



Mérida Initiative for Mexico and Central America: Funding and Policy Issues

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Summary

Increasing violence perpetrated by drug trafficking organizations, gangs, and other criminal groups is threatening citizen security in Mexico and Central America. Drug-related violence claimed more than 5,300 lives in Mexico in 2008, and several Central American countries have some of the highest homicide rates in the world. Mexican drug cartels dominate the illicit drug market in most regions of the United States and are expanding their operations by forming partnerships with U.S. gangs. As a result, some of the drug-related violence in Mexico has begun to spillover into the United States.

On October 22, 2007, the United States and Mexico announced the Mérida Initiative, a multi-year proposal for \$1.4 billion in U.S. assistance to Mexico and Central America aimed at combating drug trafficking and organized crime. The Administration requested \$500 million for Mexico and \$50 million for Central America in FY2008 supplemental appropriations, and another \$450 million for Mexico and \$100 million for Central America in the FY2009 budget request. While the Bush Administration did not request any additional funding for domestic programs to complement the Mérida Initiative, U.S. officials pledged to step up efforts to prevent arms, precursor chemicals, and bulk cash flows from the United States into Mexico, and to reduce U.S. drug demand.

In June 2008, the 110th Congress appropriated \$465 million in FY2008 and FY2009 supplemental assistance for Mexico and Central America in the FY2008 Supplemental Appropriations Act, H.R. 2642 (P.L. 110-252). In the act, Mexico receives \$352 million in FY2008 supplemental assistance and \$48 million in FY2009 bridge fund supplemental assistance, while Central America, Haiti, and the Dominican Republic receive \$65 million in FY2008 supplemental assistance. The 110th Congress did not include funding for Mérida in a continuing resolution (P.L. 110-329) providing FY2009 funding through March 6, 2009 at FY2008 levels.

The 111th Congress may examine the Mérida Initiative as it considers the Bush Administration's pending FY2009 foreign aid request, as well as the FY2010 budget to be submitted by the Obama Administration. Policy debates that may emerge during congressional consideration of Mérida may include what levels and types of funding should be provided to Mexico and Central America; how well the interagency community, in coordination with its counterparts in partner countries, is implementing the Initiative; and the degree to which the nations involved, including the United States, are fulfilling their domestic obligations under Mérida. Congress may also maintain a keen interest in enforcement of Mérida's human rights conditions. This report provides an overview of the funding provided for the Mérida Initiative and a discussion of some policy issues that Congress may consider as it oversees implementation of the Initiative. For related information, see CRS Report RL32724, *Mexico-U.S. Relations: Issues for Congress*, by Mark P. Sullivan and June S. Beittel. This report will be updated.

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In October 2007, the United States and Mexico announced the Mérida Initiative, a three-year proposal for \$1.4 billion in U.S. assistance to Mexico and Central America¹ aimed at combating drug trafficking, gangs, and organized crime.² Named for the location of a March 2007 meeting between Presidents George W. Bush and Felipe Calderón of Mexico, the Mérida Initiative seeks to expand bilateral and regional anticrime and counterdrug cooperation. In June 2008, the 110th Congress appropriated \$465 million in supplemental assistance for Mexico, Central America, Haiti, and the Dominican Republic in the FY2008 Supplemental Appropriations Act (P.L. 110-252). On December 3, 2008, the United States and Mexico signed a Letter of Agreement, allowing \$197 million in Mérida funds to be disbursed.³

The Bush Administration requested a second installment of Mérida funding – \$450 million for Mexico and \$100 million for Central America – in its FY2009 budget request. Congress did not include funding for the Mérida Initiative in a continuing resolution (P.L. 110-329) providing FY2009 funding through March 6, 2009 at FY2008 levels.⁴ For that reason, early in its first session, the 111th Congress may consider what level and types of funding should be provided for Mérida in the FY2009 and FY2010 budgets.

This report provides an overview of the funding provided for Mérida, as well as a discussion of several issues that Congress may consider as it oversees implementation of the Initiative.

Background

The stated objective of the Mérida Initiative, according to the U.S. and Mexican government joint statement of October 2007, is to maximize the effectiveness of efforts against drug, human, and weapons trafficking. The joint statement highlights counterdrug and anticrime efforts of both countries, including Mexico's 24% increase in security spending in 2007 under President Felipe Calderón and U.S. efforts to reduce weapons, human, and drug trafficking along the Mexican border.⁵ The Central America portion of the Initiative aims to bolster the capacity of governments to inspect and interdict unauthorized drugs, goods, arms, and people and to support regional anti-gang efforts.

¹ The Central American countries include Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

² For background information on conditions in Mexico and Central America, see CRS Report RL32724, *Mexico-U.S. Relations: Issues for Congress*, by Mark P. Sullivan and June S. Beittel; CRS Report RL34215, *Mexico's Drug Cartels*, by Colleen W. Cook, and CRS Report RL34112, *Gangs in Central America*, by Clare Ribando Seelke.

³ The \$197 million is from the International Narcotics Control and Law Enforcement (INCLE) foreign aid funding account, and will fund equipment, training, and technology programs. More than \$136 million under the Mérida Initiative from the Foreign Military Financing (FMF) and Economic Support Funds (ESF) accounts was already being used to support antidrug and anticrime programs. See Embassy of the United States in Mexico, Press Release, "Mérida Initiative Monies Released; Letter of Agreement signed," December 3, 2008. Letters of Agreement are being negotiated with the Central American countries, Haiti, and the Dominican Republic.

⁴ Since the initial pot of Mérida Initiative funding in FY2008 was provided through a supplemental assistance measure rather than the regular FY2008 foreign aid funding measure, the continuing resolution does not fund the Mérida Initiative for FY2009.

⁵ Although the statement did not announce additional funding for U.S. domestic efforts, it cited several examples of such efforts to combat drugs and crime that are already in place. Those examples included the 2007 Southwest Border Counternarcotics Strategy and the 2008 National Drug Control Strategy. See U.S. Department of State and Government of Mexico, "Joint Statement on the Mérida Initiative," October 22, 2007.

The Mérida Initiative is not only the largest foreign aid package for the Western Hemisphere since Plan Colombia,⁶ it is, according to its proponents, a new kind of partnership between the United States, Mexico and Central America. Analysts and U.S. officials have said that in order for the Initiative to be successful, all the countries involved will have to accept their “shared responsibility” to tackle domestic problems contributing to drug trafficking and crime in the region, including U.S. drug demand.⁷ Since President Calderón took office in December 2006, Mexico has, for its part, increased security spending (to some \$4 billion in 2008), mobilized thousands of soldiers and police to drug trafficking “hot-spots” throughout the country, and extradited record numbers of drug traffickers to the United States.

Drug trafficking organizations (DTOs) and other organized criminal groups pose an increasing security threat to Mexico and Central America. In 2008, the Calderón government’s crackdown on the cartels, as well as rivalries and turf wars among Mexico’s drug cartels fueled an escalation in violence throughout the country, including northern states along the U.S.-Mexico border. Some 5,376 Mexicans died in the first 11 months of 2008, many as a result of drug-related violence.⁸ Mexico and Central American security officials lack the training and equipment needed to deal with DTOs and other criminal groups who are securing illicit arms and cash resources from the United States and elsewhere. In addition, Mexico and Central America continue to have problems with impunity, police corruption, and human rights abuses by security forces that have hindered the performance and reputation of their law enforcement and judicial systems.

