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The Power of Being Present: Lessons from Diplomacy in Latin America and the Caribbean for the Private Sector

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The Power of Being Present: Lessons from Diplomacy in Latin America and the Caribbean for the Private Sector

By Kimberly Breier¹ and Daniel Korn²

Successful modern diplomacy and private sector engagements require being physically present. Based on the experience of the authors in diplomacy and corporate government affairs, this article argues that the trust that forms the basis of effective diplomacy and corporate engagement with the communities in which they operate is established best through direct physical interaction. With examples from Latin America and the Caribbean, the article explores how both diplomacy and corporate government affairs have evolved into a model of being present that emphasizes seeking to empower local populations. The article delves into how and why the United States carries out its policy, engages with governments and societies overseas, and the lessons for the private sector that can be learned from how embassies operate and how diplomats practice the art of diplomacy. Using Microsoft’s approach as an example, the article shares cases of how companies also can seek to empower communities through their physical presence.

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In early 2021, when the newly confirmed U.S. Secretary of State welcomed the recently inaugurated President of the United States to the State Department for the first time, the Secretary said, “[a]t this moment of unprecedented global challenge, it’s more

important than ever that the United States show up and lead”³ He was surely not the first Secretary of State to speak of the importance for U.S. diplomacy of showing up.

We, the authors, have seen the power of being physically present firsthand in our experience in diplomacy and in corporate government affairs. Successful modern diplomacy, and indeed successful private sector engagements, require being physically present. The trust that forms the basis of diplomacy and corporate engagement with the communities in which we operate is established in a human-to-human way that only direct interaction can initiate, grow, and sustain.

As a baseline, we delve into how and why the United States carries out its policy, engages with governments and beyond governments with societies overseas, and the lessons that can be learned from how embassies operate and how diplomats practice the art of diplomacy. This article will also explore how both diplomacy and corporate government affairs have evolved into a model of being present beyond the basic function of reporting on events and carrying messages between governments. Both U.S. diplomacy and private sector operations overseas have come a long way since the world’s first diplomatic handbook, *On Negotiating with Sovereigns*, was published in 1716—as both governmental and private entities now place a larger emphasis on seeking to empower local populations and communities.

By way of background, the United States, in conducting overseas diplomacy, has long subscribed to the proverb, “the absent are always wrong.”⁴ Indeed, even since before the founding of the United States, the Continental Congress recognized the importance of having envoys abroad to help gather support for independence.⁵

³ Secretary Antony J. Blinken Introductory Remarks for President Biden and Vice President Harris’s Meeting with State Department Employees, U.S. DEP’T STATE (Feb. 4, 2021), <https://www.state.gov/secretary-antony-j-blinken-introductory-remarks-for-president-biden-and-vice-president-harriss-meeting-with-state-department-employees/>.

⁴ Freeman, Chas. W., *The Diplomat’s Dictionary*, National Defense University Press, Washington, DC, 1994. p. 3.

⁵ See, *Ambassador to France*, BENJAMIN FRANKLIN HIST. SOC’Y, <http://www.benjamin-franklin-history.org/ambassador-to-france/> (last visited Nov. 8, 2021); see also *John Adams appointed to negotiate peace terms with British*, HIST., <https://www.history.com/this-day-in-history/john-adams-appointed-to-ne>

John Adams' and Benjamin Franklin's overseas efforts pre-dated even the U.S. Constitution.⁶ It was not until after the drafting of the Constitution that the Department of State was formally organized and Thomas Jefferson, who had been serving abroad in France, was named by President George Washington as the first U.S. Secretary of State in 1790.⁷ In fact, the Department of State was the first cabinet department created by Congress in 1789 (originally as the Department of Foreign Affairs) – ahead of Treasury and Defense. Therefore, the Secretary of State is the first among the Cabinet in the line of succession to the President.⁸

In particular, diplomatic relations with our closest neighbors in the Americas have always had a special place in U.S. global affairs. In part because of its geographic proximity, the U.S. has deep geopolitical, commercial, and cultural interests in Latin America and the Caribbean. Even as the Founding Fathers were hesitant about “foreign entanglements,”⁹ the United States has long recognized the strategic importance of Latin America and the Caribbean to the U.S. national interest. U.S. local presence, currently in thirty countries in the region, began with the U.S. legation in Colombia in 1823.¹⁰

In the modern world, showing up is not just important for governments, but also the private sector is now taking this page from

gotiate-peace-terms-with-british (last visited Nov. 8, 2021) [hereinafter John Adams Appointed].

⁶ ANDREW L. STEIGMAN, *THE FOREIGN SERVICE OF THE UNITED STATES: FIRST LINE OF DEFENSE* 14 (Westview Press 1985).

⁷ *Id.*

⁸ *A History of the United States Department of State*, U.S. DEP'T STATE (July 1996), https://1997-2001.state.gov/www/about_state/history/dephis.html [hereinafter History of U.S. Department of State].

⁹ See *Transcript of President George Washington's Farewell Address (1796)*, OUR DOCUMENTS, <https://www.ourdocuments.gov/doc.php?flash=false&doc=15&page=transcript> (last visited Nov. 8, 2021); see also *Farewell Address to the People of the United States*, GEORGE WASHINGTON'S MOUNT VERNON, <https://www.mountvernon.org/library/digitalhistory/quotes/article/it-is-our-true-policy-to-steer-clear-of-permanent-alliance-with-any-portion-of-the-foreign-world/> (last visited Nov. 8, 2021).

¹⁰ See *A Guide to the United States' History of Recognition, Diplomatic, and Consular Relations, by Country, since 1776: Colombia*, OFF. HISTORIAN, <https://history.state.gov/countries/colombia> (last visited Oct. 25, 2021).

the diplomatic playbook.¹¹ In the early days of Microsoft, Bill Gates prided himself on not having an office in Washington, D.C., from which to establish a regular engagement with U.S. government officials.¹² In his prologue to *Tools and Weapons: The Promise and the Peril of the Digital Age*, Bill Gates reflected, “[a]s I learned the hard way during the antitrust suit, this was not a wise position to take.”¹³ He continues: “[Microsoft President Brad Smith] ushered in a big cultural and strategic shift at the company . . . [He] saw that we needed to put more time and energy into connecting with different constituencies, including the government, our partners, and sometimes even our competitors.”¹⁴

Expanding on Brad Smith’s role in transforming Microsoft’s approach to corporate government affairs and what it means for a leading technology company to be present, Bill Gates says:

Brad would have made a great diplomat . . . It says a lot about Brad that his thinking was not limited to Microsoft’s self-interest. He recognized the central importance of technology and the policies that affect it, and he concluded that staying on the sidelines wasn’t just a mistake for our company – it was a mistake for the industry . . . To that end, he knew that Microsoft and other tech companies needed to engage more with leaders in the United States, Europe and elsewhere. My days of bragging about not having an office in DC were over.¹⁵

If ever there were a case study on how physical presence might not be necessary in the modern world, it would be in a region like the Americas where travel between the United States and important regional capitals is easy and comparatively quick from Washington D.C., New York, Miami, Dallas, Houston, or Los Angeles. In such a case, some might argue that a combination of trav-

¹¹ See Blinken, *supra* note 3.

¹² Bill Gates, *Foreword* to BRAD SMITH & CAROL ANN BROWNE’S *TOOLS AND WEAPONS: THE PROMISE AND THE PERIL OF THE DIGITAL AGE* (Penguin Press 2019).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

el and telecommunications could substitute for having staff living and working locally in-country, making day-to-day interaction unnecessary. This article will argue that the opposite is true, that successful outcomes in diplomacy and corporate government affairs result from the power of being present.

I. THE DIPLOMATIC MISSION

The United States has a long diplomatic tradition that predates the U.S. Constitution and the creation of the State Department.¹⁶ John Adams served as Envoy to France and Minister to the United Kingdom,¹⁷ and Benjamin Franklin served as Minister to France and Sweden before the Constitution was adopted in 1787.¹⁸ George Washington appointed Thomas Jefferson as the first Secretary of State.¹⁹ As these examples show, from the start, some of America's greatest statesmen have served in key diplomatic positions and as Secretaries of State.²⁰

¹⁶ See *Ambassador to France*, *supra* note 5; see also John Adams Appointed, *supra* note 5; see also *A History of the United States Department of State*, *supra* note 8.

¹⁷ See John Adams Appointed, *supra* note 5; see also *Diplomatic Assignment – Paris 1777*, JOHN ADAMS HIST. SOC'Y, <http://www.john-adams-heritage.com/diplomatic-assignment-paris-1777/> (last visited Nov. 10, 2021).

¹⁸ See, *Ambassador to France*, *supra* note 5.

¹⁹ See *Thomas Jefferson: Secretary of State, President*, NAT'L MUSEUM AM. DIPL., <https://diplomacy.state.gov/people/thomas-jefferson/> (last visited Nov. 10, 2021).

²⁰ See *Former Secretaries of State*, U.S. DEP'T STATE, <https://www.state.gov/former-secretaries-of-state/> (last visited Nov. 10, 2021) (listing other examples of presidents who served as Secretaries of State, including Presidents James Monroe, John Quincy Adams and Martin Van Buren. John Marshall, James Madison, Henry Clay, Daniel Webster, John C. Calhoun, and William Seward, arguably some of the most important statesmen of the early republic, also served in that position); see also *List of Ambassadors of the United States to France*, WIKIPEDIA, https://en.wikipedia.org/wiki/List_of_ambassadors_of_the_United_States_to_France (last visited Nov. 10, 2021) (listing those who served as U.S. ambassadors to France, including Benjamin Franklin, Thomas Jefferson, Gouverneur Morris, Robert Livingston, and James Monroe); see also *American Ambassadors to the United Kingdom*, U.S. EMBASSY & CONSULATES U.K., <https://uk.usembassy.gov/our-relationship/rcambex/> (last visited Nov. 10, 2021) (listing the presidents who served as U.S. ambassadors to the United

Having a professional diplomatic corps and attracting the best minds to carry out and design U.S. foreign policy has been a long-standing commitment of the U.S. government. In 1924, the Rogers Act officially created the U.S. Foreign Service.²¹ Then, in 1927, the Foreign and Domestic Commerce Act of 1927, also called the Hoch Act, created the Foreign Commerce Service, a separate group for the promotion of trade.²² The modern Foreign Service is based on the Foreign Service Act of 1980, which says, “a career foreign service, characterized by excellence and professionalism, is essential in the national interest to assist the President and the Secretary of State in conducting the foreign affairs of the United States.”²³ The Foreign Service is the backbone of U.S. presence in foreign nations. As a *Life* editorial put it, “[f]oreign service officers are the eyes, ears, fingers and tongues of the U.S. government abroad.”²⁴

The Day-to-Day of Diplomacy

The United States has a significant structure to support its physical presence worldwide. As of 2020, the United States had diplomatic relations with 195 countries and 276 posts, including 171 embassies.²⁵ The Foreign Service has 76,711 employees, including locally employed staff around the globe, working alongside staff from many U.S. government agencies.²⁶

At most embassies abroad, the United States is represented by an ambassador confirmed by the U.S. Senate, who is the senior

Kingdom, including John Adams, James Monroe, John Quincy Adams, and Martin Van Buren).

²¹ Jim Lamont & Larry Cohen. *In the Beginning: The Rogers Act of 1924, known as the Rogers Act, created the U.S. Foreign Service as we know it today. Here is the story of how it happened*, AM. FOREIGN SERV. ASS'N, <https://afsa.org/beginning-rogers-act-1924> (last visited Nov. 10, 2021).

²² See *United States Commercial Service, Timeline*, WIKIPEDIA, https://en.wikipedia.org/wiki/United_States_Commercial_Service (last updated Oct. 21, 2021).

²³ Foreign Service Act, 22 U.S. Code § 3901 (1980)

²⁴ STEIGMAN, *supra* note 6, at 179.

²⁵ *GTM Fact Sheet: Facts about Our Most Valuable Asset – Our People*, AM. FOREIGN SERV. ASS'N (Dec. 31, 2020), https://afsa.org/sites/default/files/1220_state_dept_hr_factsheet.pdf.

