

U.S. ACTIONS TO FREEZE ASSETS OF TERRORISM: MANIFEST AND LATENT IMPLICATIONS FOR LATIN AMERICA

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INTRODUCTION

President Bush issued an executive order designed primarily to deprive Osama bin Laden and his associates of financial resources in response to the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001. This presidential mandate, in particular, freezes the assets of certain identified businesses, individuals, and charitable organizations suspected of terrorist activities. Moreover, the order punishes any foreign or domestic

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financial institution that provides resources and/or services to terrorists. Since large-scale international terrorism requires significant capital to operate, the Bush Administration hopes to curtail further attacks on the United States and elsewhere by issuing the executive order. A perfunctory review of the executive order provides little indication of potential effects on Latin America. Upon further analysis, however, it is evident that this recent presidential command and all the subsequent events that it inevitably triggers will have a significant impact on Latin America. Several examples of the executive order's manifest and latent implications to Latin America are discussed below. International businesses, consultants, and investors should be aware of such effects.

I. EXECUTIVE ORDER

Upon signing Executive Order 13224 Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten or Support Terrorism ("Executive Order"), President Bush was unambiguous regarding the effects of the mandate on persons and entities that fail to collaborate with the United States, including those in Latin America.¹ Bush stated specifically that "[i]f you do business with the terrorists, if you support them, you will not do business with the United States of America."² Likewise, while unveiling the Executive Order on September 23, 2001, the U.S. Treasury Secretary emphasized that the directive would leave little room, if any, for noncompliance by foreign and domestic financial institutions. According to the Treasury Secretary, the Executive Order constitutes notice to such entities around the world. The order mandates that organizations with any involvement with Osama bin Laden or the Al Qaida organization must "cooperate in this fight or we will freeze

1. See Exec. Order No. 13224, 66 Fed. Reg. 186 (Sept. 25, 2001) (blocking assets and property of those with terrorist ties, though not mentioning Latin America specifically).

2. President George W. Bush, Secretary of the Treasury O'Neill, and Secretary of State Powell, Remarks on Executive Order (Sept. 24, 2001) [hereinafter President Freezes Terrorists' Assets] (emphasizing that if foreign governments fail to share information about terrorists groups the Treasury Department will freeze that country's U.S. assets and transactions), at <http://www.whitehouse.gov/news/releases/2001/09/20010924-4.html> (last visited Nov. 11, 2001).

your U.S. assets [in order to] punish you for providing the resources that make these evil acts possible.”³

Section 1 of the Executive Order provides, in part, that all property and interests in property of certain persons that are in the United States now or in the future will be seized and held by the U.S. government. Such persons include (i) any foreign person (i.e., terrorists or terrorist organizations) identified in the Annex attached to the Executive Order, (ii) any foreign person that has committed or poses a significant risk of committing an act of terrorism, (iii) all persons that assist, sponsor, or provide financial, material, or technological support for terrorism or the terrorists, and (iv) those persons that are “otherwise associated” with terrorist organizations or terrorists.⁴

One may presume that since no Latin American persons or entities are listed on the Annex to the Executive Order, the region will not be significantly affected. Such a presumption, however, would be erroneous for two reasons. First, there is a high incidence of drug trafficking and money laundering in Latin America which is inextricably linked to terrorism. As experts explain, the money to fund terrorists comes mostly from drugs, including heroin in Afghanistan and Southeast Asia, as well as cocaine in Latin America.⁵ Similarly, other commentators explain that illicit drug sales and terrorism are so interrelated that the Executive Order, without further measures, will prove ineffectual.

3. *Id.* (noting that many countries have already pledged their cooperation).

4. Exec. Order No. 13224, Sect. 1, 66 Fed. Reg. 186 (Sept. 25, 2001); *see also* Exec. Order No. 13224, Sect. 3, 66 Fed. Reg. 186 (Sept. 25, 2001) (defining “terrorism” as any activity that involves a violent act or an act dangerous to human life, property, or infrastructure; and such act appears to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation, or to affect the conduct of government by mass destruction, assassination, kidnapping, or hostage-taking).

