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

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Summary

Increasing violence perpetrated by drug trafficking organizations and other criminal groups is threatening citizen security in Mexico and Central America. Drug trafficking-related violence claimed more than 6,500 lives in Mexico in 2009, and several Central American countries have among the world's highest homicide rates. Mexican drug trafficking organizations (DTOs) dominate the illicit drug market in the United States and are expanding their operations by forming partnerships with U.S. gangs.

On October 22, 2007, the United States and Mexico announced the Mérida Initiative, a package of U.S. counterdrug and anticrime assistance for Mexico and Central America that would begin in FY2008 and last through FY2010. Congress has appropriated some $1.3 billion for Mérida programs in Mexico, $248 million for Mérida and related programs in Central America, and $42 million for Caribbean countries in P.L. 110-252, P.L. 111-8, P.L. 111-32, and, most recently, in the FY2010 Consolidated Appropriations Act, P.L. 111-117. Each of these acts contains human rights conditions on 15% of certain law enforcement and military assistance provided to Mexico and Central America. P.L. 111-117 places Central America funding into a new Central America Regional Security Initiative (CARSI), which splits Central America from the Mérida Initiative. The act also provides $37 million for a new Caribbean Basin Security Initiative (CBSI).

Throughout 2009, drug trafficking-related violence in Mexico and the potential threat of spillover along the Southwest border focused congressional concern on the pace of implementation of the Mérida Initiative. On December 3, 2009, the Government Accountability Office (GAO) issued a preliminary report for Congress on the status of funding for the Mérida Initiative. By the end of September 2009, GAO found that $830 million of the $1.3 billion in Mérida funds appropriated for Mexico and Central America as of that time had been obligated by the State Department, but only $26 million of the funds had actually been spent. The pace of implementation has accelerated since that time, with at least $113 million worth of equipment having arrived in Mexico by March 2010, but implementation challenges remain.

The 111th Congress is maintaining a strong interest in how well U.S. agencies and their foreign counterparts are implementing the Mérida Initiative and the degree to which the nations involved are fulfilling their domestic obligations under Mérida. Congress has also monitored enforcement of Mérida's human rights conditions, particularly with respect to Mexico. Congress is playing a role in the design of post-Mérida security cooperation with Mexico, Central America, and the Caribbean Basin during its consideration of the Obama Administration's FY2011 budget request. For FY2011, the Administration has asked for $310 million in assistance for Mérida programs in Mexico, $100 million for CARSI, and $79 million for CBSI. Detailed strategy documents for CARSI and CBSI are not yet available, but Secretary of State Hillary Clinton announced a new strategy for U.S.-Mexican security cooperation after a high-level meeting in Mexico City on March 23, 2010. The plan focuses on (1) disrupting organized criminal groups; (2) institutionalizing the rule of law; (3) building a 21st-century border; and (4) building strong and resilient communities.

This report provides an overview of the funding provided for the Mérida Initiative and related assistance programs in Central America and the Caribbean, the status of Mérida implementation, and a discussion of some policy issues that Congress may consider as it oversees the initiative and related programs.

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Introduction

Escalating drug trafficking-related violence in Mexico and the increasing presence of Mexican drug traffickers and Central American gangs in the United States have focused congressional concern on the pace of implementation of the Mérida Initiative.[1] These concerns have been heightened since the March 13, 2010, killing of three individuals, including two U.S. citizens, with ties to the U.S. Consulate in Ciudad Juarez, Mexico.[2] In a statement, Secretary of State Hillary Clinton said that "these appalling assaults on members of our own State Department family are, sadly, part of a growing tragedy besetting many communities in Mexico. They underscore the imperative of our continued commitment to work closely with the Government of President Calderón to cripple the influence of trafficking organizations at work in Mexico."[3] Secretary Clinton also reaffirmed the Obama Administration's commitment to supporting the counterdrug and anticrime efforts of Central American governments prior to a meeting with leaders from that region in Guatemala on March 5, 2010.[4]

To date, Congress has appropriated some $1.3 billion to support Mérida programs in Mexico, $248 million for Mérida and a new Central America Regional Security Initiative (CARSI) in Central America, and $42 million for Caribbean countries, including funds for the Caribbean Basin Security Initiative (CBSI). With funding for the original Mérida Initiative ending with the FY2010 budget cycle, much focus has centered on how the initiative and related programs in Central America and the Caribbean should move forward. Detailed strategy documents for CARSI and CBSI are not yet available. However, the Obama Administration included a new four-pillar strategy for U.S.-Mexican security cooperation in its FY2011 budget request, which was more clearly defined after Secretary of State Hillary Clinton led a Cabinet-level delegation to Mexico on March 23, 2010.

Shortly after this high-level delegation, the U.S. State Department released a joint statement from Secretary Clinton and Mexican Foreign Secretary Patricia Espinosa expressing both countries' commitment to the continuation of U.S.-Mexican security cooperation. Their strategy for the coming years seeks to "ensure continuity of bilateral actions already in place and advance new opportunities and areas of cooperation."[5] The four pillars of the new bilateral strategy will focus on (1) disrupting organized criminal groups; (2) institutionalizing the rule of law; (3) building a 21st-century border; and (4) building strong and resilient communities While the first two pillars

[1] Congress has also been concerned about the possibility of drug trafficking-related violence in Mexico "spilling over" into the United States. See: CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Jennifer E. Lake and Kristin M. Finklea.

[2] Mexican officials have arrested at least one suspect for the murders who is a member of the Barrio Azteca gang, which has ties to the Juarez DTO. "Suspect Says Juarez Killers Had Pursued Jail Guard," *NewYork Times*, April 1, 2010.

[3] Secretary of State Hillary Rodham Clinton, "Statement on the Murders in Ciudad Juarez, Mexico," March 14, 2010.

[4] Prior to meeting with the Central American presidents, Secretary Clinton expressed hope that "we can have a very in-depth talk about what they want in terms of help and how best we can support their efforts. We are committed to doing everything we can in the fight against corruption and impunity, in providing the equipment and the support that law enforcement and the military require, and helping to build civil society to stand against the scourge of drug trafficking." Secretary of State Hillary Rodham Clinton, "Remarks With Guatemalan President Alvaro Colom," Guatemala City, Guatemala, March 5, 2010.

[5] Office of the Spokesman, U.S. Department of State, "Joint Statement of the Mérida Initiative High Level Consultative Group on Bilateral Cooperation against Transnational Organized Crime," March 23, 2010

largely build upon efforts that began under the Bush Administration, pillars three and four broaden the scope of bilateral cooperation to include efforts to facilitate "secure flows" of people and goods through the U.S.-Mexico border and to promote social and economic development in violence-prone communities (see "Beyond the Mérida Initiative" section below).

The 111th Congress is likely to continue overseeing how Mérida and related funds have been used, any planned adjustments in the uses of funds appropriated during the FY2008-FY2010 budget cycles, and the degree to which the Obama Administration's new strategies for Mexico, Central America, and the Caribbean complement each other and U.S. domestic counterdrug and border security efforts.

Background

Mexico is a major producer and supplier to the U.S. market of heroin, methamphetamine, and marijuana and the major transit country for cocaine sold in the United States. According to the Department of State's 2010 *International Narcotics Control Strategy Report*, as much as 90% of all cocaine entering the United States flows through Mexico or its territorial waters, with at least 42% of that cocaine first stopping in Central America.[6] A small number of Mexican drug trafficking organizations (DTOs), often mistakenly referred to as "drug cartels,"[7] control the most significant drug distribution operations along the Southwest border. Mexican DTOs have expanded their dominance of the U.S. drug market by increasing their transportation and distribution networks, as well as displacing other Latin American DTOs, primarily Colombians.[8]

Since taking office in December 2006, Mexican President Felipe Calderón has made combating the DTOs a centerpiece of his domestic policy agenda. The Calderón government has scored some significant victories against the DTOs, such as the killing of Arturo Beltrán Leyva and capture of Teodoro Garcia Simental.[9] However, the government's crackdown, as well as turf wars among rival DTOs, has fueled an escalation in violence throughout the country, including states along the U.S.-Mexico border. In 2008, more than 5,100 people in Mexico were killed in drug trafficking-related violence, a 126% increase over 2007. In 2009, conservative estimates indicate that more than 6,500 people, including 35 soldiers and close to 500 police officers, died as a result of drug trafficking-related violence homicides, with the violence largely concentrated in five states.[10] In many areas of those states, such as Ciudad Juarez in Chihuahua, violence has

[6] INCSR 2010.

[7] The term drug cartel remains the term used colloquially and in the press, but some experts disagree with this because "cartel" often refers to price-setting groups and it is not clear that Mexican drug trafficking organizations are setting illicit drug prices.

[8] U.S. Department of Justice, National Drug Intelligence Center (NDIC), *2010 National Drug Threat Assessment*, February 2010.

[9] Elliot Spagat, "Mexico-U.S. Cooperation Cited in 2nd Drug Lord Arrest," *Associated Press*, January 12, 2010.

