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# THE MÉRIDA INITIATIVE FOR MEXICO AND CENTRAL AMERICA: THE NEW PARADIGM FOR SECURITY COOPERATION, ATTACKING ORGANIZED CRIME, CORRUPTION AND VIOLENCE

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The Mérida Initiative (the “Initiative”) offers the United States, Mexico, and Central America the opportunity to deepen mutual commitments to each other and join together to attack a common enemy: organized crime and corruption.

## Why Should We Care?

As Americans, we must both confront and admit that our citizens have a problem with narcotics. In 2007, approximately 24,000 Americans died because of drugs — a figure approximately eight times the number of victims from September 11, 2001.<sup>1</sup> One in four families is affected by substance abuse.<sup>2</sup> About one million Americans are heroine addicts.<sup>3</sup> Drugs have a \$200 billion negative effect on the U.S. economy.<sup>4</sup> Roughly eighty percent of all persons in prison in the United States are either drug traffickers, or they committed a crime while on drugs, or they committed a crime to get money to buy drugs.<sup>5</sup> There is no school district in the United States, no Congressional district for that matter, which is not affected by drugs.

Mexico also has serious narcotic problems expanding beyond issues with our joint border.<sup>6</sup> According to the United States General Accounting Office, Mex-

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<sup>1</sup> Enterprise Institute for Public Policy Research, Presentation by Robert “Bobby” Charles, Assistant Secretary of State for International Narcotics and Law Enforcement, Washington, DC, Nov. 8, 2007 available at <http://www.aei.org/events/filter..eventID.1584/transcript.asp> [hereinafter Charles].

<sup>2</sup> See generally Common Sense for Drug War Policy, “Drug War Facts” Dec. 31, 2007, available at <http://www.drugwarfacts.org/prisdrug.htm>.

<sup>3</sup> Charles, *supra* note 1; *Drug War Facts*, *supra* note 2 at 49 (noting that a National Survey on Drug Use and Health 2005 estimated that the US population aged twelve and over frequently using heroin was very slight).

<sup>4</sup> Charles, *supra* note 1.

<sup>5</sup> *Id.*

<sup>6</sup> See Alfredo Corchado, *Exclusive: Drug Cartels Operate Training Camps Near Texas Border Just Inside Mexico*, DALLAS MORNING NEWS, March 29, 2008.

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## The Mérida Initiative for Mexico and Central America

ico's drug trade is worth twenty-three billion dollars a year.<sup>7</sup> The Washington Post noted that, “[m]ore than 20,000 Mexican troops and federal police are engaged in a multi-front war with the private armies of rival drug lords, a conflict that is being waged most fiercely along the 2000 mile length of the U.S.-Mexico border.”<sup>8</sup> The U.S. State Department notes that about ninety percent of all cocaine coming into the U.S. comes through Mexico.<sup>9</sup>

In terms of citizen security situations, Nuevo Laredo and Tijuana have elements of failed states. Nuevo Laredo actually has checkpoints manned by gang members of the Zetas, an organized criminal enterprise reminiscent of the cruel Chicago-style mafia of the 1930s.<sup>10</sup> Through threats and intimidation, along with selective assassination, drug gangs, including the Zetas, have managed to stifle the press.<sup>11</sup> Today, drug cartels decide what the media will publish in Nuevo Laredo. When the newspaper editor from “El Mañana” did not comply, he was killed, and the press effectively silenced.<sup>12</sup> Seventy-one Americans have been killed there by drug traffickers.<sup>13</sup> Texas Congressman Henry Cuellar notes that just across the border from his district, in Nuevo Laredo, there were sixty kidnappings of American citizens last year.<sup>14</sup> Through intimating and silencing dissent, the civic movement has effectively died. Adding to security problems, two thousand weapons enter Mexico daily from the United States.<sup>15</sup>

In April 2006, the United States Agency for International Development’s (USAID) assessment on gangs noted that rising crime is threatening democratic development and slowing economic growth across Central America and Mexico.<sup>16</sup> Gang activity has transcended the borders of Central America, Mexico,

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<sup>7</sup> Manuel Roig-Franzia, *Drug Trade Tyranny on The Border: Mexican Cartels Maintain Grasp With Weapons, Cash and Savagery*, WASH. POST, Mar. 16, 2008 at A01. (Estimate based on U.S. Government Accountability Office Report).

<sup>8</sup> *Id.* See also Lourdes Garcia-Navarro, *Mexico’s Drug-Related Murders Rise*, National Public Radio, Morning Edition broadcast (Dec. 17, 2007), recording available at [www.npr.org/templates/story/story.php?storyId=17307578](http://www.npr.org/templates/story/story.php?storyId=17307578).

<sup>9</sup> BUREAU FOR INT’L NARCOTICS & LAW ENFORCEMENT AFFAIRS, U.S. DEP’T OF STATE, INT’L NARCOTICS CONTROL STRATEGY REPORT Vol. I, at 167 (Mar. 2007) [hereinafter *Int’l Narcotics Control Strategy Report*], available at <http://www.state.gov/documents/organization/81446.pdf>; accord Roig-Franzia, *supra* note 7; accord U.S. Security Assistance to Mexico: Hearing Before the Subcomm. on the Western Hemisphere of the H. Comm. on Foreign Affairs, 110th Cong. 69 (2007) (testimony of Joy Olson, Exec. Director, Washington Office on Latin America).

<sup>10</sup> Richard Walker, *Terror Plagues Border: Corruption, Kidnapping, Crime Ruining Texas Town*, AM. FREE PRESS, Aug. 1, 2005, available at [http://www.americanfreepress.net/html/terror\\_plagues\\_border.html](http://www.americanfreepress.net/html/terror_plagues_border.html); see also John Ross, *Drug War Mayhem Boils Over from Border to Border*, COUNTERPUNCH, February 14, 2008 available at <http://www.counterpunch.org/ross02142008.html>.

<sup>11</sup> Susana Hayward, *Local Press Silent on Drug War*, EL UNIVERSAL MEXICO News, Aug. 13, 2005, available at [http://www2.eluniversal.com.mx/pls/impreso/noticia.html?id\\_nota=11540&tabla=miami](http://www2.eluniversal.com.mx/pls/impreso/noticia.html?id_nota=11540&tabla=miami).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> U.S. Rep. Henry Cuellar, Keynote Address at the American Enterprise Institute for Public Policy Research on Battling the Deadly Drug Cartels in Mexico: A Shared Responsibility (Nov. 8, 2007), (transcript available at <http://www.aei.org/events/filter.eventID.1584/transcript.asp>).

<sup>15</sup> *Id.*

<sup>16</sup> U.S. AGENCY FOR INT’L DEV., CENTRAL AMERICA AND MEXICO GANG ASSESSMENT, 5 (April 2006), available at [http://www.usaid.gov/gt/docs/gangs\\_assessment.pdf](http://www.usaid.gov/gt/docs/gangs_assessment.pdf).

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## The Mérida Initiative for Mexico and Central America

and the United States and evolved into a transnational concern that demands a coordinated, multi-national response to effectively combat increasingly sophisticated criminal gang networks. The U.S. Department of Justice estimates that there are some 30,000 gangs with approximately 800,000 members operating in the United States.<sup>17</sup>

Whereas gang activity used to be territorially confined to local neighborhoods, globalization, sophisticated communications technologies, and travel patterns have facilitated the expansion of gang activity across neighborhoods, cities, and countries. The monikers of notorious gangs such as Mara Salvatrucha (MS-13) and the 18th Street gang (Barrio 18) now appear in communities throughout the United States, Central America, and Mexico. Members of these international gangs move fluidly in and out of these neighboring countries.<sup>18</sup>

In October 2007, Congress passed a resolution calling for the administration to fund the inter-agency anti-gang strategy, something the Mérida Initiative would do.<sup>19</sup>

### How We Got Here

A historical context is important at this point in order to fully grasp the situation. Mexican President Felipe Calderón was elected in September 2006.<sup>20</sup> Notably, Calderón's predecessor, Vicente Fox, was the first democratically-elected president in Mexico since the Mexican Revolution seventy years earlier who was not a member of the ruling Institutional Revolutionary Party (PRI).<sup>21</sup> Calderón's inauguration represented the first democratic transfer of power in Mexican history from one democratically-elected president to his successor. For Mexico, this was a moment on par with the significance of the fall of the Berlin Wall to East and West Germans.