²⁶ *Id.*

representative of the United States in that country.²⁷ An ambassador's role includes overseeing all of the details of the physical presence of the United States in that country. The ambassador manages the myriad of U.S. government agencies, issues, and interactions with host governments and local populations.²⁸ As chief of mission, ambassadors are responsible for ensuring that the staff from the different agencies work in a coordinated fashion.²⁹ Particularly in larger missions, this responsibility requires significant managerial skill. In instances where the United States and the host country have broad agendas, part of the ambassador's responsibility is defining priorities for the mission.³⁰ Elaborating on the ambassador's role, Ambassador Andrew Steigman, a career Foreign Service officer who served as U.S. Ambassador in Gabon and Sao Tome and Principe, says:

The role of the Ambassador, like that of all members of the Foreign Service, has changed substantially in the period since World War II. Today's chief of mission may be called on to manage a large and complex organization in addition to performing more traditional diplomatic tasks . . . It is the ambassador's job to define for the entire mission staff the interests at stake in the country in which they serve and to mold their efforts into a concerted program for the preservation and advancement of those interests.³¹

Because U.S. relations with host countries often includes a wide range of issues, diplomatic missions bring together staff from different government agencies, not only the U.S. Department of State. These may include the Departments of Defense, Homeland

²⁷ See NICHOLAS KRALEV, *AMERICA'S OTHER MILITARY: THE U.S. FOREIGN SERVICE AND 21ST-CENTURY DIPLOMACY* 68 (2d ed. 2015) [hereinafter *21st Century Diplomacy*]; see also SHAWN DORMAN, *INSIDE A U.S. EMBASSY: DIPLOMACY AT WORK* 69 (Foreign Services Books., 3d ed. 2011) [hereinafter *Diplomacy at Work*].

²⁸ *Diplomacy at Work*, *supra* note 27, at 69.

²⁹ See *Diplomacy at Work*, *supra* note 27, at 69; see also *21st Century Diplomacy*, *supra* note 27, at 68.

³⁰ STEIGMAN, *supra* note 6, at 127–28, 134.

³¹ *Id.*

Security, Justice, Commerce, Agriculture and the Treasury, as well as the U.S. Agency for International Development (USAID), the Federal Bureau of Investigations (FBI), the Drug Enforcement Agency (DEA), the Federal Aviation Authority (FAA), and the Centers for Disease Control (CDC).³² In some countries, as many as 40 different U.S. agencies may be represented in the embassy.³³ This staff reports both to their agencies back in the United States and to the ambassador.³⁴ Staff from the different U.S. agencies compose the “country team.”³⁵

The ambassador manages and prioritizes internally, usually by holding in person, or delegating to the Deputy Chief of Mission (DCM), meetings of the country team.³⁶ These meetings are held at least weekly.³⁷ It is often in these meetings where issues are de-conflicted, debated, and parsed, and the decision to either report back to Washington, D.C. or address the matter in-country is finalized or recommended by the group to the ambassador.³⁸

The ambassador is the face of the U.S. government to the host government and, importantly, to the local population. In this regard, it is a key responsibility of the ambassador to build working relationships with all potential stakeholders of the host government and society.³⁹ Maintaining a broad network in the host country’s government, private sector, and civil society is key for U.S. diplomats to understand the forces that shape local events.⁴⁰

In addition to staff from different U.S. agencies, U.S. missions also employ host country citizens, referred to as “Locally Employed Staff” (formerly known as “Foreign Service Nationals” or “FSNs”).⁴¹ Local staff are key to the mission’s institutional

³² See *Diplomacy at Work*, *supra* note 27, at 69; see also *21st Century Diplomacy*, *supra* note 27, at 68.

³³ See *Diplomacy at Work*, *supra* note 27, at 69

³⁴ See *21st Century Diplomacy*, *supra* note 27, at 69

³⁵ See *Diplomacy at Work*, *supra* note 27, at 69

³⁶ See *Diplomacy at Work*, *supra* note 27, at 70

³⁷ *Id.*

³⁸ *21st Century Diplomacy*, *supra* note 27, at 68.

³⁹ STEIGMAN, *supra* note 6, at 127–28, 134.

⁴⁰ Condoleezza Rice, *Transformational Diplomacy*, U.S. DEP’T OF STATE (Jan. 18, 2006), <https://2001-2009.state.gov/secretary/rm/2006/59306.htm>.

⁴¹ See generally *3 FAM 7120 Definitions*, U.S. DEP’T STATE, <https://fam.state.gov/fam/03fam/03fam7120.html> (last visited Oct. 5, 2021).

memory because, unlike Foreign Service employees, they do not rotate from post to post.⁴²

Routine Formal Government-to-Government Communications

A significant role for U.S. embassy personnel is to deliver “démarches” to the government of the host country.⁴³ A démarche is a formal government-to-government communication of the U.S. government’s official position to the host country’s government.⁴⁴ According to the *Foreign Affairs Handbook*, “Demarches generally seek to persuade, inform, or gather information from a foreign government. Governments may also use a demarche to protest or object to actions by a foreign government.”⁴⁵ As a general practice, even though some démarches can be routine or mundane, they are often delivered in person.

The U.S. Department of State is the only agency that can ask embassy personnel to deliver a démarche, even though the request may come from a different government agency, and does so through cable instructions.⁴⁶ Any officer in the mission under the ambassador’s authority can deliver the démarche to the foreign government unless the cable provides instructions as to rank.⁴⁷ The post generally has discretion to determine who delivers the démarche and to whom it is delivered in the host country government.⁴⁸

The cable instructions for the démarche include the objective the U.S. government hopes to achieve; a rationale for the U.S. government’s position, arguments in favor, likely counter-arguments, and suggested rebuttals; background information, including pitfalls and special considerations; suggested talking points

⁴² See *Diplomacy at Work*, *supra* note 27, at 46, 62; see also *21st Century Diplomacy*, *supra* note 27, at 68.

⁴³ 5 FAH-1 H-600 Diplomatic Notes, U.S. DEP’T STATE, <https://fam.state.gov/fam/05fah01/05fah010610.html> (last visited Nov. 10, 2021) [hereinafter 5 FAH-1 H-600].

⁴⁴ *Id.*

⁴⁵ *Foreign Affairs Manual*, 7 FAM 030: Good Offices & Demarches, U.S. DEP’T STATE, <https://fam.state.gov/fam/07fam/07fam0030.html> (last visited Oct. 25, 2021) [hereinafter *Foreign Affairs Manual*].

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

(the post is generally given discretion to structure and deliver the message); and written materials to be left behind (the post generally provides an aide-memoire or “non-paper” at the conclusion of the démarche).⁴⁹

After the démarche is delivered, the post is expected to report to Washington, D.C. via cable on the host government’s response.⁵⁰ The report generally notes how the post delivered the démarche and details any follow up actions required by the post, the Department of State, or the host government.⁵¹ As the Panama example below illustrates, a démarche may include a difficult message for the host country official, which is an instance where having a previously established relationship can lead to a more productive engagement and make a significant difference.⁵²

Former U.S. Ambassador to Panama Ambler Moss once took a helicopter to deliver one such difficult message to the country’s de facto leader, General Omar Torrijos. Alexander Haig, Secretary of State under U.S. President Ronald Reagan, sent a strongly worded message to Torrijos and instructed Moss to deliver the démarche immediately. Moss flew by helicopter to see Torrijos at a military base, delivered the message in person, and received Torrijos’ response.⁵³

As a recent article in the *Foreign Service Journal* shows, even the relatively simple task of delivering the démarche still benefits from human-to-human contact.⁵⁴ The article tackles the question of whether the United States could conduct effective diplomacy *without* the diplomats living overseas within the context of the rise of the COVID-19 pandemic.⁵⁵ Their answer to that question is a resounding “no.”⁵⁶ In the era of COVID-19, the authors detail how

⁴⁹ *Id.*

⁵⁰ 5 FAH-1 H-600, *supra* note 43.

⁵¹ *Id.*

⁵² Author’s personal experience.

⁵³ ROBERT A. PASTOR, EXITING THE WHIRLPOOL: U.S. FOREIGN POLICY TOWARD LATIN AMERICA AND THE CARIBBEAN 566 (Routledge, 2d ed. 1985) [hereinafter *Exiting the Whirlpool*].

⁵⁴ See Jessica Huaracayo & Alexis Ludwig, *Can Diplomacy Be Done Virtually?*, FOREIGN SERV. J. (Apr. 2021), <https://afsa.org/can-diplomacy-be-done-virtually>.

⁵⁵ *Id.*

⁵⁶ *Id.*

démarches were often delivered over the phone and the responses were often minimal or the effective equivalent of the foreign government responding, “noted.”⁵⁷ They contrast this communication with the value they were able to extract when they delivered a démarche in person or “mask to mask,” as they put it.⁵⁸ Even with social distancing and masking, the human interaction underpinning the delivery of routine documents resulted in an increased understanding of the country’s position and response.⁵⁹

When there is a call to build a worldwide diplomatic coalition, it is the outreach through démarche cables detailing the rationale in support—requiring delivery to foreign governments by U.S. embassies across the globe—that demonstrates the importance of having individuals overseas. The relationships Foreign Service officers have within their host governments, along with their ability to deliver U.S. communications to the highest levels of foreign governments within hours of receipt of the démarche cable, make such worldwide coalition building possible.⁶⁰

Avoiding Surprises, Diplomatic Reporting Cables

Building human relationships is important to staying informed and, perhaps more crucial, to understanding developments in the host country to report to policymakers. The diplomatic cable is the form of art for this reporting, often written and produced by diplomats across different portfolios in the embassy and generally reviewed and signed by the ambassador before being sent to Wash-

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ See generally Michael R. Pompeo, *Recognition of Juan Guaidó as Venezuela’s Interim President*, U.S. EMBASSY CUBA (Jan. 23, 2019), <https://cu.usembassy.gov/recognition-of-juan-guaido-as-venezuelas-interim-president/> (representing perhaps the most significant series of démarches in recent memory that related to Latin America concerned the crisis in Venezuela and laying out the rationale for the decision taken by the United States to formally recognize Juan Guaidó, the head of Venezuela’s National Assembly, as the interim President of Venezuela in January 2019. The démarches were delivered to foreign governments by U.S. embassies across the globe, in nearly every capital in the world. Those efforts resulted in over 60 countries, including most of South and Central America, the European Union, and several countries in Asia and the Middle East joining the coalition in support of Guaidó).

ington, D.C.⁶¹ Once there, the cable is distributed to key agencies across the U.S. government, housed in a searchable database, which helps to inform inter-agency policy meetings managed through the formal policy process.⁶² Coordinating the flow of information and the policy for the host country, the country desk at the Department of State is an embassy's main link to Washington, D.C.⁶³

Much of U.S. diplomacy hinges on specific issues that are important to U.S. global interests or to the bilateral relationship with the host country. Part of the U.S. diplomat's job, then, is keeping up with developments that may affect U.S. interests, which may include proposed legislation and regulation.⁶⁴ International correspondent and chronicler of the State Department Nicholas Kralev says the work of U.S. diplomats includes "monitoring developments in the host country to make sure U.S. interests are not being hurt by legislation or other actions,"⁶⁵ and advocating for change if they do.⁶⁶

U.S. diplomats can monitor developments and advocate for change successfully if they have built and nurtured relationships. In the experience of the authors, the process of building trust through human connection cannot be achieved overnight.⁶⁷ The presence of dedicated professionals establishing relationships through a series of collaborations on issues of interest to both governments provides a foundation for developing solutions or, at least, having a productive engagement when disagreements arise.⁶⁸

⁶¹ See *Diplomacy at Work*, *supra* note 27, at 76

⁶² See *Diplomacy at Work*, *supra* note 27, at 76; see also, Joshua E. Keating, *Why Do Diplomats Still Send Cables?*, FOREIGN POL'Y (Nov. 30, 2010) <https://foreignpolicy.com/2010/11/30/why-do-diplomats-still-send-cables/>.

⁶³ See *Diplomacy at Work*, *supra* note 27, at 75; see also *21st Century Diplomacy* *supra* note 27, at 70.

⁶⁴ *21st Century Diplomacy* *supra* note 27, at 7.

⁶⁵ For example, the adoption of new tariffs may affect U.S. trade, and regulation favoring specific types of technologies may put U.S. companies at a disadvantage. U.S. diplomats must be aware of proposed legislation or regulation before it is adopted and, if it affects U.S. interests, proactively work with decision-makers and influencers to address U.S. concerns.

⁶⁶ *21st Century Diplomacy* *supra* note 27, at 7.

⁶⁷ See *21st Century Diplomacy* *supra* note 27 at, 141-145 (exemplifying how building trust through human connection takes time and dedication).

⁶⁸ *21st Century Diplomacy* *supra* note 27, at 141-145.

Modern “Transformational” Diplomacy

Diplomacy is not a static exercise and, in fact, has changed significantly over the years from when it was regarded as an exercise in “negotiating with princes” to quote the book *On the Manner of Negotiating with Princes*, regarded as one of the foundational texts on diplomacy written by François de Callières in 1716.⁶⁹ Since then, and even more so in the past 50 years, diplomacy has evolved considerably to entail much more than just leader-to-leader interaction or the routine process of reporting developments on the ground in a foreign country.

