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Organized Crime and Money Laundering in the Americas

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Baldwin, Organized Crime and Money Laundering in the Americas
III. ORGANIZED CRIME AND MONEY LAUNDERING
IN THE AMERICAS

A. Introduction

*Fletcher N. Baldwin, Jr.**

This will be a bit of a change of pace. We are not talking about what every other panel is talking about. We are going to be talking about international financial crime, money laundering, and how it affects the Americas.

Our first panel speaker is Peter German, who is a Superintendent of the Royal Canadian Mounted Police, now stationed in Vancouver. He is the author of the only book on money laundering law in Canada. He is a former Crown prosecutor. He is also a frequent lecturer at Jesus College, Cambridge, at the International Symposium.

In fact, everybody on this particular panel is a refugee from Jesus College, Cambridge. Our second speaker is George Millard, Chief of Police from São Paulo, Brazil, and is a trained attorney. He is also a professor at the São Paulo Civil Police Academy. He has been a visitor here, and he was on this panel last year.

Our third and final panel speaker is Alan Lambert, who for thirty years was on the police force as a detective in the United Kingdom. Most of his work is on fraud investigation and financial crimes. He is now the U.K. Foreign Office advisor to the governments of Trinidad and Tobago on money laundering and drugs. In addition to being a consultant in the Caribbean he lectures at Trinity College. He has also lectured as a visiting professor at the University of Florida law school.

Before I turn it over to Peter, I am going to spend some time simply on a quick global overview. For starters, you must understand that the issue and the area that this panel is talking about is new. Indeed, the first convention dealing with the area specifically as we understand it today is the Vienna Convention of 1989. The United States, for example, did not criminalize money laundering until 1984-1986. Most jurisdictions in the world today do not allow for *in rem* asset forfeiture, which is the staple weapon of the U.S. government in dealing with drugs and illicit funds.

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Let me go back for just a few minutes. The global village, beginning in about 1970, and certainly by 1992, according to the United Nations, has a new citizen. And the new citizen on board is global organized crime. And indeed, the United Nations calls it "global organized crime," as does the financial action task force and the Basel Declarations. The fact of the matter is that this new citizen on the block has more money than most jurisdictions in the European Union. This citizen ignores with impunity the rules of morality, culture, and law. And, the problem for the world is that this new citizen can operate with impunity, because until very recently, there has been very little global will to stop it. There has been very little national will to do anything about it, because what we are talking about is "white collar crime." We only recently had our first global sting operation. We now have information sharing, and we have combined asset seizure efforts.

Money laundering, of course, is nothing new. It goes back at least to the Roman Empire. Roman soldiers stationed in France used to hide and "launder" their money. During the crusades, the Knights Templar were masters at hiding and laundering their money. Several of them paid the price in 1300, by being burned at the stake, but their money was safe.

The problems abound about the egregious use of the banking systems in the world. Tom Roach, the Vice-President of the Federal Reserve and a friend of everyone on this panel, will tell you that today cash is still the general currency used internationally. More than seventy-three percent of all transactions are still in cash. Seventeen percent are checks. Credit, debit, etc. account for less than ten percent.

Since cash is the global economy, where you put that money is extremely important. If you look at the global economy now, or if you look at the front page of the *New York Times* or even the *Gainesville Sun* this morning, you will understand what we are talking about. We are beginning a fundamental redesigning of our planet. It is probably so fundamental that we have not seen anything like it since the Industrial Revolution. The Uruguay Round of GATT told us that a global economic order is the only way that we can ensure global stability, and that a global economic order will produce at least 250 billion dollars in expansion of the global world economy. It will have an enormous trickling down effect. But still on average, many workers in the Americas earn approximately \$8.50 a day.

Why does organized crime threaten us today as it never threatened us before? Number one, it is a threat to world stability. Number two, it is a threat to economic stability, as I will try to demonstrate in a moment. And number three, it is a threat to fragile democracies. Organized crime is also a corrupting influence within the fragile democracies, which I will call "user friendly states."

Rowan Bosworth-Davies did a recent study in the Financial Times Fraud Report on what part of the gross domestic product (GDP) was under the control of organized crime and in what various jurisdictions. I do my citations, because people from certain countries complain when you use these figures. Seven percent of the GDP of the United Kingdom is under the control of what Rowan calls the "black economy." That is not the gray economy, the porter out at the airport, this is illicit funds. Nine percent of the U.S. GDP. Ten percent of Germany's. In Italy, Greece and Spain, approximately twenty-five percent each. Behind what used to be the wall in Eastern Europe, more than fifty percent of the GDP. So it has become a threat to world economic stability, whether we like it or not.

The Czech Republic recently redesigned its police force, at least in trying to stop the spread of organized crime, from drugs, to prostitution and up the ladder. The Czech Republic now has a nuclear arms smuggling division trying to stop the smuggling of nuclear arms to the mid-East. The Analytical Center for Socioeconomic Policy reports, that the rupturing of the economy due to capital flight in Russia is beyond control. Where you started with 25 billion two years ago to 30 billion to now the figure is unreported. Forty percent of Russia's GDP, according to the Analytical Center, is controlled by organized crime.

The United Nations, the Council of Europe, the European Union, and many countries in the Americas, have now tried to enter into conventions and treaties to do something about this. Much of this came about perhaps because of the rupturing of about 15 billion dollars from the IMF to Russia to help small businesses, that ended up in the Bank of New York, which is the 16th largest bank in the United States, and is one of the oldest having been founded by Alexander Hamilton.

The amount of money laundered through the Bank of New York, although no one has yet to come up with the exact figure, was approximately 15 or so billion dollars. The Bank of New York executives knew nothing about this, even though it was going on day and night, day and night, and day and night. But, according to the *New York Post*, the Bank of New York executives had to get a fee for the laundering. Their fee exceeded 720 million dollars, probably a discount, because Russia was an emerging state.

Victor Melnikov is the Deputy Chief of the Central Bank of Russia, and he puts the capital flight figure at about a billion dollars a month, in this particular year. One of the core problems with all of this is a paradox. When the Wall in East Europe came down in 1989, the western countries decided we must have free market economies in those countries and we must have free market capitalism as quickly as possible. There was a great need for free market capitalism there, just as there was a great need for free market capitalism in Japan at the end of World War II. And who took over the reins almost immediately?

Free market capitalism in the eastern countries was taken over by organized crime, because they knew how to do it and they were quite well-organized. The free market economy in Japan was taken over, along with GIs who were very good at it, by the Yakuza, with the aiding and abetting of the U.S. Army. According to the new book "Tokyo," they were also engaged in a free market economy. So the free market economies, of course, were being led by those members of organized crime.

The United Nations gives us seven reasons why organized crime and money laundering is a threat to global stability. First, when that money is placed in banks it causes that banking system and that money to become less productive within a community. Second, it contributes minimally to the optimization of economic growth. Third, it results in changes in money demands. Fourth, it is a greater risk to bank stability. Fifth, it creates greater volatility in the international community. Sixth, it enlarges political dimensions through corruption and crime. And seventh, it weakens the social fabric.

When the Financial Action Task Force was meeting in Paris to articulate its forty recommendations, it started with Recommendation No. 22. Recommendation No. 22 says, "Countries should monitor physical cross border transportation of cash and bearer instruments without impeding freedom of capital movement." Basically, that is also what the Vienna Convention tells us, although not as specifically.

