the President signed an Executive Order under the International Emergency Economic Powers Act (IEEPA). The order finds that the activities of significant foreign narcotics traffickers centered in Colombia, including the so-called Cali cartel, constitute an unusual and extraordinary threat to the national security, foreign policy and economy of the United States. These traffickers are responsible for more than 80% of the cocaine entering the United States. The President ordered that the leaders, cohorts, and front companies of these traffickers be identified; that U.S. individuals and companies be barred from trading with those identified individuals and front companies; and that the assets in the U.S. of these individuals and companies be blocked. IEEPA was initially directed against four principal leaders and 80 other individuals (cohorts) and front companies of identified Colombian narcotics traffickers. In early March, 198 new individuals and companies affiliated with the Cali cartel were added.

### **International Crime Bill**

The President stated in his United Nations address that he had directed the Department of Justice and the Secretaries of State and the Treasury to develop a comprehensive piece of legislation to enhance U.S. efforts in the fight against international organized crime. In an address at the George Washington University on August 5, 1996, President Clinton announced plans to submit the International Crime Control Act to Congress in September. The President noted that the bill would "...expand our fight against money laundering so criminals and terrorists will have a tougher time financing their activities. It strengthens our extradition powers and border controls to keep more criminals and terrorists out of America. It increases the ability of American law enforcement to prosecute those who commit violent crimes against Americans."

At the multilateral level, the Financial Action Task Force FATF and its sister organization, CFATF are the leading organizations designed to encourage adoption of anti-money laundering policies by asserting international political pressure. The FATF under FATF Recommendation 21 has the authority to publicly denounce countries which blatantly violate anti-money laundering standards. Under Recommendation 21, the FATF can also take a series of steps including suspension and even expulsion to bring pressure on a FATF member who is seriously out of compliance with the obligations that it took on as a member of the FATF.

In addition, at a meeting of Western Hemisphere Finance Ministers recently chaired by Secretary Rubin on Summit of the Americas (SOA) issues has further institutionalized the process to implement the anti-money laundering commitments made by SOA countries in December of 1995.

G-7 Heads addressed this issue directly in the Communique issued in conjunction with the Lyon Summit. The Leaders call for enhanced efforts on the part of law enforcement agencies and regulatory bodies, and noted their desire to continue to review progress and developments in this field.

Treasury has the lead role with respect to money laundering issues and has been actively engaged through international organizations such as the G-7, the Summit of the Americas as well as the FATF to develop common law enforcement strategies, legislation and regulation against money launderers.

### **Question 15**

I understand that money laundering has become an increasingly important topic of discussion at G-7 gatherings. What efforts are being made to coordinate an anti-money laundering strategy among the G-7 nations? Have there been any discussions as to



what kinds of pressure the G-7 nations could bring to bear on countries with poor money laundering regulations? If so, what is the nature and status of such discussions?

**Answer**

The FATF was created by the G-7 countries whose representatives continue to be actively engaged in the work of the FATF and its efforts to promote the adoption of the FATF 40 Recommendations throughout the world.

**Question 16**

What is your estimate of the scale of money laundering? How did you arrive at this amount? How much money do you think is laundered annually involving U.S. financial systems? As telecommunication capabilities and encryption capabilities increase, how do you see this impacting the implementation of current money laundering laws? International laws?

**Answer**

An estimate regarding the scale of money laundering is extremely difficult to develop. A very generalized figure most often quoted is around \$300 billion annually. Treasury is in the process of exploring ways to develop a scientific methodology as a basis by which to determine the amount of money being laundered. It should be noted that the Financial Action Task Force (FATF) requested the United Nations to make an assessment of money laundering but to date that organization has been unable to arrive at a formula for doing so.

Electronic payment systems or cyberpayment systems are already in use in some markets in the U.S. and abroad. This technology is developing at a rapid pace and is dramatically impacting traditional methods of conducting financial transactions. Treasury believes the best approach at this stage of the development of electronic money payment systems is to continue to study their evolution engaging whenever possible and appropriate the support of the financial services industry. It is hoped that by working together with industry at this early juncture vulnerabilities can be identified and industry can be urged to build safeguards into the systems thereby minimizing the need for regulation. Electronic payment systems are creating a revolution in the financial services industry. Government's role should be one which helps stimulate and create a climate in which industry can compete in the global marketplace while working cooperatively with law enforcement to prevent criminal abuse of an exciting 21st century technology.

**Question 17**

If we have a strategy for stopping large-scale trafficking and money laundering, how do we know when we're winning? What are the measures of success? How do we judge the cooperation we are getting from others? Can you give me a breakdown of Treasury's views on this and how it is integrated into the Administration's strategy? Where does stopping drugs and money laundering fit into Treasury's overall outlook, what priority does it have? You have said in the past that it is a top priority. What does this mean?

**Answer**

One way in which we know if we are having an impact on large scale money laundering operations, especially as they relate to narcotics smuggling organizations, is by looking at the price of laundering money. Since 1980, the single largest increase in the cost of drug trafficking is in the cost of laundering money. According to reports, the cost of laundering has risen from approximately six percent in the mid 80's to perhaps more than 20 percent today. This increase has come about as a result of law enforcement and regulatory pressure and has cost core Colombian and Mexican drug smuggling organizations millions of dollars in profits. Other measures of success include traditional means such as looking at arrests, seizures, indictments etc. Over time Treasury bureaus have been remarkably successful in this regard. They have also worked some of the largest and most complex money laundering investigations in federal law enforcement.

At Treasury, fighting international drug trafficking and money laundering is a top priority and we utilize all of our resources and the expertise of all of the Treasury bureaus to combat these problems. For example:

- The Customs Service actively pursues border interdiction, and anti-smuggling and money laundering investigations.
- Agents of the Criminal Investigation Division of the Internal Revenue Service conduct intense financial investigations to follow the trail of dirty money to its source.
- The Secret Service utilizes its financial expertise in countering white collar crimes pursued by the traffickers as ends in themselves and as means to hide other illicit assets.
- ATF attacks drug distribution networks by disrupting their trafficking in illegal firearms and uncovers money laundering activities during the course of its

investigations of other offenses within its investigative jurisdiction.

- The Financial Crimes Enforcement Network (FinCEN) provides a wealth of financial information and analytical skills to the investigating bureaus and local law enforcement and uses the Bank Secrecy Act, which it administers, to create a civil framework for counter-money programs of prevention, detection, and enforcement.

We are applying a multifaceted approach to combat drug trafficking and money laundering. We are working smarter and focusing our energies where they are most needed. Our efforts include:

- strengthening the physical barriers at our borders;
- increasing our interdiction efforts at the borders;
- applying more sophisticated techniques to reviewing the individuals and vehicles crossing our borders;
- upgrading our technology;
- assigning an increased number of agents to problem areas along our borders;
- increasing our efforts at interdiction at sea;
- pursuing intensive investigations in coordination with other law enforcement agencies;
- actively participating in anti-drug trafficking and anti-money laundering task forces;
- promoting international cooperation and uniformity of anti-money laundering laws;
- posting of Treasury agents to strategic posts outside the U.S.; and
- conducting training for law enforcement agents in other countries.

Question 18

While we need to stop port runners at the border, doing so simply does not affect the major organizations responsible for organizing this type of activity. If we do not go after kingpins, then we are just spinning our wheels. We need agents and intelligence focused on disrupting the major organizations. We need to go after the big guys.

- Where is the emphasis on strategy over tactics?
- In the last few years Treasury has cut enforcement and intelligence. Is that going to change with this effort? And how do you propose to deal with dramatic increases in commercial smuggling with a port runner approach?

**Answer**

The enforcement and intelligence efforts on the Southwest border have not been cut. Customs' efforts at the border are not limited to deterring port runners. Through programs such as Operation Hard Line, Operation Gateway, the Line Release Program and the Land Border Carrier Initiative, Customs is employing strategic enforcement to strengthen our borders against smuggling. New collection and analysis intelligence units are also operating on the Southwest border.

The interdiction of drugs concealed in commercial shipments requires skill in sorting out the appropriate targets from the millions of shipments. Customs has implemented and is preparing to implement a variety of programs which enhance targeting and interdiction at cargo facilities while maintaining/enhancing processing times of legitimate cargo. In support of our automated systems, Customs employees are formed into multi-disciplinary contraband targeting and intelligence units that constantly review commercial documentation and research information in various databases. At the largest ports these cross-functional teams are made up of agents, intelligence analysts and inspectors to identify targets and provide employees with up-to-the-minute information on smuggling threats. Later this year, Customs will place a prototype advanced Automated Targeting System (ATS) at select high risk ports of entry. This system will separate high risk shipments from legitimate ones.

The President's Fiscal year 1997 budget includes an additional \$65 million for Operation Hard Line. These funds will pay for more and improved x-ray equipment for examination of cargo, more and better targeted examination of passenger vehicles, automated license plate readers, and more agents for the collection of intelligence and the building of cases against trafficking organizations. By the end of 1997, 657 additional Customs agents and inspectors will be on the job to better stop the smuggling of narcotics across the Southwest border.

The appropriate investigative approach needs to be developed on a case by case basis. However, to be effective in dismantling any criminal organization the investigation should begin at the lower or middle levels of the narcotics smuggling organization and work upward to dismantle and disrupt structured organizations responsible for criminal activities facilitating port runner and commercial narcotics smuggling activities. Customs' Office of

Investigations will continue the strategy and tactics of utilizing confidential informants, cooperating defendants, controlled deliveries, and historical conspiracy investigations.

Question 19

Treasury's bureaus include the Secret Service, Internal Revenue Service, and Customs Service, each of which has been empowered with specific authority and responsibility for money laundering enforcement. The complex nature of the crime of money laundering and the support that is available to international organized crime make it apparent that our law enforcement personnel must have superior technical and intelligence support if they are going to be effective in the preparation of prosecutable money laundering cases that target the leaders or kingpins in this field.

- What support does Treasury Department provide to its criminal investigative bureaus to help them coordinate their anti-money laundering investigative strategies and to help them target money laundering kingpins and major international organizations?

Answer

The Treasury Department does not provide investigative support per se, but is very active in coordinating overall policy matters with its bureaus and other Departments such as Justice, State, ONDCP, and the Postal Service. As an example: Treasury took the lead along with the Customs Service in developing the International Drug Money Laundering MOU with Justice and the Postal Service that improved coordination between the Departments. It also has put into place a Treasury Enforcement Counsel (TEC) of senior Treasury law enforcement officials from IRS, USSS, Customs and ATF to provide oversight and guidance on important matters to include money laundering programs and policies.

Targeting is within the purview of each bureau and is consistent with their unique needs and requirements. The one exception is FinCEN, which through its artificial targeting mechanisms, provides both strategic and tactical intelligence products to the bureaus for action. This has become even more important with the advent of suspicious transaction reporting, CTR and CMIR information, and the combination of law enforcement and commercial data bases resident at FinCEN.

Question 20

The modern "global economy" has created the marketplace in which international organized crime groups will ply their wares. Today's international organized smuggling groups are trafficking

in deadly merchandise, not the diamonds, jewelry and prohibited whiskey of years ago. The high ticket items in today's marketplace are generally illicit commodities like military weaponry, nuclear material, deadly chemicals, pirated goods, drugs, terrorism and other items with which I am sure you are quite familiar. Some items must be smuggled in cargo and some can be smuggled in a passenger's baggage. In some cases, the item that can be smuggled in a passenger's baggage can be far more deadly than the bulky item that requires cargo handling. Taking into consideration the fact that Customs processes 456 million persons and 127 million conveyances per year, a slight mistake in calculating your strategic needs, in an effort to accommodate the facilitation of interests of the travel and trade business communities, will result in an increased threat to our citizens and our Federal, state and local law enforcement agencies who will inherit the threat that the Customs Service does not intercept.

- In your efforts to facilitate international trade, how strongly have you considered the impact of increased international organized crime access to the U.S. market?
- If the threat from international organized crime is increasing, how can we effectively combat that threat with the level or reduced law enforcement resources?

**Answer**

In brief, the Customs Service considers this "reality" every day and incorporates this assumption into its strategic planning process. As such, Customs has some of the best tools in the world to accomplish both its facilitation role and that of enforcing the law and bringing about broad compliance. It has invested heavily into information technology, smart targeting systems, X-Ray devices and other technological developments. Customs' Special Agents conduct some of the most sophisticated investigations in law enforcement utilizing electronic surveillance, grand juries, and undercover investigations.

Addressing an increasing threat with reduced resources is not an easy task. However, to the extent that we can be effective, law enforcement must work more intelligently in attacking criminal organizations. This means more effective partnerships with industry such as the financial services industry, working closely with bank regulators to prevent money laundering from occurring, increased emphasis on intelligence from the intelligence community, FinCEN and undercover operations etc. Moreover, we must turn increasingly to non-traditional law enforcement solutions such as FATF, in building the anti-money laundering regimes of other countries, the use of incentives and sanctions to impact foreign based criminal activity.

Question 21

A recent suggestion from the Judiciary Committee that Customs consider establishing the position of Deputy Commissioner for Law Enforcement in order to minimize the conflict between trade and law enforcement priorities, did not receive a great deal of attention. The response from Secretary Rubin left the impression that Customs' management is happy with its present structure which they feel is adequate for establishing Customs' goals. Until the implementation of Operation Hard Line, a little over a year ago, it was clear that the Customs Service was meeting its budget constraints at the expense of its law enforcement personnel (special agents, pilots, and marine officers). This situation highlighted the conflict between Customs' dual missions of facilitating trade and passenger traffic; and, protecting our borders from infiltration by drug traffickers and other international organized crime groups. Our youngsters are now paying the price for the lapse that occurred on the southwest border prior to Hard Line. Drug abuse has been on the rise among our young citizens.

- Given the fact that this conflict cannot be eliminated, would the Treasury Department agree that we could be more effective in allocating our federal law enforcement resources by moving Customs' cross designated special agents to the Drug Enforcement Administration and moving the remaining special agents to the Federal Bureau of Investigation thereby leaving Customs with the single mission of trade and passenger facilitation?

This solution to Customs' conflict is borne in the fact that the DEA has a single mission, drug enforcement, with no conflicting missions. The FBI is strictly a law enforcement agency with jurisdiction over a wide range of federal violations, many of them very similar to the laws that are enforced by the Customs Service, and therefore could absorb much of the Customs law enforcement responsibility that is not included in drug enforcement matters. This arrangement would guarantee that the budget dollars that Congress assumes will be directed to law enforcement activity will not be used to promote other agency missions at times when budget increase are not possible.

Answer

Absolutely not. Border enforcement would not be made more effective by transferring Customs' responsibilities and resources to DEA and FBI. Customs Special Agents possess unique investigative specialities and Customs border search authority that no other agency has. Custom has the ability to investigate complex narcotics smuggling organizations operating within our borders and Ports of Entry (POEs). The DEA and the FBI rely upon Customs' expertise to support their investigations within the

border environment.

Customs collects revenue, regulates legitimate industries, and has criminal enforcement authority. Having all of these functions in the same agency creates synergy and allows the agencies to employ multi-faceted enforcement approaches. Often, regulatory or compliance personnel are necessary to perfect criminal cases.

The current structure also has created mutually-productive partnerships with private industry. These partnerships foster voluntary compliance by law-abiding businesses, which helps us focus more of our enforcement resources on the areas of highest risk for criminal behavior.

Moving our criminal enforcement jurisdiction to the Justice Department would eliminate this synergy. Particularly in light of the unprecedented level of coordination between Justice and Treasury, it is not apparent that there would be material efficiencies or budgetary savings from moving Treasury's law enforcement agents to Justice.

Customs is one of the most effective, productive, and professional law enforcement organizations in the country. Customs seizes more drugs than all other federal agencies combined. In fiscal year 1995 Customs seized over 85% of the heroin, 61% of the cocaine, and 51% of the marijuana seized by all Federal agencies. The total amount of drugs seized on the Southwest border in Fiscal Year 1995, in pounds, is up 24%. Customs has successfully prosecuted thousands of money laundering and currency crimes and has seized and forfeited hundreds of millions of dollars from drug traffickers and money launderers. On average, every Customs agent working money laundering investigations seizes \$600,000 per year.

We strongly oppose any proposal to merge Customs into the Justice Department. Under our present system, federal charges must be reviewed by two separate Executive Branch departments -- Treasury and Justice. Moving Customs to Justice would eliminate this safeguard.

The Vice President's National Performance Review examined whether to move all law enforcement to Justice. After careful consideration, this Administration decided that the Treasury law enforcement bureaus, including Customs, should remain at Treasury.

#### Question 22

There are widespread reports of cocaine stock piling in Mexico.

- What efforts is the Government of Mexico taking regarding



this situation?

- What more do we need to do to protect ourselves from this threat? Do we need more resources, etc.?

Answer

The threat of stockpiling is being addressed as a law enforcement matter, much as the broader question of cocaine interdiction in Mexico. Reports of drug warehousing are of great interest because of the possibility they present to disrupt transportation and distribution systems, and because large quantities of drugs may be involved. The High Level Contact Group is meeting with Mexican officials to identify areas where we can cooperate to improve law enforcement, and to implement improvements such as with better information sharing and coordination. The joint task forces operating along the border are working to develop improved intelligence sharing and binational operations are also being increasingly utilized. Intelligence sharing and joint operations are also being increasingly utilized.

The Customs Service could utilize additional resources to combat increased narcotics smuggling activities operating within the border environment. These resources would include additional Intelligence Research Specialists and Special Agents to gather intelligence and to investigate narcotics smuggling organizations. The number of Special Agents should be in parity with the increased number of Customs Inspectors.

Question 23

Who currently enforces uniform standards for anti-money laundering activities among banks? Businesses? With other governments? What role does the U.N. play in establishing the consistent standards?

Answer

As previously noted, although governments cannot "enforce" another government's implementation of uniform standards of anti-money laundering measures, there are bilateral mechanisms and multilateral organizations in place by which governments can encourage and, when necessary, bring political and financial pressure to bear on those countries which refuse to make a good faith effort to adopt and implement anti-money laundering policies.

The United States has several tools at its disposal to go after foreign governments, businesses, as well as individuals who violate certain agreed upon anti-money laundering standards. In his address to the United Nations General Assembly on its 50th Anniversary, the President called for international cooperation

to address the threat posed by international crime, narcotics trafficking and terrorism, and stated that the United States would be working with other countries to help them bring their banks and financial systems into conformity with anti-money laundering standards.

At the multilateral level, the Financial Action Task Force (FATF) and its sister organization, CFATF are the leading organizations designed to encourage adoption of anti-money laundering policies by applying international political pressure. The FATF under FATF Recommendation 21 has the authority to publicly denounce countries which blatantly violate anti-money laundering standards. Under Recommendation 21, the FATF can also take a series of steps including suspension and even expulsion to bring pressure on a FATF member who is seriously out of compliance with the obligations that member took as a member of the FATF.

In addition, Secretary Rubin played a key role in the recent Summit of the Americas (SOA) process which resulted in the establishment of a working group to implement the anti-money laundering commitments made by SOA countries in December of 1995.

Question 24

Based on PDD 42, has the U.S. undertaken any sanctions against any countries for failure to take corrective action on money laundering?

Answer

The United States is engaging in diplomatic efforts to focus attention on the need to institute anti-money laundering reforms, to join in regional and multi-lateral money laundering organizations, and to make those organizations effective. Other measures to bring about the necessary reforms are not being contemplated while diplomatic avenues are being pursued fully.

Question 25

Where do the countries in the Caribbean stand on realizing FATF recommendations to enact money laundering legislation? What are the obstacles to implementing the laws currently in place? What pressure can we bring to bear on nations that have not yet implemented the FATF money laundering recommendations? Which nations fall into this category? Have you seen any evidence of countries passing legislation without enforcement intent? How effective have the recent measures taken by Panama and the Bahamas been?

Answer

As previously indicated, the Caribbean Financial Action Task

Force or CFATF members currently number 26 countries and five FATF donor countries (see attached list). CFATF is engaged in a variety of initiatives to encourage adoption and implementation of effective anti-money laundering regimes. In particular, CFATF is focusing on the process of mutual evaluations. To date, Trinidad and Tobago and Costa Rica have undergone evaluations and Panama is in the process of a mutual evaluation review. FINCEN is providing technical assistance to Panama in the establishment of an FIU as well as assistance in drafting regulations and laws.

CFATF is also holding a Ministerial in Costa Rica on October 9-10, 1996. The main objective of the meeting will be to obtain agreement on a Memorandum of Understanding among the CFATF countries in order to solidify CFATF as an organization.

Treasury places a high priority on furthering the work of the CFATF. To demonstrate its commitment in this respect, FINCEN has placed a senior anti-money laundering expert in the CFATF Secretariat to function as the Deputy to the CFATF Executive Director and assist in the effort to bring CFATF members into compliance with the FATF forty recommendations.

The crucial test of any legislation, of course, is the degree to which it is implemented. Because the countries of the Caribbean including Panama and the Bahamas are in initial stages of instituting and implementing anti-money laundering regimes, a track record of good faith compliance has not yet been established. It is encouraging, however, that these countries are demonstrating a willingness to cooperate in the establishment of anti-money laundering programs and that they are basing them on internationally-accepted standards. The importance of the Mutual Evaluation process is not only to alert countries to weaknesses in their anti-money laundering laws but also provide opportunities to work with countries to address such weaknesses. The U.S., through its training and technical assistance efforts, is making every effort to provide such assistance when requested.

#### Question 26

What steps are we taking to insure that the investment resources provided by the American people to Russia are not being diverted into criminal pockets? Do you have an estimate of how much money is diverted? What confidence do you have in Russian public and private sector abilities to prevent this diversion or large-scale money laundering?

#### Answer

United States foreign assistance programs have developed contracting and disbursement procedures to assure accountability and that United States' funds are well spent. Corruption and theft exist in other aid recipient countries, and aid procedures

have been developed to ensure that they have as small an effect as possible. United States enterprise funds have engaged in vigorous "due diligence" efforts in Russia and elsewhere, and have been very cautious in employing investment funds.