One of the first things Calderón did, as President, was to meet with President Bush in Mérida, Yucatán, México in March 2007.<sup>22</sup> Again, this is highly unusual for a Mexican president to seek out American cooperation at such an early point in his Administration. At that meeting, President Calderón shared some alarming

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<sup>17</sup> *Id.* at 10-11.

<sup>18</sup> *Id.* at 5.

<sup>19</sup> H.R. Res. 564, 110th Cong., 153 CONG. REC. 11090 (2007) (enacted).

<sup>20</sup> Roberto Mallen, Council on Hemispheric Affairs, Mexico's Felipe Calderón (Nov. 6, 2007), <http://www.coha.org/2007/11/06/mexicos-felipe-calderon>.

<sup>21</sup> Kevin Sullivan & Mary Jordan, *For Mexico's Fox, a 'Revolution' Unfulfilled*, WASH. POST, June 27, 2005, at A01.

<sup>22</sup> State Department Office of the Spokesman, "Fact Sheet: The Merida Initiative: United States – Mexico – Central America Security Cooperation," U.S. Department of State, Oct. 22, 2007, available at <http://www.state.gov/r/pa/prs/ps/2007/oct/93800.htm>.

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## The Mérida Initiative for Mexico and Central America

news with his American counterpart;<sup>23</sup> he noted that organized crime had a serious grip on Mexico.<sup>24</sup>

The day before Presidents Bush and Calderón met in Mérida, President Bush was in Guatemala, meeting with their President Oscar Berger.<sup>25</sup> On March 12, 2007, speaking from Guatemala City, President Bush noted:

Our countries are working together to fight transnational gangs. And the President [Berger] was right — I suggested we think about this issue regionally. You've got to understand that these gangs are able to move throughout Central America and up through Mexico into our own country, and therefore, we've got to think regionally and act regionally.<sup>26</sup>

Historically, through the narcotics certification process, the U.S. issued country reports assessing how well various third world countries were working to stop the flow of illegal drugs.<sup>27</sup> The identified countries, in turn, often criticized the United States for causing the problem through U.S. demand for drugs, and wondered how the U.S. could sit in judgment on its neighbors.<sup>28</sup> It was a historic opportunity for both the U.S. and Mexico to join forces in a new collaborative way. This partnership is unprecedented between the two countries in that it provides for collaborative, peer-to-peer coordination on a scale never before imagined.

With the Mérida Initiative, the old “name and blame” game has receded to the past, and has been replaced with a new security partnership based on collaboration and mutual respect.<sup>29</sup> We realize that we cannot succeed without the help of the Mexicans, and they cannot succeed without our help. Historically, Mexico has not asked for our help and has received little help from anyone else for that matter. On our side, we like to think that we can get the job done ourselves. But in this case, we are all fighting an enemy in organized crime that is opportunistic and borderless.

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<sup>23</sup> Roberta Jacobson, Statement, in *Five Perspectives on the Merida Initiative*, LATIN AMERICAN OUTLOOK (Am. Enter. Inst. for Pub. Policy, Wash., D.C.), Mar. 4, 2008, available at [http://www.aei.org/publications/pubID.27601/pub\\_detail.asp](http://www.aei.org/publications/pubID.27601/pub_detail.asp).

<sup>24</sup> *Id.* President's Remarks at a Dinner Hosted by President Felipe de Jesus Calderón in Mérida, Mexico, 43 WEEKLY COMP. PRES. Doc. 327 (Mar. 13, 2007).

<sup>25</sup> President's News Conference with President Oscar Berger Perdomo of Guatemala in Guatemala City, 43 WEEKLY COMP. PRES. Doc. 317 (Mar. 12, 2007).

<sup>26</sup> *Id.* at 318.

<sup>27</sup> See, e.g., *Hearing Before the Subcomm. on the Western Hemisphere of the S. Comm. on Peace Corps, Narcotics, and Terrorism*, 105th Cong. (Mar. 12, 1997) (testimony of Robert S. Gelbard, Assistant Sec'y for Int'l Narcotics & Law Enforcement Aff.), available at [http://www.fas.org/irp/congress/1997\\_hr/s970312g.htm](http://www.fas.org/irp/congress/1997_hr/s970312g.htm). The new procedure is laid out by the U.S. Dep't of State. *Narcotics Certification Process*, U.S. DEP'T OF STATE, available at <http://www.state.gov/p/inl/c11766.htm>.

<sup>28</sup> Mark A. Chinen, *Presidential Certifications in U.S. Foreign Policy Legislation*, 31 N.Y.U. J. INT'L L. & POL. 217, 219, 271-72 (1999).

<sup>29</sup> Alfredo Corchado & Tim Connolly, *U.S. Seeks Unity Against Drug Trade*, DALLAS MORNING NEWS, Jan. 16, 2008.

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## The Mérida Initiative for Mexico and Central America

Like us, Mexico perceives organized crime, including the narcotics trade, as having serious consequences<sup>30</sup> and Mexico is willing to do its part to attack this problem.<sup>31</sup> The Calderón government is working diligently to increase and sustain public security by strengthening the rule of law as a basic tenet of Mexico's democracy.<sup>32</sup> In tandem, the Initiative remains respectful of Mexican sovereignty by tracking the Mexican National Development Plan and responding to Mexican requests for assistance.<sup>33</sup> But, as President Calderón discovered for himself during the transition and early in his presidency, there are geographic areas of Mexico where even the government has no control.<sup>34</sup> The situation was much worse than even he ever imagined. It was a crisis.

The Mexican situation erupted regionally in January 2008. Street battles in Ciudad Juarez, Tijuana and Tamaulipas between security forces and drug traffickers involved heavy weaponry and resulted in multiple casualties and arrests.<sup>35</sup> The regional nature of the threat is evident from the January 2008 murder of a border patrol agent, the kidnapping of Americans by drug traffickers, and the arrests of three American citizens following the gun battles in Tamaulipas.<sup>36</sup>

The Mexican government has adopted a clear policy to foment the rule of law and security as integral and interdependent components of a safe and democratic society.<sup>37</sup> It has made that policy one of the five basic themes of its National Development Plan.<sup>38</sup> The challenge is to implement that policy in a way that achieves the fruition of both components, both security and the rule of law.

"The Congressional Research Service notes that Latin America has among the highest homicide rates in the world, and in recent years murder rates have been increasing in several countries in Central America."<sup>39</sup> "Latin America's average rate of 27.5 homicides per 100,000 people is three times the world average of 8.8

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<sup>30</sup> See, e.g., Press Release, White House Office of the Press Secretary, Request to Fund Security Cooperation with Mexico and Central America, (Oct. 22, 2007), available at [http://nicaragua.usembassy.gov/october\\_22\\_2007.html](http://nicaragua.usembassy.gov/october_22_2007.html).