In 1999, the U.N. Development Program reported that the amount of illicit money under the control of organized crime, ranges anywhere in the neighborhood of 600 billion dollars to well over 1.7 trillion dollars. These figures are speculative and no one should tell you otherwise. There is an economics professor in Australia, Professor Walker, who puts the figure at 2.3 trillion dollars and he has very good statistics to back up his conclusion.

Nevertheless, going back to the U.N. Development Program report, it says that one of the main problems which accounts for about sixty percent of all illicit money, is the two hundred million drug users around the world. But going back to the low figure of 600 billion dollars in the control of organized crime. If that low figure, and I have not seen any figures lower than that, is used, that means that the drug trade or the organized crime trade is greater than the world trade in iron, steel, and motor vehicles. It is equal to textiles, oil, and gas. To be perfectly blunt, according to this particular study, organized crime controls one quarter of the world's GDP.

That conclusion was also reached at the National Criminal Index in London. They put the overall figure at 1.3 trillion. Why do I mention these figures? Because the success rate of the world community in stopping this varies. The European Union has an enormous success rate of about two percent, although our colleague in England, Barry Ryder, puts it at, to use

the English term, “naught, naught 12.” The success rate in the United States and the Americas is much better. Our figured success rate in trying to stem the tide of money laundering and stem the tide of organized crime growth is six percent. The Australians say they are at six percent as well.

Regardless of the treaties and the pressure, there are at least twenty-five, what we call “fiscally tolerant states” out there, that are happy to have your money to launder. We have conventions in addition to the U.N. Convention. We have directives. We have everything. Nevertheless, these fiscally tolerant states, are there and willing to accept the money. Indeed, of the thirty-three high and medium profile nations on the Department of State’s money laundering chart, where all the good drug dealers like to put their money because it is safe, fourteen are in the Americas or the Caribbean. All of us on the panel represent states in the high priority or medium high priority list. That is the area and focus. No matter what each of these countries do, organized crime still prefers these countries to others.

Let me give you a few of the attempts, the very recent attempts beginning in the year 2000, by various organizations to stop this and stem the tide. The United Nations is trying to adopt the Convention Against Transnational Organized Crime. That should go into effect, if it has not already done so, certainly by November 2001. They were debating, the last time I was in England, two additional protocols dealing with pornography and child pornography, and the smuggling of migrants. That particular Convention Against Transnational Organized Crime would go a long way in aiding the concepts of search and seizure, sting operations and jurisdictional control. Several leading countries, including Brazil, Mexico, Canada, and Peru, are trying to get that Convention through.

The Council of Europe plus others, including the United States, have completed the 22nd Draft Convention on Cyber Crime. The Draft Convention on Cyber Crime has as its major concerns, which are found in Articles 14 and 9, child pornography on the internet, offenses related to children, cross border cooperation between banking as well as internet users, search, and seizure of stored data, computers, and the like.

There is another U.N. convention passed in 2001, the Convention for the Suppression of the Financing of Terrorism. The United States had a similar act enacted in 1996. Other than the new legislation that our guest speakers will address, Belize has recently adopted an anti-money laundering statute, which included no *in rem* provisions, as most of these statutes do not include such provisions.

The State Department calls Mexico a success story in progress. Our neighbor to the south, at least during the presidency of President Ernesto Zedillo, did some remarkable things as far as legislation is concerned. In 1995, Peru appointed a special prosecutor, known as “drug czar,” for crimes against health. He appointed an organized crime unit to go after

organized crime, mainly drugs, which were flowing into the United States. Anti-money laundering legislation in 1996 was *in personam* only, but nevertheless, it is still an anti-money laundering act. He also put together a RICO statute prohibiting organized crime during the same time in 1996. Furthermore, suspicious transaction reports went to the banking system in 1996. In spite of all that, the United States still had, without notifying the President, a sting operation involving twenty-six Mexican bankers, which we call "Operation Casa Blanca."

In the United States, over the past two years we have had Title VIII of the Intelligence Authorization Act of 2000. Title VIII authorizes the President to announce the twelve leading drug kingpins in the world, similarly to the Academy Awards. And their award is that their funds are all frozen around the world. Anyone dealing with the drug kingpins in willful blindness, will have their funds taken away as well. Anyone dealing with them in the United States not only has their funds taken away, but they also learn tennis in one of the government's minimum security facilities, for five to ten years.

What happens in other countries? For example, with the announcement on June 1, 2000 by the outgoing President of the twelve drug kingpins worldwide, what happens to their assets in other countries? Most of the other countries, through our Department of Federal Asset Controls or Foreign Asset Controls, freeze those assets and then there is an asset-sharing program.

The 1996 Antiterrorism and Effective Death Penalty Act (I thought all death penalties were effective, but apparently this is really effective) has recently been held constitutional. Why would it even need to go to the courts? Because, the Secretary of State designates organizations to be threats to the national security of the United States. No member of those organizations is permitted in the United States. Finances of members of those organizations are frozen worldwide and the United States will freeze the banks in the United States with those assets, again worldwide, in an asset-sharing type program. In 1999, the Second Circuit Court of Appeals found that to be constitutional under national security provisions of the Constitution.

The Reformed Civil Asset Forfeiture Act of 2000 enhances *in rem* civil assets forfeiture in the United States, but it puts the burden on the Department of Justice at its mid level, that is preponderance, and not probable cause. That is basically about all it does, as far as I can see.

And the other one is the Trafficking Victims Protection Act. The Trafficking Victims Protection Act, which is a sad commentary on all of us, is an attempt to stop the flow, according to the Congress, of 50-70 thousand women and children into countries, that would "employ them" for tourists. It is apparently part of the tourist trade worldwide. So the

international trafficking in children and women is now a criminal offense in the United States.

One of our most effective weapons, I think, is the asset-sharing program, as it is where we do best in the United States. The problem, of course, is still that the vast majority of the world does not agree with the United States' position on civil *in rem* forfeiture.

Finally, the Financial Crimes Enforcement Network (FCEN) has issued its strategic plan for the years 2000-2005. The strategic plan calls for "cooperation between states," the implementation of letters rotatory and the real use of Articles 4 and 5 of the Vienna Convention.

Now, I am going to ask Superintendent Peter German to speak.

B. Canada

*Peter M. German**

Thank you to the University of Florida Law School, to Dean Mills, who I had the opportunity to meet last night and to Fletcher Baldwin. It is a great honor to be here in Florida and to be speaking to you today. As you probably know, every Canadian has to visit Orlando. We were just down there with our two little girls last year. But we do not often get the opportunity to visit north Florida. It is usually Orlando or Miami, so it is really nice to see Gainesville. It is a beautiful country and it is a lovely university. And I certainly appreciate the opportunity to be here.

I think the timing of my particular visit is really quite opportune, because I had two options. One was coming here to speak today, and the other was going to Quebec City to join in the riot. And I was able to read about the riot in the *New York Times*, so I did not really have to be there. I chose this option, and I am really glad that I did, as I was able to read about the riot in the *New York Times*.

The other reason I think that it is opportune to be here, is normally people say, "Canada? Well, why is Canada important when it comes to issues like organized crime and money laundering? How relevant is it?" I think what you saw take place in Quebec City all of a sudden puts us on the map. And I was really pleased as I was getting on the plane to see a picture of your President with the Canadian Mounties as he was arriving in Quebec City. So we have achieved some prominence that we do not usually have, and hopefully that will spur me on here.

