

The Global Regime for Transnational Crime

Issue Brief

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Scope of the Challenge

Over the past two decades, as the world economy has globalized, so has its illicit counterpart. The global impact of transnational crime has risen to unprecedented levels. Criminal groups have appropriated new technologies, adapted horizontal network structures that are difficult to trace and stop, and diversified their activities. The result has been an unparalleled scale of international crime.

As many as [fifty-two activities](#) fall under the umbrella of transnational crime, from arms smuggling to human trafficking to environmental crime. These crimes undermine states' abilities to provide citizens with basic services, fuel violent conflicts, and subject people to intolerable suffering. The cost of transnational organized crime (TOC) is estimated to be roughly [3.6 percent](#) (PDF) of the global economy. Money laundering alone costs at least [2 percent](#) of global gross domestic product every year according to United Nations (UN) reports. Drug traffickers have destabilized entire areas of the Western Hemisphere, leading to the deaths of [at least fifty thousand](#) people in Mexico alone in the past six years. Counterfeit medicines further sicken ill patients and contribute to the emergence of drug-resistant strains of viruses. Environmental crime—including illegal logging, waste dumping, and

harvesting of endangered species—both destroy fragile ecosystems and endanger innocent civilians. Between twelve and twenty-seven million people toil in forced labor—**more** than at the peak of the African slave trade.

For many reasons, global transnational crime presents nations with a unique and particularly challenging task. To begin with, by definition, transnational crime crosses borders. But the law enforcement institutions that have developed over centuries were constructed to maintain order primarily within national boundaries. In addition, transnational crime affects nations in diverse ways. In many states, political institutions have strong links to transnational crime, and citizens in numerous communities across the world rely on international criminal groups to provide basic services or livelihoods. Finally, the international community requires solid data to gauge the challenge and effectiveness of responses, but data on TOC is notoriously difficult to gather and is often politicized.

Strengths and Weaknesses

Overall Assessment: *Archaic system needs reframing*

International efforts to address TOC are too weak to address the threat. Strategies focus too little on combating corruption and addressing the increasing interplay of TOC and political power. On balance, multilateral initiatives to fight crime are sector specific and attempt to prosecute TOC without effectively addressing the market that underpins transnational crime globally.

The central legal instrument for fighting TOC is the [UN Convention on Transnational Organized Crime](#) (UNTOC). Finalized in 2000 in Palermo, Italy, the convention is the first to address transnational crime as an activity that cannot be adequately curtailed by treaties tailored to one commercial sector. It defines a TOC group as a structured organization with three or more members and establishes legislative standards for nations to implement domestically.

However, the convention's ability to [inform](#) (PDF) and influence operational practices is limited. UNTOC does not adequately account for the increasingly activity-based, horizontal structure of criminal syndicates or the growing nexus between organized crime and terrorism, corruption, conflict, public health, global finance, and modern technology. The struggle to implement the convention reflects a certain dearth of global political will to do so. In a number of major world powers, the state itself is [captured—or partly captured—by organized crime](#). The governments of Russia and other Eurasian countries are [known](#) to benefit from ties between TOC and energy exports as well as from cybercrime; the Chinese economy [earns](#) high profits from counterfeits sold internationally; and many Latin American and West African politicians either are coerced by narco-trafficking groups, or maintain close ties with them.

Most important, the treaty lacks an implementation mechanism that would allow assistance to countries not capable of adhering to the convention's guidelines. The [UN Office on Drugs and Crime](#) (UNODC) is charged with helping implement UNTOC on the ground, but its former executive director, Antonio Maria Costa, has [rebuked](#) UN member states for neglecting their responsibilities. At a 2010 conference of parties, countries [acknowledged](#) the need to revise the convention to be more effective and stressed the importance of implementation. A working group is currently [reviewing](#) implementation, which might ultimately lead to a monitoring or capacity-building provision.

UNODC also provides technical assistance and training in constructing legal frameworks and enhancing national enforcement capacity. It serves as a hub for disseminating best practices and data collection on criminal activities. All estimates of the magnitude of TOC, however, are necessarily approximations; criminals obviously do not report their annual earnings or scope of activities, and published estimates are often politicized or rely on [shaky data](#) (PDF).

Furthermore, UNODC is [91 percent](#) funded by voluntary contributions and suffers from chronic funding shortages and understaffing. These resource constraints continue to limit the agency's effectiveness.

Beyond UNODC, a succession of UN Security Council (UNSC) open debates, and presidential statements, have slowly and steadily expanded that body's repertoire on TOC. For example, UNSC [presidential statement 2009/32](#) urged the institution to prioritize the TOC threat to benefit peace and security in Africa. In 2010, the UNSC agreed to [presidential statement 2010/4](#), committing member states and the UN to fight transnational crime.

Although the [UN General Assembly](#) has also issued many resolutions to fight TOC, most have been vague and irrelevant. The broader UN system has also tackled the issue of transnational crime through specialized agencies, programs, [commissions](#), [working groups](#), [campaigns](#), and even a [research institute](#). The UN [Commission on Crime Prevention and Criminal Justice](#) (CCPCJ), for example, [reviews](#) UN standards and norms to combat TOC as well as their implementation by member states. The UN's [Economic and Social Council](#) (ECOSOC) funds the CCPCJ and guides its work. ECOSOC has also issued a number of important resolutions on the subject, which [still guide](#) UNODC's work on crime prevention. For example, a [1995 resolution](#) (PDF) outlined strategies like strengthening community resilience.

Overall, however, the UN's work on TOC remains piecemeal. Units address the issue only within the context of their agency, departmental, or program mandate and bureaucracy, which impedes policy coherence and effective action. To rectify this, in early 2011, the UN secretary-general [established](#) a task force on TOC and drug trafficking with the aim of creating a system-wide strategy to fight

international crime and enhance **coordination**. The taskforce clearly demonstrates that the UN is aware of the lack of internal cohesion and is increasingly viewing transnational crime as a political and strategic issue.

National policing and border control is also critical to stopping organized crime. In an era of globalization, **Interpol** is the world's intermediary for police cooperation. Founded in 1923, Interpol has 190 members, each with a national central bureau staffed by local officials. The agency's priority is to secure communication among law enforcement agencies, to manage international criminal databases, to provide operational support during crises, and to train police forces. However, with a budget of roughly **\$75 million** in 2010, the agency is **grossly underfunded**. It also holds no authority to conduct investigations independently or to arrest suspects, and is therefore only as strong as the host country's police force.

The **World Bank** and the **International Monetary Fund** (IMF) are also engaged in the fight against TOC, namely, in conducting assessments of anti-money laundering provisions in countries. To date, the institutions have **conducted** some seventy assessments, but a recent **report** (PDF) suggests that they are largely uneven because they did not focus on areas that present greater risk. The World Bank also carries out anticorruption efforts, and in 2011 pledged **\$1.5 billion** to fight TOC over the next few years, recognizing its corrosive impact on development.

Regional cooperation, particularly at borders, is generally weak despite initiatives, such as **Europol's** annual organized crime threat assessment, the **European Union's** (EU) **prioritization** of anti-TOC efforts in **Bulgaria and Romania**, and comparable efforts under the **Stability Pact for Southeastern Europe**. The **Financial Action Task Force** (FATF), an initiative of the **Organization for Economic Cooperation and Development** (OECD), has adopted a successful policy of "naming and shaming" noncooperating jurisdictions, and has enlisted countries to craft legislative frameworks to combat money laundering. Eight regional initiatives modeled on FATF have since been established to replicate its work, and have been widely **hailed** (PDF) as successful. However, more broadly, regional efforts have been weak. For instance, the initiative of the **Economic Community of West African States** to adopt a **moratorium** on the import and export of light weapons has had little impact.

Various major donor countries fund projects in partner nations to enhance security. The United States, for instance, supports four regional **International Law Enforcement Academies** designed to provide countries with technical support. In general, however, bilateral donor initiatives on TOC are modest. While programs like **Plan Colombia** and the **Mérida Initiative** have significant funds, the aid is overwhelmingly military, and funding for more comprehensive solutions has consistently **decreased** (PDF) year after year.

Imposing economic sanctions against criminal groups is a new strategy being tested by the United States. In July 2011, the Obama administration issued [sanctions](#) against four TOC groups in Mexico, Japan, Italy, and eastern Europe. The order [froze](#) their assets and criminalized aid to the groups. Such provisions have often been used, [with measured success](#), to target other nonstate actors—namely, terrorists.

Overall, the TOC regime faces three sweeping challenges. First, political will is too often lacking at national, regional, and global levels. More than a few states are crippled by corruption, and when political leaders or elites benefit from organized crime, implementation of international frameworks is not feasible. Second, the current regime suffers from critical normative gaps, and sensible strategies where norms exist. The international community has yet to agree to an operational definition of TOC. As a result, monitoring and enforcement of counter-TOC agreements is weak, many countries have not signed onto important treaties, and national legislation is unevenly implemented. Finally, the dearth of data—and impracticality of properly measuring international criminal activity—hinders every attempt to devise adequate strategies to combat TOC.

Building Norms: *Progressing but still stovepiped and vaguely defined*

To construct effective strategies to fight TOC, the international community has attempted to build normative consensus. The UNTOC provided the definition of a TOC group, but it will take years before the convention is fully integrated into national judicial systems. Although some international norms are already strong—such as those for drug trafficking and money laundering—the world is struggling to design instruments that respond effectively to the groups that engage in many forms of crime. At the same time, current norms do not consider the range of political motivations and alliances between powerful political or business leaders and criminals.

Still, one important normative shift is already occurring. Traditionally, global and national standards have aimed primarily to detect and diminish the supply, transport, and sale of illicit commodities. But nations and international institutions are increasingly recognizing the need for a more comprehensive strategy. They are slowly integrating public health, development, and community-based practices to decrease not only the supply but also the demand for illicit commodities. In parallel, development institutions, such as the [World Bank](#), are [recognizing](#) (PDF) that anti-TOC funding and programs are imperative for economic growth, democracy, and governance.

Globalization has facilitated an explosive growth in TOC since the early 1990s. The international community has sought to respond with stronger and more comprehensive measures. In 1994, at the [World Ministerial Conference on Organized Transnational Crime](#) in Naples, Italy, countries took an important step and called for a multi-sector treaty that addressed the whole spectrum of TOC.