5. *Marketplace Morning Report: Tracking Terrorist Money* (Minn. Public Radio Broadcast, Oct. 3, 2001) (quoting terrorism expert Professor Gary Perlstein and noting that some groups solicit money for charitable causes that ultimately end up funding terrorists); *see U.N. Speakers Call for Comprehensive International Convention on Terrorism in General Assembly Debate*, M2 PRESSWIRE, Oct. 3, 2001 (quoting Alfonso Valdivieso, representative of Colombia, who explained that “[o]ne manifestation of terrorism was supported by another criminal activity with global repercussions – the illicit drug problem.”).

Clarifying this point, one commentator suggested that “[a]s the Bush Administration goes about freezing the assets of suspected terrorist organizations, we should also consider *other means* of attaining the same end” since “[d]rugs have taken over as the chief means of financing terrorism.”⁶ The indisputability of the link between drugs in Latin America and terrorism is further fortified by actions of the U.S. government. For example, the Bureau for International Narcotics and Law Enforcement Affairs spent approximately eleven million dollars in the year 2000 to address the problem of drugs, terrorism, and illicit money transfers in the Bahamas, Central America, and South America.⁷ Based on this information, although no Latin American persons or entities are explicitly listed in the Annex of the Executive Order, it is clear that they may be directly affected. This proposition is supported by the following elementary formula: drugs are produced in Latin America and the profits from such illicit activities are deposited in Latin American banks or multinational banks located in the region. A portion of these funds held in such financial institutions are then utilized for terrorist activities. These banks conduct transactions in the United States where the Executive Order freezes the assets and punishes even unknowing or inadvertent noncompliance.

Second, the U.S. could punish Latin American financial institutions pursuant to the Executive Order, even though any violation thereof was unintentional. The Executive Order grants considerable latitude to various government officials in interpreting and applying the provisions of the Order. Section 1, for instance, allows the Secretary of State to use his “discretion” in determining which persons assisted or provided financial services to terrorists. This presidential mandate does not, however, contain any express

6. Ginger Warbis, Letter to Editor, *Cut Off This Terrorist-Money Source, Too*, MIAMI HERALD, Sept. 28, 2001 (emphasis added) (arguing that such problems would be alleviated by opening the drug market to legitimate business).

7. See *Fiscal Year 2000 International Narcotics and Law Enforcement Affairs Budget Congressional Presentation*, Bureau for International Narcotics and Law Enforcement Affairs (April 1999) (listing the FY 2000 budget requests for the Latin America Regional Cooperation and the Bahamas as ten million and one million, respectively) available at http://www.state.gov/www/global/narcotics_law/fy2000_budget/latin_america.html (last visited Nov. 11, 2001).

standards of culpability. According to Bush, this absence of precise criteria does not constitute a problem because “[a]lthough the blocking powers enumerated in the [Executive] Order are broad, my Administration is committed to exercising them responsibly, with due regard for the culpability of the persons and entities potentially covered by the order.”⁸ Despite such assurances, one could argue that the United States could employ the Executive Order to castigate Latin American institutions that inadvertently store funds generated by drug sales. After all, argue some conservative think tanks, “even the most diligent banks may unwittingly be used as a conduit for financial transfers among terrorists.”⁹ Therefore, Latin American financial institutions may be unjustly sanctioned for unknowingly accepting illicit funds that relate to drug trafficking.

II. UNITED NATIONS RESOLUTION

Even if Latin American financial institutions are not directly affected by the Executive Order, they may be impacted by United Nations Resolution 1373 (“U.N. Resolution”), which was passed as a result of the Executive Order. After the issuance of the presidential mandate, the U.S. Secretary of State announced that he was taking the initiative to the United Nations “to seek resolutions applying the U.S. financial actions worldwide.”¹⁰ Worded more broadly than the Executive Order, the U.N. Resolution dictates that all member-states

8. *Text of Bush's Message to Congress on Freezing Assets Available to Terrorists*, WASH. POST ONLINE, Sept. 23, 2001, [hereinafter *Bush's Message*] (stating that the Executive Order's terms provide for blocking of property and property interests) at http://www.washingtonpost.com/wpsrv/nation/specials/attacked/transcripts/bushletter_092301.html (last visited Nov. 11, 2001).

9. GERALD P. O'DRISCOLL ET AL., THE HERITAGE FOUNDATION BACKGROUNDER No. 1479, STOPPING TERRORISM: FOLLOW THE MONEY 4 (Sept. 25, 2001) (arguing that the Executive Order should establish the following punishments based on differing levels of culpability of banks and bankers: (a) those who exercise due diligence and are still tricked should not be held liable, (b) negligent actors should receive sizable civil fines, and (c) those who intentionally retain money for terrorists should be subject to criminal and civil charges).

