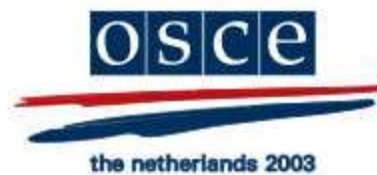


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**Chairmanship 2003**  
**Permanent Representation of the**  
**Netherlands to the OSCE**



Vienna, 14 May 2003

Dear Colleagues,

As was announced in CIO.GAL/28/03 of 4 April 2003, the Netherlands Chairmanship has invited experts to prepare discussion papers for the three working groups at the Economic Forum, which will take place in Prague from May 20 to 23.

It is my pleasure to forward herewith the discussion paper for Working Group B, written by Profesor Dr. Phil Williams of the University of Pittsburgh (USA). It should be noted that this paper reflects the opinion of the author and not necessarily that of the Netherlands Government.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jos Schellaars'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Jos Schellaars  
Counsellor

To: All OSCE Delegations

**Combating Trafficking: The Role of Governments in the OSCE Region  
XIth OSCE Economic Forum – Discussion Paper for  
Working Group B**

**Phil Williams**

**I Introduction**

Ten years ago assertions that the rise of transnational organized crime, the trafficking of illicit goods, the provision of illegal services, and the expansion of illegal markets, represented the dark side of globalization and interdependence were often dismissed as hyperbole. Today the skepticism has been replaced by a recognition that these phenomena have damaging consequences for governance at the national, regional, and global levels, have pernicious effects on national economies, undermine social cohesion and stability, and threaten human security, national security, and international security. In response, governments and international agencies and organizations have increased the resources devoted to combating various forms of trafficking, organized crime, money laundering and corruption. Yet, as Moises Naim, has pointed out, governments are still losing the “five wars of globalization” – the wars against drugs, arms, and people trafficking, against intellectual property theft, and money laundering. Naim identifies various reasons for the lack of success, claiming that “the world’s governments are fighting a qualitatively new phenomenon with obsolete tools, inadequate laws, inefficient bureaucratic arrangements, and ineffective strategies”. He also contends that “the collective thinking that guides government strategies in the five wars is rooted in wrong ideas, false assumptions, and obsolete institutions”. (Naim) If anything, such criticisms are understated, not least because this is an area where governments have typically developed ad hoc and sporadic responses to, rather than coherent strategies against, organized crime and trafficking.

It is against this background that the OSCE is making significant efforts to combat trafficking in arms, drugs and human beings (particularly women). If the OSCE’s Prague meeting and the follow-up activities are to be successful, however, then it is crucial to start from a solid baseline that is rooted in a clear understanding of the trafficking problem. Consequently, this paper starts with an effort to identify and elaborate some of the “wrong ideas” and “false assumptions” that underpin current efforts to combat trafficking. The analysis also suggests that there are several stark, unpalatable, and underlying realities that need to be understood before it is possible to think sensibly about, let alone devise, effective strategies. Failure to understand these realities is a guarantee of failed efforts to reduce women trafficking to the Balkans and Western Europe, drug trafficking from Afghanistan and Colombia, and arms trafficking that fuels civil wars and ethnic conflicts. Accordingly, the first part of this paper elucidates some key characteristics of the trafficking issue, highlighting both several myths and several very compelling realities. After this has been done, the paper seeks to answer four major questions: (1) how can anti-trafficking policies and their implementation be made more effective? (2) do anti-trafficking measures provide sufficient solutions to combat overlapping issues in the economic sphere (e.g. anti-money laundering, anti-corruption measures etc.)? (3) to what extent can policies to combat organized crime be

supplemented with specific anti-trafficking measures? (4) how can governments assist the business community in reducing the harmful effects of trafficking? In effect, the first question subsumes all the others. In considering the response to this fundamental question, it is helpful to identify three complementary approaches: incremental, unorthodox, and strategic. The incremental approach seeks to devise improvements and ensure that what is currently being done, is done better. The unorthodox approach is based on the inadequacy of existing responses, the potential inadequacy of more of the same, and the need for “out of the box” solutions. It seeks alternative strategies that could have significant impact in reducing the harm that is done to societies, economies, and to individuals as a result of trafficking in arms, drugs, and women, but that differ significantly from existing responses. The strategic approach aims to develop a comprehensive or holistic design that integrates existing and additional measures, including some that are not part of the orthodoxy, into an overall strategy. Such a design is the main focus of attention here and it incorporates related issues such as corruption and money laundering, the relationship between trafficking and organized crime, and ways in which the business community can be protected from the harmful effects of trafficking. Prior to looking at the policy prescriptions, however, it is necessary to provide an accurate diagnosis of the problem and to strip away some of the myths that have developed about trafficking.

## **II Trafficking in human beings (particularly women), drugs and arms: myths and realities**

If the OSCE is to be successful in facilitating the development of successful strategies to combat trafficking, it needs to recognize several realities that, although compelling, have often been obscured by government rhetoric, moral simplicity, and a failure to recognize the complexity of the issues involved. At least five myths about trafficking need to be dispelled and five realities need to be far better understood than is currently the case.

### *Myth 1: We understand the dimensions of the problem*

Data on trafficking is still grossly inadequate, thereby helping to fuel unchallenged assumptions and assertions. The argument, for example, that there are close links between trafficking in women, drugs, and arms has not been proven. While some trafficking organizations engage in multiple commodity trafficking, many others specialize in particular activities, developing skills, mechanisms, routes, and corrupt linkages, peculiar to the product they are focusing on. In some cases, of course, often in response to changing market opportunities, some groups will move from one product to another. With the cessation of hostilities in the Balkans, for example, some of those groups which were deeply involved in arms trafficking began to focus more on trafficking in women. There are also some cases in which outlets for commercial sex are also outlets for illegal drugs. In yet other instances, there is barter trade involving the exchange of drugs for arms. To acknowledge these very specific forms of linkage and overlap, however, is not to conclude that there are invariably close connections between trafficking in arms, trafficking in drugs, and trafficking in women. While they are sometimes parallel activities, the degree of overlap remains uncertain.

Much the same is true in terms of the relationship between organized crime and terrorism. In recent years, many commentators have emphasized the emerging nexus between criminal and trafficking organizations on the one side and terrorist networks on the other. Yet, a close examination reveals a more complex reality in which there are limited, albeit occasionally significant, cooperative links between insurgency groups and drug traffickers, but in which the most dominant and novel feature is the manner in which insurgents and terrorists have appropriated organized crime methods to fund themselves. This leads to both cooperation and competition between terrorist and criminal organizations and it is not surprising that, in some situations, terrorist groups and trafficking or criminal organizations are hostile towards one another. Once again, however, this is an area where anecdote too easily becomes a substitute for analysis and much solid research still needs to be done before governments have an accurate assessment of the main contours of the problem.

