Testimony of Ambassador Earl Anthony Wayne (ret)
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"Improving U.S.-Mexico Cooperation against Drug Smuggling and Other Cross-border Crime"

Though counter-narcotics challenges are evident in various parts of the Western Hemisphere, I am going to speak about U.S.-Mexico cooperation.

The United States and Mexico are facing a powerful onslaught of cross-border criminal activity that is damaging both countries. There is an urgent need to counter it with increased bilateral cooperation.

U.S. threats to impose tariffs on Mexico to stop drug smuggling are counterproductive. Mexico's new government, however, needs to focus on seriously evaluating ongoing U.S.-Mexico cooperation against illicit drugs and other cross border crime under the umbrella of the bilateral "Merida Initiative" and then hammer out an agreed set of priorities with U.S. counterparts.

That common agenda needs to address U.S. objectives to slash drug smuggling as well as Mexico's priorities to reduce homicides and other criminal violence as well as corruption. Mexico's government will use a social and jobs programs as well as law enforcement tools in this effort and believes longer-term bilateral development projects should be part of the mix under discussion, especially for addressing migration challenges.

Bilateral cooperation, however, must also effectively address the major flows of dangerous drugs headed to the U.S. as well as the illicit drug sale profits gained in the U.S., which fund and help arm criminal organizations that are spreading chaos and corruption in Mexico.

Mexico is a significant source and transit country for illegal drugs, including heroin, fentanyl and methamphetamines. It is believed to be the primary source of heroin to the U.S. domestic market, a main transit route for fentanyl originating in China, and a significant and growing producer of methamphetamines.[1]

Under the umbrella of the Merida Initiative over the last decade, U.S.-Mexico law enforcement cooperation has strengthened and become more effective.   U.S. assistance has increased Mexican capacities, and helped to strengthen its law enforcement and justice institutions. In 2017, Mexico and the United States agreed on a strategy to go after the entire chain of drug production distribution and finances, with agreement that U.S. demand as well as supply from Mexico had to be addressed.   That strategy has not been fully implemented, however.

There is much still to do in all these areas. The way forward is to strengthen and reinvigorate that bilateral cooperation in ways that acknowledge and incorporate the anti-crime priorities of both governments.

Threats Not Productive

At the end of May, 2019, President Trump threatened to use tariffs against Mexico if illegal drugs did not stop arriving in the U.S. from Mexico[2], echoing an April threat to put a 25% tax on Mexican car imports, "if the drugs don't stop or largely stop."[3] However, given that "Mexican cars" have on average 38% U.S. content[4], how many U.S. workers would be hurt from this approach, in addition to the economic costs in Mexico and for U.S. consumers?[5]

It is illustrative to ask what our reaction would be if Mexico threatened a 25% tariff on American corn and soybeans unless U.S. citizens stopped buying the drugs that provide an estimated $19-29 billion each year to Mexican criminal groups.[6] Or, what would we think if Mexico threatened to impose tariffs on American pork until the U.S. stops the illegal flow of automatic weapons and ammunition to Mexico across the shared border?[7]

Mexicans can make a very strong case that the illicit money and guns headed south from the United States are feeding the violence and corruption plaguing their country.

Threats of tariffs are not a constructive way to tackle "shared" problems like cross-border criminal organizations. They would not only feed anti-American sentiments in Mexico, but would impose serious economic costs to workers, businesses, farmers and consumers in both countries.

Without doubt, the United States and Mexico need to urgently revitalize their partnership against cross-border crime, however. The sizable trafficking of drugs, arms, people and money harms and kills far too many on both sides of the border.

The leaders of both governments need to prioritize ways to improve day-to-day collaboration and strategic cooperation. Building mutual understanding and trust is essential.

We must be clear, however, that U.S.-Mexico cooperation cannot solve the U.S. drug demand problem that leads to some 70,000 American overdose deaths a year.[8] Nor can bilateral cooperation solve the crime and violence in Mexico that caused 33,000 homicides in 2018.

Coordinating Migration and Counter-Narcotics Agendas

It is also important to understand the overlap between managing migration flows and migrant smuggling challenges, on the one hand, and going after drug smuggling, related money laundering and illegal arms commerce, on the other hand.

Grappling with the two sets of issues will draw on many of the same government personnel and capacities in each country. The 6,000 Mexican National Guard troops that are to be sent to southern Mexico to help deal with Central Americans heading North will then not be available to stop drug organizations operating elsewhere in Mexico, for example. Nor are DHS personnel focused on managing migrants entering the U.S. able to search as effectively for illicit drugs.

Fighting crime and tackling migration need to be well coordinated.