[10] Figures for 2008 and 2009 are drawn from the Trans-Border Institute (TBI), "Drug Violence in Mexico: Data and Analysis from 2001-2009," January 2010, citing data gathered by *Reforma* newspaper. For a description as to why *Reforma* data are used instead of other sources, see p. 2-3 of the TBI report, available at: http://www.justiceinmexico.org/resources/pdf/drug_violence.pdf. According to the *Reforma* data, the states that accounted for the largest proportions of all drug trafficking-related homicides in Mexico in 2009 were Chihuahua (31%), Sinaloa (12%), Guerrero (10%), Durango (10%), and Michoacán (6%). The overall rate and number of drug-trafficking related homicides declined significantly in Baja California in 2009 as compared to the previous year, although there was an uptick in violence in that state in November and December.

remained at elevated levels despite the presence of large numbers of federal troops and police. Thus far in 2010, drug trafficking-related violence has escalated even further, with record levels of violence occurring in new "hot spots" in Tamaulipas, Nuevo Leon, and Sonora.[11]

Mexican DTOs are also expanding their operations into Central America[12], a volatile region where the governments of some countries—particularly Guatemala, El Salvador, and Honduras—are already dealing with some of the highest violent crime rates in the world.[13] Central American law enforcement officials have even less training and equipment to deal with DTOs, organized crime, and criminal gangs than their Mexican counterparts, making them highly susceptible to drug-related corruption. In addition, as with Mexico, Central American countries continue to have problems with impunity and human rights abuses by security forces that have hindered the performance and reputation of their law enforcement and judicial systems.

The Development of the Mérida Initiative

Prior to 2007, neither Mexico nor any of the countries in Central America had received large amounts of U.S. counterdrug assistance. In FY2007, for example, Mexico received $36.7 million in counterdrug assistance and the only Central American countries to receive counterdrug funds were Guatemala ($1.9 million) and Panama ($3.3 million).

In response to the Mexican government's request for increased cooperation and assistance, in October 2007 the United States and Mexico proposed the Mérida Initiative, a package of U.S. counterdrug and anticrime assistance to Mexico and Central America. [14] As proposed, the Mérida Initiative was to provide some $1.4 billion in assistance, largely in the form of equipment and training, from FY2008 through FY2010. The four primary goals of the Mérida Initiative, as originally conceived, were to (1) break the power and impunity of criminal organizations; (2) assist the Mexican and Central American governments in strengthening border, air, and maritime controls; (3) improve the capacity of justice systems in the region; and (4) curtail gang activity in Mexico and Central America and diminish drug demand in the region. Within these over-arching goals, the State Department developed specific objectives and performance measures for evaluating the Mérida Initiative.[15] These indicators are likely to expand, however, given the new, broader focus for Mérida programming efforts.

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[11] See, for example, Samuel Logan and John P. Sullivan, "The Gulf-Zeta Split and the Praetorian Revolt," *ISN Security Watch*, April 7, 2010; "Calderón at Bay," *Latin American Mexico & NAFTA Report*, April 2010.

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

[13] U.N. Development Program (UNDP), "Informe Sobre Desarrollo Humano Para América Central 2009-2010: Abrir Espacios a la Seguridad Ciudadana y el Desarrollo Humano," October 2009.

[14] The U.S. and Mexican joint statement on the Mérida Initiative highlighted 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. 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 were 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.

[15] U.S. Department of State, ,"FY2008 Supplemental Appropriations Spending Plan, Mexico, Central America, Haiti, and the Dominican Republic," September 9, 2008, pp. 16-39.

According to its proponents, the Mérida Initiative is more than just a foreign assistance package, it is a new kind of regional security partnership between the United States, Mexico, and Central America. Analysts and U.S. officials have repeatedly 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.[16] Since President Calderón took office, Mexico has increased security spending (to $6.9 billion in 2010), mobilized thousands of soldiers and police to drug trafficking "hot-spots" throughout the country, and enacted judicial and law enforcement reforms. The Obama Administration has, for its part, launched a Southwest Border Initiative that has resulted in record seizures of arms and bulk cash flowing into Mexico, carried out multi-agency law enforcement operations against Mexican DTOs, and increased intelligence-sharing with Mexican counterpart agencies.[17] Central American leaders have regularly met to develop ways to better coordinate their security and counterdrug efforts through the Central American Integration System (SICA).

Funding the Mérida Initiative: FY2008-FY2010

Mexico

FY2008 Supplemental Appropriations

In June 2008, the 110th Congress appropriated $352 million in FY2008 supplemental assistance and $48 million in FY2009 bridge fund supplemental assistance for Mexico in P.L. 110-252, the FY2008 Supplemental Appropriations Act (see **Table 1** for funding for Mexico by year and aid account). In contrast to the Bush Administration, which requested all Mérida funding in the International Narcotics Control and Law Enforcement (INCLE) account, Congress divided the funding for Mexico in P.L. 110-252 between the INCLE, Foreign Military Financing (FMF), and Economic Support Fund (ESF) aid accounts. Congress earmarked $73.5 million for judicial reform, institution building, rule of law, and anti-corruption activities.[18] Congress also stipulated that none of the funds may be used for budget support or as cash payments. Congress limited the amount of FMF and INCLE available to provide equipment to the Mexican Army/Air Force and Navy and made 15% of FMF and INCLE contingent on meeting certain human rights conditions.[19] (See **Appendix A** for the final language of the human rights conditions in P.L. 110-252.) The State Department issued a somewhat favorable human rights progress report to

[16] Andrew Selee, "U.S.-Mexico Cooperation: A New Opportunity?" *Americas Quarterly*, Summer 2009; U.S. Department of State, Secretary of State Hillary Rodham Clinton, "Remarks with Mexican Foreign Secretary Patricia Espinosa After Their Meeting," Mexico City, Mexico, March 25, 2009.

[17] U.S. Department of State, "United States-Mexico Security Partnership: Progress and Impact," March 23, 2010; U.S. Department of Homeland Security (DHS), "Secretary Napolitano Highlights Border Security Accomplishments on One Year Anniversary of Southwest Border Initiative," March 26, 2010.

[18] In addition to 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 training programs.

[19] The human rights conditions in P.L. 110-252 are less demanding than earlier House and Senate versions, largely because of Mexico's objections that some of the original conditions would have violated its national sovereignty. As enacted, the measure reduced the amount of funding subject to human rights conditions, from 25% to 15% of FMF and INCLE, and 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. The legislation also softened the language concerning other conditions.

Congress on August 13, 2009, thereby meeting the statutory requirements in P.L. 110-252 for the release of the FMF and INCLE funds that had been on hold.

According to the Department of State,[20] which is leading Mérida Initiative implementation, the first tranche of $400 million for the foreign aid program provided in P.L. 110-252 included 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.

FY2009 Appropriations

In March 2009, the 111th Congress passed the Omnibus Appropriations Act, (P.L. 111-8) providing $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 continued the same human rights conditions originally set forth in P.L. 110-252. In P.L. 111-8, human rights conditions affected 15% of the total funds provided, not including assistance for judicial reform, institution building, anti-corruption, and rule of law activities.[21] The same human rights progress report submitted to Congress in mid-August 2009 by the State Department met the statutory requirements in P.L. 111-8 for the release of roughly $31.5 million in FMF and INCLE funds that had been on hold.

On April 9, 2009, the Obama Administration submitted a FY2009 supplemental request that included an additional $66 million in INCLE assistance to acquire three Blackhawk helicopters, along with spare parts and support for those helicopters, for Mexico's civilian Secretariat for Public Security (SSP).[22] On June 24, 2009, President Obama signed the FY2009 supplemental appropriations measure passed by Congress (P.L. 111-32), which included $160 million in INCLE assistance and $260 million in FMF for Mexico, $354 million more than the Administration's

[20] 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 9, 2008.

[21] P.L. 111-8 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.

[22] Another $16 million in reprogrammed Mérida Initiative funds previously appropriated in P.L. 110-252 would be used to pay for maintenance of the helicopters.

request.[23] Congress made 15% of the INCLE assistance provided in P.L. 111-32 subject to the same human rights conditions set forth in the FY2009 omnibus measure (P.L. 111-8), but did not include conditions on the FMF provided.[24] P.L. 111-32 also appropriated significant funds to other U.S. agencies, including the Departments of Justice and Homeland Security, to increase security on the Southwest border.

FY2010 Appropriations

For FY2010, the Obama Administration requested $450 million in INCLE assistance for Mexico for helicopters, fixed-wing aircraft, and surveillance systems for Mexico's SSP; helicopters for the Mexican Navy; and non-intrusive inspection equipment for the SSP, the Mexican military and Customs. The Administration sought support for law enforcement training programs in investigative techniques and ethics, as well as anti-corruption training for internal watchdog units within the Attorney General's Office (PGR) and SSP. The Administration's FY2010 request also included funding for ongoing rule of law reforms.

On December 13, 2009, Congress passed the FY2010 Consolidated Appropriations Act (H.R. 3288/P.L. 111-117), which included $210.3 million for Mexico in the INCLE, ESF, and FMF accounts subject to the same human rights conditions as P.L. 111-8. While Congress provided less funding for Mérida-related programs in Mexico and Central America than the Administration's FY2010 request, Congress had appropriated significantly more for Mexico than requested in the FY2009 supplemental spending measure, and considered $254 million of this as forward funding of FY2010. In the Joint Explanatory Statement to P.L. 111-117, the conferees directed the Secretary of State to submit a report to within 90 days of the enactment of the Act addressing how prior Mérida funds have been used, progress to date, any planned adjustments in the uses of funds, and post-Merida plans. **Table 1** describes the various funding levels addressed above.