In a 2006 speech at Georgetown University, U.S. Secretary of State Condoleezza Rice explained that the United States needed a new kind of diplomacy to meet the challenges of the moment, “a diplomacy that not only reports about the world as it is but seeks to change the world itself.”⁷⁰ She called it “transformational diplomacy” and defined its objective as follows:

In this world it is impossible to draw neat, clear lines between our security interests, our development efforts, and our democratic ideals. American diplomacy must integrate and advance all of these goals together . . . So, I would define the objective of transformational diplomacy this way: to work with our many partners around the world, to build and sustain democratic, well-governed states that will respond to the needs of their people and conduct themselves responsibly in the international system. Let me be clear, transformational diplomacy is rooted in partnership, not in paternalism. In doing things with people, not for them; we seek to use America’s diplomatic power to help foreign citizens better their own lives and to build their own nations and to transform their own futures.⁷¹

⁶⁹ FRANÇOIS DE CALLIÈRES, *ON THE MANNER OF NEGOTIATING WITH PRINCES* (A.F. Whyte, trans., Houghton Mifflin Harcourt 2000).

⁷⁰ Rice, *supra* note 40.

⁷¹ *Id.*

“Doing things with people” requires a different approach to diplomatic practice. In contrast to the traditional ways of diplomacy, it requires a focus on action and achieving specific results.⁷² As Ambassador William Burns, Deputy Secretary of State from 2011 to 2014, told Nicholas Krlev, “[y]ou have to find wherever the ball is rolling on the field, and with a sense of vision and strategy, move it down the field . . . While we can’t escape from the nuts and bolts of traditional diplomacy, what’s most important today is getting concrete things done.”⁷³ Modern diplomacy requires proactively engaging with actors in the host country to influence events—as opposed to merely reacting to developments—operating only through official channels and reporting back to headquarters.

Modern diplomacy also requires building a network of relationships far beyond the executive branch of the host country and, often, farther beyond even the nation’s capital. The days of solely meeting with the host country’s Foreign Minister and writing long analytical cables are gone. Now, U.S. diplomats must engage with the country’s legislature, private sector, NGOs, and directly with its people. Victoria Nuland, current U.S. Under Secretary of State for Political Affairs, said it best when she stated, “[d]iplomacy is not only about government to government anymore, but also human to human.”⁷⁴ Being present and developing the partnerships that Secretary Rice explained means recognizing that diplomats are part of the local fabric of society.

Implementing Social Impact Programs

U.S. diplomats strengthen human connections and build trust by partnering with actors in the host country to improve local economic and social conditions while striving for inclusion. While ultimate decisions on funding and program goals are often made in Washington, D.C. and more specifically in the halls of the U.S. Congress, U.S. ambassadors have a significant role in shaping these programs.⁷⁵ The implementation lands on U.S. personnel at

⁷² See *21st Century Diplomacy*, *supra* note 27, at 29.

⁷³ *Id.* at 28.

⁷⁴ *Id.* at 15.

⁷⁵ See generally *21st Century Diplomacy*, *supra* note 27, at 81.

embassies abroad.⁷⁶ U.S. personnel overseas are critical players in programs supporting at-risk youth, alleviating poverty, empowering women and entrepreneurs, promoting security cooperation and the rule of law, teaching English, and promoting cultural understanding.

II. U.S. DIPLOMATIC APPROACH IN LATIN AMERICA AND THE CARIBBEAN

In part because of its geographic proximity, the United States has deep geopolitical, commercial, and cultural interests in Latin America and the Caribbean. The U.S. has matched those interests with a wide variety of trade, policy, culture, education, language, science and technology, and environmental development programs.

President Joe Biden's Interim National Security Strategic Guidance, which provides guidelines on how the United States will engage with the world under his administration, describes "the vital national interests of the United States [as] inextricably bound to the fortunes of our closest neighbors in the Americas."⁷⁷ The fact that 11 of 20 countries with whom the United States has Free Trade Agreements are within Latin American and Caribbean nations also highlights the importance of the region for the economic interests of the United States.⁷⁸ In her remarks at the Council of the Americas annual conference in 2021, Secretary of Commerce Gina Raimondo noted "[w]e trade twice as much with the countries of North, Central and South America as we do with China – and we export more to our neighbors in the Western Hemisphere than we do to all of Asia combined."⁷⁹

⁷⁶ *Id.* at 147 (providing an example on how Foreign Service and USAID collaborate to implement programs).

⁷⁷ Joseph R. Biden, Jr., *Interim National Security Strategic Guidance*, WHITE HOUSE (Mar. 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/03/NSC-1v2.pdf>.

⁷⁸ *See Free Trade Agreements*, OFF. U.S. TRADE REPRESENTATIVE, <https://ustr.gov/trade-agreements/free-trade-agreements> (last visited Nov. 11, 2021).

⁷⁹ Gina M. Raimondo, *Remarks by U.S. Commerce Secretary Gina M. Raimondo 51st Annual Washington Council of the Americas (virtual)*, U.S. DEP'T COM. (May 4, 2021), <https://www.commerce.gov/news/speeches/2021/05/remarks-us-commerce-secretary-gina-m-raimondo-51st-annual-washington-council>.

U.S. foreign policy goals in Latin America and the Caribbean have remained broadly consistent through recent years across administrations in the United States largely because they are underpinned by basic concepts and shared values that transcend political changes. U.S. policy is grounded in the promotion and strengthening of democracy and open markets, deepening trade relations by reducing barriers to trade, and partnering with countries in the region to address shared challenges on security, health, and environmental issues, among others.

U.S. Diplomatic Presence in Latin America and the Caribbean

U.S. diplomatic presence in Latin America and the Caribbean consists of a network of 29 embassies, located in the host countries' capitals, and an additional 23 consulates, which are in ancillary offices in cities other than the capital.⁸⁰ The Bureau of Western Hemisphere Affairs ("The Bureau") at the State Department oversees the operations of all these embassies and consulates.⁸¹ The Bureau promotes U.S. interests in the region by developing and promoting partnerships with countries, people, the private sector, civil society, and other actors throughout the Americas.⁸² Through these relationships, the Bureau aims to expand economic prosperity, increase citizen security, and strengthen democratic institutions with the support of the Bureau's 2,700 employees (U.S. citizens and foreign nationals) working in Washington, D.C. and at the embassies and Consulates General throughout the hemisphere.⁸³

In New York, the United States Mission to the United Nations also regularly engages with counterparts from the region on a variety of social impact initiatives in Latin America and the Caribbean driven by United Nations organizations including the Economic Commission for Latin America and the Caribbean (ECLAC) and

⁸⁰ See *U.S. Embassies Around the World*, ONE WORLD NATIONS ONLINE, https://www.nationsonline.org/oneworld/us_embassies.htm (last visited Oct. 25, 2021); see also *Diplomacy at Work*, *supra* note 27, at 69.

⁸¹ *About Us – Bureau of Western Hemisphere Affairs*, U.S. DEP'T STATE, <https://www.state.gov/about-bureau-of-western-hemisphere-affairs/> (last visited Oct. 25, 2021) [hereinafter *About Us*].

⁸² See, *Key Topics – Bureau of Western Hemisphere Affairs*, U.S. DEP'T STATE, <https://www.state.gov/key-topics-bureau-of-western-hemisphere-affairs/> (last visited Nov. 23, 2021).

⁸³ *About Us*, *supra* note 81.

the United Nations Educational, Scientific and Cultural Organization (UNESCO).⁸⁴

The Power of Being Present in Mexico

No country is more emblematic of the U.S. being present in Latin America and the Caribbean in order to advance national interests than Mexico. The U.S.–Mexico border is 1,954 miles long, the tenth largest land border in the world.⁸⁵ It is also one of the busiest, with 373 million annual travelers and annual trade pre-pandemic of roughly \$600 billion in goods and services, making Mexico the second largest import partner and the third largest export partner of the United States.⁸⁶ On the surface, sharing a border would suggest that perhaps the United States could manage most aspects of the relationship with a standard-sized embassy and limited personnel. But the opposite is true. The U.S. bilateral relationship with Mexico is one of the busiest, most complex, and diverse relationships that the United States has anywhere in the world. As a result, the United States has one of the largest U.S. embassies in the world in Mexico City, in addition to another nine consulates throughout the Mexican states.⁸⁷

The Chief of Mission in Mexico City faces a daunting inter-agency coordination challenge, given the sheer volume of issues and agencies handling bilateral issues in Mexico.⁸⁸ There are at least twenty-seven agencies and departments present at the U.S.

⁸⁴ See generally Linda Thomas-Greenfield, *Remarks by Ambassador Linda Thomas-Greenfield at an OCHA Co-Hosted by the U.S. on El Salvador, Guatemala, and Honduras*, U.S. MISSION TO U.N. (Apr. 20, 2021), <https://usun.usmission.gov/remarks-by-ambassador-linda-thomas-greenfield-at-an-ocha-briefing-co-hosted-by-the-u-s-on-el-salvador-guatemala-and-honduras/>. Accessed: November 18, 2021.

⁸⁵ *Length of Longest International Land Borders Worldwide (In Kilometers)*, STATISTA (Aug. 2019), <https://www.statista.com/statistics/1103985/border-length-between-countries/>.

⁸⁶ *The Border Between the U.S. and Mexico*, SMART BORDER COAL., <https://smartbordercoalition.com/about-the-border> (last visited Oct. 25, 2021).

⁸⁷ U.S. EMBASSY & CONSULATES MEX., <https://mx.usembassy.gov/> (last visited Oct. 26, 2021).

⁸⁸ Dolia Estévez, *U.S. Ambassadors to Mexico, The Relationship Through Their Eyes*, Woodrow Wilson Int'l Ctr. for Scholars 1, 140-42 (2012), https://www.wilsoncenter.org/sites/default/files/media/documents/publication/Estevéz_Amb_to_Mex.pdf.

Mission in Mexico City.⁸⁹ These entities range from development agencies to agriculture, trade, border enforcement, Department of Justice, security agencies, and the Peace Corps, plus the various sections of the State Department itself, including traditional sections like economics and politics, as well as consular services for U.S. citizens and visa processing.⁹⁰

Mexico is a prime example of the need to prioritize and integrate agendas given the diverse agency and issue makeup of the U.S.–Mexico agenda. On any given day, the agenda can range from working on implementation of a U.S.–Mexico Water Treaty from the 1940s,⁹¹ to dealing with interagency cooperation on counterdrug policies, to working with Mexico on environmental programs relating to monarch butterflies or endangered porpoises,⁹² to working with companies encountering business problems in Mexico,⁹³ or all of the above. The agenda is broad and deep, and its execution is a prime example of what embassies do best: synthesize U.S. interests into a coherent policy approach.

Given the variety of agendas and issues that the U.S. embassy in Mexico addresses daily, its operations are often a case study in prioritization and external communications.⁹⁴ In his book *The Bear and the Porcupine: The U.S. and Mexico*, former U.S. Ambassador to Mexico Jeff Davidow explains the communications challenge,

⁸⁹ See *Sections & Offices*, U.S. EMBASSY & CONSULATES MEX. (June 23, 2021), <https://mx.usembassy.gov/sections-offices/>.

⁹⁰ See *Messages for U.S. Citizens*, U.S. EMBASSY & CONSULATES MEX., <https://mx.usembassy.gov/category/messages-for-citizens/> (last visited Oct. 25, 2021).

⁹¹ See Vanda Felbab-Brown, *Not dried-up, U.S.-Mexico water cooperation*, BROOKINGS (Oct. 26, 2020), <https://www.brookings.edu/blog/order-from-chaos/2020/10/26/not-dried-up-us-mexico-water-cooperation/>.

⁹² See Kristin Nowell & Vanda Felbab-Brown, *A porpoise to serve: Rescuing the vaquita and the US-Mexico relationship*, BROOKINGS (July 26, 2021), <https://www.brookings.edu/blog/order-from-chaos/2021/07/26/a-porpoise-to-serve-rescuing-the-vaquita-and-the-us-mexico-relationship/>.

⁹³ See generally Sergio Meana, *US warns Mexico of violations to USMCA in energy*, ARGUS MEDIA (Jan. 15, 2021), <https://www.argusmedia.com/en/news/2177522-us-warns-mexico-of-violations-to-usmca-in-energy>.

⁹⁴ See generally, Estévez, *supra* note 88 (Noting that not only does the U.S. ambassador or *chargé d'affaires* (a diplomat who serves as an embassy's chief of mission in the absence of the ambassador), manage the embassy itself, but the ambassador also needs to manage interactions with the host government and communications with the media and the broader Mexican population).

as he juggled the pressure of communicating difficult issues in the security relationship between Mexico and the U.S., and the challenge of managing a media establishment often pursuing its own agenda in Mexico.⁹⁵ Davidow comments that it was easy to get a good headline when he praised Mexico, but anything short of that resulted in a mixed bag of messages which were often out of context or not strictly confined to the facts.⁹⁶ Knowing the history and context of communications is essential for any government or company, and having strategies for engagement with local media is an important element of successfully establishing one's presence.⁹⁷

Mexico also tends to be the recipient of frequent travelers from the United States who also subscribe to the theory that showing up in person matters to the goal of advancing shared priorities. Davidow lays out the challenge in a chapter of his book titled "Visits from Planet Washington," where he details the visits of some three dozen U.S. state governors, two presidents, and many others during his time in Mexico City.⁹⁸ When former Governor of Florida Jeb Bush visited Mexico, he travelled with over 100 business executives for whom the commercial attaché at the U.S. embassy and the Department of Commerce arranged a grand total of over 1,000 meetings related to this trip alone.⁹⁹ Being present on a day-to-day basis enables these visits to be productive and meaningful in advancing the objectives of the visit.

