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Depriving International Narcotics Traffickers and Other Organized Criminals of Illegal Proceeds and Combatting Money Laundering

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This paper will focus upon the American experience in attempting to deprive international criminals, particularly drug traffickers, of illegal proceeds and to combat money laundering. These efforts began many years ago in the context of general tax evasion and non-drug organized crime. Based upon over twenty-five years of experience in developing, prosecuting and supervising organized crime cases in the federal system, I must candidly admit that our efforts to combat sophisticated criminality by attacking its profitability were largely illusory — until recently. Only the public and Congressional realization of and reaction to the immense profits of the drug trade finally found recent legislation addressing currency control and forfeitability of criminal proceeds as essential responses to sophisticated transnational and domestic criminality.[1]

To really understand how little experience our nation has in this area, and thereby to begin to appreciate how little we know and how much we have to learn, it is essential to study the development of financial controls in American public administration. Historically, those controls were very weak, as indeed was our central government until the Civil War. In the first seventy-five years of our history there was no income tax, no estate and inheritance tax, no means of raising revenue except customs duties and a few excise taxes on the production of what were considered luxury items, such as liquor. When the financial demands of the Civil War did require imposition of a federal income tax, it barely survived the war emergency and was repealed after ten years.[2] Only in

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1. Racketeer Influenced and Corrupt Organizations, Pub. L. No. 91-452, 84 Stat. 941 (1970) (codified as amended at 18 U.S.C. §§ 1961-1968 (West 1984 & Supp. 1990)). *See generally* CONTINUING APPROPRIATIONS 1985, Comprehensive Crime Control Act of 1984, H.R. REP. No. 1030, 98th Cong, 2d Sess. 4, *reprinted in* 1984 U.S. CODE CONG. & ADMIN. NEWS 3182.

2. *See* Eisenstein, *Rise and Decline of Estate Tax*, 11 TAX L. REV. 223, 226 (1956). Congress first enacted a personal income tax as a temporary revenue measure during the Civil War. An Act to Provide Increased Revenue from Imports, to Pay Interest on the Public Debt, and for Other Purposes, Act of Aug. 5, 1861, ch. 45, § 49, 12 Stat. 292, 309, *repealed by and reenacted by* An Act to Provide Internal Revenue to Support the Government and to Pay Interest on the Public Debt, Act of July 1, 1862, ch. 119, § 89, 12 Stat. 432, 473, *repealed by* An Act to Reduce Internal Taxes and Other Purposes, Act of May 1, 1871,

1913 was the modern system of comprehensive taxation of income, profits and inherited wealth implemented.[3] Effectively, the institutional memory of our government in the field of citizen financial reporting and controls began seventy-five years ago.

In the years following 1913 some famous tax evasion cases gained popular recognition, especially the conviction of the famous Chicago gangster Al Capone in the 1930's.[4] Such successes, however highly publicized, were exceptions to a general rule of unsophisticated financial enforcement. Congressional hearings in 1934 focused upon the same issues which plagued us fifty years later — bank secrecy havens, foreign trusts and proprietaries used to avoid taxation — no effective solution was found at the time. As is frequently the case, the deficiency existed not in the obligations imposed by law, which were clear enough, but in the inadequate mechanisms provided to secure compliance.

Thus, the overriding philosophy was that of self-declaration of tax liability on a yearly form. From the 1930's to the 1960's the only information which the federal government required to be submitted as a check upon the accuracy of self-reporting was a form by an employer reporting the salary or wages paid each employee. There was no independent source of data on self-employed persons such as storekeepers or professionals and no reporting from financial institutions and corporations of what is called unearned income, that is, interest and dividends. Taxpayers were well aware of these deficiencies, and the use of bank accounts in false names or simply in distant locations where the taxpayer was unknown were common.

