

## NOTE

### HIV IN RUSSIA ON THE RISE: A MACRO-LEVEL SOLUTION TO A MICRO-LEVEL EPIDEMIC

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#### INTRODUCTION

In her one-room flat . . . Zoya pulls down the left shoulder of her black blouse and readies herself for her next hit. A friend and ex-addict . . . heat[s] a dark, pebble-like lump of Afghan heroin in a tiny glass jar, mixes it with filtered water and injects it into Zoya's shoulder. The 44-year-old widow is . . . HIV-positive, overweight and diabetic. After 12 years of . . . drug abuse, the veins in her forearms and feet are covered in bloody scabs and abscesses, too weak and sore to take fresh injections.<sup>1</sup>

Zoya's story is just one example illustrating the health epidemic currently plaguing the world's most massive country.<sup>2</sup> The Russian Federation faces one of the highest growing rates of human immunodeficiency virus (HIV) infection in the world, with possibly 1.5 million people—more than one percent of its population—currently infected,<sup>3</sup> and an estimated 2.5 million by the year 2020, according to its Health Minister Veronika Skvortsova.<sup>4</sup> In 2016, Russia's Federal AIDS Center acknowledged that the prevalence of the disease was no longer “concentrated pri-

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1. Amie Ferris-Rotman, *Special Report: In Russia, a Glut of Heroin and Denial*, REUTERS (Jan. 25, 2011), <http://www.reuters.com/article/us-russia-heroin-idUSTRE70O22X20110125> (discussing Zoya's story) [<https://perma.cc/U4YT-B5DU>].

2. *See id.*

3. *See* Carrie C. Gage, *Toward a Legislative Solution to the Growing HIV/AIDS Epidemic in Russia: A Case for Expanded Health Privacy*, 17 PAC. RIM L. & POL'Y J. 157, 158 (2008); *Russia's AIDS Epidemic Reaches Crisis Levels*, VICE NEWS (Jan. 22, 2016), <https://news.vice.com/article/russias-aids-epidemic-reaches-crisis-levels> [<https://perma.cc/V69Y-ZKKN>].

4. Mansur Mirovalev, *Is the Kremlin Fueling Russia's HIV/Aids Epidemic?*, AL JAZEERA (July 19, 2016), <https://www.aljazeera.com/indepth/features/2016/05/kremlin-fuelling-russia-hivaids-epidemic-160515153616919.html> [<https://perma.cc/MAK6-3GA9>].

marily within a certain group” and was “on the verge of becoming common throughout the population.”<sup>5</sup> The Russian government cannot afford to continue to only pay lip service to this HIV epidemic because the consequences for Russian society, family formation, the military, labor productivity, and the overall sustainability of its economy will be devastating.<sup>6</sup> While governments and intergovernmental organizations (IGOs) around the world are publicly noting this alarming upsurge, Russian officials continue to dismiss the concern as merely part of the West’s “culture war” against Russia.<sup>7</sup> Nonetheless, scholars have identified other contributors to this social problem, underscoring the legal implications.<sup>8</sup>

As this Note presents, intravenous drug abuse and addiction contributes to the country’s soaring HIV infection rate,<sup>8</sup> as these infections are highly concentrated among injection drug users (IDUs)—approximately ninety percent.<sup>9</sup> To complicate matters further, Russia has the largest number of IDUs in Eastern Europe and Central Asia, with an estimated 1.8 million—approximately 2.3% of its adult population.<sup>10</sup> Eighteen to thirty-one percent of these individuals are thought to be living with HIV.<sup>11</sup> With such a high number of IDUs, the fact that heroin is a common drug is no surprise because heroin is almost exclusively injected.<sup>12</sup> Heroin use begs the question of whether there is a broader, underlying drug-related issue that the Russian government is failing to address.<sup>13</sup>

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5. *Russia’s AIDS Epidemic Reaches Crisis Levels*, *supra* note 3.

6. Gage, *supra* note 3, at 157 (quoting Peter Finn, *HIV/AIDS in Russia May Be Triple Official Rate*, WASH. POST (Jan. 13, 2005), <http://www.washingtonpost.com/wp-dyn/articles/A1960-2005Jan11.html> [<https://perma.cc/BY6K-8SWF>]).

7. Alexander Chernykh, *Nothing Russian about AIDS: Moscow City Duma Proposes Fighting HIV Epidemic with Heterosexual Monogamous Family*, RUSS. READER (May 31, 2016), <https://therussianreader.com/tag/vadim-pokrovsky/> [<https://perma.cc/D5YB-RDZ9>].

8. See, e.g., Marisa L. Maskas, *Trafficking Drugs: Afghanistan’s Role in Russia’s Current Drug Epidemic*, 13 TULSA J. COMP. & INT’L L. 141, 141–43 (2005) (describing Afghan opium production and open Russian borders as part of the drug trafficking cycle).

8. Gage, *supra* note 3, at 160.

9. *Id.*

10. Anna Pivovarchuk, *Russia Must Step Up and Fight Its Drug Problem*, MOSCOW TIMES (July 1, 2015), <https://themoscowtimes.com/articles/russia-must-step-up-and-fight-its-drug-problem-47822> [<https://perma.cc/6LQQ-W26S>]; *HIV and AIDS in Russia*, AVERT, <https://www.avert.org/professionals/hiv-around-world/eastern-europe-central-asia/russia> (last updated June 13, 2017) [<https://perma.cc/55DZ-VA8L>].

11. *HIV and AIDS in Russia*, *supra* note 10.

12. See Gregory Gilderman, *Death by Indifference: AIDS and Heroin Addiction in Russia*, WORLD AFF. J. (Jan./Feb. 2013), <http://www.worldaffairsjournal.org/article/death-indifference-aids-and-heroin-addiction-russia> (“[U]sers like to inject the drug intravenously, regardless of how old or contaminated their syringes may be . . .”) [<https://perma.cc/WDJ4-UZTB>].

13. See Ryan Hoskins, *Russia’s Silent HIV Epidemic*, FOREIGN POL’Y (Nov. 22, 2016), <http://foreignpolicy.com/2016/11/22>

This Note answers this question in the affirmative and presents a legal solution to the problem. The trafficking of Afghan opium across the vastly unsecured borders between Eastern Europe and Central Asia underpins Russia's growing rate of HIV infection.<sup>14</sup> Currently, a dangerous cycle exists whereby criminal groups traffic opium from Afghanistan, through Central Asia, into Russia and other neighboring countries.<sup>15</sup> Once across Russian borders, these criminal groups distribute the heroin to users and addicts.<sup>16</sup> Today, the Russian government must confront an estimated 1.5 million heroin addicts and 7 million drug users.<sup>17</sup> These figures demonstrate an HIV epidemic that, if left unaddressed, threatens the country's security, economic stability, and general welfare.<sup>18</sup> Taking strides to address the epidemic requires the Russian government to address opium trafficking, which can be achieved through a specialized legal framework.<sup>19</sup>

On some level, the Russian government is already engaged in legal frameworks to address the issues of drug trafficking and HIV infection.<sup>20</sup> For example, Russia is a party to the Single Convention on Narcotics (Single Convention), one of the most significant international agreements governing illicit drugs.<sup>21</sup> This treaty requires state parties to prevent drug trafficking from occurring at the national level, assist other states in their efforts to do the same, cooperate with other states and IGOs to ensure

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/russias-silent-hiv-epidemic-fskn-krokodil-aids-public-health-putin/ (highlighting the nexus between the human immunodeficiency virus (HIV) in Russia and opium trafficking from Afghanistan) [https://perma.cc/6US7-9UDU].

14. *Id.* (“In the late 1990s and onward, as trafficking routes from Afghanistan through the porous borders of former Soviet Central Asia and into Russia further developed, infection rates across the region steadily rose.”).

15. *See* Maskas, *supra* note 8, at 141–42.

16. *Id.*

17. Pivovarchuk, *supra* note 10.

18. *See* Gage, *supra* note 3, at 157.

19. *See id.* at 143 (recommending “establishing tighter border patrol alliances with neighboring countries, reconstructing the already existing drug control law systems, controlling the growing population of drug users in Russia, and helping Afghanistan create new options for income in order to diminish or eliminate opium production”).

20. *See* Gage, *supra* note 3, at 163–64 (stating that “[i]n 2006, Russia hosted an Eastern European regional meeting on HIV/AIDS” and “a recent amendment to the Russian Criminal Code legalizes needle exchanges where needles are distributed to deter infectious disease” but the Ministry of Health hasn’t issued guidelines yet on distribution).

