



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

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July 6, 2009

Congressional Research Service

7-5700

[www.crs.gov](http://www.crs.gov)

R40135

## 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 5,600 lives in Mexico in 2008, and several Central American countries have some of the highest homicide rates in the world. Mexican-based 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 Bush Administration first requested funding for Mérida in the FY2008 supplemental appropriation. The request did not include domestic programs to complement the Initiative, but U.S. officials pledged to step up efforts to prevent arms, precursor chemicals, and bulk cash from flowing from the United States to Mexico, and to reduce U.S. drug demand.

In June 2008, the 110<sup>th</sup> Congress appropriated \$465 million for FY2008 and FY2009 for Mexico and Central America in the FY2008 Supplemental Appropriations Act, (P.L. 110-252). Mexico received \$352 million in FY2008 supplemental assistance and \$48 million in FY2009 bridge fund supplemental assistance. Central America, Haiti, and the Dominican Republic received \$65 million in FY2008 supplemental assistance. In March 2009, the 111<sup>th</sup> Congress appropriated another \$300 million for Mexico and \$110 million for Central America, Haiti and the Dominican Republic in the 2009 Omnibus Appropriations Act, (P.L. 111-8). On April 9, 2009, the Obama Administration requested \$66 million for Mérida funding for Mexico in a FY2009 supplemental request. The Congress passed a supplemental appropriation in June 2009 (P.L. 111-32) greater than the Administration's request totaling \$420 million in Mérida assistance for Mexico. With the 2009 supplemental, total funding for the Mérida program to date is approximately \$1.3 billion. For FY2010, the Obama Administration requested \$450 million for Mexico and \$100 million for Central America for a total of \$550 million. On June 26, 2009, the House Appropriations Committee reported H.R. 3081 which includes security-related assistance of \$235.8 million for Mexico, \$83 million for Central America under the new Central America Regional Security Initiative and \$37 million in the new Caribbean Basin Security Initiative.

The 111<sup>th</sup> Congress has demonstrated a strong interest in addressing the spiraling drug trafficking violence in Mexico, and held more than a dozen hearings relating to the border violence in the spring of 2009. Congress will continue to examine the Mérida Initiative and related funding as it considers the FY2010 budget. Policy issues that have emerged in consideration of Mérida include what levels and types of funding should be provided to Mexico and Central America; how well U.S. agencies are coordinating with their foreign counterparts in implementing the Initiative; and the degree to which the nations involved, including the United States, are fulfilling their domestic obligations under Mérida. Congress has expressed 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*, and CRS Report R40582, *Mexico's Drug-Related Violence*.

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In October 2007, the United States and Mexico announced the Mérida Initiative, a three-year program of U.S. assistance to Mexico and Central America<sup>1</sup> to combat drug trafficking, gangs, and organized crime.<sup>2</sup> 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 110<sup>th</sup> 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.<sup>3</sup> In the first six months of 2009, the Central American countries all signed Letters of Agreement with the United States.<sup>4</sup>

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 Mérida Initiative funding in a continuing resolution because the initial pot of Mérida funding was provided through a supplemental assistance measure. For this reason, it was taken up early in the first session of the 111<sup>th</sup> Congress in the 2009 Omnibus Appropriations Act (P.L. 111-8) signed into law in March 2009 and Mexico, Central America, Haiti, and the Dominican Republic received a total of \$410 million.

On April 9, 2009, the Obama Administration submitted a FY2009 supplemental request that included \$66 million in Mérida assistance for Mexico. Congress appropriated a total of \$420 million for Mexico in the Supplemental Appropriations Act, 2009 (P.L. 111-32) signed into law June 24, 2009. For FY2010, the Obama Administration requested \$450 million for Mexico and \$100 million for Central America under the Mérida Initiative. In late June, the House Appropriations Committee reported out a bill (H.R. 3081) that funded what had been known as the Mérida Initiative in three parts: \$235.8 million for Mexico, \$83 million for Central America under the new Central America Regional Security Initiative (CARSI) and \$37 million for the Caribbean in the new Caribbean Basin Security Initiative (CBSI). While this overall funding is less than the Administration's FY2010 request, Congress had appropriated significantly more for Mexico in the FY2009 supplemental spending measure. Notably the House Appropriations Committee described part of the FY2009 supplemental funding for Mexico (\$420 million) as advance funding of the FY2010 request.

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

<sup>2</sup> 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.

<sup>3</sup> 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. In addition, more than \$136 million under the Mérida Initiative from the Foreign Military Financing (FMF) and Economic Support Funds (ESF) accounts will be 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.

<sup>4</sup> Letters of Agreement have been signed with Honduras on January 9, El Salvador on January 12, Guatemala on February 5, Belize on February 9, and with Panama on March 13. See Testimony of David T. Johnson, Assistant Secretary, U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, before the Subcommittee on the Western Hemisphere, House Committee on Foreign Affairs, March 18, 2009. On April 24, a Letter of Agreement was signed with Nicaragua, and on June 17, a Letter of Agreement was signed with Costa Rica. See <http://www.state.gov/p/inl/index.htm>.

This report provides an overview and discussion of the funding provided for Mérida, and presents several issues that Congress may consider as it oversees implementation of the Initiative and shapes its future direction.

## 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.<sup>5</sup> 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.