Previously, international treaties had targeted one type of illicit activity—with drug trafficking treaties being the most potent—but failed to address the diverse activities of TOC groups. The result was UNTOC, also known as the Palermo Convention, which was finalized in 2000 and came into force in 2003. Today, UNTOC stands as the core treaty addressing transnational crime as an overarching problem—and the only comprehensive tool the world has.

However, the world still lacks an operational definition for transnational crime, and norms for law enforcement and judicial cooperation remain weak, vague, or nonexistent. UNTOC defined groups that engage in TOC but "**excluded** single, ad hoc operations," which are responsible for much of TOC today. Furthermore, to effectively track and prosecute international crime, nations must agree to robust policing cooperation and to assist developing countries. Prosecutions for international crime may require evidence from authorities of multiple nations. Pursuing suspects requires intelligence sharing, extradition, and cross-border police cooperation. Identifying perpetrators also requires capable domestic institutions. However, transnational law enforcement cooperation can be exceedingly controversial. Joint investigations are often undermined when foreign investigations must rely on support from corrupt countries that do not wish to fight crime or whose systems are crippled by corruption. Nations jealously guard judicial and policing authorities as sovereign authorities. Accordingly, these topics have barely been mentioned in international conventions. Countries are also generally reluctant to release domestic intelligence to other nations or to a collective intergovernmental or supranational authority.

Finally, many experts have long called for the world to reorient the fight against crime away from law enforcement and instead address transnational crime as a market activity. As long as incentives for participating in international crime remain so high, they argue, success against one group, or in one area, will merely create a scramble by other groups to usurp the former group's profit. For example, norms to combat narco trafficking are very strong, but some argue that they are misguided, because "successes" in one area may only displace the problem elsewhere. The high-profile, well-resourced, and internationally exported U.S.-led war on drugs has long **prioritized** law enforcement over market-based policies. This approach is so entrenched that retooling international norms to incorporate market-based strategies is an uphill battle. The United States has recently **been more candid** (PDF) about demand in the developed world fueling international crime, as well as about the need for prevention and treatment, but international action remains strongly focused on supply-side measures. Some **critics** believe that the global regime needs to shift entirely toward a public health model designed to reduce demand rather than stamp out supply.

When it comes to other criminal sectors, anti-money laundering (AML) norms are among the strongest. In the 1980s, the developed world began to forge international AML instruments, which resulted in the FATF's forty **recommendations** for domestic AML regimes. The FATF also identified

certain "noncooperating jurisdictions" that could be subject to international naming and shaming. September 11 inspired additional recommendations to combat terrorist financing, and FATF norms have since become the global yardstick for counter-terrorist financing efforts. The need to "[follow the money](#)" to root out nonstate actors has become firmly embedded in international normative frameworks.

Global norms against human trafficking and illicit weapons smuggling have also developed significantly in the past decade as nations accede to the relevant protocols to UNTOC: the [Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children](#); the [Protocol Against the Smuggling of Migrants by Land, Sea, and Air](#), and the [Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition](#). Much remains to be done, however. Labor trafficking and the dangers of migrant smuggling receive far too little attention in comparison with sexual trafficking. In terms of weapons smuggling, recognition of its contribution to armed conflict, particularly in Africa and Latin America, is growing, but the world still lacks a strong, enforceable treaty that governs illicit trafficking in small arms and light weapons.

Given the weakness of global normative frameworks, certain regions have endeavored to address transnational crime on their own. This approach has some merit, inasmuch as regions often face drastically different realities, and more focused local multilateral institutions may be better suited to combat the threat. On the other hand, some [worry](#) that separate regional approaches might undermine common global standards—or help push criminal activities to more vulnerable regions.

To date, regional norms remain weakly developed except in Europe, where the integration of the EU has allowed more law enforcement and judicial cooperation. Still, even EU states have been unable to agree to an operational definition of TOC. As organized crime surged in West Africa over the past decade, the [Economic Community of West African States](#) did attempt to build regional mechanisms to stem the tide, but fighting organized crime remains a fairly low priority across most of the continent. The [Organization of American States' Hemispheric Action Plan](#), meanwhile, has endorsed UNTOC and stressed the need for states to implement it—but it has not dented the growth of transnational crime in Latin America. In Asia, the [Pacific Islands Forum](#) has made important strides through a [capacity-building framework](#) with Australia, and the [Association of Southeast Asian Nations](#) has agreed to some important transnational crime norms, but the region remains plagued by TOC.

Overall, as criminal organizations grow stronger, the world lags in its efforts to devise adequate mechanisms to fight them. In part this reflects a structural problem—the ease with which illicit networks can hopscotch across sovereign borders, leaving national governments behind. In sum, "even

as crime is transnationalized, crime control **remains** largely corralled behind national borders."

Corruption: *Normative and institutional progress, spotty implementation*

Corruption fosters the ideal environment for TOC. Corruption supports a wide range of illicit markets, from drugs and arms trafficking to environmental crime and counterfeit markets. The same motives that attract TOC to corrupt states also prevent the state from establishing rule of law and a functional judicial system, as corrupt officials benefit from the lack of transparent and accountable systems. Corruption is also notoriously difficult to eradicate in countries where it is deeply embedded in political culture. Many high-level politicians profit from organized crime, hindering anti-TOC efforts. Indeed, in many Eurasian, Latin American, and West African states, criminal syndicates have deeply **penetrated** executive bodies, legislatures, the police, and courts. Where states consider organized crime an ally in domestic governance, they inevitably will be reluctant to support the development of more robust international governance capacities. Despite some efforts, the international community has been unable to mobilize an effective method to combat corruption.

Over the past decade, anticorruption efforts have picked up steam, but progress is halting. After two protracted years of negotiations, the **United Nations Convention against Corruption** (UNCAC) entered into force in December 2005 and established an overarching international framework. As the first legally binding international anticorruption agreement, UNCAC provides a comprehensive set of measures to be implemented by state parties to prevent, combat, and prosecute corruption. Significantly, UNCAC does not define corruption, but does require countries to criminalize a wide range of corrupt acts, including bribery, kickbacks, money laundering, embezzlement, and obstructing justice. In an important breakthrough after long-standing disagreement among states, asset recovery is also listed as a fundamental provision of the convention. Emphasizing the need for international cooperation, UNCAC requires state parties to return ill-gotten gains to the country of origin. It also calls for enhanced transparency and accountability, based on the argument that more knowledge raises the costs of illicit activity and therefore reduces corruption.

The convention initially received broad support and has **nearly global coverage** with 159 state parties. However, countries known for endemic corruption—such as Afghanistan, Honduras, and Russia—are parties to the convention, undermining its legitimacy and exposing its weaknesses. Although UNCAC successfully builds anticorruption norms, it does not provide for monitoring, implementation, or enforcement. The first session of the **Conference of State Parties** to UNCAC, held in 2006, attempted to address this criticism by committing to establish a mechanism to monitor corruption. But subsequent sessions have failed to reach an agreement.

Regional organizations have also made significant normative progress by developing comprehensive

anticorruption instruments, although implementation and effectiveness have been patchy. The first regional convention to address corruption was the [Inter-American Convention against Corruption](#), which was adopted by state parties to the [Organization of American States](#) (OAS) and entered into force in March 1997. The [Council of Europe](#) passed the [Criminal Law Convention on Corruption](#) in January 2002, with an [additional protocol](#) authorizing the creation of a monitoring mechanism, the [Group of States Against Corruption](#). In July 2003, the [African Union](#) (AU) [Convention on Preventing and Combating Corruption](#) was enacted in an attempt to address widespread corruption on the African continent.

One of the most successful—albeit controversial—regional initiatives is the [International Commission Against Impunity in Guatemala](#) (CICIG). At the request of the Guatemalan government, the UN created CICIG in 2007 to reinforce the rule of law by strengthening institutions, investigating corruption, and training officials. By 2010, CICIG helped to oust thousands of corrupt policemen, ten prosecutors, three supreme court justices, and an attorney general. The commission has also supported the [trials and convictions](#) (PDF) of more than 130 criminals, including a former president and foreign minister. Some critics have questioned CICIG's sustainability, arguing that it is [not fulfilling](#) its mandate to transfer technical capacities to Guatemalan counterparts and [interfering](#) in cases beyond its remit. At the same time, [CICIG must request](#) to join criminal cases as a complementary prosecutor and the Guatemalan justice system can deny it jurisdiction to participate—decreasing the commission's independence and potential impact. Nevertheless, the commission is an important model for anticorruption efforts.

Together, UNCAC and regional conventions provide a solid foundation of international norms, standards, and measures to combat corruption. However, they fall short of the integration and coordination required of a global anticorruption strategy and have not significantly affected change on the ground in most countries.

To fill the void, other international and civil society organizations that focus primarily on economic and sustainable development have taken up the mantle of anticorruption work. The [World Bank](#), Interpol, the [Group of Twenty](#) (G20), the IMF, and the OECD have attempted to raise awareness of the issue by addressing the consequences of corruption.

The World Bank has spearheaded efforts to combat corruption through a partnership with the UNODC, called the [Stolen Asset Recovery Initiative](#) (StAR). Established in 2007, StAR provides assistance and training to developing countries to prevent money laundering and recover stolen assets. The initiative has worked with over five hundred officials in forty countries around the world and is expanding its country partnerships, although [no assets have been recovered thus far](#). StAR is further hindered by the fact that it cannot legally investigate or prosecute cases of stolen assets. As part

of StAR, the World Bank also works closely with Interpol on asset recovery initiatives that coordinate with national law enforcement to seize and return stolen funds. In addition, the G20 formed the Anti-Corruption Working Group in June 2010 to develop and recommend anticorruption business practices.

Nongovernmental organizations and academic institutions play a critical role in pioneering innovative solutions to increase transparency in corrupt governments. The [Program on Liberation Technology](#), for example, at Stanford University is researching the use of mobile phones to text individuals facts on government spending (per public record), so as to empower local communities with the knowledge of what they should receive and what they do receive.