Funding for the Mérida Initiative

The Bush Administration designed the Mérida Initiative as a three-year counterdrug and anticrime package for Mexico and Central America that would begin in FY2008 and last through FY2010. Prior to the FY2008 supplemental request for Mérida, neither Mexico nor the countries of Central America had received large amounts of U.S. counternarcotics (CN) assistance.⁹ In FY2007, Mexico received \$14.6 million in CN assistance and the only Central American countries to receive CN funds were Guatemala (\$1.9 million) and Panama (\$3.3 million).

This section of the report briefly discusses Mérida authorization legislation that was considered, but not enacted, during the 110th Congress. It then compares the FY2008 supplemental request for Mérida with the FY2008 supplemental funds that were enacted by Congress in June 2008. This is followed by a brief summary of the Bush Administration’s pending FY2009 request for Mérida, which may be taken up by the 111th Congress. **Table 3**, included at the end of this funding section, provides a country-level breakdown of all Mérida requests and appropriations.

⁶ Developed by former Colombian President Andrés Pastrana (1998-2002), Plan Colombia sought to end Colombia’s military conflict, eliminate drug trafficking, and promote economic and social development. Since FY2000, Congress has appropriated more than \$6 billion to support Plan Colombia, largely through the Andean Counterdrug Program account.

⁷ Eric L. Olson, “Six Key Issues in U.S.-Mexico Security Cooperation,” Woodrow Wilson Center, July 2008; Statement by Thomas Shannon, Assistant Secretary of State for Western Hemisphere Affairs at a briefing entitled, “The Merida Initiative: Our Partnership Moves Forward,” States News Service, July 9, 2008.

⁸ These Mexican government statistics were cited in “Mexico Says Gang Killings More Than Double in 2008,” Associated Press, December 8, 2008. The figure cited for the same period in 2007 was 2,477.

⁹ For an evaluation of recent U.S. counternarcotics assistance to Mexico, see Government Accountability Office, “U.S. Assistance Has Helped Mexican Counternarcotics Efforts, but Tons of Illicit Drugs Continue to Flow into the United States,” August 17, 2007.

Mérida Authorization Legislation

While several Members of Congress initially expressed concern that they were not adequately consulted by the Administration during the development of the Mérida Initiative, a majority of House Members subsequently voted to authorize the aid package. On June 11, 2008, the House approved H.R. 6028 (Berman), the Merida Initiative to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008 by a vote of 311 to 106, demonstrating bipartisan support for the proposed assistance. The Senate did not take any action on the measure so legislative attention turned to consideration of appropriations for the Mérida Initiative.

As passed by the House, H.R. 6028 would have authorized \$1.6 billion over three years, FY2008-FY2010, for both Mexico and Central America, \$200 million more than originally proposed by President Bush.¹⁰ Of that amount, \$1.1 billion would have been authorized for Mexico, \$405 million for the countries of Central America, and \$73.5 million for activities of the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to reduce the flow of illegal weapons from the United States to Mexico. Among the bill's various conditions on providing the assistance, the measure would have required that vetting procedures be in place to ensure that members or units of military or law enforcement agencies receiving assistance were not involved in human rights violations.

FY2008 Supplemental Request and Appropriations for Mérida

The Bush Administration requested \$500 million for Mexico and \$50 million for Central American countries in its FY2008 supplemental appropriations request.¹¹ All of the funding was requested through the International Narcotics Control and Law Enforcement (INCLE) account, administered by the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL). Administration officials justified inclusion of the Mérida request in an emergency supplemental request rather than the FY2009 regular foreign aid budget request, which was not submitted until February 2008, because of the gravity of the security situation in Mexico.

In the FY2008 supplemental request, the size, goals, and composition of the Mexican and Central American portions of the Mérida Initiative differed markedly. Prior to the October 2007 joint announcement of the proposed aid package, U.S. and Mexican officials had met over many months to craft the Mexican portion of the Initiative. As a result, the FY2008 supplemental budget request for Mexico was 10 times as large, and much further along in its development than the initial Mérida request for Central America. The largest category of assistance to Mexico would fund equipment and technology infrastructure improvements for military and law enforcement agencies. Another category of assistance would fund such items as inspection scanners, x-ray ions, computer equipment, and security equipment. A third category would fund institution-building and justice sector projects, while the final category of assistance would fund program support.

¹⁰ In H.R. 6028, the term "countries of Central America" is defined to include Haiti and the Dominican Republic, along with Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

¹¹ For a detailed description of the Bush Administration's FY2008 supplemental assistance proposal for the Mérida Initiative, see CRS Report RS22837, *Merida Initiative: U.S. Anticrime and Counterdrug Assistance for Mexico and Central America*, by Colleen W. Cook and Clare Ribando Seelke.

The Central America portion of the Initiative would bolster the capacity of governments to inspect and interdict unauthorized drugs, goods, arms, and people. It would also support implementation of the U.S. Strategy for Combating Criminal Gangs from Central America and Mexico, announced at a July 2007 U.S.-Central American Integration System (SICA) summit. In contrast to the Mexico request, which focused on providing training and equipment to fight drug trafficking, the majority of proposed funding for Central America would fund programs to improve policing and support anti-gang efforts, including prevention programs. Limited funding would also support judicial and police reform, as well as efforts to improve countries' capacity to share information on gang members and other criminals, interdict illicit goods on land and at sea, and curb weapons trafficking.

FY2008 supplemental funding for the Mérida Initiative was considered as part of a broader FY2008 Supplemental Appropriations Act, H.R. 2642 (Edwards). Originally introduced June 11, 2007 as the FY2008 Military Construction and Veterans Affairs Appropriations Act, this bill subsequently became the vehicle for the second FY2008 supplemental appropriations measure. On June 19, 2008, the House approved an amended version of the FY2008 Supplemental Appropriations Act, H.R. 2642, that provides \$465 million in FY2008 and FY2009 supplemental assistance for Mexico and Central America. The Senate approved the compromise House version of H.R. 2642 on June 26, 2008. The bill was then signed into law by President Bush on June 30, 2008 (P.L. 110-252).

In the act, Mexico receives \$352 million in FY2008 supplemental assistance and \$48 million in FY2009 bridge fund supplemental assistance, while Central America, Haiti, and the Dominican Republic receive \$65 million in FY2008 supplemental assistance. The measure has human rights conditions softer than compared to earlier House and Senate versions, largely because of Mexico's objections that some of the original conditions, particularly those in the Senate version of the bill, would violate its national sovereignty. The language in the final enacted measure reduced the amount of funding subject to human rights conditions, from 25% to 15%, removed conditions that would have required the Mexican government to try military officials accused of abuses in civilian courts and to enhance the power of its National Human Rights Commission, and softened the language in other conditions. (See **Appendix** for the final language of the human rights conditions included in P.L. 110-252).

The State Department subsequently developed a spending plan for how it and the other U.S. agencies involved will spend the FY2008 supplemental funding and FY2009 bridge funding appropriated for the Mérida Initiative.¹² In its plan, the State Department elected to break its program descriptions out by funding account, rather than by the program components it had included in the FY2008 supplemental request.

