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***International Enforcement Cooperation in the
Western Hemisphere:
A Search for a Better Architectural Framework***

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Contents

- I. INTRODUCTION..... 3
- II. VIOLENCE WITHIN NATIONS..... 5
- III. TRANSNATIONAL CRIMINAL AND SECURITY THREATS..... 6
 - A. Transnational Organized Crime 6
 - B. Arms 7
 - C. Drugs 9
 - D. Migration..... 11
 - E. Terrorism..... 13
 - F. Geographic Areas and Countries 14
 - 1. Mexico..... 14
 - 2. Central America 15
 - 3. Colombia 15
 - 4. Cuba 16
 - 5. The Commonwealth Caribbean 17
- IV. NEED TO STRENGTHEN THE ARCHITECTURE OF HEMISPHERIC ENFORCEMENT COOPERATION..... 20
 - A. The Existing Enforcement Cooperation Mechanisms Need Reinforcement 20
 - B. A More Comprehensive Mechanism: The Americas Committee on Crime Problems..... 21
- V. CONCLUSION..... 24

I. INTRODUCTION

Globalization has facilitated the growth of global capitalism, the information revolution, travel, and the blurring of national and subnational boundaries. Globalization has rendered meaningless the boundaries between domestic and foreign matters. Similarly, the distinctions of such boundaries among criminals, crime, and criminal justice are also increasingly broken or meaningless.¹ The rise of transnational crime and criminal organizations threaten the expansion of international trade and the new global landscape of the World Trade Organization and regional integration.² Nation-states and international organizations are recognizing that transnational organized crime threatens to destabilize weaker nations. It also threatens global free trade and fair economic competition, while creating great social, economic, and political costs at home and abroad. In addition, the emergence of transnational networks of organized crime reduces the quality of political, civil, and economic interactions across the entire global community of nations.³

International enforcement cooperation in the Western Hemisphere is a function of several approaches and disciplines reflecting historical approaches, comparative contemporary approaches, criminal justice and harmonization of the criminal justice systems, national and regional security policies, foreign police assistance, the roles of major international organizations, such as the Organization of the American States, and the movement toward democratization and administration of justice. The lack of a coherent approach and the absence of definitive accounts make this discussion necessarily tentative.

A study jointly conducted by the Inter-American Development Bank (IDB) and universities in six Latin American countries posited that the rates of violent crime and crimes against property are now six times higher in Latin America than in the rest of the world. The rate of violent crime has taken both a human and economic toll. Violent crime impacts the equivalent of 14 percent of total GDP in Latin America.⁴

While governments and international organizations traditionally prioritized drug production and trafficking as the defining issues of U.S.-Latin American relations, more recently, they have prioritized the threat posed by transnational gangs as the most important threat to Western Hemisphere security.⁵

¹ William F. McDonald, *The Globalization of Criminology: The New Frontier Is the Frontier*, TRANSNATIONAL ORGANIZED CRIME 1, 6-7 (Spring 1995).

² Dick Thornburgh, *The Internationalization of Business Crime*, 1 TRANSNATIONAL ORGANIZED CRIME 23 (Spring 1995).

³ Peter A. Lupsha, *Transnational Organized Crime Versus the Nation-State*, 2 TRANSNATIONAL ORGANIZED CRIME, 21, 24-25 (Spring 1996).

⁴ *U.S.-Latin America Relations: A New Direction for a New Reality* (Charlene Barshefsky and James T. Hill, chairs), Council on Foreign Relations, Independent Task Force Report No. 60 25-26 (2016).

⁵ *Id.*

The underlying problems of public security arise from poverty, economic discrimination, the weak rule of law, corruption and impunity, as well as migratory trends.⁶

President-elect Donald Trump's campaign rhetoric had a negative resonance throughout Latin America. The harsh anti-immigrant positions, characterizations of Mexicans, and broadsides against NAFTA were interpreted as codes for the region as a whole, even though Latin America as a whole did not figure in the campaign.⁷

President Trump needs to reaffirm the value of respectful, collaborative relationships to address shared problems. For example, to successfully combat narco-trafficking, money laundering, and other forms of organized crime, the U.S. must address other issues of importance to Latin American governments, such as how to create opportunities for young people in the legal economy through better education and job training. The U.S. tried *manor dura* — the Iron Fist — and failed to improve security throughout the region. Meanwhile, insecurity and economics continue to be the key drivers of migration. Complex problems require multi-faceted, cooperative solutions derived from consultation. Cutbacks in foreign assistance could undermine bipartisan policies in Colombia and Central America forged out of a shared sense of national interest. President Trump should seek opportunities early in his term to meet with or convene Latin American leaders, to seek their views about how to expand economic opportunity throughout the Hemisphere.⁸

Western Hemisphere security to a large extent depends on effective International enforcement cooperation in the Western Hemisphere. To be successful, such cooperation requires a strengthened architectural framework in order to maximize the development of an enforcement cooperation regime and network. This paper concludes with a discussion of the need to strengthen the framework for regional enforcement cooperation.

This paper discusses violence within countries, and then turns to transnational criminal and security threats in the Western Hemisphere, covering transnational organized crime, arms, drugs, migration, and terrorism. The need to strengthen the architecture of hemispheric enforcement cooperation is discussed, followed by discussion of specific geographic areas and countries.

⁶ *Id.*, citing *Outsiders? The Changing Patterns of Exclusion in Latin America and the Caribbean 2008*; *The Economic and Social Progress Report*, Inter-American Development Bank, 2007.

⁷ Cynthia J. Arnson and Eric L. Olson *What Does the World Expect of President-elect Trump: Latin America*, Wilson Center, Nov 9, 2016 <https://www.wilsoncenter.org/article/what-does-the-world-expect-president-elect-trump-latin-america>.

⁸ *Id.*

II. VIOLENCE WITHIN NATIONS

A major problem in much of the Western Hemisphere, especially in the Andes and much of Central America, is the unacceptably high level of violence. The rate of violence and homicide is especially high in Guatemala and El Salvador. Brazil, Mexico and Venezuela also show high levels of drug violence.⁹

The significant non-state violence indicates that some states have difficulty effectively controlling or governing their national territory. The problem of control includes not only remote areas such as southern and eastern Colombia and the Brazilian Amazon, but also some areas of Latin America's urban areas, such as the favelas of Rio de Janeiro and Sao Paulo and the ranchos of Caracas. The lack of government capacity has led to increasing privatization of security, thereby encouraging citizens to resort to gated communities and private security providers rather than rely on the state's police and judicial systems. It is estimated that there are more than one-half million private security personnel in Latin America.¹⁰

The problem of security is exacerbated by Latin America's economic inequality and widespread social exclusion. There are limited opportunities for education or economic advancement through legal means, and gangs are often the most attractive way to make a living. Counterintuitively, the protection from violence offered by gangs can also be a part of their appeal.