Russia certainly has suffered from a rise in crime in recent years, but we have no evidence that significant investment resources provided by the American people have been stolen.

Over the past three years, the United States has expanded its cooperation and technical assistance to help Russia develop strong and modern financial oversight mechanisms to fight money laundering, counterfeiting, and other financial crimes. United States assistance has included technical assistance to rewrite the Russian criminal code, short term technical assistance missions by the Secret Service to the Central Bank, and numerous seminars and training classes on financial crime detection and deterrence.

As Russia undergoes the long and difficult transition to a market-based economic structure, the United States is working to encourage and assist the Russian government in establishing a sound financial infrastructure and adopt anti-money laundering controls. Russian authorities are concerned about corruption and the rise of organized crime and are examining ways to address these problems including receiving legal assistance regarding the drafting of laws and regulations pertaining to money laundering. Until an effective anti-money laundering regime is in place and being implemented, the fraudulent diversion of funds will be difficult to monitor and control.

A study recently conducted by INTERPOL in which FinCEN participated noted that Russia is not so much experiencing money laundering activity as it is a massive, illegal outflow of capital. A significant amount of which is derived from commonplace offenses to misappropriation of state assets through embezzlement, theft and corruption. The study notes that based on estimates provided by Russian officials, assets valued at approximately \$20 billion dollars were stolen from the state in 1992-3. Also according to Russian government estimates, approximately \$100 billion of funds attributed to Russian sources lie outside the country in foreign banks. Of these, Russian authorities estimate \$20-30 billion were derived from tax evasion and fraud.

#### Question 27

What is the current strategy for detecting large sums of money laundered overseas that find their way to the United States for investment?

**Answer**

As you are aware, money which has already been laundered is extremely difficult to identify. However, there are several tools available which can assist in identifying illegally-derived funds. For example, under the Bank Secrecy Act (BSA) cash above \$10,000 deposited in a U.S. bank and cash or bearer instruments above \$10,000 transported across the border are required to be reported.

In the case of wire transmittals for example, FinCEN and the Federal Reserve Board recently issued new rules for transmittals of funds. The regulations are designed to help law enforcement detect and investigate money laundering and other financial crime by preserving an information trail about persons sending and receiving funds through wire transfers. The first rule requires banks and non-bank financial institutions to collect and retain information about transmittals of funds in the amount of \$3,000 or more; it also requires the verification of the identity of non-account holders that are parties to such transmittals of funds. The second rule (known as the travel rule), issued by Treasury alone, requires each financial institution that participates in a transmittal of funds to pass along certain information about the transmittal to any other financial institution that participates. These rules will ensure that a detailed paper trail is maintained for large wire transfers.

FinCEN's newly instituted Suspicious Activity Reporting System (SARS) is designed to encourage banks to be alert to and report suspicious activity which might indicate money laundering. The SARS reflects an effort to streamline and improve reports filed by banks under the Bank Secrecy Act. The SARS helps law enforcement investigate criminal activity by consolidating information through FinCEN's data processing center and then making it available electronically and swiftly to law enforcement at the federal and state levels.

Additionally, Treasury has developed an "International Strategy" that places special agents in select overseas posts. Currently, Treasury has special agents in foreign posts including Bogota, Colombia; Mexico City, Mexico; Frankfurt, Germany; Hong Kong; and Ottawa, Canada. These special agents assist in domestic and international money laundering investigations, provide assistance to foreign law enforcement on financial investigative and money laundering matters, and provide training on related issues.

**Question 28**

What progress is being made in developing regulations governing non-banking financial institutions and securities houses to control money laundering as permitted by the Anti-Money Laundering Act of 1992? Where do matters stand on monitoring

large, non-cash money transfers?

**Answer**

FINCEN is in the process of redefining certain non-bank financial institutions in order to provide greater clarity to the business community and to fashion regulatory requirements to prevent the abuse of these financial service businesses by their customers. Treasury will propose a regulation which will require check cashers, money transmitters, currency exchangers and issuers and sellers of money orders and travelers checks to register with the Department of the Treasury on an annual basis. It is often estimated that there are over 200,000 non-bank financial institutions operating in this country. A national registration system will give Treasury, for the first time, an opportunity to identify the businesses and their locations that provide non-bank services to the public, such as check cashing and money transfer services. It will also provide Treasury with much-needed information concerning the nature and volume of these services, allowing us to evaluate more accurately programs to guard against money laundering and other crimes through these businesses.

One of the most significant challenges to our anti-money laundering program is the recognition that there are a variety of ways in which to move funds out of the U.S.--many of which bypass the traditional banking community. Of course, currency smuggling is a favored technique and as banks become more adept at recognizing and reporting suspicious and large currency activity, we have seen a significant increase in the amount of illicit dollars smuggled out of this country. In addition, money transfers are possible through numerous businesses, from banks to international "money transfer" services such as Western Union or Money Gram, to small, one or two employee businesses that specialize in moving funds to specific countries and which cater to clientele from those countries. In addition, money can be transferred abroad in the form of money orders, travelers checks, foreign currency, checks and other monetary instruments. Many of these instruments, when in bearer form, must be reported when entering or leaving the United States in amounts exceeding \$10,000. In addition, financial institutions must keep records of the purchase of these instruments in amounts over \$3,000 in cash and must report all such transaction in cash which exceed \$10,000.

The extent of the money laundering problem throughout the world is extremely difficult to quantify. Treasury is in the process of exploring ways to develop a scientific methodology as a basis by which to determine the amount of money being laundered. It should be noted that the FATF requested the United Nations to make an assessment of amounts of laundered money but to date that organization has been unable to arrive at a formula for doing so.

Question 29

With increases annually in the volume of wire transfers, with "smart cards" and convenience banking growing, with major increases in the volume of international trade, what measures are we contemplating to deal with the money laundering problem in the future? How do you plan to deal with non-bank transfers and such informal or illegal banking systems as the "howala" system in South Asia? What are your plans to work with countries that have fewer legal assets or investigative skills/resources, or lack the legal framework - such as Russia - to deal with present levels?

Answer

Electronic payment systems or cyberpayment systems offer the consumer and the financial community alike significant benefits as a means by which to transfer financial value immediately, securely and conveniently worldwide. The technology, already in use in some markets in the U.S. and abroad, is developing at a rapid pace and is dramatically impacting traditional methods of conducting financial transactions.

Digital currency systems create a myriad of problems for law enforcement agencies. The attributes of the e-cash payment system are significantly different than the current existing payment systems worldwide, presenting an enigma for enforcement. The current system incorporates a high degree of central bank control whereas with e-cash, there exist various national views, most specifically regarding control. In the current payment system, there exists a collection of examining and customs mechanisms; monitoring and examining systems do not exist in the e-cash environment. Checks and currency are subject to reporting and/or record keeping requirements; the e-cash world incorporates a series of intangible electronic 0's and 1's (analog) with no such requirements. Banks now dominate wire transfers and are subject to record keeping requirements; e-cash uses personal computer transfers and is not subject to record keeping requirements. There now exists a set of serial numbers, bank records, and audit trails; e-cash removes these or encrypts them.

Eugene Ludwig, the Comptroller of the Currency, is coordinating the Department of the Treasury's efforts to study these new systems and develop informed, carefully thought through policy recommendations which seek to prevent abuse without inhibiting legitimate commercial development. The Financial Crimes Enforcement Network (FinCEN) has been designated as the coordinator for the Treasury law enforcement bureaus which include the US Customs Service, the Bureau of Alcohol, Tobacco and Firearms, the US Secret Service, and the Internal Revenue Service's Criminal Investigations Division.

Because of the international dimension of cyberpayments systems, a key focus of the Treasury Department's effort is building bridges globally with our counterparts in law enforcement and with the financial services industry. To this end, Treasury has raised the issue at international forums such as the Financial Action Task Force (FATF) and the FATF-sponsored Financial Services Forum which was held in January 1996. FincEN will also be fostering a discussion of cyberpayments systems and related security issues within the Egmont Group, an organization created in 1995 of countries which have established Financial Intelligence Units. FincEN is proposing to enlist the cooperation of Egmont members in conjunction with a study FincEN is coordinating to provide a prospective picture of what the payment industry will look like at the turn of the century.

FincEN's cyberpayment study has been on-going for about 18 months and in addition to compiling data about the cyberpayments industry in general, the study will seek to ascertain how the new technology will impact law enforcement. Simulation exercises to determine some of these vulnerabilities have been and will continue to be held. Further, Treasury is sponsoring a conference in September 19-20, 1996 in Washington, DC entitled: *Toward Electronic Money & Banking: The Role of Government*. Some of the key topics to be discussed are: International Cooperation; Security; Privacy; E-Money Systems Case Studies; and Law Enforcement Perspectives. The keynote address will be delivered by Secretary Rubin and Alan Greenspan, Chairman of the Federal Reserve Board, and Congressman Michael Castle, Chairman of the House Subcommittee on Domestic and International Monetary Policy, will be among the panelists.

Treasury believes the best approach at this stage of the development of electronic money payment systems is to continue to study their evolution engaging whenever possible and appropriate the support of the financial services industry. It is hoped that by working together with industry at this early juncture vulnerabilities can be identified and industry can be urged to build safeguards into the systems thereby minimizing the need for regulation. Electronic payment systems are creating a revolution in the financial services industry. Government's role should be one which helps stimulate and create a climate in which industry can compete in the global marketplace while working cooperatively with law enforcement to prevent criminal abuse of an exciting 21st century technology.

#### Question 10

What action are we taking to curtail the availability of international shell or front companies through countries that permit this type of activity? What more needs to be done?



**Answer**

Fraudulent shell corporations and front companies are a pervasive problem in money laundering and narcotics trafficking. Sham companies are set up to give the appearance of legitimacy to illicit proceeds. There are many countries in the business of selling corporate charters. In essence, knowingly or unwittingly, they sell their sovereignty. Some countries intentionally structure their corporate and banking laws to attract the lucrative proceeds of criminal organizations.

The Department of the Treasury which recently completed its Presidency of FATF in June 1996, made the issue of offshore financial service centers including shell company laws in those jurisdictions a priority. As part of the U.S. effort to form partnership between government and the private sector, the FATF under its U.S. President extended that philosophy to the FATF's external relations program. The most significant element of this effort was to involve the Offshore Group of Bank Supervisors (OGBS) in FATF activities and seek their commitment to adopt the FATF's 40 Recommendations for an effective counter money laundering program. Further, the OGBS agreed to work toward establishing some mechanism within its membership for mutual evaluations of progress toward implementing the FATF's 40 Recommendations.

Earlier in 1993, the Financial Crimes Enforcement Network drafted on behalf of the FATF a study of shell companies which described the various forms shell companies might take. The study called "The Shell Company Typology" also detailed the shell company elements of Companies Acts in its membership and an additional 20 non-member nations generally considered to be tax haven jurisdictions.

In addition, the CFATF which represents 26 nations located in the Caribbean is pursuing implementation of the FATF 40 Recommendations and an additional 19 regional recommendations specifically concerned with offshore activity.

Finally, in December 1995, under the Summit of the Americas initiative, U.S. Treasury Secretary Rubin chaired a meeting of concerned Ministers in Buenos Aires, Argentina, which established an unprecedented accord among the Summit's 34 participating Latin and North American nations. That accord set out steps each nation would pursue in combating money laundering including enactment of laws consistent with the Organization of American States' "Model Money Laundering Regulations." Those model regulations concentrate heavily on regulatory and legal regimes to oversee and restrict shell company activities.

Question 31

In light of recent concerns about large cash transfers for Mexican bank officials implicated in serious money laundering through Citibank, what further steps are necessary to ensure that access to major money center banks is denied to money launderers? Is there currently a review of the requirements to monitor such transactions by Treasury? By the major banks?

Answer

FinCEN and the Federal Reserve Board recently enacted new rules for transmittals of funds. The first rule requires banks and non-bank financial institutions to collect and retain information about transmittals of funds in the amount of \$3,000 or more; it also requires the verification of the identity of non-account holders that are parties to such transmittals of funds. The second rule (known as the travel rule), issued by Treasury alone, requires each financial institution that participates in a transmittal of funds to pass along certain information about the transmittal to any other financial institution that participates. These rules will ensure that a detailed paper trail is maintained for large wire transfers. The funds transfers rules, along with Suspicious Activity Reports, should help to deter illicit or suspect cash transfers.

The Customs Service, working with FinCEN, has proposed that the BSA implementing regulations be amended to provide that instruments drawn by foreign financial institutions on accounts in the United States within the definition of monetary instruments.

A sub-group of the BSA Advisory Group reviews rules regarding transmittal of funds. In addition, the American Bankers Association has volunteered to organize all financial institutions regulated by the Bank Secrecy Act, including a wide variety of non-banks, in a review of Bank Secrecy Act regulations, including the transmittal of funds regulations.

With respect to the abuse of money center banks, FinCEN, with the members of the Bank Secrecy Act Advisory Group, is examining the issue of potential 'know your customer' regulations that would formally require the types of measures that many in banking are already taking.

Question 32

What difficulties in monitoring suspicious activities does the banking industry face when the Riegle-Neal Act goes into full effect in 1997? What provisions are being made to monitor structuring attempts? What impact will this have on the filing of Suspicious Activity Reports. Presently, when a deposit is

made, there is a delay before that money can be withdrawn.

- What is the current time relationship between the filing of a SAR and the availability of bank funds?
- If the volume of SARs filed were to significantly increase, how would this affect the availability of funds?

Answer

Currently a Suspicious Activity Report, on its own, does not have any impact on the availability of funds following a deposit or any other transaction. Financial institutions generate their own policies, based on applicable legal requirements, for the availability of funds following transactions. A financial institution cannot, for example, alter the availability of funds based solely on its determination that particular monies are probably being used as a part of a money laundering scheme. In such a case, the bank would be required to file a Suspicious Activity Report, and if it appeared warranted, to contact appropriate law enforcement authorities. However, because rapid movement of funds is the norm, the suspicious funds may be rapidly sent out of the bank before authorities have the time to take any action. In short, an increase in the number of SARs filed will have no impact on the availability of funds.

Question 33

Based on the 1994 case of the bank executives working as agents for American Express, we know of at least one major recent case of using the Cayman Islands to launder money...

- Can you comment on why there are all of these banks and what local officials do, are able to do, to regulate a large, diverse banking and business community?
- Do you have any way of estimating how much money that goes through the Caymans is illegal?

Answer

The Caymans has traditionally had a large and largely unregulated financial services industry. The Islands' economy depends on outside investments. In recent years, the Caymans have joined the Caribbean Financial Action Task Force (CFATF) and the Caymans government is recognizing the need to take steps to institute anti-money laundering controls. The United States, through the CFATF process and bilaterally, will continue to urge the Caymans government to institute an anti-money laundering regime.

The Cayman Islands are convenient to travelers, safe, and British protected. Its banking industry is stable and secure. The banks are regulated by the Cayman Islands government. Money laundering is discouraged but counter money laundering laws are not strongly enforced by the Island's government.

We have no way to determine the amount of dollars laundered through the Cayman Islands. However, from our investigations we believe it to be significant.

## MR. SUMMERS' RESPONSES TO QUESTIONS FROM SENATOR D'AMATO

Question 1

The Bilateral Extradition Treaty seems to be a sore point between the U.S. and Mexico. How many extradition requests are outstanding and what are the prospects for getting the government of Mexico to honor the most egregious or any of them? What kind of pressure is the administration putting on Mexico to perform better on extradition?

Answer

Although the Department of Justice and the State Department can speak more specifically to the issue of extradition, I have been informed that extraditions from Mexico are better now than they have ever been. Extraditions from January through August 1996 increased threefold over the total for 1995 and are at an all time high.

Question 2

What Mexican laws still need to be revamped to improve its law enforcement capability?

Answer

In the anti-money laundering context, Treasury is urging the Government of Mexico to undertake a number of reforms to bolster its law enforcement capacity.

Suspicious Activity Reporting

For one thing, Treasury has been pressing the Government of Mexico to include certain attributes in its developing regulations governing suspicious activity reporting (SAR) and currency transaction reporting (CTR) by banks and financial institutions. Pursuant to the following authorities: *Ley de Instituciones de Credito* Article 115; *Ley del Mercado de Valores*, Articles 52 BIS 3; *Ley General de Organizaciones y Actividades Auxiliares de Credito*, Article 95; *Ley General de Instituciones Sociedades Mutualistas de Seguros*, Article 140; and *Ley Federal de Instituciones de Seguros y Fianzas*, Article 112, the Hacienda has the authority to take "necessary measures . . . in order to prevent and detect activities . . . that involve resources, rights or assets that are proceeds or represent the profits of an assumed offense."<sup>4</sup>

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<sup>4</sup> The text of each statute is the same. The provisions are separated according to the particular financial institutions to

Hacienda interprets these statutes as granting authority to require SAR reporting by the following institutions: credit institutions; limited-purpose financial societies; brokerage houses; securities and exchange specialists; auxiliary credit organizations; regulated currency exchange houses; mutual insurance societies and institutions; and bonding institutions.

The above statutes sanction regulatory infractions with civil penalties "from 10% - 100% of the amount of the funds from the probable offense." Beyond the obvious deficiencies associated with the absence of a criminal penalty, this structure may create unanticipated enforcement problems. For one thing, tying penalties solely to the funds involved in a probable offense appears to ignore acts in furtherance of a money laundering scheme which cannot be tied directly to illicit proceeds. The act also raises the prospect that egregious acts which compromise the integrity of a financial institution, but which involve a small sum, will escape relatively unpunished. Further, the penalty provision may not apply if a bank deliberately destroys records to obscure information regarding an act which ultimately cannot be linked to criminally tainted funds.

To counter these problems, Treasury has strongly encouraged the passage of legislation authorizing criminal penalties and severe monetary sanctions for financial institutions, their directors, officers and employees (including, in the case of financial institutions, loss of license) for willful violations of its suspicious transaction reporting rules. Stiff sanctions will ensure that all financial institutions take their obligations seriously. To complement this approach, Treasury also has recommended that Hacienda modify the monetary penalty provision to prescribe specific amounts for violations, rather than a range of sanctions.

Beyond concerns regarding the penalty structure, and as discussed below, the statutes appear to lack several other features that would provide substantial benefit to the overall integrity of a suspicious transaction reporting framework.

#### 1. Structuring

Treasury has urged Hacienda to take measures to penalize willfully structuring or attempting to structure (depositing/withdrawing) transactions for the purpose of avoiding the filing of SARS, CTRs, or any other reports identifying transactions in large volumes of domestic or foreign currency. The U.S. experience has demonstrated that a requirement of this sort closes a clear loophole by which money launderers can circumvent the reporting rules.

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which they apply.

## 2. Safe Harbor

Treasury has urged Hacienda to build into its suspicious transaction reporting requirements a provision granting civil and criminal immunity for good faith reporting by financial institutions or their employees that a customer is engaging in a suspicious transaction. Such a measure would provide greater incentives for financial institutions and other affected businesses to comply vigorously with the reporting rules.

## 3. SAR Triggers

As an interim measure prior to the adoption of CTR regulations, Treasury has advocated Hacienda's building into its suspicious transaction reporting rules a provision defining as "suspicious" -- and thus automatically reportable -- certain classes of transactions deemed more likely to be probative of criminal conduct. An example would be transactions in foreign currency over a specified value. Such a provision would increase the likelihood that the information being captured is the information law enforcement authorities are looking for.

## 4. Corporate Liability

Treasury has pressed Hacienda to establish clearer authority to sanction financial institutions themselves, and their employees, officers, or directors, that improperly make a disclosure of the fact that a customer was determined to be "suspicious." Sanctions should be available for violations that are unwitting, or willfully ignorant of their effect, as well as those that are directly performed in support of the illegal conduct.

## 5. Unregulated "Casas"

The statute, and thus Hacienda's proposed suspicious transaction reporting regime, does not apply to unregulated *extablecimientos cambiarios*. Because of their susceptibility to criminal penetration, Treasury has advocated that, in the near term, these entities be required to maintain records identifying the customer, and any beneficial owners where the financial transaction involves the exchange, deposit or withdrawal of foreign currencies exceeding \$3000. In the long term, Treasury has urged that *extablecimientos cambiarios* be subject to the same regulations as are *casas de cambio*.

Currency Transaction Reporting

Hacienda cites the same statutes that permit it to issue SAR regulations -- namely *Ley de Instituciones de Credito* Article 115; *Ley del Mercado de Valores*, Articles 52 BIS 3; *Ley General de Organizaciones y Actividades Auxiliares de Credito*, Article 95; *Ley General de Instituciones Sociedades Mutualistas de Seguros*, Article 140; *Ley Federal de Instituciones de Seguros y Fianzas*, Article 112 -- as the legal basis for large currency transaction reporting.

Accordingly, certain of the concerns expressed above with respect to SARs would apply here as well.

1. Sanctions

To ensure stringent adherence to the reporting rules, Treasury has strongly encouraged the passage of legislation authorizing criminal penalties and severe monetary sanctions for financial institutions, their directors, officers and employees (including, in the case of financial institutions, loss of license) for willful violations of its suspicious transaction reporting rules. Again, to complement this approach, Treasury also has urged that Hacienda modify the monetary penalty provision to prescribe precise amounts for violations, rather than a range of sanctions.

2. Structuring

Treasury has pressed Hacienda to penalize willfully structuring or attempting to structure (depositing/withdrawing) transactions for the purpose of avoiding CTRs. The evidence has shown that a requirement of this sort eliminates a primary technique for skirting the rules.

3. Unregulated "Casas"

Given that currency exchange businesses have proven particularly vulnerable to money laundering, Treasury has urged that, as a preliminary measure, *establecimientos cambiarios* be required to maintain records identifying the customer, and any beneficial owners of currency where the financial transaction involves the exchange, deposit or withdrawal of foreign currencies exceeding \$3000. Ultimately, however, *establecimientos cambiarios* should be regulated in the same manner as *casas de cambio*.