Even when a taxpayer's returns were selected for audit, or civil examination, and even if that audit produced indications of tax fraud warranting criminal investigation, which was very rare, the verification and reconstruction techniques available to the auditors and investigators were weak. The simplest and most persuasive method of proving unreported income was direct proof of the omitted income itself, for example, the payments from patients omitted from a dentist's records. Identifying and contacting every patient might be feasible for a dentist or lawyer because of the multiple documentary sources associated with such professional relationships (appointment books, charts, pleading files as well as receipt books, account statements and bank records), and the lack of any likelihood the patients or clients would not provide accurate information about their payments. However, for the cash business, the small merchant, the gambling casino or the public official receiving cash payments, such reconstruction of income from other records and from interview of probable

ch. 255, § 6, 16 Stat. 256, 257.

3. An Act to Reduce Tariff Duties and to Provide Revenue for the Government, and for Other Purposes (Income Tax Law of 1913), ch. 16, § 2, 38 Stat. 114, 166, *repealed by*, Act of Sept. 8, 1916, ch. 463, § 24, 39 Stat. 776. The modern income tax provisions regarding tax on individuals are codified in the Internal Revenue Code at 26 U.S.C. §§ 1-1564 (1988).

4. *See* Capone v. U.S., 56 F.2d 927 (1932).

sources of income was virtually a hopeless task.

Consequently, in the years around World War II, several indirect theories were developed. One innovation was the net worth approach,[5] which proceeded upon the assumption that if a person's net value (assets minus liabilities) at the end of a given taxable period exceeded his net worth at the beginning of that period plus reported income, then the excess must be unreported income if the possibility of non-taxable sources is negated. This approach was the weapon of choice against racketeers and sophisticated tax evaders for years although it involved heavy evidentiary burdens of proving a starting point at which the taxpayer's assets and liabilities could be proved beyond a reasonable doubt, and of conducting a good faith effort to account for all non-taxable sources of funds during the pertinent periods, such as loans, gifts and inheritance.[6] Because of its burdens and the usual necessity to reconstruct multiple small expenditures made in cash with the precise intent of avoiding detection, the net worth approach was inherently cost effective only in a small percentage of cases.[7]

A supplementary theory, utilized when the tax evaders were so successful as to make impossible a reconstruction of their additional tax liability, was called a *Klein* conspiracy.[8] Named after the principal defendant in the case in which the theory was first successfully utilized, this approach was developed in a World War II black market situation. The profiteers were engaged in the liquor business and utilized all of the devices classically associated with international financial crime to conceal their untaxed profits.[9] Canadian whiskey was bought by a New York distributor through a Cuban proprietary, which falsified the cost of the whiskey and then returned the excess cost to Klein and his key employees through secret bank accounts. The scheme was so successful and the documentary evidence so impossible to secure or reconstruct that there was no way to prove how much income was unreported or on which tax returns it technically should have been reported. Normally this would have precluded any specific tax evasion charge. However, the general federal conspiracy statute punishes criminal association both to commit a specific crime and joint attempts to defraud any agency of the government.[10] This latter concept was utilized in charging Klein and his associates with participating in a conspiracy to defraud the Internal Revenue Service in its

5. *See* Cominsky, *The Likely Source: An Unexpected Weakness in the Net Worth Method of Proof*, 36 U. MIAMI L. REV. 1 (1981).

6. *Id.* at 3-5.

7. *Id.*

8. *See* United States v. Klein, 247 F.2d 908 (1957), *cert. denied*, 355 U.S. 924 (1957).

9. *Id.* at 911.

10. Conspiracy to Commit Offense or to Defraud the United States 18 U.S.C. § 371 (1988). This section is based on 18 U.S.C. §§ 88 and 294 (1940). Section 371 consolidates both §§ 88 and 294. For an informative discussion on the meaning and interpretation of conspiracy to defraud the United States, *see generally* Goldstein, *Conspiracy to Defraud the United States*, 68 YALE L.J. 405 (1959).

governmental function of ascertaining and collecting the true tax liability of the individuals and business entities involved.[11]

Even these more sophisticated tactics proved inadequate to stem the growing practice of international tax evasion through the 1960's and 1970's. Famous film producers were publicly identified as being involved in the use of foreign subsidiaries and bank accounts to conceal income. Major corporations, such as the aircraft manufacturer Lockheed, were involved in massive foreign bribery schemes dependent upon generating untraceable funds.[12] Las Vegas casino operators removed millions of untaxed dollars from the country in a practice call "skimming," and then added insult to injury by loaning that skimmed money to themselves through foreign intermediaries and claiming tax deductions based upon interest that was in fact being paid to themselves.[13]

