



Managing the United States-Mexico Border: Cooperative Solutions to Common Challenges



Managing the United States-Mexico Border: Cooperative Solutions to Common Problems

Full Report of the Binational Task Force on the United States-Mexico Border
Executive Summary

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Notes:

Alan D. Bersin served as Task Force co-chair until his April 2009 appointment as Assistant Secretary for International Affairs and Special Representative for Border Affairs at the U.S. Department of Homeland Security. Although the Task Force benefited enormously from his leadership in its early stages, neither the analysis nor the recommendations in this report necessarily correspond to his views.

Chappell Lawson served as Task Force co-director until his appointment in September 2009 as Director of Policy and Planning at U.S. Customs and Border Protection. Although the Task Force benefited greatly from his efforts, neither the analysis nor the recommendations in this report necessarily correspond to his views.

John Trasviña served on the Task Force until his March 2009 appointment as Assistant Secretary for Fair Housing & Equal Opportunity at the U.S. Department of Housing and Urban Development. Neither the analysis nor the recommendations in this report necessarily correspond to his views.

Preface

Under the auspices of the Pacific Council for International Policy (PCIP) and the Mexican Council on Foreign Relations (COMEXI), thirty distinguished business and civic leaders, and former government officials from Mexico and the United States committed themselves to devising ways to improve management of our common border. The Task Force met three times in 2009: in Tijuana, Baja California and San Diego, California (February); in Monterrey, Nuevo León (April); and in Tempe, Arizona (June). Task Force members received briefings from federal, state, and local officials; law enforcement officers in charge of daily border management, experts on specific topics, and representatives of non-governmental organizations; and from ordinary citizens of both countries who live in the border region and cross the frontier regularly. Among other things, the Task Force asked these invited guests for their “wish lists” – i.e., what needed to be changed at the border in order to better serve the interests of our two countries.

This report reflects the consensus of the Task Force membership where possible and presents the sense of the majority in other cases. Task Force Members endorse the report's findings and policy recommendations and agree that the report is based on the group's consensus or majority views, though not every Member necessarily agrees with every finding and recommendation. The report does not necessarily represent the views of PCIP, COMEXI or any of the institutions with which Task Force Members are or have been affiliated.

Background materials for Task Force meetings, commissioned papers, information on sponsorship, a list of advisors and observers, and additional detail on the Task Force itself, are available online at

<http://www.pacificcouncil.org/interior.aspx?pageID=Studies&subID=3&itemID=47>.

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We are thankful to the U.S. and Mexican policymakers who were generous in sharing their time and insights with the Task Force: Alan Bersin, Margie A. Emmermann, Alejandro Estivill, José Natividad González Parás, Roberta S. Jacobson, Marco A. Lopez, Patricio Martínez, José Guadalupe Osuna Millán, Jerry Sanders, Arturo Sarukhán, and Bruce Williamson.

The perspectives offered by outside participants who wrote background papers and joined the discussion at the Task Force's meetings substantially enhanced our deliberations. In particular, we are grateful for materials prepared by Stephen Blank, Susana Chacón, Hilda García, Cecilia Imaz, José de Jesús Luévano, Christina Luhn, Armand Peschard, José Ramos, Rick Van Schoik, and David A. Shirk.

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Mónica Hernández-Burgos, an Associate at Rozental & Asociados, and David J. Karl, Director of Studies with the Pacific Council, served diligently as Task Force Coordinators. None of the meetings could have occurred without their efforts.

Task Force Sponsors

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Banamex/Citigroup, Malin Burnham, the Carnegie Corporation of New York, the California Community Foundation, University of San Diego (USD), El Colegio de la Frontera Norte (COLEF), the Graduate School of Public Administration and Public Policy (EGAP) at the Instituto Tecnológico y de Estudios Superiores de Monterrey (ITESM), Arizona State University (ASU), the Center for Migrant Affairs of the State of Nuevo León, the State Government of Nuevo León, the Mexican Consulate General in San Diego, Grupo Finsa, Silicon Border Inc., Enrique Mier y Terán, and Alejandra Ocádiz.

I. Introduction

The 1,952-mile Mexico-U.S. border is unique. Only nine international land boundaries are longer, and only the longest of these (Canada's border with the United States) can claim the same flow of legal commerce and travel – almost \$300 billion in trade each year. Millions of people legally cross the frontier annually; because many of them do so several times a week, the total number of crossings into the United States from Mexico exceeds 200 million per year. No other major national boundary sees anything like this volume of traffic.

The pacific nature of relations between the United States and Mexico also sets the border apart from most other long land boundaries. It has been nearly a century since the last hostile action (U.S. raids in search of Pancho Villa after his attacks on Columbus, New Mexico during the Mexican Revolution), decades more since the last major rectification of the frontier (the Gadsden Purchase of 1853-4) and 161 years since a forcible seizure of territory (at the conclusion of the U.S.-Mexican War in 1848). The border is policed – and where the boundary is not a river, often fenced – but it remains demilitarized.

Interdependence is an abiding feature of the U.S.-Mexico relationship, and this interdependence is particularly pronounced along the border itself, where most communities are twin cities. In the case of Nogales, the towns on each side of the border share the same name; in the case of Calexico and Mexicali, they are simply different combinations of the same words (Mexico and California). Hundreds of thousands of people from these communities commute across the border for work, shopping, and visits with friends or relatives.

Interdependence raises the stakes for both countries. Because trade flows are so immense, misguided policies can impose tens of billions of dollars of costs each year on consumers. Poor security coordination along the frontier could prove deadly and even, in the case of a serious terrorist threat, disastrous. Sound joint management of shared resources can lead to sustained and ecologically sustainable development in the border region, whereas mismanagement of these same resources by either government will produce scarcity and environmental degradation. Finally, federal policies in both countries that ignore interdependence or reflexively promote sovereignty over other considerations split border communities.

In this report, we urge both governments to confront the challenges of border management directly and immediately. We identify the policies they should adopt now to secure the border, expedite legitimate crossings, manage shared resources, and foster economic development. We also articulate the ultimate goal to which they should aspire, offering a conception of border management that can guide them as they adopt specific policies.

We envision a system of border management that moves people and goods between the United States and Mexico far more quickly and efficiently than the present arrangement but that also makes both nations more secure. This new system would expedite trade, encourage the emergence of regional economic clusters, promote wise stewardship of shared natural resources, enhance efforts to preserve ecosystems that cross the national boundary, and invite communities that dot and span the frontier to exploit opportunities for mutual benefit. Ultimately, the border should be as “thin” as technologically and politically possible for those engaged in legitimate travel or commerce while remaining difficult to penetrate for those engaged in criminal activity or unauthorized transit. Management of this shared boundary should serve as a model for binational collaboration in confronting shared challenges.

