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## AMERICAS PROJECT 2011 21ST CENTURY BORDERS IN THE AMERICAS

### INTRODUCTION

A peaceful continent. These words largely describe the Americas during the formation and consolidation of its constituent nations. Although conflicts caused by territorial disputes began and ended during the second half of the 19th century and the first half of the 20th century, the continent has since lived in peace, with a few exceptions.

The bad news is that not everyone on the continent shares this peace. Although countries have not faced off against each other for decades, the same cannot be said of several border areas. International organized crime, illegal drug trafficking, and socioeconomic challenges make measures designed to improve life on the border actions that affect the entire continent.

To understand life on the border, one must look beyond the physical landmass to the many aspects of human life that coexist in these regions. The interactions of people living on one side of the border have significant social and cultural repercussions on the other side of the border. And even the most closely guarded borders, such as the one between Mexico and the United States, are routinely breached.

This report of life on the border provides context for understanding these regions using a dual perspective of “linearity” and “zonality.” The former refers to a physical construction: How do states exercise their sovereignty? The latter is a more complex concept that defines the border not as a dividing line, but as a manifestation of the organized forces that affect both sides of the physical boundary.

The border area is the stage for a great deal of human interaction. The protagonists tend to be populations and communities that interact beyond

the control of the state and the mandate of the law. This reality has contributed to changing the dynamics of borders on the continent, especially with regard to the illegal transit of persons and goods.

With these thoughts in mind, the participants of the 2011 Americas Project on “21st Century Borders in the Americas” examined a range of problems in the continent’s border regions and offered a unique view of each of the countries represented by the participants.

The report first analyzes the borders in terms of their linear or territorial aspects, including the evaluation of border disputes and the notion of sovereignty. The report then examines more intangible topics, like the porosity of borders and transnational organized crime. Finally, the report addresses development issues and the challenges that each country faces, both as a single nation and as part of the continent in the 21st century.

### I. SOVEREIGNTY AND TERRITORIAL DISPUTES

The states in the Americas were born amid debate rooted in the philosophies of Jean-Jacques Rousseau and Emmanuel-Joseph Sieyès, which largely involved the struggle between tradition and the vision of the Enlightenment. This was the framework in which theories regarding “the rights of man” and “the citizen” developed. The concepts of sovereignty and human rights continue today as the clash between the prerogatives of the state and the theoretically universal rules of international law.

International mechanisms for the peaceful resolution of disputes stem from mediation or arbitration by international bodies, which apply legal rules that transcend a country’s constitution; states

have voluntarily agreed to comply with the results. In this sense, addressing territorial disputes in the Americas requires an understanding of the tension between most classical concepts of sovereignty and the most advanced strategies of promoting confidence in the international justice system.

Territorial disputes in the Americas are remnants of a colonial past and the imperialist era at the end of the 19th century and the beginning of the 20th century. The new American states, particularly in South America, defined their borders under the legal principle of *uti possidetis iuris* (“that which you possessed, in accordance with the law, you shall possess”), but not without problems: The dissolution of Great Colombia left unresolved the boundaries between Colombia and Venezuela. In addition, British expansion after the Napoleonic wars and the Concert of Europe demonstrated the increasing might of the United Kingdom (U.K.)—the great power of the 19th century—yet created the conditions for disputes that remain unresolved in the 21st century, i.e., disputes between Argentina and the U.K. over the Falkland Islands (Islas Malvinas), South Georgia, and the Sandwich Islands; between Venezuela and Guyana over the Essequibo territory; and between Guatemala and Belize over the territory between the Hondo and Sibun Rivers. These disputes are further explained below.

#### ***Territorial Disputes between Argentina and the U.K.***

The expansion of the British Empire was the primary cause of the three disputes listed above. But regime change in American republics born of decolonization has made it possible for the Organization of American States (OAS) to participate in the Belize dispute and to follow inter-American procedures in the Guyana dispute. However, the situation is different in the South Atlantic, as the U.K. maintains control of the Falkland Islands, South Georgia, and the South Sandwich Islands. Perhaps no other territorial dispute in the Americas has been so controversial and, at the same time, characteristic, as Argentina’s continued claim to these lands.

Spain and Great Britain sought control of the Malvinas Islands in the 17th and 18th centuries and at the beginning of the 19th century. In 1833, the British Empire gained control of the islands, which activated a persistent Argentine claim to them, and

led to several tense episodes in the 19th and 20th centuries. In 1882, the military junta that governed a divided Argentina launched an operation to recapture the Malvinas in an attempt to unite the country through nationalism and a common enemy. The result was a costly war that resulted in a tactical defeat for Argentina. However, the conflict moved the dispute to the top of the inter-American agenda, making it a political victory for Argentina. Since Argentina took the offensive in the Malvinas, the Inter-American Treaty of Reciprocal Assistance, which advocated joint defense against challenges to the American states, was called into question. The traumas of that 1882 war have had political effects lasting into the 21st century, contributing to the fall of Argentina’s military dictatorship in 1983 and continued political discourse in Argentina against the British rule of the territories.

