

Lines, Flows and Transnational Crime: Toward a Revised Approach to Countering the Underworld of Globalization

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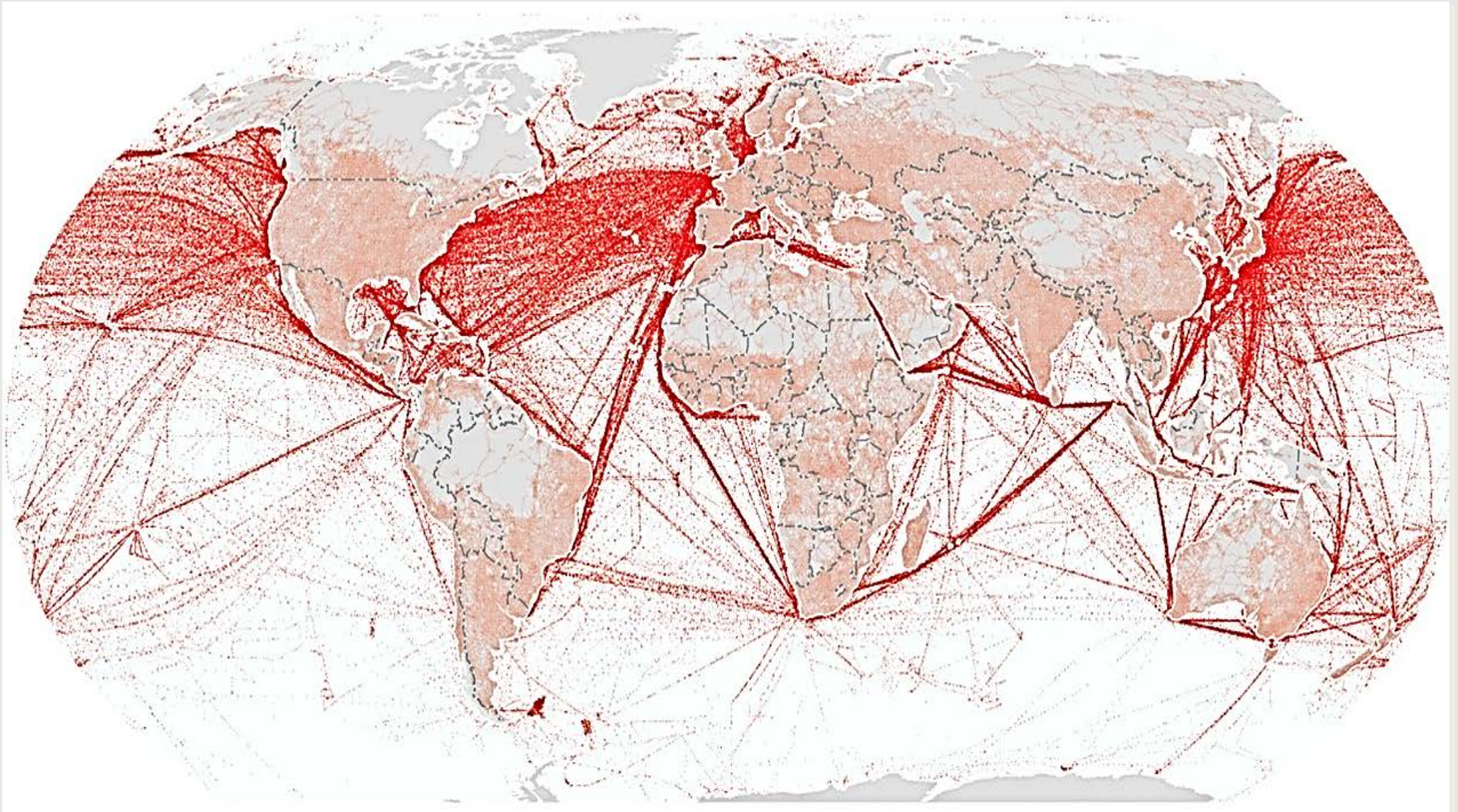
The Beginning and End of Borders

Peace of Westphalia (1648)