These efforts are complicated by the fact that there is no existing method of measuring corruption. This is partly because it is largely conducted in secret, and partly because corruption can sometimes appear legitimate. [Transparency International](#), a civil society organization, publishes the annual [Corruption Perceptions Index](#), which ranks countries according to perceptions of public-sector corruption. Although it is not a perfect science, it does provide a comprehensive assessment of individual countries and regions. In 2011, Somalia, North Korea, Myanmar, and Afghanistan led the list as the most corrupt countries in the world. A recent [survey](#) (PDF) conducted by the UNODC estimated that Afghan officials paid \$2.5 billion in bribes and related payments in 2009.

When undertaken, national anticorruption strategies to end impunity and promote capacity building have also produced some success. In 2008, the Mexican government launched *Operación Limpieza* (Operation Clean), with the goal of purging the law enforcement of corruption. Thus far, the interim commissioner of the federal police, head of the counternarcotics division, and thirty other officials have been [arrested](#).

Following the Money: *Increasingly legislated, uneven implementation*

Money laundering is the life blood of TOC. Since the late 1980s, the world has been straining to manage illicit flows of cash among the massive sums that flow across borders every day. A [meta-analysis](#) (PDF) conducted by the UNODC in 2011 concluded that globally, criminal proceeds amount to around 3.6 percent (or between 2.3 and 5.5 percent) of the world's gross domestic products combined—roughly \$2.1 trillion annually—and costs between [2 and 5 percent](#) of global gross domestic product every year according to the UN. Nations have prioritized "following the money" to identify criminals and deter citizens from turning to crime, but the world is [floundering](#) (PDF) in its efforts. "Ultimately, anti-money laundering tools, which were designed to combat organized crime, have been ineffective," according to a [ten-year review of the Palermo Convention](#) (PDF). The UNODC reports that [less than 1 percent](#) (PDF) of illicit financial flows around the world are seized

and frozen. This saps nations of needed resources and allows criminals to profit illegally and remain at large.

The FATF, founded in 1989 by the OECD, is celebrated as one of the greatest anti–money laundering (AML) successes. FATF's [forty recommended measures](#), published in 1990, and [nine counterterrorist financing measures](#), lay out steps national governments can take to improve AML capabilities. In 2012, FATF also [revised](#) its recommendations based on feedback from the financial sector, businesses, nongovernmental organizations, and individuals, and combined the terrorism and money laundering recommendations. All member countries both carry out a self assessment and submit to peer review of their implementation of recommendations. In 2000 FATF also published an associated list of [noncooperative countries and territories](#) (PDF) (NCCT). Fearful of losing investment or international standing, all twenty-three of the countries first included on the FATF list subsequently [enacted](#) AML legislative frameworks and many more passed similar laws in order to avoid landing on the list. Twelve binding [UNSC](#) resolutions between 2001 and 2010 also mandated UN member states to improve financial monitoring systems, and the FATF recommendations became the yardstick for compliance. Experts therefore [credit](#) the FATF NCCT list with coercing "between a quarter and a third of the world's sovereign states... to adopt the standard AML policy" by 2006. However, despite putting laws on the books, the majority of these countries are incapable or unwilling to strictly enforce them.

To date, [eight regional groups](#) modeled on FATF have emerged across the world, that is, [FATF-style regional bodies](#) (FSRBs). With a deeper understanding of the local context, the FSRBs evaluate state systems in the region, and recommend ways to improve AML regimes. FSRBs also provide training for law enforcement officials and help countries develop financial intelligence units (FIUs) in coordination with UNODC, which track suspicious financial activity. FIUs are essential because they can participate in an international information sharing initiative that builds a network of FIUs, known as the [Egmont Group](#). As internationally monitored initiatives, FSRBs add meat to various other regional efforts, ranging from the OAS AML standards to an [action group against money laundering of the Economic Community of West African States](#).

More broadly, countries have incrementally forged important AML norms. Originally, the 1988 [United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances](#) first criminalized laundering the profits of drug trafficking. This was later expanded to apply to all money laundering in 1998 by a UN General Assembly political [declaration](#). Then, the UNTOC (or Palermo Convention) and the UNCAC, which entered into force in 2003 and 2005 respectively, further entrenched necessary AML standards. Interpol supports these efforts by [processing](#) investigative requests between nations, but because Interpol lacks its own jurisdiction, it [primarily urges nations to implement](#) these norms rather than enforces them itself.

The Palermo Convention clarifies several AML steps for signatories to take. State parties must criminalize money laundering and any conscious facilitation of it, as well as "institute a comprehensive domestic regulatory and supervisory regime... in order to deter and detect all forms of money laundering." These include stipulations regarding customer identification, record keeping and the reporting of suspicious transactions, as well as shoring up law enforcement, regulatory, and administrative regimes with the necessary resources to cooperate with national and international AML investigations. However, these obligations have been unevenly implemented by states.

Equally important, UNCAC mandates that states "take such civil and administrative measures" to prevent government corruption from the highest levels to lower-level border officials, policeman, and bankers. Since their complicity is necessary for transnational crimes ranging from weapons smuggling to money laundering, these measures are crucial. But implementation has lagged across many member states.

To help states meet these standards, the [UN Global Program Against Money Laundering, Proceeds of Crime and the Financing of Terrorism](#) (GPML) provides technical assistance in various forms such as legislative advice or training justice officials to investigate and prosecute financial crime. GPML also supports countries that wish to [update](#) (PDF) their domestic AML frameworks, and its mentor program "is one of the [most successful](#) known activities in AML/CTF technical and training assistance." In a 2011 review by an independent panel of experts, GPML was [deemed](#) "successful" and "highly relevant."

In 2000, the IMF also responded to the growing challenge of money laundering, [emphasizing](#) that it not only facilitates crime, but also threatens members' economies by undermining the stability of financial institutions, increasing the volatility of capital flows, and having a "dampening effect on foreign direct investment." In response, the IMF now conducts assessments, provides technical assistance, and drafts policy recommendations for the global AML effort. As an international body focused on global finance with universal membership, the IMF was able to expand the scope of AML efforts beyond the global North. Still, the IMF is not ideally suited to root out criminal profits because AML efforts require law enforcement and judicial prosecution.

Despite these initiatives, corruption, corporate and bank secrecy, and informal money transfer systems like *hawala* continue to complicate AML efforts. Financial havens such as Nauru or the Cayman Islands provide opportunities for illicit monetary transfers no matter how robust domestic or regional frameworks are. Many banks also provide offshore operations for clients seeking broader secrecy. Swiss banks, for example, have transferred many operations to Liechtenstein, the Cayman Islands, or Isle of Jersey. In some cases, banks collude with criminal organizations—even in developed nations as evidenced by one [U.S. bank's cooperation with Mexican cartels](#).

Therefore, strong regulatory policies are crucial and need to be closely monitored. A [growing trend](#), for instance, requires private banks or firms to take responsibility for AML. In response, banks increasingly [publish their own AML policies](#) (PDF), pledge to enact "know your customer" rules, [cooperate](#) with law enforcement, and even [recruit](#) former financial investigator police officers. In one instance, for example, U.S. banks detected certain money laundering tactics like [mirror accounts](#) of drug cartels. Still, numerous studies have [concluded](#) that banks generally believe that AML regulations are not cost effective and impose an enormous burden on them. The 2008 financial crisis inspired calls for broader regulations and the U.S. government has recently [begun to revisit AML](#) regulation under the [Dodd-Frank Wall Street Reform and Consumer Protection Act](#), but implementation of the countless stipulations is [far off, if not impossible](#).

Another new strategy with great potential is the use of national sanctions to combat transnational crime. Between July 2011 and February 2012, the U.S. Treasury imposed [sanctions](#) on five criminal syndicates in Mexico, Italy, eastern Europe, and Japan. The department stated that the effort aimed to prevent the groups from using billions in annual profits. Experts noted that sanctions have been effective against nonstate actors like [al-Qaeda](#), and thus might aid in combating criminal groups. Though promising, the move's impact has yet to be demonstrated, and it does not portend to replace multilateral AML cooperation.

Narcotrafficking: *Stuck in criminalization paradigm*

Narcotrafficking is arguably the most legislated and enforced sector of transnational crime, but the effectiveness of the regime is increasingly questioned. Pressing international issues often suffer from underfunding and lack of high-profile attention, but narcotrafficking is an exception. Heavily backed by U.S. resources and enormous U.S. political attention, countries have sought to enforce an array of treaties that regulate production, distribution, and transport of nonmedical drugs. But trafficking groups easily change location, adapt network-style structures, and diversify their activities to evade law enforcement efforts. As a result, experts stress the need to understand narcotrafficking as a market. In 2011, the [UN Global Commission on Drug Policy](#) recommended a paradigm shift to public health rather than criminalization, noting that despite [\\$2.5 trillion](#) spent since the 1970s, the U.S.-led global war on drugs has failed, primarily because of its focus on law enforcement. Slowly, some countries and international institutions are attempting to incorporate public health and economic programs into the fight against narcotrafficking, but much remains to be done.

The [Commission on Narcotic Drugs](#) is the main international body that oversees the implementation of global anti-narcotrafficking efforts by deciding which drugs belong to which schedules (or risk levels) of the drug control treaties and advising other bodies. The UNODC is the primary agency to help countries implement UN treaties and initiatives on the ground. Highly

respected, UNODC operates around the world, conducting evaluations of the illegal drug market, helping states implement awareness programs, and providing treatment support. In addition, the UNODC [Justice Section](#) (PDF) helps states establish or improve judicial frameworks and works to empower law enforcement agencies to investigate and prosecute drug traffickers. For example, one joint [program](#) (PDF) with the [World Customs Organization](#) that operates in [eleven countries](#) helps those nations regulate the contents of shipping containers in which drugs often cross borders. UNODC also conducts a wide array of other operations related to international crime that are critical to anti-narcotrafficking efforts, including anticorruption and alternative livelihood development, among others. Its resources, however, are limited.

The core narcotrafficking accords that still serve as the basis for the international anti-narcotrafficking regime emerged between 1960 and 1990. In 1961, the [Single Convention on Narcotic Drugs](#) (Single Convention) [synthesized](#) the mandates of nine drug-related treaties dating back to the 1912 [International Opium Convention](#). The Single Convention also established a list of prohibited substances and limits on the possession, distribution, manufacture and production of prohibited drugs—as well as set up the [International Narcotics Control Board](#), a precursor to UNODC. A decade later, the 1971 [Convention on Psychotropic Substances](#) incorporated manufactured drugs such as methamphetamines and lysergic acid diethylamide (LSD)—though it did not criminalize them as harshly as organic illegal drugs. In 1988, the [Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances](#) built on the previous two treaties, obliging states to criminalize possession, purchase, and cultivation of illegal drugs. It also set down rules for extradition cooperation, created provisions of mutual legal assistance to investigate and prosecute suspects, and criminalized money laundering of narcotrafficking profits. Still in force, these three conventions represent the backbone of the international war on drugs.