A Review of Cooperation, an Agreed Work Agenda and a Senior-level Coordinating Group

A key step in revitalizing U.S.-Mexican counter narcotics cooperation is to undertake a through and rapid bilateral review of the challenges, the cooperation already underway, and the capacity building programs in place. Establishing a common agenda should include a fresh look at the "Merida Initiative" which has served as the umbrella for U.S. capacity building assistance to Mexico over the last decade[9] and has produced a number of excellent programs[10], some of which I mention at the end of the testimony as well as in my December testimony before the Senate Committee on the Judiciary.[11]

Mexico's government has not completed an internal assessment of Merida since assuming power in December. Remarks by President Andres Manuel Lopez Obrador (AMLO) suggest that he does not understand well the bilateral cooperation that has been developed over the past decade toward this end.

The government of Mexico needs a well-grounded understanding of what has worked and what has not worked in bilateral public security cooperation over the last decade. President Lopez Obrador recently said he would like to reorient Merida assistance to economic development, and indicated that he believes the program has been oriented toward military assistance, which it has not.[12] Rather, the Merida Initiative has included a wide range of programs to enhance Mexico's law enforcement, judicial and border capacities as well as to help address needs of communities and society suffering from criminal activities.

Mexico's internal assessment of Merida cooperation should be followed with a bilateral review. Both countries can benefit from a serious, fresh evaluation of the last decade of cooperation with each other in order to forge an agreed bilateral strategy and effective action agenda.

With those agreed, the two governments need to rapidly establish a cabinet-level led coordination group to power and guide the deeper collaboration needed to increase good results. This senior level group would reconcile the top public security priorities of the two governments and set out an agreed action agenda. The group and its supporting inter-agency teams would identify key areas for deeper cooperation.

With a well-functioning cabinet-level group to monitor and review progress and problems regularly, to carry out the vital task of addressing problems that arise, and to report to the two

presidents, the two countries have a much better chance of making progress toward the public security priorities of each.

U.S. and Mexican Priorities

A top priority of President Trump's is to stop the flow of opioids and other deadly drugs from Mexico that contribute to the addiction and overdose epidemic in the U.S. AMLO's top priorities include demonstrating progress against the plague of violent homicides that caused record numbers of deaths in 2017 and 2018 and during the first months of his administration, as well as tackling the public corruption that plagued the last Mexican administration. These two issues were at the top of the concerns of those Mexicans who elected him in July 2018.

The Institute for Economics and Peace puts the economic impact of violence in Mexico at $268 billion in 2018. That is equivalent to 24% of Mexico's GDP.[13] These massive costs are part of the urgency impelling AMLO's high priority efforts to reduce crime and violence, given his hope to generate higher economic growth during his six-year term as President.

AMLO has put forth a multi-pronged national strategy to reduce criminal violence and corruption, which includes strengthening law enforcement through creating a new National Guard to be deployed across the country. The strategy also includes establishing new social programs to create jobs and economic opportunities for young people, strict respect for human rights, development of proposals to decriminalize certain drugs, perhaps to consider legal, controlled production of opium, and additional steps to improve the justice system, including the forgiveness and social reinsertion for some involved in criminal gangs.[14] [15]

Though distinct, the Mexican and U.S. priorities have much significant overlap. One example not often recognized is that Mexican drug dealers do not stand at the border and slingshot the drugs into Chicago and Boston. There are cooperating criminal networks distributing the drugs in the U.S. And, the flow of money and guns from the U.S. to Mexican criminal groups exacerbates the broader chronic violence and corruption that make it harder for AMLO's government to restore peace in troubled Mexican communities.

It is thus urgent for both countries to hammer out a common agenda for joint action and mutual assistance. Without such an effort, bilateral cooperation is likely to be scattershot, episodic, and ineffective, and periodic blowups are more probable.

Recommended Areas for the Work Ahead

I would like to share recommendations for U.S.-Mexico public security collaboration that were developed by a taskforce[16] of Mexican and American experts in which I participated.[17]

In addition to calling for creation of a high level coordination group, the taskforce detailed the value of continuing joint work in helping Mexico strengthen its federal and state law enforcement and justice forces, so that they can be more effective partners in tackling crime.

Building a new National Guard to help restore order throughout Mexico will be a complicated and resource-intense process. The National Guard would benefit from specific training and technical assistance provided by the U.S. under a joint program, whether the program retains the name "Merida" or not.

Mexico's border services, just like their U.S. counterparts, would also benefit greatly from Merida program funded "state of the art" sensors to find drugs, arms and money crossing the border.[18]

Mexican as well as U.S. companies would benefit from better jointly developed plans to assure secure and rapid trading corridors.