⁹⁵ JEFFREY DAVIDOW, *THE U.S. AND MEXICO: THE BEAR AND THE PORCUPINE* ix (Markus Weiner Publishers 2004) [hereinafter *THE BEAR AND THE PORCUPINE*].

⁹⁶ *Id.*

⁹⁷ David Bach & David B. Allen, *What Every CEO Needs to Know About Nonmarket Strategy*, MITSLOAN MGMT. REV. (Apr. 1, 2010), <https://sloanreview.mit.edu/article/what-every-ceo-needs-to-know-about-nonmarket-strategy/> (describing the importance of communications in corporate government affairs); see also Craig Fleisher & Conor McGrath, *Public Affairs: A field's maturation from 2000+ to 2030*, J. PUB. AFF'S. (Aug. 10, 2020), <https://onlinelibrary.wiley.com/doi/abs/10.1002/pa.2218>; see also *21st Century Diplomacy*, *supra* note 27, at 108 (highlighting other examples of the importance of communications in diplomatic practice).

⁹⁸ *THE BEAR AND THE PORCUPINE*, *supra* note 95, at 188.

⁹⁹ *Id.*

Paraguay and the Power of Showing Up

Another important part of U.S. diplomacy is the United States' daily presence and day-to-day interaction in countries farther away than Mexico, helping to bridge the distance and promote long-term partnerships abroad. For Kimberly Breier, a co-author of this article, one of the most gratifying experiences of serving as Assistant Secretary of State for Western Hemisphere Affairs came during a 2019 trip to Paraguay, which happened to coincide with International Women's Day. During a reception at the home of the U.S. Ambassador, she had the distinct honor to present U.S. government awards to two Paraguayan women in person. Teresa Martínez, the Secretary of Youth and Adolescents, received the Labor Department's annual Iqbal Masih Award for her work against child labor and exploitation. Sandra Quiñónez, the Attorney General of Paraguay, was nominated for the 2019 State Department International Women of Courage Award, a prize created by the State Department in 2007 and awarded annually to a group of outstanding women defying the odds in their respective fields around the world.¹⁰⁰

Even though both women knew in advance that they had received an award or been nominated, an in-person ceremony extended the impact of these awards.¹⁰¹ The embassy arranged a ceremony, with brief remarks and applause, but for the U.S. relationship with Paraguay it was a moment whose impact will be felt for a long time to come. There was not a dry eye in the house, and you could feel the impact on those assembled in the courtyard, watching two Paraguayan women Secretaries receive acknowledgment for their efforts, from a U.S. female official, who had come a very long way on airplanes in order to deliver it. Being there mattered both in terms of the U.S. embassy staff having been able to identify

¹⁰⁰ Kimberly Breier, *Fructifera visita de la Secretaria de Estado Adjunta para Asuntos del Hemisferio Occidental, Kimberly Breier a Paraguay*, EMBAJADA DE LOS ESTADOS UNIDOS EN PARAGUAY [U.S. EMBASSY PARA.] (2019) (Para.), https://py.usembassy.gov/es/fructifera-visita-de-la-secretaria-de-estado-adjunta-para-asuntos-del-hemisferio-occidental-kimberly-breier-a-paraguay/?_ga=2.95483356.1919223046.1620827239-1224598483.1585167781.

¹⁰¹ Breier, K., Personal account of visits to Paraguay and Argentina, March and May 2019.

and nominate these women for the prestigious awards, as well as for the senior U.S. official being present to deliver them.

Some months later, in Argentina, when Secretary of State Mike Pompeo was there, in person, attending a security conference with key allies in South America, Paraguay's Attorney General Quiñónez approached Secretary Pompeo to speak with him on the margins of the event. She did not approach him to talk about security cooperation or recent bilateral work to counter money laundering in the tri-border area between Brazil, Paraguay, and Argentina (which was among the subjects of the conference). Rather, she approached to personally thank Secretary Pompeo for the nomination she had received for the Women of Courage Award and to tell him how much that nomination had meant both to her and to Paraguay. The nomination, she said, had empowered her in Paraguay and helped her to do her job.¹⁰²

That short ceremony also conveyed another message: that the United States supports and values the role of female leaders—both at home and abroad. Additionally, the ceremony projected the United States' core values in a simple act, a short ceremony, whose impact derived from simply being present.

U.S. Development Assistance and Finance: Doing Things with People

Perhaps the best demonstration of transformational diplomacy, i.e. “doing things with people,”¹⁰³ is the modern administration of U.S. development aid and assistance programs. The implementation of programs overseas depends on U.S. diplomats and government personnel on the ground, working out of U.S. embassies. They are the executing arm and face of U.S. efforts to combat poverty, promote education, equality, and democratic values, and to increase empowerment of local communities.¹⁰⁴

One of the most powerful recent examples of physically engaging with local actors beyond a host national government, came in the form of U.S. assistance in the tragedy of migrants fleeing the

¹⁰² Breier, K., Personal account of visits to Paraguay and Argentina, March and May 2019.

¹⁰³ Rice, *supra* note 40.

¹⁰⁴ See *21st Century Diplomacy*, *supra* note 27, at 147.

crisis in Venezuela in recent years.¹⁰⁵ These programs are coordinated with international partners, including local non-governmental organizations (NGOs), churches, and agencies affiliated with the United Nations.¹⁰⁶ Headquartered in Cúcuta, near the Colombian border with Venezuela, these missions operate as a real-time demonstration of the power of being present outside the nation's capital by working alongside local governments, NGOs, and local populations.

Local embassy staff from the USAID helped coordinate aid shipments to Cúcuta, worked with NGOs, and arranged for the visit of U.S. Navy Ship *Comfort* to Turbo, a small town on Colombia's Caribbean coast, in November 2018.¹⁰⁷ This trip to Turbo aimed to provide healthcare services to Venezuelan migrants as well as to Colombians in need.¹⁰⁸ These are textbook examples of how being present on the ground and working closely with regional and local governments as well as NGOs can deliver life-saving assistance to populations in need during heartbreaking crises.¹⁰⁹

A Special Focus on Transparency and Justice

U.S. assistance to support the efforts of countries around the world to improve their government transparency and the administration of justice is another example of partnering with local actors and “doing things with people.” For example, the United States regularly collaborates with governments in Latin America to

¹⁰⁵ See *Venezuela Regional Crisis – Complex Emergency, Fact Sheet #1*, USAID (Dec. 16, 2020), https://www.usaid.gov/sites/default/files/documents/12.16.2020_-_USG_Venezuela_Regional_Crisis_Response_Fact_Sheet_1.pdf [hereinafter *Venezuela Regional Crisis*]; see also, “*The Venezuelan Way*,” USAID SAVES LIVES (Feb. 7, 2019), <https://usaidsaveslives.medium.com/the-venezuelan-way-906903b29bbd>.

¹⁰⁶ See *Venezuela Regional Crisis*, *supra* note 105.

¹⁰⁷ Breier, K., Personal account of visits to Turbo, Colombia and Cúcuta, Colombia in November 2018.

¹⁰⁸ Breier, K., Personal account of visits to Turbo, Colombia and Cúcuta, Colombia in November 2018.

¹⁰⁹ Kimberly Breier viewed both efforts first-hand in November 2018 during a visit to Cúcuta and Turbo that simply would not have been possible but for the work of the dedicated people of the U.S. embassy in Bogotá who made it all happen

provide funding and capacity building,¹¹⁰ from building courthouses, to empowering the judges that will administer justice inside them.¹¹¹ When Mexico undertook a major judicial reform in 2008 under President Felipe Calderón, the Obama administration responded by providing U.S. assistance to Mexico under the “Mérida Initiative,” a project with the aim of training judges and prosecutors in the norms of open, adversarial legal systems.¹¹²

On June 3, 2021, U.S. President Joe Biden issued a Memorandum on Establishing the Fight Against Corruption as a Core United States National Security Interest.¹¹³ The memorandum states, “[c]orruption threatens United States national security, economic equity, global anti-poverty and development efforts, and democracy itself. But by effectively preventing and countering corruption and demonstrating the advantages of transparent and accountable governance, we can secure a critical advantage for the United States and other democracies.”¹¹⁴

The fight against corruption has also been the focus of major Pan-American initiatives. For example, the theme of the 2018 Summit of the Americas, held in Lima, Peru, was “Democratic Governance against Corruption.”¹¹⁵ One of the commitments under the joint statement issued by the Heads of State of the Americas during the summit was as follows:

¹¹⁰ See generally *ForeignAssistance.gov*, U.S. AGENCY INT’L DEV., www.foreignassistance.gov (last updated Nov. 19, 2021) (highlighting the data published on U.S. assistance to Latin American countries related to governance); see also *21st Century Diplomacy*, *supra* note 27, at 141.

¹¹¹ See *21st Century Diplomacy*, *supra* note 27, at 141.

¹¹² Clare Ribando Seelke, *Supporting Criminal Justice System Reform in Mexico: The U.S. Role*, CONG. RSCH. SERV. 13 (Mar. 18, 2012), <https://sgp.fas.org/crs/row/R43001.pdf>.

¹¹³ See *Memorandum on Establishing the Fight Against Corruptions as a Core United States National Security Interest*, WHITE HOUSE (Jun. 3, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/03/memorandum-on-establishing-the-fight-against-corruption-as-a-core-united-states-national-security-interest/>.

¹¹⁴ *Id.*

¹¹⁵ See *8th Summit of the Americas*, Wikipedia, https://en.wikipedia.org/wiki/8th_Summit_of_the_Americas (last updated June 25, 2021); see also *Summits of the Americas – Secretariat*, ORG. AM. STATES, http://www.summit-americas.org/default_en.htm (last visited Nov. 23, 2021).

Promoting the use of new technologies that facilitate digital government in order to promote transparency, interaction with citizens and accountability, through development of tools for the identification, detection, systematization, and monitoring of government procedures and, to that end, strengthening cooperation and exchange of best practices on the development and application of such technologies.¹¹⁶

By working with local government officials and civil society to achieve these goals, U.S. diplomats strengthen relationships with these governments and communities.¹¹⁷ Judicial reform in Chile is an example. “The experience resulted in closer cooperation with Chile in other areas of government reform, and U.S.–Chilean relations ‘greatly improved’” overall,¹¹⁸ says Nicholas Kralev, quoting David Bustamante, a Foreign Service officer assigned to lead the U.S. Embassy’s support for sweeping judicial reform.¹¹⁹ “Our access to the government of Chile became such that some of us were received as true friends when we visited ministries, and almost treated as if we were employees there,” Bustamante told Kralev.¹²⁰

The Power of Public–Private Partnerships (PPPs)

The U.S. government has long realized that it can achieve more when partnering with the private sector. In the Americas, perhaps the greatest manifestation of this is found in the Summit of the Americas process. PPPs with the Inter–American Development Bank (IDB), the Development Finance Corporation (DFC), and those developed in support of student exchanges from the region are other examples of successful public–private collaboration initi-

¹¹⁶ *Lima Commitment: “Democratic Governance Against Corruption,”* ORG. AM. STATES (Apr. 14, 2018), http://www.summit-americas.org/viii/compromiso_lima_en.pdf.

¹¹⁷ *See 21st Century Diplomacy, supra* note 27, at 141.

¹¹⁸ *Id.* at 142.

¹¹⁹ *Id.*

¹²⁰ *Id.*

atives.¹²¹ The following sections describe some of these initiatives in more detail.

A. The Summit of the Americas

Building on a tradition of Pan–American conferences dating back to the 19th century, the United States convened the First Summit of the Americas in Miami, Florida in 1994.¹²² At that summit, heads of state from the Americas met in person and agreed to pursue a common agenda for the hemisphere and institutionalize the summit process.¹²³ As the Bureau of Western Hemisphere Affairs website notes, “[s]ince the United States launched the Summit of the Americas, this meeting of the region’s leaders has become the highest–level process for promoting regional cooperation and addressing the most pressing issues in the Americas.”¹²⁴

After the 2001 III Summit of the Americas in Quebec, the Organization of Americas States (OAS) assumed the Secretariat of the Summit of the Americas Process.¹²⁵ Since then, other actors have been incorporated to the process, including inter–American institutions such as the IDB, the ECLAC, and the Pan American Health Organization (PAHO).¹²⁶ The process also now includes international institutions such as the World Bank and the Organization for Economic Co–operation and Development (OECD), and sub–regional developments banks, such as the Development Bank of Latin America (CAF), and cooperation agencies.¹²⁷ Thirteen

¹²¹ See Mark A. Green & David Bohigian, *Letter to Chairman Richard Shelby on DFC-USAID Cooperation Report*, U.S. INT’L DEV. FIN. CORP. (Jul. 31, 2019), https://www.dfc.gov/sites/default/files/2019-08/CoordinationReport_Shelby_7_31_19.pdf.