Tensions between Argentina and the U.K. heightened after hydrocarbons were discovered on the continental shelf of the Falkland Islands, South Georgia, and the South Sandwich Islands in the late 1990s. Additionally, ideological factors have reanimated territorial disputes, not only in Buenos Aires but also in Caracas. In 1982, Venezuela, with its claim on Essequibo in mind, supported Argentina diplomatically for the purpose of publicizing territorial disputes generated by British imperialism. Venezuela took up the issue not only to confront Guyana but also, indirectly, the great Western powers.

#### ***Territorial Disputes between Venezuela and Guyana***

In 1834, four years after the Venezuelan secession from Great Colombia, exploratory and map-making missions of the British Empire penetrated the eastern territory of the Republic of Venezuela from British Guyana, crossed the Essequibo River (phonetically converted to “Essequibo” in English), and reached the Moruca River. In 1839, a north-south line was drawn between the mouth of the Amacuro River and Mount Roraima. Venezuela initiated its claim in 1844, when the first British colonists settled beyond the left bank of the Essequibo River. The Arbitral Award of 1899 in Paris set the boundaries favoring the British.

After the 1962 death of U.S. lawyer Severo Mallet-Prevost, a member of the Paris award commission, a secret memorandum revealed that the Russian judge, Fiódor Martens, had allegedly clouded the judgment of his colleagues to favor British claims at a time when

the Russian and British empires were negotiating their positions in Central Asia. In the same year, Venezuela filed a claim with the United Nations (UN). Four years later, Guyana gained its independence, and Venezuela and the United Kingdom signed the Geneva Agreement, by which the parties agreed to peacefully resolve the territorial dispute with the commencement of bilateral negotiations with Guyana. The negotiations, however, did not reach a consensus, forcing the parties to a stalemate in 1970 via the Port-of-Spain Protocol.

Venezuelan policy toward the Caribbean has tended to try to get the support of the Caribbean Community (Caricom) and its numerous votes in the Organization of American States (OAS). Venezuela's attempts have been exacerbated in the last few years, but political differences between Venezuela and Caricom have led to Venezuela's informal relinquishment of its rights to the Essequibo ("Gauyana Esequiba" to Venezuela). Instead of laying the groundwork for a successful negotiation for both parties, the strategy may lead to conflict in the event of a political transition in Venezuela.

#### ***Territorial Disputes between Guatemala and Belize***

In view of the weakness of the Spanish empire, the British Empire sought an agreement for the exploitation of natural resources between the Hondo and Sibun Rivers within the framework of the Treaty of Paris of 1783. The treaty did not contemplate the allocation of territory, but it motivated the British to take possession of what now constitutes the physical area of Belize. In 1981, Belize became an independent state, and 10 years later, a member of the OAS.

Under the principle of *uti possidetis iuris*, Guatemala maintained a claim on the territory between the Hondo and Sibun Rivers, and Belize inherited this dispute at the end of the British colonial regime. The Guatemalan theory holds that the British snatched the territory from the Spanish crown, which affected the territorial integrity of the Captaincy General of Guatemala, thus compromising territory that would belong to the Republic of Guatemala.

The case reached the OAS in 2000 and, in accordance with hemispheric principles and the OAS Charter, the organization decided upon a conciliation—or dispute resolution process—to

resolve the matter peacefully. The efforts were complicated by the mutation of the conciliation into something very close to an arbitral award. In order to reduce tensions between both countries, confidence-building measures<sup>1</sup> were implemented, motivated to a great extent by a series of violent incidents in the area, in which Guatemalan civilians entered territory assumed to be part of Belize. In 2000, a transnational "Adjacency Zone" was established, which consists of a small portion of territory between the two countries that acts as a buffer zone and is subject to special treatment. This, together with the oversight office of the civilian peacekeeping mission of the OAS, located within the Adjacency Zone, has become a model strategy and creative mechanism that has generated an atmosphere of cordiality between the two parties while the legal aspects of the dispute are negotiated by both governments and later submitted to the International Court of Justice.

The central problem in each of these examples starts with the following question: Is it possible to negotiate sovereignty? The political and security implications seem to give an affirmative response. Confidence-building measures whose purpose is to prevent crisis and conflict by strengthening peace and security are not necessarily the solution, but they do create the conditions for seeking future solutions. The steps for reaching agreements are taken systematically and with the necessary prudence, and seek to give governments the opportunity to achieve their missions without public opinion in each country influencing the agenda. This prudence has an effect derived from the nature of international law: Since time is on the side of the state occupying the disputed territory, the claimant state has an incentive for increasing its aggressiveness. These factors must be taken into account equally by heads of state and their officials, given the natural resistance of states and their elites to submit to supranational authority.