10. Karen DeYoung, *Past Efforts to Stop Money Flow Ineffective*, WASH. POST, Sept. 25, 2001, at A8 (noting that many of the actions taken in the wake of the September 11 attacks have been available for years, but that these events will likely give the administration the determination to implement the resolutions).

shall: (i) prevent and suppress the financing of terrorist acts; (ii) criminalize the willful provision or collection of funds with the intention or knowledge that the funds should be used to carry out terrorist acts; (iii) immediately freeze all economic resources of persons who commit, or attempt to commit, acts of terrorism; and (iv) prohibit any persons or entities within their territories from making any financial assets or services available to terrorists.¹¹ In addition, the U.N. Resolution requires that all member-states refrain from providing any form of support—including providing safe haven—to entities or persons involved in terrorist acts, and to ensure that any person who participates in the financing, planning, preparation, or perpetration of terrorist acts is brought to justice and administered a punishment that duly reflects the seriousness of such a crime.¹²

Terrorist activity occurs in many Latin American countries. For example, according to a recent State Department report, Cuba is still considered one of the seven “state sponsors of terrorism” due to the fact that it provides safe haven to several terrorists and fugitives, including members of the Spanish separatist organization ETA.¹³ In addition to Cuba, the State Department determined that terrorist activity occurs in Argentina, Brazil, Colombia, Ecuador, Nicaragua, Paraguay, Peru, and Venezuela. Experts indicate that in Argentina, Brazil, and Paraguay “[m]obsters, smugglers and drug traffickers have long operated freely in the alleyways of this gritty Paraguayan border town, known as South America’s contraband capital.”¹⁴ Moreover, as a result of a high concentration of Arab-Muslim immigrants, deficient police forces, and lax passport controls, the

11. See S.A. Res. 1373, U.N. SCOR, 4385th Meeting, at 2 (2001).

12. See *id.* (requiring that member states shall, among other provisions, provide early warning of suspected terrorist activity through the exchange of information).

13. See U.S. Dept. of State, Overview of State-Sponsored Terrorism (April 2001) (stating that in addition to other groups, Colombia’s two largest terrorist groups had a permanent presence in Cuba) at <http://www.state.gov/s/ct/rls/pgtrpt/2000/index.cfm?docid=2441> (last visited Nov. 11, 2001).

14. Laurence Norman, *South American Border Region Scrutinized as Possible Terrorist Haven*, TRADE COMPASS, Oct. 12, 2001, available at Westlaw, Westnews, APWIRE file (stating that after September 11, authorities are looking for ties to international terrorism, focusing on large Muslim populations).

triple-border region between these nations makes it a harbor for terrorists.¹⁵ Fighting terrorists here, reports indicate, is an exercise in futility. As the State Department document explained, the governments of these three Latin American countries continue their efforts to eradicate criminal activities of persons linked to international Islamic terrorist groups, but many obstacles remain, including limited resources, porous borders, and corruption.

Due to its breadth and the incidence of terrorism throughout Latin America, logic dictates that certain nations in this region will unavoidably violate the U.N. Resolution and suffer the negative ramifications for doing so. Shortly after its approval, several representatives realized that the mandate may be overly broad. For example, according to one expert, “[d]iplomats who supported the resolution acknowledged that they had not considered its full implications . . .”¹⁶

III. FINANCIAL SERVICES INVOLVING LATIN AMERICA AND THE CARIBBEAN

Latin American banking institutions, especially those offshore financial centers in the Caribbean, are notorious for their role, albeit unintentional, in laundering money derived from illicit activities such as the sale of drugs and counterfeit products. It is estimated, for example, that the illegal drug trade generates approximately four hundred billion dollars annually, the majority of which is laundered in Latin America. One expert explains that, “[m]oney launderers . . . use various offshore banking havens such as Panama, the Cayman Islands [and] the Bahamas.” Furthermore, the Colombian Black Market Peso Exchange has been deemed the “single most efficient and extensive money laundering system in the Western Hemisphere.”¹⁷ Studies indicate that Mexican institutions also play a

15. *Id.* (noting that there are more than 10,000 foreigners from Jordan, Lebanon, and Syria that inhabit this region).