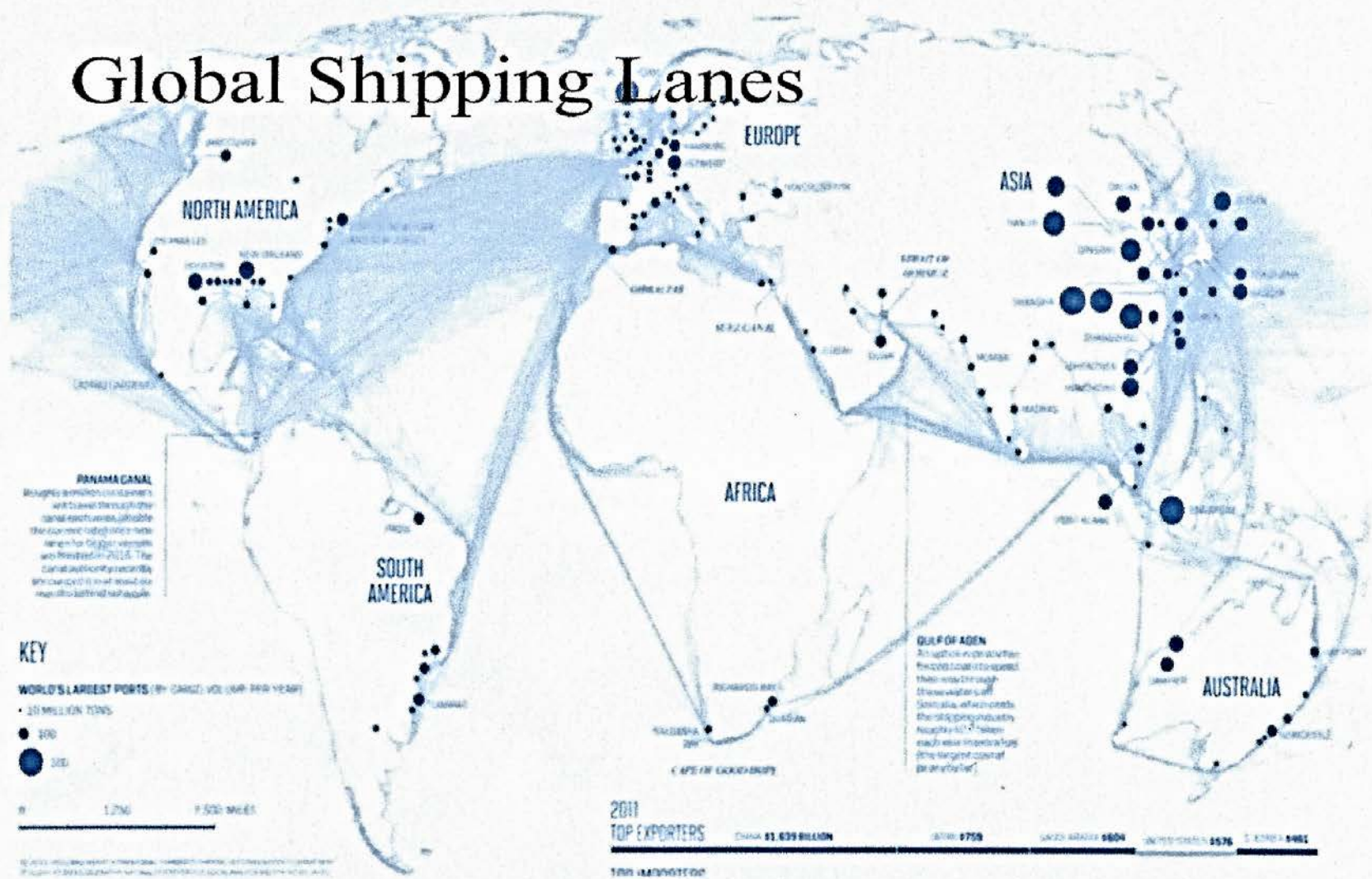


In which the major continental European states agreed to respect one another's territorial integrity.

New Border Paradigm: Global Lines and Flows Define Modern Borders



Global Shipping Lanes



According to CBP:

- + 325 ports of entry (includes land borders, seaports, and airports)
- + Daily, more than 350,000 cars and trucks are screened
- + Daily, nearly 60,000 cargo containers are screened, with more than half of those at seaports

Global Air Traffic

A world map with a network of white lines and dots representing global air traffic routes and hubs. The lines are most dense in North America, Europe, and East Asia, indicating high traffic volumes. The dots represent major airports or hubs. The background is a solid teal color.