Customs Law

Title I of the Mexican Customs Law provides that "any individual, upon entrance to the country, shall be liable for reporting to the customs authorities any amount that is being transported in cash, checks or a combination of both, of more than \$10,000 or an equivalent in any other country dealt with." The provision mirrors U.S. law as it applies to inbound transportations of currency or monetary instruments. Reporting information generated pursuant to this requirement is transferred to Hacienda's Money Laundering Directorate, where selected reporting information is stored on a database and analyzed in connection with money laundering investigations.

As U.S. experience has shown, a reporting law of the sort in place in Mexico can be a valuable tool in the effort to curb money laundering. For one thing, the law can serve as a significant deterrent. The knowledge that identifying information is being reported to the authorities with each transportation over \$10,000 can have chilling effect on would-be money launderers seeking to move dirty money across the border. In addition, the law can be a great source of information. Documentation reflecting cross-border transportations can provide valuable insight to law enforcement officials on both sides of the border to reconstruct a chain of financial transactions.

While the Mexican law has potential, significant deficiencies dilute its efficacy in practice. First, the law governs only inbound transportations, creating an enormous gap which can be exploited by launderers seeking to remove their illegal profits from Mexico. This gap undoubtedly will be exploited further as the deterrent impact of suspicious transaction reporting and currency transaction reporting requirements is felt. To close this gap, the Treasury has strongly encouraged the Government of Mexico to adopt a corresponding reporting requirement for outbound transportations as well.

Second, the law apparently does not contemplate the issuance of penalties for failing to report, or for structuring transactions for the purpose of evading the reporting requirements. Treasury has supported the Government of Mexico enacting a penalty provision of this sort. Doing so will increase the incentive for compliance, as well as the detection risk money launderers must take into account.

Asset Forfeiture

The degree of forfeiture-based legal assistance that the Government of Mexico apparently can provide to the U.S. is quite limited. Mexico has not yet enacted forfeiture legislation that would allow it to freeze forfeitable assets on behalf of another



country, repatriate forfeitable property to another country, enforce another country's forfeiture orders, or initiate a Mexican forfeiture action (absent the conviction in Mexico of the property's owner) against property in Mexico that is also forfeitable under another country's law.<sup>5</sup>

On May 22, 1995, the U.S. and the Government of Mexico exchanged diplomatic notes providing for the transfer of forfeited assets to Mexico in cases in which the Government of Mexico assists the U.S. in obtaining the forfeiture of assets under US law. The U.S. (through the Department of the Treasury) already has transferred approximately \$6 million. The Government of Mexico has created a specific bank account at the Banco de Mexico for the deposit of shared assets. The asset sharing agreement specifically calls for reports at the regularly scheduled meetings of the U.S.-Mexican Plenary Group of Senior Law Enforcement Officials, U.S. participation in which is coordinated by the Department of Justice on the application of the shared assets.

This agreement is important, for it enables the Government of Mexico, at least vicariously, to avail itself of asset forfeiture as a weapon against money laundering. Ultimately, however, Mexico must develop its own asset forfeiture scheme to address the entire money laundering problem, not just laundering with criminal implications under U.S. law.

The U.S. has urged the Government of Mexico to enact laws providing for the confiscation of assets used in, or derived from, the commission of serious crimes, particularly drug trafficking and related offenses. These laws also should allow Mexico to provide assistance to a requesting nation in tracing, identifying, freezing/seizing, and forfeiting assets traceable to a drug or drug-related crime committed in violation of the laws of the requesting nation. Further, the laws should provide for the forfeiture of assets generated by drug traffickers and related offenders who have died or have absconded from the territorial jurisdiction of Mexico. Lastly, the Government of Mexico should devise an asset management and disposal strategy that guards against corruption, misuse, and waste.

A specific arm of the government should be designated with management and disposal responsibilities. The creation of a fund for the deposit of forfeited assets also could serve to augment resources available for current anti-drug investigations and

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<sup>5</sup> Mexico has, however, provided assistance to U.S. authorities seeking to identify assets forfeitable under U.S. laws. For example, in Operation Emerald Clipper, Mexico assisted in the identification and seizure of aircraft belonging to Columbian drug cartel members.

prosecutions.

Question 3

How is the Zedillo government tackling the well-known problem of official corruption? Are we providing any advice and/or technical assistance?

Answer

Mexico is making both pragmatic and institutional changes to combat corruption. The pragmatic changes occurring include the August 1996 firing by the Mexican government of 700 corrupt police officers. Likewise, the Mexican Attorney General's office has instituted systematic changes to fight corruption and improve accountability. When requested, the U.S. provides appropriate assistance, including examples of techniques which have proven successful in fighting corruption.

Question 4

What is Mexico's role now in terms of interdicting drugs on the U.S. - Mexican border? Does Mexico have plans to improve its border interdiction capacity?

Answer

ONDCP reports that the Mexican government is involved in many cooperative efforts with the United States to combat drug trafficking along the border. The two governments are working to share intelligence regarding drug shipments which are expected to cross the border. We are striving to improve our capacity to share intelligence and also providing the Mexican government with better means to access the intelligence information.

Task forces focusing on drug trafficking activities have been established in three Mexican and three American cities: Tijuana, Ciudad Juarez, Monterey, San Diego, El Paso and Houston. The United States is providing additional training to these task forces as well as to the Mexican military for rapid response police action. The United States would like to provide helicopters to be used to ferry officers to the site of drug trafficking incidents so that traffickers can be held until the police arrive.

Mexico is working to improve its police force. In August 1996, the Mexican Attorney General fired 700 corrupt police officers. At its own expense, Mexico has stepped up training and recruitment activities for the police force, including sending their best officers for training in Spain and the United States.

These activities are showing successes. Just last month, a multi-ton shipment of chemicals used to manufacture drugs was seized in Mexico by the Mexican police.

Question 5

The Administration says it's convinced that the Zedillo government is serious about drug/crime control and is taking swift steps to remedy the problem. How are the administration's policies and actions different now than under previous Mexican administrations?

Answer

We have already seen commitment from the Mexican government. At the urging of President Zedillo, Mexico has enacted new money laundering laws and has worked with representatives of the United States to generate the framework to develop anti-money laundering regulations for financial institutions. New legislation giving Mexican law enforcement new investigative powers, such as broader wiretap authority and witness protection, is expected to be in place by the end of the year.

For the first time, President Zedillo ordered the armed forces to undertake a major drug fighting role. Within the last year Mexican law enforcement has made several major arrests, including Gulf Cartel kingpin Juan Garcia Abrego. Also within the last year, the Mexican government eradicated more acres of drug crops (marijuana and opium poppy) than any other country in the world.

Further, the High Level Contact Group for Drug Control has now been established between the United States and Mexico. This working group is the first bilateral narcotics policy group the United States has formed with any country. We expect that it will unify interagency drug control efforts in both the United States and Mexico and cause our two countries to work together effectively in support of our shared strategy. From a practical point of view, it is a mechanism for organizing counter-drug programs in a strategic manner and it provides a regular status check on progress. Success in a cooperative relationship will be evident when we implement agreed-upon programs in a predictable and timely manner.

## MR. SUMMERS' RESPONSES TO QUESTIONS FROM SENATOR MURKOWSKI

Question 1

Mr. Secretary, it's my understanding that as of April 15, 1996, the United States has made 99 extradition requests of indicted drug smugglers and money launderers, involving 110 people. As of that date only one request has been honored. Can you tell me whether the Mexican government has extradited any further individuals? If not, why?

Answer

While questions of extradition can best be answered by the Department of Justice and the State Department, I have been informed that extraditions from Mexico are at an all time high, including a three-fold increase so far this year over all of 1995. We expect continued improvement in the future.

Using the number of extradition requests which are pending at any one time as a measurement of cooperation is misleading, since the requests represent cases which developed over the previous five years. An extradition request will continue to be pending even if the case is not being actively pursued by the United States, or if accurate information regarding the location of the individual is not available.

I should note, however, that I have been advised that very few of the pending extraditions relate to drug trafficking or money laundering cases.

Question 2

It is also my understanding that the Mexican Attorney General's office has several hundred investigations and prosecutions for corruption pending, yet has not one conviction. Is this true? Can you provide me with the exact number of ongoing investigations and prosecutions as well as the cumulative number of convictions for corruption within the past two years? Can you also provide me with similar figures for the Mexican Finance Ministry, Mexican federal police, and other Mexican government entities involved in drug enforcement and anti-money laundering activities?

Answer

Since by their nature investigations are secret, the Mexican government would not as a general rule tell the United States about pending investigations. Certain investigations are conducted jointly by the United States and Mexico, particularly relating to conduct along the border. The United States provides appropriate assistance in investigations when requested.

## CFATF Member Countries

Anguilla  
Antigua and Barbuda  
Aruba  
Bahamas  
Barbados  
Bermuda  
- British Virgin Islands  
Cayman Islands  
Colombia  
Costa Rica  
Dominica  
Dominican Republic  
Grenada  
Guyana  
Jamaica  
Mexico  
Montserrat  
Netherlands Antilles  
Panama  
St. Kitts  
St. Lucia  
St. Vincent  
Suriname  
Trinidad and Tobago  
Turks and Caicos Islands  
Venezuela

There are also five FATF donor countries:

Canada  
France  
Netherlands  
United Kingdom  
Unites States

## MR. WEISE'S RESPONSES TO QUESTIONS FROM SENATOR GRASSLEY

**Q1.** An article in "the Commercial Appeal" (December 24, 1995) highlights the fact that money launderers are buying commercial quantities of commodities such as, liquor, computer software and household appliances which they ship to Latin America and sell at reduced prices as a method of laundering the proceeds of criminal activity.

**What action has been taken by the Treasury Department and the Customs Service to close off this international trade avenue from abuse by money launderers?**

**ANSWER:** The Customs Service is actively combating this threat through covert operations in the key cities where this type of money laundering activity is centered. The operations concentrate on dismantling the money laundering cells responsible for moving the narco-dollars to industry. This type of enforcement strategy by the Customs Service has and continues to be an effective way to address the threat, considering our limited resources.

**Does any member of the intelligence community support law enforcement efforts in this area? If not, why not?**

**ANSWER:** The intelligence community does support law enforcement efforts in the collection of money laundering information.

**Q2.** What criteria do you use to gauge the success of Customs' ability to protect the U.S., legitimate trade operations, and financial institutions from abuse by international traffickers in drugs and other contraband and protecting our financial institutions from abuse on the part of money launderers?

**ANSWER:** The U.S. Customs Service has a number of measures of success that it utilizes that are detailed in our annual, 5 year, and strategic planning process. The program areas of money laundering, narcotics, and trade enforcement are the most applicable to gauging our success in our ability to protect legitimate trade from drug traffickers and money launderers. The aforementioned plans detail traditional or quantitative

measures such as arrests, seizures, and indictments, as well as qualitative measures like the number of impact investigations, class or major violators arrested, man hours dedicated to money laundering and narcotics smuggling investigations. Moreover, the Office of Investigations conducts detailed "impact analysis" of program areas such as undercover money laundering investigations in an attempt to measure our "disruptive impact" on core Colombian and Mexican drug trafficking organizations that exploit international trade and financial systems. As an example, our recent analysis of undercover money laundering operations indicated that our programs had a significant impact on the costs associated with laundering money through U.S. and foreign financial systems.

The Customs Service also makes extensive use of compliance measurement and assessment techniques in an effort to determine how compliant the trade community is with the myriad of Customs laws and regulations that we enforce daily. As an example, the Office of Field Operations has initiated a program called Compex which measures compliance with the outbound reporting of currency.

These and other measures of effectiveness are utilized and the results evaluated in an attempt to be as efficient as possible in deploying our declining resources in priority program areas. Beginning in FY99, Customs strategic plan, along with our measures of effectiveness will be submitted to the Congress as part and parcel of the Government Performance and Results Act (GPRA).

- Q3. Does information available to the Customs Service indicate that most international drug trafficking operations use international trade facilities, passenger facilities, or privately owned transportation equipment for the purpose of moving drugs into the U.S.? What methods do traffickers prefer? How does Customs respond to changes in methods?

ANSWER: Information available to Customs indicates that international narcotics trafficking organizations utilize international trade facilities, international commercial air and ship passenger carriers, as well as privately owned vessels and aircraft to smuggle narcotics into the U.S. Customs monitors the ever changing smuggling trends and methodologies and utilizes various investigative strategies to combat emerging smuggling trends and patterns.

**Q4. Customs Inspectors and Immigration Inspectors work side by side at ports of entry. Some of their work seems to overlap.**

**If inspection resources were to be increased at ports of entry around the United States, in an effort to provide our nation with greater protection from drug traffickers, terrorists, and international organized crime elements, which increase in inspectors (Customs or Immigration) would have the greatest impact or deterrent effect?**

ANSWER: Continuing to provide a mix of inspectors would have the greatest impact on protecting our borders. Each agency has a clear mission which is best accomplished by inspectors with the required training and skills, especially in processing travelers in secondary inspection. Primary inspection, the area where the responsibility is shared, is a key part of the decision process but is really a question of: "Are these travelers and their goods clearly admissible into the United States, or do they require additional processing?"

**Would it make more fiscal sense to have Customs Inspectors perform the function of Immigration Inspectors or vice versa? Why?**

ANSWER: It would make more fiscal sense to have Customs inspectors perform the primary inspection function. Customs currently has a greater number of inspectors at land border ports than Immigration. Customs inspectors enforce the laws of nearly 60 Federal agencies, thus



they are used for multiple responsibilities. Over the years, Customs has consistently staffed more primary inspection lanes than Immigration has been able to cover. Customs inspectors also process cargo entering the country and, therefore, their impact would be felt by both travelers and importers. The admissibility decisions made in Immigration secondary, however, should continue to be made by inspectors of that agency.

**Q5. Federal law enforcement agencies are responsible for enforcing our laws without having to consider the opinions of any outside group other than our Judiciary branch of government.**

**How can Customs develop and implement a national enforcement strategy for its inspection force with the outside influence of a union as a concern?**

**ANSWER:** The Customs Service embarked on a mission to improve the union-management negotiation and communication process through the implementation of *Partnership* in early 1994. Utilizing *Partnership Processes* such as Strategic Problem Solving (SPS), Interest Based Negotiations (IBN), and Business Process Management (BPM), Customs has successfully negotiated issues such as the National Inspectional Assignment Policy (NIAP), the National Firearms Policy, and the soon to be implemented new uniform standards with the bargaining unit. In appropriate situations, this new way of handling issues has proven to save time, effort, money, and frustration that were formerly associated with old adversarial based impact bargaining processes. Customs has made great strides in union negotiations through *Partnership*.

Being cognizant of the timeliness in which strategic decision making must be rendered, coupled with the fact that all scenarios, situations, issues and policies cannot be responded to utilizing reactionary time constrained negotiations, the Customs Service has taken a proactive approach with its union partners. When addressing concerns such as the national enforcement

strategy, and in rendering timely decisions, Customs management must factor in the legal requirements and guidelines as set forth in the National Treasury Employees Union contract.

To address the time sensitive factors associated with enforcement related decision making, and ensure compliance with contractual agreements, the Customs Service, in the spirit of *Partnership*, has included the union during the developmental phase of the national enforcement strategy. The development and implementation of this enforcement strategy affects all divisions within the Customs Service, and sets the pace and direction that will be taken in the near and distant future as outlined in the Annual and Five Year Plan. Initial involvement of the union in the construction of this document, as well as other related strategies, is a critical and necessary element to have an agreed upon mechanism for addressing enforcement concerns in an expeditious manner.

Q6.

The modern "global economy" has created the marketplace in which international organized crime groups will ply their wares. Today's international organized smuggling organizations are trafficking in deadly merchandise, not the diamonds, jewelry, and prohibited whiskey of years ago. The high ticket items in today's marketplace are generally illicit commodities like military weaponry, nuclear material, deadly chemicals, pirated goods, drugs, terrorism and other items with which I am sure you are quite familiar. Some items must be smuggled in cargo and some can be smuggled in a passenger's baggage. In some cases, the item that can be smuggled in a passenger's baggage can be far more deadly than the bulky item that requires cargo handling. Taking into consideration the fact that Customs processes 456 million persons and 127 million conveyances per year, a slight mistake in calculating your strategic needs, in an effort to accommodate the facilitation interest of the travel and trade business communities, will result in an increased threat to our

citizens and our Federal, State and local law enforcement agencies that will inherit the threat that the Customs Service does not intercept.

In your efforts to facilitate international trade, how strongly have you considered the fact that Customs is our first line of defense to this threat?

ANSWER: Customs efforts to thwart organized smuggling groups falls upon the Office of Investigations. The Office of Investigations works closely with the Office of Field Operations to provide targeting information for cargo and passengers to be examined. But the efforts of the Office of Investigations to stop or impede organized crime are much broader. Customs agents have decades of experience in developing and cultivating confidential sources within organized crime elements. These informants and the information they obtain are used extensively throughout Customs investigations. Customs agents use informants to peer into the mechanisms of organized crime and look for vulnerable areas to attack. Customs investigative expertise in organized crime investigations has had broad and significant impact on our nation's security. Customs investigations have thwarted nuclear smuggling attempts; detected the counterfeiting of sensitive military avionics; and, stopped terrorist states from obtaining chemical warfare agents and missile delivery systems.

The vigilance of the Office of Investigations in these types of investigations is relentless. Customs efforts to improve and facilitate legitimate trade should not be confused with our law enforcement mission. Customs investigations, both overt and covert, target all elements of organized smuggling and crime groups. From Asian crime gangs, Russian gangsters, the Mafia and other such organized groups, Customs investigative efforts are channeled to expose these groups. Customs works closely with the Intelligence community, the Federal Bureau of Investigation, INTERPOL, and other agencies and organizations to glean valuable intelligence data to identify organized crime cells and dismantle them.

Informed compliance on the part of importers and exporters serves as a tool for Customs to gain valuable cooperation from the trade community. In the case of exports, most times, the exporter is in the best position to validate the bonafides of a consignee. For nearly 15 years, Customs agents have been seeking the assistance of the exporting community through our Project Gemini industry outreach program to gain cooperation and develop sources in the exporting trade. These sources have been used to ferret out terrorist acquisition networks and suppliers with great success. Customs efforts to promote and facilitate trade do not hamper our efforts to thwart organized criminal activity.

**If the threat from international organized crime is increasing, how can Customs effectively combat that threat with level or reduced investigative and inspection resources?**

ANSWER: In the inspectional arena, technology and automation are playing an ever increasing role in Customs' targeting strategy. Over the past year, a pilot program testing the effectiveness of pager-sized detection devices has been undertaken in various ports across the country. Due to the success of this pilot, there are plans (contingent on funding) to outfit all of our inspectional personnel with these devices in the next year. Furthermore, in conjunction with the Department of Energy, a special test program has been proposed to explore the wide array of technologies available for use at Customs' ports of entry for detection of various weapons of mass destruction.

Within its Trade Compliance Redesign, Customs will increasingly utilize account based processing, compliance measurement data, and sophisticated targeting techniques to more effectively confront areas of non-compliance that seriously threaten the national economy and the health and safety of the American public.

This use of enhanced equipment and more efficient targeting procedures will allow Customs to better focus its static resources on the threats generated by a global economy and by organized crime.

Q7.

**As part of Customs' reorganization an Office of Strategic Trade was created. What is the mission of this unit?**

**ANSWER:** Functionally, the Office of Strategic Trade is responsible for identifying and confronting major trade issues facing the United States utilizing innovative research and analysis. The office provides leadership in developing and implementing an integrated trade enforcement program. The office confronts trade issues using Compliance Assessment Teams composed of auditors, import specialists and international trade specialists to assess the adequacy of internal controls of major importing companies; it conducts Interventions to research and halt instances of trade law evasion; it conducts Verifications of the top Canadian and Mexican firms claiming NAFTA preference to ensure their exports do meet NAFTA requirements; and it provides oversight of Compliance Measurements to determine the level of accuracy with which imports comply with U.S. trade laws. The office exercises line authority over the Regulatory Audit function and five Strategic Trade Centers and utilizes the analytical resources resident in the Strategic Trade Centers to research and analyze data for use by Compliance Assessment Teams, and in Interventions and Verifications.

**How many employees comprise this unit?**

**ANSWER:** The office consists of 598 FTE including Regulatory Auditors, Strategic Trade Center employees, and Headquarters staff.

**Did any of the positions that were used to create it come from a reduction in Customs inspectors, investigators, air wing personnel, intelligence personnel or marine officers?**

ANSWER: The Office of Strategic Trade was created as a reinvestment office in the context of the reorganization of the Customs Service. Functional transfers of Regulatory Auditors and analysts and their FTE from existing organizations occurred to form the new organization. Six Customs inspectors were in this group. In addition to the functional transfers, individual reassignments of personnel occurred on a voluntary basis. None of the transfers came from the ranks of investigators, air wing personnel, intelligence personnel or marine officers.

**Was the creation of this office in response to pressure from the trade community? If so, what additional services was the trade community seeking from the Customs Service?**

ANSWER: The Office of Strategic Trade was created as part of the reorganization. It was not created in response to pressure from the trade community.

**Does the unit provide any support in the areas of drug interdiction, anti-money laundering operations or international organized crime enforcement?**

ANSWER: The office does not provide support in any of these areas.

**Q8. The export of stolen automobiles has become a very lucrative business for international organized crime groups.**

**What steps has the Customs Service taken to protect the property of American citizens from this threat?**

ANSWER: The Customs Service has created multi-disciplined task forces in various areas of the country to deal with this problem. These task forces are comprised of special agents, inspectors, state and local police, and depending upon the area, National Insurance Crime Bureau agents as well as FBI agents. These task forces have had success in targeting high-risk shipments and infiltrating several organized crime groups through

undercover operations. The Customs Service is also conducting training for inspectors and agents to combat this rapidly growing problem.

**Are you working with international law enforcement agencies in a coordinated effort to prosecute the criminals that carry out this crime?**

**ANSWER:** The Customs Service, through the Office of Investigations, has sponsored several foreign training sessions in South America, Central America, the Caribbean, the Former Soviet Union (FSU) and some Pacific Rim countries. This training has been given to all levels of law enforcement within these countries to include Customs, national and local police, prosecutors, and judges. Other foreign training has been conducted jointly with the FBI to address this issue. Our Attaches also keep in close contact with foreign officials to address not only this problem but other issues that have an impact on the American public.