The Mérida Initiative is not only the largest foreign aid package for the Western Hemisphere since Plan Colombia,<sup>6</sup> 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 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.<sup>7</sup> Since President Calderón took office in December 2006, Mexico has increased security spending (to some \$4 billion in 2008, and a reported \$9.3 billion in 2009)<sup>8</sup>, 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. In 2008, more than 5,600 people in Mexico were killed in drug trafficking violence, a 110% increase over 2007.<sup>9</sup> Among those murdered were 522 Mexican military and law enforcement officials according to recent testimony of the U.S. Department of State.<sup>10</sup> In the first two months of 2009,

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<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> Steve Fainaru and William Booth, "As Mexico Battles Cartels, The Army Becomes the Law," *Washington Post*, April 2, 2009. The authors report: "This year, the Mexican government will spend \$9.3 billion on national security, a 99 percent increase since Calderón took office."

<sup>9</sup> "Mexico-U.S.: The Drugs War—Dissecting the threat perceived in Washington," *Latin American Security & Strategic Review*, January 2009.

<sup>10</sup> Testimony of David T. Johnson, Assistant Secretary, U.S. Department of State, Bureau of International Narcotics and (continued...)

the violence grew with almost 1,000 drug-related killings in Mexico or 146% more than in the comparable period of 2008.<sup>11</sup> 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 significant 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.<sup>12</sup> In FY2007, Mexico received \$36.7 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 110<sup>th</sup> 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 FY2009 request for Mérida, and a description of the 2009 Omnibus Appropriations Act passed by the 111<sup>th</sup> Congress and signed into law on March 11, 2009. It also describes FY2009 supplemental funding for Mexico appropriated by Congress under the Initiative and the President's FY2010 budget request unveiled in May 2009. Finally, it discusses additional legislation concerning the Mérida Initiative in the 111<sup>th</sup> Congress.

**Table 3**, included at the end of this funding section, provides a country-level breakdown of Mérida requests and appropriations.

## Mérida Authorization Legislation in the 110<sup>th</sup> Congress

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 Mérida 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.

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(...continued)

Law Enforcement Affairs, before the Subcommittee on State, Foreign Operations, Related Programs of House Committee on Appropriations, March 10, 2009.

<sup>11</sup> "Cartels add political dimension to 'drugs war,'" *Latin American Security & Strategic Review*, February 2009.

<sup>12</sup> 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.

As passed by the House, H.R. 6028 would have authorized \$1.6 billion over three years, FY2008-FY2010, for Mexico and Central America, \$200 million more than originally proposed by President Bush.<sup>13</sup> 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 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.<sup>14</sup> 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). Due to the grave security situation in Mexico, Administration officials justified the Mérida request in an emergency supplemental request rather than the FY2009 regular foreign aid budget request.

In the FY2008 supplemental request, the size, goals, and composition of the Mexican and Central American portions of the Mérida Initiative differed markedly. In advance of 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 ion scanners, computer and security equipment. A third category would fund institution-building and justice sector projects, while the final category of assistance would fund program support.

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, 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.

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<sup>13</sup> 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.

<sup>14</sup> For a detailed description of the Bush Administration's FY2008 supplemental assistance proposal for the Mérida Initiative, see CRS Report RS22837, *Mérida Initiative: U.S. Anticrime and Counterdrug Assistance for Mexico and Central America*, by Clare Ribando Seelke.

**Table 1. FY2008 – FY2010 Mérida Funding for Mexico by Aid Account**

(\$ in millions)

Account	FY2008 Suppl. Funds (P.L. 110-252)	FY2009 Bridge Funds (P.L. 110-252)	FY2009 Omnibus (P.L. 111-8)	FY2009 Supp. Funds (P.L. 111-32)	FY2010 Request
ESF	20.0	0.0	15.0	0.0	0
INCLE	215.5	48.0	246.0	160.0	450.0
FMF	116.5	0.0	39.0	260.0	0
Total	352.0	48.0	300.0	420.0	450.0

**Sources:** U.S. Department of State, FY2008 Supplemental Appropriations Spending Plan; P.L. 111-8, Omnibus Appropriations Act 2009 (Division H and Joint Explanatory Statement, H.R. 1105); FY2009 Supplemental Justification, Department of State & U.S. Agency for International Development; Conference Report to accompany H.R. 2346, House Report 111-151, and U.S. Department of State, “Summary and Highlights, International Affairs, Function 150, Fiscal Year 2010.”

**Notes:** ESF=Economic Support Fund; FMF=Foreign Military Financing; INCLE=International Narcotics Control and Law Enforcement.

**Table 2. FY2008 – FY2010 Mérida Funding for Central America by Aid Account**

(\$ in millions)

Account	FY2008 Supplemental Funds (P.L. 110-252)	FY2009 Omnibus Funds (P.L. 111-8)	FY2010 Request
ESF	25.0	a	25.0
INCLE	24.8	70.0	75.0
NADR	6.2	0.0	0.0
FMF	4.0	a	0.0
Total	60.0	105.0	100.0

**Source:** U.S. Department of State, FY2008 Supplemental Appropriations Spending Plan; 2009 Omnibus Appropriations Act, P.L. 111-8, (Division H and Joint Explanatory Statement, H.R. 1105); and U.S. Department of State “Summary and Highlights, International Affairs, Function 150, Fiscal Year 2010.”

a. The 2009 Omnibus Appropriations Act, P.L. 111-8, (Division H and Joint Explanatory Statement, H.R. 1105) would provide \$12 million in ESF for an Economic and Social Fund for Central America and \$15 million for FMF to support maritime security in the Caribbean and Central America under the Mérida Initiative. The bill requires the Secretary of State to submit a detailed spending plan to the Committees on Appropriations within 45 days of passage of the Act for funds appropriated for Central American countries and Mexico under the Mérida Initiative. As of June 30, 2009, the spending plans had not yet been completed.

**Notes:** ESF=Economic Support Fund; FMF=Foreign Military Financing; INCLE=International Narcotics Control and Law Enforcement; NADR=Non-proliferation, Anti-terrorism and Related Programs.