Another problem is the extent of impunity in much of the region. Between approximately one quarter and one-half of Latin Americans do not trust the police and judicial systems. As a result, crime is significantly underreported, contributing to impunity and encouraging vigilantism and paramilitarism. Citizens in many countries in the hemisphere look at the police as part of the problem rather than part of the solution. Underfunding, corruption, abuses of power by law enforcement, and poor management have spurred this lack of faith in police. The prison systems of many Latin American countries also contribute to the problem. In many countries prisons are overcrowded and under the control of gangs.

The severe problems of law enforcement lead to public support for extralegal responses, such as coercive law enforcement and interrogation techniques. Vigilante justice, and continued paramilitarism persists in countries such as Colombia and Brazil.

As a result of the law enforcement and judicial problems, many Latin and Central American countries find themselves in a vicious cycle that further fuel violence and crime, thereby undermining political and economic stability in the region.¹¹

⁹ *U.S.-Latin America Relations: A New Direction for a New Reality*, *supra*, at 27-28.

¹⁰ *Id.* at 28.

¹¹ *Id.* at 28-29.

III. TRANSNATIONAL CRIMINAL AND SECURITY THREATS

A. Transnational Organized Crime

Transnational organized crime in the Western Hemisphere, while traditionally arising out of transnational drug trafficking, has also been involved in arms trafficking, migration crimes including human trafficking and smuggling of persons, trafficking in stolen vehicles and airplanes, and trafficking in stolen cultural property.

Transnational organized crime has included drug cartels in the Andean countries, Mexican drug cartels, and Central American gangs.

One of the initiatives undertaken by the Clinton Administration was putting on the SDN list transnational organized crime-linked individuals and narco kingpins, requiring U.S. persons to block their assets and depriving them entry into the U.S. Listing persons and organizations involved in TOC and high-level narcotics trafficking has helped to isolate and deprive individuals of assets. The U.S. government should emphasize the need for other governments to also list such individuals.

The movement of migrants (whether Central American or Mexican) on the U.S.-Mexico border is heavily controlled by smugglers that appear to operate within a very organized criminal market. An unknown but small percentage of migrants make it to the border on their own, but the vast majority seems to arrive with the assistance of “coyotes”, which bring them up through various and constantly changing routes, and stashing them a “safe houses” along the way.¹²

The smugglers offer the migrants logistical support and intelligence, including transportation networks, moving from place to place northward to the border based on the smugglers’ sense of the securest route. These services can cost between \$6,000 and \$8,000. Normally, a whole network with many minor players contributes to the transportation and housing of migrants, as drivers, lookouts, and housekeepers in the safe houses. Sometimes, the migrants themselves become part of the smuggling network when they cannot pay the smugglers.¹³

U.S. border reinforcements, especially since 9/11, have forced individual migrants to increasingly rely on the expertise of criminal groups – smugglers and local criminal networks – to successfully make the crossing. Only criminal networks have the logistical capacity and informal intelligence networks that can find the lapses in security and get people in place to cross successfully. Involvement of criminal

¹² Eric L. Olson, Migrant Smuggling and Trafficking at the Rio Grande Valley: Ten Observations and Questions, The Wilson Center 2 (September, 2016)
https://www.wilsoncenter.org/sites/default/files/olson_border_2016_0.pdf.

¹³ *Id.* at 2-3.

groups leads to commercial sexual exploitation of minors and labor trafficking, whereby migrants, especially minors, are forced to work to pay significant fees.¹⁴

Drug trafficking serves as the predominant source of revenue for the most powerful organizations. Some criminal groups are involved in a broader array of criminal activities, such as extortion, and have a greater impact on the daily lives and security of citizens. International cooperation, specialized police and other law enforcement efforts, and judicial operations can support Central American governments in their efforts to disrupt and dismantle such groups. Over the medium term, this effort may require creative new initiatives, such as regional courts or prison systems to reduce the vulnerability of local police and judicial officials. Multilateral efforts should focus on attacking vulnerabilities in the supply chains, transportation systems, governance of borders (land, maritime, and air), and financial infrastructure of major organized crime groups and smuggling networks through coordinated enforcement operations.¹⁵

B. Arms

According to the UN Office on Drugs and Crime, easy access to firearms is a major factor influencing homicide trends in Latin America and the Caribbean. The gun-related homicide rate in Latin America exceeded the global average in 2010 by more than 30 percent. The World Bank estimates that crime and violence cost Central America nearly 8 percent of its GDP when accounting for the costs of law enforcement, security, and health care.¹⁶

The U.S. is the largest producer of small arms in the world, with more than half of the world's producers based in the U.S. Many arms traffickers buy relatively inexpensive firearms in the U.S. and resell them on the black market abroad because the penalties are relatively light compared with the penalties for smuggling drugs – and the profit margin is high. Arms brokers bypass regulatory norms and facilitate weapons transfers from states to non-state actors and buyers who could not otherwise obtain them.¹⁷

In Latin America, the problem of small arms trafficking extends from Mexico, where guns smuggled from the U.S. are sold for three to five times above cost on the black market, to Colombia, where a

¹⁴ *Id.* at 4-5.

¹⁵ White House, *U.S. Strategy for Engagement in Central America*, https://www.whitehouse.gov/sites/default/files/docs/central_america_strategy.pdf.

¹⁶ Julia E. Sweig, *A Strategy to Reduce Gun Trafficking and Violence in the Americas* *Policy Innovation Memorandum No. 36*, July 2013 <http://www.cfr.org/arms-industries-and-trade/strategy-reduce-gun-trafficking-violence-americas/p31155>

¹⁷ Jeffrey Fields, *Small Arms Trafficking in the Americas*, FOREIGN POLICY IN FOCUS, Aug. 1, 2001 http://fpif.org/small_arms_trafficking_in_the_americas/

recent peace settlement has hopefully concluded a decades-long civil war, to Brazil, which has one of the highest gun homicide rates in the world.¹⁸

The flow of high-powered weaponry from the U.S. to Latin America and the Caribbean exacerbates soaring rates of gun-related violence in the region and undermines U.S. influence in the Western Hemisphere. The Senate rejected measures to expand background checks on firearms sales, reinstate a federal assault-weapons ban, and make straw purchasing a federal crime.¹⁹

The rate of U.S. firearms flowing into Central America, particularly the northern triangle countries of Guatemala, El Salvador, and Honduras, constitutes a major regional security problem. Based largely on an Bureau of Alcohol Tobacco and Firearms (ATF) examination of just one Guatemalan military bunker with firearms recovered from FY 2006 to FY 2009, ATF determined that 2,687 of the 6,000 firearms (40 percent) had a nexus with the United States (either because the firearms were U.S.-manufactured or U.S.-imported).²⁰

The United States is one of three countries that have not ratified the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA).²¹ The Convention requires parties to criminalize the illegal manufacture, import, or export of high-powered weapons. It also provides for information exchange and cooperation on initiatives including the marking and tracing of weapons and the identification of criminal transit routes. President Bill Clinton signed CIFTA in 1997 and submitted it for ratification to the Senate, but the Senate failed to act.²² Twenty countries in the Western Hemisphere have ratified CIFTA.²³

Just as importantly, the U.S. voted in favor of the United Nations' Arms Trade Treaty (ATT) in April 2013, and it has signed, but not yet ratified the treaty.²⁴ Latin American and Caribbean countries participate in the treaty.²⁴ The landmark Arms Trade Treaty (ATT), regulating the international trade in

¹⁸ *Id.*

¹⁹ Sweig, *A Strategy to Reduce Gun Trafficking and Violence in the Americas*

Policy, *supra*; *U.S.-Latin America Relations: A New Direction for a New Reality, supra*, at 37.