As evidence of these abuses was accumulated, pressure built for effective controls. The 1970 Bank Secrecy Act[14] for the first time required financial institutions to secure a taxpayer identification number, normally an individual's Social Security number, for all accounts, and to report all interest earned to the Internal Revenue Service.[15] Any person who had money in a foreign bank account was required to report that information on his or her yearly tax return.[16] Another control was imposed by requiring any person carrying a large sum of currency or a monetary instrument payable to the bearer to declare that fact to the Customs Service when entering or leaving the United States. Domestic banks were also required to report large currency transactions, although this law was virtually unenforced until well into the 1980's.[17]

In 1976, an historic advance in diplomacy was achieved in a Treaty of Reciprocal Assistance with Switzerland.[18] The absolute necessity for such assistance had been spotlighted by a prosecution involving the Flamingo Casino in Las Vegas, Nevada, from which over twenty-five million dollars in gambling income had been skimmed and sent to a Swiss bank account under the control of the notorious gangster Meyer Lansky by means of

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11. Klein, 247 F.2d at 916.

12. *See* Jones and Berry, *Lockheed Paid $38 Million in Bribes Abroad; Lockheed's Illegal Payments Abroad Reached $38 Million*, Wash. Post, May 27, 1977, at E9.

13. *See* Williams v. Turner, 702 F. Supp. 1439 (1988); Thomas v. Bible, 694 F. Supp. 750 (1988).

14. Bank Secrecy Act of 1970, Pub. L. No. 91-508, 84 Stat. 1114 (1970) (codified as amended at 12 U.S.C. §§ 1730(d), 1829(b), 1951-1959 (1988) and in scattered sections of 31 U.S.C. (1982)) [hereinafter Bank Secrecy Act of 1970].

15. According to 12 U.S.C. § 1829(b) (1988), in order to maintain appropriate evidence of the identity of persons keeping accounts in insured banks, the Secretary of the Treasury may prescribe regulations he deems necessary to carry out the purpose and the goals of the Bank Secrecy Act.

16. 31 U.S.C. § 5315 (1982 & Supp. V 1987).

17. 31 U.S.C. §§ 5316, 5325 (1983 & West Supp. 1989).

18. Treaty on Mutual Assistance in Criminal Matters, May 25, 1973, United States-Switzerland, 27 U.S.T. 2019, T.I.A.S. No. 8302.

interbank wire transfers.[19] That investigative trail ended in Switzerland, but the 1976 Treaty created procedures allowing Swiss investigative and judicial assistance to trace funds in certain defined circumstances and focused attention on the bank haven problem. Other treaties have followed in the 1980's which steadily are expanding both the procedures for cooperation and the offenses for which such cooperation is available.[20]

Drug crimes, however, have dominated law enforcement concerns throughout the 1970's and 1980's. Although the immense profits being realized in the drug trade were common knowledge in the law enforcement community, the anecdotal evidence of particularly extravagant purchases or expenditures by drug dealers lacked public impact. However, a study by the Federal Reserve finally captured public and Congressional attention.[21] That study revealed that for 1978 the Florida Federal Reserve region experienced a $3.3 billion surplus in cash, meaning that consumer banking institutions collected and turned in to the Federal Reserve system that much surplus currency in deposits and loan payments. All of the other Federal Reserve regions of the United States experienced a net deficit of $3.5 billion in currency during the same period. Since Florida had little other economic activity except tourism and citrus fruit raising, and since the Florida surplus exactly paralleled the role of that state as the venue for importation, transshipment and distribution of drugs, the conclusion was inescapable that this surplus represented payments coming from other parts of the country to pay for drugs.[22] This conclusion was reinforced by several other factors. When Federal law enforcement efforts were concentrated on Florida drug dealers and financial institutions in 1979 to stem the flood of drugs and the related rise in violence, the Federal Reserve surplus virtually disappeared.[23] A comparable surplus began to appear in currency receipts from the *Banco Nacional de Panama*, with its cash shipments to the U.S. Federal Reserve quadrupling between 1980 and 1983. This strongly suggested that drug transactions were now being paid for in Panama instead of Florida.