Notably, during negotiations for the 1961 Single Convention, nations [coalesced](#) into various blocs in a manner that affected the drug regime for the next decades. Powerful nations that were primary importers of illegal organic drugs, such as the United States and West Germany, successfully lobbied for a strict control regime on the supply side, rather than requiring states with high addiction rates to attempt to mitigate demand through health-based policies at home. As a result, today's anti-narcotrafficking instruments continue to identify the illegal drug trade primarily as a criminal activity, and therefore charge nations to control the problem through law enforcement.

More recently, the 2000 UNTOC did incorporate more comprehensive strategies to fight drug-related offenses. Article 30 of that treaty requires "other measures" to fight crime "through economic development" and Article 31, stipulates that states "shall endeavor to develop" appropriate preventive strategies. Although an important normative development, the directives remain vague and underemphasized.

Regional organizations have joined the fight against narcotrafficking, with mixed results. The OAS has launched some **innovative programs** that aim to decrease demand for illegal drugs, but the region still faces an enormous challenge. Latin American leaders are using the forum to pressure the world—and especially the United States—to reevaluate existing prohibition regimes, but any progress will take years. The EU is endowed with broader powers than other regional initiatives, and therefore has been able to impose more consistent legislation across the union and support capacity-building initiatives in eastern Europe, but European drug use and **rates** of human trafficking continue to **climb**. The **Economic Community of West African States** has **taken** initial steps to fight drug trafficking, but governance gaps in the region continue to leave it vulnerable. The **Association of Southeast Asian Nations** (ASEAN) has conferred high-level political attention on narcotrafficking, committing to a "Drug-Free ASEAN", but the realities of governance gaps and economic development challenges have **impeded** (PDF) these efforts.

A number of bilateral capacity-building endeavors have also had a major impact on narcotrafficking norms around the world. **Plan Colombia**, (now called the **Andean Counterdrug Initiative**) for example, is an **\$8.5** billion program initiated in 1999 in which the United States provides expertise and financial resources to the Colombian military and administrative and judicial sectors to help Colombia fight narcotraffickers. Though the policy has managed to curb the Colombian drug problem to some extent (though not without **controversy**), in 2010, the UNODC reported that the lion's share of drug cultivation had merely been **displaced** to neighboring Peru. The United States has also devoted \$1.5 billion since 2008 to the **Mérida Initiative** to help Mexico suppress cartels there, but as **Mexico tames the drug trade** in one area it reappears elsewhere and **violence is increasing**. Mexico's drug trade has also contributed to surging violence in Central America. Experts stress that these outcomes demonstrate the need to prioritize comprehensive strategies rather than rely too heavily on law enforcement.

New methods are slowly being pioneered to fight demand at the national level, but they remain the exception rather than the rule. A domestic program within the United States has pioneered drug courts, which supervise drug addicts during treatment rather than imprisoning them. In the first twenty years, drug courts were **reported** to be 75 percent more successful at preventing recidivism than incarceration and to reduce crime by as much as 35 percent. Similarly, Brazil has devised a strategy of placing permanent "pacifying police units" in the violent *favelas*, rather than attack narcotrafficking gangs with military police—an approach that has led to a "**drastic change**," in the words of a Brazilian police captain. Furthermore, some U.S. districts are experimenting with **drug market intervention** (PDF)—where known drug dealers are invited to meet with community leaders who convince them of the harm they are inflicting on friends and family, rather than arrested and imprisoned—with remarkable **success**. Although such initiatives are small, they provide a promising model.

The War on Illicit Weapons: *Rising awareness, limited scope*

Smuggling weapons or their integral components fuels conflict among and within states as well as empowers pernicious nonstate actors such as gangs, pirates, and terrorists. Weapons smuggling can include the illicit transfer or diversion of materials, technology, and components related to weapons of mass destruction (WMD) as well as the trafficking and theft of conventional weapons. Awareness has spread about the overall threat from this form of transnational crime, but institutions to counteract the illicit transfer of weapons remain limited in scope.

The threat from illicit WMD transfers is primarily that a terrorist group would create a radiological dirty bomb or assemble a nuclear device. Although the [Nuclear Nonproliferation Treaty](#), which was agreed to in 1968, attempted to prevent the unchecked proliferation of nuclear weapons, many find the treaty and its enforcement body, the [International Atomic Energy Agency](#), [ill equipped](#) to counter threats posed by so-called rogue states and dangerous nonstate actors. The possibility of [al-Qaeda](#) or another group independently building a nuclear bomb is relatively small, but the consequences would be [devastating](#). As evidenced by the discovery of the [Abdul Qadeer Khan network](#) in Pakistan, modern smuggling can involve intricate transnational channels supporting the transfer of sensitive technology. Stockpiles of nuclear warheads and material are also at risk for theft or illicit transfers, especially within the territory of the former Soviet Union.

In 2004, the passage of [UN Security Council Resolution 1540](#) (UNSCR) marked a watershed moment for efforts to stem the proliferation of weapons of mass destruction. Binding on all UN member states, UNSCR 1540 called on countries to implement domestic legislation to prevent proliferation, as well as established the [1540 Committee](#) to monitor implementation of the resolution. Regardless, as of 2011, [more than fifty](#) (PDF) UN members had not formally reported their efforts to prevent nuclear proliferation to the 1540 Committee. Other [challenges](#) related to the implementation of UNSCR 1540 include difficulties in coordinating global nonproliferation capacity-building efforts and addressing the concerns of some developing states that claim to [lack](#) the necessary technical expertise and resources to implement the resolution's provisions. In addition, many developing countries simply do not prioritize the threat of nuclear weapons as highly as other issues.

The relatively recent emergence of multilateral arrangements like the [Proliferation Security Initiative](#), [Global Initiative to Combat Nuclear Terrorism](#), and the [UN Convention for the Suppression of Acts of Nuclear Terrorism](#) have been critical tools for norm-building and sustaining global attention on the threat posed by the proliferation of weapons of mass destruction. Nevertheless, potential candidates for illicit transfers—whether state or nonstate—can simply opt not to cooperate or participate in these accords. Similarly, although the [2010 Nuclear Security](#)

Summit in Washington, attended by nearly fifty heads of state or government, pledged to secure vulnerable fissile nuclear material by 2014, the pledge was not legally binding, nor did it cover threats posed by the proliferation of specific nuclear weapons related components. A binding **Fissile Material Cutoff Treaty** also has yet to be drafted.

Conventional weapons, whether small arms and light weapons (SALW) or more advanced weapons systems, are substantially more likely to be smuggled or involved in illicit transfers. The UN's **Register for Conventional Arms** was created for states to report all exports and imports related to seven categories of armaments considered to be the most dangerous, including small arms. However, compliance by countries is voluntary and reporting has declined in recent years.

The illegal trafficking of SALW, an **estimated** \$1 billion annual industry, has received significant global attention. The UN's **Program of Action to Prevent, Combat, and Eradicate the Illicit Trade in SALW in all its Aspects** (PoA) is its most comprehensive effort in this area. Adopted by all UN member states in 2001, the PoA requires countries to develop national bodies that review legislation and cooperate internationally to stem illicit trade of SALW. Despite setting important normative foundations on licensing, tracing, and international cooperation, the PoA is a voluntary agreement and does not **address** (PDF) important issues including ammunitions, state-to-state transfer, and transfer to nonstate actors. A review conference scheduled for 2012 will examine the implementation of its recommendations by member states, but analysts have already reported significant gaps in implementation for a variety of reasons. To begin with, some states **do not clearly understand their obligations** (PDF), even when the PoA is unambiguous, and for many nations SALW trafficking is not a high priority. In addition, the PoA **lacks** (PDF) clear benchmarks and a mechanism for sharing best practices to support implementation.

The only legally binding treaty on SALW is the Firearms **Protocol**, a complementary instrument to the UNTOC, that requires states to bolster control measures against illicit firearms and their ammunition. However, this agreement also does not regulate state-to-state transfers and has had only some success in helping countries keep a tab on illicit weapons, despite licensing, marking, and tracing **provisions**. For example, in 2007, in violation of international sanctions, a Ukrainian ship **transported** thirty-three **T-72** tanks, rocket-propelled grenades, and anti-aircraft guns to South Sudan via Kenya.

The **International Tracing Instrument** (ITI), an offshoot of the PoA, was created to fill this vacuum. The ITI aims to identify and trace weapons' paths from source to destination. However, an April 2011 **report** on small arms by the UN secretary-general notes that, in many cases, ground-level officials do not understand tracking related markings on weapons, or do not have the records needed to link weapons with arms manufacturers. Often, serial numbers are simply ground off weapons.

The [United Nations](#) (UN) has resumed talks to negotiate a potentially comprehensive and legally binding arms trade treaty. Prospects for a breakthrough are [dim](#), however. Contentious topics will require tough compromises from states such as China, France, Russia, the United Kingdom, and the United States—[top](#) arms exporters. U.S. constitutional protections to possess personal firearms significantly complicate negotiations. The agenda includes establishing a monitoring provision for SALW ammunition exports, determining responsibility for illegal state-to-state SALW sales, and enforcing such an accord.

Still, the number of civil society groups dedicated to promoting stronger and more inclusive cross-border regulations of small arms and light weapons has exploded. Established in 1998, the [International Action Network on Small Arms](#), for instance, combines the work of numerous international groups seeking to stop all trafficking of SALW. Persistent lobbying from international nongovernmental organizations may have also played a central role accelerating UN and other regional negotiations to prevent the smuggling of conventional weapons.

Regionally, robust accords to prevent the trafficking of arms are the exception rather than the rule. One of the most far reaching is the binding [Economic Community of Western African States Convention on Small Arms and Light Weapons](#), which entered into force in 2009. Some posit that the convention, which was drafted with support from leading SALW civil society groups and banned arms transfers to nonstate actors, could be a model for other regions and even work toward a global arms trade treaty. The moratorium, however, has been "[routinely flouted](#)" (PDF) and has had little impact.

