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Moving Beyond Merida in U.S.-Mexico Security Cooperation

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Introduction

Perhaps no other country is as intertwined with the United States as Mexico. Mexico is the United States' third most important trading partner – and its second largest export market, with 22 out the 50 U.S. states counting Mexico as their number one or two destination. Mexico is the third largest foreign supplier of oil to the United States, providing stability in this often volatile market. It is the largest source of U.S.-bound migration, the homeland of nearly 12 million U.S. residents, or nearly one third of the foreign-born population. The United States and Mexico are also closely tied in their security – sharing a 2,000 mile border that is traversed by the same transnational criminal networks. It is this last issue that dominates the headlines, and these proceedings, today.

The most immediate factor bringing Mexico to the fore is the increasing levels of violence. Over the last three and a half years of the Calderón administration over 23,000 people have died in drug related killings. By many accounts Mexico now ranks as more violent than Iraq or Afghanistan. Ciudad Juárez, just across the Rio Grande from El Paso, Texas, is the homicide capital of the world. The start to 2010 has been particularly bloody – with nearly 4,000 drug-related deaths. While most of these have continued to be concentrated in hotspots such as Ciudad Juárez in Chihuahua and in the states of Sinaloa, Durango, and Guerrero, the quieter border state of Tamaulipas recently exploded as two previously allied drug cartels turned on one another. In addition, several high profile civilian murders occurred - involving innocent students as well as three people associated with the U.S. consulate in Ciudad Juárez – questioning the governing theory that the deaths are primarily between drug traffickers themselves.

As worrisome as the death count is the changing nature of the drug market and the Mexican trafficking organizations. While the United States remains the world's largest consumer, demand in Europe, Russia, China and Latin America (including Mexico) is on the rise. These organizations have taken full advantage of expanding markets to increase their profits and global reach. Mexican drug cartels now boast global networks, reaching far into the United States, into South America, and even into West Africa and Europe. The scale and complexity of their operations increases the challenge for local, national and international law enforcement. These organized criminal operations are also branching out into other businesses within Mexico and on the U.S.-Mexico border – including human smuggling, kidnapping, and extortion. Many of Mexico's drug trafficking organizations are developing into illicit multinational conglomerates.

Yet the constant stream of bad news overshadows one positive aspect of the last three years: unprecedented U.S- Mexico security cooperation. The United States and Mexico should build on the strong basis of the Mérida Initiative, taking the best of this initial framework for cooperation while putting forward a more comprehensive approach to security cooperation, one that recognizes and supports the intertwined realities of U.S. - Mexico relations today. This program should focus particularly on strengthening Mexico's democratic rule of law, on working with local and state and well as national agencies to improve security, and it should begin to address the deep seated socioeconomic inequalities and dislocations that leave so many in Mexico susceptible to criminal pursuits. It is only through serious institution building and structural changes that the situation both on and south of the border will change in the long term.

Mexico's evolving security situation

When Calderón declared a war on narco-trafficking just days after his inauguration in 2006, he confronted a decades-long problem. Mexico has traditionally been a supplier of illegal markets to the United States, from alcohol in the prohibition era, heroin during WWII, marijuana throughout the 1960s counterculture, and in recent years a variety of drugs including cocaine, heroin, marijuana, and methamphetamines. These illegal businesses had long been a source of violence, since without access to legal channels, market and contract disputes were settled through blood in the streets.

Nevertheless, significant changes have occurred in recent years to transform this long-standing dynamic – and not for the better. *One is the scale of Mexico's drug-based operations.* Domestic demand for drugs in the United States has grown and diversified over the few last decades, and Mexico has increasingly become its primary supplier. For instance, while in 1990 50 percent of cocaine bound for the United States came through Mexico, today it is 90 percent. Mexico is also a major source of heroin, meth and marijuana for the U.S. market. Rising demand for illegal drugs worldwide has also expanded the size and stakes of the illicit market.