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 human rights conditions in the measure are less demanding than 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. As enacted, the 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 concerning other conditions. (See **Appendix** for the final language of the human rights conditions included in P.L. 110-252). Congress also stipulated that none of the funds may be used for budget support or as cash payments.

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.<sup>15</sup> 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 (see **Table 1**). 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 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.<sup>16</sup>

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

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<sup>15</sup> U.S. Department of State, FY2008 Supplemental Appropriations Spending Plan: Mexico, Central America, Haiti, and the Dominican Republic, September 9, 2008.

<sup>16</sup> 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.

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<sup>17</sup>**

As with Mexico, Congress divided the funding for Central America between several different accounts (see **Table 2**). 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, 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).<sup>18</sup>

Due to these 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. 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 (ILEA).

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).

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<sup>17</sup> For information on the Mérida funds provided for anti-gang programs, see CRS Report RL34112, *Gangs in Central America*, by Clare Ribando Seelke.

<sup>18</sup> 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.

## **FY2009 Request and Appropriations**

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.

### **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 ILEA 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 110<sup>th</sup> 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) that provided 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 did not include Mérida funding.

In March 2009, the 111<sup>th</sup> Congress passed the Omnibus Appropriations Act, (P.L. 111-8) providing \$410 million for Mexico, Central America, the Dominican Republic and Haiti under the Mérida Initiative. In P.L. 111-8, Congress provided \$300 million for Mexico within the INCLE, ESF, and FMF accounts with not less than \$75 million for judicial reform, institution building, anti-corruption, and rule of law activities. The measure continues the same human rights conditions originally set forth in P.L. 110-252, and also has a provision requiring that prior to the procurement or lease of aircraft, that the Director of the Defense Security Cooperation Agency, in consultation with the Secretary of State, shall submit to the Committees on Appropriations an analysis of alternatives for the acquisition of all aircraft for the Mérida Initiative.

In the omnibus appropriations measure, Congress provided \$105 million in funding for Central America (exceeding the Bush Administration FY2009 request by \$5 million) and once again provided the Dominican Republic and Haiti with \$2.5 million each from the INCLE account. The explanatory statement to the FY2009 omnibus bill provides \$12 million in ESF for an Economic and Social Fund for Central America and \$15 million for FMF to support maritime security in the Caribbean and Central America under the Mérida Initiative. Required spending plans detailing bilateral and regional funds appropriated for Central America and Mexico were to be reported to the Appropriations Committees in late April 2009. As of June 30, 2009, the spending plans had not yet been completed.

### **FY09 Supplemental Request and Appropriations**

On April 9, 2009, the Obama Administration submitted a FY2009 supplemental request that included an additional \$66 million in INCLE assistance for Mexico under the Mérida Initiative. According to the request, the assistance was sought to acquire three Blackhawk helicopters for Mexico's civilian Public Security Secretariat to provide urgently needed air transport capacity, and to provide spare parts and support. Another \$16 million in reprogrammed Mérida Initiative funds previously appropriated in P.L. 110-252 was to be used to fund the helicopters (including spare parts and support costs) bringing the total funding for the helicopters to \$82 million.

On June 24, 2009, President Obama signed the FY2009 appropriations measure passed by Congress (H.R. 2346/P.L. 111-32) that includes \$160 million in INCLE assistance and \$260 million in FMF for Mexico, \$354 million more than the Administration's request. (The legislation

also appropriates funds to other U.S. federal agencies providing security on the Southwest border, including \$178 million for programs of the Department of Homeland Security and the Department of Justice). Mérida program funding was accelerated to support the difficult task undertaken by the Mexican government. The additional INCLE funding is intended for such items as forensics and nonintrusive inspection equipment, computers, training and fixed and rotary wing aircraft. The provision of such additional equipment in an expedited fashion will greatly assist the Mexican government by enhancing the ability of the federal police operations to conduct law enforcement, counternarcotics, and counterterrorism operations, particularly where DTOs are challenging Mexican authorities for control of major cities, including those on the border with the United States. The \$260 million of FMF funding is for expedited aviation assistance to the Mexican Navy (SEMAR) to enhance air transport ability and aerial surveillance. Anticipated purposes of the funding are for CASA airplanes and for medium lift maritime helicopters. With the total of \$420 million for Mexico in the supplemental, the amount of funding to date for Mexico under the Mérida Initiative is \$1.12 billion.

The FY2009 Supplemental Appropriations Act provides the \$420 million of new assistance to Mexico without the human rights conditions set forth in the FY2009 omnibus appropriations measure (P.L. 111-8, section 7045(e) of Division H) that withheld 15% of assistance until the Secretary of State reports that Mexico is taking action in four human rights areas. According to the conference report (H.Rept. 111-151), the supplemental requires a report from the Secretary of State within 45 days of enactment of the measure detailing actions by the government of Mexico since June 30, 2008, to investigate and prosecute violations of internationally recognized human rights by members of the Mexican Federal police and military forces, and supports a “thorough, independent, and credible investigation” of the murder of Bradley Will, an American journalist killed while covering a protest in Oaxaca in 2006 (for more, see section below on “Protection of Human Rights,” and CRS Report RL32724, *Mexico-U.S. Relations: Issues for Congress*).