Illicit markets: *Lacks comprehensive framework, international agreement*

Other illicit markets include counterfeit products, counterfeit drugs, resource trafficking and environmental crime, and organ trafficking. These operate extralegally and thrive at the expense of legal trade and economic systems.

Global efforts to curtail these markets tend to be sector-specific responses, despite the fact that many criminal groups have diversified their activities into multiple markets. Collectively, global conventions, multilateral initiatives, and international institutions provide normative standards of protection, target the movement of illegal goods, and criminalize illicit activities—with varying degrees of effectiveness. Where norms exist, enforcement tends to be uneven. Nongovernmental organizations and private-sector entities have called for a global monitoring mechanism to track violations and seizures to expand knowledge of trends and developments.

Statistics point to oceans as a major channel for illicit markets, given that nearly [90 percent](#) (PDF) of

global manufactured goods are transported by container. Several [International Maritime Organization](#) (IMO) conventions address the safety of container shipping, including the [International Convention on Safe Containers](#), which establishes uniform regulations for shipping containers. The conventions, however, do not address comprehensive security solutions, and illegal goods are [secretly stashed](#) in containers en route to their destinations. In 1992, the IMO enacted the [Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation](#), which created a legal framework to interdict, detain, and prosecute terrorists, pirates, and other criminals.

The U.S. government attempts to address this vulnerability in part through the [Container Security Initiative](#) (CSI), which aims to prescreen the majority of containers destined for the United States by isolating those that contain illegal goods before transit. The initiative, which operates in fifty-eight foreign ports, covers more than 80 percent of container cargo en route to the United States. Several international partners and organizations, including the EU, [Group of Eight](#) (G8), and WCO, have expressed interest in modeling security measures for containerized cargo based on the CSI model, though such expansion is years away. Despite these efforts, experts [estimate](#) that only 2 percent of containers destined for U.S. ports are actually inspected.

Trade in Counterfeit Products

The [World Trade Organization](#) (WTO), the main international institution dealing with trade issues, has led international efforts to combat illicit markets, specifically trade in counterfeit goods. The landmark [Agreement of Trade-Related Aspects of Intellectual Property Rights](#) (TRIPS), passed in 1995, applies to all 153 WTO members and establishes minimum standards for intellectual property rights, including trademarks, copyrights, and patents, to be enforced by member states. Covering a broad range of sectors and goods—such as electronics, knock-off designer apparel, and art—TRIPS is the most comprehensive multilateral agreement addressing counterfeit goods to date. The UN's [World Intellectual Property Organization](#) helps the WTO implement TRIPS by managing an international registry of patents, providing translations and notifications of national regulations, and supporting international technical cooperation. Specifically, the [Madrid Agreement Concerning the International Registration of Marks](#) along with its [protocol](#) allows countries to register trademarks in multiple countries through a single application that broadens coverage, but also lacks an enforcement mechanism. At the same time, TRIPS relies on UN member states to enforce intellectual property laws, which has led to serious gaps due to lack of political will or capability.

Recent efforts to strengthen enforcement mechanisms have met stiff resistance. Signed by thirty-one state parties—including Australia, Canada, Japan, the United States, and the EU—the 2011

Anti-Counterfeiting Trade Agreement (ACTA) attempts to establish an international legal framework to address violations of intellectual property rights. However, ACTA has been **criticized** for violating freedom of expression and privacy, as well as excluding civil society organizations and developing countries from negotiations. In response to a petition signed by more than two million Europeans, the **European Commission** referred ACTA to the **European Court of Justice** to determine whether the agreement violates individual rights.

Private-sector groups affected by illicit markets have also formed industry-specific trade associations, which have pushed for anti-counterfeiting legislation. Among the most active and influential of these organizations are the **Motion Picture Association of America**, **Business Software Alliance**, **Recording Industry Association of America**, **Pharmaceutical Research and Manufacturers of America**, and the **Council of Fashion Designers of America**. They lobby for anti-counterfeiting legislation and enforcement, publish data and reports, run public advocacy and education campaigns, and help their members investigate and prosecute violations. However, rights groups have criticized such organizations for wielding undue influence and pushing legislation that disproportionately benefits businesses at the expense of consumers.

Counterfeit Medicines

TRIPS coverage also extends to pharmaceutical patents. Although TRIPS requires all countries to adopt minimum standards, it does allow for some flexibility for developing countries through compulsory licensing agreements, a provision **recently applied** for the first time in India to produce a generic cancer drug. In 2001, the WTO Ministerial Conference adopted the **Doha Declaration**, affirming that TRIPS "does not and should not prevent members from taking measures to protect public health" by promoting access to affordable drugs.

Despite these advances, the definition of counterfeit medicine remains unclear. **Disagreement** is widespread over the **working definition** of counterfeit drugs provided by the **World Health Organization** (WHO). Developing countries maintain that generic versions of brand-name drugs should not be considered counterfeit as they are essential to affordable health care. Many nations do not yet have legislation targeting counterfeit drugs, although there are signs of progress. In 2011, China and Nigeria **agreed** to a new bilateral initiative allowing regulators to jointly combat counterfeit drugs.

Multilateral and regional organizations have taken steps to enforce anti-counterfeit medicine agreements. In 2006, the WHO launched the **International Medical Products Anti-Counterfeiting Taskforce**, the goal of which is to develop international and regional networks to facilitate information sharing on the counterfeit drug market, although it has yet to make a global

impact due to [resistance](#) from several important developing countries. Interpol has also implemented several regional initiatives to combat counterfeit drugs and arrest traffickers: [Operation Storm](#) in southeast Asia, [Operation Mamba](#) in eastern Africa, and [Operation Cobra](#) in western Africa. Between January 2010 and October 2011, Interpol and local partners seized millions of pills and made hundreds of arrests, underscoring the need for continued multilateral intervention. Finally, in December 2010, the [Council of Europe](#) adopted the [Convention on the Counterfeiting of Medical Products and Similar Crimes Involving Threats to Public Health](#), which criminalized the manufacturing and trade of counterfeit drugs. Experts have criticized the convention, however, for its vague definition of generic medicine—and have instead [advocated](#) for a legally binding treaty led by the WHO. Without an international treaty criminalizing counterfeit drugs, progress will be limited, because each region or country continues to operate on various definitions of what constitutes counterfeit medicine. The WHO executive board [adopted](#) a voluntary resolution on counterfeit medicine in February 2012, but a comprehensive and adequate treaty is still far off.

Environmental Crime

To fight environmental crime, the principal international treaty is the [Convention on International Trade in Endangered Species of Wild Fauna and Flora](#) (CITES). CITES is the strongest existing measure to protect the environment from exploitation; it [proscribes](#) trade in more than nine hundred animal and plant species in danger of extinction, and restricts trade in more than twenty-nine thousand additional species. Although it has created an important framework for efforts against environmental crime, CITES covers such a wide range of plant and animal species that it is virtually impossible to focus attention and enforce trade restrictions on all of them at once. The [UN Environment Program](#) (UNEP), the primary UN body for global environmental issues, supports CITES and related programmatic initiatives, but has a limited budget for these efforts. CITES is also supplemented by more than five hundred global and regional multilateral environmental treaties that deal with specific issue areas, including biodiversity, wildlife, pollution, use of chemicals, and waste disposal. The UNTOC, supported by the UNODC, also serves as a legal framework for combating illicit resource trafficking, although it is primarily limited to crimes committed by organized groups and does not specifically mention the environment.

Laws to regulate illegal resource harvesting have not kept pace with environmental crime. A number of tree species are protected under CITES, but there is no existing comprehensive international agreement that regulates illegal logging. Experts [argue](#) (PDF) that CITES could be broadened to more adequately address illegal logging. The [Forest Law Enforcement and Governance](#) regional initiative, which convened producer and consumer countries in Asia, Africa, and Europe, attempted to raise awareness of illegal logging, but little progress has been made. Despite two other UN agreements

to combat illegal fishing—the [Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks \(Fish Stocks Agreement\)](#) and the [Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing](#)—serious gaps in enforcement remain (see [Global Governance Monitor: Oceans](#) for an in-depth discussion) .

International efforts to combat pollution and toxic waste dumping, on the other hand, have achieved marked success. The [Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal](#), the [Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade](#), and the [Stockholm Convention on Persistent Organic Pollutants](#) together provide an international framework to regulate the movements and dumping of waste, as well as the use of specific chemicals. Maritime pollution is regulated by the [International Convention for the Prevention of Pollution from Ships](#) (MARPOL). States are responsible for implementing and enforcing MARPOL to curb the most destructive forms of maritime pollution, including oil spills, particulate matter such as sulfur oxide and nitrous oxide, and greenhouse gas emissions.

In response to the proliferation of environmental crime and limited enforcement, five international groups—CITES, Interpol, UNODC, the [World Customs Organization](#), and the [World Bank](#)—formed the [International Consortium on Combating Wildlife Crime](#) (ICCW), which became operational in March 2011. ICCW hopes to mount a coordinated global effort against environmental crime by supporting national law enforcement and facilitating information sharing, but it is too early to judge progress.

Organ Trafficking

Organ trafficking has also become a serious problem, but no legally binding international treaty prevents or criminalizes it. Many national governments have laws criminalizing organ sales, which in turn have loopholes and outliers. In Iran, for example, kidney sales are legal and regulated; in India, the law outlaws all organ sales except for kidneys; and in China, it is illegal to buy or sell organs, although the government is allowed to harvest the organs of executed prisoners. A joint UN-Council of Europe study in 2009 [called for](#) (PDF) a new international treaty that would specifically address organ trafficking, including human trafficking for the removal of organs, which is a subset of a broader and more pervasive issue.

Combating cyber crime: Advancing from anarchy, but constant challenges

Cyber crime, which is estimated to cost the global economy between [\\$114 billion](#) and [\\$1 trillion](#)

annually, comprises myriad illegal activities, including cyberattacks on governments or businesses, identity theft, and illegal hacking. As societies increasingly rely on the Internet, the need for robust measures to address cyber crime is clear. However, some experts believe that establishing a comprehensive, binding cyber crime convention may be **impossible** given fundamental differences in opinions between countries about the Internet. Other challenges include defining cyber crime and assigning responsibility for attacks orchestrated from within a country's territory. Even in existing initiatives, the definition of cyber crime and stipulations to fight it are **not consistent**, and too often cyber crime is conflated with cyberterrorism, cyber espionage, or cyber warfare.