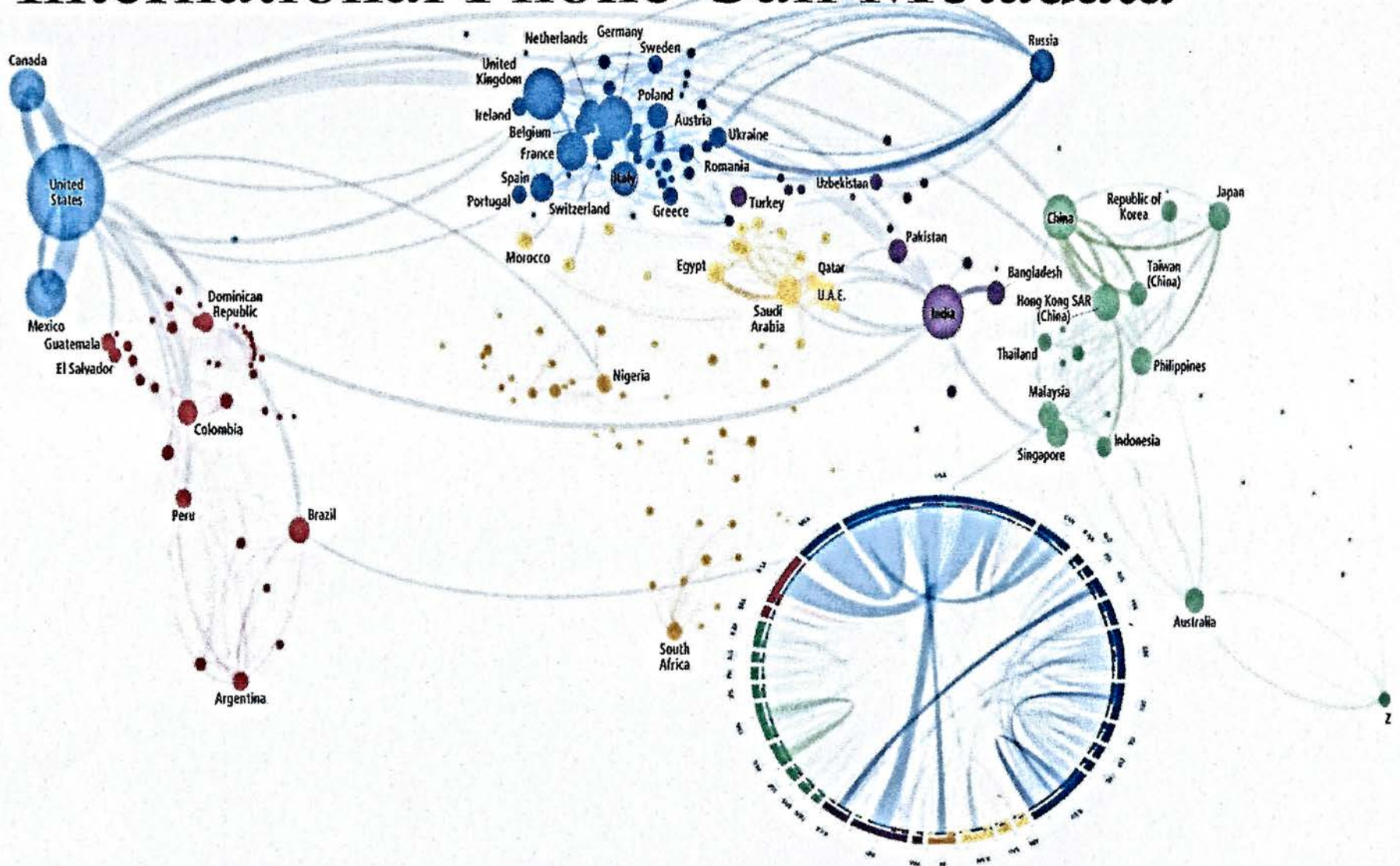
According to USDOT:

- 87,000 flights over U.S. airspace on any given day
- 25,000 to 30,000 U.S. domestic passenger flights each day
- Daily 2 million+ passengers travel on flights within and to and from the U.S.