**Q9.** During the past five years, what portion of Customs' narcotics seizures are generally attributed to cargo operations? Of that number, how much of the total quantity is attributable to cold hits and how much is attributable to prior information? In cases where prior information results in seizures, where does the information generally come from, e.g., DEA, CIA or your own intelligence operation?

**ANSWER:** U.S. Customs National Cocaine Seizures - FY91-96

YEAR	ALL CUSTOMS		CARGO		PERCENT	
	NO.	POUNDS	NO.	POUNDS	NO.	POUNDS
FY96TD (7/96)	2,025	135,217	170	55,910	8.4%	41.3%
FY95	2,226	158,314	122	33,019	5.5%	20.9%
FY94	2,392	204,514	102	62,850	4.3%	30.7%
FY93	2,182	175,318	87	64,793	4.0%	37.0%
FY92	2,149	211,064	79	90,008	3.7%	42.6%

Approximately 60 percent of all narcotics seizures in cargo are attributable to "cold hits," or no prior information. Of the narcotics seizures in cargo which are attributable to prior information, the vast majority involve the following sources: commercial carriers (airlines and shipping companies), U.S. Customs' Office of Investigations confidential informants, and the DEA. Other common sources of information include the FBI, other customs services, and the U.S. Customs intelligence operation.

**Q10. What kind of support does Customs' intelligence section provide regarding the interdiction of narcotics or money laundering activity that occurs through the use of international cargo facilities and international freight carriers (air, sea and land)? Please elaborate by citing some recent successes that can be discussed without compromising ongoing operations.**

**ANSWER:** Customs initiated a program called the Trade Information Development Exchange (TIDE). The TIDE program is an analytical group consisting of special agents, analysts, and inspectors that analyze the massive volume of U.S. import transactions to identify those transactions that may involve illegal activities, such as commercial trade fraud and money laundering. After detecting abnormal transactions, the TIDE system can tie those transactions to specific importers whose shipments may deserve closer examination. TIDE can identify price discrimination and the identification of those importers responsible for the abnormal pricing.

Customs has long been concerned about the lack of specific intelligence regarding the movement of drugs and currency through POE's and has been at the forefront of the effort to encourage the development of more intelligence related to cross border smuggling with the Intelligence Community and other federal law enforcement agencies. As an immediate step and as part of Operation HARD LINE, Customs set up a series of multi-discipline intelligence groups along the Southwest border whose core responsibilities are to collect all-source intelligence, intensify source and



informant recruiting, analyze data, and disseminate tactical intelligence products to relevant audiences. These units, known as Intelligence Collection and Analysis Teams or ICATs are now located at all major Ports of Entry along the Southwest border - seven groups to be exact. The ICATs are fully multi-disciplined and incorporate agents, analysts, inspectors, state and local officers, and in some cases other Federal agencies. In addition, we are expanding the concept to include the ports of Miami and Puerto Rico along the southern tier and Buffalo along the northern tier, and our air branches in Miami, Tucson, and Phoenix. The ICATs have been immensely successful during their brief existence and have contributed to the seizure of over 8,000 pounds of cocaine, 6,300 pounds of marijuana and \$400,000 in currency. In addition, these units are providing quality tactical intelligence on a daily basis.

Example:

Customs intelligence developed at one Southwest Border ICAT office led to the seizure of 470 pounds of cocaine concealed in three Central American commercial tractor trailers carrying commercial cargo at the Los Indios POE. Most recently, ICAT intelligence provided support to an investigation targeting a smuggling group utilizing refrigerated trailers for the smuggling of multi-ton loads of cocaine. The results of this intelligence provided inspectors and special agents with valuable information about shippers and concealment methods that indirectly contributed to a seizure of 3,000 pounds of cocaine in a refrigerated container in Brownsville, Texas.

- Q11. **What kind of intelligence information are Customs Special Agents developing overseas regarding the use of cargo facilities to transport drugs or money and also to facilitate other types of international organized crime activities? Do you have an adequate special agent representation overseas to support effective intelligence gathering in this area?**

**ANSWER:** In 1994, the Office of Investigations initiated FOUR-TUNE 500, designed to both educate elements within the private sector of their susceptibility to financial crime, as well as develop potential sources of information for investigators.

The program has specific instructions for agents, both domestic and foreign, regarding making and documenting contacts. Identified within the FOUR-TUNE 500 handbook as recipients of this presentation are "...tangential enterprises such as container companies, international household moving companies, aircraft and ocean transportation businesses..."

The Office of Investigations currently has approximately 86 Criminal Investigators overseas who perform a variety of functions, including intelligence gathering on smuggling via cargo, within their areas of responsibility. However, Customs Agents are prohibited from collecting drug intelligence in any foreign country. This impacts significantly on the intelligence that is received by Customs for drug interdiction. The present system requires the Customs Service to rely exclusively upon other law enforcement agencies and the U.S. intelligence community for all foreign intelligence regarding drug smuggling.

**Q12.** Investigative resources are probably spread thin in the international trade area considering all of Customs' other areas of jurisdiction.

How many Customs agents are assigned full time to monitor and investigate organized criminal activities in the area of international trade, where organized crime groups are using trade facilities for the smuggling of contraband and for purposes of laundering money?

**ANSWER:** Customs currently has approximately 500 agents assigned exclusively to financial investigations nationwide, which encompasses organized crime groups and their use of trade to facilitate money laundering.

**Do your investigators possess all the skills and technological resources that are necessary to disrupt the operations of the international criminal groups that are capable of such abuses?**

**ANSWER:** It is felt that our investigators do have the requisite skills and resources to disrupt these organizations, and are constantly receiving training on current trends and patterns with respect to organized crime activities. This is especially true with respect to the emergence of Russian Organized Crime groups, and other international criminal organizations from the Former Soviet Union (FSU).

**Is there a need for additional legislation in this area that would help Customs special agents to have a greater impact on the international organized crime groups that are using international trade facilities to advance their criminal enterprises? If so, explain.**

The Customs Service has participated with both the Treasury and Justice Departments in the drafting and implementation of Presidential Decision Directive 42 (PDD-42) on international crime. There are a number of legislative proposals in the draft International Crime Act that strike at the underpinnings of international organized crime. A specific money laundering proposal expands greatly the list of foreign crimes as money laundering predicates, enhances civil forfeiture for foreign offenses, and makes a number of technical improvements to the MLCA.

**Q13. What kind of information has Customs received from the DEA and the CIA regarding crime activity by international organized crime groups using internal trade operations either as a front or for the purpose of facilitating the transportation of drugs and other contraband?**

**ANSWER:** Customs receives very restrictive and limited information and intelligence from the CIA and DEA regarding international criminal organizations.

**Q14. What information do you have about the effects of NAFTA on drug smuggling?**

**ANSWER:** At the present time, NAFTA has not had an appreciable effect on drug smuggling along the Southwest Border. The Mexican smuggling organizations that operate in these areas have been in existence for a number of years. They continue to use a variety of smuggling methods to move their contraband into the United States. Mexican smuggling organizations use hidden compartments in cars, trucks and RV's; commercial conveyances and cargo; private aircraft; backpackers and four-wheel drive vehicles between the ports; port runners through the ports; tunnels under the border; and small boats around the border.

While traffickers are certainly using cargo to smuggle narcotics, just as they do at seaports and airports, they have not shifted away from other methods to focus their efforts on cargo smuggling simply as a result of NAFTA implementation.

Customs Operation HARD LINE is forcing smugglers to look for other methods to import narcotics. In FY96, port runner activity was reduced 54 percent from 1994 numbers. (Port runners carry up to 800 pounds of cocaine or marijuana in their vehicle trunks and flee the port if they are subject to any level of scrutiny.)

In FY95, Customs instituted the first phase of Operation HARD LINE in all ports of entry on the Southwest Border. One result was an increase in Customs seizures of cocaine, heroin, and marijuana along the entire Southwest Border. A second result was a dramatic increase in the amounts of drugs seized between the ports of entry. Cocaine seizures between the ports of entry increased by 49 percent to 50,000 pounds, and marijuana seizures increased by 24 percent to 607,000 pounds.

**Q15. How effective is FinCEN in supplying the Customs Service with information regarding money laundering operations that use international trade facilities as a means of laundering or trafficking in illicit funds?**

**ANSWER:** FinCEN is very supportive of the Customs Service. They provide tactical and strategic intelligence support across a number of Customs program areas. In FY96, FinCEN processed in excess of 630 requests for tactical support. Customs has recently placed a full time liaison agent at FinCEN to better address our financial intelligence requirements. FinCEN has also co-located analysts in Customs field offices in New York and San Diego.

Customs is currently working with FinCEN on targeting money laundering schemes in international trade. Customs' trade targeting data base, NIPS, is currently being compared against CTR and CMIR information obtained from FinCEN. The result will be the development of targets which disguise their money laundering activity via international trade.

**Q16. Does Customs' intelligence and investigations operations have a handle on the methods that are used by money launderers utilizing international trade facilities to launder large amounts of money? Can you describe some of the more commonly used scenarios?**

**ANSWER:** The U.S. Customs Service has recognized the importance of the fight against the smuggling organizations, including their money laundering apparatus, by implementing laws regarding cash transactions and physical transportation, scrutinizing businesses susceptible to laundering, conducting sophisticated undercover operations, providing domestic international training, establishing national outreach programs, working with other Federal agencies and private industry, and forming mutual assistance agreements with foreign nations. Money laundering enforcement has been and will continue to be a priority program to meet this challenge. A number of trends have been identified as

avenues currently being used by money launderers to utilize international trade facilities to move large amounts of money. A number of these methods are described in this response.

**BULK SHIPMENTS:** Trend analysis, based upon investigations, seizures, informant information and undercover operations has pointed to a marked increase in bulk shipments of cash. Within the past several years, multi-million dollar seizures of bulk cash shipments, secreted in ocean and air freight, have been made in New York, Miami, Los Angeles and Houston. In addition, strategic analysis of excess cash repatriated back to the United States from foreign central banks and other sources exceeded \$20 billion. Reflow from drug source and transit countries such as Colombia, Panama, and Mexico accounted for over \$6 billion. It is difficult to measure the percentage of cash laundered by physical transportation, but it is clear that increased compliance by U.S. banks with the Bank Secrecy Act reporting requirements has forced money launderers to increase the use of bulk currency shipments.

**USE OF IMPORTERS TO LAUNDER DRUG PROCEEDS:** A joint Organized Crime Drug Enforcement Task Force (OCDETF) investigation for money laundering and narcotics violations targeted a drug cartel whose members were involved with the importation and distribution of cocaine into the United States. The investigation identified five corporations being operated by the organization members to facilitate the importation of cocaine and the laundering of the proceeds. The organization, via the corporations, would cause formal entries for cocoa and other food products to be filed. These commodities were destined for breakdown warehouses and no legitimate customers have been identified. A review of 977 Currency Transaction Reports (CTRs) revealed over \$21 million was deposited for the corporations in various accounts.

During the investigation, it was learned that cash from drug transactions would be given to various organization members. The cash in turn would be converted into money orders and deposited into various accounts in Philadelphia and New York. Bank accounts would be maintained to service the importation, warehousing, and distribution of cocaine. The written money orders would contain the names and addresses of various

fictitious businesses for payment of fictitious sales invoices, giving the appearance that the money orders were for products received.

**RESALE OF CONSUMER GOODS IN THE MONEY LAUNDERING CYCLE:** The purchase of consumer goods with narcotics proceeds or the exploitation of a commercial transaction involving consumer commodities is a technique designed to distance the source of the funds from any drug connection, and to place the narco-dollars into the banking system.

The primary reason to possess foreign exchange, in this case U.S. dollars abroad, is involvement in international trade, tourism and commerce. Therefore, crimes that generate cash, like cocaine smuggling, often entail efforts to make the funds appear legitimate through schemes that involve international trade, which is regulated by U.S. Customs.

The Customs Service often encounters these phenomena in conjunction with Free Trade Zones, such as the Colon Free Trade Zone (CFTZ) in Panama. The CFTZ provides for the free movement of goods and cash with minimal government scrutiny. Since Panama has a dollar-based economy, the presence of large amounts of U.S. currency in the CFTZ can be justified. Money laundering schemes often involve commingling ill-gotten gains with legitimate business receipts.

The CFTZ has dozens of consumer electronics and other "traders." In a typical scheme involving international trade, a money broker or "cambista" in Colombia will have access, through cartel accountants, to drug money denominated in U.S. dollars. A Colombian importer has a need to import "stereos," however has pesos to purchase them. The broker pays the business in the CFTZ with drug dollars, the importer gets his merchandise, and the drug trafficker gets pesos to invest locally or fund attendant drug operations. This scheme is also employed when legitimate Colombian businessmen need to purchase goods or services in the United States with dollars. It is sometimes called the "parallel market" and is a common method of bypassing foreign exchange controls in Colombia as well as serving cartel money laundering needs.

**OVER-INVOICING:** Over-invoicing is another scheme used by the drug organizations. Over-invoicing is achieved by inflating the value of consumer goods exported from a country to the United States. For instance, textile products are declared to Colombian Customs upon exportation to the U.S. or Panama for twice their value. This allows the Colombian exporter to justify twice the amount of foreign exchange in his accounts.

**LETTERS OF CREDIT:** Another layering technique, designed to make a transaction appear even more legitimate, would be the infusion of a letter of credit (LOC) into the process. The following is an example of this technique.

- Step 1: The "cambista" finds an electronics trading firm in Panama (CFTZ) with a contract to sell the equivalent of \$900,000 in VCRs to a wholesaler in Colombia.
- Step 2: The cell boss in Los Angeles delivers the cash to the cambista representative in Los Angeles. Five thousand dollars is structured in small amounts (smurfed) into cashiers' checks and \$500,000 is packed in an air compressor and prepared for export.
- Step 3: The checks are mailed to Panama and the air compressor freighted to the CFTZ. The funds are deposited into an account of a shell corporation controlled by the cambista. A LOC to "fund" the trade transaction using the deposits as collateral is secured.
- Step 4: The cambista pays the electronics trading firm in dollars and the Colombian traffickers in pesos. The VCR's are delivered to the Colombian importer and the LOC is either liquidated or canceled. The cambista takes 10 percent or \$100,000 profit for services.

**FALSE INVOICING/OVERVALUATION:** Another scheme is declaring a false value of consumer goods imported into the United States from another country. For instance, textile products are declared to Colombian Customs upon exportation to the United States or Panama for twice their value. This allows the Colombian exporter to justify twice the amount of foreign exchange in his accounts, the balance consisting of narcotics proceeds.



The overvaluation of goods imported into the United States in massive quantities, i.e. textiles, electronics, foodstuffs, steel products etc. is a common technique, particularly from emerging countries or those that otherwise benefit or receive preferential treatment regarding customs tariffs. An increase in pennies per pound or item in the invoiced value would not appreciably affect the tariffs to be paid, however it would allow for illicit funds to be concealed in a "legitimate" business transaction.

**Imported Shrimp Example**

This is a case involving the overvaluation of shrimp imported into the United States from Latin America. In this scheme:

- 1) The Latin American exporter would export \$100,000 worth of shrimp to a supermarket chain in the United States;
- 2) The exporter would falsify invoices and export documents to show that the shipment was worth \$200,000;
- 3) The exporter would receive \$100,000 from the supermarket chain for the legitimate product;
- 4) The exporter would receive an additional \$100,000 from the narcotics trafficker;
- 5) The exporter would deposit \$200,000 into his company bank account;
- 6) As an added bonus to scheme, the exporter would receive a six percent export incentive from Latin American government ( $\$200,000 \times 6\% = \$12,000$ );
- 7) The exporter wire transferred the \$100,000 to other bank accounts as requested by the narcotics traffickers; and,
- 8) In time, the exporter would receive more narco-dollars than he had shrimp for export and he began to ship containers of ice detected by U.S. Customs as a false entry.

**MISDESCRIPTION OF IMPORTED GOODS:** Similar to the false invoicing/overvaluation scheme is the misdescription of goods. A misdescription of the quality of an imported commodity would

allow the low quality product to be invoiced as a high quality product, thereby providing a cover for unexplained funds. Subsequently, large amounts of narco-dollars are delivered to the importing entity who in turn exports the cash from the United States declaring it as the proceeds from the sale of the overvalued product, thus legitimizing the exported cash for subsequent deposit into the international banking system.

#### Precious Metals Example

An illustration of how money can be laundered through international trade transactions was uncovered during a recent Customs investigation involving imports of precious metals into the United States. This investigation revealed that importers and domestic traders of gold bullion falsified the value of gold they imported into the United States to legitimize the flow of cash out of the United States. The scheme worked as follows:

- 1) Couriers delivered narco-dollars to a gold dealer;
- 2) The gold dealer then set up a fraudulent import of gold from a country in South America;
- 3) The gold dealer actually imported low grade gold ore (which contains only a small percentage of gold) into the United States and declared it as high grade raw gold (there is no tariff on raw gold so declaring a higher price did not result in any import duties);
- 4) Phony invoices requesting payment for the gold at an inflated price were generated providing cover for the dealer to courier the narco-dollars to South America as the proceeds from the sale of high grade gold;
- 5) The couriers physically transported the cash from the United States to South America, filing a CMIR showing that the money was in payment for an import of gold (money carried out equaled the value of gold imported);
- 6) As the scheme progressed, lead disguised as gold was imported as gold bullion. Eventually nothing was imported while false documentation was created showing importations of gold and other precious metals.

It is estimated that this laundering network moved criminal proceeds of \$30 million per month. During November 1991, approximately 140 bank accounts, containing approximately \$6.6 million, were seized in Miami. Several targets of this investigation fled the United States and are currently fugitives.

**CURRENCY SMUGGLING THROUGH INTERNATIONAL COMMERCE:** Money launderers physically transport bulk currency out of the United States for deposit in banks in countries with unregulated banking industries (i.e. Panama, Cayman Islands). Customs has focused its efforts on interdicting and investigating currency concealed in outbound shipments of air and sea cargo by the Outbound Enforcement Program.

Outbound Enforcement Teams have been established, consisting of special agents, inspectors, analysts, intelligence research specialists, canine enforcement officers, and National Guardsmen in those locations where risk has been determined to exist.

Three recent cases illustrate the quantities of cash involved in currency smuggling, the technique used, and the method used.

- An outbound currency interdiction team, conducting an examination of cargo in a warehouse near Miami airport, discovered currency concealed in air compressors readied for export. The team also discovered a separate shipment of speakers with currency secreted inside. The currency from the two seizures totaled \$5.2 million. An investigation led to two seizures, worth an additional \$5.2 million, at a different warehouse. And another related seizure, worth \$2.6 million was made by an inspector who recognized similarities in cargo and shipment methods. The total of the seizures was \$13 million.
- During July 1994, Customs inspectors were conducting an examination of cargo in a warehouse in Miami. Examination by a mobile x-ray van revealed small bundles concealed within ten rolls of fiberglass wallpaper. Further examination revealed U.S. currency totaling more than \$1.6 million.

- Customs inspectors in Newark seized over \$7.1 million from two 20-foot containers loaded with dried peas on board a vessel destined for Colombia. The violator, a packing and shipping company, had freshly painted each container to conceal the false front walls. A subsequent investigation by special agents led to the seizure of an additional \$4 million.

**Q17. Are professional trade associations providing any assistance to Customs in its efforts to keep international trade operations free of international criminal activity? If so, please explain the type of assistance. If not, why not?**

**ANSWER:** Professional trade associations are providing assistance to U.S. Customs to enhance the movement of legitimate cargo while bolstering our enforcement posture. The Carrier Initiative Program, established in 1984, is a joint effort among air and sea carriers in which the carriers and U.S. Customs agree to work together to confront the issues associated with drug smuggling. To date, 105 air and 2,870 sea carriers have signed up for the program, which encourages carriers to improve their security practices in preventing narcotics from getting onboard their conveyances.

In FY95 alone, air and sea carriers intercepted 41,690 pounds of narcotics in foreign countries and provided U.S. Customs with information that led to the seizure of an additional 13,055 pounds of narcotics in the United States.

The Land Border Carrier Initiative Program (LBCIP) was developed in the spring of 1995 to address the threat of drug smuggling along the Southwest Border, and to enlist the support of the land border carriers in the campaign against drugs. The purpose of the LBCIP is to deter smugglers of illegal drugs from using land border commercial conveyances to transport their contraband, to provide carriers with incentives to improve their own cargo terminal and conveyance security as well as

to enhance their awareness of drug smuggling, and to encourage carriers to recognize and report suspected illegal activities to U.S. Customs. As of July 1996, over 648 land border carriers have signed agreements with U.S. Customs.

Initiated in March 1996, the Business Anti-Smuggling Coalition (BASC) is a business-led, Customs-supported alliance created to combat narcotic smuggling via commercial trade. As a voluntary program for businesses, with no Customs-imposed mandates, corporate participants will be expected to set self-imposed business standards that will significantly deter narcotics traffickers. The ultimate objective of the BASC is to eliminate the use of legitimate business shipments by narcotics traffickers to smuggle illicit drugs.

The BASC is currently being prototyped at the ports of San Diego and Miami. Mattel and 32 other companies in San Diego, as well as Sara Lee and other businesses in Miami, have been identified to work with Customs in developing the program. Mattel, the leader of the BASC in southern California, has already developed a comprehensive anti-drug program that has been incorporated into their daily business practices.

The ideology of BASC is to examine the entire process of manufacturing and shipping merchandise from foreign countries to the United States, emphasizing the creation of a more security-conscious environment at foreign manufacturing plants to eliminate, or at least reduce, product vulnerability to narcotics smuggling. By examining packing and shipping practices and identifying and correcting deficiencies along the spectrum of the import process, businesses can reduce their exposure to the likelihood their shipments will be used as narcotics smuggling vehicles.