21. *Status of Treaties*, U.N. TREATY COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=VI-18&chapter=6&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-18&chapter=6&clang=_en) (last updated Feb. 2, 2018) [https://perma.cc/V7AG-3DS8]; *see also* Single Convention on Narcotic Drugs, Mar. 30, 1961, 18 U.S.T. 1407, 520 U.N.T.S. 204; Amendment of the Single Convention on Narcotic Drugs, Mar. 25, 1972, 26 U.S.T. 1439, 976 U.N.T.S. 3; *see generally* Single Convention on Narcotic Drugs, 1961, as amended by the Protocol amending the Single Convention on Narcotic Drugs, 1961, Aug. 8, 1975, 976 U.N.T.S. 105 (containing both the original convention and the 1972 amendments) [hereinafter Single Convention on Narcotic Drugs].

international cooperation in the global fight against trafficking, and punish actors involved in this criminal activity.<sup>22</sup> At the regional level, Russia is a member of the Commonwealth of Independent States (CIS)—a “free association of sovereign states formed in 1991 by Russia and 11 other republics that were formerly part of the Soviet Union.”<sup>23</sup> In 2000, the CIS signed the Agreement on Cooperation in Combating Illicit Traffic in Narcotic Drugs, Psychotropic Substances and Precursor, and in 2011, signed the Agreement on the Procedure for Transferring Samples of Narcotic Drugs, Psychotropic Substances and Their Precursors.<sup>24</sup> These instruments established a legal basis for the CIS’ cooperation in combatting trafficking in the region.<sup>25</sup> Despite these engagements, the Russian government can do more to fulfill its obligations under international law.

This Note not only examines the correlation between Russia’s HIV epidemic, IDU epidemic, and the trafficking of Afghan opium, but also argues that the Russian government should address opium trafficking as a means to mitigate the HIV epidemic in the long term. Through the CIS, the Russian government should initiate the establishment of a specialized committee tasked with drafting and negotiating a trafficking security agreement between the CIS and Afghanistan. This agreement should also embrace assistance from the Collective Security Treaty Organization (CSTO). By doing so, Russia can advance important foreign policy and national security interests, one of which is preventing this deadly virus from decimating its working-class population. Understanding the HIV epidemic in the context of opium trafficking and addressing it through a trafficking security agreement that directly involves the Afghan government is a strategic step for the Russian government in curbing the long-term effects of the epidemic without succumbing to external influence from the West.

Part I of this Note begins with an overview of the international drug trade, outlining the process of cultivation in East Asia, trafficking in Central Asia, and consumption in Eastern Europe. This Part then highlights

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22. See Single Convention on Narcotic Drugs, *supra* note 21, art. 35.

23. *The Commonwealth of Independent States*, ENCYC. BRITANNICA, <https://www.britannica.com/topic/Commonwealth-of-Independent-States> (last updated Jan. 11, 2018) [<https://perma.cc/QJU6-MGYT>].

24. See Letter from T. Buzubaev, Deputy Exec. Sec’y of the Commonwealth of Indep. States, to Y.V. Fedotov, Exec. Dir. of the U.N. Office of Drugs & Crime 2 (July 23, 2013), [https://www.unodc.org/documents/commissions/CND/CND\\_Sessions/CND\\_57/57-session-info/Section\\_d/CIS\\_Commonwealth\\_of\\_Independent\\_States\\_E.pdf](https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_57/57-session-info/Section_d/CIS_Commonwealth_of_Independent_States_E.pdf) (regarding the activities of CIS to combat drug trafficking) [<https://perma.cc/X27N-XDP7>].

25. *Id.*

the negative effects of drug trafficking and abuse on the Russian population and discusses the CIS, the CSTO, and the relationship between Russia and Afghanistan. Part II of this Note proposes that the CIS (1) form a new committee tasked with (a) developing the trafficking security agreement and (b) obtaining Afghanistan's approval; and (2) partner with the CSTO to implement the agreement, both under Russian leadership. This Part then elaborates on the implementation of this proposal and its advantages for the Russian government.

## I. BACKGROUND

This Part provides a chronological overview of the drug trafficking cycle beginning with the production of opium in Afghanistan and ending with its consumption in Eastern Europe, identifies the weakness of the Central Asian borders, and discusses the HIV epidemic's negative consequences for the Russian population. This Part then introduces the regional organizations relevant to this Note's proposal—the CIS and the CSTO—and their recent efforts to combat illicit drug trafficking in the region.

### A. *The Trafficking Cycle: From Afghanistan to Russia*

#### 1. The Cultivation of Opium in Afghanistan

More than 78% of the drugs that enter the Russian market are produced abroad.<sup>26</sup> Synthetic drugs come from Western Europe through Ukraine, Belarus, and the Baltic States, cocaine comes from Latin America and opiates come from Afghanistan.<sup>27</sup> Southeast Asia and the Middle East are responsible for producing large quantities of the world's opium and its derivative, heroin,<sup>28</sup> but during the 1990s, Afghanistan firmly established itself as the largest producer of opium in the world.<sup>29</sup> Of the 430–450 tons of heroin flowing annually into the market, the United Nations Office on Drugs and Crime (UNODC) estimates that “opium from Myanmar and the Lao People's Democratic Republic yields some 50 tons,

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26. Aaron Beitman, *Perspectives on Illicit Drugs in Russia*, TERRORISM, TRANSNAT'L CRIME & CORRUPTION CTR. (TRACCC), <http://tracc.gmu.edu/2011/12/05/perspectives-on-illicit-drugs-in-russia/> (last updated Sept. 7, 2012) [<https://perma.cc/4K8L-EW3A>].

27. *Id.*

28. See Louise Shelley, *The Drug Trade in Contemporary Russia*, 4 CHINA & EURASIA F.Q. 15, 16 (2006); *Drug Trafficking*, U.N. OFF. DRUGS & CRIME, <https://www.unodc.org/unodc/en/drug-trafficking/index.html> (last visited Mar. 25, 2018) [<https://perma.cc/X9VS-TLR7>].

29. Maskas, *supra* note 8, at 144 (quoting U.N. Office of Drugs & Crime, *World Drug Report: 2004*, U.N. Sales No. E.04.XI.16 (2004)).

while the rest, some 380 tons of heroin and morphine, is produced exclusively from Afghan opium.”<sup>30</sup> In less developed countries like Afghanistan, where education and income levels are low, and a majority of the population relies on agricultural production for personal income, farmers have an economic incentive to produce opium and coca instead of legitimate crops because of the huge profits that they can amass.<sup>31</sup>

## 2. The Trafficking of Opium Through Central Asia and into Russia

Central Asian countries such as Kazakhstan, Turkmenistan, and Uzbekistan are repeatedly used as passageways to traffic illicit substances into Russia because of their geographical proximity and lack of adequately patrolled borders.<sup>32</sup> During the early post-Soviet transition stage, Russian officials were urged to devote as many resources as possible to prevent illegal trafficking.<sup>33</sup> Despite these efforts, Russia’s vulnerability to organized crime increased during the 1990s due to the opening of its borders, the collapse of neighboring economies, and the rise of regional conflicts.<sup>34</sup> With the collapse of the Soviet Union in 1991 came the creation of the CIS.<sup>35</sup> After its creation, Russia lacked the resources to establish a fully equipped border regime because it could no longer benefit from the buffer zone of Soviet republics and subservient East European countries that once provided security in the Soviet era.<sup>36</sup> In addition, some CIS member states adopted an open border policy, making border security even harder to maintain.<sup>37</sup> This policy was alluring for traffickers because the newly established unprotected borders would prove simple to cross.<sup>38</sup>

The three major routes out of Afghanistan along which heroin is trafficked each year include one route that carries the drugs east through

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30. *Drug Trafficking*, *supra* note 28; see also *West and Central Asia*, U.N. OFF. DRUGS & CRIME, <https://www.unodc.org/unodc/en/drug-trafficking/central-asia.html> (last visited Mar. 25, 2018) (“Afghanistan continues to dominate the worldwide opium market. In 2015, the country still accounted for almost two thirds of the global area under illicit opium poppy cultivation.”) [<https://perma.cc/NC9B-VKUJ>].

31. Maskas, *supra* note 8, at 144–45 (“The income received from Afghan heroin trafficking amounts to large profits for ‘a country where the average wage does not exceed \$2 per day.’” (quoting United Nations Office of Drugs & Crime, *The Opium Economy in Afghanistan: An International Problem*, U.N. Sales No. E.03.XI.6 (2003))).

32. *Id.* at 148–49.

33. See Alexei Guermanovich, *Drugs Join Alcohol as a Bane to Russian Society*, CHRISTIAN SCI. MONITOR (Oct. 5, 1995), <http://www.csmonitor.com/1995/1005/05013.html> [<https://perma.cc/MK87-VLWS>].

34. See Shelley, *supra* note 28, at 16.

35. *The Commonwealth of Independent States*, *supra* note 23.