²⁰ Colby Goodman, *U.S. Firearms Trafficking to Guatemala and Mexico*, *Wilson Center, Latin American Program* May 13, 2013 <https://www.wilsoncenter.org/publication/us-firearms-trafficking-to-guatemala-and-mexico>.

²¹ For a text of CIFTA, see <http://www.state.gov/p/wha/rls/49907.htm>

²² Sweig, *A Strategy to Reduce Gun Trafficking and Violence in the Americas Policy, supra*.

²³ For a list of the countries that have signed and ratified CIFTA, see https://www.oas.org/XXXIVGA/english/reference_docs/Convencion_CIFTA.pdf

²⁴ To see the list of signatories and ratifications, see <https://s3.amazonaws.com/unoda-web/wp-content/uploads/2016/11/ATT-status-table-WebReport-28-November-2016.pdf>

conventional arms – from small arms to battle tanks, combat aircraft and warships – entered into force on December 24, 2014.²⁵

Strengthening U.S. gun control and participating in CIFTA and the UN Small Arms Treaty will offset widespread regional views that the U.S. remains indifferent to its own role in exacerbating one of Latin America's most significant challenges.²⁶

Strengthening gun control is an international trend. Recent increased terrorist incidents in the European Union resulted on December 20, 2016, with the confirmation by the Permanent Representatives Committee (Coreper), on behalf of the Council, the agreement reached with the European Parliament on the proposal for a directive on control of the acquisition and possession of weapons, which reviews and completes existing directive 91/477/EEC.²⁷

C. Drugs

Forty years of strong efforts have failed to reduce the production and consumption of illicit drugs. Worse, in Mexico and Central America, prohibition-related violence and corruption have become a major threat to public safety and the stability of democratic institutions.²⁸

The foundations of the U.S.-led war on drugs — eradication of production, interdiction of traffic, and criminalization of consumption — have not succeeded.²⁹ When there is established demand for a consumer product, there will be a supply. The only beneficiaries of prohibition are the drug cartels. Even when the “war on drugs” achieved momentary successes in reducing local production and shipments into the U.S. and elsewhere, the “balloon effect”, where temporary success in one country displaces trafficking to more vulnerable states analogous to the squeezing of a balloon, reflects how unintended consequences frequently erased apparent gains. The U.S. has thus far been unwilling to address the adverse collateral damage to national institutions, civic culture, and the significant human costs of counternarcotics policies on countries in the hemisphere.³⁰

²⁵ For the text of the treaty, *see id.*

²⁶ Sweig, *A Strategy to Reduce Gun Trafficking and Violence in the Americas Policy*, *supra*.

²⁷ Council of the European Union, *Control of firearms: Council confirms agreement with the European Parliament*, December 20, 2016, Press release 792/16. For additional background *see* Michael Plachta, *European Parliament and Council Have Reached Agreement on the New Firearms Directive*, 33 INT’L ENFORCEMENT LAW REP. ___ (Jan. 2017).

²⁸ Cesar Gaviria, Ernesto Zedillo, and Fernando Henrique Cardoso *Drugs: The Debate Goes Mainstream*, Inter-American Dialogue, April 9, 2012 <http://www.thedialogue.org/resources/drugs-the-debate-goes-mainstream/>

²⁹ *Id.*

³⁰ Richard Feinberg, Emily Miller and Harold Trinkunas, *Better Than You Think: Reframing Inter-American Relations*, LATIN AMERICA INITIATIVE FOREIGN POLICY AT BROOKINGS 13 (Mar. 2015).

An example of the balloon effect of counternarcotics policies have been that, as drug violence in Colombia has declined, it has increased significantly in Mexico. The increase in drug violence in Mexico arises from Mexico's growing importance as a trafficking route and increasing competition among different trafficking organizations. Expanded drug production in Mexico, such as the creation of synthetic drugs (i.e., methamphetamine) trafficked into the U.S., has contributed to the problem. Mexico's own security forces have been unable or unwilling to do battle with the well-funded and well-armed Mexican cartels.³¹

One policy recommendation emanating from Commissions on Drug Policy is to end — as soon as possible — the criminalization and stigmatization of people who use drugs but who do no harm to others. People struggling with drug abuse or addiction may indeed harm themselves and their families, but criminalization and social marginalization are not going to help them.³²

Argentina, Brazil, Colombia, Ecuador, Mexico and Uruguay have already enacted laws decriminalizing drug possession for personal consumption. However, the legal distinctions between “possession” and “trafficking” are unclear. Hence, the law often leads to police corruption and outright discrimination against the poor.³³

A second policy recommendation for ensuring peace and public safety is to encourage experimentation with different models of legal regulation of drugs, such as marijuana, in similar ways to what is already done with tobacco and alcohol.³⁴

The U.S. should concentrate on those elements of counternarcotics most under its control: (1) developing evidence-based policies to reduce illegal narcotics consumption and address public health effects in the U.S.; (2) use targeted interdiction strategies designed to affect drug flows in territories within U.S. jurisdiction or on the high seas; and (3) limit the flow of small arms to the region, so that drug traffickers will have reduced access to U.S. arms.³⁵

The Inter-American Drug Abuse Control Commission (CICAD) of the OAS should continue developing and promoting a comprehensive anti-drug policy for the region. Its strategy includes fifty guidelines for member states in the areas of institutional strengthening, demand reduction, supply reduction, control measures, and international cooperation. It also has made some policy changes, such as calling on

³¹ *U.S.-Latin America Relations: A New Direction for a New Reality, supra*, at 31.

³² *Drugs: The Debate Goes Mainstream, supra*.