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19. *See* United States v. Lansky, 496 F.2d 1063 (1974).

20. In recent years, treaties creating procedures to help trace funds in foreign countries have been entered into with the Cayman Islands, Belgium, the Bahamas, and Thailand. Daily Report for Executives, (BNA) Oct. 26, 1989. Also, the U.S. has entered a treaty with Turkey. *See* Treaty on Mutual Assistance in Criminal Matters, June 7, 1979, United States-Republic of Turkey, 32 U.S.T. 3111, T.I.A.S. No. 9891.

21. *See generally Banks and Narcotics Flow in South Florida: Hearings on S2236 before the Committee on Banking, Housing and Urban Affairs*, 96th Cong., 2nd Sess. (1980) [hereinafter *Banks and Narcotics*].

22. *Id.* at 44-45 (statement of Richard J. Davis, Assistant Secretary of Enforcement, Department of the Treasury).

23. *See generally Banks and Narcotics, supra* note 21, at 236-245 (Supplemental Information submitted for the record by the U.S. Department of Justice Drug Enforcement Administration). As soon as federal law enforcement did concentrate their efforts in and around Florida, drug dealers found new and innovative ways to transfer money out of the country. The most common way involved wire transfers from a national bank to foreign banks. *Id.*

Substantial media attention focused on the Florida situation but it was dwarfed by the publicity blitz accompanying the so-called Pizza Connection case in 1984.[24] Nearly every element except lurid sex was present in this case to capture public interest. The Sicilian Mafia, always a staple of crime reporting, arranged the importation of heroin. Payments totalling approximately twenty-five to thirty-five million dollars were collected and transmitted by virtually every imaginable technique to Swiss and Caribbean accounts, from which the money found its way to the ultimate recipients to pay for the raw material, the processing in Sicily and as profit.[25]

A group appointed by President Reagan in 1983 to study and report on the phenomenon of organized crime, the President's Commission on Organized Crime, publicized not only the Pizza Connection case, so-called because of the role played by otherwise inconspicuous pizza parlor operations in the heroin distribution, but a number of other notorious situations.[26] A Colombian money launderer in New York City transferred $151 million out of the United States for drug dealers, assisted by Deak, Perera, Inc., the international currency exchange best known to American travelers.[27] A Florida financial institution called the Great American Bank laundered ninety-four million dollars without filing currency transaction reports as required by law.[28] Deak, Perera, in a separate case, handled $300 million without filing required currency reports, and when reports were filed, Deak, Perera, regularly and knowingly accepted false identification.[29] Additional concern was generated by a currency surplus in billions of dollars coming from Hong Kong.[30] The transfer of sovereignty to the People's Republic of China in 1997 may well account for the flight of much legitimate capital, but many law enforcement personnel saw evidence of preparations for entry into the United States by "Triad" gangsters and an association between the rising currency flow and the contemporaneously rising flow of Southeast Asian heroin.

By 1980, pressures were beginning to accumulate for effective legislation. Gradually, the resistance to banking controls began to diminish as public opinion came to see amoral bankers as an integral part of the drug problem. It also came to be realized that a major drug dealer might insu-

24. Lubasch, *31 Charged by U.S. with Running a $1.65 Billion Heroin Operation*, N.Y. Times, April 10, 1984, § A, at 1, col. 5; Christian Sci. Mon., Apr. 11, 1984, at 2. United States v. Casamento, 887 F.2d 1141 (1989) (specific case concerning pizzeria owners in New York City accused of selling heroin).

25. *See* United States v. Casamento, 887 F.2d 1141 (1989).

26. *The President's Commission on Organized Crime, Interim Report to the President and the Attorney General, the Cash Connection: Organized Crime, Financial Institutions, and Money Laundering* 31 (1984) [hereinafter the President's Commission on Organized Crime].

27. *Id.* at 35.

28. *Id.* at 39.

29. *Id.* at 42.