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

($ in millions)

Account	FY2008 Supp. (P.L. 110-252)	FY2009 Bridge (P.L. 110-252)	FY2009 (P.L. 111-8)	FY2009 Supp. (P.L. 111-32)	FY2010 P.L. 111-117)	Account Totals
ESF	20.0	0.0	15.0	0.0	15.0	50.0
INCLE	215.5	48.0	246.0	160.0	190.0	859.5
FMF	116.5	0.0	39.0	260.0	5.3	420.8
Total	**352.0**	**48.0**	**300.0**	**420.0**	**210.3**	**1,330.3**

Sources: U.S. Department of State, FY2008 Supplemental Appropriations Spending Plan, FY2009 Appropriations Spending Plan, and FY2009 Supplemental Spending Plan. FY2010 Consolidated Appropriations Act (P.L. 111-117).

[23] The $160 million in INCLE funds can be used to supply the Mexican federal police with items such as forensics and nonintrusive inspection equipment, computers, training, and fixed and rotary wing aircraft (including the requested Blackhawk helicopters). The $260 million in FMF funding is for expedited aviation assistance to the Mexican Navy.

[24] These INCLE funds will be on hold until the human rights progress report for FY2010 is submitted by the State Department.

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

Non-Mérida Assistance for Mexico

In addition to funding provided through the Mérida Initiative, Mexico continues to receive U.S. assistance through other State and Defense Department assistance accounts, some of which is for security and counterdrug programs. For example, in FY2009 Mexico received roughly $0.8 million for military training programs funded through the State Department's International Military Education and Training Account (IMET), up from $0.4 million in FY2008. Apart from the Mérida Initiative, the U.S. Department of Defense (DOD) provided a $13 million counterterrorism training and equipment package to the Mexican military in FY2008.[25] In addition, while DOD only provided some $12.2 million in CN training assistance to Mexico in FY2008, DOD assistance expanded to roughly $34.2 million in FY2009 in order to complement Mérida programs.[26] On December 16, 2009, Congress appropriated an additional $50 million in funding for counternarcotics communication equipment for Mexico in the FY2010 Department of Defense Appropriations Act (H.R. 3326/P.L. 111-118).[27]

Central America

FY2008 Supplemental Appropriations

The FY2008 Supplemental Appropriations Act (P.L. 110-252) included $60 million in Mérida funds for Central America. 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 being 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 supporting 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).[28]

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[25] In the FY2006-FY2008 annual Department of Defense (DOD) authorization bills, Congress provided DOD with authority to train and equip foreign military forces to perform counterterrorism operations. This "Section 1206" authority, as it is known, enables DOD to use defense funds to conduct or support train and equip programs such as those usually provided under State Department security assistance authorities and budgets. U.S. Department of Defense, "Section 1206 Programs Fact Sheet." July 29, 2009.

[26] Section 1022 of the National Defense Authorization Act for Fiscal Year 2008 (P.L. 110-181) extends Section 1033(b) of the National Defense Authorization Act for Fiscal Year 1998 to make available train and equip authorities to Mexico. DOD response to CRS request, October 13, 2009.

[27] Funding for this equipment is listed as "Digital Communications Equipment" on p.352 of the Joint Explanatory Statement for the FY2010 Defense Appropriations Act (H.R. 3326/P.L.-111-118).

[28] 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.

As with Mexico, P.L. 110-252 required that 15% of INCLE and FMF assistance be withheld until the Secretary of State reports that the Central American governments are taking steps to create police complaints commissions, reform their judiciaries, and investigate and prosecute military and police forces who have been credibly alleged to have committed human rights violations. (see **Appendix A** for the final language of the human rights conditions). The State Department submitted human rights progress reports for Belize, Costa Rica, the Dominican Republic, El Salvador, Haiti, Honduras, and Panama on April 30, 2009, and for Guatemala on August 18, 2009. The State Department was unable to report on progress made by Nicaragua, and on August 13, 2009, reprogrammed $252,600 in FY 2008 INCLE funds withheld from Nicaragua to support efforts in Belize, Costa Rica, and Panama.

FY2009 Appropriations

In the FY2009 Omnibus Appropriations Act, P.L. 111-8, Congress provided $105 million in funding for Central America subject to similar human rights conditions as in P.L. 110-252. The explanatory statement to the FY2009 omnibus bill provided $70 million in INCLE for the region. It also stipulated that $15 million of the FMF funds appropriated must support maritime security programs and that $12 million of the ESF appropriated must fund USAID's Economic and Social Fund for Central America. On August 27, 2009, the Secretary of State reported on progress made by Belize, Costa Rica, El Salvador, Guatemala, and Panama, meeting the 15% withholding statutory requirement. Some $1.73M in FY 2009 INCLE funds remains withheld pending the submission of a 15% report to Congress for Honduras, and a report defining how assistance that was originally destined for programs in Nicaragua will be reprogrammed.[29]

FY2010 Appropriations

For FY2010, the Obama Administration requested $100 million in INCLE assistance for Central America to enhance regional capability to protect citizen security, combat illegal trafficking and build stronger justice sector institutions. According to the request, funding would support U.S. anti-gang efforts, provide equipment and technical assistance for community policing and juvenile justice systems, and implement anti-corruption measures.

On December 13, 2009, Congress passed the FY2010 Consolidated Appropriations Act (H.R. 3288/P.L. 111-117), included $83 million for Central America to combat drug trafficking and organized crime, and for judicial reform, institution building, anti-corruption, rule of law, and maritime security. The Act placed Central America funding into a new Central America Regional Security Initiative (CARSI), which split Central America from the Merida Initiative. It made CARSI funds subject to the same human rights conditions as those provided in P.L. 111-8. The Joint Explanatory Statement to P.L. 111-117 directed the Secretary of State to submit a report within 90 days of the enactment of the Act detailing the threats to be addressed, goals, and expected results of the programs that have been funded thus far in Central America (as well as Haiti and the Dominican Republic) through Mérida and CARSI.

[29] Email from State Department official to CRS, April 12, 2010.

Table 2. FY2008-FY2010 Mérida/CARSI Funding for Central America by Aid Account

($ in millions)

Account	FY2008 Supp. (P.L. 110-252)	FY2009 (P.L. 111-8)	FY2010 (P.L. 111-117)[a]
ESF	25.0	18.0	n/a
INCLE	24.8	70.0	n/a
NADR	6.2	0.0	n/a
FMF	4.0	17.0	n/a
Total	**60.0**	**105.0**	**83.0**

Source: U.S. Department of State, FY2008 Supplemental Appropriations Spending Plan, FY2009 Appropriations Spending Plan, and "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; NADR=Non-proliferation, Anti-terrorism, Demining. and Related Programs.

a. P.L. 111-117 does not provide a funding breakdown for Central America by aid account. That information may be included in the State Department's FY2010 Spending Plan, which has yet to be submitted to Congress.

The Caribbean

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 P.L. 110-252 and again in P.L. 111-8. In Haiti, Mérida funds are being used to install a secure communications network for the Haitian National Police (HNP), support the HNP's drug interdiction efforts, and provide training for Haitian judicial officials. In the Dominican Republic, Mérida funds are being used to support police professionalization programs, provide logistical support to interdiction units, and train judicial authorities in implementing the new criminal procedure code.

For 2010, the Obama Administration did not seek Mérida Initiative funding for Haiti and the Dominican Republic in its budget request, but proposed a new security regime for the Caribbean, the Caribbean Basin Security Initiative (CBSI). The FY2010 Consolidated Appropriations Act (H.R. 3288/P.L. 111-117) provided $37 million for CBSI, of which "not less than" $21 million is to be used for social justice and education programs.

Other Mérida Legislation in the 111th Congress

H.R. 2410 (Berman) Foreign Relations Authorization Act, Fiscal Years 2010 and 2011. Introduced May 14, 2009; House Committee on Foreign Affairs held markup and ordered the bill reported. House approved June 22, 2009. Title IX, Subtitle A of the bill, as introduced, consists of actions to enhance the Mérida Initiative, including the designation of a high-level coordinator within the Department of State to implement the program; the addition of Caribbean Community (CARICOM) countries to the Mérida Initiative; the establishment and implementation of a program to assess the effectiveness of assistance provided under the Mérida Initiative; within 180 days and not later than December 1 of each year thereafter, a reporting requirement regarding the programs and activities carried out under the Mérida Initiative. Title IX, Subtitle B of 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).

H.R. 3239 (Kirkpatrick) Introduced July 16, 2009; referred to Committees on Homeland Security and Foreign Affairs. House Committee on Homeland Security ordered the bill reported March 9, 2010. The bill would require the Secretary of Homeland Security, in consultation with the Secretary of State, to submit a report on the effects of the Mérida Initiative on the border security of the United States.

Status of Implementation

There has been increasing concern in Congress about the slow delivery of Mérida assistance. U.S. officials reportedly attributed early delays in disbursal of FY2008 funds to U.S. government contracting regulations, negotiations with Mexico and other countries about what equipment is actually needed, and the difficulty of delivering an aid package that involves so many agencies and offices.[30] More recent delays in Mérida implementation have also occurred because Congress did not pass the FY2009 or FY2010 appropriations bills until well into those fiscal years, and as a result of ongoing consultations between the State Department and congressional appropriators on the contents of the spending plans and human rights progress reports required by the Mérida appropriations legislation.