**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	FY2009 Omnibus App. Act (P.L. 111-8)	FY2009 Supp. Request	FY2009 Supp. App. Act (P.L. 111- 32)	FY2010 Request
Mexico	500.0	400.0	450.0	300.0	66.0	420.0	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	105.0	-	-	100.0
Haiti	0.0	2.5	0.0	2.5	-	-	-
Dominican Republic	0.0	2.5	0.0	2.5	-	-	-
Total	550.0	465.0	550.0	410.0	66.0	420.0	550.0

**Source:** U.S. Department of State briefing papers provided to Congressional offices; FY2008 Supplemental Appropriations Spending Plan; 2009 Omnibus Appropriations Act, P.L. 111-8, (Division H and Joint Explanatory Statement, H.R. 1105); FY2009 Supplemental Justification, Department of State & U.S. Agency for International Development; Conference Report to accompany H.R. 2346, H.Rept. 111-151, and U.S. Department of State, “Summary and Highlights, International Affairs, Function 150, Fiscal Year 2010.”

Notes: The 2009 Omnibus appropriations measure did not specify country amounts for Central America. Not less than 45 days after the enactment of the measure, the Secretary of State must submit a spending plan that details how the funds will be expended in individual countries and regionally. As of June 30, 2009, the spending plans had not yet been completed. In addition, the FY2010 request does not yet contain details concerning country amounts in Central America.

## FY2010 Budget Request and Committee Action

For FY2010, the Obama Administration requested \$450 million in INCLE assistance for Mexico and \$100 million in INCLE and ESF for Central America (see **Table 1** and **Table 2**). For Mexico, the Administration requests support for Mexico’s reorganized federal police (SSP)—by equipping them with helicopters, fixed-wing aircraft and surveillance systems—and provides the Mexican Navy with helicopters. The requested INCLE funds would provide non-intrusive inspection equipment for SSP, the Mexican military and Customs and implement a case-tracking system with technical support and software. Law enforcement training in ethics, criminal investigative techniques and crime scene search and preservation of evidence methods would be provided.

Also, the request includes programs to support rule of law reforms and anti-corruption initiatives inside watchdog units of the SSP and Mexico's Attorney General's office.

The Mérida Initiative funding in the FY2010 request for Central America includes \$75 million in INCLE assistance to enhance the regional capability to protect citizen security, combat illegal trafficking and build stronger justice sector institutions. According to the request, funding would support the U.S. anti-gangs strategy, provide equipment and technical assistance for community policing and juvenile justice systems and implement anti-corruption measures. In the 2010 request, the Obama Administration did not seek Mérida Initiative funding for Haiti and the Dominican Republic but proposed a new security regime for the Caribbean, the Caribbean Basin Security Initiative (CBSI).

In the FY2010 foreign operations appropriations bill reported to the House, H.R. 3081, the House Appropriations Committee would provide Mérida-related funding in three parts: Mexico, the new Central America Regional Security Initiative (CARSI) and the Caribbean Basin Security Initiative that President Obama had announced in the spring at the Summit of the Americas. The Committee allocates \$235.8 million for Mexico in the ESF, INCLE and FMF accounts; \$83 million for Central America in CARSI including \$75 regional INCLE funds and \$8 million of FMF funding; and \$37 million for the Caribbean in the CBSI.

The legislation reported on June 26, 2009 describes the \$420 million in the 2009 supplemental as "forward funding" of the Administration's FY2010 request. In the report to the bill (H.Rept. 111-187), the Committee notes that it "fully funds" the Administration's Mérida Initiative request but it is no longer using the name Mérida Initiative. As in the past, Congress has divided up Mérida funding into different accounts while the Administration request limited funding to the INCLE account.

## **Additional Mérida Initiative Legislation in the 111<sup>th</sup> Congress**

In addition to legislative action on appropriations, on May 14, 2009, the House Committee on Foreign Affairs marked up H.R. 2410 (Berman), the Foreign Relations Authorization Act for FY2010 and FY2011, which includes several provisions to enhance the Mérida Initiative. The bill would require the President to designate a high-level coordinator within the Department of State to implement the Mérida Initiative, and would add Caribbean Community (CARICOM) countries to the program. The bill also requires the establishment and implementation of a program to assess the effectiveness of assistance provided under the Mérida Initiative. Within six months and annually thereafter, it would require a report on the programs and activities carried out under the Mérida Initiative. In addition, the bill would require the President to establish an inter-agency task force on the prevention of illicit small arms trafficking in the Western Hemisphere; increase penalties for illicit trafficking in small arms and light weapons; and express congressional support for the ratification by the United States of the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA).

## Policy Issues

A broad consensus appears to be shared by the Administration, 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 111<sup>th</sup> Congress has expressed interest in cooperating with the Mexican government in its battles with the DTOs, deploying more than 45,000 military troops and thousands of federal police. The heightened violence in Mexico, much of it in northern Mexico near the U.S.-Mexico border, has been the focus of 14 congressional hearings to date. The support provided through the Mérida Initiative, its efficacy and the pace of its implementation, are being closely monitored by Congress.

When Secretary of State Hillary Clinton traveled to Mexico on March 25 – 26, 2009, she commented on the importance of bilateral cooperation under the Initiative and she expressed concern about the slow pace of implementation.<sup>19</sup> During her trip, she acknowledged that an “insatiable demand for illegal drugs” in the United States “fuels the drug trade.”<sup>20</sup> With regard to the United States as a source of the weapons that arm the drug cartels, Clinton also acknowledged that “our inability to prevent weapons from being smuggled across the border to arm these criminals causes the deaths of police, soldiers and civilians.”<sup>21</sup> Congress appears poised to further 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?<sup>22</sup>

Unless programs like the Mérida Initiative are woven into a more holistic U.S. drug policy focusing on reducing demand as well as supply, 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

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<sup>19</sup> U.S. Secretary of State Hillary Clinton, “Remarks with Mexican Foreign Secretary Patricia Espinosa After Their Meeting,” Mexico City, Mexico, March 25, 2009, available at: <http://www.state.gov/secretary/rm/2009a/03/120905.htm>. Secretary of State Clinton stated: “With respect to the helicopters, I am well aware that our long process of approval was cumbersome and challenging for the Mexican Government. We’re going to see what we can do to cut that time... We think they are a necessary and important tool in the fight against the drug cartels and criminals. It’s also suggested to us we ought to look at this more generally, that it takes too long from a decision to delivery, and we’ll see what we can do to shorten that.”