36. Maskas, *supra* note 8, at 158.

37. *Id.*

38. *Id.*

China, one route that carries drugs west through Iran and into Europe, and a third route that travels north through Tajikistan and into Russia.<sup>39</sup> Today, about one-quarter of Afghan heroin is trafficked north to Central Asia and the Russian Federation along this third route.<sup>40</sup> An estimated eighty percent of the total heroin seized in Russia is trafficked from Central Asia.<sup>41</sup>

Securing international borders remains a constant struggle for Russia because it is the largest country in the world, bordered by fourteen countries totaling 20,017 kilometers of land.<sup>42</sup> Other countries in the region also experience difficulty securing their borders.<sup>43</sup> For some Central Asian countries, widespread corruption since the fall of the Soviet Union continues to hinder good governance and enable drug trafficking.<sup>44</sup> However, the most significant factor affecting the security of Central Asian borders is that many of the countries' law enforcement agencies lack the necessary resources, training, and equipment to effectively intercept trafficking.<sup>45</sup> As a result, smugglers face a low risk of being detected in the region.<sup>46</sup>

### 3. The Distribution and Consumption of Heroin in Russia

Heroin distribution in Russia has grown dramatically since 1992, a year in which only five grams were seized by the Health Ministry.<sup>47</sup> By 1996, this figure had astonishingly reached 695 kilograms.<sup>48</sup> Although Russian officials today are seizing more drugs, such progress is not worth celebrating because “[a]ccording to experts, only 10–15% of all estimated

39. Ilissa Noel Velez, *Russia's Fight Against Drug Trafficking: Challenges in Developing Local Law Enforcement Capabilities* 16, (July 25, 2013) (unpublished M.A. thesis, University of Washington) (on file with the Research Works Archive, University of Washington).

40. Keegan Hamilton, *The Golden Age of Drug Trafficking: How Meth, Cocaine, and Heroin Move around the World*, VICE NEWS (Apr. 25, 2015), <https://news.vice.com/article/drug-trafficking-meth-cocaine-heroin-global-drug-smuggling> [https://perma.cc/MT2Q-85AD].

41. Maskas, *supra* note 8, at 149 (quoting MARTHA BRILL OLCOTT & NATALIA UDALOVA, CARNEGIE ENDOWMENT WORKING PAPERS, *DRUG TRAFFICKING ON THE GREAT SILK ROAD: THE SECURITY ENVIRONMENT IN CENTRAL ASIA* 26 (2000)).

42. *Id.* at 151 (explaining that Russia's enormous border remains relatively unsecured because it would be impossible to protect every inch).

43. *Id.* at 148–51.

44. U.N. OFFICE OF DRUGS & CRIME, *SECURING CENTRAL ASIA'S BORDERS WITH AFGHANISTAN: OUTLINE ACTION PLAN 4* (2007), [https://www.unodc.org/documents/regional/central-asia/Microsoft%20Word%20-%20yellow\\_paper\\_\\_no%20maps\\_16.09.17.pdf](https://www.unodc.org/documents/regional/central-asia/Microsoft%20Word%20-%20yellow_paper__no%20maps_16.09.17.pdf) [https://perma.cc/7K6A-JD3W].

45. *Id.*

46. *Id.* at 3.

47. Letizia Paoli, *Illegal Drug Trade in Russia: A Research Project Commissioned by the UN Office for Drug Control and Crime Prevention*, 93 KRIMINOLOGISCHE FORSCHUNGSBERICHTE 6 (2001).

48. *Id.*

drug crimes are detected by authorities.”<sup>49</sup> This is because organized criminal groups play a significant role in the Russian drug trade and are often difficult for the authorities to fight due to shortage of personnel.<sup>50</sup> Relatedly, the enormous growth of the international drug market has attracted more Russian criminal groups to the trade of narcotics.<sup>51</sup> The current market is saturated with heroin in part due to its high chemical dependency.<sup>52</sup> In fact, in 2009, Russia’s Federal Drug Control Service (FDSC) reported that ninety percent of drug-dependent Russians were addicted to Afghan opiates.<sup>53</sup>

When heroin became an international commodity, Russians started consuming the drug intravenously and at extraordinarily high levels.<sup>54</sup> Russians grow up learning how to use syringes to inject medicine and “lack the [cultural] aversion to needles Western users have,” and they therefore have never considered less efficient methods of consumption.<sup>55</sup> Consider the following statistics: (1) in 2015, the FDSC reported that 90,000 people aged fifteen to thirty-four die of drug overdose annually;<sup>56</sup> (2) in 2012, drug offenders accounted for twenty percent of the Russian prison population;<sup>57</sup> and (3) also in 2012, 78% of the country’s HIV/AIDS population could be traced back to intravenous drug use.<sup>58</sup> The intense consumption of heroin will continue to negatively impact the Russian population in more ways than one.<sup>59</sup>

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49. Beitman, *supra* note 26.

50. *Id.* (“77% of respondents [from a survey of 167 law enforcement officials in Primorsky Krai] believe that criminal punishment for drug-related crimes is too soft and that the institution of the death penalty for such offenses would have utility.”).

51. See Shelley, *supra* note 28, at 16–17.

52. See Maskas, *supra* note 8, at 152.

53. *UN Report: Russia Becomes Largest Market for Afghan Heroin*, RT (Oct. 22, 2009), <https://www.rt.com/news/un-report-russia-heroin/> [<https://perma.cc/6SWT-UCZ9>].

54. See Gilderman, *supra* note 12.

55. *Id.*

56. Pivovarchuk, *supra* note 10.

57. Bertrand Audoin & Chris Beyrer, Opinion, *Russia’s Retrograde Stand on Drug Abuse*, N.Y. TIMES (Mar. 2, 2012), <http://www.nytimes.com/2012/03/03/opinion/russias-retrograde-stand-on-drug-abuse.html?pagewanted=all> [<https://perma.cc/T96C-LAGP>].

58. *Id.*

59. *Issues of Drug Abuse in Russia*, REHAB INT’L, <http://rehab-international.org/drug-addiction/issues-drug-abuse-russia> (last visited Mar. 25, 2018) [<https://perma.cc/CT5H-MS3B>].

B. *The Negative Consequences of Opium Trafficking for the Russian Population*

1. The Rising HIV Infections

One of the most serious consequences of opium trafficking is the HIV epidemic.<sup>60</sup> Yury Fedotov, Director of the UNODC, made a global assessment when he noted that heroin and other drugs “continue to kill around 200,000 people a year, shattering families, and bringing misery to thousands of other people, insecurity and the spread of HIV.”<sup>61</sup> Today, Russia accounts for eight out of every ten new HIV infections in Eastern Europe.<sup>62</sup> An estimated 98,177 new cases were reported in 2015 alone.<sup>63</sup> The virus is largely transmitted through intravenous drug use, given that almost one-third of IDUs in Russia are currently infected,<sup>64</sup> and that in 2014, the Russian Federal AIDS Center concluded that intravenous drug use accounted for fifty-eight percent of all HIV infections.<sup>65</sup>

While infection is most common among IDUs and sex workers, it would be foolish to believe that the virus only impacts these groups.<sup>66</sup> Russian policies, when largely incriminating low-level heroin users without the intent to distribute, can also facilitate transmission of the virus.<sup>67</sup> By incarcerating addicts, most of whom are already infected, the government plays an inadvertent, yet active, role in spreading the virus among its prison population.<sup>68</sup> Likewise, many prisons house thousands of infected and non-infected individuals together and serve as “incubators” for

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60. See Gage, *supra* note 3, at 160.

61. Thilaka Ravi, *UN Report Shows 27 Million Problem Drug Users Worldwide*, MEDINDIA (June 27, 2012), <http://www.medindia.net/news/un-report-shows-27-million-%20problem-drug-users-worldwide-103267-1.htm> (quoting the Director as he presented the 2012 World Drug Report of the UNODC) [<https://perma.cc/5TTL-EU7N>].

62. *HIV and AIDS in Russia*, *supra* note 10.

63. *Id.*

64. *Id.*

65. Hoskins, *supra* note 13; REHAB INT’L, *supra* note 59 (“In addition, 90 percent of injection drug users in Russia have hepatitis C.”).

66. Gage, *supra* note 3, at 160 (explaining that sex workers facilitate HIV transmission among their partners due to the widespread lack of condom use among them); see Gilderman, *supra* note 12 (noting the incidence of HIV among homosexuals and the wives and partners of male intravenous drug users).

67. See Gage, *supra* note 3, at 163; see Maskas, *supra* note 8, at 173.

68. See *Prisoners, HIV and AIDS*, AVERT, <https://www.avert.org/professionals/hiv-social-issues/key-affected-populations/prisoners> (last updated Dec. 6, 2017) [<https://perma.cc/D7P7-86RE>].

the virus.<sup>69</sup> Once infected, Russians suffer from the societal consequences of stigmatization and discrimination.<sup>70</sup>

## 2. The Strain on Society and the Workforce

The HIV and IDU epidemics together affect Russian society and the workforce in various ways.<sup>71</sup> As a result of their addictions, approximately 2.5 million people experience strains on their health, family relationships, and job performance.<sup>72</sup> An estimated 100,000 Russian people lose their lives to heroin abuse annually.<sup>73</sup> Similarly, approximately one quarter of the nearly 850,000 people in Russian prisons and jails are incarcerated for drug-related crimes,<sup>74</sup> and in 2013, approximately sixty-six percent were between the ages of eighteen to twenty-nine<sup>75</sup>—a prime working-age group. Incarceration for drug use is so extensive because Russian law enforcement's practice includes raiding places like night-clubs, and urine-testing everyone inside.<sup>76</sup> In highly affected countries, studies show a loss of one to two percentage points in annual gross domestic product when compared with a hypothetical "no AIDS" situation.<sup>77</sup> However, the long-term impact may be even more serious, given that "[i]t is difficult to account for the loss of human capital as children's education, nutrition, and health suffer directly and indirectly due to AIDS."<sup>78</sup> By failing to adequately address heroin abuse and HIV infections, the Russian government risks losing its working-age population to societal strain, incarceration, and even death.<sup>79</sup>

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69. Gage, *supra* note 3, at 160 (quoting David E. Powell, *The Problem of AIDS, in RUSSIA'S TORN SAFETY NETS: HEALTH AND SOCIAL WELFARE DURING THE TRANSITION* 123, 130 (Mark G. Field & Judyth L. Twigg eds., 2000)).