16. Colum Lynch, *Anti-Terrorism Resolution is Adopted in U.N.*, WASH. POST, Sept. 29, 2001, at A1 (noting that in addition to unintentionally causing certain Latin American nations to violate the U.N. Resolution, experts say that it will also affect U.S. organizations that raise funds for armed elements in Macedonia and Northern Ireland).

17. Scott Ehlers, *Drug Trafficking and Money Laundering*, FOREIGN POLICY IN

significant part in money laundering, processing approximately thirty billion dollars per year.¹⁸ Likewise, U.S. financial institutions holding funds from Latin America have also been unwittingly utilized to launder illicit funds.¹⁹

The enactment of the recent Executive Order and the U.N. Resolution will cause at least three changes in Latin American and the Caribbean's financial services. First, entities in this region will incur substantial costs conducting background checks necessary to comply with the new rules. Legal experts specializing in this field advise financial institutions to review corporate policies and procedures, and to intensely scrutinize any suspicious transactions to ensure compliance with the Executive Order. In other words, they explain that the Executive Order "imposes a greater burden on companies to know their customers than previously required."²⁰

Second, the Executive Order mandates imposing sanctions for

FOCUS (Interhemispheric Resource Center, Albuquerque, New Mexico & Institute for Policy Studies), June 1998, at 1 (quoting Financial Crimes Enforcement Network and describing one system in which traffickers "sell their dollar profits at a discount to agents in the U.S. who work for peso brokers in Columbia.").

18. See *Curbing Money Laundering Is Not Easy*, LATIN AMERICA WKLY. REP., Sept. 25, 2001, at 448 (stating that four of the world's largest drug cartels operate in Mexico, where each spends about one million dollars weekly to bribe officials to silence).

19. See Mary Kelleher, *U.S. Banks Caught in Peru Money Laundering Web*, REUTERS, Mar. 28, 2001 (on file with author) (noting that in addition to maintaining local accounts, "Latin Americans often open dollar-denominated bank accounts in the United States to protect their savings and stocks from inflation in their home countries," and describing the arrest on charges of money laundering of a high-ranking Peruvian official who opened several accounts in the U.S. on behalf of an ex-spy in Peru charged with drug trafficking, running death squads and money laundering); see also *Minority Staff Report for Permanent Subcommittee on Investigations Hearing on Private Banking and Money Laundering: A Case Study of Opportunities and Vulnerabilities*, 106th Congress (1999) (examining, among other things, the money laundering scheme of Raul Salinas, brother of the former Mexican president, Carlos Salinas) available at <http://levin.sendate.gov/issues/psireport2.htm> (last visited Nov. 11, 2001).

20. Carol Van Cleef, *New U.S. Sanctions Require Closer Corporate Review of Customers*, INTER-AMERICAN TRADE REPORT, (Nat. Law Ctr. For Inter-American Free Trade), October 8, 2001, 2176 (stating that to ensure compliance with the Order, companies should intensively review corporate policies and procedures and should report suspicious transactions to counsel to see if questions arise under the order).

even unintentional involvement with terrorist-related funds, causing Latin American institutions to reject business that it would have readily accepted in the past. According to commentators, “[a]lthough it seems highly unlikely that Western banks or even secretive offshore financial centers would willingly provide services to terrorists, the new [Executive] Order could pressure banks . . . to guard against even unwitting terrorist ties for fear of losing access to the international system.”²¹

Third, many Latin American nations will promulgate their own laws regarding involvement with terrorism, which may prove even more stringent than the rules set forth by Executive Order 13224 and the U.N. Resolution. Examples of this reactionary legislation include recent rules in Antigua, Argentina, the Bahamas, Barbuda, and the Cayman Islands.²² As local experts explain, “[n]ot only have governments ordered banks to immediately sift through their records and to freeze any suspicious accounts, some of the region’s largest offshore banking centers are taking aim at terrorist activities by passing new laws of their own.”²³ Such initiatives will undoubtedly be costly to these institutions, but freezing assets in the United States and preventing companies from conducting business in this nation are formidable penalties. In essence, as banking experts see it, “[t]here’s too much at stake not to comply.”²⁴

21. David E. Sanger & Joseph Kahn, *Bush Freezes Assets Linked to Terror Network*, N.Y. TIMES, Sept. 25, 2001, at A1 (dealing specifically with Middle Eastern countries, though such principles apply to Latin America as well).