Few policymakers, legislators and opinion leaders fully understand the border. Indeed, misperception and misunderstanding of the situation at the border create a major public relations challenge. Those seeking to improve management of this shared boundary and the region around it must inform policymakers by describing the situation on the ground before their recommendations will make sense. In the next section of this report, therefore, we offer our diagnosis of the situation on the ground today. We emphasize not only the deficiencies in border management but also the “bright spots” along the frontier where cooperation has been exemplary. Significant cooperation between Mexico and the United States already exists along the border, but it is incomplete, uneven, and unsystematic.

In subsequent sections, we discuss six key topics in border management: (1) public safety and security, (2) facilitation of legal transit and commerce, (3) economic development, (4) water management, (5) the environment, and (6) migration. For each issue-area, we first lay out the challenges involved and then offer analytically informed recommendations to confront these challenges. Taken together, our recommendations constitute a strategy for achieving our vision for the border of the future.

The final section emphasizes the urgency of our recommendations. We believe that the border has become as salient an issue in both federal capitals as it is likely to be, and that both governments are showing greater flexibility in their approach than has ever been the case. Many opportunities have been squandered in the past; it is essential that Mexico and the United States not lose this one.

II. The situation at the border

Most people who do not live along the border or cross it regularly are unaware of the situation there, the challenges of border management, or the ways in which both countries are attempting to confront those challenges. For instance, they may not realize that there is no institutional framework for managing aquifers that span the frontier, or (conversely) that collaborative management of surface waterways is as well established as anyplace on the globe. With regard to security, they may not know that Mexico has no equivalent of the U.S. Border Patrol (which polices the areas between

the ports of entry on the U.S. side), nor appreciate what that fact means for border enforcement.

Detailed knowledge of transboundary issues is sometimes scanty even in the capitals of some border states, from Sacramento to Monterrey – that is, among those people who might be in the best position to inform their constituencies. Indeed, although many of us live near the border, our conversations with experts, officials, representatives of civic groups, ordinary citizens in the border region, and each other gave all of us a much fuller appreciation of the situation along the frontier.

Many challenges at the border are merely visible manifestations of phenomena that extend far beyond the frontier, into the interior of both countries. The trade in illegal drugs, for instance, connects transshipment points in southern Mexico to distributions centers in the north of the U.S. Trafficking is thus not a “border problem”, but rather a binational and international problem that governments try to address in part through enforcement and interdiction at the border. The same is true for undocumented migration. Policies in the interior of both countries also influence natural resource management: the division of shared waterways would be far less problematic if water use policies were more prudent.

Myths about the border abound and cloud wise policy decision-making. For example, coverage of the border region today often focuses on contraband trafficking, overlooking the fact that contraband is a tiny fraction of merchandise trade. Increased attention to the recent surge in violence in a number of Mexican border towns has only reinforced the view of the border as a lawless, dangerous area. At the extreme, images of criminality have led to American depictions of Mexico as a “failing state”, whose problems might at any moment spill over into the U.S. There is precious little evidence, however, to support either claim.

Another common myth in both countries is that the other side is the principal source of problems at the border. American audiences often view Mexico as primarily responsible for a flood of drugs and undocumented migrants, overlooking the fact that U.S. demand and desultory interior enforcement drive both of these phenomena. Some Mexicans likewise blame the U.S. for contraband flows of guns and money used by traffickers to prosecute their campaigns against each other and the government, neglecting to mention that Mexico’s Customs authority (Aduanas) remains too poorly staffed and funded to engage in any serious effort at interdiction. Even when critics acknowledge “co-responsibility” for problems along the border, they often insist that the other side is not doing enough to address the situation. Differences in levels of economic development between the United States and Mexico feed these misimpressions.

Despite manifest disparities between the two countries, there remain key opportunities for synergy. Law enforcement efforts that lead to the fragmentation and debilitation of criminal organizations and the apprehension of criminals are one case in point; investment in power generation is another. The challenge confronting Mexico and the

United States is to mitigate the conflicts that inevitably arise from these pronounced differences between the two countries, while seizing the opportunities they generate.

Cooperation

Indeed, there is already a great deal of meaningful, mutually beneficial cooperation along the border between the two countries. Few Americans are aware that last-second transfers of electricity from Mexico prevented a massive blackout in the San Diego area or that inspectors from Baja California were brought north to assist in containing the outbreak of a disease that threatened poultry stocks in California – to pick just two recent examples of assistance from Mexico. Few Mexicans realize that agents from the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) regularly travel to Mexico to assist in tracing illegal weapons confiscated by Mexican authorities, or appreciate the extent to which American authorities are helping to train and equip Mexican law enforcement authorities.

By world standards, collaboration on water is truly striking. Since the conclusion of the 1944 Water Treaty, only one issue regarding shared riverways (the lining of the All-American Canal) has not been resolved cooperatively. The principal institution charged with administering these rivers, the International Boundary and Water Commission (IBWC), has continued to evolve in the direction of comprehensive watershed management. Binational collaboration on wastewater treatment and the supply of clean drinking water to border communities has also been a success, thanks in large measure to the North American Development Bank and the Border Environmental Cooperation Commission. Whereas 25% of the population in the border region lacked access to sewage and clean drinking water in 2003, today that figure is down to 14%.

The territory along the border is diverse, comprising bustling metropolises, small towns, and large expanses of uninhabited deserts. The arrangements that state, local, tribal, and federal authorities have reached with their opposite numbers are equally variegated. They range from smaller-scale initiatives that normally fly under the national media's radar screen (e.g., the bilateral Scrap Tire Integrated Management Initiative) to venerable institutions that can trace their origins back more than a century (as does the IBWC).

Taken as a whole, however, cooperation along the border remains spotty and imperfect. Many of these efforts remain unsystematic and *ad hoc*; they are not guided by any broader vision of how the shared boundary between Mexico and the United States should be managed.

The most effective institutions that operate along the border share certain features. First, they are binational in character. Second, they can act with power in their domains or (as a second-best alternative) include delegates from government bodies that can act with power. Third, they have permanent, skilled staffs that can devise long-term plans; base their decisions on expert, technical assessments; and ensure follow-up on decisions reached by policy-makers. Fourth, they are open to input from a range of

concerned parties, especially state and local governments, regional business associations, and civic groups. Organizations like the IBWC, the NADBank, and the Arizona-Mexico Commission approach this formula, providing models for truly comprehensive and authoritative binational institutions.

III. Public safety and security

The context

Since the terrorist attacks of September 11, 2001, border security has become an increasing priority of the United States. Meanwhile, in Mexico, violence related to the drug trade has claimed more than 13,000 lives over the last two and a half years. On both sides, crime and contraband trafficking remain very real concerns; Mexican-based trafficking organizations now dominate first-level wholesale distribution of cocaine and methamphetamine in the United States. In addition to its direct effects on public safety, crime has potent economic consequences, stifling tourism and threatening legitimate businesses in areas where trafficking organizations have grown powerful.