A big weakness for Mexico over the last decade has been its inept state and municipal police and criminal justice systems. Strengthening these is an AMLO objective. These institutions could benefit greatly from re-targeted, mutually agreed Merida technical assistance to improve results against criminal groups. Bilateral collaboration and capacity building need to encompass such sub-federal elements in order to better support long-term solutions to crime.

The taskforce argues that trusted joint investigative and liaison units should be established or reactivated to go after criminals, develop the evidence, and make the cases needed to convict them in either country.

Mexico's criminal justice system is plagued by very low rates of convictions as well as by corruption. (Only 7% of crimes committed in 2017 resulted in a criminal investigation, for example, according to the 2019 Mexico Peace Index.[19]) Continued technical training could help strengthen effectiveness.

The taskforce suggests creating a joint team for tackling synthetic opioids, such as fentanyl, because they are so lethal, highly profitable and easy to smuggle.[20] Focused efforts could also encompass heroin and methamphetamine. I am also a big believer in special cross-border, vetted coordinating groups to go after specific regional smuggling threats.

Another priority for a dedicated joint effort would be tracking and seizing the billions of dollars resulting from U.S. drug sales that flow to criminals in Mexico. So far, neither U.S. nor Mexican efforts have been very successful in finding the vast amounts of money that law enforcement officials think is being collected in the U.S. Illicit finance is an area where the new Mexican government and its Financial Intelligence Unit have been very aggressive as part of the focus on fighting corruption. They are working well with U.S. counterpart agencies. This collaboration should be further enhanced.

There is broad agreement among experts that the United States and Mexico should work to target criminal groups not by merely by going after the kingpins, but rather by rounding up as much of their network of both sides of the border as possible, in large operations built on good

intelligence and joint prosecution. While these operations take time to develop and require trust by U.S. and Mexican joint taskforces, they can significantly weaken the operational capacity of criminal groups.

The taskforce report by U.S. and Mexican experts also encourages exchanging best practices on drug abuse prevention and "harm reduction" strategies; initiating community policing collaboration; enhancing cooperation against Central American criminal groups (as reflected in the new U.S.-Mexico agreement on migration); avoiding clashes over marijuana policy; using better vetting technics against corruption; establishing mechanisms for regular, frank dialogue on human rights; resurrecting and strengthening systematic collaboration against weapons trafficking; and proper vetting of participating officials, which will significantly help build mutual trust and effectiveness.

Essential: an Agreed Strategy and Action Plan and Good Coordination Mechanisms

Key, however, is agreeing on an overall strategy and an action agenda, and then setting up the liaison and working arrangements to undertake the capacity building and law enforcement work in ways that generate trust and produce results.

The law enforcement, public security, intelligence and justice entities from both countries span many agencies. They often do not cooperate or communicate optimally within their own governments, let alone bilaterally.   Those divisions, rivalries and miscommunications need to be overcome for better results.

Over the past decade, the U.S. and Mexico have forged binational teams in specific areas that cooperated well with mutual trust, and they have improved multi-agency communication and cooperation. That experience needs to be deepened and widened across both governments.

There have also been excellent capacity building programs developed and implemented under Merida. That should continue with regular, thorough reviews of program performance and results fully incorporated in ongoing assistance programs.

Collaboration should be targeted at tackling the most problematic areas, including opioid and methamphetamine production and smuggling, arms trafficking, corruption, money laundering, and human rights abuses. This can be done with clear direction and commitment from the top.

Both countries will enormously benefit from increasing the practical day-to-day work of building more effective partnerships and effective programs that build partner capacities, under the active leadership of a well-functioning senior-level coordination group.

With an agreed set of priorities, a shared strategic vision, and the political will, the United States and Mexico can forge stronger and more effective cooperation against the devastating cross-border crime harming both societies. The Mexican and American people stand to gain much from such reinvigorated cooperation.

Testimony Annex: Comments on the Merida Initiative

Over the past ten years, bilateral U.S.-Mexico law enforcement and public security cooperation has taken place under the umbrella of the Merida Initiative.

Presidents Bush and Calderon launched it in 2007. Merida provides intensified U.S. assistance and law enforcement/justice collaboration. It picked up significant momentum in 2011 and progressed subsequently (after a slow down during the first year of the Pena Nieto administration).

The Merida Initiative now needs to be reviewed and revived, working closely with the administration of Mexico's President Andres Manuel Lopez Obrador (AMLO), who has a skeptical view of Merida's effectiveness. There is nothing sacred about the programs name, but Merida's functions should be preserved in order to support improved effectiveness against cross-border crime, including drug smuggling.