Q18. What regulatory authority does Customs have over the international trade community that helps to keep undesirable criminal elements out? For example, with regards to customs brokers, sea and air cargo transport companies, and domestic freight forwarders, how can you assure us that you are protecting the American public and legitimate business operations by keeping out the well-organized and well-financed organized crime groups that have targeted our lucrative international market? How closely do your investigative personnel work with other law enforcement agencies in this regard? Are there any legal impediments to working closely with state and local law enforcement agencies in this area? If so, what steps would you recommend to support your responsibility to keep these areas free of the criminal element?

ANSWER: With regard to customs brokers, 19 U.S.C. 1641 provides that before granting an individual a customs broker license, the Secretary may require an applicant to show any facts deemed necessary to establish that the applicant is of good moral character. Before granting a license, an extensive background investigation is conducted, including a financial background and an FBI criminal records check. The FBI criminal data base used for this purpose is a repository which receives input from Federal, State, and local law enforcement regarding arrests, dismissals, convictions and prison sentences. At the same time, this query performs a check of current wants and warrants through the NCIC (national checks) and NLETS (state and local checks) data bases.

In a recent case, Customs denied a license to an applicant who was related to a reputed organized crime figure. The applicant appealed the denial first to Treasury and then to the Court of International Trade. Customs action was upheld at all appeal levels and the license was not issued.

On an application by a corporation, partnership or association, each officer, partner, member and principal undergoes the same individual background

check. These checks are, of course, fundamentally dependent on the companies providing valid information. The private carriers and companies should be mandated to require "valid" identification of employees so that thorough background checks can be completed by law enforcement.

Customs works very closely with other Federal, State and local level law enforcement agencies in attempting to keep the undesirable criminal element from utilizing legitimate commerce as cover. As described above, the means of sharing information are well established and work exceedingly well both for domestic and international queries. These checks serve two critical purposes. The first, as mentioned, protects legitimate companies from infiltration by organized smuggling and money laundering organizations. Second, these procedures often lead to criminal investigations of individual and/or organizations involved in internal smuggling conspiracies.

Customs Services Office of Investigations focuses it's investigative efforts at organized criminal activity. In doing so, the well proven investigative practices of informant development and undercover operations are successfully employed. Also, Customs enthusiastically participates in the many Federal, State, and local task forces (e.g., OCEDEF, HIDTA, Operation Alliance, etc) around the country that combine the unique expertise and talents of participating agencies.

Success in these efforts depend largely on the cooperation of the legitimate trade community, particularly their corporate security elements. Earlier this year Customs, working with key leaders in the trade community, developed the Business Anti-Smuggling Coalition (BASC). BASC, an exciting new cooperative effort between business and government, seeks to institutionalize sound security practices throughout the trade community. Among other things, BASC members will be conducting pre-employment background checks on employees in sensitive positions. Unlike our licensing checks, BASC members will be

performing checks on employees assigned to positions like shipping and receiving, dock loading, and security. These positions are far more likely to be contaminated than corporate executive positions.

Customs would welcome the opportunity to brief you on this exciting new approach.

**Q19. What are the estimates of the percentage of drugs smuggled in commercial cargo?**

**ANSWER:** Drug traffickers are using a wide variety of methods to smuggle narcotics into the United States. Smugglers have reacted to the increased narcotics interdiction efforts enacted by the Customs Service through Operation HARD LINE by changing concealment methods.

Within the commercial cargo environment, extra boxes and substitute boxes are often used, as well as compartments within the items being shipped. These compartments can be as small as the handle on a pocket knife to as large as a commercial electrical transformer. Another unique way to smuggle is to make the product with the actual narcotics. Two examples of this would be to use liquid cocaine and mix it with frozen fruit pulp; or mix cocaine with plastic and mold an object such as a plastic gear or a plastic dog kennel out of the plastic/cocaine mix. Recent intelligence indicates that smuggling organizations are utilizing deeper concealment methods within the actual commodities being shipped and are utilizing hard to examine cargo (i.e., frozen fruit and vegetables, transformers, etc.) to smuggle narcotics into the United States. Additionally, the commercial conveyances that transport the cargo are used in many ways. The truck cab and/or the trailer/container can be used. Gas tanks, tires, air tanks, sleeper compartments, battery boxes, air cleaners and false compartments have all been used. In trailers, false floors, walls and roofs are frequently used for large loads. Commercial aircraft are frequently used to transport large loads of narcotics within the airframe



structure. Recent seizures have been made within the cockpit, bathrooms, air vents, and in natural voids within the wing and tail structure. People entering the U.S. continue to swallow, stuff, and body carry narcotics as well as use compartments in their luggage to smuggle drugs. Private aircraft and pleasure vessels are occasionally used to smuggle narcotics into U.S. ports of entry.

Smuggling organizations continue to use existing and hidden compartments in cars, trucks and RV's. These attempts can be as simple as filling the trunk of an automobile with 600 pounds of narcotics or as sophisticated as an electronically controlled trap door on a professionally built compartment. Narcotics are hidden in automobiles in the dashboard, under, inside, and behind seats, in false floors and roofs, in tires, fenders, and the engine compartment, and even in the drive shaft. Port runners crash through the port to avoid inspection.

Although it is difficult to quantify the percentage of drugs that are smuggled in commercial cargo, current data indicates that the Customs Service has made 41.3 percent of all cocaine seizures (by total weight) in commercial cargo for FY96 to date, as indicated in Question 9. The average percentage of cocaine seized in commercial cargo (by total weight) from FY92 to FY96 to date is 34.7 percent.

**Q20. In addition to Operation Hard Line, what is Customs doing to disrupt and dismantle the drug smuggling operations of major Mexican traffickers?**

**ANSWER:** Customs employees are formed into targeting and intelligence units (CARIT, ICAT, MIT) that constantly review commercial documentation and research information in various databases. At the largest ports these cross-functional teams are made up of agents, intelligence analysts and inspectors to identify targets and provide employees with up to the minute information on smuggling threats.

Later this year, we will place a prototype, advanced Automated Targeting System (ATS) at selected high-risk ports of entry. This system will be rule-based with artificial intelligence principles. Commercial transactions will be compared against approximately 300 rules developed by field personnel, inspectors and analysts in order to separate high-risk shipments from legitimate ones.

Customs has several automated cargo processing initiatives in place to identify high-risk shipments. The Cargo Selectivity module within our Automated Commercial System (ACS) facilitates low-risk shipments and targets high-risk and trade sensitive imports for examination. Criteria within the system are initiated by national and local based analysts. Criteria elements are based on referrals from inspectors, import specialists, or agents, or may be based on seizure or discrepancy activity at the ports.

The Three-Tier Targeting System provides a uniform targeting system on the Southwest Border that stratifies cargo shipments according to their narcotic risk. Through intensive research we identify cargo shipments which bear little narcotics risk "Tier 1"; high narcotics risk "Tier 3" and those companies we do not have enough information to identify them as either Tier 1 or 3 "Tier 2".

**Q21. A recent L.A. Times piece on holes in detection, monitoring and interdiction indicates that new x-ray technology cannot penetrate densely packed cargo.**

**How accurate is this statement? What measures are you taking if this is correct?**

**ANSWER:** The statement is incorrect. Technology has existed for several years now that can penetrate virtually all standard sea, land or air cargo shipments with transmission x-rays. It requires x-ray energies in the order of millions of electron volts (MeV), and is very expensive to purchase, install and operate. France,

Germany and China are now using such systems, and the concept was successfully demonstrated by DoD/ARPA in this country in 1994. The results are mixed. The high costs, on the order of \$12-\$15 million to purchase and over \$5 million per year to operate, plus the attendant safety concerns related with high energy radiation, were considered to be inconsistent with the interdiction strategy being developed at that time. A key factor in the strategy was the need to deploy x-ray systems at many land, air and sea ports of entry. The risk of the investment did not justify the cost.

A second, lower energy x-ray system was also being developed by DoD/ARPA at that time, which delivered 450 thousand electron volts (KeV). This system was designed to examine empty trucks and tankers, costs \$3.3 million to purchase and install, and \$2 million annually to operate. Nearly 50 percent of the trucks crossing into the United States from Mexico are empty and have posed a significant smuggling threat for years. The system uses "backscatter" technology for imaging targets as well as the standard transmission images. The system can also inspect lightly loaded trailers and the conveyances themselves. From a safety viewpoint, this system is considered a "cabinet" x-ray, which significantly reduces the radiation safety concerns. The first of these truck x-ray systems is currently installed at the Otay Mesa cargo facility near San Diego, California. This single system is responsible for over a hundred drug seizures over the past 23 months of operation. Funding for four more of these systems has been obtained through special Customs appropriations. The first of these new systems is due to open in February 1997 at Calexico, California. As an observation, it may be these systems to which the L.A. Times article was referring.

The need for examining fully loaded cargo pallets and containers remains. Two systems are under development with the support of DoD to address this issue. The first is a 1 MeV system that will be able to see through a fully loaded 5' X 5' X 6' pallet loaded with cargo. A prototype system is scheduled for delivery

and testing in March 1997. A 2 MeV system designed for fully loaded trucks is expected to be tested in February 1998. Both of these systems employ the backscatter technology.

As a footnote, other high energy technologies such as gamma ray imaging systems and pulsed fast neutron analysis are being monitored for potential application to the examination of cargo containers. To date, the costs, safety concerns and development risk of these systems have kept them out of serious contention.

**Q22.** What more do we need to do to close money laundering loopholes? The following countries have been identified as "high priority" money laundering areas whose financial systems are most likely to be penetrated by international money laundering organizations: Aruba, Canada, Cayman Islands, Colombia, Germany, Hong Kong, Italy, Mexico, Netherlands, Netherlands, Antilles, Nigeria, Panama, Russia, Singapore, Switzerland, Thailand, Turkey, United Kingdom, United States, and Venezuela.

What actions are the Treasury Department, Customs Service, and FincEN taking to reduce the threat of money laundering from these areas?

**ANSWER:** The Customs Service is increasing inspection of foreign-bound packages to curb the flow of outbound currency, in conjunction with the intensive scrutiny which it places on outbound cargo. Significant seizures of outbound currency are increasing in numbers as a result of this aggressive posture. In addition, the recent regulations which were passed affecting foreign bank drafts has a substantial impact on closing some of these loopholes.

The Treasury Department, Customs Service and FincEN are all active participants in the Financial Action Task Force (FATF), and support the 40 recommendations set forth by the FATF and its 26 member nations to curb this activity.

**Q23. What can you tell us about methamphetamine production in Mexico and trafficking from Mexico? Is Customs receiving adequate intelligence regarding the smuggling of methamphetamine to support interdiction efforts along the Southwest Border?**

The Customs Service continues both an aggressive and cooperative interdictive and investigative effort to combat the escalating international movement of methamphetamine (meth) and pre-cursor chemicals essential in the production of this illicit drug. Seizures of methamphetamine by the Customs Service do not necessarily support the perception of meth as a major "border issue." However, information and intelligence generated by Customs and provided to Customs by other agencies indicates that there are a number of Mexican drug organizations that are now smuggling large quantities of meth into the U.S. An analysis conducted by the Office of Investigations, Field Operations and the Intelligence Unit indicates that there are a limited number of current investigations and/or significant seizures of methamphetamine. However, there are a number of ongoing intelligence efforts aimed at identifying the smuggling organizations and smuggling methodologies. At this time, Southern California appears to be the primary area of activity with Texas as a lesser location.

**Q24. Since inadequacies in Mexican anti-money laundering laws seem to make that country an ideal haven for illicit cash originating in the United States, what action has the Customs Service taken to close off access to Mexico for shipments of currency?**

**ANSWER:** The Customs Service, working through FINCEN, has proposed to amend the regulations implementing the statute generally referred to as the Bank Secrecy Act. This amendment would include instruments drawn by foreign financial institutions on accounts in the

United States, which fall within the definition of monetary instruments for purposes of this requirement.

Q25. In Customs' FY 97 Congressional Budget submission it is stated that there are two money laundering objectives for Inspection and Control namely: I. Enhance Information Gathering and Outreach; enhance information gathering processes and expand information outreach to identify and target international money laundering organizations. II. Enhance Interdiction Efforts; enhance the interdiction of cross-border movements of currency at the domestic and international level.

Would you explain how Customs Inspectors who are busy inspecting passenger and cargo will have the time to divert their energies in order to meet objective number 1?

ANSWER: A main objective of the Outbound Process is to ensure compliance with the reporting of U.S. currency and monetary instruments over \$10,000 upon exiting the United States. An integral part of outbound inspections is to ensure that outbound passengers and cargo are in compliance with U.S. export currency laws. Logistically, the Customs inspector is the last line of defense to interdict the illegal exportation of currency and monetary instruments exiting the United States, however, other disciplines within Customs such as Office of Investigations and Headquarters personnel provide the support by enhancing information gathering processes and conducting outreach programs in an effort to assist inspectors in the identification and targeting of international money laundering organizations.

The Office of Investigations works closely with Customs inspectors by providing intelligence of suspected money launderers and information derived from investigations. Currently, the Office of Field Operations is working jointly with the Office of Investigations to enhance the Currency and Monetary Instruments Reporting

automated system to capture the filing of currency declarations that were "forced" (i.e., declarations that would have not been filed if not for the Customs Inspector's questioning). This will enable the system to detect possible future violators.

The Office of Investigations educates manufacturers, exporters, financial institutions, and transportation industries on money laundering and currency reporting requirements through outreach programs, Project Gemini and FOUR-TUNE 500. Money laundering information is available to Customs inspectors through the Treasury Enforcement Communication System. Investigators also attain information through interaction and training with foreign law enforcement, prosecutors, judges, and legislators through domestic and anti-money laundering awareness seminars.

The Outbound Process is currently field testing the Automated Export System (AES) at five seaport locations, soon to be expanded to all seaports. This automated system, currently available to exporters on a voluntary basis, requires shippers to present cargo export information prior to departure. The AES will provide automated information that will assist in the targeting of high risk cargo for undeclared currency. Headquarters personnel have also educated trade groups on export and currency reporting requirements through various outreach programs and are also conducting outreach programs to increase the exporting community's participation in AES. Headquarters has also provided the field with a Currency and Monetary Instruments Reporting handbook that provides national guidance in planning or conducting outbound currency interdiction efforts.

**The achievement of objective number 2 should be greatly encouraged, especially on the Southwest Border. How do you plan to proceed with objective number 2 on the Southwest Border?**

**ANSWER:** The Outbound Process has taken steps to disrupt money laundering operations by enhancing its efforts to

interdict the illegal export of currency along the southwest border. The Ports of Brownsville and Hidalgo are designated Outbound Prototype Ports (OBPP). The OBPP are designed to conduct outbound operations on a permanent basis. Existing resources are augmented with force multipliers (state/local police), and the use of technology (Currency K-9's, busters, and x-ray systems). A Currency K-9 will be utilized and joint task forces with state/local police will be established. The OBPP will serve as a test bed for new and innovative techniques and strategies that can disrupt currency smuggling operations.

Annually, the Department of Treasury makes available State/Local Forfeiture Funds to pay overtime salaries of state/local personnel. State/local officers are trained in currency laws, border search authority, and are cross designated to conduct outbound examinations. Over \$800,000 of the \$1 million fund has been allocated to the Southwest Border in FY96. The Port of Otay Mesa is currently testing automated License Plate Readers (LPR) on outbound primary lanes. These automated LPR systems can assist in the interdiction of illegal currency by providing inspectors with information of suspected money launderers, depicting trends, and for capturing historical information. Approximately \$2.7 million will be spent in the near future to expand the LPR system from San Diego to San Luis, Arizona.

Q26.

In Customs' FY97 Congressional Budget submission it is stated that one of the money laundering objectives of your Enforcement Activity is as follows: III. Enhance Investigations: Enhance the investigative process by implementing a nationwide Asset Removal Program, develop strategies to improve overt and covert investigations, and request legislation designed to improve Customs' ability to combat money laundering.

**Explain your Asset Removal Program.**

ANSWER:

In 1994, the Office of Investigations initiated the Asset Identification and Removal Program. The program has been expanded since its inception, and currently



there are 15 Asset Identification and Removal Groups (AIRGs) located in SAC offices throughout the U.S. By developing an expertise in this complex area of investigation, the AIRG's have not only improved upon the number and value of seizures, but have done so in a more efficient and cost effective manner. By leaving the complex task of tracking and seizing assets to these highly specialized groups, investigators are allowed to devote their full attention to investigating the primary unlawful activity.

**Does your FY97 budget submission include adequate resources for implementation of a nationwide asset removal program that it is assumed would target the proceeds of international criminal activity?**

ANSWER: Funding requests for FY97 may allow for some moderate expansion of the program domestically.

**Would this program include an overseas component? If so, how would it work?**

ANSWER: While our foreign offices are aware of and promote the concept of asset identification and forfeiture, the program at present does not have a formal overseas component.

**What strategies would you employ to improve your covert and covert money laundering investigations?**

ANSWER: Customs is currently updating its covert money laundering strategy to strengthen its infrastructure so more complex investigations can be accomplished. Moreover, in cooperation with FinCEN we are moving to coordinate real time intelligence between operations nationwide so that we are more effective and efficient.

**How successful have your covert money laundering investigations been? Have they allowed you the opportunity to infiltrate kingpin organizations? If so, which ones?**

ANSWER: Financial crimes undercover operations have, since 1988, resulted in the seizure of more than \$653 million

in cash and monetary instruments. The aforementioned undercover operations have also produced some 1,975 arrests and the seizure of 37,060 kilograms of cocaine. The two largest single seizures of cash in the history of Federal law enforcement were made as a result of Customs undercover operations Casacam in Miami (\$22,000,000) and Omega in Los Angeles (\$19,000,000). Moreover, it was Customs undercover operations that first exposed the criminal money laundering activities of both the Bank of Credit and Commerce International (BCCI) and American Express Bank International (AEBI).

Operation Choza Rica, launched by Customs Special Agents in McAllen, Texas uncovered and subsequently dismantled a major Mexican money laundering network along the Southwest border. This intricate web involved Mexican Casas de Cambio and established banks in the United States and Switzerland. In a series of criminal indictments, managing directors of several major Mexican Casas de Cambio and U.S. Banks to include American Express Bank International, First City Bank, Lone Star National Bank, and International Bank of Commerce were indicted for laundering money for the Juan Garcia-Abrego cocaine smuggling organization. In excess of \$37 million in cash and other assets were seized in this investigation. The Treasury Department levied the largest penalty ever assessed against a U.S. financial institution (American Express) for money laundering based on the Customs investigation.

**What results have your covert money laundering investigations yielded, from 1991 to the present (per calendar year) in terms of arrests, indictments, convictions, drugs seized and money seized?**

**ANSWER:** Over the last six years, Customs' covert money laundering investigations have resulted in the seizure of approximately \$655 million in cash, the arrest of 1,975 individuals, 1,042 indictments, and the seizure of 37,060 kilograms of cocaine and associated assets valued at over \$11 million.

**What type of legislation would be required in order to help you to improve in your ability to combat money laundering?**

**ANSWER:** The abuse of the U.S. mail to export currency and checks derived from narcotics trafficking and other crimes is a significant problem. Customs has the authority to conduct warrantless searches at the borders on all packages, vehicles, persons, and envelopes both entering and leaving the U.S. Because of a conflict in the postal regulations, Customs is unable to search outbound letter class mail. Attempts to resolve this issue have largely been unsuccessful. Legislation is needed to clarify Customs border search authority, as it applies to outbound mail, so that we can conduct efficient and effective interdiction operations at the border.

**Q27.** **Operation Hard Line calls for the redeployment of Customs enforcement resources from some ports around the U.S. to the Southwest Border. How will this be achieved? How many inspectors and agents will be transferred to the Southwest Border and where will they be taken from?**

**ANSWER:** In FY95 and FY96 combined, 190 additional special agents have been assigned to Southwest Border offices. Of the total, 114 were reassigned from other offices and 76 were newly appointed special agents.

**What ratio of inspectors to criminal investigators does the Customs Service use when figuring out the proper complement of each, so that all interdiction activities result in the proper follow-up for the purposes of effective criminal prosecution?**

**ANSWER:** Customs does not use a ratio of inspectors to criminal investigators to determine staffing requirements. The volume and type of work which requires investigative follow-up is what determines the number of agents in various locations, not the number of inspectors.

**Will intelligence and support personnel also be transferred in support of this initiative?**

**ANSWER:** Yes, approximately nine intelligence specialists and two secretaries will be or already have been transferred in support of this initiative.

**How many positions have already been transferred to the Southwest Border and where were they transferred from? (Breakdown by position)**

**ANSWER:** Please see the attachment which lists where personnel were located previously and where they were transferred to.

**Is there a schedule for the transfer of resources to the Southwest Border? When will the redeployment of resources to the Southwest Border be complete?**

**ANSWER:** In FY95 and FY96 combined, 190 additional special agents have been assigned to the Southwest Border. Of the total, 114 were reassigned from other offices and 76 were newly appointed special agents.

In FY97, it is not anticipated that the Customs Service will be transferring as many agents to the Southwest Border as in previous years. However, we do anticipate recruiting to fill additional agent positions for Southwest Border offices during FY97. With the transfer of experienced agents over the past several years and the recruitment of new special agents, we believe that the staffing levels of our Southwest Border offices are stable. However, if in the future there is a noticeable increase in the incidence of major narcotics smuggling activity on the Southwest Border, we will readdress the staffing needs of those offices.