What I would like to do, is talk about the state of money laundering law and organized crime in Canada. But I would like to give you a little bit of a background before I do that. Fletcher has already touched on the macro issues, so I will not belabor those. We just have to realize that we are living in a small world. The world is not what it used to be — global shrinkage, transportation, communications. We all know each other on the panel. We know each other from other conferences, and we are from different parts of the world: Brazil, England, Canada, and the United States. You did not see those sorts of things in the past. Everybody moves around so much more these days.

* A member of the Royal Canadian Mounted Police, Superintendent German has worked in every Canadian province and territory; in uniform, in the Security Service, as a member of the Force's Professional Standards Directorate, and for six years in its Commercial Crime Sections at Vancouver and Ottawa, where he was a Detective Inspector assigned to major fraud and corruption investigations. In addition to his police experience, he is a lawyer and a member of the Ontario and British Columbia bars.

The Internet, of course. What more can you say? Trade liberalization, as Fletcher mentioned, the global economy, the fall of the Iron Curtain; all of these issues have caused the world to become so much smaller. Money is, as we like to refer to it in the law enforcement community, the golden thread that binds us together, that binds organized crime together. But it is also the Achilles heel of organized crime, because you have to do something with that money.

Drug money tends to be cash, and you have to somehow get that money into the legitimate economy, so that you can use it for whatever purposes you may want. That is often very difficult to do. There are all sorts of variations in terms of organized crime regarding the dollars and cents. You have money laundering, tax evasion, flight capital, and straight dirty profits from drug trafficking. Much of the money turns into zeros and ones today because it is wire-transferred around the world.

Let me talk a little about Canada. I will spend a little bit of time on this, because I think it is important. It puts my presentation in context. Canada is, as you know, a gigantic country geographically. But most of the large cities in Canada are on the U.S. border. Most Canadians live very close to the United States. I live in Vancouver, thirty minutes from the U.S. border. We go into the United States to pick up milk, cheese, any items that might be cheaper in the United States than in Canada. We are back and forth all the time.

The FBI, DEA, Secret Service, all have agents working with us in Vancouver. They are at the consulate, and so forth. We have a very close relationship. Canada and the United States have the longest unguarded border in the world. It stretches for some 3,000 miles. Although the Customs officers wear guns, it is pretty much a walk-through border in many cases. We do not need visas to go back and forth.

We have the largest bilateral trade relationship of any two countries. That might come as a bit of a surprise, but that is apparently still correct. Canada and the United States are constantly shipping goods back and forth. Canada is situated in the unique position of being beside the largest consumer of illicit drugs in the world — the United States. We have to keep that in mind. Much of the drug problem that we have in Canada stems from the fact that we have become a conduit for drugs into the United States. The United States is a big market that is being fed by the various drug cartels, and so forth. Canada happens to be a very convenient conduit.

Why? Because of our large ports. Vancouver, Montreal, and Halifax are port cities and container ports. We have international airports. Vancouver International Airport is the largest airport north of San Francisco. It is larger than the Seattle Airport. It is an Asian airport, in that we have all the major Asian carriers, as well as American, Canadian, and European carriers fly into Vancouver.

Canada has a relatively small number of banks. Our financial system is much more centralized than it is in the United States. As a result, our banks tend to be fairly large corporate entities. Canadian banks spread their tentacles around the world and into the Caribbean. But certainly, in Canada, there are a handful of very large banks, very well established institutions.

Canada is a politically stable country, and we are fortunate for that. We are also an economically stable country. In terms of criminal sanctions, we do not have a death penalty. The sanctions for most offenses are much lower in terms of maximums, than they are in the United States. As a result, it is probably much more comfortable to get arrested in Canada, than it is in the United States, if you are an organized crime figure. Chances are you will not spend as much time in prison, because our penalties are less severe. And, believe it or not, we do have underground banking systems and organized crime systems in Canada.

Now, when Fletcher talked about the macro view of organized crime, I mean, what is organized crime? Is it one entity out there? Is it one corporate criminal organization? No, it is not. Organized crime has a way of weaving a web, and different countries have different types of organized crime systems. The old style mafia may well still have a stranglehold in certain U.S. cities, but in Canada, the old style Mafia and the Cosa Nostra is not what it used to be. We certainly are seeing East European organized crime. We are seeing the Columbian cartels and so forth. But predominantly, in western Canada right now, the focus is on Asian-based organized crime. We are very close to Asia in terms of our population, our transportation links, and so forth.

We also have biker gangs. The Hells Angels, for example, have been around for what, fifty years? The original Hells Angels are retired, they are dying, they are elderly people. But the Hells Angels tends to be a very powerful influence in Canada, which has witnessed biker gang wars in Quebec, bombings, violence, and a number of other happenings. What the biker gangs have done has really taken a stranglehold on the drug trade, and they worked cooperatively with Asian-based organized crime. Earlier this month, the *Montreal Gazette* featured a story which ran throughout North America. The police in the province of Quebec raided the Hells Angels, the Nomads, and various other biker gangs, and arrested 138 bikers. Two thousand police were involved in that operation. There were large seizures of cars, houses, and so forth, all pursuant to organized crime legislation we have in the Canada. In fact, one wing of the Bordeaux jail in Montreal, is now devoted to bikers. The biggest problem they have is finding guards that are prepared to work in the biker wing.

So, in Canada, it is bikers and Asian organized crime that we are looking at. In other countries, it is different organized crime systems. But they work together. And they work together because essentially they are

all looking for the same thing, and that is the greenback, the dollars, the profits. So you have all sorts of different, weird, and wonderful permutations and combinations.

Canada was criticized in the 1980s for being easy on organized crime and money laundering. We had no law that prohibited money laundering. It was totally legitimate in Canada, as it was in most other countries. The United States, as Fletcher mentioned, criminalized money laundering in the mid '80s, but it led the world in that respect. Most other countries, the great majority, had no laws which outlawed money laundering. The United States' Senate was critical of Canada. Senator Kerry was very outspoken. There were various pronouncements by the FATF. Our own Solicitor General's Ministry admitted that we had a problem. It was not until 1989 that we outlawed money laundering. So we were about four or five years behind the United States. A country can outlaw an activity, but it takes a while before the new law gathers strength and momentum, and before the infrastructure is in place to enforce it and the courts accept it.

In 1989, Canada amended its Criminal Code and drug legislation. A number of years later came legislation that targeted customs and excise offenses and organized crime. Participation in an organized crime group will soon be illegal in Canada, allowing police to target these groups that I spoke to you about. With regards to foreign bribery legislation — again, the United States has had legislation, which outlawed the bribery of foreign public officials, for twenty-five years. But the United States was way ahead of the rest of the world. Most of the rest of the world took advantage of the fact, that you had the legislation, and they did not outlaw the corruption of foreign public officials and, in fact, many countries went ahead and continued bribing foreign public officials. The United States was alone. That has changed as well, and Canada now has legislation that outlaws the corruption of foreign public officials.

So what does our legislation do? Well, it makes money laundering, and the possession of proceeds from money laundering, a crime. We have special mechanisms, search warrants, and restraint orders to search for property and to restrain property. We do allow both *in personam* forfeiture and *in rem* forfeiture, but not to the extent that the United States does. *In rem* forfeiture to us, in Canada, means the forfeiture of property of deceased organized crime figures, deceased criminals, and also those who have taken off and avoided prosecution, have left the country or cannot be located. We do not have administrative forfeitures, such as you have under your civil codes. Civil RICO does not exist in Canada.