The tensions produced by territorial control tend to originate from the desire to control natural resources that have a high value in international markets (Klare 2002). For this reason, the successful management of the water resources of the Guaraní Aquifer should be kept in mind. The Guaraní Aquifer is a gigantic reservoir of fresh groundwater located under Brazil, Paraguay, Uruguay, and Argentina. Despite the asymmetries of power held by the

various states involved and the differences of opinion regarding the effective control of the aquifer, the parties have agreed to “The Guarani Aquifer Initiative for Transboundary Groundwater Management” (World Bank 2004, revised 2006) that is based on the identification of common interests among the states. The fragility of the reservoir has made it possible for politicians who make decisions on the national level to understand that the aquifer functions as a system and, therefore, human activity on any part of it affects all of the countries equally. This situation, and its resolution, serves as a good example for analogous conflicts in the future.

In the Caribbean basin, boundary problems are solved by maritime law, but go beyond disputes over physical areas. In situations involving the protection of the environment and even smuggling and maritime piracy, problems center on the allocation of responsibilities.

#### **Requirements for Solutions**

It would seem obvious that confidence-building measures continue to be the best strategy for creating the right conditions for the peaceful resolution of disputes. Creativity is part of any political decision with expectations of success, even in the context of peaceful resolutions to territorial disputes. The Adjacency Zone between Belize and Guatemala is an excellent example of creative political problem solving. This process involves a contemporary reevaluation of sovereignty without creating overly optimistic expectations—but that identifies points of minimal agreement.

Sovereignty, which emerged as a concept in Europe under the political conditions of absolutism and a merchant economy, does not seem to fit into a modern environment of democracy and global trade. Today, borders are “controlled” according to a concept that assumes the militarization of a portion of the territory. For this reason, a more thoughtful and intelligent system for managing borders is essential, especially when it involves the cross-border management of people.

Applying the concepts of Jean Bodin, the 16th century French philosopher known for his theory of sovereignty, a broad and complex conceptualization of the border would be the most useful today, not one that is limited to sovereignty. In addition, a

policy for addressing border populations, with the resulting consideration of their needs and a concern for the quality of democracy, is necessary for peaceful dispute prevention and resolution.

Diplomacy, cooperation, and discussion should be the strategy for avoiding and resolving disputes, instead of war and violence. However, it would seem that the most effective way of taking up these problems is mediation. For this reason, the role of the OAS as a mediator in border disputes must be considered an integral step in solving these problems peacefully.

With regard to the successful experience of the OAS, we can say:

1. The states themselves should conduct significant and effective discussions on borders in conflict. The presence of a third party, particularly if it is a representative of a multilateral regional organization, may help the countries be more comfortable in this process.
2. The participation of civil society in the disputed areas, if any, and of communities with a direct or indirect interest, have a very important role in the credibility and legitimacy of border management processes.
3. The objectives of the states stem from their perceptions. These are often very different from, and not always consistent with, the reality of the communities that live on the borders. International organizations should help create a transparent atmosphere that will make it possible for both perspectives to be understood, thereby reducing tensions that might arise from errors in perception.

The inclusion of communities and of civil society in general improves the quality of democracy. The positive record that liberal democracies have with regard to disputes (Doyle 1983) can be an additional incentive for strengthening the Democratic Charter of the OAS, which is oriented toward practical aspects, such as keeping the peace. The task that remains in the Americas, one that is imperative for the management of territorial disputes, is to strengthen a common conception of democracy that will allow the fluid exercise of multilateral negotiation.

## II. POROUS BORDERS AND TRANSNATIONAL ORGANIZED CRIME

As previously mentioned, the borders in the Americas are the result of political and historical events that go back to the colonial era. Therefore, their origin is linked to the construction of nation-states. As a legacy of the colonial era, physical borders define nations; they define who is part of these nations (imparting a sense of belonging) and who is not (imparting a sense of exclusion).

Borders can also generate violence and lead to exclusion. They become an unnatural barrier separating “them” and “us,” and can represent a potential danger, especially for migrants, who in many cases risk their lives to cross borders. On the other hand, borders also represent hope. There are thousands of Latin Americans who cross borders year after year seeking a better future for both themselves and for the families they leave behind in their countries of origin.

Borders, as the product of centralized government measures that favored the development of certain areas to the detriment of others and that delineated international boundaries over geographical areas difficult to access, have historically been marginalized territories, economically, politically, and socially. Consequently, these peripheral areas represent rudimentary levels of development and infrastructure; everyday life differs enormously from the central, urban areas of the country. Living conditions on the border are often inhospitable; border areas can be difficult to access, and they tend to be far removed from the urban centers where decisions are made. This reality limits border development and has contributed to its near nonexistence in the minds of decision-makers. The lack of state attention from the standpoint of security has meant that border areas can become porous.