The United States and Mexico share responsibility for preventing smuggling and trafficking and for breaking the power of the major Mexican drug trafficking organizations. The United States is the principal destination for drugs coming from Latin America and the principal source of guns and cash flowing south. Mexico is the principal source of drugs and the principal destination for guns purchased and shipped illegally. Both countries suffer as a result of this symbiotic contraband trade, and both have an obligation to help control it. Dismantling the powerful trafficking organizations that operate on both sides of the border can only be accomplished by strengthening law enforcement authorities in both countries (including along Mexico's frontier with Central America) and by better coordinating efforts at the border. A shared vision, a joint strategy, and coordinated operations are critical to success.

The last decade has seen a steady, substantial rise in spending on border enforcement in the U.S., including a 100% increase in the number of Border Patrol agents, greater reliance on physical barriers, and the widespread deployment of new interdiction technologies. U.S. authorities now report "operational control" over approximately half of the frontier. Further investment of resources on the U.S. side alone could further improve border security. However enhanced cooperation between U.S. and Mexican authorities at and near the border would yield substantially greater returns than additional unilateral efforts.

Collaboration has increased since the terrorist attacks of September 11, 2001 and, more recently, the Mexican government's campaign against organized crime. Indeed, the cooperation on law enforcement and criminal justice matters, including exchange of information, has never been more robust than it is right now. Some of the more recent examples include efforts to combat the flow of arms into Mexico and collaboration between the Border Patrol and the Mexican Attorney General's Office (with Border

Patrol agents apprehending and identifying criminals who are then handed over to Mexico for prosecution there).

Nevertheless, cooperation can be improved. There is little exchange of tactical intelligence between the Border Patrol and Mexican law enforcement officials. U.S. Border Patrol agents have no one to call on the Mexican side when they are pelted with rocks by spotters acting on behalf of trafficking organizations; they receive no tip offs from Mexican officers about imminent attempts to break through the border and cannot pass any on when the suspects they are chasing flee back across the border into Mexico.

Cooperation is also exceedingly limited between Mexican Customs officials and U.S. Customs and Border Protection officers at the ports of entry, both because Mexican Customs officials lack the resources to act on information that American law enforcement agencies might provide and because of historic problems with corruption and intimidation. That situation is changing as a result of bold steps recently taken by the Mexican government to transform Mexican Customs into a full-fledged law enforcement agency and the establishment of regular working meetings between authorities at the ports of entry. However, the two nations remain a long way from the sort of cooperation that occurs between the heads of U.S. Customs and Border Protection and the Canadian Border Services Agency. They are farther still from a binationally coordinated approach to security across all enforcement agencies on both sides of the border.

The challenges

There are several salient obstacles to enhanced cooperation in law enforcement. These include: (a) domestic political considerations (b) differences in priorities; (c) existing laws; (d) institutional weakness on Mexican side; and (e) lack of parallel structures.

When addressing the issue of “security” along the border, Mexican officials have traditionally focused on public safety (*seguridad pública*), whereas U.S. authorities, since 9/11 have stressed “national security” (the threat of terrorism and the need to apprehend all who cross the border illegally) and drug trafficking. Increasingly, however, Mexico now perceives its own border security as essential to the security of the nation, its battle against the major drug trafficking organizations and to a healthy trade relationship. For its part, the U.S. acknowledges the importance of ordinary law enforcement issues (e.g., stolen cars) and the value of efforts to interdict southbound flows of arms and bulk cash.

Both countries continue to face pressure from nationalist constituencies that favor unilateral measures (on the U.S. side) or much more limited engagement with their neighbor (on the Mexican side). Cooperation can only be sustained if those who see the benefits of collaboration are as vocal in their advocacy as opponents of engagement are in their criticisms. Mexico’s current, aggressive approach to

combating drug trafficking organizations, in particular, will *not* be politically sustainable over the long run unless the government makes significant progress in weakening these organizations and curbing their power and that, in turn, will require significant assistance from the United States.

Current laws and regulations in each country sometimes impede cooperation. U.S. gun laws allow individuals to purchase a range of firearms whose possession would be severely punished in Mexico; some states have much laxer restrictions, and in the case of gun shows, sales are entirely unregulated. The end of the assault weapons ban in the United States has meant that much more dangerous weaponry can now be purchased easily in the United States, and differences in state laws drive controls to the low common denominator for smugglers. That said, U.S. officials currently possess considerable legal authority to prevent and disrupt arms trafficking, both by preventing straw purchases and interdicting southbound traffic.

A far more serious obstacle to cooperation is institutional weakness on the Mexican side, which shows up in lack of resources, poor professionalism, and corruption. At present, Mexican customs officials inspect only 8% of traffic crossing the frontier; these inspections are conducted at random, and they are often cursory. Mexican Customs also lacks the technology that would allow them to interdict vehicles suspected of carrying contraband (e.g., license plate scanners), much less scan large numbers of vehicles in a short period of time. As a result, it is basically impossible for Mexican officials to deter smuggling of firearms, ammunition, and bulk cash into the country.

Low levels of professional training mean that that law enforcement agencies in Mexico cannot perform several functions essential to closer binational cooperation. Both the police and the military do a poor job of collecting and synthesizing intelligence, conducting undercover operations, and investigating unprofessional conduct by their own personnel. More frequent shifts of personnel also make it more difficult for individual officers on different sides of the border (or even with Mexico itself) to establish long-term working relationships, especially at the Mexican ports of entry.

The most striking manifestation of institutional weakness on the Mexican side is corruption. In some cases, U.S. officials with information on major criminal figures have been reluctant to pass it on to their Mexican counterparts; Mexican officials also often mistrust each other. The problem of corruption requires deep structural change within the Mexican justice system and cannot be resolved simply through the infusion of new equipment or personnel. Recent steps by the Mexican government to professionalize law enforcement agencies, arrest corrupt officials, reform the judicial system, and convert Mexican Customs into a full-fledged enforcement agency, however, all speak volumes about the government's commitment to address this problem.

Less frequently mentioned is the problem of institutional integrity in U.S. Customs and Border protection, which has grown faster than any law enforcement agency in U.S. history. Several dozen officers have been arrested for corruption over the last five years. As pressure on trafficking organizations increases from both Mexican and U.S. law

enforcement, attempts to bribe American officials are likely to become increasingly common.

One final impediment to cooperation is the lack of parallel structures between Mexican and American law enforcement agencies. There is no Mexican frontier police; no one agency of the Mexican government has the function of protecting its frontiers; and Mexican Customs have somewhat different functions at the ports of entry than their U.S. counterpart. The absence of a mechanism for regular, immediate contact between law enforcement officials on each side of the border remains a chronic problem.