22. See *Argentina Orders Accounts of Suspected Terrorists Frozen*, EFE NEWS SERVICE, Sept. 27, 2001 (mentioning that the Central Bank of Argentina ordered the freezing of suspected terrorists’ bank accounts); see also *Antigua and Barbuda Prepare Legislation to Make Terrorism a Crime*, BBC WORLDWIDE MONITORING, Oct. 1, 2001 (stating that the government proposed adding terrorism to the Money Laundering Prevention Act and the Proceeds of Crime Act in order to freeze and confiscate assets); *Argentina: Central Bank Orders Accounts Possibly Linked to Attacks in USA Frozen*, BBC WORLDWIDE MONITORING, Sept. 28, 2001 (noting that the Central Bank of the Argentine Republic instructed banks to freeze all accounts that may be linked to bin Laden).

23. Mimi Whitefield, *Offshore Banks Assist Terrorist Probe*, MIAMI HERALD, Oct. 4, 2001, at 1C (listing actions taken in the Antigua, the Bahamas, Barbuda, and the Cayman Islands).

24. *Id.* (stating that the attacks were not an attack on the U.S., but attacks on the entire world).

IV. ASSISTANCE TO LATIN AMERICA FROM MULTILATERAL FINANCIAL INSTITUTIONS

In his speech introducing the Executive Order, President Bush stated that the United States will use “every resource at our command to win the war against terrorists: every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence. *We will starve the terrorists of funding, turn them against each other, rout them out of their safe hiding places and bring them to justice.*”²⁵ Based on this broad statement, a campaign is now underway to halt financing terrorism not only from private organizations, but also from international financial institutions such as the International Monetary Fund (“IMF”), the World Bank, as well as from other nations.²⁶ As explained above, terrorist activity currently exists to varying degrees in several Latin American nations, including Argentina, Brazil, Colombia, Cuba, Ecuador, Nicaragua, Paraguay, Peru, and Venezuela. Accordingly, some policy makers argue that the United States should completely withhold financial assistance (development, humanitarian, or security) from these nations unless they comply with an extended list of requirements. Such demands include supporting the United States in international bodies like the United Nations; sharing intelligence on terrorist activity; approving the use of airspace for strikes against terrorist organizations; and granting the United States the right of temporary use of ground, port, or air facilities for the fight against terrorism.²⁷ To justify such economic deprivation, experts claim that “providing development assistance to states that support or tolerate foreign terrorist organizations within their borders rewards them for their criminally negligent attitude

25. See President Freezes Terrorists' Assets, *supra* note 2 (emphasis added) (introducing the mission of the Executive Order).

26. See Brett D. Schaefer, THE HERITAGE FOUNDATION BACKGROUNDER No. 1485, STOP SUBSIDIZING TERRORISM 1 (Oct. 4, 2001) (pointing out that while the U.S. does not provide development assistance to terrorist nations, other countries and groups regularly provide such development assistance to state sponsors of terrorism).

27. *Id.* at 9 (demanding that recipients of U.S. development assistance that house terrorists cooperate with the war on terrorism).

toward combating terrorism.”²⁸

In addition, this initiative urges a prohibition against lending to these Latin American nations by the IMF and World Bank. The organizational documents of these international entities do not include the incidence of terrorist activity as a barrier to lending. As a result, policy makers suggest that the United States assemble a coalition of member-states with sufficient voting power to (i) block approval of loans to these nations or (ii) amend the organizational documents of the IMF and World Bank such that loans to these nations would be expressly forbidden.²⁹ Although the Bush Administration has not yet adopted this entire concept of curtailing assistance, it has manifested some support for the idea. In particular, upon introducing the Executive Order, President Bush announced that he was suspending otherwise applicable exemptions from certain humanitarian, medical, and agricultural transfers and/or donations. In doing so, the president explained that “international terrorist networks make frequent use of charitable or humanitarian organizations to obtain clandestine financial and other support for their activities.”³⁰ Latin America will experience negative ramifications if the United States restricts all economic assistance to nations like Argentina, Brazil, Colombia, Ecuador, Nicaragua, Paraguay, Peru, and Venezuela.