¹²² See *Introduction to the Summits of the Americas Process*, SUMMIT AMERICAS, <http://www.summit-americas.org/eng-2002/Intro-Summit.htm> (last visited May 13, 2021); see also *Summit of the Americas: Bureau of Western Hemisphere Affairs*, U.S. DEP’T STATE, <https://www.state.gov/summit-of-the-americas/> (last visited May 14, 2021) [hereinafter Bureau of Western Hemisphere Affairs].

¹²³ See, *About the Summits of the Americas*, ORG. OF AM. STATES, http://www.summit-americas.org/summit_process.html (last visited Nov. 23, 2021).

¹²⁴ Bureau of Western Hemisphere Affairs, *supra* note 122.

¹²⁵ *Se About the Summits of the Americas*, *supra* note 123.

¹²⁶ *See id.*

¹²⁷ *See id.* .

inter-American and international institutions now form the Joint Summit Working Group, which coordinates how these institutions contribute to the Summit process.¹²⁸

The 2012 VI Summit of the Americas in Cartagena, Colombia, included the First CEO Summit of the Americas, which gathered over 700 executives from leading Western Hemisphere companies.¹²⁹ The CEO Summit was organized by Colombian business groups, with support from the Colombian government and the IDB.¹³⁰ During the event, executives and government officials discussed opportunities for PPPs to accelerate economic growth and reduce poverty in the region.¹³¹ The second and third CEO Summit of the Americas took place during the 2015 Panama¹³² and 2018 Lima¹³³ Summits of the Americas. The CEO Summit now operates under the private sector-led Americas Business Dialogue (ABD) mechanism, created at the Cartagena summit to promote public-private dialogue.¹³⁴

¹²⁸ See *Joint Summit Working Group (JSWG)*, SUMMIT AMERICAS, <http://www.summit-americas.org/jswg.html> (last visited May 14, 2021).

¹²⁹ See *First CEO Summit of the Americas calls for greater economic cooperation among Western Hemisphere nations*, INTER-AM. DEV. BANK (Apr. 12, 2012), <https://www.iadb.org/en/news/first-ceo-summit-americas-calls-greater-economic-cooperation-among-western-hemisphere-nations>.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² See *Heads of State, top business leaders participate in Second CEO Summit of the Americas*, INTER-AM. DEV. BANK (Apr. 9, 2015), <https://www.iadb.org/en/news/news-releases/2015-04-09/ii-ceo-summit-of-the-americas-launched%2C11124.html>.

¹³³ Angela Funez, *Twelve Heads of State and More than 1,000 Business Leaders Take Part in the CEO Summit of the Americas*, INTER-AM. DEV. BANK (Apr. 10, 2018), <https://blogs.iadb.org/integration-trade/en/eleven-heads-of-state-and-more-than-700-business-leaders-to-take-part-in-the-ceo-summit-of-the-americas/>.

¹³⁴ See *Background*, AMERICAS BUSINESS DIALOGUE, <http://www.americasbd.org/en/background.html> (last visited Oct. 25, 2021).

B. Public–Private Collaborations with the Inter–American Development Bank (IDB)

The IDB Group is the oldest and largest regional, multi–lateral development bank in the world.¹³⁵ As the leading source of development financing for Latin America and the Caribbean, the IDB Group’s mission is to improve lives in Latin America and the Caribbean through financial and technical support for countries working to reduce poverty and inequality.¹³⁶ Founded in 1959, the IDB currently has 48 member countries, with the United States as its biggest shareholder. In addition to the bank itself, the IDB Group also comprises IDB Invest, the group’s private sector arm, and IDB Labs, which tests high–risk, private sector–driven, innovative development initiatives.¹³⁷ The IDB headquarters are in Washington, D.C., and the bank has offices in 26 member countries in Latin America, the Caribbean, Madrid, and Tokyo.¹³⁸ The IDB Group also carries out its mission by being physically present in the Americas.

The IDB Group’s institutions are key partners for the private sector in Latin America and the Caribbean, and channel many public–private initiatives in the region. In February 2021, the IDB hosted the first Private–Sector Partners Roundtable on the Future of Latin America and the Caribbean, one of the bank’s recent initiatives to strengthen collaboration with the private sector to promote investment and create jobs in the region.¹³⁹ The Roundtable

¹³⁵ *Annual Report The Year in Review 2020*, INTER-AM. DEV. BANK ii (Mar. 22, 2020), <https://publications.iadb.org/publications/english/document/Inter-American-Development-Bank-Annual-Report-2020-The-Year-in-Review.pdf>.

¹³⁶ *See About Us*, INTER-AM. DEV. BANK, <https://www.iadb.org/en/about-us/overview> (Last visited June 11, 2021).

¹³⁷ *Annual Report The Year in Review 2020*, *supra* note 135.

¹³⁸ *Id.* (identifying member countries as Argentina, Austria, The Bahamas, Barbados, Belgium, Belize, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Croatia, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Germany, Guatemala, Guyana, Haiti, Honduras, Israel, Italy, Jamaica, Japan, Republic of Korea, Mexico, Netherlands, Nicaragua, Norway, Panama, Paraguay, Peru, Portugal, Slovenia, Spain, Suriname, Sweden, Switzerland, Trinidad and Tobago, United Kingdom, United States, Uruguay and Venezuela).

¹³⁹ *IDB President, CEOs Launch Historic Partnership for Latin American and Caribbean Recovery*, INTER-AM. DEV. BANK (Feb. 16, 2021),

gathered 40 global corporate executives who pledged to work with the IDB to support economic recovery in the region by mobilizing resources for the economic empowerment of women, digitalization, and integration and moving value chains to the region.¹⁴⁰

IDB Invest is another important venue where the public and private sectors come together for a common purpose.¹⁴¹ IDB Invest seeks to promote sustainable development in Latin America and the Caribbean through investment in enterprises and projects that maximize economic, social, and environmental development.¹⁴² IDB Invest finances and advises private sector enterprises and projects to build clean energy sources and climate-resilient infrastructure, modernize agriculture and strengthen food security, improve transportation systems, and expand access to financing.¹⁴³ *Internet para Todos* (IPT), a joint venture among IDB Invest, Facebook, Telefonica and CAF to increase access to internet in rural communities in Peru,¹⁴⁴ recently partnered with Microsoft to leverage IPT's existing infrastructure and customer base to add an additional low cost and high speed connectivity offering via TV White Spaces (TVWS) spectrum technology,¹⁴⁵ facilitating connectivity to an additional one million rural citizens from fifteen regions in the highlands and rainforest.¹⁴⁶

<https://www.iadb.org/en/news/idb-president-ceos-launch-historic-partnership-latin-american-and-caribbean-recovery>.

¹⁴⁰ *Id.*

¹⁴¹ See *About Us*, INTER-AM. DEV. BANK INVEST, <https://idbinvest.org/en/about-us> (last visited May 14, 2021) [hereinafter IDB Invest About Us].

¹⁴² See *IDB Invest, BBVA, Interbank Promote the Sustainability and Expansion of Latin America's Agro-Export Industry*, IDB INVEST (Sept. 12, 2021), <https://www.idbinvest.org/en/news-media/idb-invest-bbva-interbank-promote-sustainability-and-expansion-latin-americas-agro-export>.

¹⁴³ IDB Invest About Us, *supra* note 141.

¹⁴⁴ See *Internet Para Todos y Microsoft anuncian alianza para llevar conectividad rural a sierra y selva del Perú*, NEWS CTR. MICROSOFT LATINOAMÉRICA (Dec. 14, 2020), <https://news.microsoft.com/es-xl/internet-para-todos-y-microsoft-anuncian-alianza-para-llevar-conectividad-rural-a-sierra-y-selva-del-peru/>.

¹⁴⁵ See *id.*

¹⁴⁶ Leslie Salas Oblitas, *Hasta 15 regiones de la sierra y selva podrían tener conexión a internet de alta velocidad*, CORREO (Nov. 12, 2020), <https://diariocorreo.pe/economia/microsoft-conexion-a-internet-es-dos-veces->

C. Financing Private Sector Exporters with the Development Finance Corporation (DFC)

Another key tool in the U.S. toolkit to work with countries around the world in collaboration with the private sector is the newly created Development Finance Corporation (DFC), formerly the Overseas Private Investment Corporation (OPIC), whose mission is to support development objectives overseas by helping the private sector succeed.¹⁴⁷ The DFC currently has over \$10.4 billion in active commitments in Latin America,¹⁴⁸ a significant amount as compared to U.S. commitment in recent years.¹⁴⁹ Projects range from supporting U.S. companies developing renewable energy projects in Honduras, to clean water projects in El Salvador, backing women entrepreneurs across the region, upgrading ports in Brazil, and supporting key transportation projects in Argentina.¹⁵⁰ As with other U.S. programs abroad, U.S. embassies are playing an increasing role in helping spot projects for DFC support, working with DFC offices in Washington, D.C., and explaining the DFC's operating model and support options to local governments.¹⁵¹ DFC does not have its own personnel working abroad, so the U.S. diplomats and government officials are its "eyes and ears" and are critical players in ensuring successful investments and partnerships.

D. Public–Private Support for Student and Professional Exchanges

Programs designed to encourage students and professionals to travel and experience the power of being present are another major aspect of transformational U.S. diplomacy in the region.

superior-en-areas-urbanas-que-en-zonas-rurales-regiones-de-la-selva-y-sierra-internet-de-alta-velocidad-microsoft-peru-internet-para-todos-ncze-noticia/.

¹⁴⁷ See U.S. INT'L DEV. FIN. CORP., www.dfc.gov (last visited Nov. 23, 2021).

¹⁴⁸ *Id.*

¹⁴⁹ See, *Trends in U.S. Assistance to Latin America and the Caribbean, U.S. Foreign Assistance to Latin America and the Caribbean: FY2021 Appropriations*, CONG. RSCH. SERV. (Jan. 7, 2021), <https://sgp.fas.org/crs/row/R46514.pdf>.

¹⁵⁰ See *Our Work, Latin America and the Caribbean*, U.S. INT'L DEV. FIN. CORP., <https://www.dfc.gov/our-work/latin-america-and-the-caribbean> (last visited Nov. 13, 2021) (illustrating examples of the DFC's work in the region).

¹⁵¹ See Green & Bohigian, *supra* note 121.

Embassies in Latin America and the Caribbean manage a myriad of programs designed for this purpose. In Argentina for example, the U.S. Embassy supported the 2007 launch of the “Bulldogs in Buenos Aires” program for Yale College students travelling to Argentina’s capital for internships at local companies and NGOs.¹⁵² Up until the pandemic travel restrictions of 2020, the program had run continuously, benefiting more than 100 Yale College students who travelled to Buenos Aires for the eight-week program over the course of the New Haven summer with an immersive experience in the metropolis of Argentina’s capital city.¹⁵³

The U.S. State Department’s International Visitor Leadership Program (IVLP) is another prime example of these exchange programs.¹⁵⁴ Focused on professional development and administered by the Institute of International Education, the IVLP seeks to “facilitate conversation around key global and domestic issues, demonstrate the diversity of the United States and address U.S. foreign policy goals.”¹⁵⁵ The program consists of short-term visits to the United States where participants expand their professional knowledge, network, and develop leadership skills.¹⁵⁶ The visits include workshops, meetings, events, speaking engagements, and cultural activities related to the participants’ fields of interest.¹⁵⁷ These fields include agriculture, law, women’s issues, democracy, human rights, and counterterrorism.¹⁵⁸ Every year, staff at U.S. embassies around the world nominate and select around 5,000 in-

¹⁵² See *Alumnos de Yale hacen pasantías en la ciudad*, LA NACION (Jul. 23, 2008), <https://www.lanacion.com.ar/cultura/alumnos-de-yale-hacen-pasantias-en-la-ciudad-nid1032707/>; see also *YaleBulldogsARG08, Yale Bulldogs in Buenos Aires 2008*, YOUTUBE (Jul. 22, 2008), <https://www.youtube.com/watch?v=c2YiSRvJy8I>.