On the U.S. side, the fusion of Customs, the Border Patrol, and immigration and agricultural inspection into U.S. Customs and Border Protection has improved inter-agency cooperation. Canada undertook the same sort of measures, with similarly beneficial results, with the creation of the Canadian Border Services Agency, and the existence of parallel structures has greatly facilitated cross-border collaboration. So far, however, Mexico has not yet taken a comparable series of steps. As a result, cooperation among Mexican enforcement agencies remains radically incomplete, and U.S. Customs and Border Protection lacks a clear interlocutor on the Mexican side.

The solutions

We believe that that the most effective and efficient way to enhance security along the border is through closer binational cooperation. Achieving greater cooperation will in turn require not only the investment of greater resources but also the creation of mirror-image law enforcement agencies on each side of the border. Ultimately, cooperation should take the form of regular binational operations to interdict illegal flows, joint investigations, constant communication between Mexican and American authorities at and between the ports of entry.

The violence in many Mexican border towns makes the security situation particularly urgent. We urge officials in both governments to demonstrate a “bias for action”, showing as much flexibility and creativity as they can in order to devise new security arrangements.

The following steps should be taken *immediately*:

- Mexico should restructure its federal law enforcement institutions along the border to create a direct counterpart to U.S. border enforcement authorities, similar to the approach that Canada took after the terrorist attacks of September 11, 2001. Initially, new personnel operating between the ports of entry should be deployed along stretches of the border where traffickers are most active.
- Mexico should begin converting its Customs authority into a multi-functional agency capable of addressing the threats posed by cross-border trafficking of all sorts. Mexican Customs and the Office of Field Operations of U.S. Customs and Border

Protection (which staffs the ports of entry) should develop joint plans for securing all land ports of entry along the border.

- Mexico and the United States should deploy new interdiction and inspection technologies at the ports of entry. The Mexican side needs an array of new equipment, including license plate scanners and non-intrusive inspection technologies.
- The United States and Mexico should expand cooperative law enforcement efforts along the border, such as the OASISS program (through which information collected by U.S. officials is used by Mexican authorities to prosecute smugglers apprehended in the United States).
- The United States should deny members of drug trafficking organizations and their families safe haven north of the border by barring family members and known associates of Mexican criminal organizations from entry into the country; where these individuals are already in the United States, their visas should be revoked, and they should be deported.
- The United States should intensify efforts to curtail the smuggling of firearms and ammunition into Mexico by better monitoring licensed gun sellers, working with them identify suspicious purchases, regulating gun shows, reinstating the Clinton-era ban on assault weapons, conducting targeted inspections of southbound traffic, and providing leads to a more robust Mexican Customs authority. There should be at least one ATF agent in each U.S. consulate in Mexico to assist Mexican authorities with weapons traces and train Mexican law enforcement officers. If warranted by intelligence, the U.S. should also consider using Joint Inter-Agency Task Force (JIATF)-South resources to interdict international arms smuggling into North America.
- The United States should improve coordination between U.S. law enforcement agencies to seize bulk cash flowing south to Mexico and conduct targeted, intelligence-driven inspections of southbound traffic. The Federal Bureau of Investigation, Drug Enforcement Administration, Immigration and Customs Enforcement, and U.S. Customs and Border Protection have key roles in increasing the amount of southbound drug cash seized.
- The United States should dramatically expand assistance to Mexico beyond the Mérida Initiative, in order to help Mexico build up its law enforcement capacity. The U.S. government should be prepared to spend \$300-500 million per year for at least five years.
- The United States should reduce demand for illegal drugs through enhanced prevention efforts, increased access to treatment programs, stricter street-level enforcement, expanded drug testing of a portion of the workforce (e.g., employees of firms with government contracts), and more careful surveillance of the prison and

parolee populations. Mexico should also intensify its own efforts to reduce domestic drug consumption.

The following steps should be taken *within the next three years*:

- Mexico should complete the establishment of a federal frontier police, either as a division of an existing entity or as a new agency dedicated to securing the areas between the ports of entry on both Mexico's northern and southern borders. In the north, zones of operation for the Mexican force should exactly match those of its U.S. counterpart.
- Mexico should consider bringing the federal frontier police and a transformed Customs authority together into a single, unified border protection agency.
- Mexico and the United States should reconfigure the zones of operation of their respective border enforcement agencies so that they mirror each other.
- Cross-deputized Mexican and U.S. agents should conduct joint operations between the ports of entry.
- Mexico and the United States should reconfigure their ports of entry so that appropriate officials on both sides have access to real-time data on vehicles and individuals crossing the border. Customs officers from both sides should meet regularly to review operations at their ports of entry.
- Professional and trusted law enforcement personnel from both countries should be able to search for information gathered on perpetrators by officials from the other country.
- Mexico and the U.S. should build a binational prison on Mexican soil, to house Mexicans who have been apprehended by U.S. authorities for relatively minor border-related crimes. Such a facility would allow these individuals to be closer to their families while they serve their time.
- Both countries should establish workable systems for preventing corruption, including careful background checks and vetting of applicants, as well as a system for rapidly identifying corrupt overtures and promptly and professionally investigating all potential corruption allegations.
- Mexico should re-civilianize law enforcement. As civilian authorities become more capable and professional, it should be possible for the Mexican government to withdraw military personnel from most places where they have had to assume police functions. On the U.S. side, better control over the border should obviate the need for National Guard units currently deployed near the frontier to assist U.S. Customs and Border Protection.

IV. Facilitation

The context

Congestion at crossing points imposes serious costs on tourists, exporters, consumers, and border communities. Given the volume of merchandise trade and tourism across the border, these costs are immense. In the San Diego-Tijuana corridor alone, billions of dollars have been lost over the last five years as a result of bottlenecks at the border.

In addition to their direct costs, congestion at border crossing points disrupts supply chains; firms with operations in both countries that employ just-in-time manufacturing systems suffer when the costs of crossing the border are high and when wait times lengthy or unpredictable. Neither government has a firm grasp on the nature of supply chains across the border.

Facilitation is often viewed as the flip side of security. In fact, the two goals need not be mutually exclusive. Building new infrastructure, properly staffing ports of entry, collecting advance information on travelers and cargo containers, establishing trusted traveler and shipper programs, using intelligent risk management strategies, and deploying non-intrusive inspection technologies all advance both goals at the same time

The challenges

Mexico and the U.S. face three main challenges as they try to facilitate legal travel and commerce. By far the most important of these is a massive infrastructure deficit. Investment in crossing points and the roads that feed in them has simply not kept pace with huge increases in commerce and travel since ratification of the North American Free Trade Agreement (NAFTA).