Organized crime groups take advantage of the absence of the state in isolated border areas in the Americas. These groups become part of the community, creating economies parallel to legitimate businesses, and generating a sense of belonging in the community and for community members. Borders thus become places of exploitation and opportunity, in which goods coming from other countries can be transported over political boundaries with the

“authorization” of local authorities.

In many border territories, there are black markets and underground economies marked by the existence of “new local authorities.” These authorities function alongside state authorities, are very violent, and use the community as a staging area to cross from one side of the established boundary to the other.

A separate issue is that border territories sometimes overlap with areas where important natural resources are located, which makes joint management plans between countries a necessity.

### *The Dimensions and Impact of Organized Crime on Borders and Societies in the Hemisphere*

In contrast to an increasingly unlikely scenario in which border disputes cause a war between states, the actions of organized crime groups are a new kind of security threat that requires an unconventional response.

The countries of Central America and the Caribbean are a clear example. These struggling countries are economically very vulnerable and encompass transit areas for 90 percent of the cocaine headed for the United States.<sup>2</sup> Furthermore, criminal gangs have the complex technology and sophisticated logistical processes to make borders such as the Mexico-U.S. border, although closely watched through state-of-the-art technology, porous. The creativity of criminals poses a challenge to authorities, since, despite the construction of several border walls and intense air surveillance, criminals have built tunnels that circumvent border security. In many cases, their technical skills, as well as their ability to buy arms, exceed those of the states.

Globalization and transboundary movements have been fundamental elements in the consolidation and expansion of the transnational organized crime networks established in border areas. The transboundary economy includes survival mechanisms for groups excluded from formal government and a new model of political economy that adjusts to the rules of the free market and the discourse of the minimal state.

For example, in Argentina, porosity of the borders (especially in the northern part of the country) has given rise to a new reality with structural manifestations in urban areas: shantytowns inhabited by undocumented people. The so-called “villas

miserias” today present a challenge when fighting organized crime. Undocumented migrants from neighboring countries and Argentine migrants coming from the interior to the city comprise most of the population of these urban settlements. In response to the lack of opportunities in these settlements, organized crime operates in a variety of ways, including establishing clandestine laboratories for processing drugs. In response, the state has operated through the national police, whose many functions include oversight of the borders. This situation is not exclusive to Argentina; in Brazil, the “villas miserias” are called “favelas,” and the armed forces have been used to control them.

***Facing the Problem of Development and Security: Transboundary Management***

The challenges of development and security, of which organized crime takes advantage, create different potential paths for the government. In the Americas, proposals for militarization are frequently made, generating a great deal of controversy. However, in the case of Mexico, the military solution has not yielded satisfactory results.

In addition, the susceptibility of political, military, and judicial authorities to corruption and to co-opting by illicit associations linked to transnational organized crime call into question the effectiveness of policies that seek to reduce unlawful transboundary traffic by more stringent police measures or by granting special powers to the armed forces.

In practice, there are two types of borders: “hard” borders,<sup>3</sup> characterized by militarization or the construction of walls and fences that completely prevent the movement of persons or goods across the territorial boundaries; and “soft” borders in managed and regulated areas where state authorities control the movement of persons and goods at border crossings, normally putting emphasis on those who enter their territory while exercising very superficial controls on those leaving it.

The problem posed by soft borders is that each state focuses solely on the task of protecting its own territory against unlawful entry by persons, goods, and substances. This issue highlights the asymmetries of development, management, infrastructure, and resources, since less-developed

states are responsible for cooperating with their more developed neighbors in controlling the movement of persons and goods. Such asymmetries thus produce a sort of “extraterritorialization” of the borders, that is, placing border regions outside the standard jurisdiction of a state’s laws.

The situation described above facilitates the entry of people and goods into the territory of less-developed states, which often proves unfavorable to the state’s interests and, very frequently, beyond their capacity to control. This shows that, in practice, state responses to international crime have not been completely effective.

What is required, then, is a comprehensive plan. Problems of border security cannot be solved solely by fighting crime. It is also necessary to incorporate the “development” component. In the words of former president of Brazil Luis Inazio Lula da Silva, “We want to go in there with our streets, electric power, hospitals, with schools, because if the state does not perform its role of providing the right conditions for the people, drug trafficking and organized crime will... We want to compete with organized crime, but with the certainty that we will beat it only if we are able to bring benefits to the poorest parts of Brazil.” This approach is the alternative to controlling the border, and involves investment in the conditions that will improve the infrastructure and quality of life for local communities.