70. *Id.* at 161.

71. *See, e.g.*, REHAB INT'L, *supra* note 59 (stating that the negative consequences of drug addiction affect a user's family relationships and career).

72. *Id.*

73. *Id.*

74. *Id.*

75. *Id.*

76. *See* Samuel Oakford, *How Russia Became the New Global Leader in the War on Drugs*, VICE NEWS (Apr. 18, 2016), <https://news.vice.com/article/how-russia-became-the-new-global-leader-in-the-war-on-drugs-ungass> [<https://perma.cc/2H7G-W25H>].

77. LORI S. ASHFORD, POPULATION REFERENCE BUREAU, HOW HIV AND AIDS AFFECT POPULATIONS 3 (2006), <http://www.prb.org/pdf06/HowHIVAIDSAffectsPopulations.pdf> [<https://perma.cc/L24F-3F27>].

78. *Id.*

79. *See* Gage, *supra* note 3, at 157–60.

### C. *The Commonwealth of Independent States*

Afghan opium threatens not only Russia but also the member states of the CIS.<sup>80</sup> As introduced earlier, the CIS is a free association of sovereign states formed on December 8, 1991 by Russia and eleven other post-Soviet republics.<sup>81</sup> In accordance with the Charter of the CIS, its objectives include coordination of member states' policies regarding their economies, foreign relations, defense, immigration policies, environmental protection, and law enforcement as well as mutual legal assistance and cooperation in other spheres of legal relations.<sup>82</sup> Current member states include Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, and Ukraine.<sup>83</sup>

The CIS consists of eighty-four authoritative bodies, "including 66 bodies of sectoral cooperation."<sup>84</sup> The Council of Heads of State (CHS) is the chief governmental body of the CIS, which deliberates and resolves fundamental issues relating to the activities of states and their common interests.<sup>85</sup> The CHS is comprised of the member states' heads of state who are assisted by committees of cabinet ministers in key areas.<sup>86</sup>

Another principal body relevant to this proposal is the Council of Foreign Ministers (CFM).<sup>87</sup> The CFM is "the main executive body that ensures cooperation" among the member states on foreign policy issues of "mutual interest."<sup>88</sup> Apart from the principal bodies, the CIS has also established bodies of sectoral cooperation.<sup>89</sup> In accordance with Article

80. See Letter from T. Buzubaev, *supra* note 24 (outlining efforts to address problems associated with drug trafficking).

81. *The Commonwealth of Independent States*, *supra* note 23. Although an agreement was entered into on December 8, 1991, the CIS was not officially chartered until January 22, 1993. See *CIS Documents*, CIS, <http://e-cis.info/index.php?id=4> (last visited Mar. 25, 2018) [<https://perma.cc/3PFL-XCAV>].

82. Commonwealth of Independent States: Charter arts. 2–3, June 22, 1993, 34 I.L.M. 1279 (1995).

83. See *CIS Member States*, CIS, <http://www.cis.minsk.by/index.php?id=2> (last visited Mar. 25, 2018); see also Letter from T. Buzubaev, *supra* note 24 ("All CIS states have formalized their participation in the key United Nations instruments of international law relating to the combating of drug-related aggression.") [<https://perma.cc/MST8-TRY6>].

84. *Information on the Structure of the Bodies of the Commonwealth of Independent States*, CIS, <http://www.cis.minsk.by/page.php?id=11216> (last visited Mar. 25, 2018) [<https://perma.cc/WY9J-YPC9>].

85. *Id.*

86. *The Commonwealth of Independent States*, *supra* note 23.

87. *Information on the Structure of the Bodies of the Commonwealth of Independent States*, *supra* note 84; see *infra* Part II.A.1.

88. *Id.*

89. See *Bodies of Branch Cooperation of the CIS*, CIS, <http://www.cis.minsk.by/page.php?id=19160> (last visited Mar. 25, 2018) (listing the bodies) [<https://perma.cc/67UH-U95J>].

34 of the CIS Charter, these bodies can be established based on agreements between member states to cooperate in various social and economic fields to accomplish mutual goals.<sup>90</sup> One example is the Council for Interregional and Transfrontier Cooperation of States—a council on which this proposal relies.<sup>91</sup>

Today, the CIS is a cooperative intergovernmental force of equal independent states recognized by the international community,<sup>92</sup> and has already attempted to establish a mechanism for combating drugs originating specifically from Afghanistan.<sup>93</sup> In 2015, the CIS agreed to establish a joint task force, led by Tajikistan forces, to guard the Tajikistan-Afghanistan border.<sup>94</sup> However, during these discussions, Russia's Deputy Defense Minister, Yuri Borisov, told journalists that he would “not rule out a Russian return to the border.”<sup>95</sup> This proposal builds on this remark and argues that an international presence at the Afghan borders is necessary in this day and age of illicit trafficking and spiraling HIV infections.

#### D. *The Collective Security Treaty Organization*

The CSTO is an intergovernmental military alliance formed through some of the CIS member states.<sup>96</sup> The Collective Security Treaty (CST) was signed on May 15, 1992 and came into force on April 20, 1994.<sup>97</sup> On

90. *See id.*

91. *See id.* (listing the bodies); *see infra* Part II.A.1. This council is referred to interchangeably as the Council for Interregional and Cross-Border Cooperation of States. *See Council for Inter-Regional and Cross-Border Cooperation of States*, CIS, <http://www.e-cis.info/page.php?id=23588> (last visited Mar. 25, 2018) (referring to the same council) [<https://perma.cc/TCG5-DAUA>].

92. *About the Commonwealth of Independent States*, CIS, <http://www.cis.minsk.by/page.php?id=174> (last visited Mar. 25, 2018) [<https://perma.cc/B5SQ-5XTY>]. “[President] Putin brought new life to the CIS by providing relatively active Russian leadership, in sharp contrast to the Yeltsin years, and he strengthened Russia’s ties with the Central Asian republics in order to maintain Russian influence in this vital area.” *Russia*, ENCYC. BRITANNICA, <https://www.britannica.com/place/Russia/The-Putin-presidency#ref979913> (last visited Mar. 25, 2018) [<https://perma.cc/7778-D92C>].

93. Letter from T. Buzubaev, *supra* note 24, at 3.

94. *Tajikistan*, ECONOMIST INTELLIGENCE UNIT (Oct. 23, 2015), <http://country.eiu.com/article.aspx?articleid=1923619176&Country=Tajikistan&topic=Politics&subtopic=Forecast&subsubtopic=International+relations&u=1&pid=1235211507&oid=1235211507&uid=1#> [<https://perma.cc/L2D6-HES2>].

95. *Id.* In 1993, Russia and Tajikistan agreed that Russia would be responsible for protecting Tajikistan’s mountainous border with Afghanistan to help minimize CIS’ subjection to Afghan drug trafficking; however, as of 2006, the Russian border guards have fully returned a majority of the Afghan border back to Tajikistan, making Tajikistan accountable for the drugs trafficked through the Tajik-Afghan sector. Maskas, *supra* note 8, at 158–59.

96. *See Collective Security Treaty Organization*, MINISTRY FOREIGN AFF. BEL., <http://mfa.gov.by/en/organizations/membership/list/cddd96a3f70190b1.html> (last visited Mar. 25, 2018) [<https://perma.cc/J73T-T5W3>].