¹⁵³ *Id.*

¹⁵⁴ See *International Visitor Leadership Program*, U.S. DEP’T STATE, <https://www.iie.org/programs/IVLP> (last visited Jul. 12, 2021); see also *International Visitor Leadership Program: At-a-Glance*, U.S. DEP’T STATE BUREAU EDUC. & CULTURAL AFFS., <https://exchanges.state.gov/non-us/program/international-visitor-leadership-program-ivlp> (last visited Jul. 12, 2021) [hereinafter *IVLP*].

¹⁵⁵ IVLP, *supra* note 154.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

dividuals to participate in the IVLP.¹⁵⁹ To date, over 200,000 professionals have participated in the exchange program since its inception in 1972.¹⁶⁰

Perhaps the most powerful exchange program is the 100,000 Strong in the Americas Innovation Fund (“100K Fund”), founded in 2011 to promote study in the United States by students from Latin America and the Caribbean.¹⁶¹ The 100K Fund was developed and is managed by the Bureau of Western Hemisphere Affairs at the U.S. Department of State in collaboration with Partners of the Americas, a Washington, D.C.–based non–profit founded in 1964 under the Alliance for Progress economic cooperation program.¹⁶² To date, the program has received \$22 million in contributions from the U.S. government, higher education institutions, and private sector companies and foundations. This has enabled the participation of 10,000 students from twenty five countries and 504 higher education institutions from these countries and from forty nine U.S. states.¹⁶³ The Innovation Fund is a prime example of a PPP’s ability to co–invest in programs that foster the exchange of ideas and diverse perspectives by encouraging students to travel to the United States and understand the power of being present.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *About the Innovation Fund*, 100,000 STRONG IN THE AMERICAS, <https://www.100kstrongamericas.org/about/> (last visited Oct. 25, 2021); *see also* Anna Herrero Tejada & Sarah Stanton, *Leveraging Public-Private Partnerships to Expand Higher Education Collaboration and Academic Exchange in the Americas: An Impact Study of the 100,000 Strong in the Americas Innovation Fund*, THE DIALOGUE (Jun. 2021), <https://www.thedialogue.org/wp-content/uploads/2021/06/Leveraging-Public-Private-Partnerships-to-Expand-Higher-Education-Collaboration-and-Academic-Exchange-in-the-Americas-1.pdf>.

¹⁶² *Id.*

¹⁶³ *Id.*

III. SHARED VENUES AND TRANSFERABLE SKILLS WITH THE PRIVATE SECTOR

Shared Venues

There are several forums where government leaders, diplomats, and private sector representatives engage with each other on Latin America and Caribbean-related issues. Some of these forums are detailed in the chart¹⁶⁴ below.

Institution/ Venue	Description
Summit of the Americas, Americas Business Dialogue, CEO Summit of the Americas	As described above, the Summit process is perhaps the most important forum for public-private coordination on Latin America policy. The process now includes international, inter-American, and sub-regional institutions, as well as the parallel Americas Business Dialogue, which organizes the CEO Summit of the Americas.
Americas Society, Council of the Americas, Washington Conference on the Americas	The Americas Society is a “forum dedicated to education, debate, and dialogue in the Americas. Its mission is to foster an understanding of the contemporary political, social, and economic issues confronting Latin America, the Caribbean, and Canada, and to increase public awareness and appreciation of the diverse cultural heritage of the Americas and the importance of the inter-American relationship.” ¹⁶⁵

¹⁶⁴ Chart from Antonio Leal Holguín, Latin America Advisor, Covington & Burling LLP (May 17, 2021) (on file with author).

¹⁶⁵ *About AS/COA*, AM. SOC’Y COUNCIL AM., <https://www.as-coa.org/about/about-ascoa> (last visited May 13, 2014).

	<p>The Council of the Americas is an international business organization “whose members share a common commitment to economic and social development, open markets, the rule of law, and democracy throughout the Western Hemisphere.”¹⁶⁶ Its members include leading international companies.</p> <p>The annual Washington Conference on the Americas gathers senior leaders from government and the private sector in the Americas.</p>
Business Council for International Understanding (BCIU)	<p>The BCIU is an organization that seeks to expand international trade and commerce. Its members include over 200 leading international companies. Through its programs and events, the BCIU provides a forum for government officials and member companies to engage on issues of trade and commerce. A regular BCIU conference is the U.S. Chiefs of Mission series in Washington, D.C., including for the State Department’s Bureau of Western Hemisphere Affairs. The event features U.S. ambassadors serving in the region and typically includes an economic policy forum and business–diplomat networking events.¹⁶⁷</p>

¹⁶⁶ *Id.*

¹⁶⁷ *About BCIU: Global Thinking from a Unique Position of Trust and Credibility*, BUS. COUNS. FOR INT’L UNDERSTANDING, <https://www.bciu.org/about> (last visited May 13, 2021).

World Economic Forum for Latin America	The World Economic Forum organizes annual conferences in Latin America that bring together senior leaders from government, the private sector, and civil society to engage on economic, political and technological transformations.
Asia-Pacific Economic Cooperation (APEC), Business Advisory Council (ABAC), APEC CEO Summit	APEC is a regional economic forum that fosters integration between 21 Asia-Pacific nations, including Chile, Mexico, Peru, and the United States. APEC coordinates among the governments of member nations to reduce barriers to trade and investment. ¹⁶⁸ The Business Advisory Council (ABAC) is APEC's private-sector arm, which advises and provides recommendations to APEC member countries. ¹⁶⁹ The APEC CEO Summit is held in parallel to the annual meeting of APEC leaders. The summit provides an opportunity for government officials and business leaders to engage on issues related to trade and economic integration.
G20, Business 20	The G20 is a forum that brings together the world's major economies, including Argentina, Brazil, Mexico, and the United

¹⁶⁸ *About APEC: What is Asia Pacific Economic Cooperation?*, ASIA-PACIFIC ECON. COOP., <https://www.apec.org/About-Us/About-APEC> (last visited May 17, 2021).

¹⁶⁹ *Funding and Structure*, APEC BUS. ADVISORY COUNCIL., <http://www2.abaconline.org/page-content/2521/content> (last visited May 17, 2021) (Phil).

	<p>States. The forum includes an annual summit with heads of state and government.¹⁷⁰ The forum features several “engagement groups,” including B20, the business engagement group. It normally gathers about 1,000 delegates from the G20 countries, including senior executives from leading international companies.¹⁷¹</p>
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Transferable Skills

Diplomats and corporate government affairs professionals leverage similar skills to carry out their internal and external functions. They need to know and understand how countries operate, who makes decisions and how they do so, how the different political, economic, and social forces shape developments in the host country, and how to build relationships with diverse actors.¹⁷² Within their organizations, they need to collaborate with other units – be it other Foreign Service offices or other U.S. agencies represented at the embassy, for diplomats, or other units of their company, such as public relations, sales, marketing and operations, for corporate government affairs professionals.¹⁷³ For both, the implementation of global policies needs to effectively consider local circumstances.¹⁷⁴

¹⁷⁰ *About the G20*, G20 ITALIA 2021, <https://www.g20.org/about-the-g20.html> (last visited May 13, 2021) (It.).

¹⁷¹ *About B20*, B20 ITALY 2021, <https://www.b20italy2021.org/b20/> (last visited May 13, 2014) (It.).

¹⁷² See *21st Century Diplomacy*, *supra* note 27, at 27.

¹⁷³ See Reinier Musters, Ellora-Julie Parekh & Surya Ramkumar, *Organizing the government-affairs function for impact*, MCKINSEY Q. (Nov. 1, 2013), <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/organizing-the-government-affairs-function-for-impact>.

¹⁷⁴ See generally Danny Moss, Conor McGrath, Jane Tonge, & Phil Harris, *Exploring the management of the corporate public affairs function in a dynamic global environment*, J. PUB. AFFS. 12, 47–60 (Jan. 29, 2012); see also *21st Century Diplomacy*, *supra* note 27, at 7.

Evidence of how the skills of diplomats and corporate affairs professionals are highly transferable is the fact that several diplomats have transitioned to corporate positions. Prime examples include Ambassadors Tom Pickering¹⁷⁵ and Donna Hrinak.¹⁷⁶ Pickering joined Boeing as Senior Vice President for International Relations after a four decade-long distinguished diplomatic career marked by his service as U.S. Under Secretary of State for Political Affairs, U.S. Ambassador and Permanent Representative to the United Nations, and U.S. Ambassadorships to Russia, India, Israel, Nigeria, El Salvador and Jordan, among other roles.¹⁷⁷ Hrinak, who served as U.S. Ambassador to Brazil, Bolivia, Dominican Republic and Venezuela, and who coordinated the First Summit of the Americas at the U.S. Department of State, went on to become the Corporate Affairs Director for Latin America at Kraft Foods, Vice President of Global Public Policy and Government Affairs at PepsiCo, and President of Boeing Brazil and Boeing Latin America.¹⁷⁸ Other examples include the following:¹⁷⁹

Individual	Diplomatic/Government Service	Corporate Positions
Tom Cooney	Chargé d'affaires and Deputy Chief of Mission, U.S. Embassy in Buenos Aires	Vice President for International Affairs, Global Public Policy, General Motors
Elizabeth "Beth" Jones	Acting Assistant Secretary, Bureau of Near Eastern Affairs; Deputy Special Representative for Afghanistan and Pakistan; Assistant Secretary, Bu-	Senior Advisor, International Government Relations, ExxonMobil

¹⁷⁵ See *Ambassador Thomas R. Pickering*, PICKERING FOREIGN AFFS. PROGRAM, <https://pickeringfellowship.org/about/ambassador-thomas-r-pickering/> (last visited Nov. 13, 2021).

¹⁷⁶ See *Donna Hrinak*, AM. ACAD. DIPL., <https://www.academyofdiplomacy.org/member/donna-hrinak/> (last visited Nov. 13, 2021).

¹⁷⁷ See *Ambassador Thomas R. Pickering*, *supra* note 175.

¹⁷⁸ See *Donna Hrinak*, *supra* note 176.

¹⁷⁹ Chart from Antonio Leal Holguín, Latin America Practice Consultant, Covington & Burling LLP (Jul. 7, 2021) (on file with author).

	reau of European and Eurasian Affairs; U.S. Ambassador to Kazakhstan; Special Advisor for Caspian Energy Diplomacy; and Executive Assistant to Secretary of State Warren Christopher	
Stuart Jones	U.S. Ambassador to Iraq and Jordan	Regions and Corporate Relations President, Bechtel
Walter H. Kansteiner III	Assistant Secretary, Bureau of African Affairs	Senior Director, Africa, International Government Relations, ExxonMobil
Craig Kelly	Executive Assistant to Secretary of State Colin Powell; U.S. Ambassador to Chile; Principal Deputy Assistant Secretary, Bureau of Western Hemisphere Affairs	Senior Director for the Americas, International Government Relations, ExxonMobil
Casper Klynge	Danish Ambassador to Indonesia, Timor Leste, Papua New Guinea & ASEAN, and the Republic of Cyprus; Danish Tech Ambassador (Silicon Valley)	Vice President of European Government Affairs, Microsoft Corporation
Landon Loomis	Commercial Attaché (U.S. Foreign Commercial Service), U.S. Embassy in Brasilia; Advisor to the Vice President	Vice President for Global Policy and Managing Director, Boeing Brazil
C.J. Mahoney	Deputy U.S. Trade Representative	Deputy General Counsel, U.S. International

		Trade, Microsoft Corporation
Jennifer Gillian Newstead	Legal Adviser, Office of the Legal Adviser, U.S. Department of State	General Counsel, Facebook
Nikolaj Juncher Waedegaard	Deputy Danish Tech Ambassador (Silicon Valley)	Chief of Staff & Senior Director, European Government Affairs, Microsoft Corporation
Alice Wells	Principal Deputy Assistant Secretary, Bureau of South and Central Asian Affairs; U.S. Ambassador to Jordan	International Government Relations Adviser, ExxonMobil

IV. BEING PRESENT FROM THE PRIVATE SECTOR: MICROSOFT'S APPROACH

Being present in the communities in which they operate has become increasingly important for corporations. The shift from “shareholder capitalism” to “stakeholder capitalism” and increasing emphasis on sustainability has put greater focus on how corporations interact with communities and how they affect the environment.¹⁸⁰ With the increasing demand for a greater connection between public and private sector, the role of corporate government affairs is becoming ever more influential, creating partnerships and developing environmental, social, and governance strategies.¹⁸¹

¹⁸⁰ See *Business Roundtable Redefines the Purpose of a Corporation to Promote ‘An Economy That Serves All Americans,’* BUS. ROUNDTABLE (Aug. 19, 2019), <https://www.businessroundtable.org/business-roundtable-redefines-the-purpose-of-a-corporation-to-promote-an-economy-that-serves-all-americans> [hereinafter *Business Roundtable Redefines*].