Mexico

In contrast to the Administration, which requested all Mérida funding in the INCLE account, Congress divided the funding for Mexico in P.L. 110-252 between the ESF, INCLE, and FMF aid accounts. Additionally, while the vast majority of funds provided (\$352 million) were labeled as FY2008 supplemental assistance, Congress provided another \$48 million in FY2009 bridge fund assistance. As noted above, Congress made 15% of INCLE and FMF funds contingent upon

¹² U.S. Department of State, FY2008 Supplemental Appropriations Spending Plan: Mexico, Central America, Haiti, and the Dominican Republic, September 9, 2008.

human rights conditions. Another significant change that Congress made to the Administration's request was to limit the amount of FMF and INCLE available to provide equipment to the Mexican Army/Air Force and Navy. As a result, the FY2008 State Department spending plan includes \$94 million less funding for the Mexican armed forces than the FY2008 supplemental request. Due to other funding limitations, some border security and justice sector reform programs also had to be scaled back from the budget request. Congress provided \$24 million for program and staff support for the Mérida Initiative, \$13 million less than the Administration's request. In addition to these aid cuts, Congress included a \$73.5 million earmark for judicial reform, institution building, rule of law, and anti-corruption activities, as well as \$18 million in other earmarks.¹³

Table I. FY2008 Mérida Funding for Mexico by Aid Account
(\$ in millions)

Account	FY2008 Supplemental Funds	FY2009 Bridge Funds
Economic Support Fund (ESF)	20.0	0.0
International Narcotics Control and Law Enforcement (INCLE)	215.5	48.0
Nonproliferation, Anti-Terrorism, Demining and Related Programs (NADR)	0.0	0.0
Foreign Military Financing (FMF)	116.5	0.0
Total	352.0	48.0

Source: U.S. Department of State, FY2008 Supplemental Appropriations Spending Plan

According to the State Department's spending plan, ESF funds will support implementation of Mexico's recently enacted judicial reforms, as well as efforts to provide human rights training to Mexican police, military, and judicial officials. ESF funds will also seek to build civil society's capacity to monitor and document human rights abuses. FMF funds will be used to purchase two aircraft, up to five helicopters, and ion scanners for the Mexican armed forces. The majority of INCLE funds (\$180 million total, of which \$34 million is FY2009 bridge funding) will provide equipment and programs to strengthen the Mexican government's capacity to interdict drugs, arms, and people. Another \$59.5 million in INCLE funds (of which \$14 million is FY2009 bridge funding) will support Mexico's law enforcement and judicial systems.

Central America

¹⁴ As with Mexico, Congress divided the funding for Central America between several different aid accounts. In addition to changing the account structure, Congress shifted the bulk of funding for Central America from public security and law enforcement programs to institution building,

¹³ Aside from the broad \$73.5 million earmark, Congress earmarked \$3 million to support the creation a national police registry, \$10 million for drug demand reduction programs, and \$5 million for police education and training programs.

¹⁴ For information on the Mérida funds provided for anti-gang programs, see CRS Report RL34112, *Gangs in Central America*, by Clare Ribando Seelke.

rule of law, and development programs. It did so by earmarking \$25 million in ESF funds for the creation of an Economic and Social Development Fund for Central America. Of the ESF funds provided, \$20 million are to be administered by the U.S. Agency for International Development (USAID) for youth violence prevention, community policing, and community development programs in violence-prone areas. The other \$5 million in ESF funds are to fund educational and cultural exchange programs administered by the State Department. Congress also earmarked \$1 million to support the International Commission against Impunity in Guatemala (CICIG).¹⁵

Table 2. FY2008 Mérida Funding for Central America by Aid Account

(\$ in millions)

Account	FY2008 Supplemental Funds
Economic Support Fund	25.0
International Narcotics Control and Law Enforcement	24.8
Nonproliferation, Anti-Terrorism, Demining and Related Programs	6.2
Foreign Military Financing	4.0
Total	60.0

Source: U.S. Department of State, FY2008 Supplemental Appropriations Spending Plan.

Due to the aforementioned shifts in the type of funds provided by Congress, the State Department had to scale back some of its proposed law enforcement programs supported by INCLE funding. As compared to the FY2008 supplemental request, the FY2008 spending plan included less funding devoted to transnational anti-gang units, police equipment, and police training provided at the International Law Enforcement Academy.

Congress did provide close to full funding for counternarcotics and border security programs requested by the Bush Administration. Those programs include efforts to include information-sharing and data collection among the Central American countries; programs to improve port, airport, and border security; and regional arms trafficking and maritime interdiction programs. These programs will be supported by a combination of INCLE, FMF, and NADR funding.

According to the State Department spending plan, some 40% of the Mérida funding appropriated for Central America will be used to support regional programs. Among the Central American countries, those with the highest violent crime rates and greatest prevalence of gangs and organized criminal groups – El Salvador, Guatemala, and Honduras – will receive the most bilateral funding (see **Table 3** for Mérida funding by country).

¹⁵ In December 2006, the United Nations and the Guatemalan government signed an agreement to establish the International Commission against Impunity in Guatemala (CICIG) to investigate illegal security groups and clandestine organizations, some of which have been tied, directly or indirectly, to the Guatemalan state. In August 2007, the Guatemalan Congress ratified the UN-Guatemala agreement allowing the creation of the CICIG. The CICIG was inaugurated on January 11, 2008.

Haiti and the Dominican Republic

Although not included in the original Mérida request, Congress dedicated \$2.5 million in INCLE funding for Haiti and \$2.5 million for the Dominican Republic, two major drug transit countries in the Caribbean. In Haiti, Mérida funds will be used to install a secure communications network for the Haitian National Police (HNP), to support the HNP's drug interdiction efforts and to provide training for Haitian judicial officials. In the Dominican Republic, Mérida funds will be used to support police professionalization programs, to provide logistical support to interdiction units, and to train judicial authorities in implementing the new criminal procedure code. A portion of the Mérida funds for each country will also support the U.N. Stabilization Mission in Haiti (MINUSTAH), which has been providing joint counternarcotics and border security training to Haitian and Dominican security officials.

Table 3. Estimated Mérida Requests and Appropriations by Country
(\$ in millions)

Country	FY2008 Supp. Request	FY2008 Supp. App. Act P.L. 110-252	FY2009 Request
Mexico	500.0	400.0	450.0
Belize	1.9	1.5	5.8
Costa Rica	4.3	4.3	9.5
El Salvador	7.1	6.1	17.3
Guatemala	11.1	10.6	17.7
Honduras	10.8	7.3	12.4
Nicaragua	3.7	2.4	6.7
Panama	3.9	2.0	8.9
Central America (Regional)	7.2	24.9	21.7
Central America (total)	50.0	60.0	100.0
Haiti	0.0	2.5	0.0
Dominican Republic	0.0	2.5	0.0
Total	550.0	465.0	550.0

Source: U.S. Department of State briefing papers provided to Congressional offices; FY2008 Supplemental Appropriations Spending Plan

FY2009 Budget Request

In the FY2009 foreign aid request, the Bush Administration asked for another \$550 million for the Mérida Initiative – \$450 million for Mexico and \$100 million for Central American countries. All of the funding was requested through the INCLE account, administered by the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL). As in the FY2008 supplemental request, no Mérida funding was requested for Haiti or the Dominican Republic. (See **Appendix** for a description of the FY2009 request by program components).