One public policy that aims to address border areas is integrated border management (IBM), which involves all top-level players, such as immigration officials, customs officials and the police, among others, to promote coordination and to create synergy between national and regional interests. The purpose of IBM is to guarantee the security of national borders and to regulate lawful movements in the area to respond to the various needs of the nation through cross-border socioeconomic and cultural interactions. It also contemplates the use of advanced technology to monitor border activities, the exchange of information on both sides of the border, and the implementation of best practices (described later in the paper).

If the American states act jointly and in a coordinated manner, integrated border management should provide a greater capacity to design and establish regional policies that deal with “everyday” border problems (illegal immigration, the smuggling

of goods aimed at satisfying basic needs—from food to electrical appliances) differently from those that are a more severe threat national security (terrorism, arms trafficking, drug trafficking, and human trafficking).

Governments should also assess matters that affect public health, such as illegal drug use. A country should concern itself, through education and public health policies, with attacking the use of illegal drugs—which in the process helps provide a solution for the principal cause of transnational organized crime in the Americas. It is further recommended that states adopt several measures:

1. Revamp border police models to facilitate regional cooperation in the fight against organized crime
2. Promote understanding and cooperation between municipalities on both sides of the border
3. Strike a balance between protecting borders and facilitating the lawful movement of persons and goods
4. Implement border security initiatives that guarantee the protection of the dignity and human rights of the people who cross them
5. Establish common standards for crime statistics in order to develop effective mechanisms for the transfer of information and data

These policies must exist on three levels: at the municipal level, since cooperation between transboundary municipalities is necessary, as they have the best knowledge of border communities; at the regional level, because border challenges go beyond the boundary line; and finally, at the national level.

The Argentine-Chilean Integration Committees, created in 1984 after a 1978 conflict, are a good example of cooperation at the three levels, since they are a fundamental tool for establishing and promoting border relations between states, thus channeling the demands and aspirations of both sides of the border. Coordinated policies can help negotiate transboundary traffic and transit, infrastructure construction, cooperation, tourism, education, and the development of border areas, among other issues, provided they allow participation of the three levels mentioned above.

### III. BORDER DISPUTES AS THE RESULT OF SOCIOECONOMIC CHALLENGES

In this section, we will focus primarily on border disputes resulting from socioeconomic challenges faced by countries collectively (as the result of regional integration), or faced by countries individually and that generate conflicts in the region.

One of the primary functions of the state is to promote the welfare of its citizens, and the main way of doing so is through development policies. However, despite the fact that there is a certain degree of uniformity with regard to the conception and objectives of these policies, in many cases they center on pure economics, relegating social, ethnic, and cultural aspects to the back burner.

Some authors have defined development as “the activities and processes, viewed as a whole, that increase man’s ability to satisfy his needs and improve his quality of life.”<sup>4</sup> So development, understood as the fulfillment of primarily economic needs, is a fundamental role of the state to the extent that such development tends to promote the welfare of its citizens. Additionally, development also includes the concept of human development, as measured by the index of the United Nations Development Programme (UNDP) through three parameters:

1. Life expectancy and health (an estimate based on life expectancy at birth)
2. Education (calculated by adding the adult literacy rate and the rate of enrollment in primary and secondary schools, and in higher education)
3. Standard of living (measured by per capita gross domestic product)

The states’ development needs (understood as the sum of economic, human, cultural, territorial, and rural development) are among the socioeconomic challenges they face in two parallel and, in some cases, opposite, scenarios: a national scenario and a regional scenario.

The socioeconomic challenges of the American states require national measures and policies that, in the great majority of cases, emanate from central governments. Frequently, these governments are unaware of the particular needs and complexities of their border areas, leading to the adoption of shortsighted measures and policies.<sup>5</sup> In turn, while

confronting regional socioeconomic challenges through regional integration institutions (CAN, MERCOSUR, CARICOM, UNASUR),<sup>6</sup> the states tend to ignore or overlook the needs of border regions, their populations, and native or indigenous peoples, whose territorial concepts are totally different from those of the nation-states.<sup>7</sup>

For that reason, state responses to socioeconomic challenges, applied to their border areas, can cause conflicts between broader state development needs and the specific needs of their border populations and areas. Therefore, state responses can be viewed as the individual response to socioeconomic challenges, which causes or can cause border conflicts between American states; the regional response to socioeconomic challenges can be viewed as responses that cause or can cause conflicts in the interior of such states.

The principal source of conflict of this sort is the American states' lack of knowledge regarding the socioeconomic realities of their own border regions. Additionally, when dealing with maritime boundaries in Central America and the Caribbean, problems and dynamics arise that differ from those found in land borders. The case of the border between the United States and Mexico is a model example of a border that responds to its own dynamic and deals with its own complexities: On one hand, there is the need for both states to provide security to their inhabitants; on the other hand, there is the need for both states to keep up with, and respond to, the evolution and dynamics of the interwoven economies and inevitable integration of the two states, whether formal or informal.