*Myth 2. There is nothing new or different about contemporary forms of trafficking*

It is very easy to conclude that there is nothing new or different about the kind of trafficking in arms, people and drugs that is so pervasive in the early years of the twenty first century. After all, trafficking is one of the world's oldest professions, with a long if inglorious history. And even though the methods and routes change, there are also remarkable threads of continuity. In the late nineteenth century, for example, women were being trafficked from Ukraine (which is one of the main sources of trafficked women today) to North and South America and the Middle East. Moreover, the traffickers were able to use the latest developments in transportation and technology – the steamship, the railways, and the telegraph – to facilitate their activities. (Bristow) Acknowledging the antecedents of contemporary trafficking is one thing; failure to recognize the extent of the current problem, the ease and speed with which trafficking can be carried out, and the political and economic power wielded by contemporary traffickers (along with other criminal organizations) is quite another. Indeed, in some parts of the world such as the Balkans or Central Asia, trafficking is probably the most important single form of economic activity and the black market economy is not simply an outlier but is for most practical purposes the main form of economic activity and development. Moreover, trafficking has grown along with global business (sometimes in a parasitic relationship and sometimes simply as a parallel activity) to become a truly global phenomenon. Nigerian women trafficked to Italy for prostitution, arms from the Former Soviet Union supplied to African civil wars by a Tajik arms dealer based in the United Arab Emirates, and drugs from Colombia and Afghanistan on the streets of Scandinavian and Spanish cities are merely a few examples of the illicit forms of connectivity that characterize the global economy.

*Myth 3. Trafficking is an unmitigated social ill with few beneficiaries*

Most discussions of drugs, arms, and women trafficking fail to recognize that these phenomena benefit a lot of people. Most obviously, those directly involved in organizing trafficking activities find it very lucrative. There are also multiplier effects from the influx of illegal profits into national economies. In the case of drug trafficking,

employment opportunities are provided that otherwise would simply not be available. Indeed, for some developing countries as well as transitional states, drug cultivation and production provide a means of subsistence for peasants that is rarely matched let alone surpassed by alternative crops. Although governments have placed considerable emphasis on crop substitution and alternative development to try to wean growers from opium and coca, success has been limited. This is perhaps most evident in the resurgence of opium cultivation in Afghanistan in 2002 after the removal of the Taliban. Growing opium and coca is easier and more lucrative than growing alternative crops. There are also fewer uncertainties about market conditions. Emphasizing the fact that the peasants make only a very small percentage of the profits of the drug trade - as little as 1 per cent according to recent estimates - misses the crucial point that that they can still make more than with most available alternatives. This also explains why there is a constant balloon effect, when repression in one locale simply leads to expansion in another. And for those who are involved not in cultivation, but in trafficking the rewards are even greater.

None of this is meant to condone drug trafficking, let alone arms or women trafficking. Indeed, it is hard to disagree with the International Narcotics Control Board in its statement that the gains are for the few and the losses for the many. Made specifically about drug trafficking, this comment could be applied equally well to arms and women trafficking. At the same time it has to be recognized that trafficking obeys the laws of the market, bring profits to those who organize the supply, and has some positive secondary effects. In other words, even though trafficking activities are highly pernicious, and even though the costs to the collective enormously outweigh the benefits to the relatively small number of individuals who benefit, ignoring the benefits over-simplifies the problem and makes it appear more malleable than it really is. Recognition of this is rare, and even when it occurs, is usually accompanied by the caveat that although the benefits are short term, the long term consequences are invariably negative. Yet, as Keynes noted, in the long term we are all dead: for peasants concerned about avoiding starvation short term benefits of drug cultivation are much more compelling than long term negatives. Similarly, even though trafficking in women completely undercuts arguments that organized crime tends to be victimless, for some women, there are so few economic alternatives that going to another country and becoming involved in prostitution looks the least unattractive of an appalling set of choices – and their choice is conscious and deliberate even if ill-informed about how bad it will be.

The emphasis on the limited scope of the benefits of trafficking also ignores the fact that traffickers stay in business by extending the benefits – either to local populations rendered sympathetic to the traffickers because of patronage, or to government and law enforcement officials who are neutralized through bribery and corruption. Indeed, the complicity of government officials in trafficking activities greatly facilitates the process. And even when government officials are not directly complicit, recognition that there are economic benefits from trafficking and from the infusion of profits into the economy - either directly or through a process of laundering - often encourages government acquiescence in the continuation of the trafficking business.

#### *Myth 4. Governments give high priority to combating trafficking*

Although transnational organized crime and various forms of trafficking have been given much more attention since the end of the Cold War, it is arguable that policies to combat trafficking are (1) a low priority for governments (2) something that continues to be subordinated to broader geopolitical concerns.

The low priority for governments is reflected in the paucity of resources devoted by most governments to criminal justice in general and to combating trafficking in particular. The subordination of anti-trafficking considerations to broader geopolitics has been evident in several relatively recent conflicts. NATO support for the KLA, for example, was rooted not only in principle (stop ethnic cleansing) but also in the expediency of a temporary alliance against Milosevic that ignored KLA involvement in drug trafficking. Although it is possible to argue that the organization as such was not involved, many KLA units and members were deeply implicated in drug trafficking. Indeed, one facet of the conflict over Kosovo was a struggle between the major cigarette smugglers (the Milosevic family) and the major heroin traffickers in Europe. Perhaps even more blatantly, if certainly understandably, the United States allied with the Northern Alliance to overthrow the Taliban even though many of the allied warlords were deeply involved in the opium trade. In the aftermath of the overthrow of the Taliban, the international community faces another dilemma: efforts to clamp down on opium cultivation and trafficking would intensify opposition, foment instability, and render it almost impossible for the new government to develop legitimacy and authority. Not surprisingly, short-term expediency has led to a more permissive approach to opium cultivation and trafficking in Afghanistan that is reflected in the massive increase in production recorded in the US. State Department's International Narcotics Control Strategy Report for 2002.

In other cases, the low priority is a result not of acute policy dilemmas created by geopolitical considerations but simply of the constant and often mundane tradeoffs of energy and resources that are inherent in government. All too many governments, for example, have failed to give efforts to combat trafficking in women the resources or attention they deserve. Penalties for women trafficking have remained grossly inadequate, law enforcement agencies have not been trained and equipped either to investigate adequately or to provide victim support, and only NGOs and international organizations have managed to keep the issue on the public agenda. Similarly, with arms trafficking, all too few governments have adequate regulation. This is not surprising as most governments are far more interested in promoting arms sales than in restricting arms trafficking. And for developing and transitional states, illicit activities provide at least some infusion of funds into the economy, becoming the nearest thing to a substitute for foreign direct investment. All this is not to suggest that combating trafficking is simply a matter of will and commitment. Even when the will and commitment, and significant resources, are present, anti-trafficking policies encounter many problems.

*Myth 5. There is a clear distinction between the legitimate and the criminal worlds*

The divide between the underworld of trafficking and organized crime and the upper or legitimate world of business and government is not nearly as sharp as it first appears. Perhaps nowhere is this more obvious than in the area of arms trafficking. The most important factor differentiating arms trafficking from what governments often refer to as arms transfers is usually only the destination of the weapons. When governments cease business as usual, because arms are being used to fuel civil war or ethnic conflict and place an embargo on arms supplies to particular countries or regions, other less scrupulous suppliers simply step in to fill the vacuum. Put another way, when the operation of the legal or gray market is interrupted, the black market becomes dominant. This alone suggests that distinctions between legal policies and illegal activities are rarely as fixed and immutable as governments pretend.