30. *Id.* at 44.

late himself from ever touching his merchandise, but he would always insist upon having or controlling the money and assets produced by his trade. Thus, tracing the money promised to be a means of penetrating the traditional insulation of drug bosses.

One of the first legislative steps was a reenactment of the largely unenforced law requiring banks to file reports on large currency transactions.[31] This law nevertheless remained ineffective because the penalty was minor, it could easily be evaded by simply dividing a cash transaction so that it would be under the $10,000 jurisdictional threshold, and an easily abused clause allowed banks to exempt regular customers from the law's provisions.[32]

A major step was taken in 1984 by the enactment of a tax law which extended the requirement for reporting all currency transactions over $10,000 to all businesses, including jewelers, car dealers and lawyers.[33] The last category of covered persons protested mightily, but without success in the courts.[34] Although this statute contained criminal penalties, as did the previous reporting statute, compliance continued to be uneven.[35]

In 1986 several additional pieces of legislation caused currency control finally to be taken seriously by our banks and their employees. The law requiring the filing of currency transaction reports by banks was changed to make a single violation punishable by up to five years imprisonment and a $250,000 fine, with potential punishment doubled for a pattern of activity.[36] Forfeiture was permitted not only on the originally unreported deposit, but also on any substitute asset acquired with that money.[37] New definitions made punishable an attempt to divide or structure a transaction to prevent its being reported.[38] In addition, a completely new statute was enacted which for the first time made dealing in criminal proceeds a crime *per se*.[39] These statutes punish any transaction

31. Bank Secrecy Act of 1970, *supra* note 14.

32. *Id.*

33. Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, 98 Stat. 1976 (1984) (codified as amended in scattered sections of 5 U.S.C., 18 U.S.C., 19 U.S.C., 21 U.S.C., 26 U.S.C., 29 U.S.C., 31 U.S.C., 36 U.S.C. and 42 U.S.C.) [hereinafter Comprehensive Crime Control Act of 1984].

34. *See, e.g.*, United States v. Perlmutter, 636 F. Supp. 219 (S.D.N.Y. 1986), *cert. denied*, 485 U.S. 935 (1988); United States v. Cook, 745 F.2d 1311 (10th Cir. 1984), *cert. denied*, 469 U.S. 1220 (1985); United States v. Puerto, 730 F.2d 627 (11th Cir.), *cert. denied*, 469 U.S. 847 (1984).

35. *See* Comprehensive Crime Control Act of 1984, *supra* note 33.

36. Money Laundering Control Act of 1986, Pub. L. No. 99-570, § 1357(g), 100 Stat. 3207-18, 3207-26 (codified as amended at 31 U.S.C. §§ 5317, 5322(b) (West Supp. 1987)) (amended the Bank Secrecy Act to increase the maximum penalty for violation of the act).

37. *Id.* § 5317(b) (added provisions that authorize forfeiture of any interest in property, including deposits in financial institutions not reported or containing material omissions or misstatements of fact).

38. *Id.* at § 5324.

39. The Anti Drug Abuse Act of 1986, Pub. L. No. 99-570, 100 Stat. 3207-22 (codified as amended at 31 U.S.C.A. § 5324 (West Supp. 1987)) (created three new categories that penal-

in the proceeds of specified unlawful activity. They apply to all transactions, not just those in cash, in which the persons involved know the proceeds come from a crime of the type specified in the statute, not only narcotics offenses but including many other serious offenses.[40] The new statute also introduces extraterritorial jurisdiction in two areas. First, by criminalizing any United States banking transaction involving the proceeds of foreign narcotics offenses.[41] Second, by criminalizing any transaction in proceeds known to derive from specified illegal activity by a United States person, even if done outside United States territorial jurisdiction.[42] Sentences up to twenty years and a fine of $500,000 or twice the value of the property involved are possible.[43]

With these new statutes, the saturation publicity generated by the cases outlined above and the President's Commission on Organized Crime, bank compliance with currency transaction reporting requirements reached an unprecedentedly high level.[44] A sensational prosecution of the Bank of Boston, one of the most highly respected banks in the United States, revealed the routine violation of the reporting laws.[45] Abuse of the exemption for regular cash customers was involved in the Bank of Boston case, and that loophole was closed by requiring government approval for such exemptions. Banking institutions, although not necessarily businessmen and professionals, are now observing the reporting requirements more carefully.[46]