The most robust international accord that addresses cyber crime is the **[Council of Europe Convention on Cyber Crime](#)**. With thirty-two parties and fifteen signatories, it is the only international legally binding accord that governs the issue. Importantly, it defines cyber crime offenses such as data interference, child pornography, and illegal interception. The accord also includes a yearly consultation process for parties carried out through the **[Convention Committee on Cyber Crime](#)**. Testifying to the need for strong international cyber crime governance, the United States and a number of other countries outside the region have ratified the treaty; more nations are considering doing so.

The convention is also the basis for other international standards on cyber crime. The **[United Nations](#)** (PDF), **[Interpol](#)** (PDF), and various regional organizations have encouraged countries to model national legislation on the articles of the **[Council of Europe Convention on Cyber Crime](#)** and have supported acceding to it. Numerous countries, including **hotbeds** of cyber crime such as Nigeria, have **updated** (PDF) national legislation to conform to the treaty. However, many underdeveloped states do not have the institutional capacity to fulfill requirements, complicating efforts to harmonize domestic legislation. The convention on cyber crime also includes an additional **protocol**, which attempts to counter the use of the Internet as a medium to spread xenophobia and racism.

Although the UN examined cyber crime and related issues in 2010, member states were **unable** to reach a consensus on whether to expand the Council of Europe Convention on Cyber Crime or to create a new global treaty. In many instances, calls for firmer global institutions and agreements to fight cyber crime are met with **skepticism** from online users and policymakers, who worry that cyber crime laws might limit freedom of speech and private-sector Internet use. Both the **[UN General Assembly](#)** and the **[Economic and Social Council](#)** (ECOSOC)—responsible for development issues—have introduced several resolutions on cyber crime, but the issue is low on their agenda. In this regard, the UN CCPCJ has been important in bringing cyber crime to the attention of member states. Created in 1992 at the request of ECOSOC, the commission has increasingly raised the issue of cyber crime with other parts of the UN system. In 2011 it **spearheaded** a draft resolution urging countries to provide capacity-building assistance to fight cyber crime.

One specialized agency in the UN, the [International Telecommunication Union](#) (ITU), has [led](#) (PDF) international information and communication technologies policy since 1865 (the body became a specialized UN agency in 1947). The ITU addresses the gamut of cyber crime problems, but its work on cyber crime has focused on data collection, research, and recommendations on building and harmonizing effective national legislation. The ITU also suffers from some important [procedural weaknesses](#). Only UN plenary assemblies and world conferences can form ITU study groups to discuss relevant problems, but they meet only once every four years. Despite its flaws, the agency has launched some ambitious projects. One of its flagship projects, [Child Online Protection](#), aims to protect children from malicious attacks in cyberspace. More recently, ITU [joined forces](#) with the UNODC to assess specific countries' institutional capacities, review legislation, provide technical assistance, and offer training opportunities. Although it is still too early to determine its success, the collaboration paves the way for more partnerships within the UN, where work on cyber crime is often fragmented and lacks prioritization.

Informal organizations and multilateral arrangements have established frameworks to facilitate the sharing of best practices and intelligence related to cyber crime. Interpol, along with its 190 member countries, relies on its [I-24/7](#) worldwide communication system as well as its [National Central Reference Points](#) (PDF) network—a specialized group of investigators—to combat cyber crime. But even with these initiatives, [many countries](#) do not have adequate funding, enough cyber crime laws, or the institutional capacity to prevent, investigate, or prosecute cyber criminals. Furthermore, working in different jurisdictions to obtain evidence tends to be [inefficient and slow](#). Numerous regional initiatives as well as nongovernmental organizations have also been established with the specific mission of preventing the exploitation of children through the Internet. Enforcement, though, remains limited by the inherent difficulties in tracing perpetrators of cyber crime, especially when occurring across borders and contrasting legal jurisdictions.

One major multilateral initiative, the Lyon Group, was [created](#) by the G8 in 1996. The Lyon Group gathers senior experts to discuss international crime issues and has a dedicated subgroup that addresses high-tech crime with the aim of helping law enforcement agencies enhance their strategies to prevent, investigate, and prosecute cyber crime. The G8 has also [adopted](#) forty operative recommendations to combat TOC, and all members are required to set up a 24/7 network of point of contacts to address computer crimes and requests. Still, current technologies do not have the capacity to fully track cyber crime, which hinders the subgroup's effectiveness.

At the regional level, organizations and ad hoc groups have attempted to tackle cyber crime. For instance, the OAS established a [working group on cyber crime](#), which spearheaded a [compilation](#) of existing cyber crime legislation in OAS member states. The working group, backed by a recommendation from all OAS attorney generals and ministers of justice, has also [requested](#) that

OAS member states consider applying the principles of the Council of Europe's Convention on Cyber Crime. Similarly, the [Asia Pacific Economic Cooperation](#) group has [taken on the issue](#), with an [action plan](#) (PDF) to combat cyber crime that includes personal information protections, cybersecurity capacity building, and raising awareness against cyber crime. Nevertheless, cyber crime rates continue to climb in every region around the world.

Combating human trafficking and migrant smuggling: Record progress, but inadequate enforcement

Human trafficking is the only illicit activity classified as a [crime against humanity](#). Although it manifests itself in many forms, forced labor and sexual exploitation are the primary types. Migrant smuggling is considered distinct from human trafficking, both legally and conceptually. In practice, however, it is difficult to differentiate between the acts of migrant smuggling and trafficking. Both target the poor and deceive or violently abuse victims. Some migrants become victims of trafficking, and smugglers may also serve as traffickers.

Global governance efforts and tools to combat human trafficking and migrant smuggling are generally uncoordinated, underresourced, and lacking in the political will to exert meaningful change. To date, no permanent mechanism for collecting and evaluating comprehensive data on human trafficking or migrant smuggling has been established, which presents a significant hurdle for international organizations and national governments to devise effective policies and strategies.

Until recently, no international agreement defined human trafficking or laid out a strategy to address it. Heightened international attention in the 1990s, however, paved the way in the UN for the [Protocol to Prevent, Suppress, and Punish Trafficking in Persons](#) (TIP protocol) to the UNTOC, which entered into force in December 2003. To date, 142 countries have ratified the TIP protocol and 128 countries have [passed](#) laws prohibiting human trafficking.

The TIP protocol broadly defined human trafficking under international law as the "recruitment, transportation, harboring, or receipt of persons, by means of... forms of coercion... for the purpose of exploitation." Its ultimate goal was to harmonize domestic legislation to criminalize the phenomenon.

Similarly, "migrant smuggling" was also undefined until the [Protocol Against the Smuggling of Migrants by Land, Sea, and Air](#) (Smuggling of Migrants protocol) to the UNTOC entered into force in January 2004. It identifies the crime as the "procurement, in order to obtain... financial or other material benefit, of the illegal entry of a person into a state." [Ratified](#) by 129 member states, the protocol does not aim to curb illegal immigration, but instead to undermine organized smugglers. Some experts have [argued](#) (PDF), however, that the protocol does not go far enough to protect the

rights of migrants.

The protocols are the strongest measures to date on human trafficking and migrant smuggling. In particular, passage of the TIP protocol prompted the proliferation of regional conventions decrying human trafficking. The EU ratified the [Brussels Declaration on Preventing and Combating Trafficking in Human Beings](#) in 2002; the [Association of Southeast Nations](#) (ASEAN) passed the [Declaration Against Trafficking in Persons, Particularly Women and Children](#) in 2004; and the AU followed suit in 2006 and enacted the [Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children](#); among others. Many of these regional conventions, however, are not legally binding on member states, and have thus proven unable to effect significant change on the ground.

Regional action on migrant smuggling has been mostly limited to extending general protections to migrants. For example, the [Organization of American States' Inter-American Program for the Promotion and Protection of the Human Rights of Migrants, Including Migrant Workers and their Families](#) and the [ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers](#) focus on the basic rights of migrant workers, with sporadic references to the issue of migrant smuggling.

Despite halting normative progress among regional organizations, enforcement has floundered at the national level. Many countries only recently passed laws codifying human trafficking as a crime, and in some countries such legislation is wholly absent. Definitions of the crime vary widely; many national laws are confined to trafficking of women, or only recognize sexual exploitation of trafficking victims and do not address other forms such as labor trafficking. Even if states have enacted requisite legislation, [40 percent](#) (PDF) of these countries did not produce a single conviction between 2003 and 2008.

Many states have recently [criminalized](#) (PDF) migrant smuggling activities, but struggle to enforce the statutes. Of the few governments that try to combat migrant smuggling, resources are often directed to border controls rather than long-term measures. Many states do not see smuggled migrants as victims, but rather as illegal immigrants.

The United States plays a major role in global efforts to combat human trafficking. The U.S. Congress passed the [Victims of Trafficking and Violence Protection Act](#) (TVPA) in October 2000, which provided resources to monitor and reduce human trafficking. However, the TVPA expired at the end of 2011 and is [yet to be reauthorized](#) due to partisan deadlock over budget allocations. The [U.S. State Department](#) also [produces](#) (PDF) an annual trafficking report ranking 184 governments—including itself—on its actions against trafficking. Although somewhat politicized, the reports are a useful means

of tracking implementation of international norms. Other organizations, such as the [UN Educational, Scientific, and Cultural Organization](#) and [International Organization for Migration](#) are also working to compile accurate data. In one high-profile initiative, the [UN Global Initiative to Fight Human Trafficking](#) and nongovernmental organizations (NGOs) partnered with other UN agencies to aggregate data. Though moderately successful, the project ended in 2009 and the information will soon be outdated.

The UNODC is charged with monitoring and implementing the UNTOC protocols, which it does by assisting countries with drafting legislation and creating national antitrafficking strategies. Its work is supplemented by the [UN Office of the High Commissioner for Human Rights'](#) (OHCHR) [special rapporteur on trafficking in persons](#), [special rapporteur on contemporary forms of slavery](#), and the [special rapporteur on the human rights of migrants](#), who undertake country visits, monitor activities, and produce annual reports on their issue areas. In October 2011, the UNODC and the OHCHR [joined forces](#) to enhance cooperation, showing progress in efforts to streamline interagency work.