<sup>31</sup> *Id.*

<sup>32</sup> See generally, *Fact Sheet: The Merida Initiative: United States – Mexico – Central America Cooperation*, U.S. DEP'T OF STATE, Oct. 22, 2007, available at <http://www.state.gov/r/pa/prs/ps/2007/oct/93800.htm>; see also Armand Peschard-Sverdrup, CEO of the Peschard-Sverdrup and Associates, Speaker at the American Enterprise Institute for Public Policy Research on Battling the Deadly Drug Cartels in Mexico: A Shared Responsibility (Nov. 8, 2007), transcript available at [http://www.aei.org/events/filter\\_.eventID.1584/transcript.asp](http://www.aei.org/events/filter_.eventID.1584/transcript.asp) [hereinafter Peschard-Sverdrup].

<sup>33</sup> Peschard-Sverdrup, *supra* note 32.

<sup>34</sup> Jo Tuckerman, *Drug Violence Raises Fears in Mexico*, BOSTON GLOBE, Feb. 8, 2007.

<sup>35</sup> James C. McKinley Jr., *Mexico Hits Drug Gangs With Full Fury of War*, N.Y. TIMES, Jan. 22, 2008 available at [http://www.nytimes.com/2008/01/22/world/americas/22mexico.html?\\_r=1&oref=slogin](http://www.nytimes.com/2008/01/22/world/americas/22mexico.html?_r=1&oref=slogin).

<sup>36</sup> See, e.g., Press Release, U.S. Congressman Tom Tancredo of Colorado, Tancredo Demands Pardon of Border Agent amid New Killing (Jan. 22, 2008), available at <http://tancredo.house.gov/PRArticle.aspx?NewsID=1335>.

<sup>37</sup> *El Plan Nacional de Desarrollo 2007-2012*, Mensaje del Presidente Felipe Calderón Hinojosa (2007), <http://pnd.presidencia.gob.mx/>.

<sup>38</sup> *Id.*

<sup>39</sup> Clare M. Ribando, Congressional Research Service, Report on Gangs in Central America, CRS Report for Congress 2 (July 27, 2007), [http://www.wola.org/media/crs%20gangs\\_07.pdf](http://www.wola.org/media/crs%20gangs_07.pdf).

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## The Mérida Initiative for Mexico and Central America

homicides per 100,000 people.”<sup>40</sup> “Based on the most recent Crime Trend Surveys (CTS) data available from the United Nations Office on Drugs and Crime (UNODC), Guatemala and El Salvador are among the most violent countries in the world for which standardized data has been collected.”<sup>41</sup> “Whereas homicide rates in Colombia, historically the most violent country in Latin America, have fallen in the past few years, homicides have increased dramatically in El Salvador, Guatemala, and Honduras.”<sup>42</sup> “In 2005, the estimated murder rate per 100,000 people was roughly fifty-six in El Salvador, forty-one in Honduras, and thirty-eight in Guatemala.”<sup>43</sup>

### What is in the Mérida Package?

The Mérida Initiative is an American foreign assistance package consisting of training and equipment that has been proposed to the U.S. Congress. This package is the result of extensive negotiations with our Mexican and Central American counterparts.<sup>44</sup> Through the Merida Initiative, the United States seeks to strengthen our partners’ capacities in three broad areas: (1) Counter-Narcotics, Counterterrorism, and Border Security; (2) Public Security and Law Enforcement; and (3) Institution Building and Rule of Law.<sup>45</sup> In order to strengthen our partners in these areas, four goals were set:

- 1) Break the power and impunity of criminal organizations;
- 2) Assist the Governments of Mexico and Central America in strengthening border, air, and maritime controls from the Southwest border of the United States to Panama;
- 3) Improve the capacity of justice systems in the region to conduct investigations and prosecutions; implement the rule of law; protect human rights; and sever the influence of incarcerated criminals with outside criminal organizations; and
- 4) Curtail gang activity in Mexico and Central America and diminish the demand for drugs in the region.<sup>46</sup>

Funding is currently split between a multi-year plan, potentially encompassing two to three fiscal years.<sup>47</sup> About a third of the money is in the President’s

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> Press Release, Washington Office on Latin America (WOLA), WOLA Sees Positive Points, Shortcomings in Bush Administration’s Mexico and Central America Aid Package (Oct.22, 2007) available at [http://www.wola.org/index.php?option=com\\_content&task=viewp&id=587&Itemid=8](http://www.wola.org/index.php?option=com_content&task=viewp&id=587&Itemid=8).

<sup>45</sup> Jacobson, *supra* note 23.

<sup>46</sup> *The Mérida Initiative: Assessing Plans to Step up our Security Cooperation with Mexico and Central America: Hearing Before the Comm. on Foreign Affairs*, 110th Cong. 14 (2007) [hereinafter *Mérida Initiative Hearings*] (testimony of David T. Johnson, Assistant Sec’y of State) available at <http://foreignaffairs.house.gov/110/joh111407.pdf>.

<sup>47</sup> Colleen W. Cook, Rebecca G. Rush, & Clare Ribando Seelke, Congressional Research Service, *Mérida Initiative: Background and Funding*, CRS Report for Congress (Mar. 18, 2008), assets.opencrs.

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## The Mérida Initiative for Mexico and Central America

FY2008 supplemental request, currently pending in Congress, integrated with the Iraq and Pakistan supplemental request.<sup>48</sup> The balance would come in the ordinary fiscal year 2009 and 2010 budgets.<sup>49</sup> All of the funding comes from the foreign assistance budget — there is no military or domestic Mérida program funding. While Mexico and the Central American governments are attacking crime with their domestic budgets and funding, and the U.S. is doing the same with its domestic law enforcement budget, Mérida represents only the foreign assistance portion from the U.S. to Mexico and Central America.<sup>50</sup>

The three year Mexican component of the Mérida Initiative, at the proposed \$1.4 billion level, is based on a proposal presented to the U.S. back in May of 2007.<sup>51</sup> On August 21, the heads of state of Canada, the U.S., and Mexico met in Montebello, where President Bush noted:

The United States is committed to this joint strategy to deal with a joint problem. I would not be committed to dealing with this if I wasn't convinced that President Calderón had the will and the desire to protect his people from narco-traffickers. He has shown great leadership and great strength of character, which gives me good confidence that the plan we'll develop will be effective.<sup>52</sup>

Following the Montebello Summit, the Mexican proposal was further refined in September and validated in December through on-site inspections and consultations between officials from both the U.S. and Mexico. All of the Central American funding and sixty percent of the Mexican funding requested in the FY2008 supplemental bill was allotted to aid civilian agencies in those countries.<sup>53</sup> Approximately forty percent of the funding would be used for military purposes.<sup>54</sup> That percentage splits in FY2009 and FY2010, with monies shifting to the civilian side.

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com/rpts/RS22837\_20080318.pdf; see also *The Mexico/Central America Security Cooperation Package On-The-Record Briefing via Conference Call*, U.S. DEP'T OF STATE, Oct. 22, 2007, available at <http://www.state.gov/p/wha/rls/rm/07/q4/93955.htm> (Remarks of Thomas A. Shannon, Assistant Sec'y for Western Hemisphere Affairs).

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> The U.S. has been making gains in its domestic efforts to reduce the demand for drugs and attack its own organized crime problem. *See*, for example, Testimony of John P. Walters, Director of National Drug Control Policy, Before the House Committee on Oversight and Government Reform, Subcommittee on Domestic Policy, Chairman Dennis Kucinich, 110th Congress, March 12, 2008, available at <http://www.whitehousedrugpolicy.gov/NEWS/testimony08/031208/031208.pdf>

<sup>51</sup> The proposal followed from discussions in Washington, D.C. between U.S. and Mexican foreign ministries in May 2007. *See REPORT TO THE S. COMM. ON FOREIGN RELATIONS*, 110th Cong., THE MERIDA INITIATIVE: "GUNS, DRUGS AND FRIENDS" 5 n.3 (Comm. Print 2007).