What have the police done? Well, I am a member of the Royal Canadian Mounted Police (RCMP), the Red Coated Mounties. We are the national police force in Canada, but we are also a contract provincial, or state police, in eight provinces of Canada. And we also police, under contract, some two hundred cities and towns in Canada. So the RCMP is

a pervasive influence in terms of policing across the country. We work very cooperatively, as do American police departments, with our municipal and provincial counterparts, in joint force operations, and so forth.

In the '90s, the RCMP established dedicated Proceeds of Crime units, which target money laundering and forfeitures. They go looking for the dollars and cents of the drug trade and other organized crime. We have these Proceeds of Crime units across the country. They work much like a task force does in the United States. Where you would have a District Attorney and the police, we have a Crown Attorney, the police, forensic accountants, and members of other specialized units, working together.

What is absolutely critical in the fight against money laundering worldwide, is, of course, international cooperation. Comity is one thing. It is great for nations and police forces to work together, and certainly through the years Canadians have worked very closely with their American law enforcement counterparts. We have worked with the FBI and DEA many years. A lot of that cooperation is picking up the phone and meeting with people. But unless you have the ability to conduct searches in another country, unless you have some sort of coercive powers, comity does not take you far enough.

The tools that are now being used around the world are the Mutual Legal Assistance Treaties. They are so critical. Mutual Legal Assistance is, again, fairly new. It stems from the 1988 Vienna Convention that Fletcher referred to. In Canada, as a companion to our Proceeds of Crime legislation in 1989, we also brought in legislation which allowed us to enter into treaties. The first Mutual Legal Assistance Treaty (MLAT) that Canada entered into was with the United States in 1985, actually before we even had the enabling legislation at the Shamrock Summit. Our Prime Minister at the time, Brian Mulroney, and President Reagan had signed the first MLAT between our two countries, and the first one for Canada. We now have thirty, or so, ratified treaties in force, which law enforcement is using on a regular basis.

Where are we going with all of this legislation? Well, much like the American model, we are constantly integrating our new Proceeds of Crime and money laundering legislation with our every day criminal statutes. So, for example, if there is a murder, a contract killing, in the old days nobody did anything about the money involved in that contract killing. Today, that money can be seized under the Proceeds of Crime legislation. We are constantly integrating the proceeds of money laundering legislation with other criminal offenses. No longer will it just be, for example, drug offenses that can lead to forfeiture of property. Soon, every criminal offense that is profit-driven will inevitably lead to forfeiture of the money, the profits. And so it should be.

In Canada, a concern was how our forfeiture legislation would fare in the courts. We have a very powerful constitution. We have a Charter of Rights which is similar to the U.S. Bill of Rights. The only difference is that our Charter of Rights has only been around for about twenty years. The American Bill of Rights has been around for well over two hundred years. The Canadian Charter is still in its developmental stage. The courts are continually making pronouncements which tend to change how we, the police, do business and which tend to be very conscious of individual rights and civil liberties. There was a great concern that our Proceeds of Crime legislation would offend the Charter, but fortunately, our courts, right up to the Supreme Court of Canada, have been very supportive of the legislation. We have not run into great difficulties with this legislation. It has all been declared constitutional, up to the present. I mentioned very briefly the corruption of foreign public officials, and we do have legislation on that now as well.

The big thing in Canada currently is financial regulation legislation. About ten years ago, legislation was passed in Canada which compelled financial institutions to keep certain records, records of financial transactions in cash over a certain amount. Unfortunately, simply recording information is not enough. It is important, that that information be reported.

In the United States, with FinCEN, you have had reporting legislation for quite some time. FinCEN is a Financial Intelligence Unit (FIU), which is well established. The Australians have AUSTRAC. Many other countries have FIUs. FIUs are critical in combating money laundering, by ensuring that financial institutions keep their own house in order. Canada has just now established an FIU. We were criticized by the FATF in the '90s, that yes, it is fine that you have got money laundering legislation, it is fine that you have got these various tools, but have you created a financial intelligence unit? Are you requiring that your financial institutions report suspicious transactions, large currency deposits or cross border transactions? And the answer was "no." We had no reporting legislation. We simply had recording legislation.

Not only did the FATF criticize us, but we ourselves, through our Solicitor General, acknowledged that it was a problem. We now have legislation in place, much like you have in the United States, with CTRs, STRs, etcetera. Our legislation requires banks, financial institutions, casinos, and credit financiers to report suspicious financial transactions, large currency transactions, wire transfers, and also cross border transactions. We now have a Financial Intelligence Unit called FinTRAC. Actual reporting requirements for the financial institutions do not come into force until Fall 2001.

So Canada is really gearing up now. We are trying to get that infrastructure in place, so that financial institutions will be able to comply

with the legislation and report the necessary transactions with ease. Most of the reporting will be computerized. It will not rely on paper reporting and it will all be channeled through the FIU. How all that works out from a law enforcement perspective, is really an unknown question at this time. There is a lot of trepidation.

Canada has very strong privacy and bank secrecy laws, and the concern is whether the FIU will be able to pass enough information on to the police and the law enforcement, to make it worthwhile. And, unfortunately, only time will tell. What I am saying, is that as of the year 2001, Canada has a complete scheme in place. The criticism of Canada in the past, I think, has been fair criticism. We did not have laundering legislation. We did not have reporting legislation. But we do now, the legislative scheme is there. It is a matter of utilizing that legislative scheme and making it work. That is for the future. We will be able to come back here, in another year or two or three, and say: "Yes, it has been successful." We are seeing a lot of successes with the legislation we have right now, but we also realize, that there is a long way to go.

Organized crime is a big problem around the world. It is a big problem in the United States. And, it is a big problem in Canada. And we know, that as long as we are just north of your border, and as long as we have big ports and airports, and as long as our border is unguarded and our financial institutions are large, we are going to remain a conduit for drugs, money, and all those sorts of things. So we have to remain vigilant, and become evermore vigilant, in order to prevent the growth of organized crime, the growth of the drug trade, and so forth.

Let me just finish by reading a couple of paragraphs from the summary of my paper.

Canada, like so many other countries, has embarked upon a journey of discovery as it grapples with money laundering. There have been successes, but like the iceberg that sank the Titanic, the greatest bulk of laundering remains undetected. Time is no longer an ally. If one accepts that corrupt activity by public and private persons has reached such a level internationally that it can undermine not only domestic economies, but the international monetary system, then the drug menace will soon take a backseat in importance to activity which strikes at the very heart of democracy.

Countries can no longer fine-tune their anti-money laundering legislation over a course of years and decades. Instead, they must act with resolve, implementing legislative schemes, creating financial intelligence systems and enforcement systems, which compliment each other and which are sufficiently strong to accomplish the task at hand. They must also seek to continuously

re-examine the utility of these laws and strategies. Without a doubt, new legislative schemes and enforcement strategies require time to settle, for training to take place, and for the players to sift through and understand their terms. Nevertheless, without the tools, law enforcement cannot do its job. Those tools cannot arrive piecemeal over time.

Nations must also come together internationally and cast aside the shackles of inaction, procrastination, and parochialism. Without a holistic and international approach to money laundering, the problem will continue to percolate and threaten the stability of individual nations and international markets.

Thank you very much.

C. Brazil and Organized Crime in South America

*George Millard**

Good morning. First of all, I would like to express my gratitude and thanks for being invited to this conference. I also would like to make a special thanks to the University of Florida College of Law and the Center for Governmental Responsibility. It is a great honor to be here, and I will be speaking in Portuguese, taking advantage of the translation system.