The priorities of both governments have evolved since 2007. Both sides have learned from experience during these years and have expanded areas of mutual benefit for practical homeland security and law enforcement cooperation.

Merida brought more order and coordination to U.S. assistance for Mexico. It fostered networks of closer cooperation between law enforcement, justice, security and intelligence officials working against criminals involved in trans-border crime. The practical bilateral cooperation can be seen, for example, in the number of valuable agreements reached between the U.S. Department of Homeland Security and Mexico's Interior Ministry (SEGOB) in recent years.

Merida assistance programs have helped deepen trust and confidence as well as inter-agency cooperation between and among the many agencies of both countries involved in law enforcement and justice work.

A big step forward in this broader government-to-government collaboration was the creation of the Security Coordination Group (SCG) in 2014. This new forum brought together for the first time at the same table all the government actors in public security, justice, national security, and intelligence with the idea of enhancing coordination between both governments across all lines of action to fight organized crime and boost security. It illustrates the growth in mutual trust by both governments in their joint struggle against organized crime.

I understand that the U.S. Congress has appropriated some $2.9 billion in Merida assistance since 2008 and that something around $1.8 billion has been spent. The State Department and USAID, however, would have more exact figures. The Mexicans have spent about ten times that much in their public security programs during these years.

We need to be frank. U.S.-Mexico cooperation has not yielded enough progress against drug trafficking, money laundering, gun running and other trans-border criminal activities. Nevertheless, bilateral collaboration has made important headway and created an atmosphere in which most of those working on these efforts in recent years accept that both countries have a shared responsibility to find solutions and that substantial progress is only possible if both countries work together.

The Merida Initiative became the cornerstone of and the overarching policy umbrella for that shared work. Close bilateral cooperation should be preserved and strengthened with strong political commitment from the top in both countries.

As noted, the name can be changed. The institutional partners in Mexico have already changed given the creation of the new Secretariat of Public Security and Civilian Protection and the enhanced role of the Foreign Affairs Ministry, under AMLO. The spirit of cooperation, however, needs to deepen and grow in order to achieve progress for both countries.

Merida's Four Pillars

The Merida Program has been organized around four pillars:

1) Disrupting Organized Crime;
2) Sustaining Rule of Law;
3) Creating a Twenty First Century Border;
4) Building Strong and Resilient Communities.

This has proved to be a flexible structure, which can accommodate a range of programs to reflect the priorities agreed upon by both governments. During the 4 years when I was U.S. Ambassador in Mexico, there were about 95 different programs underway. Programs were phased out and new ones introduced to better respond to the needs and priorities of both governments, as well as to correct for those not producing good results.

Much effort was made to get better at measuring outcomes/results. There were disagreements to overcome along the way and much hard work to craft programs that would effectively support and reinforce bilateral cooperation. Regular evaluation and review of all bilateral Merida programs should become the norm in the future.

Highlights of Beneficial Merida Programs and Work Areas:

Pillar 1: Disrupting Organized Crime

Reducing Opium Production and Attacking Fentanyl trafficking and production: Reflecting the 2017 U.S.-Mexico agreement to go after the entire chain of the drug business model, more attention has been given to understanding the dimensions of opium/heroin production and eradicating it. This included supporting a UN-Mexico effort to verify opium poppy cultivation,

yield and eradication figures using an international base line. The Mexican government supported the study, released on November 29, 2018, which found a 21% increase in poppy cultivation from 2015-17. U.S.-Mexico dialogue should explore alternative programs to positively affect the areas and communities where poppies are cultivated. Countering Fentanyl trafficking and acting against efforts to expand synthetic opioid production in Mexico must be a priority. Canine training is already being used effectively in this area. More uses of technology, for example at ports and borders, should be explored as well as more coordinated enforcement efforts with source countries like China.

Precursor Chemicals and Drug Laboratory Destruction: This has been an enforcement priority for some time, yet cartel production has reportedly increased. Merida helps fund the training and equipping of Mexican personnel for safe operations. Combined with U.S. law enforcement information sharing, this program has led to the identification and dismantlement of dozens of clandestine laboratories. This work can be augmented.

Training specialized units for operating in the most difficult environments has been a productive use of Merida funds.

Anti-Money laundering: Training prosecutors and regulators on the best practices, including seizing and effectively using assets, has helped Mexican capacity. Yet, disrupting the financial chain of criminal groups has been an area of limited progress on both sides of the border. The Mexicans can benefit from additional training, stronger legal authorities, and top-level political will to go after the money even if linked to powerful figures, which is increasingly evident from the AMLO government. Both countries can benefit from more effective investigations and prosecutions. This is a priority area for AMLO's team in its anti-corruption work. Mexico's Financial Intelligence Unit and its new Fiscal General would benefit from additional capacity building and equipment.