Distinctions between the criminal and legitimate worlds are also blurred by the connections that sometimes exist between them. In some cases, the connections are created through coercion, when traffickers and organized crime groups compel collusion, and use intimidation to take over or exploit legitimate businesses. In other instances, however, the connections between the two worlds are facilitated by bankers, lawyers, and accountants who act as what some law enforcement agencies in Australia describe as “gatekeepers”. Moreover, it is often financial institutions themselves that are to blame and not simply rogue or corrupted individuals. Poor oversight is often used as an excuse for activities which are, in fact, calculated and deliberate. Lack of oversight is both facilitator and in-built excuse for reckless and unwise policies that, if discovered, are blamed on individual aberrations. Even putting aside the scandals in the United States and elsewhere that have highlighted the paucity of corporate governance, in recent years banks and bankers in several European countries and jurisdictions such as Liechtenstein have been involved in facilitating dubious financial transactions for political parties, criminal and drug trafficking organizations, and corrupt dictators. For its part, the Bank of New York sought correspondent banking relations in Russia without doing adequate due diligence on its partners, even though there had been congressional testimony in the United States several years earlier about the influence of Russian organized crime on many Russian banks. More generally, banks have been reluctant to impose anti-money laundering regulations: their business is about attracting money and from their perspective the origin of the money is largely irrelevant. Similarly, businesses often connive in trafficking activities. Antique dealers and auction houses rarely demand provenance of antiquities that have been stolen and illegally exported; firms in the transportation industry welcome orders and are not overly concerned about what they are shipping so long as the documents appear to be in good order, and for the travel business a customer is a customer, irrespective of whether he or she is a legitimate businessman or businesswoman or a woman being trafficked.

In sum, it is important to recognize the limits of knowledge about trafficking as well as the extent to which contemporary forms of trafficking transcend anything previously

experienced, the benefits of trafficking especially in the short term, the limited resources that are devoted by governments to combating trafficking, and the lack of a sharp distinction between the legitimate world and the underworld. As well as dispelling these myths, however, it is necessary to emphasize key facets of the trafficking problem.

*Reality 1. Traffickers have many advantages over governments*

Governments have become so accustomed to dealing with each other that they have really been unprepared for the diversity of actors that now play major roles in global political and economic life. As a result, it has been hard for them to recognize that non-state or, what James Rosenau termed, “sovereignty-free” actors have certain qualities that make them very formidable adversaries.(Rosenau) This is certainly true of terrorist networks, as became dramatically and tragically evident on September 11, 2001. It is equally true of criminal and trafficking organizations. Indeed, traffickers have many advantages in carrying out their activities including:

- (1) the capacity to embed illicit products in the huge volume of legal trade facilitated by globalization and, at the practical level, by the development of inter-modal containers;
- (2) the initiative in terms of method, time, and route;
- (3) the choice of circumvention, concealment or deception (or indeed some mix of the three) to ensure that the illicit products reach their destinations;
- (4) the capacity to neutralize or overcome the control mechanisms and regulatory measures imposed by governments through corruption and co-option;
- (5) the capacity to accept significant losses as a result of interdiction and still make considerable profit;
- (6) the capacity to use multiple jurisdictions and thereby ensure that the activity is distributed in ways that make it very difficult to counter. As one commentator on the illicit arms trade noted: arms traffickers are “stateless” threats in that they typically use one jurisdiction as a hub, a second as a banking center, a third to buy arms, a fourth as a weapons depot. Furthermore, “they operate like drug cartels...They disguise their identities and business operations so well that it's hard to know the scope of their activities or even who is involved”.(Wolosky)
- (7) the lack of a clear target for governments, partly because of the agility of trafficking networks and partly because of the fact that although traffickers routinely and inherently violate national sovereignty, they can still use national sovereignty for defensive purposes, retreating to safe havens when international pressure is on them.
- (8) The use of network organizational forms that are, in so many respects superior to the hierarchical structures through which governments typically operate. When the bureaucratic nature of government is added to the equation, the advantage swings even further in favor of the traffickers.(Williams)

*Reality 2: weak states are part of the problem rather than the solution*

Many developing states and states in transition can be understood as weak states. As such, they share certain characteristics: there is a low level of state legitimacy; border



controls are weak; rules are ineffective; the institutions and people who represent the state put other goals above the public interest; there is little economic or social provision for the citizenry; business is not legally regulated or protected; social control through a fair and efficient criminal justice system is lacking; and other typical state functions are not carried out with either efficiency or effectiveness. Not surprisingly, these weaknesses provide a green-house effect for trafficking organizations.

Weak states suffer from capacity gaps, and capacity gaps lead to functional holes, (i.e. a failure of the state to fulfill certain basic functions that are normally associated with states and that are expected by the citizenry). Capacity gaps and functional holes are exploited by criminal organizations in one of two ways - either by filling them and, in effect, substituting or compensating for the state or by exploiting the room for maneuver that they provide. Domestic criminal organizations providing private protection for business (protection that overlaps significantly with extortion) are generally substituting for the state; trafficking organizations that use weak states as a safe haven and typically smuggle drugs, arms and weapons across borders are exploiting the room for maneuver provided by functional holes such as inadequate law enforcement and border control. Both domestic criminal organizations and trafficking organizations have a vested interest either in perpetuating the weakness of states and governments or ensuring that even if they become stronger, they remain acquiescent.

### *Reality 3. Corruption is the lubricant of trafficking*

It is hardly surprising, therefore, that even when the legal framework is present and enforcement capabilities are adequate, implementation of anti-trafficking measures remains uneven because of a lack of desire. Strengthening the state is one thing; minimizing corruption in government is another. And when critical members of the government, law enforcement, and customs agencies are beneficiaries of trafficking activities through corruption payments, they are loathe to push any activities liable to damage the flow of additional income. Unfortunately, the debates over corruption and over trafficking rarely intersect. The anti-corruption debate treats corruption solely as a condition of poor governance. Yet, from a trafficking and organized crime perspective, corruption is best understood as instrumental and specifically targeted rather than as a general or pervasive factor in political, social and economic life. There are, of course, connections between corruption as condition and corruption as instrument: the more pervasive the existing corruption, the easier it is for trafficking and other criminal organizations to identify appropriate targets who will facilitate their activities. Nevertheless, it is important to recognize the critical importance of targeted corruption by criminal and trafficking organizations.

For traffickers the targets of corruption vary according to where in the trafficking process they are. In the home base of the trafficking organization, corruption will typically be directed at government, the judiciary, and law enforcement agencies to ensure that the organization can act with impunity. In these circumstances, corruption often becomes systemic or institutional. In transshipment and destination states the main targets will

typically be customs personnel and border guards or immigration officials. The same is largely true in destination or market countries where the trafficked commodities end up. Targeted corruption of this kind is highly damaging irrespective of its location. Corruption linked to organized crime and trafficking is the most pernicious form of corruption: it seeks to neutralize and circumvent the powers of the state, to co-opt the servants of the state, to eliminate social and territorial controls, and to neutralize the criminal justice system. In this sense, trafficking and organized crime related corruption can be understood as the HIV of the modern state: it breaks down the defenses of the body politic. In some cases, the process goes even further, leading to the emergence of what Roy Godson termed “the political-criminal nexus”.(Godson) In effect, trafficking and other criminal organizations develop corrupt and collusive relations with political elites, bureaucrats, and law enforcement and customs officials. Members of these elites become major beneficiaries of the trafficking process and other criminal activities. In some cases, they play a key role in organizing these activities; in others they simply provide a degree of protection that enables trafficking to continue with little or no interference. Whatever the exact role of corrupt political elites, however, it is clear that they seriously exacerbate the trafficking problem.

*Reality 4: Trafficking is a symptom of fundamental trends and problems.*

Trafficking activities are, in large part, a symptom of underlying problems, rather than independent and autonomous activities. The most obvious of these underlying problems include: conflicts in failed states which generates the demand for arms; the co-location of insurgency and drug cultivation (Burma, Afghanistan, and Colombia) which often leads to barter trade of drugs for arms; and the lack of employment opportunities in the licit economy that compels people to migrate to other countries, to migrate to the illegal economy, or to do both. Yet, trafficking also reflects the structural conditions of global politics in the twenty-first century.