**What costs have been and will be incurred by Customs to complete this task?**

**Previous Location -- S.W. Border Location**

1. Miami, FL -- RAC Douglas, TX
2. Headquarters -- SAC Tucson, AZ
3. RAC Sterling, VA -- RAC Sells, AZ
4. Puerto Rico Air Branch -- SAC El Paso, TX
5. SAC Miami, FL -- El Paso, TX
6. RAC Indianapolis, IN -- El Centro, CA
7. Headquarters -- Nogales, AZ
8. Puerto Rico Air Branch/El Paso Air, TX
9. SAC New York -- RAC Nogales, AZ
10. SAC Houston, TX -- RAC Nogales, AZ
11. SAC Houston, TX -- SAC El Paso, TX
12. RAC Blaine, WA -- RAC Las Cruces, NM
13. RAC Columbia, SC -- SAC Tucson, AZ
14. Caracas, Venezuela -- RAC Laredo, TX
15. SAC Tucson, AZ -- RAC Yuma, AZ
16. RAC Honolulu -- SAC Tucson, AZ
17. RAC Norfolk, VA /RAC Sells, AZ
18. RAC Falcon Dam, TX -- RAC Del Rio, TX
19. Headquarters -- SAC San Antonio, TX
20. RAC Norfolk, VA -- RAC Yuma, AZ
21. RAC Birmingham -- SAC San Diego, CA
22. RAC Lafayette, LA -- RAC Del Rio, TX
23. RAC Savannah -- RAC McAllen, TX
24. SAC San Antonio -- RAC McAllen, TX
25. Puerto Rico Air Branch/El Paso Air Branch, TX
26. SAC Boston, MA -- SAC San Diego, CA
27. RAC Las Vegas, NV -- SAC San Diego, CA
28. SAC Miami, FL -- RAC Yuma, AZ
29. SAC Boston, MA -- SAC San Diego, CA
30. RAC Port Arthur, TX -- SAC El Paso, TX
31. RAC Port Arthur, TX -- RAC Las Cruces, NM
32. SAC Chicago, IL -- RAC San Ysidro, NM
33. SAC El Paso, TX -- SAC San Antonio, TX
34. Headquarters -- RAC Douglas, AZ
35. RAC Laredo, TX -- RAC Douglas, AZ
36. RAC Cleveland, OH -- SAC San Diego, CA
37. SAC San Francisco, CA -- RAC Las Cruces, NM
38. RAC Dallas, TX -- RAC San Ysidro, CA
39. RAC Key West, FL -- SAC El Paso, TX
40. Mexico City, Mexico -- SAC San Antonio, TX
41. RAC Corpus Christi, TX -- SAC San Diego, TX
42. SAC Detroit, MI -- RAC Douglas, AZ

43. SAC Atlanta, GA -- RAC San Ysidro, CA
44. RAC Sterling, VA -- RAC San Ysidro, CA
45. SAC New Orleans, LA -- RAC San Ysidro, CA
46. Riverside, CA (AIR) -- SAC San Diego, CA
47. Miami, FL (AIR) -- RAC San Ysidro, CA
48. SAC Los Angeles, CA -- RAC San Ysidro, CA
49. Houston, TX (AIR) -- RAC El Centro, CA
50. Tampa, FL (AIR) -- RAC San Ysidro, CA
51. Headquarters -- RAC San Ysidro, CA
52. SAC Houston, TX -- RAC Las Cruces, NM
53. Ft. Leonard Wood, MO -- San Ysidro, CA
54. Kirtland AFB, NM -- El Paso, TX
55. RAC Phoenix, AZ -- Del Rio, TX
56. RAC Phoenix, AZ -- Douglas, TX
57. Erin, NV -- El Paso, TX
58. SAC Houston, TX -- El Paso, TX
59. Panama City, FL/San Ysidro, CA
60. Oxford, MS -- McAllen, TX
61. RAC Great Falls, MT /Deming, NM
62. RAC Eagle Pass, TX -- McAllen, TX
63. SAC Tampa, FL -- San Diego, CA
64. Tucson, AZ (AIR) -- Yuma, AZ
65. SAC New York -- McAllen, TX
66. SAC Detroit, MI -- Yuma, AZ
67. Houston Air -- Laredo, TX
68. Long Beach, CA -- El Centro, CA
69. East Key West, FL -- Laredo, TX
70. SAC San Juan, Puerto Rico -- Nogales, AZ
71. AIU, LA/Long Beach, CA -- Laredo, TX
72. SAC Detroit, MI -- Nogales, AZ
73. Oxford, MS -- El Paso, TX
74. SAC San Francisco, CA -- San Ysidro, CA
75. Headquarters -- Laredo, TX
76. Fallon, NV -- Laredo, TX
77. SAC Houston, TX -- Nogales, AZ
78. RAC Salt Lake, UT -- San Ysidro, CA
79. New Orleans Air Branch -- Yuma, AZ
80. Houston, TX (AIR) -- Laredo, TX
81. SAC Boston, MA -- San Ysidro, CA
82. DSAG JFK Airport -- Nogales, AZ
83. Ft. Myer, FL -- Calexico, CA
84. SAC Denver -- San Ysidro, CA
85. SAC West Palm Beach, FL -- San Ysidro, CA
86. SAC New Orleans -- Calexico, CA

87. SAC New Orleans -- Calexico, CA
88. SAC Sterling, VA -- Las Cruces, NM
89. SAC Tampa, FL -- Las Cruces, NM
90. SAC New Jersey -- El Paso, TX
91. Miami, FL -- Yuma, AZ
93. Beijing, China -- San Ysidro, CA
94. RAC Sarasota, FL -- Nogales, AZ
95. RAC Sarasota, FL -- McAllen, TX
96. SAC Miami, FL -- El Paso, TX
97. SAC Houston, TX -- El Paso, TX
98. SAC Lafayette, LA -- SanYsidro, CA
99. SAC Miami, FL -- Las Cruces, NM
100. SAC New Orleans -- McAllen, TX
101. SAC New Orleans -- Brownsville, TX
102. TIB Fallon, NV -- Calexico, CA
103. Headquarters -- Nogales, AZ
104. SAC Beaumont, TX -- El Paso, TX
105. New York -- McAllen, TX
106. SAC Miami, FL -- Nogales, AZ
107. Phoenix, AZ -- Douglas, AZ
108. Headquarters -- Las Cruces, NM
109. Bonn, Germany -- El Paso, TX
110. CNAC Oklahoma City, OK -- El Paso, TX
111. Headquarters -- Douglas, TX
112. RAC Lafayette, LA -- San Ysidro, CA
113. Miami, FL -- Brownsville, TX
114. Miami, FL -- Brownsville, TX

ANSWER: The relocation of agents to the Southwest Border will be the primary cost which Customs will incur. In FY95, relocations cost \$6.3 million and in FY96, we estimate the cost to be \$5.1 million.

Q28. It is our understanding that since 1990, the Miami district has been scaled back by approximately 73 special agent positions, 16 marine enforcement officer positions and 14 intelligence positions.

Were these positions transferred to another region or to another Customs function or, were they lost due to a reduction in Customs' budget? If transferred, where were they transferred to?

ANSWER: The reductions in positions in the Office of the Special Agent in Charge Miami, since 1990, are a reflection of the overall downsizing that has taken place within all field offices. In addition, salary and benefits savings from a portion of the reductions have been utilized to fund critical infrastructure needs, such as vehicles, safety equipment, investigative support equipment and computers, that would otherwise have gone unfunded.

Were inspection resources also scaled back during the same period?

No, inspection resources were not scaled back in the Miami district during this time.

If the number of inspectors in Miami remained the same or were increased, how will Customs follow up on the interdiction activity of the inspection force, e.g., investigative follow up?

If the number of inspectors in Miami remains the same or increases, and the number of seizures by those inspectors increases, then the Office of Investigations will potentially experience an increase in the number of seizures that result in criminal investigations. When special agents are notified by inspectors of a seizure, they respond and evaluate the situation to



determine if a controlled delivery should be attempted or if other additional investigative case work is necessary. Special agents work together with inspectors to maintain secure borders.

**Q29. What can the United States do to better monitor money transfers to suspected money laundering countries like Panama and Mexico?**

**ANSWER:** This problem is being addressed in a number of ways. One of the easiest and most effective tools currently being used is the "know your customer" rule. This concept is covered by current regulations, and is mandatory on wire transfers as well. All wire transfers must now provide detailed information on the sending, as well as the receiving parties to a financial transaction, to include numeric identifiers on the individuals as well as account information on both ends of the transactions. Another extremely effective tool which is being used by U.S. authorities is the Suspicious Activity Reports (SAR's) being filed by financial institutions. These reports are available to law enforcement personnel, and are extremely effective in proactive targeting of money launderers.

**Q30. How has the increased truck traffic across the U.S./Mexican border been dealt with in regards to monitoring smuggling attempts? Have seizures and monitoring/intelligence efforts been able to keep up with the increased volume?**

**ANSWER:** The number of commercial truck arrivals along the Southwest Border is projected to exceed three million for FY96. In FY95, Customs inspected over 646,000 of the 2.8 million commercial conveyances on the Southwest Border, which is an examination rate of over 22 percent. There were 26 Southwest Border narcotics seizures in cargo shipments during FY95 totaling 15,664 pounds of cocaine and marijuana compared to 12 seizures in FY94 totaling 11,224 pounds. *So far in FY96, there have been 55 narcotics seizures in cargo shipments on the Southwest Border totaling over 39,600 pounds of cocaine and marijuana.* In FY96, Customs will

continue to develop and introduce new technologies and techniques to identify smuggled narcotics in commercial conveyances and force trafficking organizations to change to higher risk smuggling methods.

The level of scrutiny that Customs enforcement operations are subjected to by spotters employed by smuggling organizations has increased dramatically in the past few years. The President's FY97 budget includes an additional 657 inspectors, special agents and canine enforcement officers to address the increased trade volume, smuggling attempts, as well as spotter activity on the Southwest Border.

Additionally, the Customs Service has also addressed this "surveillance threat" by dedicating over \$1.5 million to deter spotter activity operating in and around the Southwest Border and high-risk sea ports of entry.

Funds dedicated to thwart spotter activity are being used to purchase and build opaque fencing, one way glass, counter-surveillance and recording equipment, walls, and barriers. Additionally, areas that are easily accessed by the public (pedestrian walkways and overpasses, public phones, bus stops, and taxi stands) are being reconfigured or moved to areas where the public can still gain access but cannot be utilized by spotters to surveil Customs enforcement operations.

Furthermore, information gained as a result of the joint counter-surveillance initiatives will be utilized by Intelligence Collection and Analysis Teams (ICAT's) and Special Agents to initiate investigations into the identification and detection of spotters and narcotic shipments entering the United States.

**Q31. How has NAFTA affected smuggling enforcement? Has the increased border traffic led to an increase in smuggling attempts? With the increased emphasis on trade, is there a corresponding increase in manpower to maintain anti-smuggling inspections at corresponding traffic levels?**

ANSWER: At the present time, NAFTA has not had an appreciable effect on drug smuggling along the Southwest Border. The Mexican smuggling organizations that operate in these areas have been in existence for a number of years. They continue to use a variety of smuggling methods to move their contraband into the United States. Mexican smuggling organizations use hidden compartments in cars, trucks and RV's; commercial conveyances and cargo; private aircraft; backpackers and four-wheel drive vehicles between the ports; port runners through the ports; tunnels under the border; and small boats around the border.

One would expect drug traffickers to switch methods, via the use of commercial cargo, if there was a perception that NAFTA rules and increased commercial traffic were overwhelming Customs. However, increased border traffic does not equate to increased smuggling.

While the traffickers are certainly using cargo to smuggle narcotics, just as they do at seaports and airports, they have not shifted away from other methods to focus their efforts on cargo smuggling simply as a result of NAFTA implementation.

Customs narcotics seizure statistics at Southwest Border ports of entry reveal only part of the story. Operation HARD LINE is now causing smugglers to once again look for other trafficking routes to get their illegal drugs into the United States. In FY95, there was a dramatic increase in the amount of narcotics seized along the Southwest Border in between the ports of entry, as well as around the border in the waters off of Brownsville, Texas, and San Diego, California.

Another indicator may be the recent increase in drug smuggling activity taking place in the Caribbean, particularly around Puerto Rico and in South Florida. In these areas drug seizures are up by 50 percent and almost 100 percent, respectively, over FY95 statistics.

Since 1988, the Customs Service has significantly increased its ability to handle the increased cargo

flow that was anticipated following ratification of NAFTA. The following shows Customs staffing levels for 1988 and 1995 on the Southwest border:

	<u>1988</u>	<u>1995</u>
Inspectors	1,100	1,620
Special Agents	158	415
Canine Teams	71	233
National Guard	0	161

In addition to this, the President's FY97 Budget includes a request for an additional 657 Customs positions and \$65 million for Operation HARD LINE. This increase in staffing (inspectors, agents, canine officers, and support staff) will allow Customs to fully support and maintain anti-smuggling inspections at our Southwest Border ports of entry.

**Q32. What type of support does the National Drug Intelligence Center (NDIC) provide to Customs law enforcement? What type of support could NDIC provide that would be more helpful in achieving your law enforcement mission?**

**ANSWER:** Customs and the National Drug Intelligence Center (NDIC) are in the final stages of signing and fully implementing an interagency agreement. Customs will provide four positions to the NDIC. The lack of a formal agreement has not impeded the establishing of an informal relationship between Customs and NDIC, which has included sharing of strategic intelligence. The NDIC will provide support to the Customs law enforcement mission in a number of ways including, but not limited to, areas such as strategic intelligence products and document exploitation.

**Q33. How effective is FinCEN in supplying the Customs Service with information regarding money laundering operations that use international trade facilities as a means of laundering or trafficking in illicit funds?**

ANSWER: FinCEN is very supportive of the Customs Service. They provide tactical and strategic intelligence support across a number of Customs program areas. In FY96, FinCEN processed in excess of 630 requests for tactical support. Customs has recently placed a full time liaison agent at FinCEN to better address our financial intelligence requirements. FinCEN has also co-located analysts in Customs field offices in New York and San Diego.

Customs is currently working with FinCEN on targeting money laundering schemes in international trade. Customs trade targeting data base, NIPS, is currently being compared against CTR and CMIR information obtained from FinCEN. The result will be the development of targets which disguise their money laundering activity via international trade.

Q34. **Apart from drug trafficking and money laundering, what other organized criminal activity poses the greatest threat to our trade industry in the Caribbean, Central America, and South America?**

ANSWER: One of the threats to our textile industry concerning the Caribbean, Central America, and South America pertains to the illegal transshipment of Chinese-origin textiles through countries located within these regions. Belize and Panama are two of the countries that have been used to front these illegal activities.

In addition, commercial activities by organized crime elements in the areas of concern have not been verified except on a very small scale. There are, however, three areas have been identified as most vulnerable:

- (1) Trafficking in stolen vehicles going to or transiting the areas of concern.
- (2) Dumping of goods and raw materials with the focus on oil products and ores.
- (3) The trafficking in hazardous waste and materials.

**Q35. Do most money laundering attempts come from individual or corporate accounts?**

**ANSWER:** The money launderers use whatever method is applicable to their particular technique. The goal of money launderers/laundrying organizations is to smuggle the illicit proceeds out of the U.S. and into a less regulated foreign banking system as a means to initiate the laundrying process. Some illicit proceeds which have been structured into U.S. bank accounts, eventually become monetary instruments placed into foreign financial institutions by using foreign trade zones, or will be repatriated to the U.S. for deposit as trade dollars. Eventually, smuggled dollars, and dollar-denominated monetary instruments are repatriated as legitimate dollars into the U.S. banking system.

The implementation of U.S. laws regarding cash transactions, physical transportations, and the targeting of the rogue financial institutions in the U.S. resulted in the use of non-bank financial services inside and outside the U.S. as a conduit for placing illicit proceeds into the world financial system. Currency exchanges, precious metal businesses, check cashing businesses, money remitters, and jewelry businesses all provide cash handling services which are exploited by money launders to place illicit proceeds into the world financial system. One international criminal organization (Cali Cartel/ Gamboa) established the combined money remitting, check cashing, and currency exchange business with affiliates in 29 countries, to include 10 States and Puerto Rico in the United States. The same international criminal organization laundered in excess of \$300 million through precious metal dealers and fraudulent gold importation schemes using a network of businesses in the U.S., Central and South America. Investigations involving the use of international commerce, such as converting illicit cash to commercial products for export to another country, subsequently converting the goods to funds traceable only to the commercial venture, have become more prevalent in the past year.

**Q36. Where do you feel the weak points are in the present anti-money laundering statutes? As transactions become increasingly electronic (electric money chips, etc.) how will current monitoring requirements hold up?**

**ANSWER:** Title 18, United States Code, Section 984 (Civil forfeiture of fungible property). This statute should not be limited to 1 year from the date of the offense, but should allow for forfeiture without time limitations since complex money laundering investigations can cover a historical period longer than 1 year.

**Q37. Technology is rapidly advancing, especially with the Internet. The creation of some kind of money exchange system through the Internet is being actively pursued by numerous entities.**

**What difficulties in monitoring does this pose?**

**ANSWER:** Digital currency systems create a myriad of problems for law enforcement agencies, inclusive of the Customs Service. The attributes of the e-cash payment system are significantly different than the current existing payment systems worldwide, presenting an enigma for the Customs Service. The current system incorporates a high degree of central bank control whereas with e-cash, there exists various national views, most specifically regarding control. In the current payment system, there exists a collection of examining and Customs mechanisms; monitoring and examining systems do not exist in the e-cash environment. Checks and currency are subject to reporting and/or record keeping requirements; the e-cash world incorporates a series of intangible electronic 0's and 1's (analog) with no such requirements. Banks now dominate wire transfers and are subject to record keeping requirements; e-cash uses personal computer transfers and is not subject to record keeping requirements. There now exists a set of serial numbers, bank records, and audit trails; e-cash removes these or encrypts them.

**What controls are presently in place?**

**ANSWER:** The Customs Service plays a major role in the suppression of money laundering worldwide. The Bank Secrecy Act (BSA) created reporting requirements for financial institutions and individuals; financial institutions are required to report the international transportation of currency and other monetary instruments over \$10,000. The Customs Service monitors and enforces the flow of currency and monetary instruments, and enforces the BSA and investigates international money laundering violations pursuant to the Money Laundering Control Act (MLCA). This enforcement effort relies on the record keeping of banks and non-bank financial institutions as required by the Bank Secrecy Act and implementing regulations, as well as the mandated reporting requirements.

**What controls will need to be established? How is the industry preparing for these new avenues of transactions?**

**ANSWER:** Digital currency transfers should be treated similar to wire transfers, removing the anonymity and requiring the establishment of an audit trail. These record keeping requirements must remain consistent with wire transfers regulations. A reporting system for transfers above threshold amounts might be explored, as this emerging e-cash system is developed and standardized. An effort should be made to attach an electronic audit trail to the e-cash, recording each transfer as it passes through the system. This electronic tracing record could be a legislated requirement.

**Q38. Major crime groups are increasingly able to penetrate banking operations either to launder money or defraud banks and businesses.**

**What steps are we taking to prevent this?**

**ANSWER:** A major step in this area was the implementation of the "know your customer" regulations. This is required in



wire transfers as well as personal transactions, and requires extensive identification of the individuals as well as account information. Wire transfers can no longer proceed with merely a phone call directing funds to be transferred from one numbered account to another. They must legally include a comprehensive amount of identifying data on both ends of the transactions.

**What more can be done?**

**ANSWER:** Increased emphasis on abolishing shell corporations, front companies, and off the shelf incorporations would assist in reducing the laundering of illicit funds through the banking system and unsuspecting businesses.

**What changes should we be thinking of for the future?**

**ANSWER:** Increased awareness and understanding of the emerging electronic cash system should be of paramount importance. The Customs Service is vigilant in this respect, realizing the potential to money launderers in the ability to effectively move large amounts of cash without leaving any paper trail which could be followed by law enforcement personnel.

**Q39.** Considering the wealth and power that is at the disposal of drug trafficking organizations, what are the chances that Caribbean nations can develop the investigative expertise that is necessary to challenge the money laundering schemes that these organizations can develop and employ?

**ANSWER:** Any nation can develop the investigative expertise that is necessary to investigate and prosecute money laundering crimes if they have the commitment to do so. Customs has provided training to law enforcement world wide and in so doing provided these officials with the tools to recognize money laundering, track the flow of illicit proceeds and monetary instruments, conduct and manage financial investigations, and develop the capacity to identify, seize and forfeit assets.

**Q40. There are many countries that still employ varying degrees of bank secrecy that make it difficult to establish "know your customer" procedures.**

**What do financial institutions need to do, apart from waiting for changes in government regulations, to police themselves and ensure the integrity of their banking systems?**

**ANSWER:** There will always be countries which are considered "Havens" because of the reluctance of their governments to enact reporting requirements, or strict identity guidelines. There will always be shell companies, off-the-shelf corporations, beneficial owners, and nominee owners of accounts which will prohibit law enforcement or regulatory officials from finding out the true owners of accounts. For this reason, Customs supports the Financial Action Task Force (FATF) and its attempt to gain acceptance from all countries in the implementation of the 40 recommendations they have drafted to prevent the use of the international banking system by the criminal element. As compliance with these guidelines becomes more prominent throughout the international banking communities, it is hoped that those governments which refuse to abide by the recommendations will feel the pressure from the FATF. In addition, this may cause them to lose their legitimate banking customers, forcing them to either close these institutions or subject themselves to the harsh scrutiny of not only the law enforcement communities worldwide, but from the regulatory and financial environments as well.

**Q41. What changes have you seen over the last few years regarding the methods that are used by money launderers who use banks to launder their money?**

**ANSWER:** The most significant change observed in the last few years is that financial institutions in the U.S. have become increasingly difficult for launderers to compromise regarding the deposit of currency. This is due to enforcement efforts, increased compliance of the

Bank Secrecy Act reporting requirements, and "Know Your Customer" policies adopted by the financial community.

Illegal proceeds entering the financial system from seemingly legitimate sources is on the increase. Front companies established solely to launder money, legitimate businesses infiltrated and/or corrupted by launderers, etc., are utilized to enter illegal proceeds into the system. The money is moved internationally via electronic transfer.

Currency exchange houses and other non-bank financial institutions continue to pose a tremendous liability for law enforcement. Loose compliance with reporting requirements, together with the commingling of illegal proceeds with legitimate funds transfers, makes this area particularly vulnerable to money launderers, particularly along border areas.

Correspondent bank accounts between foreign institutions and U.S. banks also present considerable frustration to law enforcement efforts. Foreign banks establish accounts with U.S. banks thereby providing their customers with many of the services usually available only to individual account holders. Deposits can be made and "drafts" issued by the foreign bank can be drawn off this account. Although BSA reports are still required for cash transactions, further scrutiny by law enforcement often leads to a foreign bank outside their jurisdiction.