<sup>20</sup> Mary Beth Sheridan, “On Mexico Trip, Clinton Criticizes U.S. Drug Policy,” *Washington Post*, March 26, 2009; and Mark Lander, “Clinton Says Demand for Illegal Drugs in the U.S. ‘Fuels the Drug Trade’ in Mexico,” *New York Times*, March 26, 2009.

<sup>21</sup> *Ibid.*

<sup>22</sup> For more information on U.S. international drug control policy, see CRS Report RL34543, *International Drug Control Policy*, by Liana Sun Wyler.

drugs flowing into the United States.<sup>23</sup> 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.<sup>24</sup>

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.<sup>25</sup> The Heritage Foundation supports the Mérida Initiative and recommends that 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.<sup>26</sup> 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 Central America. They also emphasize the importance of addressing U.S. and European drug demand.<sup>27</sup>

## **Balancing "Hard-side" and "Soft-side" Assistance**

During the 110<sup>th</sup> 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.<sup>28</sup> The Bush Administration tended to favor so-called "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.<sup>29</sup> These debates continue in the 111<sup>th</sup> Congress.

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<sup>23</sup> 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.

<sup>24</sup> 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.

<sup>25</sup> American Enterprise Institute, "Five Perspectives on the Mérida Initiative: What it is and why it Must Succeed," March 4, 2008.

<sup>26</sup> Heritage Foundation, "Executive Summary: Mexico, Drug Cartels, and the Merida Initiative: A Fight We Cannot Afford to Lose," by Ray Walser, July 23, 2008.

<sup>27</sup> 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.

<sup>28</sup> 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.

<sup>29</sup> 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. alternative development ("soft-side") programs.

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.<sup>30</sup> 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.<sup>31</sup>

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, and 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.

## **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, from the level of 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.<sup>32</sup> One press report asserts that it is proving difficult for the United States and Mexico to overcome decades of mistrust in order to work together to implement Mérida.<sup>33</sup>

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.

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<sup>30</sup> WOLA, "The Mérida Initiative and Citizen Security in Mexico and Central America," March 19, 2008; Center for International Policy Americas Policy Program, "Primer on Plan Mexico" by Laura Carlsen, updated July 10, 2008.

<sup>31</sup> Senate Foreign Relations Committee, "Hearing on Mexico and Central America Counternarcotics Aid," November 15, 2007.

<sup>32</sup> 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](http://www.wilsoncenter.org/index.cfm?topic_id=5949&fuseaction=topics.event_summary&event_id=370648).

<sup>33</sup> Josh Meyer, "Mistrust Bedevils War on Mexican Drug Cartels," Los Angeles Times, December 31, 2008.

## **Pace of Implementation**

The growth and dramatic character of the violence in Mexico and the potential threat of spillover along the Southwest border has focused concern about the pace of the implementation of Mérida aid on that country most vividly. It has been reported in the press, there has been increasing criticism from Mexican officials as well as from Members of the U.S. Congress about the slowness of delivery of promised assistance to Mexico under the Mérida Initiative.

According to the Department of State,<sup>34</sup> which is leading Mérida Initiative implementation, the first pot of \$400 million for the foreign aid program provided in P.L. 110-252 includes funding for the following:

- helicopters (up to five Bell 412 helicopters) and surveillance aircraft (up to two CASA maritime patrol aircraft) to support interdiction and rapid response of Mexican law enforcement agencies;
- non-intrusive inspection equipment, ion scanners, and canine units for Mexican customs, the new Mexican federal police and the military to interdict trafficked drugs, arms, cash, and persons;
- technologies and secure communications to improve data collection and storage;
- and technical advice and training to strengthen the institutions of justice in order to improve vetting for the Mexican police force, to provide case management software to track investigations through the legal process, to support offices of citizen complaint and professional responsibility, and to promote the establishment of witness protection programs.

On December 3, 2008, the United States and Mexico signed a Letter of Agreement, allowing \$197 million of the first pot of Mérida funds to be disbursed.<sup>35</sup> Later in December, the governments of Mexico and the United States met to coordinate implementation of the Mérida Initiative through a cabinet-level High Level group reflecting the urgency felt on both sides of the border to address the growing violence in Mexico. According to the State Department, a working-level meeting was held February 3, 2009, in Mexico City “with the aim of accelerating the implementation of the 48 projects through nine working groups for Mexico under the Initiative.” This meeting was followed by another on March 2, 2009.<sup>36</sup>

Only the initial phases of implementation have begun. Although some programs will become operational starting in the spring through the end of 2009, others that fund military equipment have a longer procurement process. This is especially true for assistance in the Foreign Military Financing (FMF) account that provides for equipment such as Bell helicopters and CASA surveillance aircraft that may take from one to two years for delivery to Mexico. U.S. officials

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<sup>34</sup> U.S. Embassy, Mexico, “U.S.-Mexico At a Glance: The Mérida Initiative,” September 2008; U.S. Department of State, “FY2008 Supplemental Appropriations Spending Plan, Mexico, Central America, Haiti, and the Dominican Republic,” September 4, 2008.

<sup>35</sup> 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. See Embassy of the United States in Mexico, Press Release, “Mérida Initiative Monies Released; Letter of Agreement signed,” December 3, 2008.