Mexico

In the FY2009 request, the Administration placed more emphasis on assistance to non-military agencies. The FY2009 request included \$118 million to improve infrastructure and information systems at non-military agencies, including Mexico's immigration agency, the Attorney General Office's (PGR), the intelligence service (CISEN), the postal service, and customs. With respect to military agencies, the FY2009 request included \$100 million to support aircraft for surveillance and counternarcotics interception missions carried out by the Mexican Navy and \$20 million in inspection equipment for use at Army checkpoints. For FY2009, the Administration requested \$158.5 million in public security and law enforcement assistance. Most of the assistance, \$147.6 million, would go to support the Mexican federal police. The Administration requested significantly less funding for institution building programs in FY2009 than in the FY2008 supplemental, \$30.7 million, with \$23.4 million to improve the justice system; \$8.5 million to support the PGR's Forensic Institute; and \$9.4 million to support improved data collection and analysis. The FY2009 request included \$22.5 million to cover the cost of U.S. personnel, administration, and budget services related to the proposed aid package.

Central America

For FY2009, the Administration requested \$40 million for border security and counterdrug programs. More than half of that money, \$25.8 million, would go to land and maritime interdiction assistance, as well as to a regional arms tracking program. The FY2009 request included \$13 million to implement the U.S. anti-gang strategy, with \$7.5 million of that for prevention programs, up from \$5 million in the FY2008 supplemental request. It also included \$13 million for police modernization and technical assistance and \$6 million to support the International Law Enforcement Academy in El Salvador. The Administration's FY2009 budget request for institution-building programs rose to \$23 million. The largest increases from the FY2008 supplemental request were for courts management programs and training to improve prosecutorial capacity. The FY2009 budget request also included \$2 million for juvenile justice systems and rehabilitation programs and \$1 million for programs to build public confidence in the justice system, two components not included in the FY2008 supplemental request.

The FY2009 budget request also included \$5 million in unspecified program support.

Legislative Action on the FY2009 Request for Mérida

The 110th Congress did not conclude its consideration of the Bush Administration's FY2009 foreign aid budget request. Instead, Congress passed a continuing resolution (P.L. 110-329) providing FY2009 funding through March 6, 2009 at FY2008 levels. Since the initial pot of Mérida Initiative funding in FY2008 was provided through a supplemental assistance measure rather than the regular FY2008 foreign aid funding measure, the continuing resolution does not fund the Mérida Initiative for FY2009. As a result, the 111th Congress may consider what level of funding to include for the Mérida Initiative in the FY2009 budget.

Policy Issues

A broad consensus appears to be shared by Congress and the policy community on the need for the United States to support neighboring governments in Mexico and Central America that are

struggling to address drug-related violence. The 111th Congress may consider the efficacy of U.S. and regional counterdrug and anticrime efforts as it provides funding and oversight of the Mérida Initiative. Congress may also choose to examine how well the U.S. government is demonstrating its “shared responsibility” to tackle domestic problems contributing to drug trafficking and crime in the region, including U.S. drug demand. This section of the report raises some questions and policy issues for Congress to consider as it oversees implementation of the Mérida Initiative.

Is Mérida the Right Drug Control Approach?¹⁶

Unless programs like the Mérida Initiative are woven into a more holistic U.S. drug policy focusing on reducing supply and demand, many analysts predict that they are unlikely to have a significant impact on drug flows in the region. Analysts from a range of organizations, including the Brookings Institution, the Inter-American Dialogue, the Heritage Foundation, and the Washington Office on Latin America (WOLA), have called for a new comprehensive U.S. counternarcotics policy that attacks the drug problem in source, transit, and, perhaps most importantly, consumer countries. As a comparison, many recent studies, including an October 2008 report by the Government Accountability Office, have concluded that while Plan Colombia has improved security conditions in Colombia, it has not significantly reduced the amount of drugs flowing into the United States.¹⁷ Other recent assessments of U.S. drug policy’s historic and current tendency to focus on eradication, interdiction, and extraditions of drug traffickers have been even more pessimistic.¹⁸

Assessments of the likely impact of the Mérida Initiative are varied. Mérida supporters describe the initiative as a security cooperation partnership against drug traffickers and organized criminal groups, rather than a foreign assistance program. They emphasize the importance of fully funding Mérida in order to build up the capacity of both military and civilian institutions in partner nations so that bilateral and regional counterdrug efforts can be more successful.¹⁹ The Heritage Foundation supports the Mérida Initiative and recommends that the next Congress provide funding above the \$1.4 billion originally proposed by the Bush Administration if the Initiative has positive results. At the same time, it maintains that “the U.S. needs to do more to secure the border [and] reduce the flow of illegal arms and illicit cash” to Mexico.²⁰ WOLA, the Council on Foreign Relations, and others maintain that fighting the drug trade will require more than providing equipment and training for Mexican (and Central American) military and police forces. They assert that Mérida needs to include more funding to address the weak civilian judicial and police institutions, as well as the underlying societal problems, such as poverty, underdevelopment, and corruption, that have allowed the drug trade to flourish in Mexico and

¹⁶ For more information on U.S. international drug control policy, see CRS Report RL34543, *International Drug Control Policy*, by Liana Sun Wyler.

¹⁷ Government Accountability Office, “Plan Colombia: Drug Reduction Goals Were Not Fully Met, But Security Has Improved; U.S. Agencies Need More Detailed Plans for Reducing Assistance,” October 2008, GAO-09-7.

¹⁸ Michael Shifter, “Latin America’s Drug Problem,” *Current History*, February 2007; International Crisis Group, “Latin American Drugs II: Improving Policy and Reducing Harm,” March 14, 2008; Brookings Institution, “Re-Thinking U.S.-Latin American Relations: A Hemispheric Partnership for a Turbulent World,” November 24, 2008.

¹⁹ American Enterprise Institute, “Five Perspectives on the Mérida Initiative: What it is and why it Must Succeed,” March 4, 2008.

²⁰ Heritage Foundation, “Executive Summary: Mexico, Drug Cartels, and the Merida Initiative: A Fight We Cannot Afford to Lose,” by Ray Walser, July 23, 2008.

Central America. They also emphasize the importance of addressing U.S. and European drug demand.²¹

Monitoring Progress

In the last year, several think tanks held forums addressing the issue of how to monitor progress in implementing the Mérida Initiative. Many analysts maintain that it is crucial for both the U.S. and Mexican executive branches to manage legislative and popular expectations for the Initiative. They argue that it is important that the goals for the Initiative be realistic, and that progress made towards meeting those goals be regularly communicated to legislators and to the general public in both countries. For example, in this vein, an achievable goal would not be to end drug trafficking through Mexico, but to reduce trafficking and related violence to a public security issue, rather than a national security threat. Some contend that it is likely to take much longer than three fiscal years for the Mérida Initiative to help partner governments make real headway in achieving that goal.²² A recent press report describes how difficult it is proving to be for the United States and Mexico to overcome decades of mistrust in order to work together to implement Mérida.²³

U.S. and Mexican security experts have also urged Congress to look at a range of indicators when evaluating the Mérida Initiative, rather than merely measuring its effects on drug seizures and flows. Perhaps in response to that advice, Congress asked the State Department to include a list of performance measures for each portion of the Mérida Initiative in its FY2008 supplemental spending plan. For example, one indicator that is to be used to measure improvements in the Mexican justice system would be the percentage change in the Mexican federal criminal case backlog.