V. ENFORCEMENT OF INTELLECTUAL PROPERTY LAWS INVOLVING LATIN AMERICA

As explained above, terrorism is directly related to money laundering and illicit drug activity or sales in Latin America. While not as initially apparent, terrorism strongly relates to counterfeit

28. *Id.* at 2 (noting that terrorist groups were once funded by governments, that groups may again seek assistance from governments once their assets are frozen, and that development aid money would increase the amount of money available to support terror).

29. *See id.* at 10 (stating that both ideas require the U.S. to unite with Member States that have sufficient numbers and voting power to block loans to countries that sponsor terrorism).

30. *See Bush's Message, supra* note 8 (noting that if not for this suspension, countries could use humanitarian aid as a loophole to provide support to terrorist groups endangering the lives of U.S. citizens at home and abroad).

products sold in the United States and other developed nations. Experts indicate that it is very likely that funds used to finance terrorist networks are derived from the sale of products from American companies such as Microsoft or Nike.³¹

Others are more resolute in their understanding of the logical link between international terrorism and the sale of imitation merchandise, stating that “[i]t’s natural for [terrorists] because of the high profits and low risks.”³² Recent studies by the Department of Justice identify at least two incidents where intellectual property crimes financed terrorist actions, including (i) the 1993 bombing of the World Trade Center funded by a counterfeit T-shirt ring and (ii) the 2001 aerial attack of the World Trade Center and the Pentagon, which was funded by sales of fake computer software in the piracy haven: Ciudad del Este, Paraguay.³³ Music industry reports also indicate that syndicates are dealing pirated optical media products (e.g., compact discs and DVDs) from the Far East through Brazil and Paraguay. Vendors remit money from illegal sales to terrorist organizations.³⁴ Accordingly, efforts to combat violation of U.S. intellectual property laws in Latin America will likely intensify in the near future.

VI. RECESSION IN MEXICO AND OTHER LATIN AMERICAN NATIONS

Several nations have pledged support for this U.S. initiative in response to the Executive Order. The North Atlantic Treaty Organization, for instance, affirmed its solidarity in assisting the United States since, from its perspective, the armed attacks on

31. Roslyn A. Mazer, *From T-Shirts to Terrorism: That Fake Nike Swoosh May Be Helping to Fund Bin Laden’s Network*, WASH. POST, Sept. 30, 2001, at B2 (citing the example of a naturalized Paraguayan citizen who funneled proceeds from the sale of counterfeit software to a militant Lebanese Islamic group).

32. Julian E. Barnes, *Fake Goods Are Flowing Under the New Radar*, N.Y. TIMES, Oct. 14, 2001 (quoting Roslyn Mazer, Associate Deputy Attorney General for the Clinton administration).

33. See Barnes, *supra* note 32.

34. See *id.* (noting that products move to Brazil through Paraguay and that the optical-media industry has documented links between counterfeit sales and criminal acts).

September 11, 2001, are considered an assault on all nineteen member countries.³⁵ Similarly, the Group of Seven, the most industrial nations (Britain, Canada, France, Germany, Italy, Japan, and the United States), have professed their intention of complying with the recent U.S. mandate. A manifestation of such unity was the joint statement by this group stating that “[w]e stand united in our commitment to vigorously track down and intercept the assets of terrorists and to pursue the individuals and countries suspected of financing terrorists.”³⁶

Unlike these groups, certain Latin American countries such as Mexico will be reluctant to implement measures to freeze assets relating to alleged terrorist organizations. Mexico's unwillingness to cooperate with the Executive Order is attributable to the overall effect money laundering has on Mexico's overall economic stability. The banks in Mexico are finally recovering after the peso crisis in 1994, due in large part to money generated by the processing of funds derived from drug trafficking and other illicit activities.³⁷ It is estimated, for example, that some thirty billion dollars are laundered through Mexico each year.³⁸ As a result, experts conjecture that “if this illegal activity were to disappear, it would trigger an economic crisis worse than the one suffered six years ago.”³⁹ Other

35. See U.S. Dept. of State, Statement by NATO Secretary General Lord Robertson (Oct. 2, 2001) (stating that because the attackers directed the attack from abroad, NATO regards the action as one covered by Article 5 of the Washington Treaty, deeming an armed attack on an ally as an attack on all allies) available at <http://www.state.gov/s/ct/rls/other/indexcfm?docid=5197> (last visited Nov. 11, 2001); see also Ray Moseley, *NATO Pledges 'Solidarity' in Assisting U.S.*, CHI. TRIB., Sept. 13, 2001, at 12N (noting that this was the first time in NATO's history that the alliance invoked Article 5).