According to IATA

- In 2005, 2.146bn air passengers globally, compared to 3.57bn in 2015
- In 2005, 24.9 mn flights globally, compared to 34.8 mn in 2015

International Phone Call Metadata



Borders in a Globalized World (1)

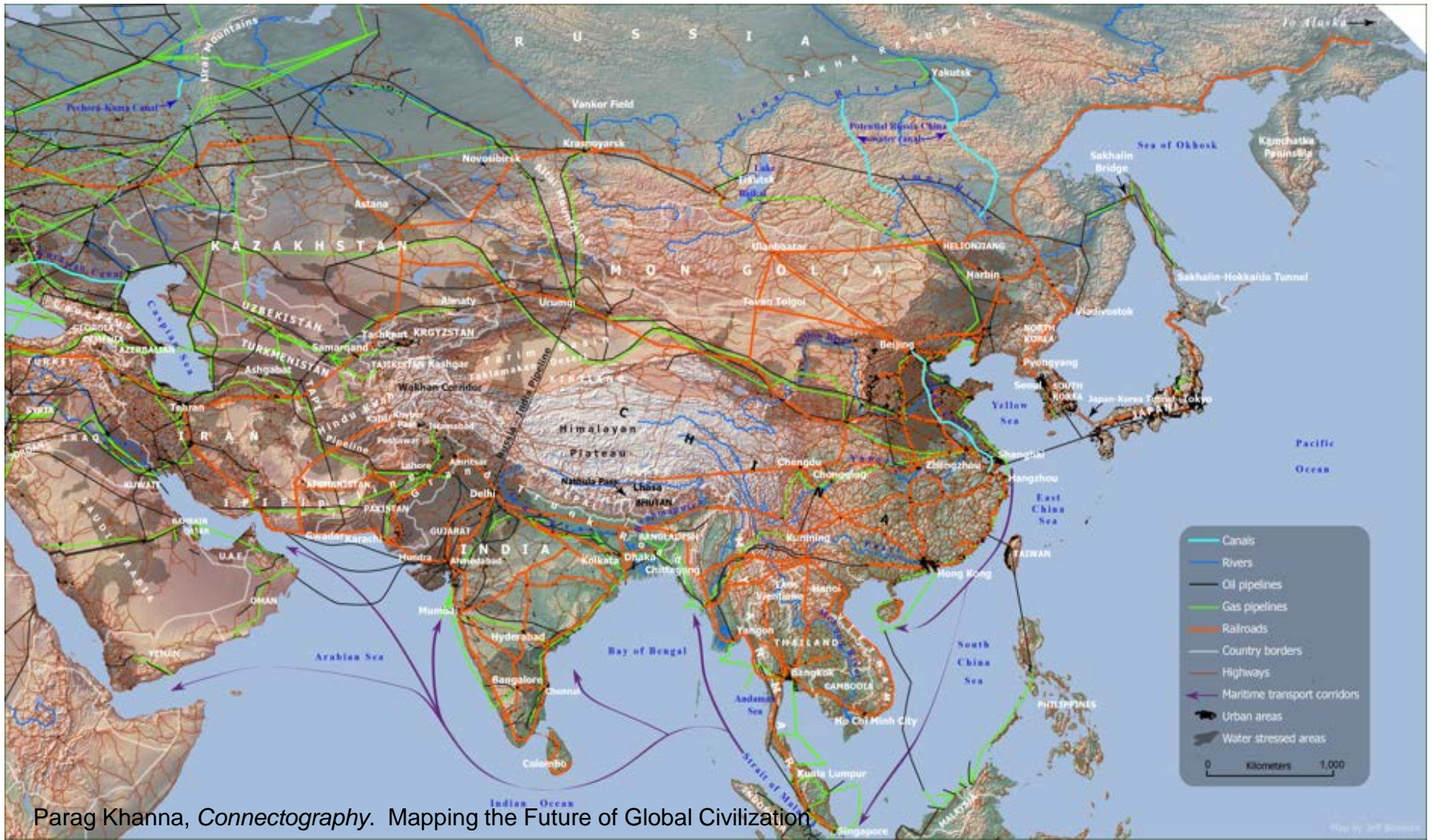
Borders in a globalized world are flows toward and across lines marking national sovereignty

- Borders traditionally have been viewed as lines in the sand (and on a map) demarcating the edges of sovereign states (or empires) according to the Westphalian system.
- Globalization is the cumulative cause and effect of the intensified and (often) instantaneous "borderless" flow of labor, capital, goods, ideas, and data that characterize the modern world.
- As the process of globalization expands, the concept of "borders" is enlarged to encompass the unprecedented flows of all kinds that cross border lines continuously on a 24/7/365 basis.