The Task Force believes that federal spending on ports of entry would have a very high rate of return; for this reason, stimulus money in both countries should be directed disproportionately toward border infrastructure. Nevertheless, we recognize that even with additional stimulus spending, federal funding will remain insufficient to address the infrastructure deficit; both countries must find other sources of financing for border crossing points and the roads that feed into them. This money should come in part from the private sector, with the market rather than the state determining the magnitude of additional investment in border infrastructure.

At present, several factors make it difficult to build and operate ports of entry as public-private partnerships. In Mexico, the fiscal dependence of state and local governments on federal transfers makes it unlikely that these governments could play a prominent role in providing funds for the construction of ports of entry. There are also legal obstacles to collecting tolls at ports of entry, something which deters private investment in port of entry expansion.

In addition, both Mexican and American laws make it difficult to build additional ports of entry. On the U.S. side, current practice puts the Department of State in charge of the presidential permitting process without giving them the authority to impose deadlines on other agencies. A related problem is the absence of a process for retiring outdated permits, which can interfere with prospective projects.

A second challenge for facilitating trade and travel is inadequate segmentation of existing traffic. Contraband remains only a small fraction of the material that passes through the ports of entry in either direction. Only a small number of those who cross the border each day do so without proper authorization; criminals and potential terrorists constitute only a tiny portion of legitimate travelers. When customs officers seek to prevent smuggling, they must find a way to separate out the suspicious individuals, vehicles and cargo from the vastly larger number of people, vehicles, and goods that pose no risk. This “needle in a haystack” dilemma remains one of the central challenges of border enforcement.

Programs like SENTRI (expedited crossing for pre-cleared individuals and their vehicles) and FAST (expedited crossing for pre-cleared trucks, truck drivers and shippers) are effective and efficient ways of segmenting traffic while concurrently adding to the security of what is transiting the border. Wait times for SENTRI participants at Otay Mesa, where SENTRI traffic constitutes 22% of the total, are as low as 17 seconds. New technologies that allow for scanning of traffic at a distance are likely to make transit for those participating in such programs even swifter.

Unlike on the Canada-U.S. border, however, there are no SENTRI or FAST lanes on the access roads leading to the ports of entry. Installing dedicated traffic lanes would make these programs even more like HOV lanes on U.S. highways. One additional problem is the cost of obtaining a SENTRI card on the Mexican side, which is three times higher than on the U.S. side.

SENTRI and FAST are only one set of tools for segmenting traffic. Recent advances in non-invasive inspection technologies and electronic manifests, for instance, enable swifter primary screening of large amounts of cargo contained in tractor-trailer trucks. Other technologies, such as full X-ray imaging, can then be employed in secondary inspections when initial screening indicates an anomaly.

Third, operational changes at ports of entry could reduce wait times while enhancing security. For instance, ports of entry are not always staffed to peak volume, especially on the U.S. side. When they are not, officers at the ports of entry must choose between creating lengthy delays and inspecting fewer vehicles (or doing so in a more cursory fashion). Since 9/11 the United States has leaned toward maintaining security.

Staffing for the U.S. Border Patrol, a part of U.S. Customs and Border Protection (CBP), has grown dramatically in recent years. However, the number of CBP officers at the ports of entry, however, has remained largely unchanged, despite increasing volumes

of travel and trade. Because the marginal cost of operating a port of entry is extremely low compared to both the cost of building a port of entry and the marginal benefit of more rapid transit, neither government should permit inadequate staffing of the ports of entry to become a bottleneck.

One final impediment to facilitation is the persistence of regulations and trade restrictions that impose unnecessary transactions costs on businesses operating across the border. The most obvious manifestation is the refusal of the United States to honor its obligations under NAFTA regarding cross-border trucking of goods where the Mexican trucks meet U.S. safety standards. This denial of the authorization for the transport of goods by Mexican trucks between the border and another point inside the United States has given rise to a costly process, in which goods must be unloaded and reloaded just to move across the border. It also reduces security whenever cargo is stacked before being reloaded, by introducing yet another point at which contraband can be introduced into containers.

On the Mexican side, costly customs broker inspections also impose substantial costs on shippers. As with trade barriers in general, these inspections discourage trade by increasing the transaction costs involved in importing and exporting goods and they impede legitimate commerce. The broker inspections add nothing to the security of the movement of goods; indeed, since these inspections are performed on the U.S. side of the border, they present an opportunity to introduce contraband, such as weapons or undeclared cash, into truck shipments bound for Mexico.

The solutions

In a climate where infrastructure is desperately needed but government spending remains limited, building new ports of entry require public-private partnerships. Public-private partnerships, in turn, depend on the creation of user-fee systems that make such investments economically viable. These systems may vary from place to place, from tolls on feeder roads to fees for crossing the border itself, and must rely on automatic electronic processing for vehicles to avoid slowing traffic.

Streamlining the approval process for granting permits to build and operate ports of entry is essential. The process is cumbersome on both sides. On the U.S. side, one of the most important measures would be to grant whichever department “owns” the process the authority to enforce deadlines for review and response. On the Mexican side, a crucial step would be to grant states and municipalities greater autonomy to finance and build ports of entry, as well as to make decisions on strictly local matters within broad federal guidelines. Both governments should aim for a state of affairs in which the market, not the state, is the ultimate arbiter of the number of ports of entry.

Regardless of the number of ports of entry, both Mexico and the U.S. must ensure that traffic flows as swiftly as possible across them, consistent with achieving security requirements. Segmentation of traffic – that is, separating out different types of people and vehicles – is an essential ingredient in intelligent border management. At this point,

we believe that increasing the portion of pre-cleared individuals and vehicles by lowering standards for inclusion in programs like SENTRI and FAST would be a potentially serious mistake. Instead, these programs should be expanded under current vetting procedures, and both governments should continue to devise additional ways to better differentiate traffic.

There are a number of other operational steps that both governments can take immediately: coordinating hours of operation across ports of entry, moving to “stacked booths” to permit parallel processing, staffing lanes appropriately, dedicated lanes for buses, and the like. These measures require only modest policy changes, but they do require strong operational leadership and close working relationships between officials on each side of the border.

Finally, as in security, binational cooperation is an important element of facilitation. Ports of entry will operate most efficiently if their operations, planning, and siting are coordinated. Simply having Mexican and American officials responsible for the northbound and southbound ports of entry housed in the same building – or, failing that, sharing or even looking at the same information on their screens and in regular contact with each other – would facilitate operational coordination and increase security. Such coordination may not be possible now, but with a transformed Mexican Customs and with border institutions that have parallel functions, it could become a reality in time.

So far, neither government has articulated a goal regarding wait times. The Task Force believes that the average length of time that crossing the border adds to a trip should not exceed 20 minutes (with minimum variation about that mean), in either direction, at any port of entry.