³³ *Id.*

³⁴ *Id.*

³⁵ Feinberg, Miller and Trinkunas, *supra*, at 14.

member states to treaty drug addiction as a public health matter and to explore treatment and rehabilitation as alternatives to criminal prosecution.³⁶

D. Migration

Migration within the Western Hemisphere and migration to the U.S. continues to accelerate. A recent Task Force study found that demographic trends, economic opportunity, and established immigrant networks are the primary causes of current migratory trends, encouraging men and women to search for better opportunities abroad.³⁷

For Central Americans from the Northern Triangle countries who suffered the direct and indirect effects of armed conflicts in the 1980s and 1990s, a history of migration to the U.S. results from violence and civil war. For current generations the tradition of northward migration and the pull of family reunification are powerful factors. Furthermore, a U.S. law that provides for special protections for children who are potential victims of trafficking has also been a magnet for unaccompanied minors and family units. However, the most common reason for migrating north is the lack of economic opportunity, and the toll of constant violence – threats, extortion, abuse, and murder.³⁸

Remittances have become an important source of income for many developing countries. Remittances have played a positive role in Latin American development. Children from families receiving remittances are significantly more likely to remain in school. Some remittances are put into productive investments, such as start-up capital for small businesses.³⁹

Another potentially positive element for development is nonpermanent migration. More “circular migration” is occurring, in which people migrate for shorter periods of time or move back and forth repeatedly. In the Western Hemisphere, circular migration has become an increasingly common strategy to increase and diversify family income. In the long term, this trend facilitates migrants returning to their home countries with new financial and human capital. Domestic and international policies that promote circular migration and productive investment of remittances can maximize the positive impact of migration for sending countries.⁴⁰

³⁶ CICAD, *Hemispheric Drug Strategy*, May 2010, at http://www.cicad.oas.org/Main/Template.asp?File=/main/aboutcicad/basicdocuments/strategy_2010_eng.asp

³⁷ *U.S.-Latin America Relations: A New Direction for a New Reality*, *supra*, at 41.

³⁸ Eric L. Olson, *Migrant Smuggling and Trafficking at the Rio Grande Valley: Ten Observations and Questions*, *supra*.

³⁹ *U.S.-Latin America Relations: A New Direction for a New Reality*, *supra*, at 42-43, citing Richard H. Adams Jr., *Remittances, Poverty, and Investment in Guatemala*, in INTERNATIONAL MIGRATION REMITTANCES AND THE BRAIN DRAIN (Caglar Özden and Maurice Schiff, eds.) (Washington, D.C.: World Bank; New York: Palgrave Macmillan, 2006).

⁴⁰ *U.S.-Latin America Relations: A New Direction for a New Reality*, *supra*, at 43-44.

The inability of the U.S. to develop new immigration policy affects national security, economic growth, and foreign relations. The current situation and debate concentrates primarily on the U.S.-Mexico border, even though almost half of unauthorized workers in the U.S. enter legally through other ports and overstay their visas. The failures of U.S. immigration law have become a foreign policy problem. The recent immigration debates and inability to enact meaningful immigration reform have harmed U.S. standing in the region. Many Latin American countries perceive current immigration laws as discriminatory and unfair toward their citizens.⁴¹ Therefore, comprehensive immigration reform is important to create a system that better fulfills U.S. security, economic, and foreign policy interests.⁴²

Since the 2014 migration crisis, the U.S., Mexico, and Central America have collaborated on a policy to discourage further Central American migration. The policy concentrates on greater enforcement of immigration laws and increased efforts to dissuade irregular migration. This includes expedited processing and removals including deportations, or “repatriation.”

Enhanced border enforcement is another significant component, focused on the U.S. –Mexico border as well as the Mexico-Guatemala border and borders within Central America.

In addition, the U.S. government, as well as Mexico and the Northern Triangle countries, have undertaken public education campaigns to dissuade would-be migrants by publicizing the dangers and likely failures of such a trek. The U.S. Congress has required the State Department to provide evidence that the Northern Triangle countries are making progress in several areas, including efforts to dissuade further migration, before those countries can be eligible to receive a portion of the U.S. assistance package.⁴³

A second important element of the policy targets the drivers of migration in the Northern Triangle countries. Both U.S. and Northern Triangle policies identify three priorities for addressing the causes of migration: increase economic opportunity, especially among vulnerable groups; increase public security; and strengthen governmental capacity to fight crime and corruption.⁴⁴

A U.S. policy that has been harmful to the security of the region and U.S. national security has been the dumping of prisoners and deportees on countries in the region, often with little notice and planning. In many cases the prisoners and deportees have violent histories and exceptional criminal skills, and

⁴¹ *Id.* at 47-48.

⁴² *Id.*

⁴³ Eric L. Olson, *Migrant Smuggling and Trafficking at the Rio Grande Valley: Ten Observations and Questions*, *supra*, at 4-5.

⁴⁴ White House, *U.S. Strategy for Engagement in Central America*, https://www.whitehouse.gov/sites/default/files/docs/central_america_strategy.pdf; Plan of the Alliance for Prosperity in the Northern Triangle: A Road Map Regional Plan Prepared by El Salvador, Guatemala and Honduras (Sept. 2014) <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=39224238>.

little connection to the country to which they are deported – some may have left at a very young age, and no longer have meaningful family or other connections. They use their knowledge and skills to commit crimes and contribute to the spread of criminality in their new country. Many of the crimes (e.g., computer fraud, stolen autos and airplanes, human trafficking, sex trafficking, narcotics trafficking, and migration fraud) target the U.S. since the U.S. is the market with which they are most familiar. Small and fragile countries in the Central America and the Caribbean do not have the capacity to deal with these violent and sophisticated criminals, so the deportation causes a deterioration in their security. The U.S. should alter its deportation policies in ways to help plan and mitigate the harmful impacts of the deportations.

E. Terrorism

An example of the concern about potential terrorist threats from within the Western Hemisphere occurred in June 2007 when persons involved in a terrorist plot at John F. Kennedy airport in New York were found to have come from Guyana and Trinidad and Tobago. Federal law enforcement authorities announced they had broken a cell consisting of three men, one of them a former member of Guyana's parliament, who was arrested and one was being sought in Trinidad. Federal authorities said the planned attack was part of a plot they had tracked for more than a year which they had foiled in the planning stages.⁴⁵

Concerns about the region serving as a base or breeding ground for terrorist organizations arises primarily out of the fragile economies and large public debt of some of the Caribbean and Central American countries. Attention has also looked at the triborder area where Argentina, Brazil and Paraguay meet, since it is the center of considerable criminal activity and has relatively low levels of government control. Hezbollah has had a limited presence in the area for purposes of money laundering. Concerns have been raised about whether Venezuela could become a haven for Islamic terrorism.⁴⁶

Another concern about transnational terrorism and the Western Hemisphere is the potential ability of terrorists to establish themselves on border areas and/or in the Caribbean and use those areas as staging grounds to attack the U.S. and/or to conduct criminal activities to raise funds for later terrorist activities in the U.S. and the region. Those areas in which the governments do not have substantial control, either because drug cartels or transnational organized crime groups are strong or because the governments may be weak due to economic conditions (e.g., Haiti and other Caribbean areas), are especially vulnerable.

⁴⁵ Associated Press, Three Arrested, 1 Sought in Terror Plot on New York City's JFK Airport, Fox News, June 2, 2007 <http://www.foxnews.com/story/2007/06/02/three-arrested-1-sought-in-terror-plot-on-new-york-city-jfk-airport.html>.

⁴⁶ *U.S.-Latin America Relations: A New Direction for a New Reality*, *supra*, at 33. For a discussion of diaspora terrorism, see *Terrorists in Our Midst: Combating Foreign-Affinity Terrorism in America* (Yonah Alexander, ed.) (2010).

F. Geographic Areas and Countries

There are numerous security issues facing geographic areas and countries in the Western Hemisphere. The brief time for this panel requires a brief discussion of selected topics.