On December 3, 2009, the Government Accountability Office (GAO) issued a preliminary report for Congress on the status of funding for the Mérida Initiative. By the end of September 2009, GAO found that $830 million of the $1.3 billion in Mérida funds appropriated for Mexico and Central America had been obligated by the State Department, but only $26 million of the funds had actually been spent. The report attributed delays in Mérida implementation to "(1) statutory conditions on the funds, (2) challenges in fulfilling administrative procedures [required for obligation and expenditure of the funds][31], and (3) the need to enhance institutional capacity on the part of both recipient countries and the United States to implement the assistance."[32]

In a written response to the GAO report, the State Department acknowledged that implementation delays had occurred, but stated that it had devoted significant time to working with partner

[30] William Booth and Steve Fainaru, "U.S. Aid Delays in Drug War Criticized," *Washington Post*, April 5, 2009. A cursory review of Mérida program documents indicates that at least ten U.S. agencies and offices are involved in implementing aspects of the Initiative. Those agencies and offices include, but are not limited to: the State Department; USAID; Department of Defense; ICE, Customs and Border Protection, and Coast Guard within the Department of Homeland Security; Federal Bureau of Investigation, U.S. Marshals Service, DEA, the Office of Overseas Prosecutorial Development, Assistance, and Training, and the International Criminal Investigative Training Assistance Program within the Department of Justice; the Treasury Department; and the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

[31] Prior to the disbursal of INCLE funding for Mérida, the State Department had to negotiate and sign Letters of Agreement with the countries that were to receive those funds. On December 3, 2008, the United States and Mexico signed a Letter of Agreement, allowing $197 million in Mérida funds to be disbursed. By the end of June 2009, all the Central American countries, Haiti, and the Dominican Republic had signed Letters of Agreement.

[32] U.S. Government Accountability Office (GAO), "Status of Funds for the Mérida Initiative," December 3, 2009, GAO 10-253R, available at: http://www.gao.gov/products/GAO-10-253R. The GAO is scheduled to issue a more detailed follow-up report on Mérida implementation in the summer of 2010.

governments to prepare for the disbursement and coordination of Mérida assistance. The State Department criticized the GAO's use of "expended funds" as its primary performance measure, since this measure did not account for ongoing training programs or equipment that had been ordered.[33] As of late November 2009, the State Department reported that approximately $359 million in Mérida funding was actively supporting projects in Mexico and Central America.[34]

State Department officials in Mexico City have continued to report significant progress in Mérida implementation since the GAO reporting period ended. According to a State Department equipment report, roughly $113 million worth of equipment had arrived in Mexico by March 23, 2010, including five Bell helicopters valued at $66 million for the Mexican Army and a $28 million software package for the Attorney General's Office. Another $151.2 million in equipment is scheduled to be delivered by the end of 2010, including three UH-60 helicopters valued at $76.5 million for the SSP.[35] Among Mérida-funded training programs, police professionalization programs appear to have advanced the furthest. Approximately 4,300 university-educated police officers have graduated from the basic investigative training course offered at the refurbished federal police institute at San Luis Potosi. And, although many judicial training programs are just getting underway, at least 87 judges and prosecutors had completed U.S.-funded courses on administering oral trials by late March 2010.[36]

As with Mérida-Mexico, Mérida/CARSI programs in Central America have taken longer to get off the ground than originally anticipated by the Administration, but are now showing progress in implementation.[37] Police equipment is beginning to arrive throughout the region, as well as Spanish "e-Trace" firearms tracking technology provided by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). A Transnational Anti-Gang (TAG) unit should begin working in Guatemala later this year; another will then be created in Honduras. A regional legal advisor from the FBI is scheduled to arrive in May to be based in El Salvador, while Immigration and Customs Enforcement is supplementing vetted units in Honduras, El Salvador, Guatemala and Panama with Merida/CARSI funding. USAID has awarded contracts for most of its Mérida-related crime prevention and institution-building programs, including funding to support an impact evaluation survey on the effects of its programs on municipal-level crime statistics and citizen perceptions of crime. U.S. Customs and Border Protection conducted land border port of entry assessments in each of the Central American countries and is now determining how to meet the needs identified in those assessments. Similarly, regional firearms assessments have been initiated, and a review of El Salvador has been completed. Mérida funding is also being used to support Central American officials' participation in courses taught at the International Law Enforcement Academy and the Center for Hemispheric Defense Studies.

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

[33] Ibid, p. 26-7.

[34] Roughly $12.3 million of that funding was supporting programs in Central America. Data provided in an email from State Department official, January 13, 2010.

[35] U.S. Department of State, "Mérida Initiative – Significant Activities," March 23, 2010.

[36] U.S. Department of State, "United States-Mexico Security Partnership: Progress and Impact," March 23, 2010.

[37] This information was gathered in a phone interview with a State Department official, April 12, 2010.

Central America that are struggling to address drug trafficking-related violence. President Obama reaffirmed his commitment to supporting Mexico's counterdrug efforts during two visits to Mexico that took place in April and August 2009. He has invited President Calderón to Washington, DC, for an official visit and state dinner to be held on May 19, 2010, during which bilateral security efforts are likely to be discussed. The 111th Congress has held numerous hearings on the heightened drug trafficking-related violence in Mexico and how to combat the DTOs. In early April, a high-level congressional delegation met with President Calderón and Mexican legislators in Mexico City to discuss the future of U.S. assistance to Mexico and plans to address drug trafficking-related violence in Ciudad Juarez.[38] The 111th Congress is closely monitoring the efficacy of assistance provided through the Mérida Initiative and compliance with Mérida's human rights conditions.

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. During her trip, she stated that an "insatiable demand for illegal drugs" in the United States "fuels the drug trade."[39] With regard to the United States as a source of the weapons that arm the drug traffickers, 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."[40] Secretary Clinton made similar comments on March 23, 2010, after chairing a Cabinet-level meeting in Mexico City on the future of the Mérida Initiative when she asserted that the United States "must and is doing its part" to counteract U.S. drug demand and illegal firearms purchases. Congress is continuing to examine how well the U.S. government is demonstrating its "shared responsibility" to tackle domestic problems contributing to drug trafficking and crime in the region.

This section of the report raises some questions and policy issues that Congress is likely to consider at it oversees implementation of the Mérida Initiative.

Is Mérida the Right Drug Control Approach?[41]

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.[42] In February 2009, a non-governmental, independent study group called the Latin American Commission on Drugs and Democracy—co-chaired by former presidents from Brazil, Colombia, and Mexico—concluded that the current international drug control model has failed and called for a new policy focused more on "harm reduction" through prevention and treatment than on criminalizing drugs. Many studies, including an October 2008 report by the Government Accountability Office (GAO), have concluded that while Plan Colombia, a centerpiece of U.S. international drug control efforts, improved security

[38] Office of Rep. Silvestre Reyes, "Reyes Meets with President Calderón in Mexico City," April 7, 2010.

[39] 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.

[40] Ibid.

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

[42] See, for example, International Crisis Group, "Latin American Drugs II: Improving Policy and Reducing Harm," March 14, 2008.

conditions in Colombia, it did not significantly reduce the amount of drugs flowing into the United States.[43]

These concerns have recently been echoed by Members of Congress. The Western Hemisphere Drug Policy Commission Act of 2009, H.R. 2134 (Engel), passed by the House on December 8, 2009, would establish a commission to evaluate U.S. drug control policies and programs directed at the Western Hemisphere and to provide recommendations on how to improve U.S. international and domestic drug policies. On March 26, 2010, Senators Menendez and Kerry introduced S. 3172, the Counternarcotics and Citizen Security for the Americas Act of 2010, which would, among other things, require the State Department to submit a multi-year, Inter-American counternarcotics strategy report to Congress. S. 3172 would also encourage the State Department to focus U.S. counterdrug and other security-related assistance on strengthening civilian institutions in recipient countries.

Early assessments of the likely impact of the Mérida Initiative varied significantly. Mérida supporters described the initiative as a security cooperation partnership against drug traffickers and organized criminal groups, rather than a foreign assistance program. They urged Congress to fully fund Mérida in order to help build the capacity of both military and civilian institutions in partner nations to carry out bilateral and regional counterdrug efforts.[44] Others were more skeptical, maintaining that fighting the drug trade will require more than providing equipment and training for Mexican and Central American military and police forces. They asserted that Mérida needs to include more funding to address the weak civilian judicial and law enforcement institutions, as well as the underlying societal problems, such as poverty and corruption, which have allowed the drug trade to flourish in the region. They also emphasized the importance of addressing U.S. and European drug demand.[45]

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

During the 110th Congress, debates emerged within Congress about the balance of security vs. institution-building funding in the Bush Administration's FY2008 supplemental request for Mexico. 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.[46]

[43] 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.

[44] American Enterprise Institute, "Five Perspectives on the Mérida Initiative: What it is and why it Must Succeed," March 4, 2008; Heritage Foundation, "Executive Summary: Mexico, Drug Cartels, and the Merida Initiative: A Fight We Cannot Afford to Lose," by Ray Walser, July 23, 2008.

[45] 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.

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

As noted above, Congress has employed a variety of measures to ensure that various "soft-side" programs receive support from the Mérida Initiative. These have included limiting the FMF and INCLE funds available to provide equipment to the Mexican military, and earmarking $73.5 million in FY2008 supplemental funds and $75 million in FY2009 assistance for institution building, rule of law, and anti-corruption activities in Mexico. Similarly, Congress reduced border security and counterdrug assistance for Central America in the FY2008 supplemental in order to free up $25 million in ESF funds for an Economic and Social Development Fund for the region. Congress provided an additional $12 million for the Economic and Social Development Fund in the FY2009 omnibus measure, but did not set aside specific money to support it in FY2010.