97. *Id.*

May 14, 2002, members decided to transform the CST into a full-fledged international organization—the CSTO.<sup>98</sup> Current parties include Russia, Belarus, Armenia, Kazakhstan, Kyrgyzstan, and Tajikistan.<sup>99</sup> The CSTO’s chief objective is to maintain and strengthen “close relations in the foreign policy, military, military-technical spheres, coordination and joint efforts in combating international terrorism and other security threats” in the region.<sup>100</sup> To achieve this objective, the CSTO establishes multilateral military agreements to counteract international security threats like terrorism, illegal immigration, and drug trafficking.<sup>101</sup>

The CSTO is an effective coordinating, training, and delivery system to “assist the Central Asian states in fighting terrorism, religious extremism, and narcotics production and smuggling.”<sup>102</sup> Since its formation, the CSTO has provided training and even modern military equipment to the Central Asian militaries on various occasions.<sup>103</sup> In terms of fighting Afghan opium trafficking, the CSTO has been a central part of Moscow’s plan.<sup>104</sup> In 2010, the head of FDCS, Victor Ivanov, outlined a “preventive operation that allows a number of agencies on the territory of the operation to update their activities by enhancing their exchange of information.”<sup>105</sup> This initiative, however, emphasized CSTO cooperation and data sharing with actors such as the United States and the North Atlantic Treaty Organization.<sup>106</sup>

#### E. *Russia’s Relationship with Central Asia and Afghanistan*

As a general matter, Central Asian states are sensitive to Russia’s role in the region due to Russia’s significant history as a colonizer.<sup>107</sup> Today

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98. *Id.* On October 7, 2002, the Charter of the Collective Security Treaty Organization and the Agreement on Legal Status of the CSTO were signed, and on September 18, 2003, they came into force. *Id.*; see also Charter of the Collective Security Organization, Oct. 7, 2002, 2235 U.N.T.S. 79.

99. See Charter of the Collective Security Organization, *supra* note 98.

100. *Collective Security Treaty Organization*, *supra* note 9696.

101. *Id.*

102. Alexander Frost, *The Collective Security Treaty Organization, the Shanghai Cooperation Organization, and Russia’s Strategic Goals in Central Asia*, 7 CHINA & EURASIA F.Q. 83, 84 (2009).

103. *Id.*

104. Richard Weitz, *Afghanistan: Russia Pushes for CSTO-NATO Cooperation on Counter-Narcotics Front*, EURASIANET (Nov. 17, 2010), <https://eurasianet.org/s/afghanistan-russia-pushes-for-csto-nato-cooperation-on-counter-narcotics-front> [https://perma.cc/HPZ2-6SK3].

105. *Id.*

106. *Id.*

107. Niklas Swanström, *Central Asia and Russian Relations: Breaking Out of the Russian Orbit?*, 19 BROWN J. WORLD AFF. 101, 103 (2012) (“Russia first took control of Central Asia by

however, the Russian culture is largely embedded in each Central Asian state, and its soft power in the region remains notable.<sup>108</sup> Security cooperation between Russia and Central Asian states also remains high, as “no other country approaches the level . . . that Russia has had with the region.”<sup>109</sup> In addition, leaders of certain states like Tajikistan and Kyrgyzstan have historically relied on the Russian government to maintain their authoritarian political systems, given Russia’s staunch support of “ruling governments.”<sup>110</sup> This favorable policy arguably intensifies Russia’s influence in the region.<sup>111</sup>

Russia’s relationship with Afghanistan is similarly sensitive.<sup>112</sup> “Historically, Russia has been an important player in Afghanistan, from the Great Game between Russia and Britain in the 19th century to the Soviet Union’s 1979 invasion.”<sup>113</sup> Russia has remained “reasonably neutral,” however, in watching Afghanistan fall under the control of the United States over the past fourteen years as its southern border has fallen subject to increasing Islamic extremism.<sup>114</sup> Recent contacts between Russian officials and the Taliban have raised new concerns among the Afghan government and the United States alike about the relationship between these two governments.<sup>115</sup> To intensify the situation, President Putin has been somewhat “cold” to the Afghan government because he views its President, Ashraf Ghani, to be too close with the United States at Russia’s expense.<sup>116</sup> According to Qayyum Kochai, Afghanistan’s chief envoy to Russia, “[t]he government of Russia does not have faith in the government of Afghanistan, they think the Afghan government is a puppet of

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force in the beginning of the 18th century. Thereafter, Russia successfully disrupted regional identities and existing political structures.”).

108. *Id.* at 103–04.

109. *Id.* at 103.

110. *Id.* at 104.

111. *See id.*

112. *See generally* Massoumeh Torfeh, *Memo to Afghanistan: Don’t Forget Russia*, AL JAZEERA (May 23, 2015), <http://www.aljazeera.com/indepth/opinion/2015/05/memo-afghanistan-russia-security-taliban-150521142921472.html> (detailing Russian actions taken in 2015 in response to Taliban advances into northern Afghanistan) [<https://perma.cc/Z77K-CW7Z>].

113. Mujib Mashal & Jawad Sukhanyar, *Afghanistan’s Approach to Russian Diplomacy: Keep It in the Family*, N.Y. TIMES (Feb. 27, 2017), [https://www.nytimes.com/2017/02/27/world/asia/afghanistan-moscow-putin-ghani-kochai.html?\\_r=0](https://www.nytimes.com/2017/02/27/world/asia/afghanistan-moscow-putin-ghani-kochai.html?_r=0) [<https://perma.cc/2DB9-BYFK>].

114. Torfeh, *supra* note 112.

115. *See* Mashal & Sukhanyar, *supra* note 113 (“Russian officials justify their contacts with the Taliban because they say the militants are fighting the Islamic State, which Russia fears . . .”).

116. *Id.*

the Americans, which is baseless.”<sup>117</sup> However, President Ghani promised to improve the quality of government and its relationship with Russia by pursuing common grounds with President Putin.<sup>118</sup> This Note’s proposal builds on the Afghan government’s intention for improvement.

## II. ANALYSIS

If not properly addressed, Russia’s HIV infection rate will pose a significant threat to its working population because millions of young people will continue to overdose, die from infection, or be subject to incarceration because of their heroin addictions.<sup>119</sup> The Russian government is reluctant to treat this problem as the urgent health epidemic that it is because Moscow views this approach as succumbing to pressures from the West and IGOs to conform to liberal democracy.<sup>120</sup> Because the HIV epidemic stems from the widespread trafficking of Afghan opium at the macro level<sup>121</sup> and the high levels of intravenous heroin consumption at the micro level,<sup>122</sup> the Russian government should bolster its international platform on these issues through leadership in the CIS. However, in targeting the root of the health crisis, the legal framework should directly oblige the Afghan government. This Part proposes a drug trafficking security agreement between the CIS and Afghanistan that not only binds Afghanistan but also capitalizes on Russia’s military strength and influence in the region. This Part proposes that the CIS, under Russian leadership, establish a joint committee to draft and negotiate this agreement. This Part then examines how this legal framework and this Note’s macro-level approach will protect the long-term health of Russian citizens while also serving the government’s national security and foreign policy interests.

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117. *Id.*

118. *See id.*

119. *See* Ashford, *supra* note 77, at 2 (“AIDS-related deaths are altering the age structure of populations in severely affected countries. In developing countries with low levels of HIV and AIDS, most deaths occur among the very young and very old. But AIDS primarily strikes adults in their prime working-ages—people who were infected as adolescents or young adults—shifting the usual pattern of deaths and distorting the age structure in some countries.”).

120. *See* Chernykh, *supra* note 7.

121. *See* Hoskins, *supra* note 13.

122. *See HIV and AIDS in Russia*, *supra* note 10 (providing statistics).

A. *The CIS Should Directly Engage with the Afghan Government*

1. Creation of an Ad Hoc Committee to Draft and Negotiate a Trafficking Security Agreement

The CIS should develop a trafficking security agreement with Afghanistan to address trafficking in the region. The agreement would establish the legal obligations and expectations of the two parties with respect to the trafficking of Afghan opium in Central Asia.<sup>123</sup> To draft and negotiate the agreement, the CIS should establish an ad hoc committee—the Opium Trafficking and Afghan Outreach Committee. This committee should form under both the Council for Interregional and Transfrontier Cooperation of States, given its jurisdiction regarding the “improvement and development of mechanisms for mutual cooperation between state authorities and local self-government,”<sup>124</sup> and the CFM, given its jurisdiction to “ensure cooperation in foreign policy activities.”<sup>125</sup> Furthermore, the Council for Inter-Regional and Cross-Border Cooperation of States has the authority “if necessary, [to] establish permanent or temporary working groups to carry out the tasks assigned to the Council.”<sup>126</sup> Specializing its efforts by way of a committee allows a segment of the CIS to develop an intimate understanding of the issue, while the organization as a whole can continue to focus on other matters.<sup>127</sup> Furthermore, establishing a committee under the entire organization as opposed to the proposed task force led by one member state provides the committee with access to greater resources.<sup>128</sup> Combining the resources of these two bodies also ensures that the issue of Afghan opium trafficking will be considered at both the executive level and at the sectoral level of the CIS.

The committee would have jurisdiction to (1) examine the legal and policy issues related to the trafficking of Afghan opium in the region, and (2) draft and negotiate a trafficking security agreement between Afghanistan and the CIS. This committee should be a legal extension of the Council for Inter-Regional and Cross-Border Cooperation of States and the CFM, carrying out all of the functions of these bodies as they relate

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123. See *Council for Inter-Regional and Cross-Border Cooperation of States*, *supra* note 91.

124. *Id.* (quoting English translation of the original source).

125. *Information on the Structure of the Bodies of the Commonwealth of Independent States*, *supra* note 84 (quoting English translation of the original source).