The subject I am speaking on is the money laundering law in Brazil and the globalized organized crime in South America. The need to convert illicit or illegally obtained assets brought about the existence of the mechanisms which are well-known and compose the so-called "money laundering." This allows its legalized return, totally disconnected from the activity that originated it. This maneuver is used by organized crime and was taken over by all kinds of individuals who wanted to protect their illegally obtained money or securities. Today, it has been spread to assets in general.

Money laundering has been imperative in view of measures taken by society in order to make this illicit procedure more difficult. The concept of any legislation that tries to be an obstacle to the use of funds illicitly obtained is to take away the profits from the crime. This is how we have to see the application of this law. It combats money laundering by trying to identify these monies and impede their availability. This way is the most powerful and perhaps it is the only weapon against organized crime without a frontier and its corollary corruption.

Various mottos could have been adopted in order to introduce specific law in Brazil dealing with this subject. Currently, it is not important to know what the reasons of the legislature were in approving this law. There are speculations about disconnected reasons and criticism of these reasons. There are prevalent criticisms of the law that was enacted, but they are in the sense of opportunity. We could have adopted this law and provided it with all the necessary mechanisms, thus allowing it not to be challenged.

This was a totally new matter; because it had never been discussed, and there was no conflict with any previous law. Unfortunately, we lost a good opportunity to follow the right track in allowing a broad action. Some countries required previous actions, duly typified, for the existence of money laundering crime. There was the need to be ascertained criminal practices of previous actions. Other countries used a more generic approach and considered any criminal action generating funds, resulting

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in money laundering crimes. Still, in other countries, there were circumstances where you would put acts and generating activities together.

In our case the legislature was very explicit in enumerating criminal acts that were liable to generate illicit funds. But it also excluded the majority of trends and large amounts of money that were generated through fiscal evasion. This was not considered criminal in our law. Even though fiscal evasion may have seemed to be the Achilles Heel of the crime organizations, the result is very positive. The number of investigated criminal acts that were identified in the seizure of funds that were obtained by passive/active corruption, which were due to fiscal investigation, was high.

In Brazil we used stratagems to determine the origins of merchandise. We looked at tax returns and found many tax evading activities and payment, and thus, we were able to find criminals. The media very often talked about investigations of corruption that had been found after checking fiscal documents. Unfortunately, the law, which we call 9613, enacted in 1998, dealing with acts against fiscal order was in the bill, but unfortunately was taken out of final text. The enactment of the law that deals with money laundering is great progress and allows other forms of penal indictment.

The countries united under the 1998 Geneva Convention were made aware of the need to block the progress of drug trafficking. At the time, the power of the criminal organizations and of the cartels was already prevalent, always protected by the great mass of funds obtained and by the need to corrupt, whether by consolidating positions or strengthening spurious connections to the legally constituted power. As an efficacious matter, the countries that signed the Geneva Convention adopted measures to impede the flow of funds obtained by drug trafficking. It was not only necessary to agree on this, but it was also necessary to ratify it in the convention and to enact as law. Ten years went by until Brazil joined the countries that implemented the convention agreements.

At first, nothing changed, since the country was trying to align with many other countries that wanted to repress illicit drugs. When the operational power of the criminals was hurt by taking away their profits, the criminal structures were dismantled by cutting their flow of funds. They were weakened and made more controllable and combatable.

However, legalities are opposed to the full realization of such an expected law. Another objective obtained from combating organized crime and illegal acts is the protection of society as a whole against corruption. The primary need is to establish the existence of the illegal acts by finding what kinds of acts they are, establishing circumstances, and examining unusual and suspicious transactions.

The mechanism of money laundering was harmed. This mechanism is supported by law and should exist in all sectors and institutions, with the

larger objective to impede such activity. However, there is an obstacle in the Constitution that tries to protect individual rights and guarantees money transactions. The communications are impeded and the law cannot become enforceable. Thus, there is a conflict between the operators of law that look for the repression of acts, the laws that protect confidentiality, and those that are constitutionally guaranteed.

The Constitution must be changed in order to analyze and bring to light suspicious operations, independently of the actions of the judicial machine. This is a tradeoff between the socially desirable goals and the safeguarding of individuals. Furthermore, the assessment should be made along the lines of criteria aimed at protecting high-level goods. A focus, thus, must be on the higher value.

In an objective matter, you reduce the issue to the rigor of the norms when taking controlled action, but trying to apply postulated administrative measures. We do not want to eliminate the right of privacy, but it is important that we safeguard and protect against criminal activity. There are criminal organizations that could control, and do control, the economies of various countries and are a global threat.

We need to combat money laundering by attacking, on one side, the criminality, either local or transnational, and forfeiting their means of corruption. In that sense our government acted quickly through the IRS. A proposal submitted in the year 2000 opened the possibility of checking data crossing between financial transactions and income taxes. I am citing a situation that is characteristic of Brazil and it has to be understood in the Brazilian context, so I am going to give some figures.

About 10 million taxpayers and half a million corporations did not state their taxes, so a loss of approximately 340 billion reais resulted on this account. That is the equivalent of 140 billion dollars. In mid-December of 2000, the Senate approved a package of measures to combat tax evasion, and the IRS could access information from individuals and corporations in January of 2000. Only with court authorization, or the authorization of a congressional committee, could there be access to financial data information before. It is a powerful instrument that the IRS now has to catch the tax evaders at the first stage.

However, we need to catch the financial managers of these criminal organizations. The same rationale could be applied to identify the money transactions that are linked to corruption. The law enacted by President Fernando Henrique Cardoso provides several mechanisms to protect the citizens. It is an access that has these objective conditions, but it also has to abide by circumstance of reasonable justifications. We have to establish models within this kind of framework to avoid authorization.

The latest numbers regarding the trafficking of drugs, amount to fifteen billion dollars. We studied the GNP. Three percent of our GNP is linked to this activity. Such a high number indicates that this activity is developed

by groups that are very well organized and certainly consist not only of our nationals. But in the month preceding this conference, the drug trafficking scene has changed. The physical presence of Brazilian organized crime is a sad reality. What we used to speculate is now a reality.

Louis Fernando de Castite, called "the Fernando," acted together with the Columbian Revolutionary Forces. He is a man sought by the Brazilian authorities. He is from Rio de Janeiro, and in the latest news, from April 2, 2001, is in the favelas of São Paulo. A Columbian operation revealed the structure of this group. It would be difficult to understand the activities of Brazilian organized crime groups in other countries.

A refugee in Columbia since last year is not the only one that conducts illicit activities in that country, but it was not until after that revelation from the Columbian Army and the government did a new side of the organized crime start to be seen in Latin America. And that has to do with trafficking in arms and ammunition, where it is exchanged for cocaine and sent to Brazil. Documents that were apprehended showed, that 1770 kilograms of cocaine were bought for 3.7 million dollars and exchanged for arms. This was confirmed in a telephone interview, with a high level official from France, on April 2, 2001.

It is important in considering the globalization of drug trafficking on the side of the sellers and on the side of the buyers, to remember that the Brazilians, Paraguayans, Mexicans, and Columbians are forming a joint venture. And, its effect is unpredictable, but it may create great risks to the American continent.

And finally, drugs apprehended with the brand name FARC, give us information about the fact that in Rio de Janeiro, in the slums, there are drugs circulating that are the product of an exchange for arms. Specifically, that means that in Brazil, one of the first consequences is the expansion of drug trafficking.

Another consequence is the immediate affect on the north border of Brazil, which serves as a refinery for drugs. They have military protection and still there are pockets of insurgency, because of the concentration of individuals that conduct criminal business. Brazilian air space is also used for the trafficking of drugs in the Amazon area.