Countless international, regional, and local NGOs are dedicated to raising awareness of human trafficking. [Amnesty International](#), [Mercy Corps](#), and [Human Rights Watch](#) often publish country reports on trafficking, and the [Global Alliance Against Traffic in Women](#) has a broad membership of more than one hundred affiliated NGOs. Many of the NGOs focus attention on women and sexual slavery, often at the expense of labor trafficking issues.

Child trafficking, of course, remains sensitive and controversial. Although covered in the TIP protocol, some experts have argued that child trafficking deserves a separate accord. International instruments addressing the issue of child labor include the [Worst Forms of Child Labor Convention](#), which defines "worst forms" as the sale and trafficking of children, forced labor, and recruitment for use in armed conflict. In addition, the [Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict](#) specifically addresses the recruitment and exploitation of child soldiers. Despite these landmark measures, efforts to coordinate child labor and trafficking efforts more broadly remain inadequate.

U.S. and International Transnational Organized Crime Policy Issues

Should the international community shift its focus to a broader, health-based approach to cut demand for illegal drugs?

Yes: [Proponents](#) (PDF) of a dramatic reset to fight narcotrafficking worldwide argue that attacking producers, suppliers, and transporters of illegal drugs unfairly burdens developing countries, increases

the profitability of selling illicit drugs, and also severely raises the levels of violence associated with the trade. In 2011, the UN Global Commission on Drug Policy **concluded** that the U.S.-led war on drugs had failed, despite \$2.5 trillion spent over forty years, precisely because the strategy focuses too heavily on criminalizing illegal drugs. It recommends a shift away from strict prohibition regimes in favor of public health policies to decrease demand, prevent drug abuse, and treat addiction.

Ultimately, attempting to eradicate production of drug crops like coca leaf or opium poppy only displaces the threat and leaves impoverished farmers with poorly implemented alternative livelihood strategies. Furthermore, methamphetamine use has skyrocketed in the past five years, which may account for much of the reduction in use of opiates and cocaine. Given resource constraints, law enforcement agencies must also target drug traffickers consecutively, which creates a **feeding frenzy** as groups fight to replace the arrested group and leads to exponential violence without decreasing the threat to the community. Finally, by illegalizing supply without devoting equal resources to cutting demand, the current strategy provides an extraordinary incentive to traffickers and producers to provide the drugs to users who are willing to pay high prices because the drugs are hard to come by.

No: Opponents of legalization argue that the greatest costs of drug use are not caused by prohibition regimes, but rather by the drugs themselves. Reducing demand is not possible without limiting drug availability. "When illegal drugs are readily available, the likelihood increases that they will be abused," **explains** the **U.S. Office of National Drug Control Policy**. When China was not able to regulate the supply of opium in 1900, for example, fully **25 percent** of China's population was addicted to opium. Aggregated estimates **demonstrate** (PDF) that the current strategy of strictly punishing the production or transport of opiates, cocaine, and amphetamine-type stimulants has decreased instances of their abuse by 40 percent over the past century—implying that prohibition regimes have markedly decreased drug use around the world.

Furthermore, opponents say that relaxing controls on supply and use of drugs will not reduce violence because criminality stems from the need to earn quick, large profits outside the law rather than the nature of the illicit product being sold. Drug traffickers "would simply **find another commodity** to export." In addition, any relaxation of drug controls would still leave the drugs more heavily taxed or illegal—and therefore not disincentivize illicit trade in them, but only make them more readily available. Finally, theories that the government would benefit from taxing less dangerous drugs like marijuana, and shifting to prevention strategies instead, **overlook** the concerns that governments might be motivated to disregard the damage of addiction since higher levels of addiction would earn them more money.

Should the United States sign the Firearms Protocol?

Yes: The [UN Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition](#) (Firearms Protocol) to the UNTOC requires countries to adopt responsible legislation to prevent criminals from obtaining guns and implement controls to be able to trace firearms after they are manufactured. The United States [helped](#) draft the Firearms Protocol, but has not yet become a party to it. Doing so would not threaten the legal sale and purchase of guns in the United States, nor threaten Second Amendment constitutional rights to bear arms because it seeks only to decrease *illicit* trade in firearms through marking weapons, maintaining records on gun purchases, and improving licensing systems to prevent known criminals from purchasing weapons. Licit trade would thus not be curtailed. It would, however, [significantly decrease](#) the illegal sale of weapons bought in the United States and then sold to cartels that are wreaking havoc in Mexico and Central America—as well as decrease the illicit flows from Central Europe that fuel African civil wars.

No: Opponents to the Firearms Protocol [believe](#) that the language is vague, and could be progressively interpreted to curtail individual rights to own guns in the United States. In addition, the protocol does not regulate state-to-state transfers of weapons, which significantly contribute to weapon flows fuelling intrastate conflicts. Opponents of the protocol therefore [perceive](#) that the ultimate goal of the protocol is to restrict civilian ownership of firearms. Some have even [argued](#) that the right to protect oneself by purchasing a personal firearm is a human right, and should therefore not be limited, no matter how well-intentioned the Firearms Protocol may be.

Should the United States increase the use of unilateral sanctions on transnational organized crime groups?

Yes: The use of economic sanctions against TOC groups are an important recognition of the need to employ innovative strategies to target nonstate actors. Although terrorist groups and TOC groups do not possess similar goals, the structural similarities of these fluid networks imply that analogous mechanisms will be useful to fight both. The [executive order](#) freezes the assets in the United States of any individuals that are listed on the order's annex, as well as [freezes the assets of U.S. persons](#) (citizen, resident, or person physically located in the United States) who conduct financial transactions with a designated group. The sanctions will impose a much-needed limit on the financial gains of TOC groups, argue supporters of the move.

The sanctions also bear weight because [violators](#) can be fined up to \$1 million or [sentenced](#) to twenty years in prison, or both. Furthermore, under the executive order, the U.S. secretary of the treasury is granted the power to impose sanctions on other groups, facilitating an adaptive process of punishing groups that emerge.

No: Though economic sanctions appear to be a sharp tool against organized crime groups, in reality, the groups earn billions from trafficking in weapons and people, and other crimes. As a result, sanctions will not significantly cripple their operations or deter people from engaging in criminal behavior. Furthermore, foreign governments may lack the capacity or will to cooperate with U.S. efforts. For example, Japan reacted to the recent U.S. sanctions on Japanese yakuza with "[shock and shame](#)," which will decrease the impact of U.S. economic sanctions on the group. It will also hinder the United States' ability to identify further criminals on whom to impose sanctions because they rely on Japanese government intelligence.

In addition, the targeted groups are "[large and amorphous](#)," and will further burden U.S. and international businesses with cumbersome due diligence responsibilities. Moreover, the strategy aims to root out illicit networks with law enforcement, rather than cut demand for their illicit services or use more comprehensive strategies to fight them. Any success in debilitating one criminal group, will only lead another to take its place.

Should the United States pursue a binding international convention related to cyber crime?

Yes: Proponents of a worldwide binding cyber crime convention claim that country-specific mandates will not address the threat because it is a quintessential transnational threat that requires global cooperation. The Internet is an open network and crimes can be perpetrated from within any country. More so than other crimes, the perpetrators of cyber crime directly and instantaneously attack people in foreign jurisdictions, and often target people in multiple countries at once. Cyber criminals can also act with extraordinary speed, increasing the need for swift judicial cooperation among multiple countries to identify criminals and shut down operations in a timely matter.

Extensive and integrated global cooperation is imperative to combat the threat. Bilateral arrangements between law enforcement or judicial agencies cannot keep up with cyber criminals, who operate without the impediment of national borders. A global convention would provide regulatory guidelines, a clearer definition of what constitutes cyber crime, and provide mechanisms for much-needed capacity building to help poor nations confront cyber crime. In addition, supporters believe a binding global treaty is feasible. The [Council of Europe Convention on Cyber Crime](#), has been ratified and signed by countries outside of the European continent, for example.

No: Opponents of a binding international cyber crime convention argue that the inherent difficulty of investigating cyber crime would render enforcement of a potential convention [nearly impossible](#). Many cyber crime attacks are [never detected](#) (PDF), and cyber criminals are able to mask their identity with relative ease. Moreover, monitoring nations' compliance with a global cyber crime

convention is unrealistic as the technology used to conduct cyber crime—such as computer viruses, worms, denial of service attacks, scripts—[changes](#) (PDF) so rapidly.

In addition, efforts to control cyber crime threaten freedom of speech and open the door to invasions of private citizens' privacy, as well as impose limits on the sharing of information via the internet. Enforcement of anti-cyber crime regulations would almost certainly [impose](#) (PDF) heavy burdens on the private sector, and opponents of a global accord argue that independent businesses and citizens are better placed to regulate cyber crime themselves. For example, banks have the motivation and funds to invest in protecting their systems and international regulations would do little to improve on their efforts.

Should the International Commission Against Impunity in Guatemala (CICIG) model be expanded for broader anticorruption efforts?

Yes: Supporters of CICIG argue that it is one of the most successful anticorruption initiatives, and should be replicated outside Guatemala or expanded into a regional model. CICIG was first [initiated](#) (PDF) by the Guatemalan human rights ombudsman and subsequently earned support from the Guatemalan "[government, civil society, institutions for the defense of human rights, UN agencies in Guatemala, and the churches](#)" (PDF). Because of this local support, CICIG has been [better integrated](#) (PDF) into the domestic judicial system. UN support for CICIG, and its hybrid structure that includes international investigators and prosecutors, are also innovative mechanisms that increased its effectiveness and legitimacy.

By 2010, CICIG cooperation with Guatemalan prosecutors and investigators had [led to the arrest](#) of a former president for embezzlement, two former national police chiefs for drug connections, former defense officials for fraud, as well as ousted thousands of policemen, ten prosecutors, three supreme court justices, and an attorney general. Advocates of CICIG have [lauded](#) the program for its aggressive anticorruption efforts and for raising public awareness of organized crime. In 2010, Honduras and El Salvador consulted with the United States to tentatively establish [country-specific models](#) based on CICIG. Although the proposal has yet to come to fruition, supporters argue that it is the most effective method for combating corruption to date, and should be expanded to the region.