<sup>52</sup> President's News Conference With Prime Minister Stephen Harper of Canada and President Felipe de Jesus Calderon Hinojosa of Mexico in Montebello, Canada, 43 WEEKLY COMP. PRES. Doc 1095 (Aug. 21, 2007).

<sup>53</sup> *Merida Initiative Hearings*, *supra* note 46 at 10 (testimony of Thomas A. Shannon, Assistant Sec'y for Western Hemisphere Affairs).

<sup>54</sup> *See also Round Table of Deputy Secretary with Journalists*, U.S. DEP'T OF STATE, Oct. 30, 2007, available at [www.state.gov/s/d/2007/94671.htm](http://www.state.gov/s/d/2007/94671.htm) (Remarks of Thomas A. Shannon, Assistant Sec'y for Western Hemisphere Affairs).

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## The Mérida Initiative for Mexico and Central America

Why is there funding to help the Mexican military? Unfortunately, right now, Mexican organized crime is very well-armed.<sup>55</sup> Only the military has the resources to identify and ferret out criminal enterprises from where it has metastasized. Furthermore, while President Calderón readily admits he would prefer to use civilian law enforcement and police, they are not simply ready or adequate.<sup>56</sup> The Mérida funding proposal would allow time for the civilian police capacity to upgrade, while still standing up to the immediate challenge.<sup>57</sup> This process is time consuming since the Calderón administration is inspecting and reviewing the current federal police first in order to root out corruption.<sup>58</sup> Before we give them more equipment and training, we want to ensure that we're not training the wrong side.

If approved, the Mérida Initiative will provide funding for:

- Non-intrusive inspection equipment, ion scanners, canine units for Mexican customs, for the new federal police and for the military to interdict trafficked drugs, arms, cash and persons;<sup>59</sup>
- Technologies to improve and secure communication systems to support collecting information as well as ensuring that vital information is accessible for criminal law enforcement;
- Technical advice and training to strengthen the institutions of justice — vetting for the new police force, case management software to track investigations through the system to trial, new offices of citizen complaints and professional responsibility, and establishing witness protection programs;
- Helicopters and surveillance aircraft to support interdiction activities and rapid operational response of law enforcement agencies in Mexico;
- Initial funding for security cooperation with Central America that responds directly to Central American leaders' concerns over gangs, drugs, and arms articulated during July SICA meetings and the SICA Security Strategy; and

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<sup>55</sup> Corchado, *supra* note 6.

<sup>56</sup> Tuckerman, *supra* note 34 (noting that local law enforcement has been reduced in size to merely "symbolic" and local and state police hold a reputation as corrupt and unprofessional).

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<sup>57</sup> While supporting the Merida Initiative generally, U.S. Rep. Ileana Ros-Lehtinen, the ranking Republican on the House Foreign Affairs Committee, called on the plan to provide adequate assurances to support and assist civilian police and prosecutors "because fighting illicit drugs is a traditional law enforcement mission, not a military one." House Foreign Affairs Committee, U.S. House of Representatives, Statement by Rep. Ileana ros-Lehtinen, "Ros-Lehtinen Urges Congress to OK Supplemental Funds for U.S. Mexico Initiative to Battle Drugs, Organized Crime," (Jan. 3, 2008).

<sup>58</sup> Patrick Corcoran, *Corruption Could Be Undoing of Mexico's Judicial Reforms*, MEXIDATA.INFO, Mar. 17, 2008, <http://www.mexidata.info/id1754.html> (discussing how the Mexicans are tackling corruption with this program).

<sup>59</sup> See Marc Lacey, *Mexico: U.S. Vows Tougher Controls on Guns*, N.Y. TIMES, Jan. 17, 2008, available at [www.nytimes.com/2008/01/17/world/americas](http://www.nytimes.com/2008/01/17/world/americas) (discussing Attorney General Michael B. Mukasey's plan to crackdown on the illegal flow of firearms from the U.S. to Mexico); see also Press Release, U.S. Embassy in Mexico (highlighting Ambassador Antonio O. Garza's comments: "Our Continued Efforts Will Deny Firearms to Criminal Organizations and Reduce Gun Violence), (Jan. 16, 2008).

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## The Mérida Initiative for Mexico and Central America

- Equipment and assets to support counterpart security agencies inspecting and interdicting drugs, trafficked goods, people and other contraband as well as equipment, training and community action programs in Central American countries to implement anti-gang measures and expand the reach of these measures in the region.<sup>60</sup>

One concern about any program in rule of law is making sure we don't help the criminals themselves. We have had extensive discussions on these issues with human rights and transparency groups, including a session led directly by Deputy Secretary John Negroponte in Mexico City in November 2007.<sup>61</sup> If the Mexican law enforcement entities are infiltrated with criminals and leaks, how can we be sure we are not training the criminals? We have heard this not just from American NGOs, but from the Mexican NGOs too, and we have listened.

First, to assure accountability and anticorruption, we are vetting the police recruits with lie detector tests. We are also vetting the people doing the vetting. Second, we are not proposing any cash transfers to Mexican ministries.<sup>62</sup> If the program requires equipment to be purchased, the U.S. government will do that. We are not writing any checks. Third, we are establishing information technology systems so that investigative and law enforcement agencies can share data and talk to each other. Amazingly, we did not do this in the past. Fourth, we will secure communications. Previously the criminals could simply listen in on law enforcement planning. That will now be stopped. Even better, we are working toward inter-operability among Mexican and American agencies, should that be necessary for successful missions. Fifth, human rights and anticorruption training will be integrated into the police academy curricula. Finally, the Calderón administration has accepted all recommendations from the Mexican Human Rights Commission concerning military involvement with the police.

### Mexico's Program to Address Organized Crime

Crime and violence diminish the security and well being of all who live in Mexico. They undermine confidence in democratic government within the country and also tarnish Mexico's international image.

Widespread public concern about crime and violence can help to forge a national consensus in favor of a coherent response. Such a response could effectively confront the immediate threat and also build the institutional base needed to preserve security and protect the rights of all on a sustainable basis.

In Mexico, the public demand for security is coupled with a demand for the fair and timely administration of justice.<sup>63</sup> It should be possible to design a strat-

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<sup>60</sup> *The Merida Initiative: Guns, Drugs and Friends Report Before the S. Comm. on Foreign Relations*, 3-4 (Dec. 21, 2007).

<sup>61</sup> See John Negroponte, Deputy U.S. Sec'y of State, Round Table of Deputy Secretary with Journalists (Oct. 30, 2007), [www.state.gov/s/d/2007/94671.htm](http://www.state.gov/s/d/2007/94671.htm).

<sup>62</sup> Corchado & Connolly, *supra* note 29; *The Merida Initiative: Guns, Drugs and Friends Report Before the S. Comm. on Foreign Relations*, 4 (Dec. 21, 2007).

<sup>63</sup> See Sara Howard, Editorial, "Partnership Will Jeopardize Mexican rights," THE ITHACAN ONLINE, Mar. 20, 2008, available at [http://theithacan.org/am/publish/opinioncommentary/200803\\_Partnership\\_](http://theithacan.org/am/publish/opinioncommentary/200803_Partnership_)

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## The Mérida Initiative for Mexico and Central America

egy that combines elements of combating crime, safeguarding rights, and contributing to a culture of lawfulness.

Some countries have enhanced the capacities for repressive measures through their police or other security forces. They have done so while deferring the reform of the justice system which is capable of holding all persons equally accountable under the law, including the security forces themselves. In those cases, strengthened security forces operating without strong guarantees of legal protection have often become obstacles to broad institutional change.

On the other hand, efforts to strengthen the institutional capacities of the justice system that have not addressed immediate and powerful threats from criminal elements will inevitably fail. Effects that ignore the pervasive criminal element will likely fail because the public is unable to see direct and long-term benefits from the reforms while crime continues unabated.