126. *Council for Inter-Regional and Cross-Border Cooperation of States*, *supra* note 123 (quoting English translation of the original source).

127. *Cf. The Role of Committees in the Legislative Process*, U.S. SENATE, <https://www.senate.gov/general/Features/Committees.htm> (last visited Mar. 25, 2018) (“Committees are an essential part of the legislative process. . . . To manage the volume and complexity, the Senate divides its work between standing committees, special or select committees, and joint committees.”) [<https://perma.cc/MG7P-U5DP>].

128. See *supra* Part I.E.

to its specific jurisdiction.<sup>129</sup> Given its incentive to secure its own borders and its abundance of resources in comparison to other member states,<sup>130</sup> the Russian government should chair this committee. This structure would give Moscow authoritative control in setting the tone for the region's drug trafficking policy, thus enhancing its political influence over its peers. Not only does Russia dominate much of the CIS' current leadership, but many member states also rely on Russia's investment in their economies.<sup>131</sup> These factors make this proposal not only feasible but also extremely practical for the Russian government.<sup>132</sup>

## 2. The Substance of the Agreement: CSTO Troop Presence at Afghanistan's Borders Touching Turkmenistan, Uzbekistan, and Tajikistan

Installing the mechanism by which to oblige Afghanistan is only the first step in addressing the problem. The next step is binding the Afghan government to a number of terms through efforts of the new joint committee. Once formed, the committee should implement a legal agreement—The Central-Asian Trafficking Security Agreement—whereby Afghanistan allows the presence of CIS-coordinated military personnel at various checkpoints near the Afghan border that extend into the three main trafficking routes.<sup>133</sup> The CIS should have the legal authority to (1) track and monitor suspected traffickers and the flow of drug cargo crossing the Afghan border, and (2) subdue any traffickers smuggling from Afghanistan and seize any opium in transit. As consideration for occupying the Afghan border, the CIS should be required to share all relevant data that it collects with the Afghan government. Additionally, Afghanistan should be provided with the opportunity to opt in to receive military support and other training and equipment from the CIS on the condition that it will (1) install and/or improve mechanisms to track and monitor internal production and trafficking activity, and (2) report all relevant information it collects to the CIS on a consistent basis for a defined period of time. These two features will embolden Afghanistan's own internal

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129. See *Council for Inter-Regional and Cross-Border Cooperation of States*, *supra* note 123.

130. See Ted Hopf, *The Evolution of Russia's Place in the World: 1991–2011*, 20 *DEMOKRATIZATSIYA* 274, 274 (2012).

131. See Paul Kubicek, *The Commonwealth of Independent States: An Example of Failed Regionalism?*, 35 *REV. INT'L STUD.* 237, 246–47 (2009).

132. In carrying out its principal functions, this committee should access field research and reports, analyze past and recent strategies, and consider the policy perspectives of CIS member states, the Afghan government, and other relevant entities such as the UNODC. To maximize its output, the Chairman of the proposed ad hoc committee should report jointly to the Chairman of the Council for Inter-Regional and Cross-Border Cooperation of States and the Chairman of the Council of Foreign Ministers (CFM).

133. See *supra* Part I.A.2.

efforts to combat trafficking and incentivize it to participate in this framework. The agreement should last for a fixed term of at least a few years to allow the Russian government the opportunity to recognize any effect on its HIV epidemic.

The CSTO has coordinated military efforts in the past to fight security threats in Central Asia and thus is the best candidate for the enforcement mechanism of this agreement.<sup>134</sup> As justification for its involvement, the organization can invoke Article 2 of the CST which provides that “[i]n case of any threat to security . . . or in case of a threat to international peace and security, States Parties shall immediately put into action the mechanism of joined consultations in order to coordinate their positions and take measures to eliminate the arisen threat.”<sup>135</sup> The Russian government should lead efforts to organize any CSTO military operation and likewise contribute at least one-third of the security personnel because its military maintains a strong influence in Central Asia, given its neighboring countries’ past reliance on Russian military equipment and assistance.<sup>136</sup> Further, Russia has the institutional capacity for leadership at its disposal,<sup>137</sup> and as the most powerful security actor in the region, Russia has an “assumed responsibility to engage” with security crises such as the one described in this Note.<sup>138</sup> Because CSTO is already dominated by Russian control in many respects,<sup>139</sup> this proposal is both feasible and practical for the Russian government.

Adopting this proposal falls squarely in line with Russia’s view toward the CIS and the CSTO regarding security threats in Central Asia.<sup>140</sup> In 2013, the Russian government noted that it would look to build cooperation with the CIS member states to combat transnational crimes in the region, seeking specifically to neutralize threats coming from Afghanistan.<sup>141</sup> Further, Russia’s national security strategy “underscores the need to consolidate the [CSTO] . . . and other organisations, and to develop

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134. Frost, *supra* note 102102.

135. See Charter of the Collective Security Organization, *supra* note 99, art. 2.

136. Frost, *supra* note 102 (“Tajikistan and Kyrgyzstan in particular are beholden to Russia because of their heavy reliance on Russian military equipment and because of the large Russian troop deployments in their countries.”).

137. See Hopf, *supra* note 130, at 274 (classifying Russia as a hegemon).

138. CRAIG OLIPHANT, SAFERWORLD, RUSSIA’S ROLE AND INTERESTS IN CENTRAL ASIA 9 (2013), <https://www.saferworld.org.uk/downloads/pubdocs/russias-role-and-interests-in-central-asia.pdf> [<https://perma.cc/AP7V-PNPU>].

139. See *The CSTO and Russia’s Expanding Sphere of Influence*, STRATFOR (May 27, 2010), <https://www.stratfor.com/geopolitical-diary/csto-and-russias-expanding-sphere-influence> [<https://perma.cc/QD7F-NVSA>].

140. See OLIPHANT, *supra* note 138, at 3–4.

141. See *id.*

bilateral cooperation in the military and political spheres.”<sup>142</sup> Initiation of this proposal will be a concrete step for Russia toward realizing this strategy, and Russia should be able to do so without undue burden, given the power it wields in the CIS and the CSTO, and the influence it has over member states in the region.<sup>143</sup>

#### B. *Implementing the Agreement is Both Practical and Beneficial*

This proposal entails collaboration on two fronts. First, Afghanistan and the CIS must agree to monitor trafficking activity together and exchange information, and Afghanistan must be willing to allow foreign troops to station at its borders. Second, the CSTO must agree to contribute troops to enforcing this agreement. Both of these fronts require leadership from the Russian government. The CIS’ establishment of an ad hoc committee and its cooperation with the CSTO are the more intuitive elements of this proposal because they hinge on Russia’s practical capacity and willingness to flex its institutional muscle. The novelty of this proposal, however, lies in its direct embrace of Afghanistan in solving a problem that Afghanistan is independently responsible for but cannot solve alone because of its weak political infrastructure and lack of government oversight.<sup>144</sup>

Russia’s current holding of powerful positions within the CIS should minimize at least some of the bureaucratic obstacles it may face in establishing a new committee and entering into this new legal agreement.<sup>145</sup> Russia should be able to garner support from member states of both the

142. *Id.* at 4.

143. *See id.* (“Kazakhstan is one of the most consistently pro-Russian post-Soviet countries and President Nazarbayev is the master of a multi-vectored foreign policy.”).

144. *See* Najibullah Gulabzoi, *The Narco-State of Afghanistan: Deconstructing the Nexus Between Drug Trafficking and National Security*, DIPLOMAT (Feb. 12, 2015), <http://thediplomat.com/2015/02/the-narco-state-of-afghanistan/> (“[I]f the Afghan government continues to disregard the extent to which its roots lie in the narcotics industry, Afghanistan will ultimately be a failed state, with most of the warlords—many of them incumbent government officials—recreating their 1990s regional narco-fiefdoms.”) [<https://perma.cc/DH4R-B8Q7>].

145. Russia’s Prime Minister, Dmitry Anatolyevich Medvedev, is on the Council of Heads of Government of the CIS. *Composition of the Council of Heads of Government of the Commonwealth of Independent States*, CIS, <http://www.e-cis.info/page.php?id=18970> (last visited Mar. 25, 2018) [<https://perma.cc/W7KY-TGUB>]. Russia’s Minister of Foreign Affairs, Sergey Viktorovich Lavrov, is on the CFM. *The Composition of the Council of Foreign Ministers of the CIS*, CIS, <http://www.e-cis.info/page.php?id=18860> (last visited Mar. 25, 2018) [<https://perma.cc/R4XT-SJ5M>]. Russia’s former Director of Foreign Intelligence Service, Sergey Lebedev, is Chairman of the Executive Committee. *Biography of the Chairman of the Executive Committee – CIS Executive Secretary Lebedev Sergey Nikolaevich*, CIS, <http://www.cis.minsk.by/page.php?id=10284> (last visited Mar. 25, 2018) [<https://perma.cc/X9W2-N9L5>]. And Russia’s President, Vladimir Putin, is on the Council of Heads of State. *Composition of the Council of Heads of State of the Commonwealth of Independent States*, CIS, <http://www.e-cis.info/page.php?id=18964> (last visited Mar. 25, 2018) [<https://perma.cc/7A3Q-8E6C>].