The deficiencies, asymmetries, needs, resources, cultures, and environments of borders, which are inherent to their nature, are precisely what make American borders—and the development–security dichotomy—so difficult to study.

### ***Border Dynamics on the American Continent***

Around the world, border dynamics are influenced by the development of various regions and populations. Most of the borders on the American continent are underpopulated and underdeveloped, and the presence of the states—as previously mentioned—is imperceptible.<sup>8</sup> However, in terms of development and security, conflicts arise in more populated

and developed border regions. In these locations, territorial boundaries more closely resemble imaginary lines that interrupt or interfere with the everyday lives of inhabitants, rather than enforced infrastructures of international law whose purpose is to facilitate social and economic activities along the border.

In the context of the economic globalization, the need for open borders and the concept of border security appear to be in dissonance. This apparent contradiction poses the following questions:

1. How effective can states be in regulating the movement of persons and goods across their borders?
2. If borders are regulated, what should border security systems look like?<sup>9</sup>

Numerous studies<sup>10</sup> show that the dynamics of border regions are not only influenced, but are also determined by economic, social, and cultural development. These aspects of development affect the borders more than the laws and regulations adopted by states to control them. Fluctuations in local economies can generate market conditions favorable to the importation or exportation of goods in border regions.

In their attempt to favorably impact economic indicators and to protect domestic producers from an inundation of foreign goods, many American states have legislated with little long-term thought, thus prohibiting or overregulating the importation or exportation of certain goods or bureaucratizing procedures. In some cases, such uninformed government intervention has led to violence and corruption.<sup>11</sup>

The adoption of quasi-tariff measures aimed at protecting domestic markets has been the subject of wide debate and is an example of measures adopted by states, in response to internal development needs, that cause border conflicts. One example is when a state affected by the implementation of another state's restrictive measures adopts similar measures as a form of payback.

The reality is that it is very difficult for the states to achieve high levels of efficiency in the regulation of persons and property crossing their borders.<sup>12</sup> In practice, this almost insurmountable difficulty should lead us to reevaluate the role of the states in controlling their borders and point us



toward comprehensive border management. Some scholars have suggested that there is a need to categorize or prioritize border problems and threats so that adjoining border states can jointly design and implement more appropriate, effective, and comprehensive policies.

***Response to National Socioeconomic Challenges that Cause Border Conflicts between States***

In this section, we will reference some examples of the complex dynamic in state responses to socioeconomic challenges. These cases should be viewed in the context of the interrelation and interdependence of border regions.

At the beginning of 2007, the government of Brazil set into motion its Accelerated Growth Program (PAC). In the second phase of the PAC, in mid-2008, the government began the construction of two large dams, Jirau and Santo Antônio, aimed at generating hydroelectric power that would supply Brazil's Amazon region.

The proximity of the dams to the border between Brazil and Bolivia made it inevitable that the latter would be adversely impacted, primarily in terms of its environment. This situation compelled the Bolivian government to conduct an environmental audit to determine the social, environmental, and economic impact of the dams on Bolivian territory.

Brazil and Bolivia have now opened bilateral talks aimed at both quantifying the impact of the dams on the environment and reaching an agreement on the compensation that Brazil should pay to its neighbor for environmental, social, and economic harm.

In addition to the interstate problems described above, both countries are home to indigenous nations and peoples within the Amazon basin whose customs and way of life will be affected. Nongovernmental organizations have represented the indigenous communities and have assisted in protesting the negative effects of the dams, but they have not been able to modify or stop the project.

***Responses to Regional Socioeconomic Challenges that cause Border Conflicts between States***

Another example that again demonstrates the application of shortsighted policies, even when based on internationally-accepted development paradigms, is the recent conflict in Bolivia related to

the construction of a transcontinental highway that connects the Atlantic and Pacific Oceans—and that bisects indigenous territory.

In Bolivia, indigenous territories were recognized by law through the Constitution of 1993. Additionally, a 2009 constitutional amendment in 2009 ensured the people's right to self-determination, recognizing that indigenous nations must be consulted regarding the execution of any project that affects their regions.

Where does the problem arise? Nine years before, during the first Summit of the Presidents of South America, held from August 30 to September 1, 2000, in Brasilia, the attending states created the "Initiative for the Integration of American Regional Infrastructure" (IIRSA), an inter-institutional mechanism for the coordination of intergovernmental projects and actions of the 12 South American countries. The purpose of the initiative was to construct a common agenda for promoting projects involving the integration of infrastructure, transportation, energy, and communications.<sup>13</sup>

One part of the infrastructure project identified by the IIRSA was the construction of a highway more than 300 kilometers long that would pass through part of a rain forest and link regions that remain inaccessible in Bolivia.<sup>14</sup> The highway was supposed to facilitate and promote the transit of goods and people, linking, in part, the Pacific and Atlantic Oceans. However, the proposed highway also traversed the indigenous territory of the Isiboro Sécuré (Tipnis) National Park, which is subject to the special prior consultation system.