Balancing “Hard-side” and “Soft-side” Assistance

During the 110th Congress, there was ongoing debate between some in Congress and the Bush Administration over what levels and types of assistance should be provided to countries in Latin America. The most vigorous debates centered on what type of assistance should be provided to large aid recipients like Colombia and, more recently, Mexico.²⁴ The Bush Administration tended to favor “hard-side” security-related assistance, whereas a majority in Congress sought to balance security assistance with “soft-side” rule of law, human rights, and development assistance programs.²⁵ These debates may continue in the 111th Congress.

²¹ Washington Office on Latin America (WOLA), “The Mérida Initiative and Citizen Security in Mexico and Central America,” March 19, 2008; Council on Foreign Relations, “Task Force Report: U.S.-Latin America Relations: A New Direction for a New Reality,” May 2008.

²² See, for example, comments made at the Woodrow Wilson Center Event, “U.S.-Mexico Security Cooperation: The Mérida Initiative and Beyond,” February 8, 2008. Available at [http://www.wilsoncenter.org/index.cfm?topic_id=5949&fuseaction=topics.event_summary&event_id=370648].

²³ Josh Meyer, “Mistrust Bedevils War on Mexican Drug Cartels,” Los Angeles Times, December 31, 2008.

²⁴ For example, the FY2008 Consolidated Appropriations Act (P.L. 110-161) cut security-related aid to Colombia significantly from the Administration’s request, and increased funding for alternative development, human rights, and institution-building programs.

²⁵ In Mexico and Central America, “hard-side” assistance generally refers to counterdrug and anti-terror assistance provided to police and military forces, while “soft-side” assistance refers to rule of law, human rights, and economic and social development programs. In Andean drug-producing countries like Colombia, the “hard-side/soft-side” dichotomy is not just about security vs. development assistance, but also an allusion to crop eradication (“hard-side”) vs. (continued...)

With respect to Mérida, debates emerged within the human rights community and Congress about the balance of security vs. institution-building funding in the Bush Administration's FY2008 supplemental request for Mexico.²⁶ Several Members of Congress opposed the request's apparent emphasis on providing expensive equipment to the Mexican military, with its poor human rights record. In response, Administration officials contended that the Calderón government specifically requested security assistance from the United States because Mexican law enforcement and military forces were being outgunned by the drug cartels. They assured Members of Congress that military and police units receiving U.S. equipment and training would be properly vetted.²⁷

As noted above, Congress employed a variety of measures to ensure that various "soft-side" programs received support from the Mérida Initiative. These included limiting the FMF and INCLE funds available to provide equipment to the Mexican military, as well as earmarking \$73.5 million in FY2008 supplemental assistance for institution building, rule of law, and anti-corruption activities in Mexico. Congress reduced border security and counterdrug assistance for Central America in order to free up \$25 million in ESF funds for the creation of an Economic and Social Development Fund for the subregion.

Interagency Coordination

In the last few years, several studies have noted the proliferation of U.S. agencies engaged in foreign assistance activities, as well as the challenges of getting those agencies to work together in a coordinated fashion.²⁸ Each federal agency tends to have its own mission, priorities, and operating style. Instead of working together to implement a particular policy or initiative, agencies often engage in "turf battles" as they compete for leadership roles and budgetary resources.

Interagency coordination may prove particularly difficult during implementation of the Mérida Initiative since its diverse program components are being carried out by a wide range of U.S. agencies under the leadership of the State Department. Like many other foreign aid programs in Latin America, most Mérida programs are being administered by the State Department and USAID. However, since border security is a key component of Mérida, the Department of Homeland Security (DHS) is to also have a major role to play in its implementation. Within DHS, officials from Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), and the U.S. Coast Guard are to provide training and logistical support to their counterparts in Mexico and Central America.²⁹ Additionally, the Department of Justice is to have agents from the Drug Enforcement Administration (DEA) and the Federal Bureau of Investigations (FBI) working with their counterparts in partner countries. According to a press

(...continued)

alternative development ("soft-side") programs.

²⁶ WOLA, "The Mérida Initiative and Citizen Security in Mexico and Central America," March 19, 2008; Center for International Policy Americas Policy Program, "A Primer on Plan Mexico" by Laura Carlsen, updated July 10, 2008.

²⁷ Senate Foreign Relations Committee, "Hearing on Mexico and Central America Counternarcotics Aid," November 15, 2007.

²⁸ See, for example, Ann Van Dusen and Carol Lancaster, *Organizing U.S. Foreign Aid: Confronting the Challenges of the 21st Century*, Washington, D.C.: Brookings Institution, 2005.

²⁹ Testimony of Paul Rosenzweig, Acting Assistance Secretary of the Office of International Affairs, Department of Homeland Security, before the House Homeland Security Subcommittee on Border, Maritime, and Global Counterterrorism, June 6, 2008.

report from late 2008, some Members of Congress have complained about the lack of coordination, turf battles, and general confusion among the various federal agencies implementing the Initiative.³⁰

Similar “turf battles” may also play out in the congressional committees that have an interest in overseeing Mérida. Since it is a foreign assistance program, primary oversight responsibilities for Mérida is to rest with the Senate Foreign Relations and House Foreign Affairs Committees. However, other committees, such as the Senate and House Homeland Security Committees, may seek to weigh in on how Mérida funding is being spent, how its progress is being evaluated, and how Mérida-funded programs are dovetailing with U.S. homeland security programs.

Role of the Department of Defense

Since the terrorist attacks of September 11, 2001, the Department of Defense (DOD) has become increasingly involved in funding counterterrorism and other foreign assistance programs around the world.³¹ In Latin America, DOD, acting through its Southern Command (Southcom), has expanded its definition of security threats to include nontraditional threats such as international crime, public health crises, radical populism, and even poverty and inequality. Human rights groups have tracked DOD’s expanding role in providing foreign aid in Latin America, alleging DOD’s “mission creep” into programs and activities they feel are best funded and administered by the State Department or USAID.³² Many analysts have expressed similar concerns about Mexico and some of the Central American countries’ increasing reliance on military forces to perform anticrime and counternarcotics activities traditionally handled by civilian law enforcement personnel.

When the Mérida Initiative was first announced, analysts from across the political spectrum praised the fact that it did not appear to involve an active role for U.S. military forces in Mexico or Central America.³³ Some were pleased that civilian officials from the Central American Integration System (SICA) and the State Department designed the Central American portion of the proposal, rather than military personnel from the Central American Armed Forces Conference (CFAC) and Southcom.³⁴ Although DOD may not have taken a leadership role in designing Mérida, it will be administering assistance provided to Mexico through the FMF aid account, as well as a maritime assistance package in Central America. DOD also has programs in the works to complement the Mérida Initiative, such as a proposed Regional Aircraft Modernization Program (RAMP) for Central America that reportedly may cost as much as \$300 million.³⁵

³⁰ Josh Meyer, “Mexico Under Siege; Mistrust Bedevils War on Cartels” *Los Angeles Times*, December 31, 2008.

³¹ For more information, see CRS Report RL34639, *The Department of Defense Role in Foreign Assistance: Background, Major Issues, and Options for Congress*, coordinated by Nina M. Serafino.

³² WOLA, Center for International Policy, and Latin America Working Group Education Fund, “Ready, Aim, Foreign Policy: How the Pentagon Takes Over More and More Areas of Foreign Policy,” April 20, 2008.

³³ Heritage Foundation, July 2008; WOLA, March 2008.