Both countries should take the following steps *immediately*:

- Undertake a cost-benefit analysis of projects to be financed by economic stimulus plans in both countries, channeling more spending toward the ports of entry (and the roads that feed into them).
- Encourage the creation of public-private partnerships to build new ports of entry (along the lines of Otay Mesa East) permitting whatever toll structures are necessary to finance these projects. Private funding for ports of entry should come from and be used on either side of the border; public funding should come from local, state, or federal authorities, as well as binational institutions (see section on economic development). Both countries should offer private investors incentives to include state-of-the-art inspection facilities at new ports of entry.
- Streamline the approval process for building ports of entry. In the United States, presidential permitting might be run through a White House-led inter-agency process. In any case, the lead agency should be given authority to set and enforce deadlines for responses by other agencies involved in the approval process. The

entire process should take no more than six months. In Mexico, the federal government should immediately promulgate regulations ceding to states and localities the right to site and construct ports of entry (subject to overall federal coordination) and take steps to expedite the interagency permitting process.

- Ensure that planning for every new port of entry and the infrastructure that feeds into it is conducted by a single binational body or, at a minimum, by mirror-image bodies in which representatives of each country sit on the planning board of the other.
- Reconfigure and upgrade existing ports of entry so that they are capable of performing the security functions without delaying legitimate trade and travel. Where possible, facilities at the ports of entry should house both U.S. Customs and Border Protection and its Mexican counterpart. Port directors on both sides should meet regularly to discuss all issues relating to port operations.
- Fully deploy on both sides of the border non-intrusive inspection and risk management technologies and systems that reduce wait times while improving security.
- Eliminate remaining trade barriers and other restrictions that impose unnecessary transactions costs. The United States should permit trucks that meet legitimate safety requirements to operate freely across the border. As Mexico Customs is transformed, costly and time-consuming customs broker inspections should be eliminated.
- Expand trusted traveler and shipper programs like SENTRI, FAST/EXPRESS, and C-TPAT/AEO without lowering the bar for inclusion. Mexico should institute an Authorized Economic Operator (AEO) program, similar to C-TPAT, which permits expedited cargo shipments by trusted and vetted shippers.
- Experiment with pre-clearance. Where security conditions permit, both countries should allow the placement of U.S. Customs and Border Protection officers on Mexican soil. Mexico and the United States should also build on the Kansas City SmartPort concept of placing Mexican Customs officers in one or more U.S. cities to conduct preclearance of cargo trucks and trains bound for Mexico.
- Change staffing and operations practices on the U.S. side to reduce waiting times. The United States should ensure that hours of operation are coordinated across ports of entry, move to “stacked booths” to permit parallel processing at each port of entry, staff lanes appropriately to volume, and create dedicated lanes at the ports of entry for SENTRI cars and FAST trucks, buses, high occupancy vehicles, and bicycles.

Both countries should take the following steps in the next three years:

- Plan and begin building new ports of entry and access roads, based on current and projected volumes of travelers and trade.
- Give officers at the ports of entry the equipment necessary to communicate directly and instantaneously with their counterparts.
- Fully deploy, on both sides of the border, non-intrusive inspection and risk management technologies and systems that reduce wait times without jeopardizing security.
- Encourage the formation of a border-wide network – possibly virtual – of state and local governments, community organizations, and business groups to advocate for policies that expedite legal commerce and transit.
- Complete planning and begin construction of new SENTRI and FAST/EXPRESS lanes

V. Development

The context

Facilitation of legal commerce and travel is obviously a key ingredient in the recipe for regional economic development. Indeed, in some areas, expediting cross-border trade and transit could be the single most important measure that the governments could take to promote economic development along the border. At the same time, these measures must be supplemented by affirmative steps to promote economic development in the border region. In the fifteen years after the passage of NAFTA, levels of trade and investment in North America have risen dramatically, but commercial openness has proven insufficient to generate sustained, broad-based economic growth. Both governments must take additional steps to “make NAFTA work” for ordinary people in the border region by promoting regional economic initiatives, improving regulation, and strengthening development lending institutions.

The challenges

At present, development institutions in the border region are not sufficiently empowered or robust to develop the border region. The North American Development Bank, created alongside NAFTA, has historically focused on water, wastewater, and environmental projects; although it has made remarkable progress on these fronts, its mandate prevents it from investing in a number of other types of projects that could also boost standards of living. Meanwhile, funding for the Border Environmental Cooperation Commission has dwindled steadily. The Inter-American Development Bank has canceled its border program.

Some of the quasi-governmental organizations that might promote economic development, such as the Border Governors Conference, lack a clear developmental agenda. As a result, the initiative has fallen to ad hoc local and regional groups – such as the San Diego Regional Economic Development Corporation, which brings San Diego County, Imperial Valley, and Baja California together in an effort to create a bi-national mega-region featuring a “green” technology corridor. These efforts suffer from the lack of a coordinated *government* policy aimed at promoting regional development. The problem is particularly acute on the Mexican side, where state and local governments have much more limited powers than they do in the United States, and where the constitutional prohibition against reelection hampers long-term planning.

There has long been a disconnect in Mexico between export-oriented industries that meet international quality standards – often located in the border region – and companies that produced mainly for the domestic market, which tended to be less efficient. The Mexican government needs to have a coherent industrial policy aimed at promoting forward and backward linkages between the modern, efficient export sector and other parts of the economy.

The border region is replete with business opportunities, from technology to auto parts manufacturing. In a number of sectors, however, regulatory change is essential for these opportunities to be fully exploited. Three promising industries in which state action could spur economic activity are tourism, health care, and renewable energy.

The border region is a hub for tourism; day trips for shopping are common. Several factors, however tend to suppress tourism. First, as discussed above, delays at the border discourage travel, especially short trips. Second, the amenities for travelers that would encourage longer trips – e.g., information kiosks and rest stops – are inadequate. Third, because interactions with authorities are a significant part of the experience for visitors, unpleasant experiences discourage tourism and travel. On the U.S. side, there is a perceived variation in the degree to which U.S. Customs and Border Protection officers at the ports of entry have embraced the agency’s pledge to treat travelers with courtesy, dignity, and respect. On the Mexican side, the problem is different: both Americans and Mexicans complain of shake-downs by corrupt police officers, often at interior checkpoints proximate to the border. This behavior undermines tourism, tarnishes Mexico’s reputation, and creates the impression that corruption is pervasive. Finally, crime and insecurity on the Mexican side (discussed in Section III) deter many prospective travelers from crossing the border or, when they do, from staying the night.