¹⁸¹ See generally Bach & Allen, *supra* note 97; see also Jean Boddewyn, *Beyond ‘The Evolving Discipline of Public Affairs,’* J. PUB. AFFS. 12, 98–104 (2012)

In 2020, Microsoft led the “Most JUST” company rankings for the third time in its history.¹⁸² The ranking is published by JUST Capital, an organization whose mission is to “build an economy that works for all Americans by helping companies improve how they serve all their stakeholders – workers, customers, communities, the environment, and shareholders.”¹⁸³ JUST Capital measures and ranks companies on a set of issues that the organization sees as defining “just” corporate behavior.¹⁸⁴

During the *Forbes* JUST 100 Virtual Summit in 2020, Microsoft CEO Satya Nadella, spoke of the need for “a referendum on capitalism” within the context of the COVID–19 pandemic. He stated, “companies like Microsoft should be measured by the number of jobs and revenue created outside of the company and the economic impact they have on the markets where they operate, as opposed to surpluses generated within a company.”¹⁸⁵

Satya Nadella also spoke of how the strength of democratic institutions is key for the success of companies like Microsoft. He said, “[a]s an American company — and tech company — our standing in the world, and in the United States, comes because of the vibrancy of the American democracy . . . So therefore, any standing of any business, including ours, depends on us building on that strong institution of democracy here and everywhere else.”¹⁸⁶

In 2015, Satya Nadella unveiled a new mission statement for Microsoft: “to empower every person and every organization on the planet to achieve more.”¹⁸⁷ As part of this mission, Microsoft’s

¹⁸² See Business Roundtable Redefines, *supra* note 180.

¹⁸³ See *2021 Rankings*, JUST CAP., <https://justcapital.com/rankings/> (last visited Jun. 12, 2021).

¹⁸⁴ *About*, JUST CAP., <https://justcapital.com/about/> (last visited Oct. 25, 2021).

¹⁸⁵ David Jeans, *Microsoft CEO Satya Nadella Calls For «Referendum On Capitalism*, FORBES KAZAKHSTAN (Oct. 16, 2020), https://forbes.kz/process/microsoft_ceo_satya_nadella_calls_for_referendum_on_capitalism/; see also Grace Dean, *Microsoft CEO Satya Nadella calls for a ‘referendum on capitalism,’* BUSINESS INSIDER (Oct. 15, 2020, 12:05 PM), <https://www.businessinsider.com/satya-nadella-microsoft-ceo-referendum-on-capitalism-2020-10>.

¹⁸⁶ Dean, *supra* note 185.

¹⁸⁷ See Matt Day, *Revitalizing a familiar Microsoft mantra: empowerment*, SEATTLE TIMES (Jun. 25, 2015), <https://www.seattletimes.com/business/microsoft/revitalizing-a-familiar-microsoft-mantra-empowerment/>.

engagement in the countries in which it operates goes far beyond business transactions and includes programs that seek to make the benefits of technology accessible to more and more people.¹⁸⁸ These programs foster social inclusion by enabling digital skilling,¹⁸⁹ improving rural connectivity,¹⁹⁰ and helping government efforts to bend the curve on corruption.¹⁹¹

Along these lines, Microsoft joined advocacy efforts during the Sixth Ministerial Congress on the Information Society in Latin America and the Caribbean (eLAC).¹⁹² Among other goals, this Congress pushed for the addition of the goal to promote the use of accessible digital goods and services as a necessary condition for the inclusion of people with disabilities and elderly persons.¹⁹³ Led by the Global Initiative for Inclusive ICTs (G3ict), a “yes” vote in the pulse survey during the Culture, Inclusion and Digital Skills panel, moderated by Daniel Korn, a co-author of this article, showed that 98% of attendees were in favor of adding such a goal, paving the way for the ministerial commission’s adoption of the goal.¹⁹⁴ ¹⁹⁵ The eLAC 2020 Final Digital Agenda expressly extended this goal to promote the use of accessible digital goods and

¹⁸⁸ See *Corporate Social Responsibility, Our Commitments*, MICROSOFT, <https://www.microsoft.com/en-us/corporate-responsibility/> (last visited Nov. 23, 2021)

¹⁸⁹ See Brad Smith, *Microsoft launches initiative to help 25 million people worldwide acquire the digital skills needed in a COVID-19 economy*, MICROSOFT BLOG (Jun. 30, 2020), <https://blogs.microsoft.com/blog/2020/06/30/microsoft-launches-initiative-to-help-25-million-people-worldwide-acquire-the-digital-skills-needed-in-a-covid-19-economy/>.

¹⁹⁰ Jaime E. Dueñas, *‘Internet por televisión’, la forma como Microsoft conecta las zonas apartadas del país*, IMPACTO TIC (Feb. 24, 2021), <https://impactotic.co/internet-por-television-para-zonas-rurales-del-pais/>

¹⁹¹ See *IDB and Microsoft Partner to Boost Transparency, Integrity and Anti-Corruption*, INTER-AM DEV. BANK (Jul. 14, 2020), <https://www.iadb.org/en/news/idb-and-microsoft-partner-boost-transparency-integrity-and-anti-corruption>.

¹⁹² See generally *Digital Agenda for Latin America and the Caribbean (eLAC2020)*, ELAC 2020 (Jul. 13, 2018), https://www.cepal.org/sites/default/files/static/files/c1800719_word_ing_0.pdf [hereinafter *Digital Agenda*].

¹⁹³ *Id.*

¹⁹⁴ D. Korn, personal account of Sixth Ministerial Congress on the Information Society in Latin America and the Caribbean.

¹⁹⁵ See generally *Digital Agenda*, *supra* note 192.

services to work, education, access to justice, government services, and smart cities.¹⁹⁶

Amid a growing push to regulate the technology industry, Microsoft has adopted a collaborative approach. Introducing *Tools and Weapons* in a GeekWire podcast, Microsoft President Brad Smith stated:

[o]ur key argument is that the tech sector needs to step up and do more to address the challenges that technology is creating. As it does that, it needs to recognize that, in part, it requires companies working more closely with governments. It even requires embracing, to a degree, what I would call a smart approach to regulation so that technology is, among other things, governed by law.¹⁹⁷

For regulation to best benefit every community, governments will need to have more conversations with those who create technology. Microsoft contributes to those forums and bridges so that governments can learn the relevant technologies in depth, which generates regulation that protects people without negatively impacting innovation and creativity while incentivizing entrepreneurship.

Building trust by being present is necessary to achieving meaningful engagement with communities and working closely with regulators. In that spirit, Microsoft is the first company to establish a representation office to the UN with the aim of fostering relationships with UN representatives, building stronger connections between Microsoft and UN teams, and working across the company to support Microsoft teams in their engagements and advocacy with the UN community.¹⁹⁸ Speaking on the purpose of the newly—

¹⁹⁶ *Id.*

¹⁹⁷ Todd Bishop, *Microsoft President Brad Smith: Tech sector needs to face up to responsibility and embrace regulation*, GEEKWIRE PODCASTS (Sept. 7, 2019, 9:17 PM), <https://www.geekwire.com/2019/microsoft-president-brad-smith-tech-sector-needs-face-responsibility-embrace-regulation/>.

¹⁹⁸ Maya Plentz, *Microsoft to Open UN Affairs Office This Summer*, UN BRIEF (Mar. 1, 2021), <https://theunbrief.substack.com/p/microsoft-to-open-un-office-this?r=1jvmy>; As shared by Lani Cossette, Chief of Staff of Microsoft's UN Office (which opened in 2020): “[w]hat’s new is that we have opened offices in both Geneva and New York where we will have a daily presence.” *Mi-*

established office, John Frank, Microsoft Vice President for UN Affairs, said, “We think multi-stakeholderism is key. Companies ought to be showing up. Not just to talk about policy, but to work on projects together . . . We believe this is the best model for tackling big problems.”¹⁹⁹

Microsoft’s Presence in Latin America and the Caribbean

Microsoft has thirty offices in twenty-two countries in Latin America and the Caribbean.²⁰⁰ As John Galligan, Microsoft General Manager of Global Public Affairs, said: “I think of Microsoft as a global company with a local presence.”²⁰¹ Microsoft’s global leaders regularly show up in the region to reinforce Microsoft’s commitment to empower businesses, communities, and governments in Latin America.

During his first visit to Colombia in 2015 as Microsoft’s CEO, Satya Nadella met with Mamo Sey Arimakú, the spiritual leader of the Arhuaco tribe (consisting of sixty-five settlements and about 46,000 members), one of the four native tribes in Colombia’s Sierra Nevada de Santa Marta mountains. Why would Mamo Sey Arimakú and Satya Nadella meet? To experience firsthand the Arhuaco tribe’s “*La Sierra*” project supported by the Colombian government and led by one of Microsoft’s local employees and a member of the Arhuaco tribe. This project’s goal is to preserve the tribe’s ancestral knowledge and make it accessible to all its members via the cloud.²⁰² Project *La Sierra* consisted of creating a his-

crosoft appoints senior government affairs leaders in Brussels and New York, establishes New York office to work with the United Nations, MICROSOFT EU POL’Y BLOG (Jan. 17, 2020), <https://blogs.microsoft.com/eupolicy/2020/01/17/senior-gov-affairs-leaders-appointed-brussels-new-york/>.

¹⁹⁹ *Why does Microsoft have an office at the UN? A Q&A with the company’s UN lead*, MICROSOFT ISSUES (Oct. 5, 2020), <https://news.microsoft.com/on-the-issues/2020/10/05/un-affairs-lead-john-frank-unga/>.

²⁰⁰ *See Rodrigo Kede Lima joins Microsoft Latin America as the new President for the region and Corporate Vice President at Microsoft Corporation*, MICROSOFT NEWS CTR. LATINOAMÉRICA (May 19, 2021), <https://news.microsoft.com/es-xl/rodrigo-kede-lima-joins-microsoft-latin-america-as-the-new-president-for-the-region-and-corporate-vice-president-at-microsoft-corporation/>.

²⁰¹ E-mail from John Galligan, Gen. Manager of Glob. Public Affs., Microsoft Corp. (June 19, 2021) (on file with author).

²⁰² *See La tecnología que le permite a la Sierra estar en la nube*, MICROSOFT NEWS CTR. LATINOAMÉRICA (Oct. 8, 2015), <https://news.microsoft.com/es-xl/la->

torical archive for the community and a shared database for its activities and initiatives, including communal assemblies, membership census, mapping of sacred lands, and the preservation of the Arhuaco language and identity for the benefit of humanity.²⁰³ By systematizing and storing this information in the cloud, a process has been created where the community itself has been empowered to generate its own tools to develop self-sustainable and productive work.²⁰⁴ As Satya Nadella reflected, “[u]nderstanding the spiritual and philosophical perspective of the Arhuaco Tribe is an inspiration to me. It is a great pleasure to know that Microsoft plays a small role in its history, tradition and spirituality, and makes its culture known around the world.”²⁰⁵

In December 2020, Microsoft President Brad Smith joined an event with Chilean President Sebastián Piñera to announce “*Transforma Chile #ReactivaciónDigital*,” the company’s largest investment program in its twenty-eight years in the country.²⁰⁶ The program seeks to accelerate growth and business transformation through the construction of a new datacenter region, a commitment to train up to 180,000 Chileans in digital skills, and the creation of a local Advisory Board with local leaders.²⁰⁷ Announcing the program’s launch, Brad Smith said:

We aren’t building a datacenter just to power our own business, but to provide a critical investment in Chile’s infrastructure that will serve all the people who live here and customers who operate here . . . Just as railways, power plants, highways, and airports helped Chile move into the future, today’s

tecnología-que-le-permite-a-la-sierra-estar-en-la-nube/ [hereinafter *La tecnología*].

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ *Id.*

²⁰⁶ See Microsoft announces “*Transforma Chile*” to accelerate growth and business transformation, including a new datacenter region, skilling commitment for up to 180,000 citizens and Advisory Board, MICROSOFT NEWS CTR. LATINOAMÉRICA (Dec. 9, 2020), <https://news.microsoft.com/es-xl/microsoft-announces-transforma-chile-to-accelerate-growth-and-business-transformation-including-a-new-datacenter-region-skilling-commitment-for-up-to-180000-citizens-and-advisory/> [hereinafter *Transforma Chile*].