³⁴ U.S. Department of State, Office of Language Services Translating Division, “Not All That is Gold Glitters and Not All That Glitters is Gold,” by Joel Fyke and Maureen Meyer, originally published in *Foreign Affairs en Español*, vol. 8, no. 1.

³⁵ See “House Foreign Affairs Committee, Subcommittee on the Western Hemisphere Holds a Hearing on Central America and the Mérida Initiative,” CQ Transcriptions, May 8, 2008.

U.S. Pledges Under the Mérida Initiative

In the U.S. and Mexico joint statement announcing the Mérida Initiative, the United States government pledged to “intensify its efforts to address all aspects of drug trafficking (including demand-related portions) and continue to combat trafficking of weapons and bulk currency to Mexico.”³⁶ Many security experts argue that this pledge may be even more important to the success of regional counterdrug and anticrime efforts than any amount of U.S. foreign aid provided to Mexico or Central America.³⁷ However, Mérida was proposed and funded as a foreign assistance package without any companion legislation on the domestic side. As such, it may prove difficult for Congress to monitor the degree to which the U.S. government is fulfilling its domestic pledges under the Mérida Initiative.

Weapons Trafficking

U.S. officials maintain that 90%-95% of the guns used in Mexico’s drug violence have been traced to the United States.³⁸ Mexican drug cartels and enforcer gangs are reportedly buying semiautomatic versions of AK-47 and AR-15 style assault rifles, and other military-style firearms in the United States. The cartels often obtain their weapons through a series of “straw purchases,” whereby guns are legally purchased from licensed gun dealers or at gun shows in border states and then sold to a third party, who smuggles the guns across the border. In November 2008, the Mexican government announced that it made the largest seizure of drug-cartel weapons in Mexican history when it discovered a cache of 540 rifles, 165 grenades, 500,000 rounds of ammunition, and 14 sticks of TNT at a house in the border town of Reynosa, Mexico.³⁹

During FY2006 and FY2007, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) dedicated approximately 100 special agents and 25 industry operations investigators (IOIs) to a new Southwest border initiative known as Project Gunrunner. The initiative aims to deny firearms to criminal organizations in Mexico, and to combat firearms-related violence affecting communities on both sides of the border. In FY2007, ATF agents investigated 187 firearms trafficking cases and recommended 465 defendants for prosecution. As of November 2008, 146 special agents and 68 IOIs had been deployed to the Southwest border to bolster Project Gunrunner. In addition to these efforts along the U.S.-Mexico border, ATF has deployed eTrace firearms tracking technology to U.S. Consulates in Mexico to help with arms trafficking investigations.⁴⁰

In response to the increasing flow of high-caliber weapons from the United States to Mexico, ICE, in collaboration with Mexican law enforcement agencies, has launched a new bilateral program against weapons smuggling, known as *Armas Cruzadas*. Among other things, the

³⁶ U.S. Department of State and Government of Mexico, “Joint Statement on the Mérida Initiative,” October 22, 2007.

³⁷ Brookings Institution, November 2008.

³⁸ “Washington Watch,” LatinNews Daily, August 14, 2008; and Randal C. Archibold, “2-Nation Border Conference Discusses Gun Trafficking,” New York Times, August 16, 2008.

³⁹ “Mexico: Army Seizes Huge Weapons Cache,” Los Angeles Times, November 8, 2008.

⁴⁰ U.S. Embassy, Mexico, “Border and Law Enforcement, Project Gunrunner,” ATF Factsheet, available at [<http://www.usembassy-mexico.gov/eng/texts/et080116eTrace.html>] Updated figures obtained from Bureau of Alcohol, Tobacco, Firearms, and Explosives official, November 28, 2008.

program is to involve intelligence sharing and joint law enforcement efforts with vetted Mexican units.⁴¹

Gun control advocates have suggested that the U.S. government could further expand its efforts against gun trafficking to Mexico. They have advocated for, among other things, improving regulations to combat “straw purchases,” better regulating how weapons that are particularly attractive to criminal groups (such as “vest-buster” handguns and anti-armor rifles) are marketed, and enacting an effective assault weapons ban.⁴²

Drug Demand

In 2007, more than 35 million people in the United States reported using illicit drugs or abusing prescription drugs. U.S. drug demand fuels a multi-billion dollar illicit industry that has enhanced the power of DTOs and other allied gangs and organized criminal groups. Some 90% of the cocaine consumed in the United States is now trafficked from South America through the Mexico-Central America corridor. Mexico is also a major supplier of marijuana, methamphetamines, and heroin. Mexican DTOs have become the leading drug distributors of cocaine, heroin, and other illicit drugs in the United States, with supply networks established in at least 230 U.S. cities.⁴³

Studies have shown that addressing drug demand through a combination of treatment programs for heavy users and prevention programs is more successful and cost-effective than through supply reduction programs.⁴⁴ Nevertheless, the U.S. drug control budget has continued to emphasize supply-side programs, including drug crop eradication in source countries, interdiction, and domestic law enforcement efforts, rather than demand reduction efforts. Since FY2002, funding for supply-side programs reportedly has increased by almost 57%, whereas support for demand reduction efforts has increased by less than 3%.⁴⁵ Supply reduction efforts now account for nearly two-thirds of the federal drug control budget.

It remains to be seen whether U.S. pledges to intensify domestic demand reduction efforts in order to complement the Mérida Initiative will be reflected in new budgetary priorities. For example, in the Bush Administration’s FY2009 budget request, which was submitted after Mérida was announced, funding for drug prevention programs was cut by 25% as compared to the previous year. Ongoing debates about the proper balance of funding for supply reduction vs. demand reduction programs are likely to continue during the 111th Congress.⁴⁶

⁴¹ U.S. Immigration and Customs Enforcement, “Fact Sheet: Armas Cruzadas,” available at [http://www.ice.gov/pi/news/factsheet/armas_cruzadas.htm]

⁴² Tom Diaz, Violence Policy Center, “Disrupting Arms Trafficking to Mexico,” October 17, 2008.

⁴³ NDIC, National Drug Threat Assessment 2009, November 2008.

⁴⁴ P. Rydell and S. Everingham, “Controlling Cocaine Supply Versus Demand Programs,” RAND: Santa Monica, C.A., 1994; David Boyum and Peter Reuter, *An Analytic Assessment of U.S. Drug Policy*, Washington, D.C.: American Enterprise Institute, 2005.

⁴⁵ “FY02-FY09 Budget Emphasizes Least Effective Ingredients of Drug Policy,” Carnevale Associates, February 2008.

⁴⁶ For more information on U.S. domestic drug policy, see CRS Report RL32352, *War on Drugs: Reauthorization and Oversight of the Office of National Drug Control Policy*, by Mark Eddy.

Bulk Cash Smuggling

Each year Mexican drug trafficking organizations repatriate huge amounts of illicit revenues from drug sales in the United States to Mexico, perhaps totaling some \$15 to 20 billion annually.⁴⁷ In order to address this problem, the DEA has carried out bulk cash seizure investigations with the FBI, ICE, and CBP. In 2005, ICE and CBP launched a program known as “Operation Firewall,” which resulted in increased operations against bulk cash smuggling in the U.S.-Mexico border region. Many operations have been carried out in coordination with Mexican customs and the Mexican money laundering vetted unit. In 2008, ICE created a Trade Transparency Unit (TTU) in Mexico. Mexican TTU representatives are receiving training and technical support from ICE officials in how to identify cross-border trade anomalies that could be indicative of bulk cash smuggling.