There has been an East-West integration. This is the integration between Surinam, Columbia, and Brazil in the transport of arms and ammunition. Specialized groups cooperate in the transport of these drugs, through Argentina and any other port or airport in these territories of Argentina and Brazil. The data supplied by the investigation committee gave us the figure of 15 billion dollars. This gives us an idea of the global focus because there is a constant exchange of intelligence and information, necessary to effectively combat organized crime and money laundering.

If organized crime groups are integrating, the services for protection of nations and individuals have to integrate as well. This is achieved through

intelligence cooperation at a global level, which demands local response based on global strategies that have to be programmed by all of the participants. Only by way of interacting, can we provide that protection, and at the same time respect the sovereignty of the countries and their cultural differences so that there can be globalization.

So now I am going to conclude this part in Portuguese, and I would like to ask our coordinator if I have some time to make another presentation in English. I am going to show something regarding the inter-continental activities in drug trafficking. I will try to demonstrate what is going on in Latin America. Because we have many trends, basically when I was mentioning the North-South integration, it is because we have a cocaine production area here in Columbia; and we have Surinam here (pointing to map).

Drugs are produced in Columbia and go all the way down to the territory of old Brazil, Uruguay, and Argentina. The border area here is rain forest, so you can imagine how difficult it is to protect it and work with customs in that area. It is almost impossible. We are relying on satellite monitoring and on a system of aeronautical surveillance. We have the drug trafficking here with some terrorist activity, which is trying to infiltrate the border. Some refineries were found in this area, and that is where members of organized crime were most likely hiding. In Surinam, we also have Russian organized crime. From Ukraine and Kosovo, Russian arms are being traded for cocaine. This is East-West integration in a way. So we have North-South and East-West integration.

Bolivia and Peru are producers of cocaine products, and there is a dry border here, so someone can easily drive into Brazil. São Paulo is here; Rio is here. These are the major sources of export to the United States and Europe, and, of course, down to Argentina.

And finally, one of the major spots and an area that deserves very, very special attention is right here, and it is called the "tri-border area." This tri-border area is on the border of Argentina, Paraguay, and Brazil. In this area, many of the most important triad groups operating in Latin America are concentrated. They include: Chinese organized crime, the 14-Ks, the Big Circle Boys, and the Bamboos.

What these groups do, is they work on basically everything you can imagine, but in Paraguay they are engaged in intellectual property crimes, smuggling computer software, counterfeiting articles, and in human-trade. This involves smuggling Chinese nationals into the United States through Brazil and Mexico. So, this is quite an interesting organization, because they are dealing with smuggling immigrants and in extortion. They fly into São Paulo, where there is a large Chinese and Korean community, and there they commit extortions and extreme violence and fly back to Paraguay. This procedure can be done by telephone, and in one day they are in and out of the country. Loan sharks and this extreme violence have

resulted in murders in that area. Of course, I am not mentioning illegal gambling, loan sharking, and prostitution.

Furthermore, in this area you have terrorism with some radical Muslims and fundamental groups. They are cooling there and hiding while a lot of pressure is predominantly in the west. So Paraguay and this specific area will be the first destination for money laundering. There are many *casas de cambio* in that area. And by *casas de cambio*, I mean places where you can exchange your dollars without any questions and disregarding the amount.

Going a little south, we have Uruguay. Uruguay is a real financial center. It is a haven. This is not widely known, but Uruguay can provide extremely strong banking secrecy. It is unbreakable. It is impenetrable. And Uruguay is very much used for shell corporations that could really provide an interesting opportunity for money laundering.

And finally, I would say that just as a melting pot of all this, you have the major financial centers of São Paulo and Rio, that integrate all money operations. And, those financial centers can provide, with no suspicion at all, possibilities for people engaging in transactions of millions of dollars, because it is normal to have transactions of this caliber in those centers.

So we have, acting in the Brazilian area, many, many criminal organizations. I can mention transnational organizations like Nigerians, who specialize in drug transportation. They provide some sort of scams — most of you probably know of the famous Nigerian letters, and they are acting in the area. And, of course, the Italian Mafia could not be absent in São Paulo and Rio. And, probably they are there because they know that they are not extraditable, thus they have Brazilian farms and are living in Rio and São Paulo. The Carawana family, which I would say are the Rothschilds of illegal drugs, live in Rio.

To end my presentation, I want to say that we must really look at this whole continent, and the possibility of integrating NAFTA and Mercosur in Rio, pole to pole, as a commercial bloc. We must look at what can be done on a transnational, organized repression basis.

Thank you.

D. *The Caribbean*

*Alan Lambert**

Well, with the fancy part out of the way, it is all downhill from here, I am afraid.

You have had the North. You have had the South. And I really do feel like the meat in the sandwich, because I am here to speak about the Caribbean. And feeling like the meat in the sandwich, Professor Baldwin reminded me that the only thing that stands between you and lunch is me, so I will not delay too long.

I would like to echo the sentiments of both George and Peter, and thank Dean Mills and Professor Baldwin for arranging my attendance here. I feel at home in Gainesville. I think this is my fourth trip to Gainesville, and I do enjoy coming here. And, I am honored to have been asked to address you today.

Money laundering is a subject that most politicians love to bandy around. And many senior individuals talk about money laundering, and yes, we must do something about money laundering. And, I kid you not, the majority of them do not know what they are talking about. You can look at the definition of the law and understand that it is turning dirty money into clean. But, it struck a cord with me — in fact, on my flight over here I was sitting next to an accountant and his wife. And, as we were engaged in conversation, he asked what I did and I explained it. And then he said: “Oh, I wonder if I could ask your advice?”

He said: “I have a client company, which appears to be obtaining large funding ostensibly for education purposes from the European Union, but it looks very much as if that is being siphoned elsewhere, and to other companies for other purposes.”

And so I said: “Are you familiar with the requirements to report money laundering?”

He said: “No. No. It is not money laundering.” He said: “They are actually getting money.”

So I said: “But, if you know or believe that it is the proceeds of a crime — are they obtaining that money by deception? Is that a crime?”

And it suddenly dawned on him, and he is a senior partner in a firm of accountants. “Hey, this could be money laundering.”

So when you talk about money laundering — I have always been a practical guy, hands-on, actually dealing with the investigations. And, so

* A former career detective, having completed over 30 years of police service in the United Kingdom, specializing in the investigation of major frauds (white collar crime), and heading a unit dedicated to investigations into the financial affairs of drug traffickers and other major criminals.

when I hear a lot of people talk about money laundering, and what they perceive it to be, it often brings a smile to my face.

My background, as you have heard is as a practical detective in the United Kingdom. I am now working as a consultant to the British Foreign Office and to the Caribbean Anti-Money Laundering Program, which comes under the umbrella of the Caribbean Financial Action Task Force.

As most of you know, following the collapse of the sugar industry many years ago, countries in the Caribbean were forced to look elsewhere to generate revenue. Some, like the Bahamas, Barbados, and Saint Lucia, diversified quite early on into tourism, with others following on later. However, tourism alone was, and is, insufficient to sustain most local economies. And, it is therefore necessary for them to look further afield for sources of revenue.

Encouraged by countries such as the United States and the United Kingdom, many of the Caribbean states were actually directed towards the provision of offshore financial services. And that, it seems, is where the problems began. Many of the difficulties now being encountered were created by there being insufficient controls, poor or nonexistent regulatory systems, and restricted access to records and information for those conducting international criminal investigations. Professor Baldwin touched upon it and others also mentioned the Financial Action Task Force's (FATF) forty recommendations.