Borders in a Globalized World (2)

The new border paradigm links jurisdictional lines to flows toward and across them.

- Points of entry (airports, seaports, and land ports) are the last line, not the first line, of defense for national sovereignties.
- Since 9/11, we have learned that the border begins where airplanes take off and where cargo is laden into the hold, not at the destination boundaries themselves.
 - The Case of the Christmas Day 2009 Bomber.
 - The Yemen Cargo Plot of October 2010.



Parag Khanna, *Connectography*. Mapping the Future of Global Civilization

Map by Jeff Bonser

Borderless with Borders

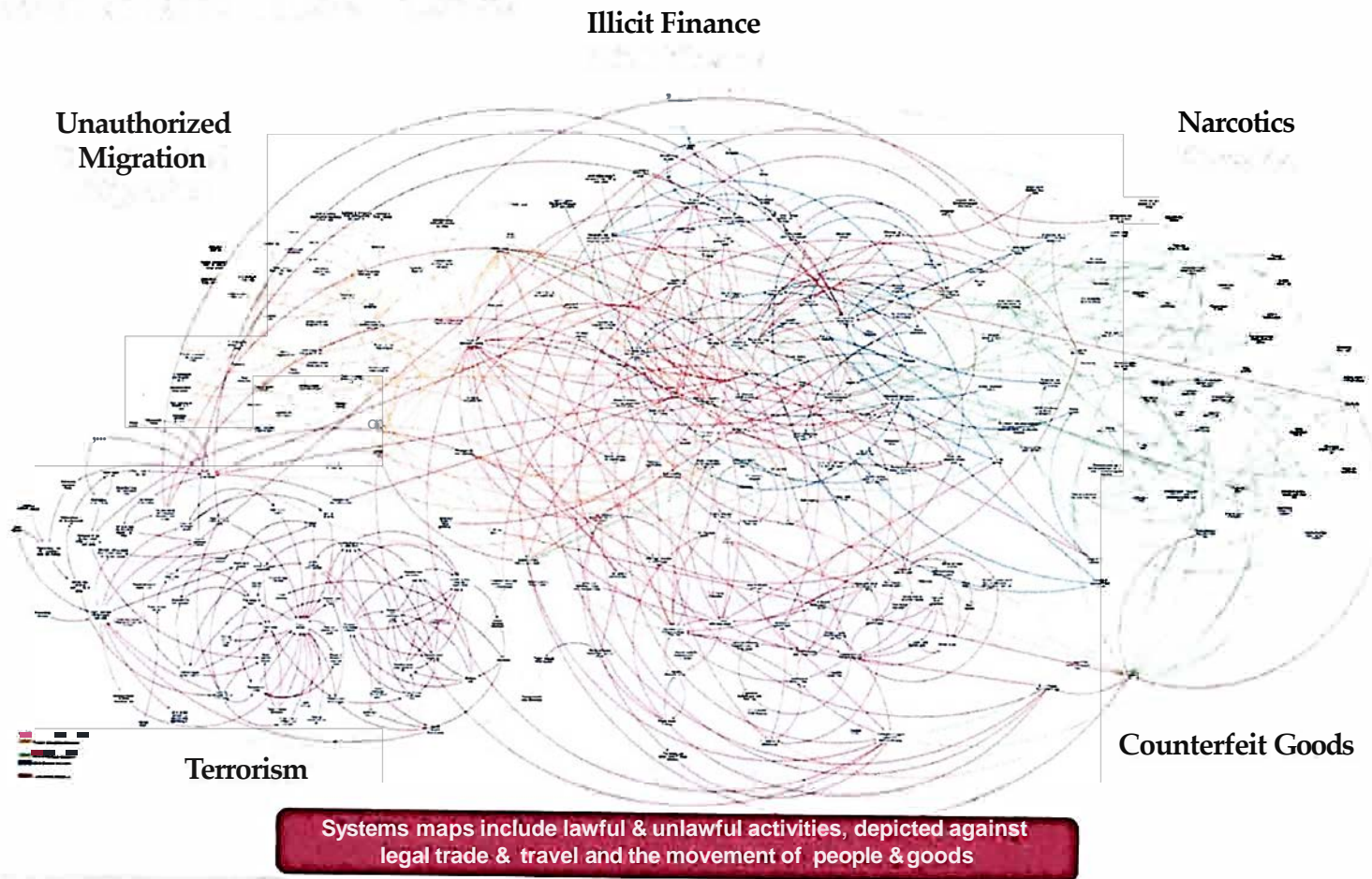
The Underworld of Globalization and the Challenge of Security

