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## Preface

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## Preface

For several years past, The Dickinson School of Law has been privileged to be associated with Jesus College at Cambridge University, The Center for International Documentation on Organised and Economic Crime (CIDOEC), and other distinguished institutions in sponsorship of international symposia on economic crime. The Symposia's purposes are to promote sophistication on the part of those who combat modern economic criminals and fraudsters' efforts to corrupt marketplaces and undermine governments. Numerous thoroughly researched papers, by experts in various pertinent disciplines, are presented at these Symposia. The undersigned, sometime participants in the Economic Symposia, are delighted by the decision of the *Dickinson Journal of International Law* to seek the privilege of annually publishing a selection of such papers. We are equally delighted by the willingness of the Symposia's principal sponsors to accommodate the *Journal*. The papers presented hereinafter are intended only as samples of what is to come.

Thirteen years ago, Dr. Barry A.K. Rider initiated these symposia in collaboration with the White Collar Crimes Unit of the British Commonwealth Secretariat. After Dr. Rider left service with the Commonwealth and became Dean of Jesus College, the College became a sponsor of the ongoing program. September 1994 occasioned the Twelfth Economic Crime Symposium. Through the years, various other professional and educational groups have come to be co-sponsors although continuing leadership and overall management very definitely have been provided by Dean Rider and CIDEOC's Chairman Saul Froomkin, Q.C. Co-sponsors have included The British Bankers' Association; The British Institute of Securities Laws; The Centre for Police and Criminal Justice Studies, University of Exeter; The Centre of European Law, King's College, University of London; The University of Siena, Italy; The Free University of Amsterdam, The Netherlands; The Stockholm School of Economics; Keio University, Japan; Monash University, Australia; the Computer Security Group, University of Cambridge; and others including The Dickinson School of Law.

Within the broad ambit of economic crime, each Symposium has a main theme! Thus, in 1993, it was "Cross Border Economic Crime — Communities at Risk" and, in 1994, "Taking the Profit Out of Crime." September after September, lawyers, regulators and other professionals concerned with maintaining fair marketplaces come from sixty or more nations to gather in Cambridge for symposia which typically consume five and one-half days.

Through the years, Chairman Froomkin and Dr. Rider have been extraordinarily diligent in enlisting numerous personages and institutions

possessed of differing but uniformly superb expertise to give of themselves in order to promote not only sophistication about economic criminals' techniques but collaboration among those who combat subversion of marketplaces. In a modern American usage, considerable "networking" has been fostered to the benefit of markets and nations throughout the world.

In the early America, a motto had it that death was the consequence of conviction for counterfeiting. While penal consequences for debasing legitimate media of exchange, and otherwise prejudicing markets upon which we all depend, are not now so rigorous in the U.S.A. and most other nations, it is a sad fact of life that improved communications — with particular emphasis on all that is made possible by the electronics revolution — have benefitted not only legitimate but illegitimate enterprise. The same awful proposition is true of efficient customs unions — such as the European Union — by reason of the simple proposition that, as customs and immigration checks at borders decline in frequency and significance, the criminal as well as the honest are accommodated.

Slowly but surely, a broad appreciation has developed concerning threats to free markets and nation-states implicit in illegitimate creation, accumulation and subsequent misuses of wealth. These are no longer purely domestic phenomena (if they ever were). A modern fact of life is that organized crime is now routinely transnational. Developing nations can be particularly at risk. Organized criminals can and do deploy accumulated wealth to rig markets. Economic criminals can be quite skilled at exploiting victims in nations other than those in which the criminals headquarter. Corruption of officials, once a parochial matter, is no longer such. Criminals' efforts may include efforts to penetrate otherwise legitimate businesses, unfairly to compete with legitimate businesses, and to provide covers — at a price — for not only basic criminal activity but international terrorism. Penetration of governments may become an objective. Whether or not criminals intend to subvert any given government, the degree to which they succeed in rigging marketplaces inevitably strikes at popular confidence in markets to the prejudice of the rule of law and stability of governments.

It is a thesis of CIDOEC and its co-sponsors that, to attack serious economic crime, it is necessary constantly to identify the ever evolving techniques used by economic criminals and thereafter not only to educate the legitimate financial community and law enforcers concerning evolved techniques but also to break down artificial barriers which can frustrate communications among policing authorities of different nations. The Economic Crime Symposia have been quite successful in not only

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making representatives of numerous developed and developing nations aware of sophisticated criminal techniques (as well as, obviously, measures to counter them) but also fostering formal and informal communications among regulatory authorities of numerous nations.

Depriving criminals of ill-gotten gains is a technique being used in various nations. Attempts at such deprivations are not new. However, the legal systems of the nations are — almost by definition — not easily complementary for which reason activity characterized as a crime in one jurisdiction may not be so stigmatized in another. Further, scope allowed official investigators, punitive systems and civil remedies vary widely among nations. What American civil plaintiffs regard as routine techniques are frequently unknown in, or sometimes offensive to, other jurisdictions.

When two or more nations regard a species of activity as anti-social, it may be that the investigatory toils, civil and public remedial systems or punitive consequences of one nation are more threatening (or more comforting) to a criminal than those of other nations. Investigative and prosecutorial techniques are limited, to greater or lesser extent, in differing ways by the various nations. Most nations' penal procedures are less sensitive to rights deemed basic by Americans. National differences frequently have very rational bases deeply rooted in domestic cultures. It has been and is a CIDOEC thesis that fostering communications among those responsible, in given states, for combatting economic crime and otherwise maintaining honest marketplaces is a guarantee that, quite without reference to the peculiarities of substantive law or remedies in any given jurisdiction, the risks of economic criminality can be accentuated.

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