CIS and the CSTO because Russia provides significant economic aid to countries like Kyrgyzstan and Tajikistan, which could be used as leverage in negotiating and delegating.<sup>146</sup> Russia has already succeeded in maintaining a number of military and research facilities in these same states.<sup>147</sup>

Critics might argue that engaging Afghanistan in this manner would be either too difficult or impractical given its government's unstable relationship with the Russian government.<sup>148</sup> Likewise, Russia's resources in and around Afghanistan for countering drug trafficking are somewhat limited because it has no solid allies inside the country, and its military presence in the region has largely been directed at fighting hostility rather than transnational crimes.<sup>149</sup> Regarding the first critique, this proposal accounts for the delicate Afghan-Russian relationship by allowing Russia to engage with Afghanistan through a mechanism other than its own government. The CIS would serve as a regional buffer between the two governments, and all information sharing would occur between the representatives of the CIS and Afghanistan and could conceivably occur without directly involving Russia. Although the Kremlin would be spearheading efforts to get Kabul to sign the agreement, the benefits to Afghanistan in the form of personnel support and training should incentivize its engagement. Similarly, this criticism overlooks the possibility that this proposal could present an opportunity to strengthen Afghan-Russian relations by virtue of the countries working together for a common cause, as hoped for by President Ghani.

Regarding the second critique, this proposal recognizes that Russia lacks resources in Afghanistan and that the Russian government usually reserves its military resources for actual military threats.<sup>150</sup> However, even if not in Afghanistan, Russia has sufficient resources within Central Asia to fulfill the substance of this proposal.<sup>151</sup> For example, Russia's largest military base outside its territory is located in the territory of the Republic of Tajikistan.<sup>152</sup> Additionally, although traditional military resources in the region are usually tied to fighting military threats like ter-

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146. See OLIPHANT, *supra* note 138, at 4.

147. See *id.* at 10.

148. See Mashal & Sukhanyar, *supra* note 113.

149. DMITRI TRENIN ET AL., CARNEGIE MOSCOW CTR., A RUSSIAN STRATEGY FOR AFGHANISTAN AFTER THE COALITION TROOP WITHDRAWAL 3 (2014), [http://carnegieendowment.org/files/CMC\\_Article\\_Afganistan\\_Eng14.pdf](http://carnegieendowment.org/files/CMC_Article_Afganistan_Eng14.pdf) [https://perma.cc/ZRM6-F8UB].

150. See *id.* at 3.

151. See Dmitry Bokarev, *CSTO Ensures Security on the Tajik-Afghan Border*, NEW EASTERN OUTLOOK (Mar. 1, 2017), <https://journal-neo.org/2017/01/03/csto-ensures-security-on-the-tajik-afghan-border/> [https://perma.cc/R886-MY58].

152. *Id.*

rorism, this does not mean that military resources are or should be precluded from being used against non-military threats like drug trafficking. As this Note has demonstrated, drug trafficking presents a significant security threat to Russia's population. Notwithstanding these factors, this proposal provides Russia with the one biggest resource that it lacks and needs—a regional treaty with Afghanistan. This legal instrument will allow Russia to accomplish its goal of minimizing opium trafficking because it will authorize its government to act multilaterally, with the support of an entire region. Furthermore, the CIS has already shown interest in intensifying cooperative efforts to combat narcotic drugs and has already considered targeting Afghan opium,<sup>153</sup> thus enhancing this proposal's practical appeal.

Critics might also argue that although Russia has the leadership capacity and security personnel to monitor activities and train Afghan personnel, it would be reluctant to commit any of these resources because Afghan opium is not a direct threat to Russian territory.<sup>154</sup> This critique is related to the previous one. Because of this assertion, some may characterize any deployment of Russian-led forces as fostering an unnecessary entanglement with Afghanistan both militarily and politically.<sup>155</sup> This underlying assertion, however, does not adequately capture the problem. While it might be accurate to say that opium trafficking does not threaten Russia's territory in a traditional military sense, it does threaten the livelihood of Russian society and its population.<sup>156</sup> To say that these consequences do not threaten Russian territory oversimplifies the issue and does not holistically account for Russia's security interests. The security of Central Asia is "directly linked to Russia's internal security."<sup>157</sup> Because Central Asia has been, and continues to be, "a zone of strategic interests for Russia," Moscow pays "special attention to defense cooperation" within the framework of the CSTO and as it relates to drug trafficking.<sup>158</sup> This proposal accounts for the regional context of the drug trafficking dilemma, as well as Russia's own foreign policy and national security interests.

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153. Letter from T. Buzubaev, *supra* note 24, at 2–3 (seeking to target Afghanistan).

154. See OLIPHANT, *supra* note 138, at 9.

155. See TRENIN ET AL., *supra* note 149, at 3–4. Even if Russia was to act unilaterally instead, its previous deployment of troops near Afghanistan in response to Taliban advances shows its willingness to become entangled. See Torfeh, *supra* note 112.

156. See Gage, *supra* note 3, at 157.

157. Bokarev, *supra* note 1512.

158. *Id.*

C. *The Agreement Furthers Russian Foreign Policy and National Security Interests*

This proposed framework serves the Russian government's interests abroad from a number of vantage points. First, implementing effective tactics to reduce the flow of illicit drugs entering the country increases the security of Russian borders.<sup>159</sup> With heroin use on the rise, Russia should remain concerned with ensuring security in the Central Asian region because the quantity of substances flowing across Russian borders has grown enormously.<sup>160</sup> This proposal highlights direct engagement with Afghanistan as critical in minimizing the threat of drug trafficking. Disengagement from the Afghan government in combating opium trafficking could threaten Russia indirectly by threatening its allies in Central Asia.<sup>161</sup> Furthermore, disengagement from Afghanistan will facilitate continued, and perhaps increased, transnational crime in the region, causing these allies to turn to Russia for help anyway given its influence.<sup>162</sup>

Second, this proposal employs Russian leadership and military strength—elements of the fabric of Russian government.<sup>163</sup> Russia has a material position in the world as a “Great Power” that both balances western nations like the United States and serves as a hegemon dominating its own periphery in Eastern Europe.<sup>164</sup> As such, Russian institutions are infused with a neo-Soviet identity, making them less accepting of democratic and neo-liberal values.<sup>165</sup> As mentioned earlier, Russia's neglect of its HIV epidemic results in part from its resistance to these values.<sup>166</sup> This proposal accounts for this concern by giving the Russian government space to address the epidemic at the macro level. Russia's foreign policy and national security strategies have historically expressed pride in establishing itself as a powerful global leader that takes an active role in influencing international affairs.<sup>167</sup> This proposal positions the Russian government as the leading political force in the region while still embracing collaboration.

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159. See TRENIN ET AL., *supra* note 149, at 2–3 (“Russia's primary concern in Afghanistan is maintaining security in the Afghan-Central Asian region.”).

160. See *id.* at 3.

161. See *id.*

162. See *id.*

163. See Hopf, *supra* note 130.

164. *Id.* at 274.

165. See *id.* at 274, 277, 279, 281.

166. See Chernykh, *supra* note 7.

167. See Olga Oliker, *Unpacking Russia's New National Security Strategy*, CTR. FOR STRATEGIC & INT'L STUD. (Jan. 7, 2016), <https://www.csis.org/analysis/unpacking-russias-new-national-security-strategy> [<https://perma.cc/74ER-7WLD>].

Third, involving the CSTO and Russian forces in this manner works within the framework that President Putin has developed for the armed forces.<sup>168</sup> In 2013, the Russian Ministry of Defense declared “a new set of objectives” for the armed forces as follows:

1. Deterring the military and political threats to the security or interests of the Russian Federation
2. Supporting economic and political interests of the Russian Federation
3. Mounting other-than-war enforcement operations
4. Using military force[.]<sup>169</sup>

President Putin has also made clear his efforts to increase spending to upgrade the nation’s military equipment, improve its training, and re-vamp its operational tactics.<sup>170</sup> This proposal addresses the HIV concern while advancing a number of related interests and, notably, international obligations.

#### D. *The Agreement is Supported by International Law*

As mentioned above, the Russian government has an obligation under the Single Convention to prevent drug trafficking at the national level and to cooperate with other states and organizations at both the national and international level in fulfilling that obligation.<sup>171</sup> By initiating a trafficking security agreement with Afghanistan and the CIS, and by eliciting cooperation from the CSTO, the Russian government would show that it not only understands Afghan opium to be a serious obstacle in curbing trafficking in the region, but also takes its own international obligations to address drug trafficking and HIV seriously.