Beyond tourism, there are significant opportunities along the border for travel to seek medical treatment (an activity misleadingly known as “medical tourism”). Patients traveling to Mexico seek not only lower costs but also the personalized attention that Mexican primary care physicians offer. A related industry is elder care, assisted living, and retirement services, for U.S. citizens in Mexico. To date, U.S. health care providers and insurers have been reluctant to allow Mexican providers to treat their patients, in part because the regulatory framework remains weak. Another obstacle is that the U.S.

government has not allowed Medicare recipients to be reimbursed for treatment they receive in Mexico.

The sector with perhaps the greatest potential remains energy, especially power generation. Renewable energy mandates in U.S. border states –especially in California– create a vast demand for clean energy, and Mexico has enormous untapped potential; the La Rumorosa area in Baja California alone, for instance, could produce as much as 1,000 megawatts of wind power. Baja California also has substantial potential for solar power (though solar currently remains less commercially viable than wind). The border region of Mexico is also a logical site for nuclear power, given that it is virtually impossible for nuclear plants to obtain permits to construct in Southern California or Phoenix. Finally, there are opportunities for natural gas-fired electricity generation in Chihuahua and Mexicali to serve communities on both sides of the frontier.

At present, however, there is no such a thing as an energy agenda for the border region: no true market for electricity across the border, no binational plan for electricity generation or transmission, and no program to develop new technologies or energy reserves. One significant obstacle to cross-border cooperation on energy is that Mexican law places a state-owned monopoly, the Federal Electricity Commission, in charge of electricity generation and transmission. Several reforms to this state-owned monopoly are necessary for a cross-border energy market to function, including a standardized investment regime for both countries and direct negotiations between subnational governments across the border.

Finally, governments can promote development in some industries simply by lifting unnecessary regulations. Several examples are discussed in the preceding section; one additional case is cross-border terrestrial broadcasting, where restrictions retained under NAFTA have artificially bifurcated what are natural markets in the border region (e.g., Tijuana and San Diego).

The solutions

As noted in the previous section, facilitating legitimate commerce and travel is one of the most important steps both governments can take to promote economic development in the border region. But Mexico and the United States can also encourage growth by reshaping the current regulatory framework. In the case of tourism, Mexico and the United States must work with each other and state and local authorities to ensure that travel is a pleasant experience and the border an enticing place to visit. In the case of energy generation, the most obvious first step is to eliminate ill-advised national restrictions – in particular, by permitting private investment in electricity generation in Mexico. Entrepreneurs can then set about developing both renewable and non-renewable energy resources in the border region with a binational market in mind. In the case of health care, developing a well-functioning cross-border market requires an even more elaborate binational regulatory system. One crucial element of this system is a process for accrediting Mexican health care institutions and monitoring them to ensure they continue to meet quality standards.

The border is a culturally distinctive region that has the potential to “brand” itself and the wide variety of goods it produces. Although the private sector must take the lead in these efforts, the state has an important indirect role to play in supporting them. For instance, governments can support local business organizations by providing a venue in which entrepreneurs can meet, enforce quality standards to which these organizations agree, and ensure that any labels these organizations create (e.g., “Imperial Valley grapes” or “from the Californias”) are protected by law. One area has been branded – the San Diego County, Imperial County and northern Baja California are now known as the “Cali Baja Bi-National Mega-Region”.

Finally, governments also can contribute to development directly by investing public funds in new infrastructure projects and improving public services. These investments have a high rate of return but for various reasons are not profitable for private investors. One logical vehicle for such investments would be a binational development bank.

To promote economic development Mexico and the United States should take the following steps *immediately*:

- Expand the mandate of the North American Development Bank, allowing it to experiment with new sorts of projects, including those that intimately affect border communities but are not necessarily located in the border region (e.g., logistics corridors).
- Eliminate legal restrictions on cross-border energy sales, private investment in electricity generation in Mexico, and cross-border terrestrial broadcasting.
- Launch a process of accrediting Mexican health care institutions by U.S. Medical Boards and Mexican officials, monitoring and enforcing quality of care standards in Mexican institutions that provide services to U.S. patients. Once an effective regulatory framework is in place, the United States should allow Medicare patients to be reimbursed for treatment at certified institutions in Mexico.

Both governments should take the following steps *within three years*:

- Create a binational Border Development Authority that would subsume all the activities of the NADBank under a broader mandate. This new institution should be endowed with higher levels of capitalization and the ability to make grants to help local governments develop their administrative capacity. Once the Border Development Authority demonstrates its ability to integrate the interests of legislators, governors, mayors, business groups, and grassroots organizations, it should be charged with encouraging regional development initiatives and coordinating infrastructure planning along the border.

- Undertake whatever legal or constitutional reforms in Mexico are necessary to ensure administrative continuity at the municipal level and to allow state and local governments to raise additional revenue for development projects.
- Reestablish the trans-border land transportation demonstration project
- Create a regulatory mechanism to ensure the integrity of a future binational electricity grid. To extent that separate regional cross-border grids do not interconnect with each other, this step may be accomplished by CFE and any private Mexican producers joining U.S. state-level regulatory bodies. Another approach would be to establish a new binational power commission for the border region.
- Create mechanisms for to ensure that U.S. Customs and Border Protection officials live up to their Pledge to treat travelers with “courtesy”, “respect”, and “dignity”, and create an effective sanctions regime for Mexican officials who supplement their income by harassing tourists.
- Promote tourism by providing amenities for day-trip visitors in both directions along the border (e.g., gas stations and highway rest stops).
- Develop a U.S.-Mexico border “brand” by encouraging the formation of local producers’ associations on both sides of the border.

VI. Water

The context

Mexico and the U.S. share two major river systems – the Colorado River, the Rio Grande / Rio Bravo (known by different names in the United States and Mexico) – as well as the Tijuana River, New River, and underground waters of unknown extent. The 1944 Water Treaty created the bilateral International Boundary and Water Commission (IBWC) to manage the Colorado, Rio Grande, and Tijuana rivers, specifying formulae for allocating water from them.

In comparative perspective, the framework Mexico and the United States have devised for water management is enviable. The IBWC is a binational, professionalized institution that bases its decisions on technical criteria. (In addition to its water management authority, it is also responsible for boundary demarcation.) Disputes are depoliticized and rarely blow up into full-fledged controversies; virtually every issue involving binational surface waters over the last 65 years has been successfully resolved jointly.

Moreover, the 1944 Treaty itself has been continually updated through the process of Minutes, as amendments to the Treaty are known; to date, there have been 314

Minutes. The two sections of the IBWC (American and Mexican) propose these Minutes, which both governments (through the State Department and the Ministry of Foreign Relations) then approve.

The challenges

At the same time, there remain serious holes in the binational framework. In the words of one Task Force member, the current approach to binational water management is based on a 19th century notion of sovereignty (dividing surface flows between the two countries without comprehensive management of each river system) and much older notion of religion (praying that it rains). The 1944 Treaty itself responds to a totally different era, in which the most important use of surface water was for power generation. Groundwater, including non-renewable aquifers, is also not covered, leading to the depletion of these resources. Environmental and ecological considerations are never mentioned in the Treaty.