Trafficking is related in complex ways to globalization. The increased speed and ease of global trade, finance, communications, transportation, and mobility, significantly augment the capacity of traffickers to operate effectively. Transaction costs have been reduced for traffickers just as they have for legitimate businesses. At the same time, some of the losers of globalization in the legitimate world have become major players in the underside of globalization. Both Afghanistan and Burma, for example, have been among those states that are most isolated and least integrated into the licit global economy. Yet both have become major players in the global drug trade. In this sense, trafficking can be understood as compensating mechanism that brings outliers back into the mainstream, albeit in a parallel underground economy. This is equally true in relation to many members of diaspora communities who often respond to marginalization and alienation in their host countries by providing trafficking outposts that link back to the home country. So long as globalization continues to have grossly disparate consequences, such balancing or offsetting mechanisms will continue to operate.

As suggested above, the growth of trafficking and organized crime more generally, is also related to the weakness of many states. The Westphalian system of state dominance

is in decline, with a shrinking domain of state authority that is eroded from above by globalization and from below by a crisis of authority and legitimacy that was most obviously manifest in the communist world but that is certainly not restricted to it. What is perhaps most significant is the growth in the number of weak states, a growth that has led to the emergence of lawless regions and no-go zones where the state is simply not present. Some of the most obvious of these areas are outside the OSCE region, yet they are certainly not absent in the Balkans, the Caucasus and Central Asia. Moreover, even in Western Europe there are no-go zones developing in some of the migrant communities, especially from North Africa. The implication of all this is clear: attacking the symptoms without also doing something about the underlying problems is a recipe for failure if not futility. And because the problems are structural rather than transient in nature, adequate responses will be more difficult to formulate and implement.

*Reality 5: transnational and multilateral responses are necessary but not sufficient to combat trafficking*

Because trafficking is an inherently transnational activity only collective, multilateral or transnational responses will succeed in having a major impact. Criminal organizations in general, and traffickers in particular, engage in jurisdictional arbitrage, exploiting both jurisdictional asymmetries (highly divergent laws and penalties) and jurisdictional voids (countries in which there are no effective laws and regulations or no effective implementation of the laws and regulations against trafficking and its profits). Indeed, one of the problems is that trafficking networks often operate from jurisdictional voids which, in effect, provide them with sanctuaries or safe havens. Consequently, no government, no matter how powerful, can adequately respond to trafficking in isolation. In effect, it is a distributed problem that requires a distributed solution.

In part, of course, there is a reluctance to opt for distributed responses, because of continued concerns about ceding or relinquishing national sovereignty, particularly in the areas of law enforcement and national security. As one commentator has noted, “governments need to recognize that restricting the scope of multilateral action for the sake of protecting their sovereignty is often a moot point. Their sovereignty is compromised daily, not by nation-states but by stateless networks that break laws and cross borders in pursuit of trade...Without new forms of codifying and “managing” sovereignty, governments will continue to face a large disadvantage” in their efforts to combat trafficking. (Naim) Yet multilateral responses alone are not enough. Multilateralism can all too easily become an excuse for doing nothing: when everyone owns the problem, no one owns it. In this sense, multilateralism provides opportunities for buck-passing and avoidance of responsibility. It also encourages free riding. Similarly, a desire for consensus prior to action can lead to procrastination and stalemate. Even when this is avoided, the strategies that result from multilateral diplomacy are often diluted compromises that do not adequately reflect the scale of the challenges that are faced.

The other problem with multilateralism is the inherent gaps. The implication of the preceding analysis of weak states, for example, is that they are very unreliable partners in multilateral ventures. Indeed, multilateral regimes that are designed to combat

trafficking, organized crime and money laundering suffer from the fact that too many states exhibit cosmetic conformity, ostensibly participating in the regime, meeting its norms and standards, and fulfilling its obligations, while in practice doing little to interfere with trafficking and other criminal activities. The implications of this are two-fold: multilateral approaches to trafficking need to be selective in nature; they also need to be accompanied by both capacity building and measures designed to ensure high levels of compliance with multilateral regimes. In some cases, these regimes have not been fully articulated and developed; in others the problem is not one of standards but of implementation.

Dispelling the myths about trafficking and emphasizing some compelling but oft-neglected realities is essential to the development of effective measures to combat trafficking in arms, women, and drugs. The next section of this paper seeks to articulate some of the ways in which governments can respond more effectively.

### **III Policy Responses: What Governments Can Do**

The OSCE - along with other international organizations and agencies such as the United Nations, the Financial Action Task Force, and the G-8 - is in a good position to encourage and facilitate the process of responding more effectively to trafficking in human beings (particularly women), drugs, and arms. In devising these responses, there are three broad alternatives: incremental, unorthodox and strategic approaches.

#### **1. Incremental approaches to strengthening anti-trafficking policies and their implementation.**

Incremental approaches to strengthening anti-trafficking policies generally focus on law enforcement and seek to identify ways in which it can be made more effective. Some of the improvements cross all three areas of trafficking; others are particularly relevant to one trafficking activity rather than all three. Nevertheless, several requirements for enhanced effectiveness stand out, the most important of which is the need to introduce more risk into the trafficking process. This can be done in several ways, perhaps the most important of which is the introduction of more specific laws against trafficking and the vigorous and effective implementation of these laws. In some countries weak or nonexistent laws make trafficking a low-risk activity.

This is less true for drug trafficking than trafficking in arms or women; Almost all the countries in the OSCE region have signed the Vienna Convention on drugs and psychotropic substances and have introduced laws against drug trafficking. Moreover considerable efforts are also directed against drug trafficking through interdiction, controlled deliveries, electronic surveillance, and the like. An increasing number of countries have also introduced asset seizure and forfeiture laws for drug trafficking and associated laundering of the profits. Yet implementation often remains sporadic and inadequate, either because of lack of resources or lack of will. In responding to arms and women trafficking, the situation is even more urgent as many countries continue to have

inadequate laws, enforcement is often both problematic and misguided (for example, treating women who have been trafficked for commercial sex as criminals rather than victims), and on those relatively few occasions when penalties are enforced they are often ridiculously low. Moreover, although many governments are making progress, jurisdictional asymmetries and corruption continue to provide safe havens for traffickers and trafficking, thereby reducing the effectiveness of what are already rather modest efforts at international law enforcement cooperation. Even Operation Girasole which provided a good example of multi-national law enforcement cooperation against women trafficking, and had Europol playing important analytical and coordinating roles, was stymied by a limited investigation into the Russian and Ukrainian parts of the trafficking network. The implication is that although incremental measures are essential, they will continue to have only limited impact. It is for this reason that some critics of existing policy have demanded more radical approaches

## **2. Alternative approaches to the trafficking problem**

Incremental approaches to trafficking in arms, women, and drugs are dominant in the current repertoire of responses at both the national and international levels. The limitations on what has been achieved through such approaches has led many critics to demand more radical alternatives. Nowhere has this been more evident than in the area of drug policy, where interdiction is widely regarded as a failure. This has led to demands for de-criminalization or legalization of drug use and even drug supply. The rationale is that the major harm to society is not the result of drug use as such but of prohibition policies and the criminal activities they generate. De-criminalization, it is argued, would lower costs of the drugs and take the profits out of the business. The problem with this approach is that it ignores the social harms caused by drug use and abuse, harms that are independent of whether or not supply is criminalized. Moreover, it is not an approach that can be applied to women trafficking – which resembles a contemporary form of slavery rather than a victimless crime. Nor is it something that can be applied to arms trafficking where continued supply – and often the exchange of drugs or diamonds for arms – perpetuates violent conflicts.