Mexico does not need to choose between the priorities of security and justice. The issues of both components of the rule of law have been studied exhaustively. The government has developed sound policies for addressing these inseparable issues, as reflected in the National Development Plan. It has the capacity to implement those strategies. What is needed is to build a critical mass of support — in federal and state governments, the judiciary, the Congress, and civil society — that will sustain the legal, institutional and enforcement reforms that are all necessary to achieve the desired results.

President Calderón's administration is committed to implementing justice reform as part of his program to restore public security. All three branches of the Mexican government are working to transform the criminal justice system from a written inquisitorial to an oral, adversarial system.<sup>64</sup>

With help from a coalition of civil society organizations, ProDerecho, supported by USAID,<sup>65</sup> the national Mexican Congress passed the required constitutional amendments by the end of 2007 to change the legislative framework, and in March 2008, passed a new federal Criminal Procedure Code.<sup>66</sup> Ten Mexican states are even further along, having already begun the reform process, with Chihuahua and Oaxaca at the most advanced stage — that of actually conducting oral trials on a pilot basis, again with help from the USAID-assisted ProDerecho coalition.<sup>67</sup>

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will\_jeopardize\_Mexican\_Rights (discussing the unease about investing in the security sector while human rights remain vulnerable).

<sup>64</sup> Arturo Alvarado, Remarks at the Woodrow Wilson Int'l Ctr. for Scholars: Reforming the Administration of Justice in Mexico (Feb. 25, 2008), available at [http://www.wilsoncenter.org/index.cfm?topic\\_id=5949&fuseaction=topics.event\\_summary&event\\_id=372275](http://www.wilsoncenter.org/index.cfm?topic_id=5949&fuseaction=topics.event_summary&event_id=372275).

<sup>65</sup> John Moody, *Reforming Justice: USAID Assists Mexican Judicial Reform Campaign*, ENTREPRENEUR, May 2005, available at <http://www.entrepreneur.com/tradejournals/article/132870635.html>.

<sup>66</sup> Olga R. Rodriguez, *Mexico Senate Approves Judicial Reform*, ABC News, Mar. 7, 2008, available at <http://abcnews.go.com/International/wireStory?id=4405673>.

<sup>67</sup> See generally Steven E. Hendrix, *Innovation in Criminal Procedure in Latin America: Guatemala's Conversion to the Adversarial System*, 5 Sw. J. L. & TRADE AM 365 (1998) (discussing how the USAID helped Guatemala with similar reforms a decade earlier).

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## The Mérida Initiative for Mexico and Central America

Mexico and the U.S. have agreed that they must fight international organized crime together as full partners.<sup>68</sup> What role does justice reform play in this fight against international crime? How can the U.S. Government support this reform process?

International experience has demonstrated that public security is best achieved when tougher law enforcement is combined with a justice system that can more quickly and broadly prosecute and punish criminals. As law enforcement increases the arrests of criminal suspects, the justice system must cope with increased case loads to avoid the appearance of criminal impunity or other failures in judicial procedures.

In Mexico's first week of experience in implementing oral trials in the State of Chihuahua, seventy percent of forty-eight reviewed cases were resolved through one of the seven case resolution alternatives permitted by the reformed criminal codes of procedure.<sup>69</sup> Previously these same cases would have taken anywhere from a couple of months to a few years to resolve. This expedited case processing permitted the Public Ministry to re-direct its resources to prosecuting more serious crimes. Mexico's success mirrors other Latin American experiences. Colombia reduced time-to-trial by ninety percent, with seventy percent of cases being plea-bargained and adjudicated within weeks rather than the customary wait of several years under the old system. Bolivia reduced trial times significantly and cut average case costs from \$2400 to \$600.<sup>70</sup>

### **Justice Reform — Mexico's Own Investment**

President Calderón enjoys a high public approval of his fight to restore public security.<sup>71</sup> Public understanding and support is essential as the Government enacts and implements judicial reforms that might include alternative dispute resolution, new types of courts, and new alternatives for case disposition and sentencing.

President Calderón has demonstrated his commitment to fight organized crime by using police and military resources to frontally attack criminals.<sup>72</sup> His top

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<sup>68</sup> Sean McCormack, Spokesman, U.S. Dep't of State, Remarks at the U.S. Department of State's Daily Press Briefing (Jan. 16, 2008) available at [www.state.gov/t/pa/prs/2008/jan/99389.htm](http://www.state.gov/t/pa/prs/2008/jan/99389.htm).

<sup>69</sup> See *U.S. Embassy in Mexico: Oral Trials in Chihuahua Advance*, USAID Weekly Report, July 26, 2006, [http://www.fs.fed.us/pnw/fera/research/targeted/international/July\\_2026.pdf](http://www.fs.fed.us/pnw/fera/research/targeted/international/July_2026.pdf); see also Sean Matteson, *Chihuahua pioneers judicial reform*, EXPRESS NEWS, Mar. 8, 2008, available at <http://www.mysanantonio.com/news/metro/stories/MYSA030908.22A.judicialreform.36ff271.html>.

<sup>70</sup> *Criminal Justice & Legal Reform*, USAID Report on Latin America and the Caribbean, Mar. 31, 2005, [http://www.usaid.gov/locations/latin\\_america\\_caribbean/democracy/rule/dg\\_rule4.html](http://www.usaid.gov/locations/latin_america_caribbean/democracy/rule/dg_rule4.html); see also Steven E. Hendrix, *New Approaches to Addressing Corruption in the Context of U.S. Foreign Assistance with Examples from Latin America and the Caribbean*, 12 Sw. J. L. & TRADE AM.1 (2005), and Steven E. Hendrix, *Current Legal Trends in the Americas: USAID Promoting Democracy and the Rule of Law in Latin America and the Caribbean*, 9 Sw. J. L. & TRADE AM. 277 (2003).

<sup>71</sup> "Politics and Government," Frontera Norte-Sur (Mar. 2008), available at <http://www.nmsu.edu/~frontera/poli.html>.

<sup>72</sup> Ray Walser & James M. Roberts, WebMemo, *The U.S. and Mexico: Taking the "Mérida Initiative" Against Narco-Terror*, THE HERITAGE FOUNDATION, Nov. 16, 2007, <http://www.heritage.org/Research/Crime/wm1705.cfm>.

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## The Mérida Initiative for Mexico and Central America

priority is restoring security and fighting crime, as evidenced in his speeches, most notably his state of union address. While the U.S. has proposed \$1.4 billion for Mexico over three fiscal years, subject to U.S. Congressional approval, President Calderón is seeking seven billion dollars from his legislature, again over three years, to address the security sector at the federal level. In FY2007, Mexico set aside three billion dollars for the program to address counter-narcotics and organized crime.<sup>73</sup>

The partnership is already producing tangible, measurable results, with unfortunately, at times, very real sacrifices. This past year, there were a record seventy-three extraditions from Mexico to the United States.<sup>74</sup> Twenty three and a half tons of cocaine were seized in one case alone in Manzanillo, Mexico.<sup>75</sup>

But before things get better, the Mérida Initiative is likely to change the current strategy of organized crime of avoiding confrontation, to one of trying to corrupt government, and where that does not work, to armed confrontation. We are already at that stage in Nuevo Laredo, Tijuana, Sinaloa, Michoacán, Guerrero, Baja California, and Tamaulipas, where the Mexican military is engaged in non-conventional operations to re-take territory. In the process, in 2007, over 250 Mexican security officials died in the line of duty trying to stop organized crime, with over 2600 Mexicans dying as a result of organized crime, a murder rate over twice that of 2005.<sup>76</sup>

The Mexican government has not relieved any pressure on the criminal organizations, with the arrest of Alfredo Beltran, a major figure in the Sinaloa Cartel, multiple arrests in Mexico City of associates of the Gulf Cartel, and purges of state police in six different border towns. The Mexican authorities also moved quickly to track and arrest the individuals responsible for the death of a U.S. border patrol agent within days of the crime.