Combating HIV/AIDS is one of the United Nations’ eight Millennium Development Goals (MDGs).<sup>172</sup> These are goals relating to different subject areas such as health, education, and poverty, which U.N. member states have agreed to work together to achieve by a target deadline.<sup>173</sup> As

168. See Steven Pifer, *Pay Attention, America: Russia Is Upgrading Its Military*, NAT’L INT. (Feb. 3, 2016), <http://nationalinterest.org/feature/pay-attention-america-russia-upgrading-its-military-15094> (calling for an increase in spending and upgrading the military) [<https://perma.cc/D5RC-WLD6>].

169. *Mission and Objectives of the Russian Armed Forces*, MINISTRY DEF. RUSSIAN FED’N, <http://eng.mil.ru/en/mission/tasks.htm> (last visited Mar. 25, 2018) [<https://perma.cc/45ME-SYSB>].

170. See Pifer, *supra* note 168.

171. The Single Convention on Narcotic Drugs, *supra* note 21, art. 35.

172. *Goal 6: Combat HIV/AIDS, Malaria and Other Diseases*, UNITED NATIONS, <http://www.un.org/millenniumgoals/aids.shtml> (last visited Mar. 25, 2018) [<https://perma.cc/QC86-83QD>].

173. *Background*, UNITED NATIONS, <http://www.un.org/millenniumgoals/bkgd.shtml> (last visited Mar. 25, 2018) [<https://perma.cc/NG3H-2UN4>].

a permanent member of the U.N. Security Council and a leading international power,<sup>174</sup> Russia should feel immense pressure to adhere to the MDGs by responding adequately to its HIV epidemic, if not to set an example for the international community then at least to protect its own population.<sup>175</sup> Sadly enough, some analysts have gone so far as to liken Russia's recent treatment of drug addicts to a violation of the U.N. Convention Against Torture in certain instances.<sup>176</sup>

The Russian government avoids calling its rising HIV rate an "epidemic."<sup>177</sup> The government also refuses to appropriate any of its annual \$338 million federal HIV budget on preventive sex education or providing drug addicts with access to clean syringes because these measures conflict with the traditional and moral fabric of the nation.<sup>178</sup> Assuming that the Russian government is obligated to combat HIV/AIDS, its current indifference toward its own citizens, hostility toward foreign influence, and financial austerity all run counter to this obligation.<sup>179</sup> Russia should advance the United Nations' goal of eliminating HIV/AIDS by addressing the epidemic as an international trafficking security threat. This approach will in turn bolster Russia's commitment to preventing drug trafficking.<sup>180</sup> This Note's specialized proposal includes a regionally novel collaborative framework and serves as a progressive step embraced by current international law.<sup>181</sup>

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174. *Current Members*, UNITED NATIONS SECURITY COUNCIL, <http://www.un.org/en/sc/members/> (last visited Mar. 25, 2018) [<https://perma.cc/VJV2-89YY>].

175. *See Background*, *supra* note 173 (discussing MDGs).

176. *See generally* PUB. MECHANISM FOR MONITORING DRUG POLICY REFORM IN THE RUSSIAN FED'N, "ATMOSPHERIC PRESSURE": RUSSIAN DRUG POLICY AS A DRIVER FOR VIOLATIONS OF THE UN CONVENTION AGAINST TORTURE (2011), [http://www.countthecosts.org/sites/default/files/Atmospheric\\_Pressure.pdf](http://www.countthecosts.org/sites/default/files/Atmospheric_Pressure.pdf) (concluding that the Russian government is "intentionally causing a large group of people (about 1.7 million) severe physical pain, suffering and humiliation with the purpose of punishing them for using drugs, and to intimidate and coerce them into withdrawal") [<https://perma.cc/T8SA-G2LS>].

177. *See* Neil MacFarquhar, *H.I.V. Cases Surpass a Million in Russia, but Little Is Done*, N.Y. TIMES (Dec. 28, 2016), [https://www.nytimes.com/2016/12/28/world/europe/russia-hiv-epidemic.html?\\_r=0](https://www.nytimes.com/2016/12/28/world/europe/russia-hiv-epidemic.html?_r=0) [<https://perma.cc/F3W7-QU95>].

178. *See id.*

179. *See id.* These tensions with civil societies are embodied in the government's recent actions taken against certain international organizations. *Id.* The Justice Ministry has recently made a number of nongovernmental organizations involved in combatting the epidemic exit the country, labeling them as "foreign agents" that receive grants from abroad and have conflicting agendas. *Id.* And five years ago, the government rejected millions of dollars from the Global Fund to Fight AIDS because it did not want to follow the international protocols of distributing clean needles to IDUs. Gilderman, *supra* note 12.

180. *See* Gage, *supra* note 3, at 157 (discussing threats to population).

181. *See* The Single Convention on Narcotic Drugs, *supra* note 21, art. 35.

## CONCLUSION

This Note began by illustrating the current HIV epidemic in Russia and demonstrating its correlation with the widespread trafficking of Afghan opium in Central Asia. The need to address drug trafficking is intensifying, as there has been a surge in Afghan opium production over the last ten years.<sup>182</sup> The Vienna-based UNODC “reveals that poppy cultivation in 2012 extended over an area of more than 154,000 hectares, an increase of 18% over 2011.”<sup>183</sup> “A UNODC spokesperson confirmed in 2013 that opium production is heading toward record levels.”<sup>184</sup> A surge in opium production creates an avenue for a surge in heroin consumption that can only frustrate Russia’s efforts to control its HIV epidemic.

This Note offers perhaps one of the most practical solutions to this problem in light of Russia’s position in the international community, the alternative solutions, and the government’s opposition to external pressures. This proposal identifies a micro-level issue and recommends a macro-level approach that aligns squarely with Russia’s foreign policy and security interests. Because it would be unmanageable for governments to designate trafficking routes that they could reliably stop drug traffickers from utilizing,<sup>185</sup> this proposal entails thwarting the trafficking activity from the outset at the Afghan border. An international problem that derives from Afghanistan independently should similarly engage Afghanistan independently.

Given the virus’ deadly nature, an uncontained HIV infection rate could decimate Russia’s working population,<sup>186</sup> at which point this public health concern would become a full-fledged threat to national security. According to the Russian Ministry of Foreign Affairs, “[b]y Russian Federation national security is meant the security of its multinational people as the bearer of sovereignty and as the only source of power in the Russian Federation.”<sup>187</sup> If the security of the sovereign people is the only

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182. See Michel Chossudovsky, *The Spoils of War: Afghanistan’s Multibillion Dollar Heroin Trade*, GLOBAL RES. (Jan. 27, 2018), <http://www.globalresearch.ca/the-spoils-of-war-afghanistan-s-multibillion-dollar-heroin-trade/91> [https://perma.cc/78WB-K3VS].

183. *Id.*

184. *Id.*

185. See TRENIN ET AL., *supra* note 149, at 3. For example, fortifying the border between Russia and Kazakhstan—a border totaling more than 4,350 miles—will be not only costly but also politically disadvantageous, given the “close relations and numerous integration projects between the two countries.” *Id.* Even strengthening less vast borders such as those surrounding Kyrgyzstan would prove difficult because of Kyrgyzstan’s relatively weak central government and limited military capacity. *Id.*

186. See Ashford, *supra* note 77, at 2–3 (discussing threats of HIV/AIDS to the economy and the workforce).

187. *National Security Concept of the Russian Federation*, MINISTRY FOREIGN AFF. RUSSIAN

source of power in the Russian Federation, then that power is in jeopardy if the government lets this virus wipe out its sovereign people.<sup>188</sup>

Critics might argue that implementing a trafficking security agreement, aimed at reducing the flow of heroin crossing Afghan borders, does nothing to curb the immediate and urgent growing rate of HIV infection in Russia. This criticism is grounded. Implementing a trafficking security agreement that yields a high success rate of opium seizure will not immediately, or even solely, address Russia's HIV epidemic. Despite this criticism, this proposal is a strategic approach for the Russian government because it considers the HIV epidemic as what it truly is—one part of a larger cycle—and considers Russia's style of governance.<sup>189</sup> This proposal is designed to supplement Russia's current domestic policies rather than supplant them. The Russian government should continue some of its domestic HIV policies.<sup>190</sup> This proposal should, however, yield a more immediate impact on the quantity of Afghan opium that crosses Russian borders.

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FED'N (Jan. 10, 2000), [http://www.mid.ru/en/foreign\\_policy/official\\_documents/-/asset\\_publisher/CptICk6BZ29/content/id/589768](http://www.mid.ru/en/foreign_policy/official_documents/-/asset_publisher/CptICk6BZ29/content/id/589768) [<https://perma.cc/SR33-TY6R>].

188. See Gage, *supra* note 3, at 157.

189. See, e.g., Hopf, *supra* note 130, at 274, 277, 279, 281.

190. In 2006, President Putin allocated over one hundred million dollars for the prevention cause, which was a twenty-fold increase over previous allotments. Gage, *supra* note 3, at 164. The government has also made anti-retroviral drug therapy available to people with AIDS; however as of 2013, heroin addicts remain ineligible. Gilderman, *supra* note 12.