Establishing and/or buying "banks" in off-shore bank haven countries is not uncommon, particularly for larger, more sophisticated launderers.

## MR. WEISE'S RESPONSES TO QUESTIONS FROM SENATOR MURKOWSKI

- Q1. Mr. Weise can you tell us what new initiatives Customs expects to undertake and what you expect them to accomplish during this coming year? Would you characterize the funding for these programs as adequate? How might you use additional funding?**

In FY97, Customs will continue its efforts on the Southwest Border and in Puerto Rico. The \$65 million request for FY97 is critical to Customs ability to strengthen the southern border of the United States from narcotic smugglers. We believe that if Customs receives full funding for the additional 657 permanent positions on the Southwest Border, along with the implementation of other HARD LINE elements, such as physical improvements to port facilities, acquisition of high technology devices, and Operation GATEWAY in Puerto Rico, we will be able to force narcotics traffickers to resort to more desperate, riskier smuggling methodologies. Any additional funding above our request would be used in furthering this objective.

- Q2. How would you characterize the level of cooperation among the numerous U.S. agencies involved in counter-drug efforts? What is the level of cooperation with local authorities, especially police departments?**

**ANSWER:** The Office of National Drug Control Policy (ONDCP) has designated a coordinator for interdiction efforts within the western hemisphere, up to but not including the borders of the United States, and directed that the coordinator will be advised by a committee of concerned agencies. For border interdiction efforts, the strategy establishes a federal goal of improving the efficiency of drug law enforcement interdiction and intelligence programs. Furthermore, these programs must be integrated with those of other Federal, State and local law enforcement entities. The resulting consolidated effort must seamlessly interface at the border with the international effort. With that in mind, in May 1994, the Office of National Drug Control Policy, established The Interdiction Committee (TIC).

The Interdiction Committee (TIC) is a collegial body of concerned federal agencies and organizations chartered to discuss and resolve issues related to interdiction coordination. It provides advice to the U.S. Interdiction Coordinator (USIC) in support of his role to oversee the adequacy and optimum use of federal interdiction assets and advise, as requested, the Counter-narcotics Interagency Working Group (IWG) in the development of programs to enhance interdiction efforts. In addition, TIC provides a forum for oversight coordination of all border interdiction efforts. TIC also promotes a seamless and effective integration of international, border, and domestic interdiction efforts in support of strategy goals.

Its membership serves as a collegial body of equals and consists of: the Commissioner of the U.S. Customs Service, the Department of Defense Drug Coordinator, the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, the Commandant of the U.S. Coast Guard, the Administrator of the Drug Enforcement Administration, the Commissioner of the U.S. Immigration and Naturalization Service, and the Director of Operations Joint Chiefs of Staff.

The Interdiction Committee provides an interagency forum for the resolution of interdiction issues and promotes interagency action and harmony through the exchange of interdiction related plans, policies, and strategies that support the goals of the National Drug Control Strategy. It also assists in the coordination of national interdiction strategies and processes with Federal, State, and local law enforcement agencies to: facilitate joint border interdiction initiatives; enhance cooperation and effectiveness; and, identify and eliminate duplication of effort.

## MR. WEISE'S RESPONSES TO QUESTIONS FROM SENATOR GRAHAM

Q1. It seems that there should be someone with an appropriate responsibility some place in the Executive Branch to be responsible for developing a budget that balanced our resources in terms of our objective of restraining drugs coming into the country and give to the Congress at least a benchmark in which we will be made aware that we are acting in such a manner. Do you think there is a need for such an oversight within the Executive Branch, and if so, where is it most appropriately placed?

We believe such oversight responsibility is necessary and resides with the Office of National Drug Control Policy.

Q2. There has been approximately a 50 percent increase in the volume of fresh fruits and vegetables coming across the Southwest border in the last three years. That has apparently created some additional opportunities for drug trafficking. What additional capacity, if any, is required in order to deal with that surge of activity across the Southwest border? Has this been requested?

ANSWER: Although the volume of commercial importations has risen within the last three years, e.g. since the passage of the North American Free Trade Agreement (NAFTA), increased border traffic does not equate to increased smuggling.

To accommodate the increase in traffic and trade volumes and the potential for increased narcotics smuggling on the Southwest border, U.S. Customs has:

- Increased truck dock space by approximately 600 percent by building new state of the art cargo facilities at Otay Mesa, California, and Brownsville, El Paso, Laredo, Pharr, and Los Indios, Texas. A new facility in Calexico, California, is tentatively set to open in November 1996. Many of these facilities can handle in excess of 10,000 trucks per day and include over

100 dock spaces for cargo/conveyance examinations. In addition, features such as HazMat containment/inspection areas, secure areas to segregate drivers, pallet x-rays, empty truck inspection facilities and areas allocated for truck x-ray systems increase Customs narcotics interdiction capabilities.

- Improved the ability of border inspectors to detect drugs in commercial shipments by using the Southwest Border HIDTA funding of just over \$11,000,000 since 1990 to purchase high-tech equipment such as pallet x-rays, x-ray vans, density meters, fiber-optics scopes, tools, and computers.
- Implemented several automated cargo processing initiatives in place to identify high risk shipments. The Cargo Selectivity within our Automated Commercial System (ACS) processes low risk shipments and targets high risk and trade sensitive imports for examination. Criteria within the system is developed by national and local based analysts. Criteria elements based on referrals from inspectors, import specialist, agents is based on seizure or discrepancy activity at the ports.
- Supported our automated systems by forming targeting/review units that constantly review the commercial documentation and research information in various databases. Cross-functional teams of agents, intelligence analysts and inspectors have been created at larger ports of entry to identify high risk shippers, importers, commodities, and trucking companies.
- Developed the Automated Targeting System (ATS) which will be prototyped in FY97, at the port of Laredo, Texas. This system will be rule-based with artificial intelligence principles. Each transaction will be compared against rules developed by border inspectors in order to separate high risk shipments from legitimate ones.

- Since 1988, the Customs Service has significantly increased its ability to handle the increased cargo flow that was anticipated following the implementation of the NAFTA. The following shows Customs staffing levels for 1988 and 1995 on the Southwest Border:

	<u>1988</u>	<u>1995</u>
Inspectors	1,100	1,620
Special Agents	158	415
Canine Teams	71	233
National Guard	0	161

- In addition to this, the President's FY97 Budget includes a request for an additional 657 Customs positions and \$65 million for Operation HARD LINE. This increase in staffing (inspectors, agents, canine officers, and support staff) will allow Customs to fully support and maintain anti-smuggling inspections at our Southwest border ports of entry.



## MR. WINER'S RESPONSES TO QUESTIONS FROM SENATOR GRASSLEY

Q1. Who currently enforces uniform standards for anti-money laundering activities among banks? Businesses? With other governments? What role does the U.N. play in establishing the consistent standards?

A. While the governments of individual nations and territories are expected to establish standards for banks and non-bank financial institutions within their jurisdictions (with the parallel expectation that those standards will be enforced by regulators in the way that the Federal Reserve or Comptroller of the Currency do in the United States), there are uniform standards which have been recommended to virtually all governments. These include the binding provisions of the 1988 United Nations Convention, which in turn have received interpretation through the recommendations of the Financial Action Task Force, the Commission of the European Communities, the Organization of American States, and similar bodies. In addition, financial center countries are expected to adhere to the recommendations of the Basle Committee. These standards, especially those set by the FATF, serve as a basis for common assessments of performance.

While FATF, the EU, and the OAS are not enforcement bodies as such, these and other organizations do assess compliance by their members including, in the cases of the FATF and the EU, mandatory evaluations. Enforcement is also provided, in keeping with national laws, by attorneys general, public prosecutors, and law enforcement agencies.

While business per se does not fall within the mandate of any of these groups, governments are expected to set standards for banking and non-bank companies which offer financial services, and the non-bank companies category has been broadened in many countries to include credit unions, check cashing services, exchange houses, loan companies, casinos, and even travel agencies, automobile dealers, jewelers, and others which handle significant amounts of currency, particularly in cash.

The United Nations has the primary role of ensuring compliance with the 1988 Convention and predecessor agreements concerning narcotics trafficking and money laundering. The UN has published model laws and provides training and technical assistance to governments in drafting legislation, criminal codes, etc. The UN has endorsed the FATF recommendations and includes them in its policy guidance packages.

Q2. Reports indicate that Panama alone may be the site for laundering \$10 billion per year. We have a MLAT with Panama and close ties. What steps are currently being taken to prevent this scale of activity? Why have we seen so little progress?

A. Panama has been strengthening its anti-money laundering policies, and we are hopeful Panama will take additional steps in the immediate future. The legislation passed in the waning days of the Endarra Administration in 1994 was amended by additional laws in 1995 under the Perez Balladares Administration. The former criminalized money laundering; the latter laws imposed, among other requirements, the mandatory reporting of suspicious transactions. Panama has created a permanent presidential commission to oversee its money laundering efforts. The 1995 legislation also improved Panama's ability to seize criminal assets. The government is now considering bank reform legislation which would increase the regulatory authority of the banking commission. The government is also considering a variety of proposals to strengthen enforcement of money laundering codes within the Colon Free Zone.

A Financial Analysis Unit has been created with U.S. assistance, modeled after FinCEN, and is now operational. While we want to see more progress, Panama in 1995 undertook its first major money laundering investigation (with Canada) and cooperated with the USG on a major case which resulted in the expulsion of one money launderer to the United States.

These actions and those pending have resulted in one significant change in the Panama equation: whereas bulk cash from the U.S. once entered Panama directly, in transit to Colombia or for conversion, cash is now shipped in bulk from the United States to Mexico, where it is converted into monetary instruments or wired to U.S. banks for conversion. Thus, today in Panama, investigators are seeing a variety of monetary instruments, including personal checks, which represent the proceeds of drug trafficking, and which are now sold on the gray market or used to pay for Free Zone goods.

Progress has been impaired by resistance coming from Panama's private sector, especially in the Colon Free Zone, and among Panamanian financial institutions and law firms. Resources also remain a problem for the Panamanian government, and some enforcement efforts will not be possible without further legislation, including enhancing financial sector regulation, supervision and enforcement.

Q3. What is the status of money laundering legislation in Russia? What is the status of efforts to implement legislation?

A. The Government of Russia has not yet presented its proposed money laundering legislation to the Duma (the Russian legislature). Our Embassy in Moscow believes that the Government of Russia will present its draft legislation to the Duma late this year. Three readings in the Duma are necessary before a bill can become law.

Q4. What is the status of efforts to implement the Declaration of Principles of the Summit of the Americas, signed in December 1994, in regards to drug trafficking and money laundering?

A. In addition to reaffirming their political commitment to cooperative hemispheric action against all forms of illicit drug production, traffic and abuse, Summit participants agreed to define a specific hemispheric counternarcotics strategy for the 21st century. Discussion of this subject has continued in the Inter-American Drug Abuse Control Commission ("CICAD") of the OAS. It is hoped that a further meeting scheduled to be held in Washington in September 1996 will reach agreement on a generally accepted text for a strategy document.

With regard to money laundering, Summit participants agreed to hold a later ministerial meeting specifically on this subject. This was co-chaired by United States Secretary of the Treasury Rubin in Buenos Aires in December 1995. The Declaration of that meeting described further detailed courses of action to which participants agreed. CICAD has accepted responsibility for collecting information upon which an evaluation of implementation of these actions will be based.

Q5. What countries in the Western Hemisphere, including the Caribbean, have not ratified the 1988 UN Convention on Money Laundering?

A. All the countries in the Western Hemisphere now have ratified or acceded to the 1988 United Nations Convention Against the Illicit Trafficking in Narcotic Drugs and Psychotropic Substances.

Q6. What is the State Department doing to encourage international organized crime enforcement and investigative cooperation with U.S. law enforcement agencies on international organized crime issues?

A. State Department officials have increased their efforts both to facilitate and to coordinate overseas work on cases of U.S. federal law enforcement agencies, which principally is the responsibility of the Departments of Justice and the Treasury, but also to foster more productive working relations between U.S. enforcement agencies and their foreign government counterpart agencies.

There has long been collaboration among U.S. agencies in their operations abroad. Recently, increased workloads involving transnational crime, as well as an increasingly acute need to coordinate approaches to foreign governments and their law enforcement branches, have underlined the need for greater U.S. Government coordination. The State Department's Office of International Criminal Justice, within the Bureau of International Narcotics and Law Enforcement Affairs, established in 1993, helps to coordinate interagency efforts against international organized crime. This office consists both of State Department officers and agents and officers detailed from the FBI, Customs, INS, Coast Guard, and other law enforcement agencies.

A centralized control and accounting of funds for foreign law enforcement training and assistance has led to

greater efficiency in allocating resources and allowed for closer ties between policy approaches to foreign governments and training and assistance expenditures.

At the direction of the Secretary of State, many U.S. embassies abroad have formed law enforcement coordinating committees headed either by chiefs of mission or their immediate deputies and including all members of their staffs involved in judicial, antinarcotics, and law enforcement affairs. The work of these committees has led to closer synchronization of U.S. law enforcement efforts in the field, under the supervision of chiefs of mission, and to a closer match between broader foreign policy objectives and specific law enforcement activities.

Q7. What can we do to support a strong international organized crime enforcement stance in third world countries that are most at risk to the threat of intimidation and corruption from powerful drug cartels and international organized crime groups? How can U.S. law enforcement agencies, especially Customs and FinCEN, fully support our national efforts in this area?

A. We need to help convince those governments that their interests, especially in the long term, require that they defeat organized crime. Each of those governments includes both dedicated, patriotic leaders and civil servants committed to fight crime, but also corrupt individuals who are part of the problem. Distinguishing between the two to encourage efforts against crime is difficult and, diplomatically, a very sensitive area.

We look for opportunities, on a case-by-case basis, to identify countries which take appropriate steps to fight international crime and those which do not, to assist those countries which have joined the fight against crime and to put pressure on those countries which have not. As implied in your question, this is not an easy matter when small countries are intimidated by powerful criminal cartels and when money available for corruption exceeds even government revenues.

To have a reasonable chance of success in our efforts to enlist allies from among the governments most threatened by



crime and corruption, one requirement is for the U.S. to sustain a consistent effort over time. If we promise partnership and assistance and, on that basis, recruit foreign government collaboration in the fight against crime, but then back out of our commitments and leave our allies exposed to a continuing threats, we will undercut our credibility and our ability to act effectively there or anywhere else. If we want exposed and vulnerable governments to stay the course, we must make certain that we do the same by ensuring that we will continue to have adequate resources to follow through on our intentions. The opposition, the criminals, will always have sufficient resources.

All of our federal law enforcement agencies have roles to play in this effort against international organized crime. Each of them has a training element which can provide assistance and expertise for improving the anticrime capabilities and performance of counterpart agencies in other countries. Each of them also has personnel involved in international operations who, by successfully combatting crimes of direct concern to the United States, both protect U.S. interests and assist other countries allied in the fight against the criminals involved. For both aspects, we need to make certain the efforts of our law enforcement agencies are integral parts of a fully coordinated, USG-wide response to an international crime threat and not just a narrow extension of a particular U.S. agency's domestic operations.

FinCEN, for example, has the lead among U.S. agencies in combatting international financial crimes including money laundering. There are, however, at least a half-dozen U.S. law enforcement agencies individually engaged in the fight against money laundering. Also, our anti-money laundering efforts require a carefully calculated diplomatic component to convince foreign governments that close regulation and oversight of their financial institutions is a multinational necessity which outweighs narrow concerns over maintaining bank secrecy or short-term profits. FinCEN, to succeed in its efforts, needs the coordinated support of every USG element involved in banking, international finance, and law enforcement. FinCEN, in turn, needs to take the lead in networking among all those agencies to make sure that the coordinating effort is thorough and continuous and that all players are kept fully informed and engaged.

U.S. Customs has similar needs and responsibilities. The customs agencies of other governments, like U.S. Customs, have multiple responsibilities as the main law enforcement components with search and investigative access to people and goods crossing national borders, and so play roles in combatting contraband smuggling, narcotics trafficking, illicit money movements, migrant trafficking, the interstate flight and other movements of criminals including terrorists, and other criminal activities. Whereas the U.S. Customs Service is a large, well-funded, and professionally trained

organization, we often cannot expect the counterpart customs agencies of many small, poorer, and crime-threatened nations to provide as thorough a response to these many and diverse criminal threats as does U.S. Customs. Accordingly, it often is necessary, and increasingly will be so, for U.S. Customs to provide not only training and technical assistance to allied counterparts but, also, to engage in cooperative operations with other nations so that the greater resources of U.S. Customs can be brought to bear against those countries' criminal enemies which also are threats to U.S. interests. As with efforts against financial crimes, there are many U.S. agencies involved and, in the overseas extension of U.S. Customs expertise and operations, we require an intense interagency coordinating process to maximize our application of crime-fighting resources and to maintain constant regard to foreign policy considerations and supporting diplomatic initiatives.

Q8. We have had some success in Peru in closing the air bridge. But there are growing signs that the traffickers are adjusting. They are rerouting to the rivers of the Amazon basin. They are increasing activities in Brazil.

- What measures is the U.S. government taking to increase efforts in Colombia, Brazil, Bolivia and Peru to stop this shift?
- Has Brazil taken steps to increase the size of its counter-narcotics focus?
- What is the status of riverine programs in Brazil, Peru and Bolivia?
- How many patrol boats provided by the U.S. are in operation?

A. Air interdiction efforts focussed on the Peru-Colombia "air bridge" have produced a variety of shifts in trafficking modes and patterns, and there are indications that Peruvian traffickers are relying more heavily on riverine operations to move coca products internally, and over Peru's borders to final-stage processing centers in Colombia, Brazil, and Bolivia. Bolivia, Peru, Brazil and Colombia have riverine programs aimed at denying traffickers the use of the region's vast river networks to transport coca products and precursor chemicals. Traffickers continue to rely predominantly on aircraft to move their cocaine and coca products throughout the Andes, however, necessitating a continued intense U.S. and regional efforts to monitor and control the airspace.

We have attempted to better coordinate the air interdiction program on a regional basis by including Colombia, Peru, Brazil, Venezuela, Ecuador and Bolivia in the

process of planning detection and monitoring operations. The U.S. also has facilitated increased cooperation, and operational coordination between these countries, through an intense diplomatic effort, and we are exploring with them ways to better address new threats generated by the success of the air interdiction effort. For example, a U.S.-Colombia jointly-operated radar in the northeast corner of Colombia, at Marandua, tracks trafficker aircraft in the region. Assistant Secretary Gelbard has briefed Brazilian officials on the traffickers' shift into Brazil and outlined the dangers that increased trafficking poses to that country. In addition, the USG has a \$1 million counternarcotics program to enhance the Brazilian Federal Police's ability to identify, investigate and dismantle narcotics trafficking organizations.

The Brazilian government, meanwhile, launched a National Drug Enforcement Plan and has increased its own budget for the counterdrug operations of its Federal Police and authorized on May 23 the purchase of the Amazon Surveillance System (SIVAM), a \$1.4 billion Raytheon radar system that would address, among other things, narcotics trafficking. Brazil has developed an impressive draft law criminalizing money laundering -- U.S. experts have reviewed the law at the request of the GOB -- and passed laws last year on organized crime and chemical control.

The USG has donated six Boston Whaler patrol boats to the Brazilian Federal Police Riverine Unit, all of which are operational. The unit operates principally in the Amazon River System and, even given its limited resources, has produced some very substantial seizures.

In Peru, DOD, DEA, State and USCG have initiated riverine training programs with the Peruvian navy and police to improve the quality of the limited riverine law enforcement interdiction operations already being conducted by the navy and police in key areas. The police have purchased their own river craft with Peruvian funds, and the navy is planning similar purchases. State is coordinating an interagency effort to enhance Peruvian counternarcotics riverine operations by introducing a riverine commerce control strategy that will encompass all aspects of controlling narcotics smuggling via waterways. This will include warehouse and port control, tracking of legitimate cargo, Peruvian interagency data bases, and intelligence-driven inspection and interception of suspicious cargo and personnel.

The Bolivian riverine unit is one of the most advanced in the region. With 22 U.S.-supplied, fully operational patrol boats integrated into riverine task groups (and 10 additional patrol boats pending delivery) the unit works in coordination with the anti-drug police to patrol the

extensive river network extending from the Chapare coca-growing region north and east to the border areas with Brazil and Paraguay. The GOB has agreed in principle to broaden the law enforcement authority of the unit to enable it to operate independently of the police -- a step that should increase its effectiveness substantially. Bolivia's waterways law enforcement school, meanwhile, has become a model for the region, with Bolivian instructors providing training comparable, in US Coast Guard's judgement, to similar U.S. training.

The Colombian riverine interdiction program has received U.S. support in the form of training, base construction and equipment. The program supports Marine units and has been in existence since the early 90's. These units operate in several departments, including Caqueta and Putumayo, both independently and in conjunction with the Colombian National Police and Army.

Q9. Colombia, Bolivia, Peru and Mexico have seized quite a lot of cocaine. What evidence do we have that this seized cocaine was disposed of properly and not diverted after seizure? Do these countries permit U.S. officials to be present at the disposal of illegal drugs? Do they permit U.S. officials to test seized drugs that remain in custody? Do these countries routinely test these stockpiles? What are the control procedures for supervising these stockpiles to prevent diversion?

A. As a matter of policy, we and DEA urge the counternarcotics forces we work with not to retain large stockpiles of any seized drug because of the potential for diversion or theft. U.S. officials are at times present to witness such destruction; however, in all of these countries, it would be impossible for U.S. officials to monitor every seizure based on the magnitude of the counternarcotics efforts alone. Colombia, Bolivia, Peru and Mexico follow generally the same procedures: when a large load of drugs is seized, government authorities retain a small amount (i.e., 1-2 kilograms) for testing purposes; the seizure is weighed and documented (i.e., photographs are taken of the drugs, packaging materials and methods) and the majority of the drugs are burned or destroyed almost immediately to reduce the risk of diversion.