With respect to funding for Mexico, several studies have criticized the Mérida Initiative for focusing too much on technology transfer and not enough on capacity-building and institutional reform. In addition to increasing funding for existing rule of law, human rights, and anti-corruption programs, these studies have identified several other "soft-side" programs and approaches that could be implemented. One study urged U.S. support for the establishment of constabulary forces and community policing programs in order to improve police-community relations. Another suggested financing micro-credit, job training, and alternative livelihoods programs aimed at addressing the poverty that has led some people to collaborate with the DTOs.[47] Still another urged the United States to consider channeling a larger proportion of assistance to state and local entities, particularly initiatives aimed at improving transparency and accountability in government.[48] Some of these studies appear to have influenced the Obama Administration's "Beyond Mérida" strategy.[49]

Monitoring Progress

U.S. and Mexican security experts have 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. 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, some indicators that might indicate that Mérida is helping break the power and impunity of criminal organizations, might include trends in narcotics flows from Mexico to the United States, changes in the amount of illicit materials seized, and the number of high-profile drug traffickers arrested.[50] As previously stated, the Joint Explanatory Statement to the FY2010 Consolidated Appropriations Act directed the State Department to submit a report to congressional appropriators within 90 days on progress that has been made thus far in implementing the Mérida Initiative. That report, which has yet to be submitted, is likely to contain a number of new performance indicators.

State Department officials have warned, however, that sometimes certain indicators can be misleading. For example, drug seizures in Mexico decreased in 2008 as compared to 2007. Rather than attributing a decline in seizures to some deficiency in Mexican counterdrug efforts, U.S. law enforcement officials believe that traffickers have been forced to seek alternate routes because of

[47] Hal Brands, "Mexico's Narco-Insurgency and U.S. Counterdrug Policy," Strategic Studies Institute, May 2009.

[48] See, for example, Schaefer et al., "Security in Mexico: Implications for U.S. Policy Options," RAND Corporation, 2009.

[49] Eric L. Olson and Christopher E. Wilson, "Beyond Merida," Woodrow Wilson Center, April 6, 2010.

[50] For a complete list of those indicators, see U.S. Department of State, ,"FY2008 Supplemental Appropriations Spending Plan, Mexico, Central America, Haiti, and the Dominican Republic," September 9, 2008, pp. 16-39.

better enforcement in Mexico.[51] In 2009, Mexico seized record amounts of methamphetamine and slightly more cocaine than in 2008, but marijuana seizures declined.[52]

U.S. officials also maintain that some of the most important results of Mérida thus far may be impossible to quantify, such as the increase in communication and cooperation that has developed as a result of the initiative among U.S., Mexican, and Central American law enforcement and security officials.[53] There appears to be a particularly strong sense of co-responsibility and high level of cooperation in implementing the Mérida Initiative among high-ranking U.S. and Mexican officials. This is in sharp contrast to the past, when mutual mistrust hindered bilateral counterdrug efforts. The U.S. and Mexican governments have designed a multi-level working group structure to design and implement bilateral security efforts. By May 2010, U.S. policy-planners from the State Department's Narcotics Affairs Section (NAS), which oversees Mérida implementation, and Mexican officials from 16 partner agencies will be co-located in a new bilateral office, the first of its kind at any U.S. Embassy.

Interagency Coordination

The Mérida Initiative is a wide-ranging foreign assistance package with diverse program components that are being carried out by a wide range of U.S. agencies under the leadership of the State Department. For NAS in Mexico City, which is still in the process of hiring all of its Mérida-related positions, tracking the funding and implementation of all 43 FY2008 Mérida programs in Mexico has proven to be no small feat. (Most FY2009-funded programs have yet to commence.) NAS has had to negotiate a large number of complicated inter-agency agreements to delineate funding streams and agency responsibilities for particular programs, some of which are still being finalized.

In addition, as noted in the GAO report, it has taken time for U.S. agencies charged with implementing Mérida programs to deploy "sufficient personnel to effectively manage the seven-fold increase in U.S. law enforcement-related assistance to Mexico"[54] that has occurred as a result of the Mérida Initiative. Some agencies, such as the State Department, are further along in that process than others, which has caused delays in some training programs involving expertise that can only be provided by particular U.S. agencies and offices. Other agencies, like the Federal Bureau of Investigation, have had to shift their staff's focus away from strictly engaging in operations in Mexico towards planning and carrying out training programs for their Mexican counterparts.

Role of the Department of Defense

In contrast to Plan Colombia, the Mérida Initiative does not include an active U.S. military presence in Mexico or Central America, largely due to Mexican concerns about national sovereignty stemming from past conflicts with the United States.[55] DOD did not play a primary

[51] U.S. Department of State, *2009 International Narcotics Control Strategy Report*, February 27, 2009.

[52] INCSR 2010.

[53] Interviews with State Department officials in Mexico City, December 2009.

[54] GAO, December 2009, p. 14.

[55] Until very recently, military to military cooperation between Mexico and the United States was extremely limited. See: Testimony of Roderic Ai Camp before the Congressional Policy Forum, "Role of Military to Military (continued...)

role in designing the Mérida Initiative and is not providing assistance through Mérida aid accounts, but is administering assistance provided through the FMF account. As an implementing agency, DOD's role has largely involved overseeing the procurement and delivery of Mérida-funded equipment for Mexican and Central American security forces.

Apart from the Mérida Initiative, DOD has its own legislative authorities to provide certain counterdrug assistance. DOD programs in Mexico are overseen by the U.S. Northern Command (NORTHCOM), which is located on Peterson Air Force Base in Colorado, whereas programs in Central America are managed by U.S. Southern Command (SOUTHCOM), which is based in Miami, FL. DOD can provide counterdrug assistance under certain circumstances outlined in Sec. 1004 of P.L. 101-510, as amended through FY2010, and can provide additional assistance to 22 countries as provided for in Sec. 1033 of P.L. 105-85, as amended through FY2010. Under these authorities, DOD counternarcotics assistance to Mexico totaled roughly $12.1 million in FY2008 and $34.2 million in FY2009. DOD counternarcotics assistance to the Central American countries totaled approximately $16.8 million in FY2008 and $17.7 million in FY2009.[56]

In the FY2006-FY2010 annual Department of Defense (DOD) authorization bills, Congress also provided DOD with authority to train and equip foreign military forces to perform counterterrorism operations. DOD used this "Section 1206" authority, as it is known, to provide a total of $13.9 million in counterterrorism training and equipment to the Mexican military in FY2007 and FY2008. The Dominican Republic, Honduras, Panama, Nicaragua, and Belize have also benefitted from maritime security programs that have been supported by Section 1206 funds.[57] Congress has prohibited section 1206 funds from being used for counterdrug efforts.

Defense Secretary Robert Gates and Joint Chiefs Chairman Admiral Mike Mullen recently traveled to Mexico along with Secretary Clinton to offer increased military assistance and collaboration to their Mexican counterparts.[58] DOD officials in Mexico City have predicted that while DOD is unlikely to provide Mexico with the same amount of funds it has provided to Colombia, the same variety of programs may be funded, including training in how to work with police forces, conduct anti-drug operations and investigations, and pursue the leaders of drug trafficking organizations.[59] DOD counterdrug support to foreign countries must be requested by the U.S. Embassy to that country. While DOD counterdrug programs supporting Mexico and Central America do not fall under the Mérida Initiative, DOD programs are designed to complement the Merida Initiative.

(...continued)

Cooperation and the Implications and Potentials Risks to Civil-Military Relations," May 9, 2008.

[56] These figures reflect both "direct" support to those countries (e.g. training, equipment, information sharing, infrastructure and other categories) and "indirect" support via DOD and other U.S. Government counterdrug operations with regard to those countries (e.g. transportation, communications, intelligence analysis, radar, air and maritime patrol, liaison personnel, and other categories) as well as operation of the counternarcotics Forward Operating Location in El Salvador. DOD response to CRS request, April 19, 2010.

[57] CRS Report RS22855, *Security Assistance Reform: "Section 1206" Background and Issues for Congress*, by Nina M. Serafino.

[58] Donna Miles, "Gates, Mullen Report on Mérida Summit in Mexico," *American Foreign Press Service*, March 24, 2010.

[59] Interview with DOD official from the Office of Defense Coordination at the U.S. Embassy in Mexico City, December 8, 2009.

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."[60] 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.[61] However, Mérida was proposed and funded as a foreign assistance package without any companion legislation on the domestic side. As such, it may prove difficult for Congress to monitor the degree to which the U.S. government is fulfilling its domestic pledges under the Mérida Initiative.

Weapons Trafficking[62]

In recent years, Mexican drug traffickers and enforcer gangs have increasingly relied on military-style firearms, a large percentage of which are purchased 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.

ATF began a Southwest border initiative dubbed Project Gunrunner in FY2004 that aims to disrupt illegal flows of weapons from the United States into Mexico. In FY2006 and FY2007, around 100 ATF special agents and 25 industry operations investigators were dedicated to Project Gunrunner, while by February 2010, the numbers had increased to 190 special agents and 145 industry operations investigators. To date, ATF has referred 984 cases for prosecution involving more than 2,034 defendants and almost 14,923 guns.[63]

In addition to these efforts in the United States, ATF received $4.5 million in Mérida funds and $4.5 million in asset forfeiture funds from the Department of the Treasury for the deployment of eTrace firearms tracking technology to U.S. Consulates in Mexico to combat arms trafficking. In FY2008, Mexico submitted more than 7,500 recovered guns for tracing, showing that most originated in Texas, Arizona, and California. Roughly 93% of those firearms were either made in, or imported to, the United States.[64] On December 30, 2009, ATF announced that it had deployed a bilingual version of its "e-Trace" firearms tracing technology to Mexico and Central America.