<sup>36</sup> Testimony of David T. Johnson, Assistant Secretary, U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, before the Subcommittee on State, Foreign Operations, Related Programs of House Committee on Appropriations, March 10, 2009.

reportedly have attributed delays to cumbersome U.S. government contracting regulations, negotiations with Mexico about what equipment is actually needed, and the difficulty of delivering an aid package involves so many agencies and has some four dozen programs.<sup>37</sup>

## **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.<sup>38</sup> 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.<sup>39</sup> 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 report from late 2008, some Members of Congress have complained about the lack of coordination, fights over jurisdiction, and general confusion among the various federal agencies implementing the Initiative.<sup>40</sup>

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

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<sup>37</sup> William Booth and Steve Fainaru, “U.S. Aid Delays in Drug War Criticized,” *Washington Post*, April 5, 2009.

<sup>38</sup> See, for example, Ann Van Dusen and Carol Lancaster, *Organizing U.S. Foreign Aid: Confronting the Challenges of the 21<sup>st</sup> Century*, Washington, D.C.: Brookings Institution, 2005.

<sup>39</sup> 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.

<sup>40</sup> Josh Meyer, “Mexico Under Siege; Mistrust Bedevils War on Cartels” *Los Angeles Times*, December 31, 2008.

the world.<sup>41</sup> 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.<sup>42</sup> Many analysts have expressed similar concerns about Mexico<sup>43</sup> 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.<sup>44</sup> 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.<sup>45</sup> 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.<sup>46</sup>

## **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."<sup>47</sup> 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.<sup>48</sup> 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.

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<sup>41</sup> 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.

<sup>42</sup> 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.

<sup>43</sup> Mexico falls under the jurisdiction of the U.S. Northern Command (Northcom). There has been increasing cooperation between the U.S. and Mexican militaries to a degree that was unlikely just a short time ago. See "Clinton smoothes the way for Obama," *Latin American Regional Report*, April 2009.

<sup>44</sup> Heritage Foundation, July 2008; WOLA, March 2008.

<sup>45</sup> 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.

<sup>46</sup> 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.

<sup>47</sup> U.S. Department of State and Government of Mexico, "Joint Statement on the Mérida Initiative," October 22, 2007.

<sup>48</sup> Brookings Institution, November 2008.

## Weapons Trafficking

U.S. officials estimate that 90% of the firearms recovered from crime scenes in Mexico originated in the United States.<sup>49</sup> 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 “straw purchases,” whereby people who are legally qualified buy the weapons from licensed gun dealers or at gun shows in border states and sell them to smugglers who take them across the border. In November 2008, the Mexican government made the largest seizure of drug-cartel weapons in Mexican history when it discovered a cache of 540 rifles, 15 grenades, 500,000 rounds of ammunition, and 14 sticks of TNT at a house in the border town of Reynosa, Mexico.<sup>50</sup>

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) began a Southwest border initiative dubbed Project Gunrunner in FY2004 that aims to deny firearms to criminal organizations in Mexico, and to combat firearms-related violence affecting communities on both sides of the border.<sup>51</sup> The number of ATF personnel dedicated to Project Gunrunner has increased in recent years. In FY2006 and FY2007, around 100 special agents and 25 industry operations investigators were dedicated to Project Gunrunner, while by March 2009, the numbers had increased to 148 special agents and 59 industry operations investigators.<sup>52</sup> From FY2004 through mid-February 2009, ATF referred almost 800 cases for prosecution involving more than 1,600 defendants, including almost 400 cases for firearms trafficking involving more than 1,000 defendants and almost 13,000 guns.<sup>53</sup>

In addition to these efforts in the United States, under the Mérida Initiative, ATF received \$4.5 million for the deployment of eTrace firearms tracking technology to U.S. Consulates in Mexico to combat arms trafficking.<sup>54</sup> In FY2008, Mexico submitted more than 7,500 recovered guns for tracing, showing that most originated in Texas, Arizona, and California.<sup>55</sup>

The Department of Homeland Security, especially ICE and CBP, are also involved in taking action to stop the southbound flow of weapons to Mexico. Both ICE and CBP have the authority to enforce export provisions of the Arms Exports Control Act. In collaboration with Mexican law enforcement authorities, ICE launched a new bilateral program against weapons smuggling in June 2008 known as Operation *Armas Cruzadas*. Among other activities, the program involves

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<sup>49</sup> U.S. Embassy, Mexico City, Mexico, “U.S.-Mexico, “U.S.-Mexico at a Glance: Combating Illicit Firearms,” February 2009.

<sup>50</sup> “Mexico: Army Seizes Huge Weapons Cache,” *Los Angeles Times*, November 8, 2008.

<sup>51</sup> For background on ATF funding and Project Gunrunner, see CRS Report RL34514, *The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF): Budget and Operations*, by William J. Krouse.

<sup>52</sup> U.S. Embassy, Mexico, “Border and Law Enforcement, Project Gunrunner,” ATF Factsheet, available at <http://www.usembassy-mexico.gov/eng/texts/et080116eTrace.html>; and Department of Justice, Statement of William Hoover, Assistant Director for Field Operations, ATF, and Anthony P. Placido, Assistant Administrator for Intelligence Division, DEA, before Senate Committee on the Judiciary, Subcommittee on Crime and Drugs, March 17, 2009.

<sup>53</sup> ATF, “Statement of William Newell, Special Agent in Charge, Phoenix Field Division, ATF” before House Committee of Appropriations, Subcommittee on Commerce, Justice, Science and Related Agencies,” March 24, 2009.

<sup>54</sup> U.S. Department of Justice, “Statement of Joseph M. Arabit, Special Agent in Charge, El Paso Division, Drug Enforcement Administration, and William McMahon, Deputy Assistant Director, Field Operations, ATF,” before the Senate Committee on Foreign Relations, March 30, 2009.