Are there then any other unorthodox approaches to the trafficking problem that might be adopted by governments? Demand side reduction is often held up as a less orthodox solution than the supply side approaches, currently in vogue. Certainly demand reduction, whether through preventive diplomacy (for arms) or education campaigns (for drugs and use of prostitutes), is an important and all too often neglected approach. Arguably more resources could be devoted to these programs. Yet, there is almost certainly a point at which the law of diminishing returns becomes very apparent. Moreover, demand reduction is unlikely to work without some continued efforts at supply reduction. Rather than being a radical alternative that can stand on its own, therefore, demand reduction is better seen as a critical component of an overall strategic approach of the kind discussed more fully below.

Another approach is to put the emphasis less on law enforcement and much more on harm reduction. Treating trafficked women as victims is a key factor in this, and

programs to rescue these women from the traffickers and to rehabilitate them in society certainly deserve a higher priority than they currently receive. Yet, unless there is a law enforcement component, women who are taken out of the commercial sex trade will simply be replaced by new victims. The implication once again is that although responses such as victim assistance and support that have been developed largely by the NGO community are particularly important, they need to be combined with the best of the current law enforcement efforts (and some significant enhancements). In some cases, there are tensions between the two approaches. The extent to which trafficked women can be used as witnesses against the traffickers as opposed to simply being protected and reintegrated into society is a natural bone of contention between law enforcement and the NGO community. It is one that requires both a degree of pragmatism and the development of far more effective witness protection programs than currently exist.

Transparency is another quality that is often emphasized by those who contend that existing responses are inadequate. There is something to this. In the world of arms supplies, for example, greater transparency and accountability would make it more difficult for black market arms suppliers to operate. As regards the demand for commercial sex, regular publication of the names of those who frequent prostitutes could prove an important deterrent. Yet the whole point about trafficking is that it is covert. Transparency is not something that is easily achieved when those involved in the activities want to remain in the shadows. Consequently, transparency often requires thorough and careful investigation. Nevertheless, it is once again something that needs to be incorporated into a comprehensive response to the trafficking problem.

In terms of unorthodox solutions in the intelligence and law enforcement arena, one approach might be to take initiatives that create greater competition and even overt conflict in the criminal world. Measures to reduce trust between traffickers and their immediate customers making it harder for criminal organizations to develop and maintain strategic alliances. Creating such difficulties, provoking wars between rival traffickers, and creating distrust in the networks, increases transaction costs and thereby makes the business less profitable. The difficulty is that although this might help to prevent the concentration of criminal power, it would simply make it easier for the small time lower profile traffickers to develop greater market share. In some cases, provoking criminal conflicts could also backfire and lead to the concentration of power in the criminal world, as one group emerges dominant.

In short, although unorthodox solutions to trafficking might appear superficially attractive, they also encounter enormous difficulties in practice. Moreover, they generally deal with only one facet of the problem, leaving others untouched. Finally, they can also have unpredictable consequences that could ultimately exacerbate rather than alleviate the trafficking problem. The other shortcoming is that these approaches do not take sufficient account of the corruption that typically facilitates trafficking or the laundering and enjoyment of profits that is the ultimate outcome of a successful trafficking process. A comprehensive strategic approach, in contrast, can take account of these broader issues. Indeed, it is to the key components of such an approach that attention must now be given.

### **3. A strategic approach to strengthening anti-trafficking policies and their implementation.**

This section identifies the major components of a strategic approach to combating trafficking in arms, drugs, and women. It is designed to take into account the myths and realities discussed above as well as the shortcomings of both incremental and less orthodox approaches. It is also based on a recognition that some of the alternatives to current policies – while not compelling as single solutions – can usefully be integrated into a more far-reaching strategy. With these considerations in mind, a strategic approach to combating trafficking needs to answer questions such as: who develops the strategy? what are its major objectives? what kind of principles need to be embodied in the strategy? what are the major components of the strategy? and what are the major targets of the strategy? The following analysis elucidates a 10 point strategy that seeks to answer these questions. Although these are presented as separate components of the strategy, however, it bears emphasis that these components are often closely interlocking and mutually reinforcing.

#### *1. Acceptance of a variable geometry institutional framework*

While it would be ideal if there was a single global agency with the responsibility for formulating and implementing an anti-trafficking strategy, this is not the case now, nor is it likely to be the case in the foreseeable future. Consequently, different international institutions and national agencies can play different but complementary roles, depending on their particular capabilities and resources, their mandates, and the particular facets of the trafficking problem for which they have a responsibility. The United Nations is critical in the area of norm creation, particularly through the Palermo Convention on Transnational Organized Crime, and has also been important in training and assistance as well as analysis. Interpol and Europol are both critical in information sharing activities. The OSCE can assist in coordination and training. So long as critical functions are identified and implemented appropriately, the issue of who does what is secondary. One important initiative, however, would be for some kind of high-level meeting among representatives of the major institutions, agencies, and organizations involved in efforts to combat various forms of trafficking, organized crime, and corruption. At the very least, this should include representatives from the United Nations Office on Drugs and Crime, the OSCE, the World Customs Organization, the G-8 Secretariat dealing with Transnational Crime, the European Union and the Council of Europe, the Financial Action Task Force, the Egmont Group of Financial Intelligence Units, Interpol and Europol. As well as these obvious agencies, the process could be extended to NATO, the South-East European Co-operation Initiative (SECI) Regional Center to Combat Transborder Crime, the Task Force on Organized Crime in the Baltic Sea region, as well as to CIS coordinating bodies in the fight against trafficking and organized crime. The purpose would be to work out at least a broad division of labor, to ensure that particular problem issues or countries did not fall through the gaps, to coordinate rather than duplicate efforts so that scarce resources are utilized most effectively, and to identify more systematically than is currently done, where these organizations can most

effectively work together. Such an effort could not be simply a one-time affair. It requires both annual meetings and the creation of an ad hoc coordinating group that would meet much more regularly in an attempt to minimize duplication of effort and resources and bring a degree of coherence and purpose to what are currently largely ad hoc and uncoordinated initiatives.

## *2. Achieve enhanced understanding of trafficking*

A strategic approach to the trafficking problem needs to go well beyond law enforcement and incorporate intelligence assessments that are based on an understanding of the trafficking process, the underlying market dynamics, the nature of the participants in the trafficking business, the methods and modalities of trafficking, the profits that accrue and how and where they are distributed, re-invested, and laundered. These assessments require a creation of a knowledge base that (1) involves pooling of data-bases (2) is network-based (3) crosses national borders and is shared by intelligence and enforcement agencies in multiple jurisdictions (4) makes full use of the knowledge provided by the NGO community, which often has detailed information about particular transactions and local conditions relating to drugs, arms, and women trafficking, (5) makes use of information from the private sector, and (6) considers potential ways in which trafficking networks might successfully adapt to, and circumvent, law enforcement efforts. A knowledge-base of this kind is essential in each of the three trafficking areas under consideration (as well as in other areas such as trafficking in art and antiquities or endangered species), but provision also needs to be made for cross-referencing the data in ways that reveal otherwise hidden connections between the three trafficking areas such as personal overlap, (the same people active in each product niche), personal linkages (such as the cooperation between individuals in different product niches) use of the same routes or methods, use of the same institutions (institutional linkages) or similarities in the way profits are laundered.