As important, U.S. *counternarcotics efforts elsewhere in the region shifted the epicenter of the drug trade to Mexico*. Space for new contenders opened up as Caribbean interdiction efforts pushed drug transit overland through Mexico, and military operations in Colombia broke up their notorious cartels. Mexican organizations now control the trade in the Western Hemisphere, reaching down into source countries such as Bolivia, Colombia, and Peru, transiting products up through Central America and Mexico, and delivering them throughout the United States. This reach was recognized in the 2008 Department of Justice National Drug Threat Assessment report that states "Mexican drug trafficking organizations represent the greatest organized crime threat to the United States." In the last two years they have only expanded operations, now controlling most of the wholesale cocaine, heroin, and methamphetamine distribution in the United States as well as much of the marijuana distribution. And, as they gained power and influence, Mexican organized crime groups have become increasingly sophisticated – professionalizing their intelligence, money laundering and enforcement arms.

Mexico's democratization has also been a factor in the escalation of violence the country faces today. This drawn out process throughout the 1990s undermined old deals between some members of the ruling PRI political party and particular drug trafficking organizations. As the PRI's political monopoly ended, so did its control over the drug trade. This allowed existing organizations to assert their independence from the government. It also opened up the space for new entrants to the market, increasing competition. Further legacies of the PRI's 70 years in power – in particular the political manipulation of the judicial branch and law enforcement more generally, which limited their professionalization and enabled widespread corruption – further aggravated the situation by leaving the recent democratic governments with only weak tools to counter increasingly aggressive criminal organizations.

These long-term economic and political processes – more lucrative opportunities, heightened competition and changes to the political game - created dramatic uncertainty in the market. Violence was already increasing when Calderón took office in 2006. He quickly responded by sending troops into Mexico's streets. Over the last three and half years Calderón has spent billions to arm and mobilize some 45,000 military troops, sending them to hotspots throughout Mexico to take back the streets from increasingly powerful drug cartels. The

surge in operations against the drug trafficking organizations has led to record numbers of interdictions and arrests in Mexico, as well as extraditions to the United States.

The Calderón government has also worked to transform federal law enforcement and judicial institutions engaged in the war against narcotraffickers. This has meant reorganizing, rebuilding and expanding the federal police force under the control of the Secretariat of Public Security (SSP). It has also meant embarking on a far reaching process of judicial reforms, starting with the 2008 legislative and constitutional changes that, once implemented nationwide by 2016, will fundamentally transform Mexico's judicial system.

Forming a U.S.-Mexico security agenda

With security his signature policy issue, Calderón reached out to his northern neighbor, asking for assistance. After years of security assistance largely bypassing Mexico on its way to Colombia and the Caribbean, in 2008 Presidents Bush and Calderón launched the Mérida Initiative. This three year program provides some $1.3 billion dollars in security aid to Mexico to fund the purchase of substantial military equipment and technology, as well as to provide training and other support for domestic law enforcement and judicial reforms, and to strengthen accountability and oversight within government agencies. In addition to the outlay of financial resources, the two governments began a slow process of trust-building through structured interagency interactions, stepped up training programs, and increased information sharing to combat transnational organized criminal networks.

At the same time, the United States has substantially increased resources for this side of border, expanding Customs and Border Protection (CBP) patrol from 12,000 agents in 2006 to today's 20,000. The Obama administration has substantially increased the number of border enforcement security task force personnel, ICE intelligence analysts, and border liaison officers along the U.S-Mexico border.

Assessing the Mérida Initiative

With security cooperation historically lagging behind U.S.-Mexico economic, social, and even political ties, the Mérida Initiative has been a welcome remedy. It represents a strong basis for building long term cooperation and trust between the United States and Mexico. It has also produced concrete outcomes and benefits. The two governments have worked together on Project Coronado to detain over 300 members of the *La Familia Michoacana* cartel in the United States in October 2009. Intelligence sharing and cooperation also played crucial roles in the takedowns of drug kingpins Arturo Beltrán Leyva and Carlos Beltrán Leyva in December 2009, Teodoro García Simental in January 2010, and José Antonio "Don Pepe" Medina Arreguin, the "King of Heroin", in March 2010. Since the start of Calderón's term, nearly 100 tons of cocaine, 6,500 tons of marijuana and 950 kilograms of heroin have been seized; as have 70,000 small and large caliber arms, nearly 5,000 grenades; and over 400 million dollars. Nevertheless, the program as initially conceived and implemented has some limitations.