Mexico Policy Issues⁴⁸

As Congress oversees implementation of the Mérida Initiative, it is likely to maintain an interest in what the Mexican government is doing to combat the drug cartels and reform its law enforcement and judicial systems. Congress may want to ensure that U.S. and Mexican counternarcotics programs are complementing, rather than duplicating each other’s efforts. Congress may also to monitor the Mexican government’s anti-corruption efforts, as well as its ability to hold police and military forces accountable for human rights abuses.

Domestic Counterdrug Efforts

President Calderón has made combating drug cartels a top priority of his administration. He has increased Mexico’s security budget from roughly \$2 billion in 2006, to some \$4 billion in 2008. He has mobilized thousands of soldiers and federal police to arrest drug traffickers, establish check points, burn marijuana and opium plants, and interdict drug shipments. According to the U.S. State Department, Mexican authorities seized more than twice the amount of cocaine in 2007 than they did in 2006.⁴⁹ A recent U.S. government report credits Mexico’s recently established import restrictions on products containing methamphetamine precursors with reducing Mexican methamphetamine shipments to the United States.⁵⁰ President Calderón has also used extradition as a major tool to combat drug traffickers, extraditing 83 alleged criminals to the United States in 2007 and a record 85 individuals in 2008.

While a majority of Mexicans still support President Calderón, some predict that popular frustration with his government may soon mount if his two-year campaign against the drug cartels fails to produce measurable results.⁵¹ Drug seizures and extraditions have increased, but drug-related violence has reached record levels. As of early December 2008, drug violence had claimed

⁴⁷ Testimony of John P. Walters, Director of the Office of National Drug Control Policy, before the House Oversight and Government Reform Subcommittee on Domestic Policy, March 12, 2008.

⁴⁸ For more information, see CRS Report RL32724, *Mexico-U.S. Relations: Issues for Congress*, by Mark P. Sullivan and June S. Beittel.

⁴⁹ U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy Report 2008*, March 2008.

⁵⁰ NDIC, *National Drug Threat Assessment 2009*, November 2008.

⁵¹ Laurence Iliff, “Calderón’s 2nd Year Ends With Fresh Turmoil,” *Dallas Morning News*, December 1, 2008.

some 5,300 lives, with police and military frequently targeted by drug traffickers. More than 500 police and military members have been slain since late 2006.⁵² Some have expressed concerns about the militarization of Mexican law enforcement. Calderón officials, however, maintain that the military has to be used for counterdrug efforts due to the corruption of state and local police by the cartels, and because the police cannot compete with the type of heavy weaponry that the drug cartels are using.⁵³ Others assert that Calderón has not devoted enough resources to addressing issues that are closely linked to the drug trade, such as money laundering. Still others are concerned about ongoing corruption, impunity, and human rights abuses by military and police forces.

Police Reform and Anti-Corruption Efforts

Instances of corruption of law enforcement and government officials have been a significant problem that has made the campaign against drug cartels more difficult. In late October 2008, for example, an elite unit within the federal Attorney General's office known as SIEDO was implicated in a scandal involving payoffs for sensitive information about antidrug activities, with at least 35 officials and agents fired or arrested.⁵⁴ In August 2008, six members of SIEDO reportedly had been arrested on suspicion of leaking information to drug traffickers.

President Calderón has taken steps to reform the country's federal, state, and municipal police forces and to crack down on corruption within the police and other government institutions. Calderón has reorganized the two federal police agencies under a single commander, established a new police training institute, and created a national database through which police can share information and intelligence. His government has begun to test the competency of state and local police forces and to reward units whose officers meet certain standards with higher budgets. Only roughly 50% of officers tested in 2008 are said to have met the minimum standards. President Calderón has also purged hundreds of corrupt police officers. In late December 2008, he asserted that some 11,500 law enforcement and other government employees had been fined for corruption in the past two years, with fines totaling close to \$300 million.⁵⁵

The State Department's 2007 human rights report, issued in March 2008, recognized the Mexican government's efforts to reform and professionalize the police force, although it highlighted that corruption and impunity, particularly at the state and local levels, remain endemic problems. Analysts have suggested that the Calderón government consider implementing other reforms, including, but not limited to, strengthening police professionalization programs, establishing a career track within federal and state police forces, and developing internal and external review mechanisms for police performance.⁵⁶

⁵² "Mexico Says Gang Killings More Than Double in 2008," Associated Press, December 8, 2008; Ken Ellingwood, "Mexico Under Siege: Attacks on Police Continue Amid Crackdown on Drugs," Los Angeles Times, November 4, 2008.

⁵³ U.S. Government Printing Office, "The Mérida Initiative: Guns, Drugs, and Friends," Minority Staff Report to Senate Committee on Foreign Relations, United States Senate, December 21, 2007.

⁵⁴ Tracy Wilkinson, "Mexico Under Siege: Elite Police Tainted by Drug Gang," Los Angeles Times, October 28, 2008.

⁵⁵ Sara Miller Llana, "Setbacks in Mexico's War on Corruption," Christian Science Monitor, December 29, 2008.

⁵⁶ Woodrow Wilson Center, Mexico Institute, "The United States and Mexico: Toward a Strategic Partnership," January 2009.

Implementation of Judicial Reforms

The Mexican judicial system has been widely criticized for being opaque, inefficient, and corrupt. It is plagued by long case backlogs, a high pre-trial detention rate (some 40% of Mexican inmates are simply awaiting trials), and an inability to secure convictions. In June 2008, President Calderón signed a judicial reform decree after securing the approval of Congress and Mexico's states for an amendment to Mexico's Constitution. Under the reform, Mexico will have eight years to replace its trial procedures, moving from a closed door process based on written arguments to a public trial system with oral arguments and the presumption of innocence until proven guilty. In addition to oral trials, the judicial system is to adopt more alternative means of dispute resolution (ADR), which should help make it more flexible and efficient.

Implementing these judicial reforms is likely to bring with it a series of challenges that will have to be addressed. Many observers hope that the federal government can learn how to identify and overcome those challenges by looking at the experiences that states such as Chihuahua and Oaxaca have had in adopting an accusatorial justice system and in using ADR.⁵⁷ Some of those challenges may include the need to update law school curricula, retrain current legal professionals, build new courtrooms, improve forensic technology, and encourage the use of ADR. USAID has been supporting state-level judicial reform programs in Mexico since the mid-1990s, and will now be supporting implementation of the federal judicial reform.

Protection of Human Rights

Both the Mexican police and military have poor human rights records. According to the State Department's most recent human rights report, there were credible reports of police involvement in extrajudicial killings, kidnappings for ransom, and torture. On July 1, 2008, the media's release of videos reportedly showing police from an elite squad in the city of León, Mexico, practicing torture techniques provoked strong expressions of concern by Mexican and international human rights organizations. An American instructor was seen in the videos. A spokesman for the U.S. Embassy in Mexico City maintained that the "U.S. government was not involved in the training in any way."⁵⁸

There is increasing concern that the Mexican military, which has less human rights training and is less accountable to civilian authorities than the police, will commit more human rights abuses as it is tasked with law enforcement and duties for which it is ill-trained and ill-suited.⁵⁹ Between December 2006 and May 2008, Mexico's Human Rights Commission (the CNDH) received 634 reports of human rights abuses by Mexican military forces. In July 2008, the CNDH issued a report recommending that, among other measures, the military should conduct investigations into each of the cases, punish those who are found guilty of abuses, pay damages to victims, and develop plans to prevent future abuses. There are also concerns that the desertion rate among military members is increasing, with a number of those deserters leaving to join the cartels. Some have urged the Calderón government to develop a time-table for when Mexico's military will

⁵⁷ David Shirk and Louna M. Márquez-Carrasquillo, "Border Brief: State Level Judicial Reform Initiatives in Mexico," February 21, 2008.