In May of 2007, Jose Nemecio Lugo Felix, the Director de Trafico y Trata with CENAPI (Mexico's intelligence agency) was gunned down in Mexico City while he was on his way to work.<sup>77</sup> He is the highest ranking official within the Mexican federal prosecutors' office (PGR) to be killed.<sup>78</sup>

During one week in September of 2007, five officials were killed. Omar Ramirez Aguilar, the Director of an anti-organized crime unit from CENAPI was killed as he left work in Polanco, which is considered the safest neighborhood in

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<sup>73</sup> Thomas A. Shannon, Assistant Sec'y for Western Hemisphere Affairs in U.S. Department of State, Remarks at "On-the-Record: On the Mexico/Central America Security Cooperation Package," (Oct. 23, 2007) 5; see also *The Merida Initiative: Guns, Drugs and Friends Report Before the S. Comm. on Foreign Relations* (Dec. 21, 2007).

<sup>74</sup> Traci Carl, *US Embassy: Mexico Seeks Missing Marine*, WTOP NEWS, Jan. 29, 2008 <http://www.wtopnews.com/?nid=105&sid=1331200>.

<sup>75</sup> Roberta Jacobson, Deputy Assistant Sec'y of State for North American Affairs, Remarks at Enterprise Institute for Pub. Policy Research (Nov. 8, 2007).

<sup>76</sup> Manuel Roig-Franzia, *Drug Trade Tyranny on the Border*, WASH. POST, Mar. 16, 2008, at A01, available at <http://www.star-telegram.com/279/story/546133.html>.

<sup>77</sup> Alejandro Gutierrez, *Ejecutan a Funcionario de Combate a la Delincuencia de la PGR*, PROCESO, May 14, 2007, <http://www.proceso.com.mx/noticia.html?sec=0&nta=50629>.

<sup>78</sup> *Id.*

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## The Mérida Initiative for Mexico and Central America

Mexico City.<sup>79</sup> Jamie Flores Escamilla, the Director of Security for the State of San Luis Potosi was stopped by armed men who pulled his wife and two year old son from the car, then shot him over fifty times.<sup>80</sup> Two Mexican security agents who had been fighting narco's in Nueva Leon were also killed. In the State of Guerrero, a municipal policeman was beheaded. An anonymous caller told the police that the head was found wrapped in a newspaper near the police station.<sup>81</sup> In February 2008, the Chihuahua Deputy Commander for Investigations was assassinated right in front of the prosecution offices, he was the victim of a professional hit.<sup>82</sup> As if this was not enough, on May 8, 2008, Edgar Millán Gómez, the acting chief of Mexico's federal police, was assassinated.<sup>83</sup> These are gruesome examples of the sacrifices Mexican officials are making to fight organized crime, just a few of the 2000 stories being told each year now of Mexican sacrifice.

Mariclaire Acosta with the Organization of American States, formerly a government minister in the Fox administration (October 23, 2007 at the Inter-American Dialogue), noted Mexico has become one of the most dangerous countries on earth to be a journalist.<sup>84</sup> At ninety-two percent, high impunity rates for journalist crimes remain a problem. The majority of deaths relate to coverage of the drug trade, but there has also been an upsurge in political violence, and journalists portray government vulnerabilities.<sup>85</sup> For example, journalists report on topics such as corruption; linkages between law enforcement and drug traffickers; and political conflicts, such as the one in Oaxaca where a U.S. journalist was killed.<sup>86</sup> Reporters without Borders, an organization dedicated to defending and ensuring the safety of journalists, states that Mexico had the worst record in the Americas in 2006 and was second only to Iraq for the number of journalists killed.<sup>87</sup>

Mexico is committed to removing the cancer of organized crime and corruption. Their law enforcement officers are pledging their lives for this fight. The

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<sup>79</sup> Karen P. Tandy, Administrator, Drug Enforcement Agency, address at the IACP Second General Assembly, (Oct. 16, 2007) (transcript available at <http://www.usdoj.gov/dea/speeches/s101607.html>).

<sup>80</sup> Cop, Neighbor Gunned Down in Northwest Mexico, NOTIEMAIL NEWS, Sept. 23, 2007, <http://news.notiemail.com/noticia.asp?nt=11458810&cty=200>.

<sup>81</sup> Mexican Drug Gang Attacks Government Intelligence Network, INT'L HERALD TRIB., Sept. 17, 2007, available at [http://www.iht.com/articles/ap/2007/09/18/america/LA-GEN-Mexico-Drugs.php?WT.mc\\_id=rssap\\_news](http://www.iht.com/articles/ap/2007/09/18/america/LA-GEN-Mexico-Drugs.php?WT.mc_id=rssap_news).

<sup>82</sup> Edgar Prado, Ejecutan a Comandante de la Policia Ministerial Afuera de la Subprocuraduria Zona Centro, ENTRE LINEAS, Feb. 26, 2008.

<sup>83</sup> James C. McKinley, Gunmen Kill Chief of Mexico's Police, N.Y. TIMES, May 9, 2008, available at <http://www.nytimes.com/2008/05/09/world/americas/09mexico.html?partner=rssnyt&emc=rss>.

<sup>84</sup> Mariclaire Acosta, Director of the Organization of American States (OAS) Universal Civil Identity Program and former Deputy Sec'y for Hum. Rights and Democracy at Mexico's Ministry of Foreign Affairs, Remarks at the Inter-American Dialogue: Violence, Democracy and Press Freedom in Mexico and Colombia, (Oct. 23, 2007).

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> Mexico - Annual Report 2007, REPORTERS WITHOUT BORDERS, [http://www.rsf.org/country-47.php3?id\\_mot=248&Valider=OK](http://www.rsf.org/country-47.php3?id_mot=248&Valider=OK), (last visited April 4, 2008).

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## The Mérida Initiative for Mexico and Central America

Mexican government is committing its own resources.<sup>88</sup> They ask for our help and collaboration, as neighbors, in this struggle which will benefit us both.

### **Institutional Cooperation — Working Together for the Same Goals**

The greatest benefit we have seen in other cooperative programs is that Mexican and U.S. professionals learn how to work together to solve common problems. As professionals share their experiences with one another, a trusting relationship quickly evolves into greater cooperation on current cases. For example, with USAID help, as the forensic experts from New Mexico worked with Chihuahua's new forensic laboratory officials, they saw that evidence collected on one side of the border could solve cases on the other side.<sup>89</sup> Again with USAID help, the Association of U.S. States' Attorney Generals have already begun discussions with their Mexican counterparts on how they can more actively work together on criminal and commercial cases. Through a USAID education program, law schools on both sides of the border have requested support in curriculum development and for expanded opportunities for students and professionals from both countries to study on the other side of the border.<sup>90</sup> U.S. funds can support these types of nontraditional bilateral partnerships.

The criminals have well developed networks and organizations that work seamlessly across the border. Both of our law enforcement and judicial systems need the same smooth working relationships to arrest, prosecute and punish these well organized criminals. Both countries will benefit by encouraging a high degree of professional bilateral cooperation as we invest in our joint capacity to stop these international criminals on both sides of our shared border. With roughly ninety-three percent of all crime in Mexico being done at the state rather than the federal level, improved coordination within Mexico between states and the federal government, and similar upgrades on our own side, are critical to the success of the package.<sup>91</sup> USAID has engaged the Association of U.S. State Attorneys General to coordinate closely with their Mexican federal and state counterparts to improve and integrate efforts.