"I've had a strange sense that two parallel worlds exist on this planet - a stable, progressively growing, developing world and an unstable, disintegrating, chaotic world. The two worlds - the stable and the unstable - are colliding."

"The new world order was changing in other ways also. Globalization and the explosion of information technology were making the world more interdependent and interconnected. Geographic obstacles such as oceans and mountain ranges no longer provided impenetrable boundaries. Economic, political, or security-related instability in remote parts of the world was having a greater effect on our security interests and well being on this shrinking planet. In addition, the rise of nonstate entities such as nongovernmental organizations, transnational criminal groups, extremist organizations, global corporations, and warlord groups brought a new confusing dimension to a world previously dominated by nation state interaction."

-General Anthony C. Zinni, USMC (Retired)

The Underworld of Globalization



Transnational Criminal Organizations (TCO's) Integrated Flows System Map

Beyond Westphalia: Lines, Flows and Transnational Crime

TCOs function in the seams between the boundaries of nation states. In the context of globalization, TCOs operate successfully, and largely with impunity, within these seams – the gaps – between national law enforcement jurisdictions. The global framework of national sovereignty – begun with the Treaty of Westphalia in 1648 – is not equipped as such to deal with the threat of transnational crime. The TCOs which operate in the netherworld of globalization control that dangerous space and have outstripped the capacity of international law enforcement including the United States Government to control it. There is a pronounced need to develop a revised approach.

1. The Case of Chapo Guzman
2. The Criminals of Cyber Space

The Case of Chapo Guzman

For decades, Joaquín “Shorty” (“El Chapo”) Guzmán’s Sinaloa Cartel smuggled untold quantities of drugs north into the United States and, reciprocally, billions of dollars in bulk cash and tens of thousands of weapons south into Mexico. Guzmán was captured twice by Mexican authorities and escaped twice before being captured a third time in 2016; extradited to the United States, he now resides in a maximum security federal prison facility awaiting trial. Shorty Guzmán’s saga revealed many things, but most importantly it demonstrated that take-downs of kingpins have limited effect on drug, weapons and bulk cash smuggling across the U.S.-Mexican border: north/south trafficking flows of contraband were uninterrupted by the apprehension of the most wanted person in North America.

The Criminals of Cyber Space

A (hypothetical) cybersecurity officer associated with Russia's secret services – and employed by a criminal syndicate – operates on the Dark Web from an enclave territory in eastern Europe. His activities involve financial theft across the virtual banking world, arms trafficking, periodic freelance ransomware intrusions, and a variety of “fake news” transmissions. A team at the U.S. Secret Service that monitors his illicit activities has worked with an Assistant U.S. Attorney in the Southern District of New York to prepare an indictment against him but, because he never travels outside his geographic refuge, is unable to execute it. Despite considerable investment of law enforcement resources and continuing damage done, the classic model of “investigate-indict-arrest-prosecute-incarcerate” has not served to prevent or disrupt his activities. Ultimately, investigators must turn to other agencies for assistance in disrupting the officer's activities.

The Unaccompanied Minor Children (UAC) Migration

In late 2014, the U.S.-Mexico border flooded with tens of thousands of unaccompanied children from Central America seeking entry into the United States. Combining financial data not previously exploited by DHS with information gleaned from detained migrants, the Human Trafficking Cell (HSC) – a tiny, *ad hoc* operation with staff pulled from different operating agencies at DHS – was able to identify hundreds of individuals (often relatives of the children in question) in the United States who appeared to have arranged for their transportation through Mexico. The HSC's response was not to build a criminal case against each potential defendant, instead agents from Immigration and Customs Enforcement (ICE) conducted “knock and talks” with those who arranged the travel. These visits from ICE were intended to deter further wrongdoing. Few arrests were made but the message was clear enough, in concert with other measures, to help reduce the torrent of unlawful migration to its normal trickle. Through clever analysis, the HSC had found a weak link in a highly decentralized ecosystem of human smuggling and pushed on that spot, successfully disrupting the illicit activity.