1. Mexico

In the context of the comments by U.S. President-elect Donald Trump with respect to building a wall, making Mexico pay for it, and renegotiating NAFTA, a cooling-off period between the two governments is likely in terms of cross-border cooperation on immigration, security, anti-drugs operations and other issues which require bilateral collaboration.⁴⁷

NAFTA has been central to bilateral security, insofar as it has provided a means for lower and middle class Mexicans to have gainful employment, thereby removing their main motivation to migrate to the U.S. In addition, NAFTA contains provisions on customs and intellectual property enforcement. As a result of NAFTA, the Mexican federal and state governments were able to stop much of the piracy of software, films and other U.S. intellectual property (IP). Prior to NAFTA, Mexico made wholesale changes in its IP law. Presumably the U.S. government and the IP sector do not want to undo such changes and cooperation.

The federal and state law enforcement of Mexico and the U.S. cooperate on a wide-range of law enforcement policies, and the two sides conduct regular meetings of border state attorney generals, in which both federal governments participate. The topics cover the whole range of law enforcement cooperation. Whereas extradition from Mexico used to be problematic, Mexico now routinely extradites or surrenders persons to the U.S.

Reforming Mexico's often corrupt and inefficient criminal justice system is believed to be important for combating criminality, strengthening the rule of law, and better protecting citizen security and human rights in the country. The U.S. Congress has provided significant support to help Mexico reform its justice system in order to both make current anticrime efforts more effective and strengthen the system over the long term.⁴⁸ Notwithstanding the continuing security problems in Mexico, supporting the reform of Mexico's criminal justice and judicial system has been successful in strengthening the capacity of those systems.

A strategic challenge facing the U.S. with respect to border security is in applying a risk management framework that requires, at the highest level, the balancing of security concerns against other needs, given finite resources. The framework is required in order to consider how much the U.S. can afford to spend for security improvements in light of other, competing demands for limited funds. In this regard,

⁴⁷ Simon Whistler, What will the Trump presidency mean for Latin America?, Nov. 17, 2016
<http://www.bilaterals.org/?what-will-the-trump-presidency>

⁴⁸ Claire Ribando Seelke, *Supporting Criminal Justice System Reform in Mexico: The U.S. Role*, Congressional Research Service, March 18, 2013

it becomes important to complete comprehensive national threat and risk assessments to guide and prioritize investment decisions, so that risk management can guide allocation of scarce resources.⁴⁹

Three border paradigms are possible. One is a substantial hardening of U.S. border defenses with security prioritized over all other considerations. A second paradigm is multilateral policy harmonization and a pooling of sovereignty similar to the European Union. A third is a series of initiatives involving a mix of enhanced cross-border security collaborations and partial policy convergence. Until now the U.S. has mainly taken the first paradigm-making policy unilaterally.

Fortification and militarization of the U.S. southern border requires endless resources. Similar to the war on drugs or the war on transactional organized crime, the effort to prioritize border security cannot be sustained unilaterally. Globalization guarantees that terrorists and criminals can take advantage of technology and the mechanisms to move people, money, goods, and products instantaneously. Globalization enables such persons to plan and commit crimes against the U.S.

The U.S. will need the second and third paradigms to complement the first one. Otherwise, efforts at border security will not be sustainable.⁵⁰

2. *Central America*

Although President-elect Donald Trump did not mention the U.S. DR-CAFTA during the Presidential campaign, Central America has expressed concern over the impact of the new administration on trade ties, flows of aid and general cooperation on security and governance issues. In particular, the incoming administration's protectionist instincts have raised concern locally that any moves against NAFTA will presage similar treatment of DR-CAFTA.

US aid to Central America, particularly the 'Northern Triangle' countries of Honduras, El Salvador and Guatemala, has been important for those countries. They will want to avoid U.S. government cuts to programs, especially since the programs are intended to combat the root causes of immigration to the U.S. – particularly around domestic insecurity and the economic challenges facing each of those countries. The programs also target other crossborder criminal threats, especially narcotics.⁵¹

3. *Colombia*

In 2016 the Obama Administration obtained Congressional support for a new version of Plan Colombia – U.S. funding, principally for the anti-narcotics fight in Colombia – this time in support of the

⁴⁹ Bruce Zagaris, *Border Security*, TERRORISTS IN OUR MIDST: COMBATING FOREIGN-AFFINITY TERRORISM IN AMERICA 150, 184.

⁵⁰ *Id.* at 185-186.

⁵¹ *Id.*

peace process. U.S. support for the peace process and stabilization for Colombia would be useful. To the extent the U.S. can cooperate more with the European Union, its work will be more sustainable.

4. Cuba

The U.S.-Cuban effort to normalize relations will help U.S. efforts to lead regional enforcement and other issues. As the White House has stated, the previous U.S. stance against Cuba alienated the U.S. from regional and international partners.⁵² In April 2014, when Obama and Castro both attended the Summit of the Americas, the pressure in most bilateral relations no longer focused on trying to force the U.S. to change its isolation of Cuba.⁵³ The new policy has also weakened the position of anti-U.S. countries, such as Bolivia, Ecuador, and Venezuela.⁵⁴

Since December 17, 2014, the U.S. and Cuba have started security collaboration. A year and a half ago, the U.S. still listed Cuba as a state sponsor of terrorism. Today, it is an emerging partner in the fight against terrorism. U.S. intelligence and law enforcement agencies have started to broaden cooperation on combating drug trafficking and transnational crime. In January, U.S. SOUTHCOM invited a Cuban delegation to its annual Caribbean conference to discuss disaster response and other regional security issues.⁵⁵

The Trump Presidential campaign's anti-Cuba rhetoric hardened during the end of the Presidential campaign. The Trump Administration may suspend some of the liberalized sanctions on the grounds that Cuba has done little to reciprocate in terms of political and economic liberalization and improved human rights.⁵⁶ In particular, Mr. Trump reiterated a campaign promise after Fidel Castro's death: "If Cuba is unwilling to make a better deal for the Cuban people, the Cuban/American people and the U.S. as a whole, I will terminate deal," Trump stated in a tweet.⁵⁷ Already since December 17, 2014, Cuba and the U.S. have concluded a dozen new agreements on issues ranging from environmental protection to counternarcotics cooperation. As long as the U.S. does not try to interfere with Cuban sovereignty by

⁵² Karen DeYoung, *Obama moves to renew official ties after American captive's release*, Wash. Post, Dec. 18, 2014, at A1, col. 2.

⁵³ Simon Romero and William Neuman, *In a Region, a Wedge Is Removed*, N.Y. Times, Dec. 19, 2014, at A1, col. 5.

⁵⁴ *Id.*

⁵⁵ National Security Advisor Susan E. Rice, "A New Day Between the United States and Cuba", The Wilson Center, Washington, D.C., Wilson Center, Latin American Program, October 14, 2016 <https://www.wilsoncenter.org/event/new-presidential-action-cuba-conversation-national-security-advisor-susan-e-rice>.

⁵⁶ Whistler, *supra*.