Pillar II: Supporting Rule of Law/Justice Sector

Police Professionalization: This is a major need for police at all levels in Mexico and would no doubt help the new National Guard as it is being built and expanded. Merida supports establishing and implementing national-level certification programs so that for the first-time Mexico's states can now certify officers using consistent, required national competency criteria.

Training investigators and forensic experts to build lawful, judicial prosecutions: A major institutional law enforcement/justice weakness in Mexico is collecting and presenting evidence in court to convict those arrested. After Merida supported training, one state had a 40% increase in successful prosecutions, I am told by officials involved.

Stronger Justice Systems: Support for Mexico's new criminal justice system with equipment and mentoring has been valuable. There was widespread support for the introduction of a new oral, accusatory justice system in Mexico, but the necessary preparations for implementing the new system were poor. There is a dire need for training among all participants from law

students to police to prosecutors and defense attorneys to judges in the new system, so that they can function effectively in the radically changed judicial environment. Exchange programs and mentoring are important parts of showing how an accusatory justice system works in practice. This is a generational journey for Mexico, and it is in the U.S. interest to support this historic transformation.

Anti-Corruption: Provide technical assistance to anti-corruption institutions, building on best international practices. This assistance is important (including to civil society groups focused on anti-corruption), but will have much more impact if the political will is present to pursue large scale and high profile cases. Under AMLO, Mexico's government is showing such signs.

Prisons: Merida programs worked effectively to accredit federal prisons up to international standards and produced significant progress with select state prisons. I understand there have been significant drops of violence and elimination of escapes from accredited prisons. Reported extortions and kidnappings from states that have accredited their prisons have dropped by up to 90%, per officials involved. This program can link to AMLO's focus on prison reform and human rights enforcement.

Pillar III: 21st Century Border

Professionalization of Mexican Migration officials: Merida programs train Mexican officials according to international human rights standards for identifying and interviewing migrants, for detention and repatriation, for asylum policies and for provision of services to migrants. This training can help Mexico to improve its management of Central American migrants headed northward. Mexico's immigration service has long been understaffed, poorly trained, underfunded and subject to corruption. The Merida Initiative has helped set up the first professional standards for Mexican migration officials. These programs can support good implementation of the new U.S.-Mexico understandings on migration.

Provide New Technology to Mexican Land Ports: Merida-supplied equipment can increase security and reduce wait times, diminish opportunities for corruption and increase bilateral information sharing, including joint review of data collected by the new technology. Such investment can yield very positive results for U.S. companies and Border States, as well as for identifying bad actors and illicit shipments. Most drugs are believed to enter the U.S. though formal points of entry. Significant infrastructure spending and staffing enhancements are needed on both sides of the border.

Airports/Seaports: Merida provides modern detection technology and training to facilitate identification of threats and sharing of information with U.S. counterparts. This includes enhanced support for Mexico's Navy, which overseas port security, to better detect pre-cursor chemicals and drugs.

Border Communications: Merida has been working to support creation of a southern border secure communications network so that Mexican officials can better manage their border and

trafficking threats along the frontier with Guatemala. Such aid can be vital for implementing the new U.S.-Mexico migration understandings.

Enhanced information collection and sharing: Merida-funded systems are already allowing officials of both countries to rapidly identify criminals, fugitives and special interest aliens attempting to enter and/or transit Mexico. There is great potential for enhanced work in this area to help implement the new U.S.-Mexico understandings on migration.

Pillar IV: Building Resilient Communities

Gender Programs: Merida funds gender-based violence training for police, and support for Women's Justice Centers.

Human Rights: Merida has worked to improve policies and processes to help protect Human Rights Defenders, Anti-Corruption Activists, and Journalists, while working with civil society groups and the government. Journalists have suffered particularly lethal treatment for their vital work covering crime and corruption. AMLO has made respect for human rights a priority.

Alternative Courts: Merida supports drug treatment courts with alternative justice mechanisms, which help manage non-violent crime more effectively.

Missing children: Merida supports the Amber Alert system for rescuing abducted children.

Community-focused programs: USAID developed programs in Tijuana, Ciudad Juarez and Monterrey to support alternative solutions for youth in trouble neighborhoods in 2011-13. The Mexican government subsequently cut funding for such programs, but USAID continues community-focused programs with success in Central America. This type of program could be revisited to support the new strategy of President Lopez Obrador, given the importance of building local capacity to help prevent crime.

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