Before I go into that, for those of you who have a particular interest in money laundering or that side of it, there is a particularly good website, which is www.oecd.org, the official OECD website. And it has sub pages for the FATF, the CFATF, money laundering, and it also has basic facts about money laundering. So for those of you who are interested, you can download a multitude of information about money laundering. And on that site, it tells you what the forty basic recommendations of the FATF are.

Many of the difficulties that were encountered over the years were highlighted following the issuance of these "40 Recommendations" in 1990. Many of you may be familiar with them.

For those who may not be so familiar, they include recommendations, for example, that each country should take steps to implement the 1988 U.N. Convention against the illicit traffic in narcotic drugs and psychotropic substances. That is referred to as the Vienna Convention. Although I am not going to go through all "40 Recommendations," financial secrecy laws should be structured so as not to inhibit the detection of money laundering. But each country should, as a minimum, make laundering of proceeds of drug trafficking a criminal offense. Measures should be introduced to facilitate the tracing, freezing, seizing, and confiscation of assets derived from drug trafficking.

The next issue is the collection and dissemination of information on money laundering techniques. Financial institutions should develop

internal policies, procedures, and controls to enforce compliance, and should also develop an appropriate training program to start. Proper records should be maintained and legislation should be introduced to provide for the reporting of suspicious transactions, and so on. Following on from the FATF recommendations, officials from countries in the Caribbean and Latin America established the Caribbean Financial Action Task Force (CFATF). And at a meeting in Aruba in 1990, they developed a further "19 Recommendations" of their own, after taking into account regional facts and circumstances.

It is interesting to note, that recommendation nineteen recognized the difficulties faced by countries with small economies and limited resources in developing an appropriate money laundering program, and called upon other countries to widen the scope of their international technical assistance by paying particular attention to the need of training and otherwise to strengthen the quality and preserve the integrity of the judicial, legal, and law enforcement systems.

In 1992 in Kingston, Jamaica, ministers of the Caribbean basin countries comprising the CFATF agreed to adopt and implement the Vienna Convention, the FATF "40 Recommendations," and the CFATF Recommendations. This commitment was contained in what is known as the "Kingston Declaration." In December 1994, at the Summit of the Americas in Miami, Florida there emanated a plan of action, which included undertakings that governments would ratify the Vienna Convention, introduce the necessary legislation to seize, freeze, and forfeit the proceeds of money laundering, implement the "19 Recommendations" of the CFATF, encourage financial institutions to report large and suspicious transactions, and to work individually and collectively to identify the region's money laundering networks, prosecute their leaders and seize their assets. A further plan of action came about following a regional meeting on drug control cooperation in the Caribbean, held in Barbados in May 1996, and hosted by the U.N. International Drug Control Program.

Under the money laundering section of the plan, further commitments are made to the Vienna Convention and the FATF and the CFATF recommendations, but in addition, a new recommendation appeared, and I quote, "In order to provide urgently needed training and assistance at the regional level, a financial investigation expert team should be established consisting of specialists from within and outside the region, to assist those in the Caribbean responsible for the investigation of money laundering." This, in fact, led to a team of consultants being commissioned to formulate the appropriate structure in terms of reference for such an expert team, and this was initially referred to as the "Regional Anti-Money Laundering Training and Technical Assistance Project."

Progress on the Barbados plan of action was reviewed in Santo Domingo in December 1997. You can see from all this that it started seven years ago, and you heard Peter mention the procedures that are now in place for the suspicious transaction reporting in Canada and how long it took. You can see how this has evolved and developed over, certainly, a period of years, and it does not happen overnight.

In December 1997 the Santo Domingo review was made, with a call for action by May 1998. And that was a date, which coincided with the second anniversary of the Barbados plan and the tenth anniversary of the 1988 U.N. Convention. The Santo Domingo review brought about an agreement not just to initiate the Barbados plan of action, but also to ensure that efforts were coordinated with other related projects and organizations, including the University of the West Indies and the U.N. Drug Control Program. The implementation of the regional anti-money laundering training and technical assistance project was to be conducted through the CFATF, in association with the European Commission, the United States, and other supporting and cooperating countries. It was subsequently co-located in Port of Spain, Trinidad, and governed by a board of directors, and overseen administratively by the European Commission Drugs Control Unit and the CFATF Secretariat.

The CFATF Secretariat is hosted by the government of the Republic of Trinidad and Tobago and is also based in Port of Spain. It was established as a mechanism to monitor and encourage progress to ensure full implementation of the Kingston Declaration. It monitors the adherence of member states to those commitments through a self-assessment process, where members respond annually to a series of questions on the anti-money laundering framework, as it operates in their jurisdiction. The responses are then collated and analyzed by the Secretariat. This program of mutual evaluation is applicable to all countries, including FATF countries such as the United States and the United Kingdom. They are frequently and regularly mutually evaluated, not only to see if their legislation is effective and working, but to try and identify and highlight any weaknesses or areas where the legislation might need strengthening.

And just as an aside, in the United Kingdom, when the legislation was first introduced in 1987, there was a permanent working party sitting and examining the workings of the legislation. And I know that there were at least six changes made to the legislation over the years, to account for areas where people had overlooked the question of what happens if a drug trafficker escapes; what happens if he dies; what happens to his estate; and so on. And this was monitored consistently. Even now, you will find that that was part of the mutual evaluation process that exists and continues, and is a continuous process worldwide.

And, what it actually entails is a mission to the member states. If we hop back now to the Caribbean, you can picture this as a mission to the

member state to be examined by a team of financial, legal, and law enforcement experts drawn from other member states and led by the executive director, or the deputy director, from the Secretariat. There is also the coordination and participation in training and technical assistance schemes, in order to meet the needs of members, as identified through the self-assessment and mutual evaluation process.

So what happens as part of this mutual evaluation process, if there are any areas that are identified as areas of weakness, whether it is in banking, in law enforcement, or in the judicial process in the legislation? Then, along comes the Caribbean Anti-Money Laundering Program arm, which is the technical assistance/training arm to address those issues and provide the technical assistance. They have biannual planning meetings of the technical representatives of members. And finally, they have one annual ministerial meeting.

The Regional Anti-Money Laundering Training and Technical Assistance Project, which was a mouthful in itself, has since become known as the "Caribbean Anti-Money Laundering Program (CALP)." Why there is not an "M" in there is because you will see in those brochures, that it is CALP, and if you put Caribbean Anti-Money Laundering Program, it actually spells "Camel P," and I do not think they were too enamored with that title.

It became operative very recently, in March of 1999, with the appointment of the program director and followed by the appointment of three technical advisors, a legal judicial advisor, a law enforcement advisor, and a banking and financial sector advisor. The main functions of the legal judicial advisor are to assist member countries with drafting and amending anti-money laundering and/or related asset forfeiture legislation, and to address the development and delivery of training programs for prosecutors, judges, and magistrates in money laundering and asset forfeiture law and procedures.