Indigenous communities organized an opposition force, resulting in a 600-kilometer march to the capital city of La Paz to request that the project be halted or diverted to avoid indigenous territory.<sup>15</sup>

Some 100 indigenous people marched for 68 days from Tipnis, and civil society peacefully joined the protests. As a result of the controversy, two ministers and one vice-minister resigned from the government and a general was removed from his post. Ultimately, the Bolivian government was forced block the construction of the highway, even when faced with pressures within the Brazilian government, which financed the project. This example shows that regional development needs can interfere with local development needs, creating border conflicts when two legitimate interests clash.

#### IV. CONCLUSION

The Americas have the distinction of being a continent with relatively few armed confrontations in modern history. Asia and Europe are notoriously less successful than the Americas in this respect. However, the few conflicts that have occurred on the continent have left deep scars.

There are still some borders that have not been completely delineated, and thus remain vulnerable to the possibility of further conflict. In order to promote dialogue that will lead to the final execution and ratification of treaties delineating all borders, it is very important for the appropriate bodies to continue their efforts to prevent, mediate, arbitrate, and resolve border disputes. Any armed confrontation between nations of the Americas will cause distrust among citizens, thus hindering regional integration processes—especially those affecting inhabitants of border regions, which are generally peripheral areas forgotten by central state governments.

For the Americas, particularly Latin America and the Caribbean, it is essential to build a solid, in-depth process of social, economic, and political integration. By doing so, development and the quality of life for the inhabitants can be improved. Any obstacle will cause delays in the continent’s development and, therefore, should be avoided.

##### **Challenges**

The attendees at the 2011 Americas Project identified three principal challenges to addressing border problems and issues. First, there is a need for more multidisciplinary and multilateral information and studies in order to understand the complexities of border, especially within the framework of regional and national development needs.

The second challenge is the border’s development–security dichotomy. Comprehensive and multilateral policies that recognize and differentiate between border security and integrated border management are needed.

Finally, border problems should be identified, state security threats prioritized, and “security” redefined as a contemporary concept beyond physical security (food, environment, etc.).

The American states must overcome the following negative factors, which hinder their ability to meet the challenges posed:

1. Distrust of neighboring states
2. A lack of coordination in their efforts to deal with the socioeconomic challenges, both in their territories and in the region
3. Shortsighted legislative practices; these can be addressed through multidisciplinary and multilateral studies and conferences
4. Asymmetric rates of development; these can be addressed through cooperation leading to better integrated border management
5. Failure to achieve a generalized recognition of shared responsibility, in terms of integrated border management

##### **Best Practices**

The participants of the 2011 Americas Project identified successful responses by American states to border conflicts. In some cases, the states recognized the need for bilateral or multilateral cooperation; in other cases, the states responded to the need for regional development. State actions are organized under three central themes:

1. Sovereignty and territorial disputes
2. Porous borders and transnational organized crime
3. Border conflicts resulting from socioeconomic challenges

##### **Best Practices in the Management of Sovereignty and Territorial disputes**

In the current geopolitical context of the American continent, states involved in territorial disputes—defined as disputes involving sovereignty over a certain territory—tend to adopt one of two mechanisms:

1. Bilateral negotiations
2. Involvement of the International Court of Justice

The intrinsic difficulty of the first mechanism is the practical impossibility of negotiating sovereignty (an implication being the need to renounce it, at least in part). In the second case, impoverished states lack the economic ability to finance the high cost of litigating the case in the International Court of Justice.

As described earlier in the paper, the territorial dispute between Guatemala and Belize represents an excellent example of creative thought and effort to implement measures that promote confidence, which, as we said previously, do not provide a specific solution to the conflict, but contribute to the creation of conditions necessary for finding solutions in the future.

***Best Practices in Managing Porous Borders and Transnational Organized Crime***

The response of the states to transnational crime in the Americas is complicated by border management issues. Within the framework of cooperation and confidence-building measures, in October 2011 the governments of Bolivia and Brazil signed an agreement of mutual cooperation to strengthen efforts against drug trafficking in the border areas shared by the two countries.

Under the agreement, the Brazilian government was authorized to over fly over Bolivian airspace with unmanned reconnaissance aircraft in order to identify areas of illegal coca plant cultivation, cocaine production camps, and transit routes for smuggling and drug trafficking. Joint military committees were also created and meet periodically to evaluate progress, design strategic bilateral plans, and to share information and intelligence.

Conceptually, confidence-building measures are the foundation on which the cooperation agreement between Bolivia and Brazil rests; any unilateral action by either state, regardless of the resources applied, carries with it an increased likelihood of failure without the proactive and transparent support of its neighbor.