<sup>55</sup> U.S. Department of Justice, “Department of Justice Announces Resources for Fight against Mexican Drug Cartels,” Fact Sheet, March 24, 2009.

intelligence sharing and joint law enforcement efforts with vetted Mexican units. As DHS reported in March 2009, the operation has resulted in more than 100 criminal arrests, 42 convictions, and the seizure of more than 400 weapons.<sup>56</sup>

According to DHS, the Mexican government began a pilot program in February 2009 to screen incoming traffic to look for guns, bulk cash, and other contraband, and hopes to expand the program across the entire border by the fall of 2009.<sup>57</sup> In addition, under the Mérida Initiative, the United States will be providing non-intrusive inspection equipment that will assist Mexican officials to prevent arms and cash smuggling from the United States.<sup>58</sup>

Some analysts 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.<sup>59</sup> Others have called for the U.S. Senate to act on a pending treaty, the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials.<sup>60</sup> According to the Department of State, the convention will help shut down the illicit transnational arms market that fuels the violence associated with drug trafficking, terrorism, and international organized crime. The treaty, which was signed by the United States in 1997 entered into force in July 1998, was submitted to the Senate for its advice and consent in June 1998.<sup>61</sup>

## **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.<sup>62</sup>

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

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<sup>56</sup> U.S. Department of Homeland Security, “Statement of Mark Koumans, Deputy Assistant Secretary, Office of International Affairs,” before House Committee on Appropriations, Subcommittee on Homeland Security, March 10, 2009.

<sup>57</sup> Ibid.

<sup>58</sup> U.S. Department of State, “Statement of David T. Johnson, Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement Affairs,” before the House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, March 18, 2009.

<sup>59</sup> Tom Diaz, Violence Policy Center, “Disrupting Arms Trafficking to Mexico,” October 17, 2008.

<sup>60</sup> Peter DeShazo and Johnna Mendelson Forman, “A treaty that can help stem drug violence in Mexico,” *Washington Times*, February 24, 2009.

<sup>61</sup> U.S. Department of State, “The Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials,” Fact Sheet, March 25, 2009.

<sup>62</sup> NDIC, *National Drug Threat Assessment 2009*, November 2008.

supply reduction programs.<sup>63</sup> 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%.<sup>64</sup> 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. Ongoing debates about the proper balance of funding for supply reduction vs. demand reduction programs are likely to continue in the 111<sup>th</sup> Congress.<sup>65</sup>

### **Bulk Cash Smuggling**

Interrupting the flow of money from drug sales in the United States to Mexico, estimated to range from \$15 billion to \$25 billion annually,<sup>66</sup> may be one of the most effective ways to disrupt the activities of the Mexican DTOs. A portion of this money is used to buy weapons in the United States to arm the DTOs and their drug enforcers. Other drug proceeds are used to corrupt law enforcement and public officials enabling the DTOs to continue to operate with impunity. Some analysts believe that the U.S. Treasury is doing a good job of making it difficult to launder money within financial institutions. Therefore, the preferred mode to transfer drug proceeds by the Mexican DTOs is through shipments of bulk cash.<sup>67</sup>

In order to address the problem of bulk cash smuggling, the DEA has carried out bulk cash seizures with the FBI, ICE, and CBP. In 2005, ICE and CBP launched a program known as “Operation Firewall,” which 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.

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<sup>63</sup> 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.

<sup>64</sup> “FY02-FY09 Budget Emphasizes Least Effective Ingredients of Drug Policy,” Carnevale Associates, February 2008.

<sup>65</sup> 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.

<sup>66</sup> Woodrow Wilson International Center for Scholars Mexico Institute, *The United States and Mexico: Towards a Strategic Partnership*, January 2009.

<sup>67</sup> Testimony of Andrew Selee, Director of the Mexico Institute, Woodrow Wilson Center before the House Subcommittee on National Security and Foreign Affairs of the Committee on Oversight and Government Reform, March 12, 2009.

## Mexico Policy Issues<sup>68</sup>

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 want 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, and a reported \$9.3 billion for 2009.<sup>69</sup> 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.<sup>70</sup> 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.<sup>71</sup> 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 95 individuals in 2008.<sup>72</sup>

While a majority of Mexicans still support President Calderón, some predict that popular frustration with his government may grow if his unprecedented campaign against the drug cartels fails to produce measurable results.<sup>73</sup> Drug seizures and extraditions have increased, but drug-related violence has reached record levels. According to the Mexican Media organization, Milenio, more than 10,100 people have been killed in the drug trafficking violence since Calderón came into office in 2006, including 917 police officers, soldiers, prosecutors and political leaders.<sup>74</sup> Some have expressed concerns about the militarization of Mexican law enforcement. Calderón Administration 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.<sup>75</sup> Others assert that Calderón has not devoted enough resources to addressing issues that

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<sup>68</sup> For more information, see CRS Report RL32724, *Mexico-U.S. Relations: Issues for Congress*, by Mark P. Sullivan and June S. Beittel.

<sup>69</sup> Steve Fainaru and William Booth, "As Mexico Battles Cartels, The Army Becomes the Law," *Washington Post*, April 2, 2009.

<sup>70</sup> U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy Report 2008*, March 2008.

<sup>71</sup> NDIC, National Drug Threat Assessment 2009, November 2008.

<sup>72</sup> U.S. Embassy, Mexico City, Mexico, "U.S.-Mexico At a Glance: Extraditions," February 2009.

<sup>73</sup> Laurence Iloff, "Calderón's 2<sup>nd</sup> Year Ends With Fresh Turmoil," *Dallas Morning News*, December 1, 2008.

<sup>74</sup> Steve Fainaru and William Booth, "As Mexico Battles Cartels, The Army Becomes the Law," *Washington Post*, April 2, 2009.