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

[60] U.S. Department of State and Government of Mexico, "Joint Statement on the Mérida Initiative," October 22, 2007.

[61] Brookings Institution, November 2008.

[62] For background information, see CRS Report R40733, *Gun Trafficking and the Southwest Border*, by Vivian S. Chu and William J. Krouse. For recent U.S. and Mexican efforts, see U.S. Department of State, "United States-Mexico Partnership: Anti-Arms Trafficking and Anti-Money Laundering," March 23, 2010.

[63] Statement of Kenneth E. Melson, Deputy Assistant Director, ATF, before the House Appropriations Committee, Subcommittee on Commerce, Justice, Science, and Related Appropriations, March 4, 2010.

[64] U.S. Department of Justice, "Department of Justice Announces Resources for Fight against Mexican Drug Cartels," Fact Sheet, March 24, 2009.

June 2008 known as Operation *Armas Cruzadas.* Among other activities, the program involves intelligence sharing and joint law enforcement efforts with vetted Mexican units. It has resulted in more than 749 criminal arrests and the seizure of more than 3,877 weapons.[65]

Mexico, for its part, began a pilot program in February 2009 to screen incoming traffic to look for guns, bulk cash, and other contraband, and is expanding the program across the entire border. On August 16, 2009, the Mexican government replaced all of the customs inspectors posted at the country's airports and border crossings with 1,454 new, better-trained inspectors. Those inspectors are now using non-intrusive inspection equipment provided through the Mérida Initiative to check vehicles entering Mexico for arms and cash smuggled from the United States.

In light of intensified U.S. efforts to curb weapons trafficking to Mexico, some advocates 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 (CIFTA).[66] 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.[67] President Obama called for congressional action on CIFTA while in Mexico in April 2009.

Drug Demand

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. In 2008, more than 25 million people in the United States reported using an illicit drug or abusing a prescription drug in the past year.[68] Some studies have suggested that addressing drug demand through a combination of treatment programs for heavy users and prevention programs is more successful and cost-effective than supply reduction programs.[69] Nevertheless, the U.S. drug control budget has, until recently, continued to emphasize supply-side programs, including drug crop eradication in source countries, interdiction, and domestic law enforcement efforts, rather than demand reduction efforts. From FY2002 through FY2009, for example, funding for supply-side programs reportedly increased by 64%, whereas support for demand reduction efforts increased by only 9%.[70]

President Obama and other high-ranking U.S. officials have pledged to intensify domestic demand reduction efforts in order to complement the Merida Initiative and other counterdrug programs in Latin America.[71] Gil Kerlikowske, the Director of the Office of National Drug Control Policy, has stated that the Obama Administration's drug control strategy, which was

[65] U.S. Department of Homeland Security, Statement of John T. Morton, Assistant Secretary, ICE, before the House Appropriations Subcommittee on Homeland Security, April 14, 2010.

[66] Peter DeShazo and Johnna Mendelson Forman, "A treaty that can help stem drug violence in Mexico," *Washington Times*, February 24, 2009.

[67] 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

[68] NDIC, February 2010.

[69] 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.

[70] "The Continued Standstill in Reducing Illicit Drug Use," Carnevale Associates, September 2009.

[71] The White House, Office of the Press Secretary, "Press Conference by President Obama, President Calderon of Mexico, and Prime Minister Harper of Canada," Guadalajara, Mexico, August 10, 2009.

required to be submitted to Congress by February 2009, but has not yet been released, will have a "renewed focus on evidence-based approaches to reduce demand for drugs, through prevention as well as treatment."[72] Kerlikowske reiterated those pledges in written testimony prepared for an April 14, 2010, House hearing on ONDCP's FY2011 budget request, stating that "we must address the number one cause of our problem: our Nation's enormous demand for drugs."[73] Drug policy experts have praised those types of comments, but criticized the Administration's budget request for including a relatively modest increase in funding for treatment programs of 3.7% as compared to FY2010. They further maintain that while the request includes an increase in funding for prevention efforts of 13.4%, the funds requested are still less than what was spent in the early 2000s and 5.3% lower than what the Bush Administration funded in FY2009.[74]

Bulk Cash Smuggling and Money Laundering

Interrupting the flow of money from drug sales in the United States to Mexico, estimated to range from $15 billion to $25 billion annually,[75] 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.[76]

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. Since 2005, Operation Firewall has resulted in 679 arrests and the seizure of more than $302 million.[77]

As a result of the Mérida Initiative, bilateral efforts against bulk cash smuggling and money laundering have also expanded, particularly since the recent formation of a bilateral working group on the subject. Many U.S. operations have been carried out in coordination with the money laundering vetted unit in Mexico's Finance Ministry. More than 350 Mexican officials from the Attorney General's Office, SSP, and Finance Ministry have been trained in advanced techniques to investigate money laundering. A bi-national study on illicit criminal proceeds should be published later this spring, which is likely to inform future efforts.

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[72] Testimony of Gil Kerlikowske, Director of the Office on National Drug Control Policy (ONDCP), before the House Oversight and Government Reform Subcommittee on Domestic Policy, May 19, 2009.

[73] Testimony of Gil Kerlikowske, Director of ONDCP, before the House Oversight and Government Reform Subcommittee on Domestic Policy, April 14, 2010.

[74] Testimony of John T. Carnevale, President, Carnevale Associates, before the House Oversight and Government Reform Subcommitee on Domestic Policy, April 14, 2010.

[75] Woodrow Wilson International Center for Scholars Mexico Institute, *The United States and Mexico: Towards a Strategic Partnership*, January 2009.

[76] 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.

[77] U.S. Department of Homeland Security, Statement of John T. Morton, Assistant Secretary, ICE, before the House Appropriations Subcommittee on Homeland Security, April 14, 2010.

Mexico Policy Issues

As the U.S. 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 and Strategy

President Calderón has made combating drug trafficking and organized crime a top priority of his administration. He increased Mexico's security budget from roughly $2 billion in 2006 to a reported $9.3 billion for 2009.[78] 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. President Calderón has also used extradition as a major tool to combat drug traffickers, extraditing 95 individuals in 2008 and a record 107 individuals in 2009. These efforts, combined with increased collaboration with U.S. law enforcement agencies, have resulted in some significant government victories against the DTOs—including the recent killing of Arturo Beltrán Leyva and capture of Teodoro Garcia Simental.[79]

Despite these victories, the persistent and increasingly brazen violence committed by the drug traffickers, which has occurred partially in response to government pressure, has led to increasing criticism of Calderón's aggressive anti-drug strategy.[80] Many experts assert that, in order to maintain popular support for its security policies, the Calderón government will have to show success in dismantling the DTOs, while also reducing drug trafficking-related violence.[81] President Calderón and his top advisers began consulting with local and state officials to revise the government's military-led strategy for Ciudad Juarez after the massacre of 15 civilians, many of them teenagers, at a private home there in late January 2010. The new strategy that the Calderón government has developed, "We Are All Juarez" will include significant federal government investments in education, job training, and community development programs to help address some of the underlying factors that have contributed to the violence.[82] U.S. officials have pledged to reprogram FY2009 Mérida funding to complement Mexican government efforts.[83] In early April 2010, Mexican military forces began to withdraw from Ciudad Juarez, leaving primary security responsibilities to the federal police.[84]

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[78] Steve Fainaru and William Booth, "As Mexico Battles Cartels, The Army Becomes the Law," *Washington Post*, April 2, 2009. Mexico's security budget declined in 2010 to roughly $6.9 billion. Email from Mexican government official, January 27, 2010.

[79] Elliot Spagat, "Mexico-U.S. Cooperation Cited in 2nd Drug Lord Arrest," *Associated Press*, January 12, 2010.

[80] Jorge C. Castañeda, "What's Spanish for Quagmire?" *Foreign Policy*, January/February 2010; Elisabeth Malkin and Ginger Thompson, "Killings Fuel Concerns Over Mexico's Drug Offensive," *New York Times*, March 16, 2010.

[81] Shirk, January 2010.

[82] The strategy is available in Spanish at: http://www.todossomosjuarez.gob.mx/Estrategia_Todos_Somos_Juarez.pdf.

[83] For a description of U.S. programs planned for Ciudad Juarez, see: U.S. Embassy in Mexico City, "Confronting Border Violence in Ciudad Juarez," March 2010, available at: http://www.usembassy-mexico.gov/eng/merida/pdf/emerida_factsheet_ViolenceCJ.pdf.

[84] "Troops Begin Withdrawal from Mexican Border Town," *IHS Global Insight Daily Analysis*, April 9, 2010.

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 October 2008, an elite unit within the federal Attorney General's office for Special Investigations of Organized Crime (SIEDO) was implicated in a scandal involving payoffs for sensitive information about antidrug activities, with at least 35 officials fired or arrested.[85] In November 2008, the former head of SIEDO was arrested and accused of accepting bribes from a drug cartel. The former investigative agency within the PGR, the Federal Agency of Investigations (AFI), which was created in 2001, was also widely criticized for corruption by 2005 and largely disbanded in June 2009.[86] Corruption has also plagued federal, state, and municipal police forces.