### **Central America**

It would be unjust of us to consider the organized crime phenomena solely as a border problem between the U.S. and Mexico. Anyone who lives in either Tijuana or San Diego can tell you that the border is already fully bi-national.

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<sup>88</sup> Colleen W. Cook, Rebecca G. Rush, & Clare Ribando Seelke, Congressional Research Service Report, Merida Initiative: Background and Funding at 2 (Mar. 18, 2008).

<sup>89</sup> Press Release, Argentine Forensic Anthropology Team (Feb. 23, 2006), available at <http://eaaf.typepad.com/pressrelease2.23.06.pdf>; Press Release, U.S. Embassy in Mexico: Ambassador Garza Announces \$5 Million For Justice In Chihuahua (Feb. 3, 2005), available at <http://www.usembassy-mexico.gov/eng/releases/ep050203reforma.html>.

<sup>90</sup> Steven E. Hendrix, *Restructuring Legal Education in Guatemala: A Model for Law School Reform in Latin America?* 54 J. LEGAL EDUC. 597 (2004), available at <http://www.law.georgetown.edu/jle/> (discussing how USAID addressed legal education reform in Guatemala).

<sup>91</sup> Leo Zuckerman, Remarks at Grupo Imagen, Washington, D.C. (Nov. 30, 2007).

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## The Mérida Initiative for Mexico and Central America

Moreover, cartels are very resourceful and do not stop at borders, whether that is Mexico's northern border with the U.S., or its southern one with Guatemala and Belize. We would be ignoring fundamental realities of our domestic crime and narcotics problem if we believed that we could solve this problem through helping only Mexico.<sup>92</sup> For example, three Maryland MS-13 members were convicted in April 2007 on racketeering charges and with direct linkages to gang "hits" in El Salvador.<sup>93</sup> A more systemic approach, reaching all the way down to Colombia, is required. That means including Central America in the equation.<sup>94</sup>

The Secretariat for Central American Integration — SICA as it is known by its acronym in Spanish — has articulated a strategy for addressing organized crime.<sup>95</sup> And as in Mexico, the SICA Plan offers the U.S. a unique opportunity for collaboration in the struggle against corruption.<sup>96</sup> While the package obviously contains equipment and aircraft among other law enforcement tools, I would like to highlight how the Mérida Initiative also strikes a balance in Central America with four important so-called "soft side" components.

The first component addresses court management. Here the Initiative will expand the Guatemala Clerk of Court pilot experience<sup>97</sup> and adapt it, as appropriate, across Guatemala to other courts, such as civil or commercial courts that may hear complex fraud cases, and to expand it to El Salvador, Honduras, and Nicaragua.

Second, the U.S. government plans to improve prosecutor capacity. Here we intend to work with the Public Ministries in the region to address high profile, high impact crime with complex litigation strategies. This will be done by taking advantage of the new tools in the package to streamline criminal prosecution and get the cases into the system.<sup>98</sup>

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<sup>92</sup> See Steven E. Hendrix, *Lessons from Guatemala: US Foreign Policy and the Rule of Law*, 23:4 HARV. INT'L REV. 14 (2002) (discussing the Guatemalan situation).

<sup>93</sup> Ruben Castaneda, *3 MS-13 Leaders Convicted In Killings*, WASH. POST, Apr. 28, 2007, at B02, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/04/27/AR2007042702108.html?nav=emailpagel>.

<sup>94</sup> See Steven E. Hendrix, *Importancia de la Reforma del Sistema Penal Nicaragüense*, EL NUEVO DIARIO (Managua, Nov. 17, 2006) available at <http://www.elnuevodiario.com.ni/2006/11/17/opinion/34103> (discussing the needs of justice sector reform for Nicaragua); see also Steven E. Hendrix, *Eliminar la Podredumbre de la Corrupción*, EL NUEVO DIARIO (Managua, Dec. 9, 2006), available at <http://www.elnuevodiario.com.ni/2006/12/09/opinion/35949>.

<sup>95</sup> Secretariat for Central American Integration – SICA, "Estrategia de Seguridad de Centroamérica y México" (Aug. 14, 2007).

<sup>96</sup> See *More Aid Sought in C. America to Head off Drug Fueled Crime*, ARIZ. DAILY STAR, Jan. 12, 2008, available at [www.azstar.com.sn/printDS-220235](http://www.azstar.com.sn/printDS-220235); see also Thomas A. Shannon, Assistant Sec'y of State, Bureau of Western Hemisphere Affairs for U.S. Department of State, Testimony before the Committee on Foreign Affairs, U.S. House of Representatives (Nov. 14, 2007).

<sup>97</sup> Steven E. Hendrix, *Helping Guatemalans Get Their Day in Court*, 40:6 FRONT LINES 14 (2000) (discussing the Guatemalan Clerk of Court model, as assisted by USAID).

<sup>98</sup> Steven E. Hendrix, *Guatemalan "Justice Centers": The Centerpiece for Advancing Transparency, Efficiency, Due Process and Justice Access*, 15:4 AM. U. INT'L L. REV. 101 (2000) (discussing how USAID and other U.S. government agencies help with institutionalization of the rule of law and improving criminal prosecution), available at <http://www.wcl.american.edu/journal/ilr/15/hendrix.pdf?rd=1>.

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## The Mérida Initiative for Mexico and Central America

The third component deals with gang prevention.<sup>99</sup> About fifty block grants will go to at-risk communities for integrated programs to address gangs and prevent violence. Grants are anticipated for Guatemala, Honduras and El Salvador — the places identified as most urgent under the inter-agency anti-gang strategy.

Finally, the Initiative envisions support for Community Policing.<sup>100</sup> This funding will allow the USG to continue support for the Villa Nueva community policing program in Guatemala, and expand that program to new communities in that country.

## What About the Economy

Economic growth is essential for Mexico. The reason we have so much illegal immigration to the U.S. has to do with the lack of economic opportunity in Mexico. There are more than forty million people in poverty in Mexico, more than all of Central America combined.<sup>101</sup> Mexico ranks Seventy-Third in the world in terms of Gross National Income per Capita at \$7870 per capita, compared to the US at \$44,970, per capita.<sup>102</sup> You might ask why we are not proposing to do more on the economy instead of the security sector.<sup>103</sup>

There are two basic reasons for this. First, President Calderón already has a national development strategy to reduce poverty.<sup>104</sup> Those efforts are underway. Topics like alternative development that you find in Plan Colombia, for example, are not being requested by the Mexican government. Mexico does all of its own illicit crop eradication, and has on-going programs with schools to educate children about the dangers of drugs.<sup>105</sup> Second, the Mexicans have just enacted comprehensive fiscal reform to increase tax revenue to support their own modernization efforts.<sup>106</sup> If successful, this should provide Mexican resources to address their own problems on a more sustainable basis.

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<sup>99</sup> See U.S. Agency for International Development, Central America and Mexico Gang Assessment (Apr. 2006) (discussing how USAID is addressing gang issues), available at [http://www.usaid.gov/locations/latin\\_america\\_caribbean/democracy/gangs\\_assessment.pdf](http://www.usaid.gov/locations/latin_america_caribbean/democracy/gangs_assessment.pdf).

<sup>100</sup> See USAID's Franco Advocates Community Policing As a Growing Component of Development, available at [http://www.usaid.gov/locations/latin\\_america\\_caribbean/franco\\_csis.html](http://www.usaid.gov/locations/latin_america_caribbean/franco_csis.html).

<sup>101</sup> See The World Bank, *Mexico Country Brief*, 2007, available at <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/LACEEXT/MEXICOEXTN/0,,contentMDK:20185184~pagePK:141137~piPK:141127~theSitePK:338397,00.html> (showing a full range of economic statistics on Mexico).