International mechanisms for tracing and seizing illegal proceeds are also gaining broader international acceptance. Switzerland has used evidence supplied by American authorities to seize and forfeit drug proceeds in Swiss banks. The Italian-American Mutual Legal Assistance Treaty[47] goes further and permits seizure and forfeiture on behalf of the requesting state, without regard to the traditional concept of dual criminality

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ize activities related to money laundering). *See also* 18 U.S.C. §§ 1956, 1957 (Supp. IV 1986) (prohibits knowing involvement in a broad range of transactions involving the proceeds or property of criminal activity).

40. *Id.* §§ 1956(a), 1957(a).

41. *Id.* §§ 1956(a),(c), 1957(f).

42. *Id.* §§ 1956(f), 1957(a),(d).

43. *Id.* § 1956(a).

44. *See* Popham and Probus, *Structured Transactions in Money Laundering: Dealing with Tax Evaders, Smurfs and Other Enemies of the People*, 15 AM. J. CRIM. L. 83 (1987-88); Villa, *A Critical View of Bank Secrecy Act Enforcement and the Money Laundering Statutes*, 37 CATH. U.L. REV. 489 (1988); *President's Commission on Organized Crime*, *supra* note 26.

45. United States v. First National Bank of Boston, No. CR 85 52-MA (D.Mass Feb. 17, 1985) (prosecutor's information to which the defendant pled guilty).

46. *See generally* Temby, *The Proceeds of Crime Act: One Year's Experience*, 13 CRIM. L.J. 24 (1989); Fisse, *The Proceeds of Crime Act: The Rise of Money Laudering Offenses and the Fall of Principle*, 13 CRIM. L.J. 5 (1989); Morvillo, *Laundering Money*, 197 N.Y.L.J. 1 (1987).

47. Italy-United States Treaty on Mutual Assistance in Criminal Matters, *signed in* Rome, November 9, 1982, *entered into force* November 13, 1985, *reprinted in* 24 I.L.M. 1539 (1985) (For discussion *see* Senáte Exec. Rep. 98-36).

applicable in extradition matters.[48] The United Nations Crime Prevention and Criminal Justice Branch, in preparation for the 1990 Eighth Congress on the Prevention of Crime and Treatment of Offenders, in a series of preparatory meetings and reports, is preparing model treaties and domestic legislation providing a basic framework for tracing and seizing procedures. Additional treaty negotiations are exploring shared forfeiture, which would increase the motivation of both requesting and requested governments to identify and forfeit the proceeds of foreign crime.[49]

The new "money laundering" statutes, sections 1956 and 1957 of Title 18 of the United States Code, directly penalize any knowing transactions in the proceeds of most serious domestic crimes and of foreign narcotics offenses, as well as any such transaction by an American person or entity outside the United States. They have also been made predicate offenses which can trigger application of the Racketeer Influenced and Corrupt Organizations Act, section 1961, *et seq.* of Title 18, United States Code. Increasing attention is being given to the problem of enforcing foreign forfeiture judgments and to the procedures necessary to meet American constitutional standards when seizing and forfeiting property based upon a foreign conviction or judgment.

In general, our law enforcement establishment is enjoying a bounty of intelligence and evidence from the currency reporting statutes and of civil and criminal remedies under a wide variety of laws, including the reporting and new money laundering statutes. However, responsible public administrators are attempting to maintain a balanced perspective in the enforcement of these laws. Our citizenry has accepted some very draconian and intrusive legislation and regulation because of concern over the drug problem. Concentration of enforcement action under the new statutes on drug related offenses is likely to maintain support and avoid controversy. However, the legislation on its face demands compliance by all segments of society. History has demonstrated that sophisticated criminals are adaptable. The profitability of drug dealing today may be rivaled by arms trading or smuggling of high technology items tomorrow. Revenue collection is also enhanced by these currency reporting statutes because they not only identify presumptive recipients of illegal income who are the persons most likely to make cash expenditures over $10,000, but also incidentally require self-reporting of that transaction by the recipient taxpayer. Accordingly, much of the potential long range value of these statutes may lie in enforcement outside a narcotics context.