<sup>75</sup> 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. A press report in April 2009 notes that the Mexican police seized an antiaircraft machine gun among an arsenal allegedly belonging to the Beltrán Leyva (continued...)

are closely linked to the drug trade, such as money laundering. Still others remain concerned that ongoing corruption, impunity, and human rights abuses by military and police forces are not being adequately addressed.<sup>76</sup>

## **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 August 2008, six members of the federal Attorney General's office known as SIEDO reportedly had been arrested on suspicion of leaking information to drug traffickers. In late October 2008, an elite unit within SIEDO was implicated in a scandal involving payoffs for sensitive information about antidrug activities, with at least 35 officials and agents fired or arrested.<sup>77</sup> In November 2008, the former head of SIEDO, Noe Ramirez Mandujano, was arrested and accused of accepting bribes from a drug cartel.

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.<sup>78</sup>

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.<sup>79</sup>

## **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

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(...continued)

drug cartel. See "Mexico: Drug Group Found with Antiaircraft Gun," in World Digest, *Washington Post*, April 15, 2009.

<sup>76</sup> Human Rights Watch, *Uniform Impunity, Mexico's Misuse of Military Justice to Prosecute Abuses in Counternarcotics and Public Security Operations*, April 2009, available at: <http://www.hrw.org/en/news/2009/04/29/mexico-hold-military-account-rights-abuses>.

<sup>77</sup> Tracy Wilkinson, "Mexico Under Siege: Elite Police Tainted by Drug Gang," *Los Angeles Times*, October 28, 2008.

<sup>78</sup> Sara Miller Llana, "Setbacks in Mexico's War on Corruption," *Christian Science Monitor*, December 29, 2008.

<sup>79</sup> Woodrow Wilson Center, Mexico Institute, *The United States and Mexico: Toward a Strategic Partnership*, January 2009.

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 has 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 additional means of alternative dispute resolution (ADR), which should help make it more flexible and efficient.

Implementing these judicial reforms is likely to bring additional challenges. 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. 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.<sup>80</sup> 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 released videos reportedly showing police from an elite squad in the city of León, Mexico, practicing torture techniques which 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."<sup>81</sup>

There is increasing concern that the Mexican military, which has had less human rights training and is less accountable to civilian authorities than the police, will commit more human rights abuses as it is increasingly tasked with law enforcement and duties for which it is ill-trained and ill-suited.<sup>82</sup> 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. By the end of 2008, however, CHDH reported that human rights complaints against the Mexican army had surged with more than 1,200 complaints of human rights abuses by members of the Mexican military registered in that year alone.<sup>83</sup> There are also concerns that the desertion rate among military members is increasing, with some of those deserters joining the cartels. Some have urged the Calderón

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<sup>80</sup> David Shirk and Louna M. Márquez-Carrasquillo, "Border Brief: State Level Judicial Reform Initiatives in Mexico," February 21, 2008.

<sup>81</sup> Alfredo Corchado, "U.S. Denies Involvement in Training Videos Showing Mexican Officers Using Torture," *Dallas Morning News*, July 3, 2008.

<sup>82</sup> 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.

<sup>83</sup> Comisión Nacional de Derechos Humanos, (Mexico), "Informe de Actividades del 1 de enero al 31 de diciembre de 2008," Mexico, 2009, p. 36.

government to develop a time-table for Mexico's military to 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.<sup>84</sup>

Human rights organizations generally lauded the inclusion of human rights conditions (described in the **Appendix**) in Mérida Initiative appropriations legislation. Some groups, however, have expressed concerns that Mexican authorities are not taking adequate measures to comply with the conditions. Some assert that the growing role of the Mexican military in public security tasks is resulting in increased human rights violations by the military.<sup>85</sup>

## 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 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.<sup>86</sup> Depending upon how much funding Central America receives in the FY2010 budget 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.

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<sup>84</sup> Woodrow Wilson Center, Mexico Institute, *The United States and Mexico: Toward a Strategic Partnership*, January 2009.

<sup>85</sup> See testimony by Joy Olson, Washington Office on Latin America, and Lisa Haugaard, Latin America Working Group, before the House Committee on Appropriations, Subcommittee on State, Foreign Operations, and Related Programs, hearing on the Mérida Initiative, March 10, 2009.

<sup>86</sup> Manuel Roig-Franzia, "Central Americans See Peril in Bush's Anti-Drug Priorities," *Washington Post*, November 29, 2007.

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

## The Caribbean

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 they are not funded, they argued, a successful Mérida Initiative will force drug traffickers to return to the Caribbean transit zone. As a result, the 110<sup>th</sup> Congress included Haiti and the Dominican Republic in Mérida authorizations and appropriations legislation. The 111<sup>th</sup> Congress provided additional Mérida funding for Haiti and the Dominican Republic in the 2009 Omnibus appropriations measure signed into law on March 11, 2009.

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.<sup>87</sup> 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.

Finally, some Members of Congress have called for a broader expansion of Mérida Initiative-related security assistance to the Caribbean nations. They support additional foreign operations appropriations in FY2010 so that all the nations of the Caribbean receive Mérida assistance. In the authorization legislation in the 111<sup>th</sup> Congress, all Caribbean community (CARICOM) nations are included. The Obama Administration did not include Haiti and the Dominican Republic in its FY2010 request for Mérida. It did announce a new Caribbean Basin Security Initiative at the Summit of the Americas held in April 2009. This Caribbean expansion is reflected in H.R. 3081, the FY2010 foreign operations appropriation measure reported out of the House Appropriations Committee in late June 2009.

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<sup>87</sup> 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 softer human rights conditions than 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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