

## 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-

<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_)

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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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

<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/r/pa/prs/2008/jan/99389.htm](http://www.state.gov/r/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 Mattson, *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>.

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

<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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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 narcos 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

<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.php?id\\_mot=248&Validar=OK](http://www.rsf.org/country-47.php?id_mot=248&Validar=OK), (last visited April 4, 2008).

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.

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

<sup>89</sup> Press Release, Argentine Forensic Anthropology Team (Feb. 23, 2006), available at <http://caaf.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/jlei> (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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<sup>94</sup> See S DUBRO (Mar. 34103 (discussing the Padredun elnuevodiari).

<sup>95</sup> Secret "México" (A).

<sup>96</sup> See M 2008, available at <http://www.state.gov/bureaus/office/opa/recorders/2008/02/20080203.html>.

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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=emailpage>.

<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 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.

<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/LACEXT/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

<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.

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.

<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).

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.

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