⁵⁷ William M. LeoGrande, *What Trump Misses About Cuba*, WALL ST. J., Dec. 1, 2016, at A31, col. 2.

making demands on internal Cuban policy, Cuba is willing to go further, including discussions on compensation for American property nationalized in the 1960s and the sensitive issue of human rights.⁵⁸

From a security perspective, when U.S.-Cuban relations have improved, so have bilateral enforcement cooperation on narcotics enforcement cooperation,⁵⁹ illegal migration,⁶⁰ environmental cooperation, repatriation of hijackers, fugitive felons, and spies,⁶¹ exchanges of prisoners, and cooperation with the Coast Guard.⁶² Normalized relations also diminish the pressure on the Cuban government to crack down on political dissenters. Economic liberalization is likely to follow the change of Cuban leadership.

From a regional security perspective, Cuba's hosting the talks to end the decades-long civil war in Colombia has been positive. Its security forces limit criminal activities in Cuba and pose an unfavorable environment for international criminal syndicates.⁶³

5. *The Commonwealth Caribbean*

Recent action by the U.S. House of Representatives underscores the security issues of importance in the Caribbean to the U.S. On December 10, 2016, the Senate passed H.R. 4939. On June 13, 2016, the House of Representatives passed it (the United States-Caribbean Strategic Engagement Act of 2016) by a vote of 386 to 6. H.R. 4939 requires the Secretary of State, in coordination with the Administrator of the U.S. Agency for International Aid, to submit a multi-year strategy for U.S. engagement with the Caribbean region to Congress no later than 180 days after enactment. This strategy would in part focus on improving citizen security, reducing trafficking of illicit drugs, strengthening the rule of law and promoting greater economic development.

The bill is short on substance and, like the 1983 Caribbean Basin Initiative of the Reagan Administration, is motivated largely by U.S. national security interests in the region, especially the manner in which Venezuela, China and Cuba have filled the void in the region. Still, the bill presents the

⁵⁸ *Id.*

⁵⁹ See, e.g., Bruce Zagaris, *Cuba Tentatively Accepts US Requests to Improve Counternarcotics Cooperation*, 15 INT'L ENFORCEMENT L. REP. 406 (Oct. 1988).

⁶⁰ See, e.g., Bruce Zagaris, *Cuba and the U.S. Reach Accord on Migration Enforcement*, 10 INT'L ENFORCEMENT L. REP. 394 (Oct. 1994).

⁶¹ Peter Baker, *Obama Announces U.S. and Cuba Will Resume Diplomatic Relations*, N.Y. Times, Dec. 17, 2014 (i.e., discussing the exchange by Cuban government of USAID contractor Alan Gross for the Cuban Five).

⁶² For a discussion of cooperation between the U.S. and Cuba during the Obama administration on migration, counternarcotics, and law enforcement, see LeoGrande and Kornbluh, William M. LeoGrande and Peter Kornbluh, *BACK CHANNEL TO CUBA: THE HIDDEN HISTORY OF NEGOTIATIONS BETWEEN WASHINGTON AND HAVANA* (N. CAROLINA PRESS 2014) 387-390. See also Bruce Zagaris, *Prisoner Transfer and Drug Cooperation Between U.S. and Cuba Again Point the Way to Improved Diplomatic Relations*, 9 Int'l Enforcement L. Rep. 499 (Dec. 1993).

⁶³ Feinberg, Miller and Trinkunas, *supra*, at 18.

first opportunity since the mid-1980s for the region to engage the U.S. executive and legislative branches.

On July 14, 2016, the U.S. House of Representatives Committee on Foreign Affairs Subcommittee on the Western Hemisphere held a hearing on the “Strategic Importance of Building a Stronger U.S.-Caribbean Partnership.”

During the hearing testimony examined the void in the region emanating from the collapse of Venezuela and the limitations of PetroCaribe, the Venezuelan initiative in 2005 to provide high-subsidized oil to the Caribbean. The hearing underscored the need to relieve the region from its dependence on imported energy and shift to alternative energy sources, such as solar, wind, and thermal, and to promote and enhance the Obama Administration’s Caribbean Energy Security Initiative to facilitate a cleaner, more energy secure future consistent with the Paris climate change accords.

The hearing discussed the problem of withdrawal by U.S. banks of correspondent relationships with Caribbean indigenous banks and the fact that such withdrawals harm U.S.-Caribbean cooperation by cutting Caribbean people from U.S. banking and producing a void that makes the Caribbean vulnerable to interests inimical to the U.S.

On travel and tourism, testimony called for a strategic look at increasing U.S. immigration pre-clearance presence through a hub and spoke system to provide enhanced security. Another suggestion was to provide technical assistance, such as in the area of increased training for the development of a shared watch-list for travelers into and within the region.

The House’s passage of H.R. 4939 and the hearing as well as the U.S. national elections present a rare opportunity for the U.S. to reassess its security interests in the region. CARICOM, national governments, the Caribbean diaspora, and other interested groups in both the region and the U.S. should network, strategize, and collaborate with members of the U.S. government to pass a similar and hopefully more substantial bill in the Senate. One element the Caribbean can request is bilateral tourism agreements, whereby the U.S. agrees to collaborate with Caribbean countries in developing tourism joint ventures, tourism promotion and marketing, and technical assistance.

Just as importantly, U.S. states, especially those in the southeastern part of the U.S. and those with a large Caribbean diaspora population, should try to engage with the Caribbean where they have mutual interests. Many long-term tourists from Asia and Northern Europe like to combine trips to Florida and Eastern U.S. with the Caribbean. By having tourism agreements with states, those states and the Caribbean, working with the private sector, can develop and market joint tourism agreements in areas such as plantocracy, music, visual arts, food, and other culture. Such collaboration will benefit the states

as much as the Caribbean. The Caribbean and U.S. states can collaborate on educational and health care exchanges, the way that Cuba and CARICOM countries have done.⁶⁴

The Caribbean Single Market Economy has taken a number of steps to strengthen its enforcement framework. They include, for instance, a Virtual Single Domestic Space facilitated through a voluntary regime of a CARICOM Travel Card with facial and fingerprint biometrics, a CARICOM Watchlist, a CARICOM Arrest Warrant, the Regional Security System (RSS), and the Association of Caribbean Commissions of Police.⁶⁵ As it goes forward, the U.S. should continue to partner with international organizations, such as the World Bank⁶⁶ and UN Office on Drugs and Crime, and the region in that effort.