## *3. Develop realistic and explicit objectives and measures of effectiveness*

The elimination of trafficking in arms, drugs, or women is impossible. Approaches designed to reduce the size of the markets, to reduce the amount or number of drugs, arms and women trafficked, to make these areas less profitable and more risky, and to reduce harm to societies and to individuals, however, are subject to the criticism that they do not go nearly far enough. Yet such approaches recognize the persistent nature of the trafficking business as well as the difficulty of interventions designed to change market choices. In some ways the strategy advocated here mirrors that of the Cold War when grand designs for disarmament gave way to more realistic efforts to limit arms in ways that enhanced strategic stability. Strategy, as much as politics, is about the art of the possible. A realistic strategy requires realistic goals that in turn yield tangible measures of success. Such measures need to be both quantitative and qualitative, encompassing obvious indicators such as number of arrests, indictments, and convictions for trafficking offences, or the amount of drugs or illegal arms that are seized, as well as less obvious and less tangible assessments. Assessments of the impact of deterrence strategies as well



as other preventive measures, of education campaigns, and of harm reduction schemes are less easily quantified but are nonetheless significant.

#### *4. Attack the basis of the illicit markets*

Another component of a comprehensive strategic approach is attacking the market. This can be done in several ways, but invariably needs to deal with the dynamics of both supply and demand. Education is often a key component of this, but can differ in its target and impact. In trying to counter the drug market, for example, education is important on the demand side, where it is an important component of restricting the market and reducing the profits. Unfortunately, the market impact of education is all too often ignored. In the United States debate on drug policy, in particular, demand reduction and supply reduction are seen in terms of a dichotomy rather than as complementary efforts to make the market less profitable and, therefore, less attractive. Indeed, education and rehabilitation are not soft options, but are options designed to reduce the market. With women trafficking, in contrast, education is, initially at least, more important on the supply side. The supply of women from transitional and developing countries to the more developed countries has been greatly facilitated by the fact that many women are virtually oblivious to the slave-like conditions that they will find themselves in if they become victims of trafficking. Consequently, educational efforts are particularly important in countries where the attraction of emigration often combines with wishful thinking to encourage a complete disregard of the associated dangers. Education is also important at the demand level, where male customers of women trafficked for the commercial sex trade need to be made aware of the degradation and despair that they are tacitly condoning with their actions and actively encouraging with their money. In relation to the arms trade, education is less relevant. Indeed, attacking the demand for arms is particularly difficult given the endemic nature of regional conflict and civil war. Yet it is not impossible: the equivalent to drug demand reduction in terms of attacking demand for small arms and light weapons is to devote more resources to early warning and preventive diplomacy. This approach can be augmented by efforts to encourage voluntary arms restrictions on the potential belligerents rather than war-time embargoes which are inherently self-defeating because of the prohibition-price dynamic.

#### *5. Attack the trafficking networks*

Another critical component of a comprehensive strategy is to attack the transnational networks that connect the demand and supply sides of the market. This has both legal and operational dimensions. In order to strengthen the legal framework, it is necessary to develop specific anti-trafficking laws and regulations. Most members of the OSCE have laws explicitly directed against organized crime. They include in their criminal codes penalties for criminal association, for criminal conspiracy or for patterns of racketeering activities. Moreover, many have also introduced measures to conform with the Palermo Convention against transnational organized crime and its protocols. In terms of trafficking, most have also developed specific measures against the use, cultivation, transportation and sale of drugs. The development of measures against illicit arms trafficking has lagged somewhat behind, largely because of the existence of the white and

gray markets in arms and the fact that often it is not the weapons themselves that are problematic but their destination. Similarly, measures specifically designed to combat trafficking in women for commercial sex have often been lacking. And even when they have been introduced, penalties have been too low to create a sufficient level of risk to deter traffickers.

The need for specific measures against trafficking is an important complement to measures against organized crime for several reasons. First, not all traffickers are members of criminal organizations. Some are crooked businessmen who engage in both licit and illicit activities; others, particularly in the area of women trafficking, but also in the drug area, are essentially opportunistic amateurs who act alone and do not meet the requirements for the UN definition of organized crime which envisages a group of three or more. Second, it is sometimes easier to prove involvement in trafficking activities than the more nebulous notions of criminal conspiracy. Third, a focus on the crimes of trafficking is particularly useful in cases where the networks involved are fluid and amorphous collections rather than the tightly-knit criminal families that are the more traditional targets of anti-organized crime legislation. Fourth, laws on trafficking should also include support for victims of trafficking, support that should supercede issues of whether or not the women who have been trafficked are in the country legally or illegally. While this is consistent with the Palermo Convention's emphasis on victim assistance, it is something that needs to be as explicit as possible in national laws if it is to succeed in changing the attitudes of many policemen who still treat women involved in prostitution, even if they have been trafficked, as criminals rather than victims.

Such measures help to increase the risks faced by traffickers. As Ernesto Savona has so persuasively argued, however, the risks and costs of criminal activities such as trafficking must not only be increased but also distributed more widely and more evenly. (Savona) Only if this is done, does it become difficult for the traffickers to find safe havens and sanctuaries from which they can operate with impunity. Crucial to achieving this is greater inter-operability of legal systems, a goal that is more realistic and acceptable than notions of complete harmonization. Indeed, a degree of inter-operability that allows for dual criminality combined with the extension of mutual legal assistance treaties and extradition treaties to encompass major kinds of trafficking activities, could significantly increase the degree of risk faced by traffickers, irrespective of where they were operating. One way of looking at MLATs and extradition treaties is that they allow the international community to compensate for the inadequacies and shortcomings in the criminal justice systems of weak states.

Attacking trafficking networks through more comprehensive and distributed laws needs to be accompanied by operational attacks on these networks. Initially, this requires identifying critical nodes and connections in the networks. Once these have been identified, it is then necessary (1) to engage in the systematic removal of the network organizers, (2) to eliminate those figures who are pivotal in maintaining communication in the network, (3) to attack the connections between the criminal world and the upper-world, connections that involve corrupt linkages that protect both the criminals and their activities.

The kind and number of critical nodes will vary from one trafficked commodity to another. In the case of small arms and light weapons trafficking, arms brokers certainly constitute some of the more important nodes. There are several reasons for this ranging from accumulated expertise to lacunae in national legislation. As one commentary noted, “where national armaments laws exist, they tend to deal with the production and export of arms but often fail to regulate private broking”. (The Economist) Moreover, a relatively small number of key figures such as Victor Bout and Leonid Minin (who was arrested in Italy and subsequently found to be a major arms trafficker) have the resources to acquire, transport, and sell arms. Yet there is also a second category of brokers who do not do it all themselves but are able to put together various parts of the transaction chain for the illicit supply of arms. According to one report, a retired U.S. intelligence officer with experience of brokering arms transfers out of Eastern Europe described the ease and speed with which it was possible to arrange an illicit deal. In his view, obtaining price quotes from European-based brokers with good contacts in the East, officials at various Ministries of Defense, higher-ups at a few scattered weapons factories would take no more than 48 hours. Bogus end-user certificates could be acquired from a known dealer who traditionally kept a stack in his safe. “The seller would need some time to get an export license, then you charter a plane to pick up the goods and away they go... The whole process could be completed in a month.” (Silverstein) In effect, these second-tier brokers put together the supply of small arms and light weapons. As such, they represent critical nodes whose elimination would seriously degrade arms trafficking networks.