²⁰⁷ *Id.*

datacenters have become the cutting-edge infrastructure of the 21st century. Our datacenters near Santiago will make computing more accessible at even faster speeds, providing a new and secure platform for every part of the economy and supporting President Piñera's and Chile's ambitious digital agenda.²⁰⁸

Just as modern diplomacy requires building networks with a broad range of potential stakeholders in the host government and society, so too does modern business call for interaction with governments, businesses, NGOs, universities, and individuals of a given country. As the case studies below illustrate, Microsoft's corporate government affairs team engages with a wide range of actors in Latin America societies.²⁰⁹ As one of the world's leading cloud providers, Microsoft is actively working to address concerns over the social and economic impacts of cloud computing, with outreach to a broad range of stakeholders aiming to ensure that everyone—regardless of socioeconomic status, urban or rural—has affordable access to high-speed broadband.²¹⁰ In addition, Microsoft advocates for governments to prioritize, incentivize, and drive programs that empower workers to obtain the skills that they need in light of new jobs in the digital economy, so that inclusive economic growth helps everyone move forward.²¹¹

²⁰⁸ *Id.*

²⁰⁹ See *La tecnología*, *supra* note 202; see also *Transforma Chile*, *supra* note 206.

²¹⁰ See *Corporate Social Responsibility: Closing the rural broadband gap, Addressing racial and digital inequity, Closing the global digital divide*, MICROSOFT, <https://www.microsoft.com/en-us/corporate-responsibility/airband> (last visited Nov. 13, 2021.); see also *Microsoft expands its cloud offering in Brazil, creates plan to help job matching opportunities for up to 25 million workers and skilling platform for Brazilians with Ministry of Economy*, MICROSOFT NEWS CTR. LATINOAMÉRICA (Oct. 20, 2020), <https://news.microsoft.com/es-xl/microsoft-expands-its-cloud-offering-in-brazil-creates-plan-to-help-job-matching-opportunities-for-up-to-25-million-workers-and-skilling-platform-for-brazilians-with-ministry-of-economy/>. [hereinafter *Microsoft Expands*].

²¹¹ Robert Ivanschitz & Daniel Korn, *Digital Transformation and Jobs: Building a Cloud for Everyone*, 49 U. MIAMI INTER-AM. L. REV. 39, 49 (2018).

Digital Skilling for the 21st Century

In an effort to support an inclusive post-pandemic recovery, Microsoft launched an initiative to help 25 million people acquire digital skills.²¹² Nine months into the program, the initiative reached 30 million people, seven million of them located in Latin America and the Caribbean.²¹³

As part of the initiative in Brazil, Microsoft announced “More for Brazil,” a plan that includes an alliance with the country’s Ministry of Economy to spur job matching by offering free digital skilling.²¹⁴ The e-learning platform developed by the Ministry includes over “20 technology courses at different levels based on the main skills requested by the labor market—from digital literacy to more advanced modules on cloud computing, AI and data science.” The platform has the capacity to train up to 5.5 million job seekers by 2023.²¹⁵ Microsoft is providing fifty-eight instructors “to offer customized guidance and orientation for up to 315,000 people.”²¹⁶ The platform will also use artificial intelligence to connect job seekers to relevant employment opportunities.²¹⁷

In Mexico, Microsoft signed agreements with fifteen Mexican states and with the Mexican Association of Secretaries of Economic Development (“*Asociación Mexicana de Secretarios de Desarrollo Económico*” or AMSDE) to help promote the initiative.²¹⁸ The company trained 6,000 workers in the state of Hidalgo and 222 teachers in Campeche.²¹⁹ In Oaxaca, the company used LinkedIn’s course platforms to train 110 people in entrepreneurship, in areas consistent with the state’s economic development plans.²²⁰

²¹² Smith, *supra* note 189.

²¹³ *30 millones de personas en todo el mundo adquieren habilidades digitales durante COVID-19*, MICROSOFT NEWS CTR. LATINOAMÉRICA (Mar. 31, 2021), <https://news.microsoft.com/es-xl/30-millones-de-personas-en-todo-el-mundo-adquieren-habilidades-digitales-durante-covid-19-2/> [hereinafter *30 millones*].

²¹⁴ *Microsoft Expands*, *supra* note 210..

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *30 millones*, *supra* note 213.

²¹⁹ *Id.*

²²⁰ *Id.*

In Argentina, 343,920 people benefited from the Global Skilling program.²²¹ The most popular online courses in the country were client service, software development, and data analytics.²²² Microsoft also signed agreements with the Ministry of Productive Development, the Government of Buenos Aires, and different NGOs to collaborate on employability initiatives that seek to train over one million people in five years.²²³

In Uruguay, Microsoft signed a similar agreement to collaborate with the government on a project called “Digital Skilling for Employability,” which sought to provide digital skills training to 10,000 adults with employability challenges.²²⁴ More than 30,000 Uruguayans signed up for the courses.²²⁵

Technology to Empower Government Transparency and Anti-Corruption Efforts

By leveraging the power of cloud computing, open data, and advanced analytics, the Government of Paraguay, the IDB, and Microsoft announced a public procurement pilot of early warning or “red flags” signals that can help cast a light on corruption risks, and even assist in preventing corruption *before* it happens.²²⁶

²²¹ Débora Slotnisky, *Más de 343.000 personas en la Argentina se capacitaron online y sin costo en las habilidades más demandadas del mercado con el programa Global Skilling*, LA NACIÓN (Mar. 31, 2021), https://www.lanacion.com.ar/tecnologia/mas-de-343000-personas-en-la-argentina-se-capacitaron-online-y-sin-costo-en-las-habilidades-mas-nid31032021/?_rsc=e4483b81-528b-4261-ab95-90f919558ba3 (Arg.).

²²² *Id.*

²²³ *Id.*

²²⁴ *Se firmó memorando INEFOP – Microsoft por capacitación en habilidades digitales*, INSTITUTO NACIONAL DE EMPLEO Y FORMACIÓN PROFESIONAL, <http://www.inefop.org.uy/Noticias/Se-firmo-memorando-INEFOP--Microsoft-por-capacitacion-en-habilidades-digitales-uc3597> (last visited Jun. 12, 2021) (Uru.).

²²⁵ *Director de Filantropía de Microsoft: “No habrá recuperación económica si la gente no tiene habilidades digitales,”* EL OBSERVADOR (Apr. 6, 2021, 5:04 PM), <https://www.elobservador.com.uy/nota/director-de-filantropia-de-microsoft-no-habra-recuperacion-economica-si-la-gente-no-tiene-habilidades-digitales--20214517250> (Uru.).

²²⁶ *IDB, Microsoft tap advanced technology to help Paraguay prevent corruption*, INTER-AM. DEV. BANK (Jun. 30, 2021), <https://www.iadb.org/en/news/idb-microsoft-tap-advanced-technology-help-paraguay-prevent-corruption>.

The pilot pairs the relationship mapping, pattern recognition, and data visualization tools of Microsoft Anti-Corruption Solutions and Technology (ACTS), with the IDB's expertise in support of government transparency and integrity.²²⁷ Paraguay's National Anticorruption Secretariat (SENAC) helped promote the red flag system while its National Directorate of Public Procurement (DNCP) and other Paraguayan government actors provided technical leadership.²²⁸ In this area of applying new digital technologies that promote transparency, interaction with citizens, and accountability, the flagship IDB-Microsoft project developed with the support of the IDB's Transparency Fund is the digital platform *MapaInversiones* (originated in 2014), which IDB President Mauricio Claver-Carone highlighted in a recent video.²²⁹ More than ten countries in Latin America and the Caribbean are using *MapaInversiones* to enable citizens to monitor government spending in real-time, assisting in the prevention and control of the misuse of public resources.²³⁰

Digital Justice: Examples from Argentina, Brazil and Colombia

The Supreme Court of Buenos Aires, Argentina, worked with a local Microsoft partner to develop the Augusta System, a portal allowing citizens to upload and download legal documents, stream or download videos of court proceedings, and search for files—all from their home or office.²³¹ Launched in 2016, the Augusta Sys-

²²⁷ IDB and Microsoft Partner to Boost Transparency, Integrity and Anti-Corruption, INTER-AM. DEV. BANK (Jul. 14, 2020), <https://www.iadb.org/en/news/idb-and-microsoft-partner-boost-transparency-integrity-and-anti-corruption>.

²²⁸ *Id.*

²²⁹ Microsoft, *Building on a Year of Open Data with Brad Smith and Jennifer Yokoyama*, YOUTUBE (Apr. 29, 2021), <https://www.youtube.com/watch?v=MnbqZ2StaGk>.

²³⁰ See *Countries that have already implemented the Investmentmap Initiative*, INTER-AM. DEV. BANK, <https://www.iadb.org/en/reform-modernization-state/countries> (last visited Nov. 13, 2021).

²³¹ Daniel Korn, *May it Please the Court: Expanding Access to Justice Through Technology*, INT'L. ASS'N FOR COURT ADMIN., at 24 (Sept. 2018), https://www.iaca.ws/assets/docs/The_Court_Administrator.Fall2018.FINAL.pdf; see also Sajith Karikkandathil, *How Digital Justice Is Transforming the Justice System*, MICROSOFT NEWS CTR. MIDDLE E. & AFR. (Oct. 30, 2016),

tem serves 200,000 users a month, helping facilitate access to and the administration of justice in the Province of Buenos Aires.²³² During the pandemic, the Supreme Court also used Microsoft Teams to conduct hearings.²³³

In Brazil, the Court of Justice of the State of São Paulo, one of the biggest courts in the world, has used Bookings, a Microsoft 365 tool, to resume service during the pandemic.²³⁴ The Court system serves approximately one million people a day and is considered to have the largest case volume in the world.²³⁵ Bookings has allowed the Court to ensure the observance of public health measures, such as social distancing and limited capacity in the Court's buildings, while allowing Court officials to rotate in-person work, based on services demand for each day.²³⁶ To implement the Bookings system, Microsoft worked with the Court to develop a services catalog based on the different units that compose it.²³⁷

In Colombia, necessities generated by the COVID-19 pandemic accelerated the digital transformation of the judiciary. The country's courts are using Microsoft Teams to conduct hearings and Microsoft SharePoint to store and share documents.²³⁸ The Supreme Court of Justice is using such technology to hold and record sessions, store information, and provide case tracking information.²³⁹ The biggest impact has been on virtual hearings, particularly in the criminal field. Judges that oversee arrests and decide on imprisonment have made extensive use of Teams, to en-

<https://news.microsoft.com/en-xm/2016/10/30/how-digital-justice-is-transforming-the-justice-system/>.

²³² *Id.*

²³³ *Id.*

²³⁴ *TJSP retoma atendimento à população com ferramenta de agendamento online da Microsoft*, MICROSOFT, <https://news.microsoft.com/pt-br/features/tjsp-retoma-atendimento-a-populacao-com-ferramenta-de-agendamento-online-da-microsoft/> (last visited May 12, 2021) (Braz).

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Jueces colombianos aceleran la transformación digital*, MICROSOFT NEWS CTR. LATINOAMÉRICA (Jul. 22, 2020), <https://news.microsoft.com/es-xl/jueces-colombianos-aceleran-la-transformacion-digital/>.

²³⁹ *Id.*

sure 90% service continuity through online hearings.²⁴⁰ The use of digital tools during the pandemic has contributed to a shift in mindset that has accelerated the judiciary's digital transformation and facilitated the administration of justice in the country during this health emergency.²⁴¹

V. CONCLUSION

In sum, it is hard to overstate the importance of being physically present for successful diplomacy or corporate government affairs in Latin America, the Caribbean, and beyond. That the department charged with leading U.S. diplomacy was the first federal agency created in 1789 under the new U.S. Constitution shows the central role diplomacy has played as the United States has grown as a nation. As seen in the examples above, by being physically present in the local communities where they serve, U.S. diplomats have built and nurtured the relationships with our neighbors in the Americas, and not just with governments, but with local actors across the spectrum.

While the development of government affairs as a corporate function is much more recent, it is poised to become a key strategic asset for corporations in the era of "stakeholder capitalism."²⁴² As Bill Gates recognized, engaging with leaders and policymakers is now central to the success of companies like Microsoft and of the industries in which they do business.²⁴³ Beyond government, the corporate government affairs function plays a key role in shaping and implementing a company's strategy to engage with the economic, social, and cultural environments in which it operates.²⁴⁴ The examples above demonstrate that the corporate affairs function can use the power of being physically present to help achieve the corporate mission.

For both U.S. diplomats and corporate government affairs professionals, being a familiar face in direct engagements on an ongo-

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² See Fletcher & McGrath, *supra* note 97.

²⁴³ Gates, *supra* note 8, at xi-xiv.

²⁴⁴ See generally Bach & Allen, *supra* note 97; see also Boddewyn, *supra* note 181, at 98-104.

ing basis is fundamental to initiating, growing, and contributing to the aspirations of a community—perhaps even more so to being a *part* of that community, with all the privileges and responsibilities that come with it. In our modern world, old adages sometimes still ring true: the first secret of success—for diplomats and the private sector alike—is showing up.²⁴⁵

²⁴⁵ See Rosabeth Moss Kanter, *The First Secret of Success is Showing Up*, HARVARD BUS. REV. (Feb. 14, 2013), <https://hbr.org/2013/02/the-first-secret-of-success-is.html>.