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48. *Id.*

49. *See generally* Switzerland-United States Memorandum of Understanding on Mutual Assistance in Criminal Matters and Ancillary Administrative Proceedings, *done in*, Washington Nov. 10, 1987, *reprinted in*, 27 I.L.M. 480 (1988); Memorandum of Understanding with Canda on Drug Enforement, Feb. 2, 1988, *reprinted in*, 27 I.L.M. 403 (1988); Mexico-United States Treaty on Mutual Legal Assistance, Dec. 9, 1987, *reprinted in*, 27 I.L.M. 443 (1988).

Every step outside that context, however, creates a risk of adverse public reaction. For example, the Federal Bureau of Investigation and Drug Enforcement Administration conduct undercover operations in which their agents offer money laundering services to change the denominations of currency, to transfer it to another country, or to provide a false explanation of the source or nature of funds. These operations are so structured that only drug dealers would have a use for and be willing to pay for such services. When these undercover operations are concluded, drugs and money are seized, criminal convictions and forfeitures result, and the public and Congress are favorably impressed. The Internal Revenue Service, on the other hand, in enforcing a different statute, sends agents to impersonate drug dealers seeking money laundering services. Not all of the suspects who respond to the agents' overtures are professional money launderers. Some are simply greedy entrepreneurs attempting to seize an opportunity for easy money but who are not otherwise criminally involved. Such a defendant may not present a sympathetic enough figure to win an acquittal from a jury but the government can be portrayed as playing the role of *agent provocateur* to bankers and businessmen, which can, in the long run, lead to legislative reaction and endanger all currency control, asset tracing and forfeiture legislation.

Accordingly, the challenge to American law enforcement in implementing this bounty of new laws and procedures is how to gradually implement all of the tactical and strategic advantages of the new scheme without unduly burdening commerce or arousing a hostile public reaction. Those advantages are substantial. Tactically, the new reporting requirements furnish both intelligence on the activities of and evidence against professional criminals. Strategically, the vulnerability of criminal proceeds to penalties for dealing in them and to forfeiture reduces the ultimate motivation behind sophisticated criminality, and the reporting requirements incidentally encourage tax compliance.

Realistically, however, it must be admitted that the burdens of maintaining an elaborate reporting structure are also substantial. In America we have assumed these burdens because of our drug problem and our general tradition of lack of respect for law enforcement and consequent lack of volunteered assistance to law enforcement. Other societies not afflicted with the same problems may have much less need for our remedies and procedures. However, current efforts of the United Nations Crime Prevention Branch and other international endeavors to provide basic models for the tracing and forfeiture of illegal proceeds, such as the agreements at the recent Vienna Conference requiring signatory nations to enact anti-narcotics measures including asset forfeiture, are praiseworthy.[50] International criminality is an unescapable reality for every nation, even those we would normally consider the most insular. I have been

50. *See* U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, *done at* Vienna, Dec. 20, 1988, *reprinted in* 28 I.L.M. 493 (1989).

greatly impressed in a number of international settings, including a United Nations Conference on Organized Crime and Terrorism in Vienna a year ago and at the United Nations Asia and Far East Institute in Tokyo last fall, by the interest in combatting international narcotics trafficking and money laundering exhibited by countries all over the world, and specifically including the East Bloc. I found it highly instructive that these problems were of substantial concern even in countries in which strict governmental control of the economy has been, at least until recently, an article not just of economic but of political faith. This revelation added to my belief that a steadily growing cadre of public administrators throughout the world are beginning to believe that mutual self-interest and responsible membership in the community of nations impose an obligation to cooperate in controlling not only narcotics trafficking but the related accumulation of power and wealth. Not every country needs, wants or will impose as elaborate and costly a system as we have in the United States, but every country must address these problems. The more we all educate ourselves on these issues, the more likely we are to find and share rational and effective approaches.