First, *it is just not enough money*. Totaling $1.3 billion dollars destined for Mexico over three years, Mérida pales in comparison to the assistance provided to the United States' other main hemispheric partner in the fight against narcotrafficking: Colombia. This is true even after a decade of assistance to Colombia, and a

general proclamation of its "success" in Washington and Bogotá in defeating the threat to the state posed by the drug cartels and guerrilla insurgency.

Second, *the spending so far has been focused too narrowly on military and law enforcement hardware*. This emphasis is in part due to the Mexican government's preferences and long lag times for equipment procurement. But it also reflects a misunderstanding of Mexico's fundamental challenge. Mexico's main problem is the weakness of its law enforcement and judicial institutions. This is part of the PRI legacy, as these branches of government were used for political benefit – to control rather than protect the population. While democratization and political competition quickly changed the executive and legislative branches, they did little to transform the third branch of government or law enforcement more generally. Instead, impunity reigns, with the likelihood of being prosecuted, much less convicted, for a crime being extremely low. Most of Mexico's police forces have never received proper training or resources, making them largely incapable of conducting objective and thorough investigations. Levels of corruption remain quite high, as accountability mechanisms are nonexistent or defunct. *Without capable and clean courts and cops, this battle cannot be won.*

Third, *Mérida funds did not provide for state and local level initiatives.* U.S. supported efforts to rebuild and expand the federal police force through vetting and training programs are vital to improving security in Mexico. But this body will remain less than 10 percent of Mexico's total police forces. Indeed, Mexico's lawlessness is most intractable at the state and local level – it is there that police forces are most likely to face the Faustian bargain of "money or death" from organized crime. With all security, in the end, local, the safety of Mexico's citizens (and of the U.S.-Mexico border) will depend on reforming and professionalizing local and state police.

Finally, *the Mérida Initiative overlooks three U.S.-based factors that perpetuate the drug trade and drug violence: guns, money, and demand.* All serious studies show that the vast majority of the guns used by the drug trafficking organizations come from the United States. This includes cartel favorites such as AR-15s and AK-47-style semi-automatic rifles.

Some say that if the Mexican cartels did not get their guns from the United States, they would buy them elsewhere. That is likely true, though those markets may not be as accessible (and cheap) as the one right next door. But more important, this trafficking in arms breaks current U.S. laws. It is illegal to sell weapons to foreign nationals or to "straw buyers" who use their clean criminal records to buy arms for others. It is also illegal to export guns to Mexico without a license. For the thousands of guns each year that end up in the hands of drug traffickers, at least one if not more of these U.S. laws has been broken. *As the United States asks Mexico to uphold its laws at great monetary and human cost, it should enforce its own laws.*

As important as guns is the money. Estimates range widely, but most believe some $15-30 billion heads across the U.S. border each year into the hands of Mexican drug trafficking cartels. This number rivals legal flows from remittances and from oil exports, and far outweighs the $300-400 million in aid provided by the Mérida Initiative for the "good guys." Targeting illicit funds is one of the most effective ways of dealing with drug trafficking. It is this money that buys guns, people, and power. Washington has begun working to staunch these financial flows through efforts such as the addition of Mexican cartel members to the U.S. drug kingpin list, helping strengthen Mexico's financial intelligence unit, and beginning to check the flow of goods not just north but south across the border in particular locations. But the United States should build

up the infrastructure needed to seriously investigate south-bound cargo, bring many of the advances made in tracing terrorist financing since 9/11 to fighting organized crime next door, and continue and deepen bilateral cooperation and intelligence sharing to dismantle money-laundering networks in order to increase the cost of doing business for these trafficking organizations.

Law enforcement is not enough. The United States needs to shift the emphasis – and resources – of its drug policy toward demand reduction. Studies show that a dollar spent on reducing demand is far more effective than a dollar spent on eradication and interdiction abroad, and that money spent domestically on rehabilitation is five times more effective than that spent on conventional law enforcement. This means expanding domestic drug treatment and drug education programs among others. Reduced U.S. demand would also lower the drug profits of the Mexican trafficking organizations, diminishing the threat faced by the Mexican government.