Beyond 9/11: The Parameters of a New Approach

- A. Terrorism is One Species of Transnational Crime
- B. Blurred Boundaries: Law Enforcement and National Security; International Affairs and Domestic Matters
- C. Beyond the Criminal Justice Model: Disruption, Prevention and Protection
- D. Joint Border Management – Internally and Externally Required
- E. Multilateral Organizations – Public and Private – Must Be Strengthened for Purposes both of Enhanced Data Sharing and Coordinated Operations
- F. North America: A Potential Model?

The Bali Accords on Trade Facilitation: The Crucial Provisions VII and VIII

- Article VII (Release and Clearance of Goods):
 - Procedures to expedite the release of goods upon arrival
 - Risk management system focused on targeting high risk consignments and expediting low risk consignments
 - Promotion of “authorized operator” programs and mutual recognition
- Article VIII (Collaborative Border Management):
 - Cooperation among border agencies within country
 - Cooperation between countries with shared borders

Global Principles of Secure and Efficient Border Management (1)

Generic Principles:

- The purpose of effective border management is to identify people, goods and conveniences that are likely to cause harm to society or global order (including the integrity of international economic relations) or otherwise violate domestic laws. Its goal is to mitigate opportunities that result in such infractions. Accomplishing this task requires individualized assessment about the risk a unique individual, shipment or convenience presents and appropriate capabilities for responding to the identified risk.
- Border management agencies should strive to segment traffic to facilitate the entry of low or no-risk travel and trade through screening that also allows for the interdiction of those who are more likely to pose a risk. Neither facilitation nor security should be viewed as mutually exclusive functions but rather treated as a single process.
- States may adopt laws and regulations governing the admission to, departure from and transit through its territory by individuals, vessels or goods, requiring the provision of information at or prior to the border and minimum physical security requirements.
- Upon a determination of admissibility, governments should allow the free movement of travelers across and within their borders.
- Governments should provide protection and assistance to victims of crimes and other atrocities who seek to cross their borders.

Global Principles of Secure and Efficient Border Management (2)

How Governments should organize themselves:

- Governments should establish uniformity of purpose among customs, immigration and other border agencies and police, counter-terrorism officials and other relevant organizations to ensure the safety and integrity of international trade and travel.
- Advance data about travelers intending to cross borders, including when appropriate biographic and biometric data, or cargo moving towards borders is integral to border management; each receiving country may establish advance data requirements for incoming travelers and cargo that it deems necessary.
- Decisions about risk should be based on factual information about known offenses or offenders and their methods and tactics.
- Governments should institute procedures to prevent travelers from masking their true identity during international travel. Similarly, the true goods in transportation, their purchaser and originator and all relevant intermediaries should be transparent to border authorities in a manner that does not compromise trade relationships.
- While protecting everyone's right to leave any country as codified in the Universal Declaration of Human Rights, Governments should be cognizant of the impact of their exit policies on the entry requirements of other nations.

Global Principles of Secure and Efficient Border Management (3)

What Governments should do together:

- Governments collaborate among themselves and with the private sector to intervene and mitigate risk at the earliest point in the travel continuum after the risk has been identified, regardless of the party identifying the risk. This may require operational exchanges to alert other nations to high risk to travel and trade.
- If a State of departure, transit or arrival lacks the ability or resources to interdict and mitigate an identified risk, it should be able to request and receive assistance from other States party to the transactions.
- Governments may undertake joint efforts to mitigate risk, including, when appropriate, through mutual recognition of domestic programs.
- Each government should cooperate to receive individuals returned to that country for violating the entry and stay requirements of other governments.
- Each government shall refrain from interfering in the border management strategies, policies, and tactics employed by another that are consistent with democratic values, fundamental human rights and these principles.
- Governments should share knowledge about trends and techniques used by individuals to circumvent border management techniques.
- Innovations in border management should at an appropriate time continue to be codified in standards by competent and internationally recognized standards bodies.
- Governments should consider another country's adherence to these principles when considering its travel and trade policies toward such country, including visa policies. States unable to adhere to these principles should expect persons and goods departing from their territory to receive greater scrutiny by nations adopting these principles.