⁵⁸ Alfredo Corchado, "U.S. Denies Involvement in Training Videos Showing Mexican Officers Using Torture," Dallas Morning News, July 3, 2008.

⁵⁹ Roderic al Camp, "Role of Military to Military Cooperation and the Implications and Potential Risks to Civil-Military Relations," Testimony before the Congressional Policy Forum, May 8, 2008.

disengage from law enforcement efforts. In the meantime, many experts maintain that there needs to be greater oversight of the military by civilian institutions, particularly the Congress.⁶⁰

Central America Policy Issues

A number of policy issues may emerge as Congress considers the Central American portion of the Mérida Initiative including concerns about:

- **Funding:** When the Mérida Initiative was first announced, Central American leaders and some Members of Congress expressed concerns about the funding disparity between the Mexican and Central American portions of the Initiative.⁶¹ Depending upon how much funding Central America receives in the FY2009 and FY2010 budgets for Mérida, there may be lingering questions about the adequacy of the funds provided, as well as how much of those funds should be spent on regional programs versus bilateral programs in the seven Central American countries.
- **Type of Funds Provided:** In the FY2008 Supplemental Appropriations Act, Congress reduced the funds appropriated for law enforcement programs in Central America in order to increase funding for institution-building, rule of law, and development programs. Members are likely to continue to debate how funding should be balanced between the various program components, particularly how much funding should support law enforcement programs and drug interdiction efforts versus institution-building and rule of law activities.
- **Interagency Coordination:** Debates are likely to continue concerning what U.S. agency is best equipped to oversee Mérida programs, including the issue of whether there is a role for the U.S. Southern Command in anticrime efforts, and how U.S. programs should be coordinated with those funded by other donors.
- **Domestic Efforts by Partner Governments:** Congress and the Obama Administration are likely to monitor the political will among the Central American governments to combat corruption and impunity, address crime and violence in a holistic way, and to complement U.S. funding with support from their national budgets, the private sector, and other international donors.
- **Anti-gang Policies:** There is ongoing disagreement over the level and combination of preventive and suppressive policies that should be used in Central America to address the gang problem. Proponents of law enforcement solutions maintain that Central American law enforcement officials lack the capacity and resources to target gang leaders effectively, share data, and conduct thorough investigations that lead to successful prosecutions. Human rights groups tend to emphasize the importance of prevention and rehabilitation programs.
- **U.S. Deportation Procedures:** Congress may also maintain an interest in how U.S. deportation procedures for individuals with criminal records might be

⁶⁰ Woodrow Wilson Center, Mexico Institute, "The United States and Mexico: Toward a Strategic Partnership," January 2009.

⁶¹ Manuel Roig-Franzia, "Central Americans See Peril in Bush's Anti-Drug Priorities," Washington Post, November 29, 2007.

improved and whether U.S. assistance should be provided to help receiving governments reintegrate deportees.

Haiti and the Dominican Republic

The Bush Administration originally conceived the Mérida Initiative as a foreign assistance package for Mexico and Central America, the countries through which the bulk of cocaine heading to the United States now flows. However, some Members of Congress felt that the Initiative should also include funding for the Caribbean drug transit countries of Haiti and the Dominican Republic. If not, they argued, drug traffickers are likely to return to the Caribbean transit zone rather than the Mexico-Central America drug transit corridor. As a result, the 110th Congress included Haiti and the Dominican Republic in Mérida authorizations and appropriations legislation. The 111th Congress may consider whether to insert additional Mérida funding for Haiti and the Dominican Republic in the pending FY2009 budget request. Similarly, the Obama Administration may or may not include Haiti and the Dominican Republic in its FY2010 request for Mérida.

Some favor including Haiti and the Dominican Republic in the Mérida Initiative since both countries are key transshipment points for cocaine bound from South America to the United States and Europe. They point out that both countries have experienced a surge in air smuggling of cocaine from Venezuela since 2007.⁶² Haiti, the poorest and most unstable country in the Western Hemisphere, is particularly attractive to narcotics traffickers since its coasts and border with the Dominican Republic are largely uncontrolled.

Others oppose providing additional Mérida funds for Haiti and the Dominican Republic since there are only limited funds available for the Initiative. Haiti and the Dominican Republic already receive U.S. counternarcotics assistance through other foreign aid accounts. Moreover, they argue, both countries are also receiving counternarcotics training and support from the U.N. Stabilization Mission in Haiti.

⁶² U.S. Department of State, International Narcotics Control Strategy Report, March 2008.

Appendix. Conditions on FY2008 Supplemental Assistance for Mérida

Mexico

The FY2008 Supplemental Appropriations Act (P.L. 110-252), which includes the first tranche of funding provided for the Mérida Initiative, has human rights conditions softer than compared to earlier House and Senate versions, in large part because of Mexico's objections that some of the conditions would violate its national sovereignty. The Secretary of State, after consultation with Mexican authorities, is required to submit a report on procedures in place to implement Section 620J of the Foreign Assistance Act (FAA) of 1961. That section of the FAA "prohibits assistance to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights." An exception to this prohibition is provided in Section 620J if the Secretary of State determines and reports to Congress that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice.

In P.L. 110-252, human rights conditions require that 15% of INCLE and FMF assistance be withheld until the Secretary of State reports in writing that Mexico is taking action in four human rights areas:

- improving transparency and accountability of federal police forces;
- establishing a mechanism for regular consultations among relevant Mexican government authorities, Mexican human rights organizations, and other relevant Mexican civil society organizations, to make consultations concerning implementation of the Mérida Initiative in accordance with Mexican and international law;
- ensuring that civilian prosecutors and judicial authorities are investigating and prosecuting, in accordance with Mexican and international law, members of the federal police and military forces who have been credibly alleged to have committed violations of human rights, and the federal police and military forces are fully cooperating with the investigations; and
- enforcing the prohibition, in accordance with Mexican and international law, on the use of testimony obtained through torture or other ill-treatment.

Central America, Haiti and the Dominican Republic

P.L. 110-252 includes similar conditions on assistance provided to Central America, Haiti and the Dominican Republic. As with Mexico, The Secretary of State is required to submit a report on procedures in place to implement Section 620J of the Foreign Assistance Act (FAA) of 1961 in order for Mérida funding to be released.

Other human rights conditions require that 15% of INCLE and FMF assistance be withheld until the Secretary of State reports in writing that the governments of the countries in Central America, Haiti, and the Dominican Republic are taking action in three areas:

- establishing police complaints commissions with authority and independence to receive complaints and carry out effective investigations;
- implementing reforms to improve the capacity and ensure the independence of the judiciary; and
- investigating and prosecuting members of the federal police and military forces who have been credibly alleged to have committed violations of human rights.

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