President Calderón has taken steps to reform Mexico's federal, state, and municipal police forces. He has reorganized the two federal police agencies under a single commander, enhanced police training at the federal level, created a national database through which police can share information and intelligence, and sped up implementation of a national police registry.[87] President Calderón initially proposed the creation of one unified federal police force under the SSP, but two laws passed in 2009 created a federal police force under the SSP and a federal ministerial police force under the PGR to replace the discredited AFI, both with some investigative functions. As of March 2010, 4,300 university-educated SSP officers had graduated from a newly established basic investigative training course at the federal police institute. The Calderón government has recently put forth a proposal to have the country's municipal police forces be absorbed by state-level police agencies that would then coordinate their efforts with the SSP, a change that would require legislative approval.[88] In the meantime, the government has rewarded state and municipal units whose officers meet certain standards with federal subsidies. A law passed in January 2009 gives the federal government a four-year deadline by which to ensure that all state and municipal police officers are vetted and certified.

The Calderón government has also cracked down on corruption within the police and other government institutions. Critics maintain, however, that a large percentage of those who have been arrested on charges of colluding with organized crime have been subsequently released for lack of evidence. In May 2009, for example, federal agents arrested ten mayors and seventeen other officials from Michoacan for allegedly colluding with DTOs, but a majority of those individuals have since been released.[89]

Security experts have praised the Calderón government's federal police reform efforts, but expressed concern that "advances in police reform are being undermined by the slow pace of judicial reform."[90] Analysts have suggested that the Calderón government consider implementing

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

[86] Donnelly and Shirk, p. 228.

[87] A State Department report submitted to congressional appropriators on April 2, 2010 as required by the Joint Explanatory Statement to P.L. 111-117, described Mexico's national police registry, which was started in 2001, as now being "fully functional," but stated that "not all [Mexican] states and municipalities have permanent, real-time connectivity to the system." The State Department plans to devote up to $8.8 million in Mérida funding to enhance the registry and make it available across the country. U.S. Department of State, "Report on the Mexican Federal Registry of Police Personnel," April 2, 1010.

[88] "Mexico Mulls Plan to Eliminate Municipal Police," *EFE*, March 24, 2010.

[89] "Casting Too Wide a Net For Cartels," *Newsweek International*, March 8, 2010.

[90] Olson, September 2009, p. 7.

other reforms, including, but not limited to, strengthening police professionalization programs, establishing a career track within federal and state police forces, encouraging community-oriented policing, and developing internal and external review mechanisms for police performance. The Calderón government has recently sought U.S. technical assistance in how to develop in-service evaluations and internal investigative units.

Implementation of Judicial Reforms

The Mexican judicial system has been widely criticized for being opaque, inefficient, and corrupt. It is plagued by long case backlogs, a high pre-trial detention rate (some 40% of Mexican inmates are simply awaiting trials), and an inability to secure convictions. In June 2008, President Calderón signed a judicial reform decree after securing the approval of Congress and Mexico's states for an amendment to Mexico's Constitution. Under the reform, Mexico 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 expected to adopt additional means of alternative dispute resolution, which should help make it more flexible and efficient.

Implementing these judicial reforms has brought with it significant challenges, which include the need to update law school curricula, retrain current legal professionals, build new courtrooms, improve forensic technology, and encourage the use of alternative dispute resolution. 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 with support from USAID, in adopting an accusatorial justice system.[91] Others predict that progress "is likely to be very slow as capacity constraints and entrenched interests in the judicial system delay any changes."[92] Still others have echoed the concerns expressed in the previously cited Woodrow Wilson Center briefing paper, which argued that "the Calderón government is devoting more of its political and economic capital to modernizing the police ... [than to] strengthening the independence and capacity of the justice system [including the PGR]."[93]

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. There has been increasing concern that the Mexican military, which has had less human rights training and is less accountable to civilian authorities than the police, is committing human rights abuses as it is increasingly tasked with carrying out public security functions.[94] According to Mexico's Human Rights Commission (the CNDH), complaints of human rights abuses by the Mexican military increased from 182 in 2006 to 1,230 in 2008.[95] Amnesty International released a report in December 2009 on alleged

[91] David Shirk and Lourna M. Márquez-Carrasquillo, "Border Brief: State Level Judicial Reform Initiatives in Mexico," February 21, 2008.

[92] "Mexico Risk: Legal and Regulatory Risk," *Economist Intelligence Unit-Risk Briefing*, January 8, 2010.

[93] Olson, p. 7.

[94] Jorge Rocha Quintero, "Public Security and Human Rights," in *Police and Public Security in Mexico*, edited by Robert A. Donnelly and David A. Shirk. San Diego, CA: University Readers, 2010.

[95] Statistics are available in annual reports of Mexico's Human Rights Commission, available at http://www.cndh.org.mx.

cases of human rights abuses committed by Mexican military forces engaged in counterdrug efforts that occurred between October 2008 and August 2009.[96]

In addition to expressing concerns about current human rights abuses being committed, Mexican and international human rights groups have criticized the Mexican government for failing to hold military and police officials accountable for past abuses. On July 13, 2009, Human Rights Watch issued a statement asserting that "Mexican military courts ... have not convicted a single member of the military accused of committing a serious human rights violation."[97] In November 2009, Mexican Interior Minister Fernando Gomez Mont reported that, as of that time, one soldier had been convicted of abuses during the Calderón Administration.[98]

Human rights organizations generally lauded the inclusion of human rights conditions (described in **Appendix A**) in Mérida Initiative appropriations legislation. In the summer of 2009, U.S. and Mexican human rights groups urged the State Department not to issue a favorable report on the Mexican government's human rights record. They maintained that the Mexican military has failed to investigate, prosecute, or punish human rights violations committed by its forces.[99]

On August 13, 2009, the State Department submitted its human rights progress report for Mexico to Congress, thereby meeting the statutory requirements for FY2008 supplemental and FY2009 regular funds that had been on hold to be released. While acknowledging that serious problems remain, the report outlines steps that the Mexican government has made to improve police transparency and accountability, consult with Mexican human rights organizations and civil society on the Mérida Initiative, investigate and prosecute allegations of human rights abuses by security forces, and prohibit the use of torture. The report acknowledges that human rights complaints against the Mexican military have "increased almost six-fold" since the beginning of the Calderon government. It also states that "the opaqueness of the [Mexican] military court system makes it difficult to analyze the nature and type of complaints filed, the status of cases against members of the military alleged to have violated human rights, or the results of the military prosecution."[100] Human rights groups have sharply criticized the State Department's assessment of Mexico's human rights progress.[101]

Beyond the Mérida Initiative: the FY2011 request

U.S.-Mexican Security Cooperation

With the arrival of U.S. Ambassador Carlos Pascual in August 2009 and as part of the FY2011 budget preparation process, U.S. and Mexican officials began to revise the strategic framework

[96] Amnesty International, "Mexico: New Reports of Human Rights Violations by Military," December 2009.

[97] Human Rights Watch, "Mexico: U.S. Should Withhold Military Aid: Rights Conditions in Merida Initiative Remain Unmet," July 13, 1009, available at: http://www.hrw.org/en/news/2009/07/13/mexico-us-should-withhold-military-aid.

[98] U.S. Department of State, *2009 Country Reports on Human Rights Practices*, March 11, 2010.

[99] Letter from Amnesty International and Other Human Rights Groups to Secretary of State Hillary Clinton, "Human Rights Concerns to Inform the U.S. Department of State's Merida Initiative Reporting on Mexico, July 24, 2009.

[100] U.S. Department of State, "Mexico- Merida Initiative Report," August 2009.

[101] Fundar et al., "Obama Administration's Alleged Release of Mérida Funds: A Violation of U.S. Law That Will Encourage Serious Human Rights Violations in Mexico," August 2009.

underpinning U.S.-Mexican security cooperation. After several months of consultations, the Obama and Calderón governments agreed to a new strategy, which has been called "Beyond Mérida," that broadens the scope of bilateral security efforts and focuses more on institution-building than on technology and equipment transfers. The Obama Administration outlined the strategy in its FY2011 budget request, which includes $310 million for Merida-related programs in Mexico: $292 million in INCLE funds, $10 million in ESF, and $8 million in FMF. The Administration did not formally announce the new strategy until the Mérida High-Level Consultative Group meeting in Mexico City on March 23, 2010. Its four pillars include

1. Disrupting the operational capacity of organized crime;
2. Institutionalizing Mexico's capacity to sustain the rule of law (police and judicial reform);
3. Creating a 21st-century border structure; and,
4. Building strong and resilient communities.

The Calderón government has, until recently, focused most of its efforts on pillar one, dismantling the power of drug trafficking organizations. To that end, the government has conducted joint police-military operations to arrest DTO leaders, investigated and indicted public officials suspected of collusion, and begun to go after DTOs' illicit assets.[102] A significant percentage of U.S. assistance provided during the first phase of the Mérida Initiative, including at least $421 million in FMF funding, has been used to purchase equipment for those efforts. The Obama Administration has asked for just $8 million in FMF for FY2011.