With respect to the withdrawal by U.S. banks of correspondent relationships with Caribbean indigenous banks (also known as de-risking), the U.S. federal government should adhere to the agreement reached at the de-risking conference held in Antigua and Barbuda on October 27-28, 2016. The conclusions reached included that “the Conference called on member states of the Organization for Economic Co-operation and Development (OECD) and the European Union to align their individual transparency criteria in the framework of the Global Forum standards which are approved by 137 jurisdictions.”⁶⁷ Until now, both individual states and sub-federal states in the U.S. have used their own standards, and multiple standards can be a hindrance to compliance. When Caribbean governments have complained about state tax haven laws, the IRS Commissioner John Koskinen in an October 2015 letter to Sir Ronald Sanders, the Ambassador of Antigua and Barbuda to the U.S., said the IRS plays “no role in the legislative process of the District of Columbia or the states and, as a result, we are not in a position to assist you in addressing this issue”.⁶⁸

The participants in the Antigua and Barbuda meeting should formalize the commitment to freezing individual national transparency criteria into a soft standard by the OECD Global Forum on Transparency and Exchange of Tax Information, and the G-20 to mitigate the consequences of de-risking and slow the

⁶⁴ For additional background on H.R. 4939 and the Congressional hearing on the same, see Bruce Zagaris, *Commentary: US Congress reconsiders strategic importance of partnership with the Caribbean*, Caribbeannews.com, July 20, 2016; Bruce Zagaris and Scott Buzzard, *Renewed American Focus Can Bring Regional Tourism Dividends*, BAHAMAS TRIBUNE, Aug. 23, 2016.

⁶⁵ Bruce Zagaris, INTERNATIONAL WHITE COLLAR CRIME: CASES AND MATERIALS 665-68 (2d ed. 2015).

⁶⁶ E.g., on May 4, 2007, the UN Office on Drugs and Crime and the Latin America and Caribbean Region of the World Bank issued a report stating that crime and violence are creating a major obstacle to investment, undermining growth, threatening human welfare, and impeding social development in the Caribbean. The report made a series of recommendations for regional and national action. See, e.g., Bruce Zagaris, *World Bank Calls for Improved Criminal Justice Planning in the Caribbean*, 23 INT'L ENFORCEMENT L. REP. 275 (July 2007).

⁶⁷ Bruce Zagaris, *CARICOM Seeks Solutions to De-risking and Unfair Labeling of Region as a Tax Haven*, 32 INT'L ENFORCEMENT L. REP. 429 (Dec. 2014).

⁶⁸ For additional discussion, see Bruce Zagaris, *Withdrawal of Correspondent Bank Accounts in the Caribbean*, TAX NOTES INT'L 1015, 1017 (Dec. 12, 2016).

incidence of de-risking. Due to the harsh adverse development implications of imposing unilateral (at national, subnational, and international levels) blacklists and countermeasures, the international community should consider blacklists and countermeasures for those countries and subnational jurisdictions that promulgate standards inconsistent with the global forum standards. Alternatively, countries should consider having recourse to bring complaints before the World Trade Organization. Otherwise, the efforts against de-risking will struggle to keep pace with the proliferation of blacklists and countermeasures.⁶⁹

IV. THE NEED TO STRENGTHEN THE ARCHITECTURE OF HEMISPHERIC ENFORCEMENT COOPERATION

This section focuses on the need for the region to strengthen its framework for hemispheric enforcement cooperation.

A. The Existing Enforcement Cooperation Mechanisms Need Reinforcement

Much of the international criminal and enforcement cooperation and criminal justice harmonization in the Western Hemisphere take place under the auspices of the Organization of American States (OAS). Within the OAS, the Inter-American Judicial Committee (IAJC) handles much of the legal advisory work.⁷⁰ The IAJC, the OAS's advisory body on juridical matters, helps promote the progressive development and codification of international law, and studies juridical problems related to the integration of regional developing countries. It has eleven members, whom the General Assembly elects for a period of four years from panels of three candidates presented by the member states. To facilitate an equitable geographical representation, no two members of the committee can be from the same state.

The 1970 entry into force of the revised OAS Charter created new mechanisms with important implications for international enforcement cooperation. In 1979, the Inter-American Court of Human Rights established links to the OAS General Assembly. In 1986, the OAS created the Inter-American Drug Abuse Control Commission (CICAD)⁷¹ and upgraded the Inter-American Defense Board (IADB).⁷²

Since 1997, the Organization of American States has also convened regular meetings of ministers of justices and attorneys general (Reunión Extraordinaria de los Ministros de Justicia de las Américas, or REMJA). These meetings provide a forum for wide-ranging discussions on all aspects of international enforcement cooperation and criminal justice in the region, presaging more dynamic regional

⁶⁹ *Id.*

⁷⁰ The next five paragraphs are taken from Bruce Zagaris, INTERNATIONAL WHITE COLLAR CRIME: CASES AND MATERIALS 649-50 (Cambridge Univ. Press, 2d ed., 2015).

⁷¹ For the history of CICAD, see <http://www.cicad.oas.org/EN/Main/AboutCICAD/history.htm>.

⁷² Zagaris, *supra* note 13 at 454.

cooperation on criminal matters.⁷³ Although REMJA exists within the OAS framework, it is not an organic body or an agency of the OAS like other bodies concerned with international criminal and enforcement cooperation, such as CICAD or the Inter-American Committee against Terrorism (CICTE).⁷⁴

REMJA has focused on single crime issues, such as cybercrime, prison and penitentiary policy, and the training of judges, prosecutors, and judicial officers, thereby improving international criminal cooperation.⁷⁵ It has helped promote law enforcement cooperation throughout the hemisphere. Since REMJA's creation, OAS members have ratified and begun to implement universal and regional international cooperation instruments. Many REMJA members have participated in its information exchange network. The group also focuses its attention on specific issues, including human trafficking.⁷⁶

Because REMJA is neither a standing OAS agency or entity nor a treaty-based structure, its viability is wholly dependent on OAS institutions such as the Permanent Council. The Council drafts and approves REMJA's agenda, promotes and tracks its conclusions and recommendations, and directs and observes its components. Looking toward the future, REMJA's continued dynamism would seem to require a sounder legal basis and adequate staffing and funding.⁷⁷ The success of the various REMJA initiatives also depends on countries deciding to support its initiatives, as Canada has done with REMJA's information exchange network.⁷⁸ The establishment of a Committee on the Americas' Crime Problem, emulating the European Committee on Crime Problems, would be an even bolder step.

B. A More Comprehensive Mechanism: The Americas Committee on Crime Problems⁷⁹

As transnational criminals and criminal groups inevitably take advantage of opportunities flowing from globalization and economic integration, the traditional actors in international relations – the nation-state and international organizations – have been challenged to maintain their hegemony and survive. Either they will be able to adapt their conception of international organizational theory to account for and counter new international criminal actors or they will eventually find themselves eclipsed by their new rivals. Increasingly, the international system will become infected by the poison of criminal groups.

⁷³ *Id.* at 472. See also David P. Warner, *Law Enforcement Cooperation in the Organization of American States: A Focus on REMJA*, 37 U. Miami Inter-Am. L.Rev. 387, 387–420 (2006).

⁷⁴ *Id.* at 400.

⁷⁵ Zagaris, *supra* note 13 at 476–80.

⁷⁶ David P. Warner, *Law Enforcement Cooperation in the Organization of American States: A Focus on REMJA*, 37 U. MIAMI INTER-AM. L. REV 387, 408–10.

⁶⁷ *Id.* at 410–13.

⁷⁸ *Id.* at 416–17.