<sup>102</sup> *Id.*

<sup>103</sup> See Steven E. Hendrix, *Implementation of the Santiago Summit Plan of Action in the field: A Look at USAID's Programs in Education, Democracy, Trade Integration, Economic Growth and Poverty Reduction in Guatemala*, 7 CURRENTS: INT'L TRADE L.J. 44 (1998) (discussing the USAID's robust programs for social sector development in the hemisphere); Steven E. Hendrix, *Advancing Toward Privatization, Education Reform, Popular Participation and Decentralization: Bolivia's Innovation in Legal and Economic Reform, 1993-1997*, 14 ARIZ. J. INT'L & COMP. L. 679 (1997).

<sup>104</sup> Government of Mexico, *El Plan Nacional de Desarrollo 2007-2012*, 2007, <http://pnd.presidencia.gob.mx/>.

<sup>105</sup> See *Politics and Government*, FRONTERA NORTE-SUR, Mar. 2008, <http://www.nmsu.edu/~frontera/poli.html>.

<sup>106</sup> Standard & Poor's Upgrades Mexico after Passage of Fiscal Reform, INT'L HERALD TRIB., Oct. 8, 2007, available at <http://www.iht.com/articles/ap/2007/10/08/america/LA-FIN-Mexico-Upgrade.php>.

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## The Mérida Initiative for Mexico and Central America

By way of background, as a member of the North American Free Trade Agreement (NAFTA), Mexico is the world's fourteenth largest economy and the U.S.'s third largest trading partner.<sup>107</sup> The U.S. traded over one billion dollars per day of trade in goods and services with Mexico in 2007.<sup>108</sup> Remittances are also critical. They totaled twenty-four billion dollars in 2007, which is much less than the value of trade between the two countries.<sup>109</sup> In contrast, USAID budget request for Mexico is \$16.5 million for FY2009, reduced from \$37.5 million in FY2005. Markets work best to promote economic growth and jobs. But they need a firm basis in an environment that provides security. We hope that the Mexican government will be able to provide that environment with the increased help from the Mérida Initiative.

### **Mexico and Central America: Integrating Justice Reform with Public Security**

It is clear that public security and an effective justice system are inseparable aspects of a single concept. History has demonstrated that efforts to increase security are made sustainable by the rule of law, and that the rule of law flourishes in a climate of security. It is equally clear that Mexico's policy recognizes the intimate linkage between security and justice. Implementing that policy will require careful choices about priorities and sequencing of strategies and actions.

The experience of other reforming countries suggests that the risk of proceeding in a linear fashion with too narrow an agenda may be greater than a broad approach that confronts related issues simultaneously. The challenge is to take that experience into account in designing a reform program that will meet the region's needs for security within the rule of law. The Mérida Initiative proposes just such a balance for both Mexico and Central America.

No one is under any illusion that a \$1.4 billion program for Mexico or a \$150,000 program with Central America<sup>110</sup> — split over three fiscal years and seven countries — will solve the problem. It is not a silver bullet.<sup>111</sup> But it will certainly increase our chances so that twenty years from now we are not still facing this scourge. Democracy and the rule of law in the region mean we must stand with our neighbors and link our interests and our strengths to begin to tackle issues that affect us all. We see in the Mérida Initiative a new paradigm for collaboration and cooperation, and a new spirit to begin to address what are

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<sup>107</sup> *Id.*

<sup>108</sup> U.S. Department of Commerce, Mexico's Country Commercial Guide (Mar. 3, 2008), [http://www.buyusa.gov/mexico/en/mexico\\_commercial\\_guide.html](http://www.buyusa.gov/mexico/en/mexico_commercial_guide.html).

<sup>109</sup> Krissah Williams, *Immigrants Sending \$45 Billion Home*, WASH. POST, Oct. 19, 2007, at A09, available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/18/AR2006101801756.html>.

<sup>110</sup> See Thomas A. Shannon, Assistant Sec'y for Western Hemisphere Affairs in U.S. Department of State, Remarks at "On-the-Record: On the Mexico/Central America security Cooperation Package," 5 (Oct. 23, 2007) (noting that "We are still in the midst of talking with the Centrals about the parameters of that larger package so we can't give you a larger number, but it's our hope that that also would be a multiyear program").

<sup>111</sup> Peschard-Sverdrup, *supra* note 32.

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## The Mérida Initiative for Mexico and Central America

real life and death issues, whether in an American school or on the streets of Ciudad Juarez or Tegucigalpa.

### **What Is USAID's Portion of the Mérida Initiative**

One of the recurring questions in our discussions on the Mérida Initiative is how much is each agency going to receive? How much will go to the Department of Defense? How much for the Justice Department? Homeland Security? Those are important questions, especially for oversight committees in Congress. In the past, the answer was much easier since the programs were designed in stovepipes along institutional lines.

The design of the Mérida Initiative, however, is very different. We began with a needs assessment and request produced by Mexico and SICA. We then validated those through site visits, consultations, and negotiations. We then proposed integrated packages that would achieve the objectives. There was certainly more work to be done than any single U.S. government department or agency could handle, and no single department or agency had the competency or capacity to do it all. In other words, there was room enough for everyone.

In participating on the design, we were guided not by what was best for this agency or that, but rather what would be the best integrated program to respond to the challenge. The budget and program were submitted that way to Congress. Since then, we have been asked by Congress to itemize what each U.S. government department or agency would receive under Mérida, and we have provided our best estimates. However, much depends on what Congress' recommendations to the administration. In appropriating the funds, Congress has its chance to contribute to the discussion. There is still no final word on funding allocations among U.S. government entities.

In Central America, we are asked how much a particular country will get under Mérida. Again, we have provided itemized lists to Congress for its consideration, but the final figures will depend on what Congress instructs. So that too remains a bit fluid for the moment.

### **Conclusion**

In the short run, the Mérida Initiative may actually increase levels of violence in Mexico as organized crime fights back.<sup>112</sup> The performance measurement tools and indicators are currently being negotiated with the Mexican government,<sup>113</sup> and then will be vetted via an inter-agency process within the U.S. government, and then shared with Congress before they are set in stone. That process is still underway, and we have not yet released that to the public since it is still in draft.

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<sup>112</sup> See Alfred Corchado, *Drug Czar Says U.S. Use Fueling Mexico Violence*, DALLAS MORNING NEWS, Feb. 22, 2008, (explaining that John P. Walters from the Office of National Drug Control Policy belief in the possibility of increased levels of violence in the months ahead), available at <http://www.dallasnews.com/sharedcontent/dws/news/world/mexico/stories/022208dnintdrugs.3a98bb0.html>.

<sup>113</sup> Alfredo Corchado & Tim Connolly, *Q&A: Merida Initiative*, DALLAS MORNING NEWS, Jan. 16, 2008, available at [www.dallasnews.com/sharedcontent/dws/news/world/mexico/stories](http://www.dallasnews.com/sharedcontent/dws/news/world/mexico/stories).

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### The Mérida Initiative for Mexico and Central America

So what will be the benefits of Mérida? We have to look longer-term, beyond a one year supplemental budget or even a three year effort. But I think it is realistic to expect, first and foremost, improved stabilization of our borders in the region, including our own, as countries improve their rule of law and decrease the dangers from narcotics. If we fail to act, we are more likely to see narco-states in the region, kleptocratic regimes interested in lining their own pockets while turning a blind eye to drugs flowing northward toward American schools. Second, with the Mérida Initiative, we have an opportunity to engage improved political will, both in our own country as well as in Mexico, Central America and Colombia. We need to nurture this and reward it. And the Mérida Initiative represents positive regional, collaborative leadership on this issue to do just that.