36. Associated Press, *G-7 Leaders Pledge to Foster Growth and Battle Terrorism*, N.Y. TIMES ONLINE, Oct. 7, 2001 (stating that leaders made a commitment to intensify efforts to keep money from terrorist groups), at <http://www.nytimes.com/2001/10/07/international/07ECON.html?searchpv=nytToday> (last visited Nov. 11, 2001); see also *G-7 Countries To Seek Stiffer Controls on Financial Centers*, FIN. TIMES, Sept. 26, 2001, at 2 (discussing the initiatives countries are proposing to better control financial institutions).

37. See *Curbing Money Laundering Is Not Easy*, LATIN AMERICA WKLY. REP., Sept. 25, 2001, at 448 (citing research concluding that if money laundering in Mexico ceased, an economic crisis would ensue).

38. *Id.*

39. *Id.*

commentators concur with this theory, explaining that for a developing country like Mexico, money laundering constitutes the difference between growth and stagnation. In essence, Mexico's dependence on processing illegal or possibly terrorist funds places it in a veritable no-win situation: "This is the Catch 22 of Mexico's fight against the drug trade: if it were to successfully staunch the flow of laundered money through the Mexican financial system, it could seriously destabilize the economy."⁴⁰ Therefore, compliance with the Executive and/or the U.N. Resolution will seriously prejudice Mexico's economy, as well as that of all other Latin American nations in which similar activities occur.

As this essay demonstrates, while not obvious at first glance, the Executive Order will have significant negative effects on Latin America. Furthermore, since this presidential mandate has been characterized as merely the "first strike" on global terrorism, one may infer that additional actions in the future may further impact the region.⁴¹ Examples of possible measures include the enactment of a comprehensive law on financing terrorism⁴² and trade sanctions for those nations that aid terrorism in any manner.⁴³ Due to their

40. Tim Coone, *Money Laundering in Mexico*, LATIN TRADE, Sept. 1997 (noting that Latin American-U.S. drug money laundered through Mexico comprises about three to five percent of Mexico's gross domestic product), at <http://www.tni.org/drugs/links/drugmone.htm> (last visited Nov. 11, 2001).

41. See *Fact Sheet Covering Executive Order on Terrorist Financing*, WASH. POST, Sept. 24, 2001 (calling the Executive Order a "first strike" against terrorism and listing the goals of the Order), at http://www.washingtonpost.com/wpsrv/nation/specials/attacked/transcripts/bushletterbox_092401.html (last visited Nov. 11, 2001); see also United Nations News Service, *General Assembly Wraps Up Unprecedented Five-Day Debate on Terrorism*, (Oct. 5, 2001) (quoting U.N. Secretary General Kofi Annan's statement that "I think what is important is the whole international community has come together to fight the scourge of terrorism. . .[and] the General Assembly [meeting] this week is only the beginning."), at <http://www.un.org/News/dh/> (last visited Nov. 11, 2001).

42. See Kathleen Day, *O'Neill Seeks Freedom to Trace Money To Sources*, WASH. POST, Oct. 4, 2001, at E1 (noting that Bush Administration officials requested that Congress "remove the handcuffs" they believe are preventing bank regulators and law enforcement authorities from sharing the information needed to detect and dismantle the financial networks of global terrorists); see also Financial Anti-Terrorism Act of 2001, H.R. 3004, 107th Cong. (2001) (pending).

43. See Gary G. Yerkey, *U.S. Set to Announce New Sanctions Against Countries Assisting Terrorists, Others*, INT'L TRADE REP., (Bureau of National

potential impact on international business and investment in Latin America, it is imperative that professionals who work with the region be mindful of the Executive Order and its corollaries.

Affairs, Washington, D.C.), Sept. 20, 2001. In addition to the Executive Order, the U.S. Secretary of Commerce has stated that the U.S. is "prepared to use the threat of trade restrictions to pressure other countries to cooperate with the United States in the fight against terrorism." Although unclear on the details of new legislation on export controls, trade associate representatives state that additional export controls may be implemented against countries that harbor terrorists that do not cooperate with efforts to prevent terrorism.

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