Just taking a pause here, when I went to Trinidad in 1997, they had had legislation that had been in place for some seven years, and it required that in every case where a person was convicted of a drug trafficking offense, that the court conduct an investigation into the finances of the defendant. It never happened. What I found throughout the Caribbean and what you would find, if you were working there, is that until somebody goes there and explains the legislation, nothing happens. In the late '80s and early '90s, most of the Caribbean countries introduced legislation because it was the thing to do. We had the Vienna Convention and the FATF recommendations, so we must introduce money laundering legislation, and they did. And maybe for a few days, there were some newspaper headlines, but there it rested. Nobody told the police of the powers that they had, nobody told the judiciary how they could deal with it. Nobody told customs that they now have powers to actually seize money at the

point of import or export. And until someone like myself goes there and actually tries to work with the legislation, much of the difficulties that were contained in the legislation never even surface.

And, you will find throughout the Caribbean that customs offices are focused entirely on revenue and duty. They do not have the powers, as in the United Kingdom, of police officers to seize money and investigate. And it is quite a culture shock for them, when they are suddenly faced with the fact that this legislation has been introduced.

The law enforcement advisor is a man I work very closely with, and his overall responsibilities are to train law enforcement officers in the investigation of money laundering offenses, to provide guidance on the establishment of financial investigation units, and to assist with money laundering forfeiture and confiscation cases. It is part of their project document, that they bring in people, such as myself, for my expertise and background, and I am employed under the wonderful title of "consultant." The banking financial advisor is a man called Manuel Vasquez. He is out of Belize, and many of you may have heard of him. And they, through the anti-money laundering program, put on seminars that last about four days.

On day one, they address directors and policy makers; on day two, senior managers of financial services and banking institutions. On day three, it is the "cold face" workers, the people that show up. And day four is for lawyers, and that is on a Saturday, so they do not lose any money. They put on those seminars throughout the Caribbean and it has been most effective.

The role of Mr. Vasquez is to assist with drafting regulations and guidance notes for the prevention or detection of money laundering offenses and to provide training for financial sector employees and their regulators. And that, again, is another area where there has been a perception, among those outside the Caribbean, that everyone inside the Caribbean, and all those Caribbean states, actually knew what money laundering was, that they had an understanding of what they had to do. In fact, nothing could be further from the truth, because most of them, I have not yet come across or worked in any jurisdiction where, to my knowledge, there would be any outright villainy on the part of the governments to actually look for dirty money. It is more a case of ignorance and naivety. When they were launched or directed into financial services, as another means of actually generating some revenue, they did so, as I say, without a great deal of thought. And it is only now, that they are looking to put their house in order and to address the weaknesses in their systems.

So where do I fit into all this? I worked in the Caribbean before. In fact, the Caribbean Anti-Money Laundering Program was up and running, as I said, in 1997. While still a serving detective, I was asked by the British government to go to Trinidad to assist in the establishment of a dedicated

anti-money laundering drug trafficking task force. And, as I mentioned, the legislation had been in place for about seven years and they had ignored it. Because I went in as an independent, I obviously got access to the movers and shakers, and the policy makers. And normally, I might be dealing directly with the Attorney General, or, in two cases, with the Prime Minister, because it has been elevated to that level of concern. And you go in, and you know that you can have a direct impact; and you are building from the ground up. In a very short space of time you can make things happen.

During my stay in Trinidad, I was one of a team of three, and my particular role was to train financial investigators. The local guys had done a wonderful job, and they had arrested a major drug trafficker who, for twenty years, had been suspected of being one of their top ten drug traffickers; and they had never gotten anywhere near him. They had a wonderful operation, where they arrested him and his son, and two other men, in possession of ten kilos of cocaine.

Now, that may not sound like a lot, but it was sufficient to get them all life imprisonment with a recommendation, that they serve no less, than twenty-five years. I came in to assist the local guys and give them direction on the financial investigation, and it resulted in the first, and to my belief the only, confiscation order in the Caribbean for 5.7 million TT dollars. I should stress confiscation, not forfeiture. This concept of "confiscation," is a monetary penalty applied to the person. It is not applied to the property. The way we go about freezing any assets, that are present and identified, is that we go to court to get a restraining order freezing all these assets. There is a method of calculating benefit, not profit, but benefit to the drug trafficker. We can go back six years and basically add up everything that has gone through his hands over that period and come to a figure, often quite draconian. And if the court accepts, that his benefit is a million dollars, and he has got assets worth a million dollars, the court will issue a confiscation order for a million dollars. If he does not pay it voluntarily, then we go to the high court to get a receiver appointed, who then has control of these assets and sells everything. And if there is any change, the criminal gets it back.

However, in 99.9% of the cases what happens is that the benefit that can be shown from their drug trafficking exceeds the criminals' available assets, and so, they can only make a confiscation in the lesser sum. Under the U.K. legislation, which is modeled throughout the Caribbean, criminals owe the difference until the day they die. And if they come into the possession of assets innocently or otherwise, say, for instance if they win the state lottery, then we can go and tap them on the shoulder, take them back to court and go for the rest. If the court is satisfied that they have assets, but we cannot get near them, and they do not pay it, they must serve a term of imprisonment in default, which is consecutive to any other term

of imprisonment. It does not fall for any reduction in sentence; and at the end of the service of that period of imprisonment in default, they still owe the debt. They still owe the money. So it is quite a draconian legislation.

But I am a crusader for confiscation, because it is much easier to manage and enforce than actually having to store boats, or planes, or property. We actually just freeze it, and then it is the responsibility of the offender or his nearest and dearest. In April 2000, I was asked again by the British government to go to Antigua; and I helped train there a team of financial investigators, who are within the Office of National Drugs and Money Laundering Control Policy. I made a number of presentations to the directors of public prosecution and their prosecutors.

I have come back from Granada two weeks ago, where I helped set up a financial intelligence unit. In ten days, I am going back to Antigua. Three weeks after that, I am going back to Saint Lucia. I know it is a dirty job, but somebody has to do it.

Although this program is still in its relative infancy, those involved in the Caribbean Anti-Money Laundering Program have already covered considerable ground because the expectations of some of these small islands are small. In fact, the GDP for some of these small islands is probably less than 300 million U.S. dollars. One hurricane puts them in the red straight away, with the damage that it can do. So all technical assistance for the anti-money laundering program is actually funded by the European Union, the United States, and the United Kingdom. Thus, they have a budget for the training and they invite nominations for people to attend the training courses. It costs the Caribbean countries nothing. The program pays for everything, and that is what the budget was set up for.

With the many presentations, seminars, and training courses being delivered in each of the disciplines covered in the program, work is certainly moving on. It is a five-year program. Bear in mind, it started in 1999, so there is still a ways to go. It is still something that is not fully appreciated. When you read the brochure you will see that all the seminars and all the training is actually provided free. Ultimately, the intention is that through the program not only will the Caribbean countries satisfy international standards, but their local and regional institutions will actually develop sufficient expertise to ensure long term sustainability through enhanced self-sufficiency. They can do the job themselves. Much has already been done towards this goal, but much more needs to be done. And, there are still many contentious areas that need to be addressed, such as the harmful tax jurisdiction labeling of some countries.

At the time of this presentation, new legislation is being drafted and passed in a number of Caribbean countries so that the next phase of development can be achieved. And many of those, who were put on a black list, have jumped through hoops to ensure that they meet the requirements of international standards. Some of them will not make the

deadline, which is next month, and when the black list is reconsidered they will remain listed. Others, I feel sure, will come off that black list.

And as the Caribbean Anti-Money Laundering Program gains momentum, not only will progress become much more evident, but more jurisdictions will become self-sufficient and competent in the investigation, prevention, detection, and prosecution of money laundering offenses. Through the work of CALP and with the very meaningful contributions of the donor countries, the prospects of bringing down the money launderers are a lot brighter than you would be led to believe.

Thank you very much indeed.