As well as attacking the critical nodes, it is also necessary to target the critical linkages and the mechanisms used for these linkages. In the case of the illegal trade in small arms and light weapons, one of the most important of these links in the supply chain is cargo planes and the pilots who fly them. As one pilot noted: “if you want to move arms, you have to use aircraft; and if you want to stop illegal arms dealing, you must stop the air transport”. (Holloway) This requires stricter control of aircraft and of pilots. Indeed, going after the pilots could have considerable impact since arms smuggling is carried out by “a comparatively small number of individuals, most of whom are known, but who have a kind of fools’ charter to continue” and who typically divert a plane from the destination shown on its approved flight plan or use phony cargo manifests and end-user certificates.(Holloway)

In the case of drug trafficking, the networks are both more extensive and more fragmented. Yet a similar focus that seeks to identify and target key nodes (whether particular people such as chemists or key processes such as those involving precursor chemicals or transportation) in the production and supply networks could also yield very significant results.

In other cases, of course, it is necessary to target not simply the critical nodes in the criminal network, but the points of connection between the criminal network and the legitimate world. In some cases, this requires the identification and arrest of politicians and bureaucrats linked to the criminals; in others it requires going after the businesses that provide fronts for the criminal activities. It also requires efforts to remove the

members of the criminal network from those legitimate institutions in which they have embedded themselves in order to facilitate their illegal activities. In addition, to these direct attacks, it is also possible to introduce distrust and disinformation into the network, attacking the basis of trust on which it operates.

Underlying all this and helping to make it possible is the increased capacity for network analysis using increasingly sophisticated software tools. These tools are extensively used in law enforcement for investigations at the tactical level; they can be used even more effectively for strategic mapping of trafficking networks and identifying points of vulnerability for attack.

### *6. Target the profits*

As part of a comprehensive anti-trafficking strategy it is essential to make it more difficult for the traffickers to profit financially from their activities. In part, this requires that any governments that have not already made trafficking in arms, drugs and women predicate offenses for money laundering do so as soon as possible. It also requires that governments introduce anti-money laundering measures that at least meet and preferably exceed the requirements enshrined in the 40 recommendations of the G-8's Financial Action Task Force. Measures such as cash transaction reports and suspicious activity reports, along with requirements for due diligence and know your customer, at least make it more complicated for traffickers to launder the proceeds of their criminal activities. Measures for asset seizure and asset forfeiture can be used to attack directly the proceeds of crime, while the assets seized can be used for victim assistance programs, especially in the area of women trafficking.

If it has become easier to identify and investigate suspicious transactions, in too many cases investigations fail to result in indictments let alone convictions – which are perhaps the most important indicators of success in making money laundering a high risk rather than low risk activity. At some point, therefore, the FATF needs to re-examine its recommendations and to ensure that its process of mutual evaluation has real rather than simply superficial impact. Many of the FATF countries formally meet FATF standards while doing little or nothing to investigate and prosecute those who are involved in money laundering. Where the FATF has had considerable success, however, is in its “name and shame” campaign identifying non-cooperative territories and jurisdictions. In many cases, being on the black list and wanting to get off has forced countries – particularly those seeking entry to the European Union - to take measures, such as the abolition of anonymous accounts, to make their financial systems less conducive to money laundering.

As financial systems have become more regulated and more transparent, however, traffickers and other criminal organizations have adapted by using alternative laundering methods, such as the movement of bulk cash, the use of front companies, and the use of underground banking or alternative remittance systems such as hawala. One area that is almost certainly a favorite of traffickers (who, after all are involved in the export business, if illegally) is trade based money laundering, which is a natural alternative

when direct placement of criminal proceeds in the financial system is more difficult. This can be done through the use of “legitimate” front companies that engage in legal business as well as providing a cover for illegal transactions. Import-export companies, travel agencies, and transportation firms are not only important to the trafficking process but are natural conduits for financial transactions and lend themselves easily to the kinds of over-invoicing and under-invoicing that are crucial to the laundering process. Operation Girasole identified the key role that travel agents and some hotels played in the women trafficking process. It is likely that some of these firms were also involved in laundering the proceeds of the trafficking operations, thereby playing a dual function. The point is, however, that anti-money laundering measures need to focus on these companies. Additional options for attacking the proceeds of trafficking include more vigorous use of taxation departments for investigations, more stringent registration and reporting requirements for companies, and more widespread use of asset seizure and asset forfeiture laws. It might also be useful for countries and the OSCE to develop what Jonathan Winer has termed “white lists” rather than black lists.(Winer) Such an approach can be applied to firms within countries and to countries as a whole depending on the effectiveness with which they regulate and oversee critical sectors of their economies. With such a scheme it would be incumbent on the firms themselves to demonstrate that they are legitimate and not engaged in any illegal activities or linked in any way to trafficking in arms, drugs or women; it would be incumbent on the governments to certify to the OSCE that a certain number of firms in a particular sector have been investigated each year for any malpractices related to trafficking.

#### *7. Attack corrupt support structures and networks and pressure corrupt governments*

As suggested above, trafficking does not exist in isolation. It is greatly facilitated by corruption. Responding adequately to this aspect of the problem, however, is hindered by the fact that the anti-corruption debate on the one side and the anti-trafficking and anti-organized crime debate on the other are all too rarely connected. As suggested above, the implication is that generalized concerns (and the corresponding policy responses) about corruption as a condition need to be replaced by a recognition that the most pernicious forms of corruption are related to trafficking and the power of organized traffickers to use corruption as an instrument to co-opt people and to neutralize criminal justice and law enforcement institutions. One simple measure consistent with such a recognition is for governments to adopt particularly severe penalties for corruption that is linked to trafficking or organized crime. The irony is that the states and societies that most need to formulate and vigorously implement such anti-corruption laws are the ones least likely to do so. Even if anti-corruption laws are on the books, they are usually little more than symbolic measures with no real teeth.

Another problem is that in recent years some anti-corruption efforts – such as the OECD Convention – have had perverse consequences. In effect, they have prohibited the supply of corrupt payments from licit businesses, while doing little or nothing to reduce demand. The result has been that traffickers and criminal organizations have been able to fill the gap. This is particularly true in developing and transitional economies, where the wave of democratization has established processes such as elections without the wherewithal to

fund them. The result is that parties and elections have become a major point of vulnerability through which trafficking organizations can penetrate deeply into the political system.

One of the best ways to deal with all this is through greater transparency. At the international level, the annual rankings of Transparency International provide a useful reference for highlighting the most egregious cases of pervasive corruption but do little to highlight corruption that is specifically linked to trafficking or organized crime. This gap is filled in liberal democracies by investigative reporting. Yet in some member states of the OSCE, journalism remains an extremely high risk activity. Investigative journalists who unearth information on organized crime, trafficking or crime-corruption linkages risk their lives – and many have been intimidated, beaten, or killed either during their investigations or immediately after their revelations were published. The only way to deal with this problem is to impose sustained international pressure on those countries where corrupt linkages continue to facilitate trafficking and organized crime, where the free press is intimidated or silenced, and where the political elites are part of the problem rather than the solution. This is an area where the OSCE could play an important role, establishing some kind of “good housekeeping” credentials that are bestowed upon member states that meet certain standards of transparency, freedom of the press, and anti-corruption legislation and enforcement. These standards need to be determined with great care however. They have to be substantive in nature and have a clear impact in reducing corruption. The kind of danger to avoid is the FATF approach in which conformity with procedural norms becomes the end in itself and more fundamental questions about the substantive impact of these procedures on criminal opportunities are simply not asked.