Beyond Mérida

As the Mérida Initiative nears the end of its initial three year period, strong U.S. support for Mexico should continue. But changes to the nature and structure of U.S. security assistance are in order. These include:

Greater support for Mexico's judicial reform process. This is perhaps the crucial element – and potential Achilles heel – for Mexico's democratic rule of law. Today 98 percent of perpetrators remain free. Critics argue that many of those convicted are often innocent, or if not just too poor or unconnected to buy their freedom.

Mexico's 2008 judicial reform touches on virtually all aspects of the judicial sector, including police, prosecutors, public defenders, the courts, and the penitentiary system. It includes significant changes in Mexican criminal procedures through the introduction of new oral adversarial procedures, alternative sentencing, and alternative dispute resolution mechanisms; it grants new measures to promote greater access to justice for both defendants and victims of crime; it revises roles for law enforcement and public security agencies to administer justice; and it introduces tougher tools for combating organized crime.

While there on paper, the implementation of these changes is what will matter for future security. This entails a monumental task over the next six years –creating new courtrooms for hearings, revamping law school curriculums, retraining sitting judges and the 40,000 active lawyers, building the capacity of Mexico's investigative police and their coordination with prosecuting attorneys, and transforming the existing culture of judicial and law enforcement more generally. In the end, however, creating a more professional, open, transparent, and effective judicial system is the lynchpin for establishing a democratic rule of law. The United States can help Mexico with both monetary and human resources in this massive effort.

Greater support for state and local level police reform. While the professionalization of the federal police is underway, very little has been done at the state and local level – comprising over 90 percent of Mexico's law enforcement forces. Mexico is now debating whether to absorb the existing municipal forces (which number over 2,000) into 32 state level forces. The perceived advantages of this approach are streamlined capabilities, enhanced operational effectiveness, easier cross-border and state-to-state security cooperation and, ultimately, reduced corruption.

Critics contend that the disbursement of forces might then be subject to party and gubernatorial politics rather than local needs, and that centralized control may undermine efforts at community policing – a model that has been quite successful with crime and gangs in the United States as well as in Italy.

But whatever the outcome and ultimate federal structure, these hundreds of thousands of officers need better vetting, training, equipment, and career opportunities. While Mexico will have to invest the most, the United States can and should participate.

Support for programs that get at the underlying socioeconomic factors that beget criminality and violence. The recruiting pool for organized crime grows when there are no other economic options. Mexico's slow growth, its weak public education system, and its development challenges have left many families and young people on the margins. It is not a coincidence that the extremes of socioeconomic instability and today's violence coexist in Ciudad Juárez. Some 40 percent of Juárez youth neither work or study – leaving them without hope for a better future, and susceptible to the growing underworld of gangs and crime. The challenge of addressing these underlying socioeconomic factors, and reknitting Mexico's social fabric in places such as Ciudad Juárez, is what Mexico struggles most with today. In addition to a functioning police and court system, Mexico needs a better and more open education system, and programs for early intervention and professional development for at-risk youth. As with judicial and police reforms, these programs too will mostly depend on the Mexican government, private sector, and society. But there is an important role the United States can play, facilitating the diffusion of best practices from similar experiences in other countries (including our own), funding pilot programs, and assisting in the evaluation of what does and does not work at the local level. Fundamental socioeconomic changes will not only improve Mexico's security situation, it will also affect other contentious issues in U.S.-Mexico relations, particularly the north-bound flow of undocumented migrants.

The good news is that much of this is already happening. The U.S. and Mexican governments recently unveiled a revised strategy for continued bilateral security cooperation, framed by the notion of "co-responsibility" and based on four pillars: disrupting the ability of organized crime to operate, strengthening institutions to sustain the rule of law and human rights, building a 21st-century border, and fostering strong and resilient communities.

The third and fourth pillars of the new joint strategy will expand beyond the previous military focus on dismantling drug trafficking organizations and reforming law enforcement institutions to incorporate initiatives that aim to improve cross-border flows and surveillance, and to address the social and economic factors that underpin the violence.

These new strategic priorities will increase the inspection of vehicles going south (not just north), while also moving much of the vigilance away from the actual border through programs to certify cargo at plants. It also means that U.S.-Mexico cooperation will include local-level operations, beginning to reform the vast municipal and state police forces and developing community-level social programs and initiatives to rebuild neighborhoods crippled by poverty and crime. The starkest shift is in how funding will be spent: While over half of the allocated Mérida funds have gone to military equipment and training, much of the requested $310 million for the program's 2011 budget, $207 million, will be targeted at Mexico's judicial reforms and programs on good governance.