In Bolivia, the authorities store smaller quantities of seized drugs in a guarded facility until the prosecutors handling the cases can verify the evidence and oversee the drugs' destruction. The drugs are sealed in an evidence bag when seized. Each primary counter narcotics force (FELCN)



command has a very strict chain of custody procedure in place, overseen by an officer - usually a major, which is in keeping with DEA evidence procedures. The destruction events, which occur monthly or quarterly depending on accumulation, are conducted in a public setting; the press and U.S. officials are routinely invited to attend. They are overseen by the FELCN and the special prosecutors. The cocaine is laid out on the ground by case and each stack is re-tested and reweighed prior to destruction. We have no indications that a serious diversion problem exists within the FELCN.

In Colombia, there is no stockpiling of drugs; drugs are destroyed on the spot. A prosecutor is present during seizure operations to record pertinent data and authorize immediate destruction. Standard procedure for drug destruction is to photograph or videotape the destruction process. There are two principal methods of destruction: diluting the drugs in water and disposing of them in the sewers, a water source or on the ground, or by burning it with gasoline or other flammable material. Depending on the quantity seized, the drugs may be destroyed on sight or taken to another open location (e.g., an open lot) for the destruction. U.S. officials are automatically permitted to observe the destruction when they participate as advisors or liaison in the seizure, and have participated in many disposals around the country. U.S. officials have been

allowed to test seized drugs and to take samples for official purposes with Fiscalia approval.

Cocaine seized by Peruvian authorities is weighed, "field tested" and packaged for storage by a squad of police officers working under the supervision of a prosecuting attorney. The seized cocaine is stored in a secure facility managed by a third agency of the government. The cocaine is stored in sealed packages by weight. Each package must be checked, verified and identified by signature by a member of each agency involved: the police, the prosecuting attorney and the responsible storage agency (OFECOD). The sealed packages are stored at a secure, controlled-access facility.

Destruction of the cocaine follows a reverse procedure. Different members of the storing agencies again weigh, test and re-seal the cocaine to ensure that none was tampered with prior to transporting it to the destruction site. Destruction cannot occur until the heads of all the agencies involved in counter-drug operations, up to and including the Minister of Interior, certify that there have been no irregularities in the handling of the evidence. To this end, each agency provides personnel to witness the weighing, re-testing, and resealing of the cocaine or other drug. The transportation of the drugs to the destruction site is similarly monitored by all agencies involved. Seized drugs are stored for as short a time as possible. The GOP maintains no drug stockpiles. Neither U.S. officials nor any

other foreign government is allowed to test the seized drugs, although the USG may provide drug test kits to the Peruvian police and DEA personnel are often present during initial field tests. Actual destruction of seized drugs, by burning, takes place at public ceremonies. Members of the foreign counter-drug community as well as the media are encouraged to attend the ceremonies. U.S. Embassy personnel always attend.

In Mexico, the Ministerio Publico (MP), the federal prosecutor's office, is immediately notified of drug seizures and takes custody of the drugs. Careful and supervised procedures are in place to ensure that they are handled properly, including testing of each drug package. Large quantities are sent to a special warehouse. The Ministerio Publico personnel label, date and initial the packages. The drugs can be stored for up to one week before they are transferred to the principal storage area. The U.S., with MP approval, may take samples of these drugs. As soon as the preliminary legal proceedings are completed, the drugs are transported by the Ministerio Publico to a specified military area for destruction. It can take up to three months before the drugs are finally destroyed by military personnel, although the MP maintains chain of custody and control over the substances throughout. The GOM, in accordance with the MP, invites specific individuals to witness the destruction event: military personnel, inspectors from the Office of the Attorney General (PGR), news reporters, prosecutors,

chemists, Federal Judicial Police, highway patrol officials, state/local officials and U.S. officials. GOM officials recognize that the most vulnerable point for possible diversion of seized drugs is after seizure, before the Ministerio Publico is notified, and the PGR is taking steps to tighten controls, including ensuring that MP prosecutors are present on every anticipated drug raid.

INL has provided test kits to these and many other countries to do on-site testing of seized drugs. Host nation authorities, working with DEA, also send samples of seized drugs to DEA's laboratory for analysis.

Q10. What is INL's current procedure for determining country program budgets? How are budget numbers determined for each program? How are the budget numbers set by INL? How are the differences reconciled? What method is used to determine the strategic guidance for these programs? How does the Bureau establish overarching guidance for counter-narcotics programs?

A. Strategic guidance for the International Narcotics Control program managed by INL is defined by INL based on the national counternarcotics strategy promulgated by ONDCP. General guidance is transmitted to all American Embassies abroad, which are directed to reflect U.S. national narcotics control goals in their annual Mission Program Plans in the manner appropriate to individual country situations. In major drug producing and transit countries where INC programs

are significant enough to necessitate separate Narcotics Affairs Sections, preliminary statements of projected INC budgetary requirements are requested two fiscal years in advance. These submissions, and corresponding assessments of anticipated requirements for centrally-managed programs in other countries and for regional or global activities, now also including international criminal justice activities, are the basis for INL's annual Congressional Presentation Document, an element of the President's annual budget submission to the Congress.

In review by INL, country and regional program submissions are adjusted to take account of amounts actually appropriated by the Congress in previous years, guidance provided to INL by the Secretary and other bureaus within the Department of State, OMB and ONDCP, and the views of other U.S. departments and agencies concerned with drug control matters abroad, concerning the Administration's overall national budgetary and drug control policy priorities. Ultimately, INL apportions INC funds actually appropriated by the Congress to implement individual country or regional counternarcotics programs to conform with the Bureau's evaluation of current requirements and circumstances. These include the political disposition and institutional capacity of cooperating governments to receive and effectively employ U.S. assistance to implement drug control activities determined by the Bureau to be of the most immediate importance to the United States.

Q11. What measures currently exist to discourage corruption in counter-narcotics efforts in Peru, Bolivia, Mexico, Panama, and Colombia?

A. At the policy level, we have made corruption -- the need to investigate, punish and prevent it -- a top priority on the bilateral agenda with all of these countries. Pervasive, high-level corruption in Colombia, for example, so undermined counternarcotics cooperation that the President denied Colombia certification this year. To emphasize this policy, the Department has been aggressively pursuing a program not only to deny corrupt officials U.S. visitors visas, but to revoke valid visas of individuals we reasonably believe to be aiding or abetting traffickers or money launderers. The Colombian National Police (CNP) has a thorough background investigation program for its incoming police officers. For those already in the Police, there is an internal affairs unit that investigates allegations of corruption, including those phoned in by citizens through a telephone hotline. Under current CNP Director General Serrano, about 6,000 members of the CNP have been ousted or jailed for corruption.

The Fujimori Administration in Peru has arrested and prosecuted police, military and civilian officials suspected of narcotics corruption. Most recently, several cases of Peruvian Air Force and Navy narcotics corruption by mid-level officers resulted in a Presidential directive prohibiting the

Air Force and Navy from soliciting commercial transportation contracts. This is a traditional and lucrative means to support military budgets in Latin America, and could result in denying the Peruvian Navy and Air Force almost a third of their annual budgets.

The current Bolivian administration also has investigated allegations of corruption among law enforcement and the judiciary. High-level police and military officers have been arrested and are awaiting trial on criminal charges, and a number of judges have been fired for corrupt practices. The government also has just agreed to create within the anti-narcotics force an Inspector General's office to investigate allegations of corruption and human rights abuses, and to recommend prosecution or sanctions.

Mexican President Ernesto Zedillo has declared narcotrafficking the nation's principal national security threat and publicly acknowledged that narcotics-related corruption has impeded the government's efforts to attack that trade. To confront entrenched corruption within the federal police and the courts, he appointed an opposition party legislator, Antonio Lozano, as Attorney General with a broad mandate to reorganize and reform the justice system. Attorney General Lozano has moved against corruption by instituting new mechanisms to detect and deter corruption, including improvements in recruitment and training. He has dismissed over 1300 federal police agents for corruption and will prosecute a number for drug-related offenses.

In addition to taking action against drug-related corruption, the Zedillo administration has pursued a number of high-profile corruption cases involving other abuses of authority, including abuses committed by Raul Salinas, a former senior government official and brother of the former president. Despite these advances, the Government of Mexico recognizes that combatting corruption, in all its forms, is a long-term challenge and is integral to the overall political reforms that are the hallmark of the Zedillo administration. The U.S. has offered a wide range of training and technical assistance to support these reform initiatives.

In Panama, both the Immigration Service and the National Police have moved strongly against cases of narcotics-related corruption as they are uncovered. The director of Panamanian Customs fired over 60 customs inspectors last year, and the drug prosecutor's office claims that approximately half of the drug arrests in 1995 involved active duty or retired public security personnel.



## MR. WINER'S RESPONSES TO QUESTIONS FROM SENATOR BIDEN

Q1. The Bilateral Extradition Treaty seems to be a sore point between the U.S. and Mexico. How many extradition requests are outstanding and what are the prospects for getting the government of Mexico to honor the most egregious or any of them? What kind of pressure is the administration putting on Mexico to perform better on extradition?

A. Extraditions historically have been a challenging part of the bilateral partnership. The majority of extradition requests, in both directions, cannot be pursued because the fugitive cannot be found or the information suggesting his or her presence in a country proves incorrect. Others do not result in formal extraditions but do lead to the return of fugitives by other means, such as deportation or expulsion, as in the case of drug kingpin Juan Garcia Abrego last January.

We have made considerable progress in improving cooperation in the past year. The Mexican government's performance in extraditing fugitives to the United States has improved substantially in 1996. Twice as many fugitives -- ten in all -- were extradited to the U.S. in the first eight months of 1996 as in all of 1995. The Mexican government extradited two fugitives notwithstanding a Mexican court decision upholding their claims to Mexican nationality and the Mexican Constitution's strictures on the extradition of nationals -- an unprecedented step. Additional extraditions

of Mexican nationals are anticipated. Several of those extradited this year had committed heinous crimes such as murder and child molestation in the United States, and had been sought by U.S. authorities for some time. In sum, while there is certainly room for further improvement in our extradition relationship, it has progressed significantly of late.

Q2. What Mexican laws still need to be revamped to improve its law enforcement capability?

A. Legal reform is an ongoing process. Mexico, like the U.S., must continually review and refine its criminal code to ensure both that its law enforcement and judicial personnel have the tools they need to combat crime and that its citizens are ensured civil rights protections. Mexican Attorney General Lozano has devoted considerable attention in his first 18 months in office to matters of reform and reorganization of the justice sector and modernization of the criminal code.

The Zedillo Administration has taken steps in both reorganization of the legal sector and in strengthening controls on money laundering and chemical diversion. The next actions in these areas involve training for law enforcement and judicial personnel and development of implementing regulations. In money laundering, for example, the GOM is developing the implementing regulations for the money laundering law passed in May of this year which will, we understand, include important provisions requiring banks and other financial institutions to conduct Suspicious and Currency Transaction Reporting.

The GOM has also submitted to the Mexican Congress a critically-important legal package aimed at enhancing the government's ability to combat organized crime. This bill was approved overwhelmingly by the Mexican Senate in May and now awaits review by the Chamber of Deputies. It provides for use of modern investigative tools and techniques by Mexican law enforcement personnel, such as electronic surveillance, the use of confidential informants, and the establishment of a system for witness protection. These have been critical to our success against organized crime in the U.S. and we have long encouraged Mexico to consider adopting similar provisions. The GOM has had to overcome considerable legal, even constitutional, obstacles, as well as address public concerns about the potential for abuse of these new authorities.

Assuming that the Organized Crime Bill is passed in the coming session of Congress, the GOM has advised us of its intention to begin work on drafting implementing regulations and to train its law enforcement personnel how to use the evidence obtained with these tools in criminal prosecution. Many involve significant departures from past practices and traditions (including severe restrictions imposed by the Mexican Constitution). The GOM has advised us that it will set up systems of checks and balances and other controls to prevent abuse of the new authorities by overzealous or corrupt government personnel. The USG has offered to provide training and technical assistance as part of a bilateral plan being developed under the auspices of the U.S.-Mexican High Level Contact Group on Narcotics Control.

Q3. How is the Zedillo government tackling the well-known problem of official corruption? Are we providing any advice and/or technical assistance?

A. Mexican President Zedillo has publicly declared his determination to eliminate official corruption of all kinds in Mexico. For example, he and Attorney General Lozano have acknowledged that narcotics-related corruption is a serious problem in the Mexican justice sector and have taken aggressive measures to counter it. This was a major objective of the reorganization of the Justice Ministry (PGR) in 1995. The recent firing of over 1200 federal police agents (at least 12 of whom will be prosecuted) for narco-corruption and other abuses is the second such mass dismissal since Zedillo took office; the USG views this as a promising development.

The GOM has taken steps to change both recruiting and personnel practices that contributed in the past to the spread of corruption but much more needs to be done to strengthen legal/judicial institutions. The USG has offered and the GOM has accepted training and technical assistance and this will be expanded under the bilateral training plan. The USG continues to stress the importance to the bilateral relationship of meaningful and concrete action against narco- and other forms of corruption.

Q4. What is Mexico's role now in terms of interdicting drugs on the U.S.-Mexican border? Does Mexico have plans to improve its border interdiction capacity?

A. Mexico continues to emphasize the northern border region in its interdiction programs, both police and military. This is not only the region with the greatest incidences of drug transshipment for South American cocaine, but it is also where the leading drug trafficking organizations are based. The GOM has established three task forces in northern Mexico to focus GOM efforts against these organizations which are complemented by interagency task forces on the U.S. side of the border.

In addition, as part of the Mexican military's expanded role in interdictions, special forces units are being developed, trained and equipped to conduct CN operations in situations where police are outgunned, outnumbered, or where they are believed to have been compromised. The U.S. is providing training, technical and material support to both the police and military special units.

Q5. The Administration says it's convinced that the Zedillo government is serious about drug/crime control and is taking swift steps to remedy the problem. How are the administration's policies and actions different now than under previous Mexican administrations?

A. As a result of Mexican Attorney General Lozano's investigation into a number of high profile murder (assassination), corruption and drug cases and subsequent extradition regulations, considerable suspicion has been aroused about some former GOM officials including the brother and former brother-in-law of the former President. Many of these investigations are still underway.

The Zedillo Administration's counternarcotics strategy, like that of the Salinas Administration, seeks to be comprehensive, attacking all phases of the drug problem from production to consumption. The Zedillo Administration has, however, increased substantially the role of the Mexican military in interdiction, made very meaningful changes in the Mexican criminal code and the first concrete legal steps to constructing a regime to combat money laundering and chemical and pharmaceutical diversion.

During the Salinas Administration, Mexico developed the first counternarcotics intelligence center, a national institute for drug control, negotiated and implemented multiple agreements with the U.S. and other countries, became party to the 1988 UN Convention, arrested dozens of drug kingpins and thousands of their henchmen.

Q6: In your testimony, you talked about the importance of institution building to combat crime and drugs. In what specific ways are you working with the government of Mexico to improve its institutional capability to fight drugs and crime?

A. The Department of State, in close coordination with other U.S. agencies, is working with the Government of Mexico to develop short-, medium- and long-term training plans which have as a principal focus the development of police and judicial institutions. For example, much of our FY 97 training and technical assistance will be directed at INACIPE, the principal legal training center within the federal government, to ensure that it is integrated into the basic and advanced training offered there. We emphasize training trainers so that these important skills can be passed on to new recruits, and have encouraged the GOM to ensure that officers provided training in the field are given opportunities and incentives to eventually become trainers themselves.

Through senior-level discussions, as well as contacts via our Embassy in Mexico City, we have consistently stressed the need to develop and maintain strong institutions, and to develop a professional corps of police, investigators and judges who have a vested interest in the success and integrity of their agencies, and personnel who can envision

full careers, assignment and promotions based on merit, retirement benefits, and so forth. We have stressed the need for checks and balances in critical decision-making positions, or those with control over financial or personnel resources - particularly as a way to minimize corruption but also as a sound management principle. We have offered considerable advice on establishing offices of professional responsibility (internal affairs).

We have likewise encouraged the GOM to modernize its laws to combat organized crime, money laundering, and other complicated crimes more effectively. The U.S. Government provided considerable advice and shared its expertise with the GOM in these areas as GOM officials prepared a series of important legislative initiatives (see Q2).



Q7. What are the results of the U.S.-Mexican High Level Contact Group which met in Washington on July 30?

A. The U.S.-Mexico High Level Contact Group on Drug Control (HLCG), a senior-level forum that oversees bilateral cooperation in combatting drug trafficking and organized crime, held its second meeting on July 30. The meetings were characterized by frankness, goodwill and a clear determination to move ahead quickly on this issue of critical importance to both our governments.

Among the specific areas of cooperation discussed were efforts to combat money laundering, to prevent diversion of chemicals for methamphetamine production, to reduce demand for narcotics and to counter arms trafficking. Technical working groups were established in each of these areas to ensure that momentum is sustained. The HLCG approved an annotated outline for a joint threat assessment ("diagnostic") which will be completed and submitted for the Group's review in December 1996. This will provide the basis for a joint counternarcotics strategy to be issued in 1997. The two delegations also tackled the difficult issue of corruption, which is one of the principal means used by international drug traffickers to undermine government efforts to combat them. This will be a key element of the joint threat assessment.

## MR. WINER'S RESPONSES TO QUESTIONS FROM SENATOR GRAHAM

Q1. At the Summit of the Americas in December of 1994, the participating countries undertook a series of commitments relative to drug laundering. To what extent has the United States come into compliance with the commitments we undertook? What is the status of the other participating nations? Can you please provide the degree to which all of the participating countries have complied, and what efforts they are taking to come into compliance?

A. Summit participants agreed to hold a ministerial meeting specifically on money laundering. This was co-chaired by United States Secretary of the Treasury Rubin, in Buenos Aires in December 1995. One important objective was to secure our partners' acceptance of measures our experience shows to be effective; a key element is collective review of compliance by individual countries. The Declaration of that meeting described detailed courses of action to which participants agreed. The United States is in substantial compliance with all aspects of this Declaration. Responsibility for review of compliance by all participants has been accepted by the Inter-American Drug Abuse Control Commission (CICAD) of the OAS, which on August 9 distributed a questionnaire to secure detailed information from all governments in this regard. After 90 days, CICAD will convene a meeting of experts to review country submissions. The United States will help meet costs of these meetings with International Narcotics Control funds administered by INL.

## MR. WINER'S RESPONSES TO QUESTIONS FROM SENATOR MURKOWSKI

Q1. Mr. Winer, this body passed a foreign operations appropriations bill last week that provides the President with the full amount he requested for international counter-narcotics programs. Can you explain specifically what this funding will be used for, especially our cooperative efforts with Mexico and Colombia? Can you tell us what new initiatives are to be undertaken and what you expect them to accomplish during this coming year?

A. International narcotics control funds support long-term implementation of our comprehensive strategy against production, international traffic and abuse of illicit drugs, and related international crime. They strengthen the institutional capacity of foreign nations to define and implement comprehensive national plans against drug production, traffic and abuse. Specifically, they strengthen the ability of law enforcement and judicial institutions to investigate and prosecute major trafficking organizations and act effectively against their assets; reduce cultivation of crops destined for illicit drug production; and promote awareness of and prevent illicit drug abuse.

We cooperate extensively with Mexico at the policy level and through programs of many U.S. agencies. International narcotics control funds are not at this time a major element of this cooperation, due to Mexico's 1992 decision to assume primary responsibility to support financially many activities for which we previously paid with funds from this program.

In Colombia, international narcotics control funds support official actions that have put most of the leaders of the notorious Cali syndicate in jail, disrupted air smuggling of drugs between Peru and Colombia, and conducted extensive aerial spray eradication that has destroyed large areas of opium poppies and coca in the past year.

In the coming year we will enhance support for:

- drug crop reduction, through alternative development and eradication, in Colombia, Mexico, and other drug crop source countries;
- blocking new smuggling routes and methods out of producing areas and in key transit zones;
- strengthening judicial institutions through training and material support;
- implementing a new, comprehensive heroin control strategy that centers on supporting multilateral organizations to reduce opium production, and strengthen enforcement against major heroin trafficking organizations.

Q2. The State Department Inspector General's office has been conducting a study of the counter-narcotics certification process. I would like your comments on two particular suggestions of that study. First, do you feel that a middle category of cooperation, a "limited cooperating" category with targeted and limited sanctions or conditions on aid, would be useful to counter narcotics efforts? If something along those lines had been available, would it have been used in the case of Mexico? Can you imagine a circumstance in which such a flexible tool might be used?

A. The idea of a new "limited cooperating" category in the narcotics control certification process is interesting, and is being carefully considered in our review of the Inspector General's report on this process. Our final evaluation of this suggestion will be shared with the Congress. In the specific case of Mexico, the President, after carefully considering all pertinent facts and circumstances, determined that Mexico met the conditions prescribed by law for certification. Even if other options hypothetically had been available, his determination would still be based on his assessment of the facts in light of the pertinent provisions of law.

Q3. Second, the study noted that most sanctions imposed on decertified countries never actually went into effect or were poorly managed if they did. It also noticed a lack of economic analysis of the impact of the sanctions on the decertified country and the U.S., so that we have no idea how or even if they were having an impact. It is my understanding that your office is charged with managing the enforcement of these sanctions and evaluating their impact, can you explain why you are having such problems?

A. Prior to 1994, denial of certification exclusively involved countries to which sanctions of the drug control certification process had limited practical application, primarily because the countries in question did not receive substantial U.S. aid. Since President Clinton's November 1993 directive calling for more rigorous use of the certification process, additional countries have not been certified. Where statutory standards for unqualified certification appeared not to be satisfied, our assessments included the potential impact of sanctions, as reflected in statements accompanying the annual determinations. In the limited number of instances in which a country receiving U.S. assistance was not granted a "vital national interest" waiver of sanctions, the Bureau of International Narcotics and Law Enforcement Affairs has given careful, close and continuing attention to the implementation of those sanctions that applied, and to evaluating their impact.