⁷⁹ This section is taken from Bruce Zagaris, *Developments in the Institutional Architecture and Framework of International Criminal and Enforcement Cooperation in the Western Hemisphere*, 37 U. Miami Inter-Am. L Rev.

International lawyers, foreign relations experts, and criminologists will increasingly have to become multidisciplinary in their vision and strategic planning, flexible in their ability to form alliances and construct methods to interact with each other and develop their own networks, while deflating those of criminal groups.⁸⁰ Until national governments confer on a regional organization the mandate and resources to intensively and regularly work objectively on criminal justice planning, uniform laws, treaties, agreements, memoranda of understanding, institutions, and other ways of cooperating on crime problems, the U.S. and other governments and international organizations will be reacting to crime problems and criminals. To be effective in a technoelectric age requires a proactive, comprehensive, and visionary approach to criminal justice.⁸¹

Meaningful enforcement initiatives against transnational crime should be based on a comprehensive criminal justice policy and permanent, ongoing work by dedicated civil servants under high level political leaders and criminal justice professionals. For illustration purposes, on a hemispheric level the U.S. and other governments should consider the creation of an Americas Committee on Crime Problems.

The purpose of the Americas Committee would be to discuss and take action on questions of common criminal justice needs. Membership in the Americas Committee would be open to all countries in the hemisphere and would allow observer or associate membership for interested international organizations, non-governmental organizations, and governments outside the hemisphere. The Americas Committee could emulate the European Committee on Crime Problems, which was established by decision of the Committee of Ministers of the Council of Europe in June 1958. The European Committee on Crime Problems is composed primarily of senior officials of the Ministries of Justice in the member European states who have worked on exchanging experiences and coordinating research relating to the prevention of crime and treatment of offenders.

The European Committee on Crime Problems has given basic modes of operation. First, the Committee itself meets once a year so as to set policy for related bodies such as the Criminological Scientific Council. Second, the Committee establishes ad hoc subcommittees and working parties composed of experts. These subcommittees submit draft conventions or draft resolutions to the full Committee on Crime Problems which in turn rejects or accepts the draft proposals. Those draft proposals which the full Committee on Crime Problems accepts it passes on through the Council of Europe to member governments. Third, the Committee on Crime Problems has established permanent bodies to provide assistance in the area of criminological research such as the Criminological Scientific Council. Fourth, the Committee has convened specialized topical conferences such as the Conference of

⁸⁰ For a discussion of the need for alliance-building in international criminal and regulatory areas, see Anne-Marie Slaughter, *The Real New World Order*, 76 FOREIGN AFFAIRS 183-97 (1997).

⁸¹ For a discussion of more comprehensive anti-crime regime development applied to the Americas, see Bruce Zagaris, *Constructing a Hemispheric Initiative Against Transnational Crime*, 19 FORDHAM INT'L L.J. 1888-1902 (1996); Bruce Zagaris and Constantine Papavizas, *Using the Organization of American States to Control International Narcotics Trafficking and Money Laundering*, 57 REV. INT'L DE DROIT PENAL 119-33 (1986).

Directors of Prison Administrations. Finally, the Committee on Crime Problems was instrumental in the regular convening of a Conference of European Ministers of Justice every two years since 1961.

Assuming that the Americas Committee would be established under the auspices of the Organization of American States, the Committee would be established after a meeting of the Ministers of Justice of the respective states of the OAS and other interested states much like the European Committee on Crime Problems was established. Since matters of international criminal cooperation concern policy matters as well as technical matters, the Committee on Crime Problems would need input from both the Ministries of Justice as well as the Ministries of Foreign Affairs. The work of the Committee would be regularized by an annual meeting, and eventually by a secretariat with a technical staff of senior officials from the Ministries of Justice. The Americas Committee would also develop its own specialized resources on international criminal conventions and criminal justice planning. Initially, technical assistance could be furnished by developed states, international organizations, and non-governmental organizations.

One of the first tasks of the Committee would be to review the existing instruments and institutions responsible for international criminal cooperation, so that the instruments could be coordinated effectively. The scope of the charter of the Committee should embrace all criminal law and justice matters facing the hemisphere, including crime prevention and detection, and criminal justice development planning.

The committee could also review legal, administrative, and judicial measures taken in the member states in fighting specific crime areas for innovation worthy of emulation. As a result of findings and reports, recommendations would be made for harmonization and unification of law projects by the Committee, the establishment of domestic or international organizations, and improved measures of international cooperation. The Committee in some cases could also draft uniform legislation for adoption by member states.

In the recent past, governments in the region have liberalized trade and investment as well as the movement of people, although the election of Donald Trump indicates a more nationalistic and protectionist trend in the U.S. Examples of such free trade agreements include the U.S.-Canada Free Trade Agreement and the North America Free Trade Agreement. While these agreements have a couple of provisions on criminal cooperation, they are limited to intellectual property protection and customs enforcement, criminal justice and criminal cooperation are stepchildren. As a result, governments are facilitating the easy movement of illegitimate as well as legitimate goods, people, and capital. Criminal syndicates are flourishing in this environment. Rather than react after the fact to individual problems, such as drugs, corruption, arms trafficking, and money laundering, governments must create mechanisms to enable themselves to view crime just as it is viewed by criminals – as a business with vast opportunities and networking possibilities. Indeed, free trade and globalization compel innovative approaches to criminal cooperation.

Until national governments confer on a regional organization the mandate and resources to intensively and regularly work objectively on criminal justice planning, uniform laws, treaties,

agreements, memoranda of understanding, institutions, and other ways of cooperating on crime problems, the U.S. Government and international organizations will be reacting to crime problems and criminals. To be effective in a technoelectric age requires a proactive, comprehensive, and visionary approach to criminal justice. The Americas Committee on Crime Problems is an idea worth exploring.

At present, the OAS seems to be the best home for an Americans Committee on Crime Problems because it already is the Secretariat for a number of other enforcement initiatives, such as REMAJ and CICAD. However, the OAS itself has serious resource issues due largely to underlying political problems. Some of the OAS reform ideas call for further limitations on the scope of its work.⁸²

V. CONCLUSION

The global community and all participants, in developing and implementing international regimes on international criminal and enforcement cooperation, are searching for more effective mechanisms to implement their goals and strategies. The challenges are many. Governments, international organizations, civil society, academicians, and professional diplomats, criminologists, international lawyers, and other interested persons must immediately develop proactive hemispheric enforcement regimes and networks to successfully tackle the domestic and cross-border enforcement and security threats.

To safeguard the national and regional security interests, the U.S. must reaffirm the value of respectful, collaborative relationships to address shared problems and develop strengthened regional enforcement institutions.

⁸² See, e.g., Peter J. Meyer, *Organization of American States: Background and Issues for Congress*, Congressional Research Service, Aug. 22, 2016; Adam Isacson, *Conflict Resolution in the Americas: The Decline of the OAS*, WORLD POLITICS REVIEW, May 22, 2012; Kevin Casas-Zamora, *Reform the OAS*, Inter-American Dialogue, July 18, 2016.