As the Mexican government has increasingly begun to conceptualize the DTOs as corporations, its strategy, and U.S. efforts to support it, has begun to focus more attention on disrupting the illicit weapons and funding flowing to the traffickers from the United States. These efforts, as well as increased intelligence-sharing and cross-border law enforcement operations and investigations (such as have occurred in areas around Nogales, AZ[103]), have been suggested as possible areas for increased cooperation under pillar one. As the DTOs increasingly evolve into poly-criminal organizations, perhaps as a result of drug interdiction efforts cutting into their profits, some analysts have also urged both governments to focus more on combating other types of organized crime, such as human trafficking and alien smuggling.[104]

Many security experts also maintain that the Mexican government, with U.S. support, needs to focus more on addressing the country's weak law enforcement and judicial institutions than it has in the last three years (pillar two). Federal police reform is well underway, but serious questions remain as to when and how the federal police will take over the anti-drug functions currently being carried out by the Mexican military. It also remains to be seen how federal reform efforts

[102] An asset forfeiture law is currently under discussion in the Mexican Congress. "Ley Debilitará las Finanzas del Narcotráfico y Crimen Organizado en México," *EFE*, April 13, 2010.

[103] CBP and the Mexican Federal Police have been conducting parallel patrols along the Arizona border since September 2009. On February 18, 2010, DHS Secretary Napolitano signed an agreement to expand that type of cooperation with the Mexican SSP. In addition, ICE, CBP, and the Mexican Attorney General's Office have had an agreement in place that has enabled the PGR to prosecute drug smuggling cases that the U.S. Attorney's Office in Arizona declines to prosecute. That program is now being extended to El Paso.

[104] Edgardo Buscaglia, a Mexican expert in organized crime, has estimated that between 52 and 55% of the illicit profits earned by Mexican organized criminal groups now come from illicit activities other than drug trafficking. Dolia Estévez, "Juárez: El Futúro de México?" *Poder 360*, March 12, 2010.

(and U.S. efforts to support them) will be expanded to include state and municipal police forces. Some FY2009 Mérida funding is likely to be reprogrammed in order to extend U.S.-funded police training and corrections reform efforts to Chihuahua and Juarez as part of a pilot project. Designed by a binational team, the project has been designed to support the Mexican government's plan for Juarez through training, equipment, professional exchanges, and targeted information-sharing.[105] Security experts have also identified improving police-community relations, respect for human rights, and the prevention and punishment of street crime as important issues that need to be addressed in Juarez and elsewhere in Mexico.

With impunity rates hovering around 98%,[106] experts maintain that it is crucial for Mexico to implement the judicial reforms passed in the summer of 2008 and focus on fighting corruption at all levels of government. In order for Mexico to transition to an accusatorial system with oral trials by 2016, some argue that U.S.-funded judicial training programs, some of which are just getting started, may have to be significantly expanded. They are encouraged that $207 million of the Obama Administration's FY2011 request for Mérida-related programs in Mexico are under the "Governing Justly and Democratically" aid category.[107]

Pillar three—creating a 21st-century border—seeks to facilitate "secure flows" of commerce and people across the U.S.-Mexico border while curtailing illicit flow of drugs, people, arms, and cash. It may involve the establishment of a "model port" and the expansion of trusted travel and shipper programs. It may even involve moving some customs and security checkpoints away from the border, possibly to sites in Monterrey or Guadalajara, and then using smart seals to ensure that checked goods arrive from those sites to the United States without tampering. Pillar three also seeks to help Mexico deploy new technology to better patrol its southern border with Guatemala and Belize.

Pillar four will be a new focus for U.S.-Mexican cooperation, and may include targeted efforts to assist at-risk youth and curb unemployment and other social problems in communities plagued by drug trafficking and violence. Experts have lauded the inclusion of social development and crime prevention programs in the new Mérida framework, but expressed concern about the limited funds the programs are likely to receive from the United States.[108] It appears that the funding and implementation of pillar four will primarily be the responsibility of the Mexican government, possibly with support from multilateral institutions like the Inter-American Development Bank.

Bilateral efforts under pillar four are focusing on pilot projects in Ciudad Juarez and Chihuahua, but may also be expanded to Tijuana and the state of Baja California. These efforts involve the continuation and expansion of some existing Mérida-funded initiatives, such as school-based "culture of lawfulness" programs and demand reduction and treatment services. They may also involve USAID or other agencies providing technical expertise in how to re-zone neighborhoods to prevent crime, issue municipal bonds to fund infrastructure projects, and/or launch public-private partnerships. It is also still possible that the Mexican government may request additional

[105] For a description of U.S. programs planned for Ciudad Juarez, see: U.S. Embassy in Mexico City, "Confronting Border Violence in Ciudad Juarez," March 2010, available at: http://www.usembassy-mexico.gov/eng/merida/pdf/emerida_factsheet_ViolenceCJ.pdf.

[106] This is figure is widely cited. See, for example, a recent report by the Center of Research for Development (CIDAC), "Índice de Incidencia Delictiva y Violencia 2009," August 2009, p. 9.

[107] Olson and Wilson, "Beyond Merida," Woodrow Wilson Center, April 6, 2010.

[108] Testimony of Vanda Felbab-Brown, Fellow, the Brookings Institution, before the Domestic Policy Subcommittee of the House Oversight and Government Reform Committee, April 14, 2010.

U.S. support to carry out President Calderón's "We Are All Juarez" plan, which includes 160 different initiatives that the federal government, in collaboration with state and local officials, will implement in the city.

Cooperation with Central America and the Central American Regional Security Initiative (CARSI)

A number of policy issues have emerged involving the Central American portion of the Mérida Initiative, which, as of FY2010, has been split away from the Mérida Initiative into a new Central American Regional Security Initiative (CARSI). According to H.Rept. 111-187, addressing drugs and crime in Central America requires a longer term commitment than the three-year Mérida program. Some analysts specializing in Central American security issues hope that by splitting Central America away from U.S.-Mexican security cooperation programs, the sub-region will receive more focus, funding, and attention from Congress and the Administration. Others disagree, asserting that it is important to have an integrated approach to counterdrug and anti-crime programs in Mexico and Central America, as the Mérida Initiative was initially designed to do. The Obama Administration requested $100 million for CARSI in its FY2011 budget request: $70 million in Western Hemisphere Regional INCLE funds and $30 million in Western Hemisphere Regional ESF funds.

Some policy issues that have emerged during congressional consideration of the Central American portion of the Mérida Initiative include

- **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.[109] Lingering questions remain 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. The FY2008 supplemental and FY2009 omnibus appropriations measures included earmarks for those types of programs, but the FY2010 appropriations bill did not. Members have and will likely continue to debate how funding should be balanced between the various program components in CARSI, particularly how much funding should support law enforcement programs and drug interdiction efforts versus institution-building and rule of law activities.
- **Pace of Implementation:** As previously stated, the December 2009 GAO report on the status of Mérida funding has raised serious concerns among Members of Congress about the slow pace of implementation. While the pace of implementation in Mexico has quickened, many projects in Central America continue to be stalled.

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

- **Instability in Particular Countries:** As a result of the June 2009 ouster of President Zelaya, some Mérida assistance for Honduras was put on hold until February 2010. The issue of how to deal with instability in particular countries is likely to arise again during Mérida and CARSI implementation.
- **Interagency Coordination:** Debates are likely to continue concerning what U.S. agency is best equipped to carry out Mérida and CARSI programs, including the issue of whether there is a role for DOD acting through U.S. Southern Command, and how U.S. programs should be coordinated with those funded by other donors.
- **Anti-gang Policies:** There is ongoing disagreement over the level and combination of preventive and suppressive policies that should be used in Central America to address the gang problem. Proponents of law enforcement solutions maintain that Central American law enforcement officials lack the capacity and resources to target gang leaders effectively, share data, and conduct thorough investigations that lead to successful prosecutions. Human rights groups tend to emphasize the importance of prevention and rehabilitation programs.
- **U.S. Deportation Procedures:** Congress may also maintain an interest in how U.S. deportation procedures for individuals with criminal records might be improved and whether U.S. assistance should be provided to help receiving governments reintegrate deportees.

The Caribbean Basin Security Initiative (CBSI)

The Obama Administration did not include Haiti and the Dominican Republic in its FY2010 request for Mérida. Instead, the Administration requested $45 million in initial funding for projects that are being developed as part of a new security dialogue with Caribbean Community (CARICOM) member states[110] and the Dominican Republic. When President Obama announced the new security cooperation plan, the Caribbean Basin Security Initiative (CBSI), at the Summit of the Americas in April 2009, he said that it would likely involve increased U.S. assistance to help the region address challenges such as transnational crime, illicit trafficking, and maritime and aviation security.

The CBSI is being developed through a process of dialogue with Caribbean nations, which are expected to establish complementary programs with their own funding. Initial U.S.-Caribbean meetings were held in Suriname, Barbados, and the Dominican Republic in 2009, and a ministerial meeting is expected to take place in Washington in 2010 where a political declaration, action plan, and framework for the Caribbean Basin Security Initiative will be adopted. As discussed with Caribbean nations, the initiative will likely have three strategic priorities: (1) to reduce illicit trafficking substantially (including measures to reduce drug trafficking, money laundering, trafficking in small arms and light weapons, and human smuggling); (2) to advance public safety and security (including measures to deal with crime and violence, border security, trafficking in persons, terrorism threats, criminal gangs, and natural disasters); and (3) to promote social justice (including crime prevention, justice sector reform, and anti-corruption measures).

[110] Currently 14 independent Caribbean Basin countries are CARICOM members: Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago.

Congress provided "not less than" $37 million in FY2010 for the CBSI in P.L. 111-117, of which "not less than" $21 million should be for social justice and education programs. The Administration's FY2011 request for CBSI is for $79 million**:** $37.5 million in INCLE, $17 million in ESF, $18 million in FMF, and $6.4 million in Non-Proliferation, Antiterrorism. Demining and Related programs (NADR) funds.

Appendix A. 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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