#### *8. Enhance national and international cooperation*

Another key component of this strategy is coordination and cooperation (1) at the national level among different government agencies in the intelligence and law enforcement communities (2) among multiple governments affected, in one way or another, by trafficking, (3) among international organizations and agencies that have some responsibility either for combating one or more forms of trafficking or for mitigating the consequences of trafficking (4) between governments, international organizations, and the relevant NGOs which not only provide major contributions to understanding the dimensions of trafficking but also focus attention on the problem, thereby helping to create awareness and set the political agenda; (5) and between governments and the private sector to ensure that wittingly or unwittingly businesses do not provide assistance to the trafficking process. Cooperation is required at all levels from government sharing of information about potential infiltration of particular industries to efforts, especially by firms in industries that are particularly important or useful to the trafficking process, to police themselves in some way. Another way of seeing this is in terms of the creation of anti-trafficking networks, a development that meets the principle enunciated by John Arquilla and David Ronfeldt that it takes a network to defeat a network. (Arquilla and Ronfeldt) In some cases, these networks of trust among law enforcement and intelligence personnel in different countries, usefully extended to corporate security officers and experts from the NGO world, will be

maintained for the long haul; in others they will be created for specific missions against specific targets. The temporary network of the multi-national task force is extremely valuable and can yield excellent short term results in specific investigations or against specific targets. The longer term transnational network of officials from various countries who have developed mutual trust and respect and can operate together informally is even more valuable, especially where it extends beyond two or three countries and beyond governments to the private and non-profit sectors. However large or small, formal or informal, restricted or open, these networks are essential to combating trafficking networks and activities.

#### *9. Assist the business community in reducing the harmful effects of trafficking*

In considering the issue of government assistance to the business community, it is important to acknowledge at the outset that not all businesses want to be assisted. As suggested in the discussion of the myths that exist in this domain, trafficking is not invariably nor uniformly harmful. For some businesses, trafficking activities might be beneficial in terms of request for services, generation of entrepreneurial opportunities, and flow of profits. The issue for these particular companies is not assistance to protect them, but enforcement either to put them out of business or to ensure compliance with the laws.

For companies that are not overtly criminal, there are several ways in which they might be harmed by trafficking: direct but inadvertent involvement in trafficking activities (such as the diversion of a legitimate arms shipment to a prohibited country), the takeover or co-option of the company by criminals (in which case the legitimate owners are either forced out or compelled to connive in criminal activities); the inadvertent employment of criminals in the company (sometimes leading to takeover); the use of the company for specific criminal undertakings such as money laundering (putting the company at risk in terms of both reputation and financial stability); and deals with other companies that are criminal in nature but appear to be legitimate (again making the legitimate companies vulnerable to criminal pressure or law enforcement action). In all cases, their lack of knowledge can put companies in harm's way.

In order to protect the business community from the harmful effects of trafficking, governments need to think not in terms of enforcement so much as prevention. Preventive measures can be understood largely in terms of target hardening – making it more difficult for organized crime to infiltrate the industry or particular firms within it. This might require careful regulations that allow competitive bidding but also prescribe certain standards that must be met. In this connection, some business associations have already developed voluntary codes of conduct or industry standards that they expect their members to respect and meet. Yet it might be useful to formalize this process, incorporating penalties for non-compliance.

Perhaps the most valuable way in which governments and law enforcement agencies can assist firms or even industries is by sharing knowledge of suspicious individuals, organizations or companies. Advisories about the dangers of doing business with such

companies could become routine, just as in the United States the Financial Crimes Enforcement Network and the Federal Reserve Bank provide warnings about dubious banks and financial jurisdictions. There is a useful precedent here from the oil industry where, during the 1990s, the major companies established an information-sharing mechanism designed to assist due diligence about potential partners and an early warning system of individuals and companies they should keep out of the industry. In this process, they worked closely with law enforcement agencies which helped identify potential threats.

Such public-private partnerships to combat trafficking require that governments and law enforcement agencies share information that has typically been seen as confidential or sensitive. If the emphasis is on preventive strategies, rather than simply reacting after crimes have been committed, however, such reservations need to be overcome. Information about potential problems is one of the biggest resources that governments can provide. The difficulty is ensuring that the information remains confidential and does not get leaked to the criminals (something that is often the result of organized crime related corruption whether in government or the private sector). Nevertheless, in many cases this will be a risk worth taking as it allows firms to protect themselves more effectively against infiltration or potential takeover.

A variant of this approach – but one that can be valuable for law enforcement investigations and enforcement – is where the industry provides information to government. This occurs predominantly in the financial sector where banks and increasingly non-bank financial institutions have been compelled to man the first line of defense against money laundering. Similarly, the British Customs Service and others have developed memoranda of understanding with the freight forwarding industry in which Customs helps to expedite inspection and delivery in return for information from the industry about any suspicious activities or people. In effect, this too can be seen as a preventive measure as it allows law enforcement to respond quickly to developments that could endanger the industry. It also highlights the principle of reciprocity as the basis for partnership.

#### *10. Move from reaction to anticipation*

The final component of the anti-trafficking strategy being enunciated here encapsulates this requirement for what might be termed agile law enforcement - measures that are forward looking and pro-active combined with the maintenance of a capacity for adaptability and flexibility. In effect, law enforcement and traffickers are in an adversarial relationship that, like other adversarial relationships, is in large part a battle of wits. In these circumstances, it is essential for governments to develop a capacity for strategic anticipation that not only allows them to pre-empt certain trafficking activities, but also to respond rapidly to adjustments or innovations made by the traffickers after they have encountered setbacks. In effect, any anti-trafficking strategy must incorporate possible responses by traffickers to successful law enforcement. From the law enforcement perspective, the process is one of displacement; from the trafficking perspective, it is one of adaptability. Which ever way the process is characterized,



however, some degree of planning is required to ensure that the traffickers remain on the defensive and are not always one step ahead.

#### **IV Conclusions**

As suggested above, a comprehensive anti-trafficking strategy needs to go beyond the trafficking process itself and encompass measures that deal with the corruption that facilitates trafficking and the laundering of the proceeds of trafficking. This will not be easy but a focus on sectors of business such as import-export companies that are linked to trafficking could prove highly beneficial in terms of going after money laundering, while particular attention also needs to be paid to police, border guards, and customs agencies whose connivance can greatly facilitate the trafficking of drugs, arms, or women. At the same time, it is necessary to deal with some of the underlying problems that fuel trafficking. These include African conflicts that generate a demand for arms that are paid for with diamonds and other natural resources, poor economic performance that limits opportunities available to women in their home countries, and a demand for drugs that can result from surplus income for recreation on the one side and the desire to escape conditions of poverty and despair on the other. There are no easy and simple solutions to these problems or to the trafficking of arms, women and drugs. The comprehensive strategy outlined here is no exception. It is presented with a clear recognition that it needs considerable modification and refinement, but that it could be a stimulus for discussion and provide a broad framework for an action plan. Even if a comprehensive strategy of this kind is adopted, however, it is certainly no guarantee of success. The only certainty is that without such a strategy continued failure in combating trafficking is inevitable.

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