***Best Practices in Managing Border Conflicts Resulting from Socioeconomic Challenges***

Border disputes that result from responses to socioeconomic challenges are best addressed by recognizing and differentiating the various levels of risk that one activity or another involves. For example, instead of building border walls—an exercise that has again and again proven ineffective—specific integrated border control and management mechanisms should be implemented. In addition, the transit of people and goods should be addressed

differently from the trafficking of drugs, arms, and exploited humans.

Border management has significantly advanced in some parts of the world, and can serve as a model to the Americas. On the border between Canada and the United States, numerous procedures expedite the approval and clearance of goods, including the exchange of information at the time of shipping and the adoption of so-called “electronic passports” that incorporate biometric measures. Additionally, “electronic manifests” are sent by shippers electronically to customs agents and contain shipment details, destination information, and means of transportation. By the time the shipment reaches the border, the appropriate authorities are aware of this necessary information, thereby simplifying control procedures at the border crossing.

Other successful examples of the recognition of the fundamental difference between border crossings of goods and people are the measures adopted within the framework of the Mercado Común del Sur (MERCOSUR) and the Comunidad Andina (CAN). Agreements within these international organizations have made it possible for people who live in a neighboring country, but who legally conduct their economic activities in a border country, to carry only the identification document issued by their country of origin (not necessarily a passport).

The measure has facilitated, to a great extent, the transit and control of people who would otherwise cross the borders without official documentation. In addition, now aware of the economic activity conducted by these individuals, states that have adopted this measure have the ability to control compliance with fiscal and tax obligations and to maintain adequate and precise records of the goods and persons who enter and exit the territory.

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## ENDNOTES

1. For more details on these measures see Junta Interamericana de Defensa, *Consideraciones generales sobre las medidas de fomento de la confianza mutua de caracter militar*, <http://www.fasoc.cl/files/articulo/ART41192a8f46afc.pdf>.

2. “Central America celebrates independence threatened by organized crime,” *El Nuevo Diario*, September 16, 2011.

3. Of approximately 195 land borders, only 42 are or were “hard,” and of those, 57 percent served or served exclusively to prevent human traffic, illegal

immigration, the smuggling of goods and control substances, and organized crime. See Vogler and Ingolf “Types of International Borders along the U.S.-Mexico Border.”

4. See “Grow With Energy” Initiative at [http://www.crecerconenergia.net/archivos/PDF/dsrp\\_doc002.PDF](http://www.crecerconenergia.net/archivos/PDF/dsrp_doc002.PDF).

5. Concept used during the colloquium to describe measures and policies that, (although making economic and social sense), in terms of internationally-utilized concepts and indicators, lack the degree of knowledge and legitimacy necessary to be operationally functional in the specific territorial contexts of border regions.

6. Community of Andean Nations (CAN), Common Southern Market (MERCOSUR), Caribbean Community (CARICOM), Union of South American Nations (UNASUR).

7. Examples of this situation occurred in the Republic of Peru, within whose territory the granting of concessions for the exploitation of natural resources was given priority, to the detriment of the uses, customs, and way of life of indigenous populations.

8. An example is the border between Bolivia and Paraguay, where more than 20 kilometers separate the border posts between the two nations. The monuments demarcating the territorial limit are the only indication of the border of the two states. Another example is in the Caribbean, where the vast majority of the borders are maritime borders. In practice, this situation “moves” the formal borders to the coastlines of the states.

9. Questions posed by professor Jason Ackleson for the panel “Assessing North American Border Challenges Through Multiple Lenses,” 2008 International Studies Association Annual Convention, San Francisco, California.

10. Ortíz, Ana Isabel, “El Contrabando del Arróz en Bolivia,” CIPCA (2007).

11. Measures for “hardening” borders, adopted unilaterally by states, if not accompanied by complementary measures adopted by neighboring states, tend to fail due to the practical impossibility of controlling border areas completely. They also tend to create conditions favorable to criminal activity and promote corruption.

12. The clearest example of this practical impossibility is found on the border between the United States and Mexico, where criminal activity thrives, despite the great deployment of resources and personnel, and even the construction of walls. The situation on the border has also created conditions favorable to the trafficking of persons, who in many cases are simply seeking better working conditions and do not pose a threat to U.S. national security.

13. See “Iniciativa para la integracion de la infraestructura regional suramericana,” <http://www.iirsa.org>.

14. The highway would connect the Department of Cochabamba, a region with high levels of agricultural production in the heart of the country and a population of 1.75 million, and the Department of Beni, a sparsely populated region located in the far northeast of Bolivia with less than 500,000 inhabitants.

15. A new section was rejected as “nonviable” by Bolivian authorities because of the difficult topographic conditions of the area.

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