No: Critics argue that the CICIG model is fundamentally flawed and unsustainable for several reasons. First, CICIG was formed at the request of the Guatemalan government; it is [unlikely](#) that other countries known for similarly high levels of corruption would voluntarily invite the UN to encroach on their national sovereignty. Second, the model is predicated on strong cooperation between the UN and the national government, but CICIG faced significant domestic resistance in Guatemala. The former head of CICIG [resigned](#) in 2010, arguing that the Guatemalan government had not fulfilled promises

to reform the justice system, particularly its failure to adopt stronger anticrime and anticorruption legislation. The Commission suffered from poor oversight, and has conducted investigations in cases where "**it has no business.**" The program has also been **accused** of interfering with Guatemala's justice agenda rather than helping bolster it and has not managed to get anticorruption legislation through the Guatemalan legislature. In addition, some contend that the body has **disproportionately focused** on high-profile arrests and prosecutions, skirting its mandate to transfer technical capacities to Guatemalan officials, which is critical to long-term sustainability and future progress. As a result of these serious flaws, CICIG was **less popular** than the corrupt Guatemalan attorney-general's office in October 2011 polls.

Recent Developments

July 2012: Arms Trade Treaty conference opens at United Nations

Talks regarding the potential establishment of a global arms trade treaty, opened at the UN on July 2, 2012. The meeting is a result of a 2009 call by the UN General Assembly to **convene** a conference "to elaborate a legally binding instrument on the highest possible common international standards for the transfer of conventional arms." Following four preparatory meetings, the conference is examining numerous issues including import-export controls, government-to-government transfers of arms, as well as the possibility of including ammunition in the potential arms trade treaty. Nevertheless, prospects for the conference to produce a robust accord are dim, as many of the world's **top arms exporters**—including the United States, the United Kingdom, France, Russia, Germany, and China—will be among the meeting's participants and remains significant **divided** over what issues the proposed accord should cover. The U.S. secretary of state, Hilary Clinton, has voiced support for a UN arms trade treaty as long as certain "**red lines**" are not crossed during negotiations.

April 2012: Latin America debates legalization

At the Sixth Summit of the Americas, leaders from more than thirty countries in North, South, and Central America **debated** alternative approaches to counter the growing levels of violent crime in the region. Colombian president Juan Manuel Santos called for a more open-minded debate about policies between imprisoning drug users and legalizing drugs, **proposing**, that the group consider, for example, "decriminalizing consumption but putting all the efforts into interdiction." In the run up to the summit, Latin American officials increasingly called for a new strategy. On March 29, 2012, a Colombian lawmaker named Hugo Velasquez proposed **legislation** that would decriminalize the cultivation of the coca leaf and marijuana, which garnered support from leaders across the hemisphere. At the summit, however, U.S. president Barack Obama **maintained** that drug legalization "isn't a valid option in the United States."

February 2012: U.S. sanctions on transnational organized crime groups

In February 2012, the [U.S. Department of Treasury](#) imposed [sanctions](#) against the largest group within the Japanese yakuza, the Camorra, the Yamaguchi-gumi, as well as on central members of the Brothers' Circle crime network, which operates across Africa, Asia, Europe, and the Middle East. Acting in accordance to a 2011 executive order aimed at targeting transnational criminal organizations, the department declared it would freeze American-based assets of the group and bar transactions between Americans and these criminal organizations. Criminal activities of the Yamaguchi-gumi and Brothers' Circle include drug and human trafficking, prostitution, and money laundering, among other serious offenses.

November 2011: Viktor Bout convicted

On November 2, 2011, arms trader Viktor Bout was [sentenced](#) to twenty-five years to life in prison for conspiring to sell anti-aircraft weapons and other arms to Colombian criminal groups and rebels. However, some activists [noted](#) that Bout was not convicted for his international arms trafficking business, despite having long been known as "the merchant of death," for reportedly selling arms to al-Qaeda, the Taliban, and brutal African warlords. They noted that the terms of his trial pointed to the need for a broader treaty "to put in place the tools required to prevent others like Bout from taking his place." Bout denies the charges, and Russian officials claim that the trial was [politically motivated](#).

October 2011: Medicrime Convention opened for signature

In October 2011, the [Council of Europe](#) formally launched the [Medicrime Convention](#) in Moscow, Russia, which called on European and non-European countries to help control the manufacturing, distribution, and trafficking of counterfeit medicine and penalize other types of pharmaceutical crime. The Medicrime Convention is the first international treaty to criminalize counterfeit medicine to protect public health. Countries choosing to sign the convention joined twelve signatory states, including Austria, Cyprus, Finland, France, Germany, Iceland, Israel, Italy, Portugal, Russia, Switzerland, and Ukraine.

Options for Strengthening the Global Regime Against Transnational Crime

Introduction

U.S. and international action are needed to manage the threat of TOC. These recommendations reflect the views of Stewart M. Patrick, director of the International Institutions and Global Governance program, and James Cockayne, codirector of the Center on Global Counterterrorism Cooperation.

In the near term, the United States and its partners should pursue the following initiatives to bolster global anticrime efforts:

- **Improve data with a trust fund for independent research**

The United States and its partners require more reliable data on transnational crime to appropriately allocate resources where they will achieve maximum impact—and reduce spending on ineffective programs. To accomplish this, the United States should work with likeminded governments to establish a UNODC trust fund to improve data collection on a range of transnational criminal issues. UNODC currently compiles global statistics on drugs, human trafficking, and corruption, but the mechanisms are flawed due to limited in-country resources, [manipulation of data](#), and low levels of participation from local institutions. The trust fund can be used to build the technical expertise of local staff that collect and analyze the data, and create a mechanism for ongoing training as noted in a [report](#) (PDF) by the UN [Commission on Narcotic Drugs](#). An effective example for data analysis that could serve as a model is the "[crime observatories](#) (PDF)" program, managed by the [International Center for the Prevention of Crime](#), which aim to improve the analysis on criminal data.

- **Draw on lessons from antiterrorism efforts**

The U.S. experience fighting global terrorist networks since 9/11 can provide important lessons on how to weaken TOC groups. The United States should press to apply to transnational crime successful initiatives from the counterterrorism regime, such as the systems of joint threat analysis and international and public-private relationships, that the United States built to tackle the threat of terrorism. The U.S. government has already recognized how some counterterror strategies can apply to anticrime efforts, like the use of [sanctions against criminal networks](#) that resembled sanctions on al-Qaeda. It should push for broader international cooperation to reinforce their impact.

In addition, the FATF recently [combined](#) its standards for money laundering and terrorist financing, which will effectively require states to improve general anti-money laundering regulations in order to comply with UNSC resolutions on counterterrorist financing. The United States should both revise domestic frameworks to comply with the updated standards, and insist that other nations follow suit. Finally, the United States should elevate the importance of combating international criminal networks in diplomatic relationships with existing allies in the "global war on terror," noting that the two are increasingly interconnected, as both sets of illicit actors increasingly form tactical alliances and appropriate one another's methodologies.

- **Bolster anti–money laundering regulations**

The IMF and [World Bank](#) estimate that between [\\$2 and \\$3 trillion](#) is laundered each year. But worldwide, only [\\$170 million](#) is detected and stopped annually. There are a number of areas where the U.S. government could work more closely with the financial sector to crack down on money laundering and address its intertwining with politics. Positive steps would include closer scrutiny of banking practices of public officials globally, as well as partnerships to develop more effective supervision of informal remittance networks and money transfer systems.

Furthermore, current anti–money laundering standards in the United States require banks to know their customers. But evidence of significant illicit transactions suggests that these regulations need to be implemented more faithfully. The United States should also work more assiduously with international partners to clamp down on the use of offshore tax havens by U.S. corporations or individuals, since such havens are often used to launder the proceeds of illicit trade.

In the longer term, the United States and its international partners should consider the following steps:

- **Streamline U.S. government anticrime capacity building**

The United States should streamline existing capacity-building efforts, which are currently scattered across numerous domestic and international agencies. Currently, the U.S. Department of State bureaus of [international narcotics and law](#) and [counterterrorism](#), the [Drug Enforcement Administration](#), the [U.S. Agency for International Development](#), the [National Institute for Justice](#), and [Department of Defense](#)—in addition to an array of international programs—all conduct operations to bolster the ability of developing countries to fight transnational crime. Building on the 2011 [Strategy to Combat Transnational Organized Crime](#), the U.S. government should compile a database mapping its efforts to counter transnational crime across regions and issue areas, and use the results to improve coordination and reduce duplication of efforts.

- **Support evidence-based drug policy**

The United States should support an evidence-based approach to tackling illicit drugs—and end its inflexible commitment to prohibition regimes that prioritize supply reduction over analysis of pricing incentives, strategies for cutting demand, and harm reduction programs. For example, heroin substitution programs have ["led"](#) (PDF) to an overall reduction in the number of people addicted...[and] reduced levels of other criminal activity associated with the market." Generally

speaking, global prohibition regimes perversely **inflate** the price of illegal drugs, creating tremendous market incentives for people to produce and transport these forbidden commodities. **Studies** (PDF) of alternative anti-drug policies have often proved not only successful in tempering incentives to sell illicit drugs, but have also not resulted in increased drug use. At times, these policies have actually decreased violence more than law enforcement interventions. These were the **conclusions** of the Global Commission on Drug Policy, whose nineteen members included a former U.S. secretary of state and former U.S. chairman of the Federal Reserve, and four former heads of state. The U.S. government must engage in a more open debate about policies to manage drug abuse.

- **Combat criminal impunity**

In countries with fractured judicial systems, weak rule of law, or widespread corruption, violent criminal organizations can operate with impunity. The United States and its international partners should explore the possibility of setting up a complementary, international judicial framework that could prosecute criminals if local judicial systems are deemed incapable of holding a fair trial. The UN should revisit relevant early debates about the **International Criminal Court** (ICC), which some originally **proposed should also try drug traffickers**. Even as human trafficking has been **labeled** a crime against humanity, and as the number of people murdered by criminal organizations surges in parts of the world, many criminal groups **operate with impunity** (PDF). In these instances, the United States should consider an international alternative to local courts. This might include prosecuting egregious violent crime under the mandate of the ICC, establishing a distinct body to try such cases, or setting up hybrid international-national courts.