This new structure is more ambitious, demanding a long-term commitment and policy consistency across administrations on both sides of the border. Successful programs focused on building institutions and economic opportunity are much harder to deliver than helicopters or boats. *But they also hold more promise for long-term solutions, as they recognize the complicated realities of Mexico's drug war and the limitations of military hardware in changing the tide.*

The United States should prioritize efforts that will assist Mexico in pushing through the reforms that will actually matter, changing today's violent dynamic for the long term. Partnerships between the United States and a wide range of agencies and participants at Mexico's federal, state, and, most importantly, local levels will be vital for the coordination and pooling of resources and expertise.

Even as the death toll in Mexico continues to mount, there are reasons for optimism. With U.S. assistance, Calderón's government has made significant strides in professionalizing the federal police force. In addition, the 2008 judicial reform, when finally implemented, should increase transparency and accountability, and finally end today's impunity.

The lessons from the United States, Italy, and other countries that fought entrenched organized crime on their own turfs show that it is possible to overcome these challenges. But they also show that there is no quick or easy solution.

Beyond Calderón

The results of the comprehensive approach underway today will only appear in the longer term. It is the next generation of young people that will benefit from better schools, better jobs, and from prevention programs for at-risk youth. Realistically, it will also take a generation to transform Mexico's police and courts, creating systems where impunity is the exception, not the rule.

President Calderón is now over half way through his six year presidential term. While two years is a long time in electoral politics, the 2012 presidential election is, as of now, the PRI's to lose. Even if Calderón's PAN hangs onto the Presidency, there will be a new dynamic and team in place in the executive branch by the end of 2012. The United States needs to start laying the groundwork for this transition now, to lock in the advances made thus far in bilateral cooperation while also shifting its focus toward the institutional strengthening necessary for sustainable change overtime.

While working with the government and Mexican political parties and leaders, the United States should also engage Mexico's broader society. One of the most positive aspects of Mexico's economic and political transition of the last two decades has been the expansion of its middle class and civil society. While often seen as a country of "haves" and "have nots," NAFTA and Mexico's broader economic opening, stable economic growth, and the sustained flow of remittances back home have enabled the rise of a Mexican middle class – now some 30 million strong. This middle class ensured Mexico's democratization in 2000 by voting for opposition PAN candidate Vicente Fox, and pushed Calderón's candidacy over the top in 2006. They share the aspirations of the middle class in this country – economic security, opportunities for their children, and safety in their streets. As voters, this group is essential for future legislative and presidential candidates. As such, this economic and voting bloc can be a strong ally for the United States and Mexican reformers intent on establishing and strengthening a democratic rule of law. They will also be important for

other issues in U.S.-Mexico relations, such as immigration, economic growth and competitiveness, environmental change or creating a more modern border.

In the last two decades we have also seen a steady expansion of Mexico's independent civil society (with many leaders coming from the expanding middle class). While encountering resistance at times, these organizations have been important in pushing and deepening Mexico's democracy. The passage of Mexico's Freedom of Information Act in 2002 – one of the most critical elements for increasing transparency and accountability in the government – was the direct result of pressure from civil society organizations. So too was the sweeping 2008 judicial reform that will, once implemented, fundamentally change Mexico's court system.

As public opinion polls of the middle class and other sectors of society, as well as the activities of new civil society organizations show, the goals of U.S.-Mexico security cooperation are not just shared by governmental elites. The good news is that democratic rule of law and stronger, more accountable institutions have deep seated support throughout Mexico. This indigenous groundswell can help push reluctant politicians to consider the long term benefits of such reforms that may at times have short term costs.

As the murders pile up daily along the border and elsewhere in Mexico, it remains uncertain whether politicians in both countries will have the patience to see this strategy through. If they do, there is a chance ten years from now that things will be better in Mexico. If they don't, both countries will be facing the same challenges in a decade. Solidifying the good in today's strategies, and building on them far into the future, should be the basis for the next phase of U.S.-Mexico security cooperation.