One issue that potentially complicates collaboration is that water rights are handled differently in each country. In the U.S., water is a states' rights issue; some private users also effectively hold property rights. This fact prevents comprehensive management of watersheds. In Mexico, the system is much more centralized; water supply is managed by a federal entity (the National Water Board, or CONAGUA), and a series of Watershed Councils are responsible for managing each river system in a coordinated fashion.

Another problem is the fact that the original volumetric calculations in the 1944 Treaty were based on what was, in retrospect, an unusually "wet" period. Thus even if demand had remained constant, there would be a structural shortage of supply from rivers covered by the Treaty. Of course, demand has in fact grown dramatically, as a result of rapid population growth on both sides of the border.

Recent droughts have already caused hundreds of millions of dollars in damages to producers that depend on allocations from these watersheds. Without a rapid and dramatic change in water policy, increasing tension in the bilateral relationship is inevitable. Recent controversy over U.S. lining of the All-American Canal, seepage from which flowed to Mexico, is only the most visible manifestation of such tensions.

Controversies in allocating transboundary waters are in part a product of the fact that neither country has a coherent plan for water use management. Current pricing for water makes it simply too cheap to conserve. In some border communities, residential water use is not even metered, effectively turning this increasing scarce resource into a free good. Water for agriculture is subsidized to a staggering degree; users pay approximately twenty-five cents per acre-foot (that is, the amount of water necessary to submerge one acre of land under twelve inches of water), when residential users would pay several hundred dollars for the same amount. Moreover, the reaction to this problem within each country has not generally not been the introduction of market principles but rather water rationing. Finally, both governments also impose restrictions

on the sale of water across the border. That fact not only complicates water management strategies, it also prevents investment in projects that would serve users on both sides of the border.

The solutions

Intelligent management of transboundary waters involves more than simply dividing them according to prescribed formulas; it also entails conservation, upstream efforts to protect river systems, and the development of new sources of supply. The goal should be binational, comprehensive management of each shared watershed, with fewer barriers to the sale of water across the border.

One important step toward this goal is to alter the 1944 Treaty to reflect current realities and usage patterns. However, re-opening the 1944 Treaty now could provoke more conflict and controversy than it would resolve. For the time being, therefore, the Treaty should continue to evolve through the existing Minutes process.

Over the longer term, both countries need to adopt sound, market-oriented water policies to cope with growing demand for a scarce resource in a fundamentally arid region. For residential users, one option would be to impose a progressive fee structure, in which the “tax” per unit of water rises as consumption increases. For agricultural and industrial users, those who prove most efficient should have first claim to water, and subsidies should be radically curtailed.

Mexico and the United States should take the following steps *immediately*:

- Negotiate a new series of Minutes that give the IBWC jurisdiction over transboundary groundwater, allow it to better address environmental concerns, and expand its ability to conduct long-range planning (which in turn will allow it to identify further opportunities for improvement in water management).
- Add U.S. states and the American Section of the IBWC to the relevant Mexican Water Basin Councils as “Guests” (an arrangement analogous to the inclusion of Canadian provinces in the Great Lakes Commission) to encourage comprehensive watershed management.
- Strengthen institutions like the Binational Science Advisory Board, the Binational Water Development Board, and the Binational Water Commission, which can provide guidance on water management policies.
- Permit the cross-border sale of water of different grades (e.g., wastewater vs. drinkable water) – again, through the federal government on the Mexican side if necessary.

Mexico and the United States should take the following steps *within three years*:

- Create a more powerful IBWC – possibly renamed a Binational Water Board – that would have the ability to comprehensively manage transboundary surface and ground waters, finance new investments in water infrastructure, develop new sources of supply, regulate cross-border water sales, create incentives for conservation, work with Mexico’s National Water Commission and U.S. states to reduce pricing distortions, and educate the public on water management.
- Begin negotiations on a new water Treaty or Agreement, based on the 1944 Treaty but updated to reflect the importance of conservation and environmental concerns.
- Launch a communication campaign aimed at educating legislators, policymakers, residential consumers, and holders of water rights about the challenges of water management.
- Adopt market-oriented policies to conserve and better allocate water throughout the border region.
- Adopt policies to conserve and better allocate water throughout the border region.

VII. The Environment

The context

In general, efforts to facilitate commerce, promote economic development, and properly manage water resources will all advance environmental goals. For instance, cutting wait times reduces air pollution from idling cars and trucks, and eliminating the drayage process will remove from circulation a fleet of heavily polluting vehicles. Likewise, sustainable water use policies and comprehensive watershed management will help preserve riparian habitats.

The border region is an area of striking beauty and biodiversity. Because habitat destruction is irreversible, preserving the region’s natural heritage should be an important goal for both governments. Border residents should not have to feel that they must trade off environmental protection and sustainability for economic growth.

The challenges

Because ecosystems often cross lines on a political map, collaborative management remains essential to their preservation. A related challenge for development concerns the negative externalities of economic activity. Emissions and effluents cross the border easily; only coordinated action on this front can prevent a race to the bottom by firms seeking to elude environmental restrictions.

As noted above, environmental considerations have not traditionally factored into decisions about the management of shared waterways. One result has been the destruction of the bulk of the natural habitat along the Colorado River. Meanwhile, cross-border water pollution – especially pronounced in the Tijuana and New Rivers – remains essentially unregulated. Over the long run, such policies lower standards of living by destroying non-renewable resources and adversely affecting human health.

The solutions

Both governments must step up their actions on the environmental front. Several possible approaches include: restoring funding for environmental projects, harmonizing regulatory standards in the border region, requiring that new plants along the frontier conduct transboundary environmental impact assessments, adopting measures to mitigate spillover pollution, and even possibly devising strategies to reduce emissions from industry (especially power plants). In some border areas, there may even be opportunities for creating regional cap-and-trade markets.

To this end, Mexico and the United States should *immediately*:

- Substantially increase funding for the Border Environment Infrastructure Fund.
- Harmonize regulatory standards in the border region and require that new plants along the frontier conduct transboundary environmental impact assessments that cover both emissions and effluents.

Both countries should take the following steps *within three years*:

- Devise strategies to improve water and air quality in the border region, including regional emissions trading systems if appropriate (e.g., in the Californias or the El Paso-Juárez area).
- Give the Binational Water Board (discussed in the previous section) the authority to develop water quality standards and reduce non-point source pollution in shared waterways.
- Establish binational parks and encourage ecotourism.

VIII. Migration

The context

Hundreds of thousands of people cross the border illegally each year; the vast majority are economic migrants from Mexico seeking work in the United States. This massive flow of people is, fundamentally, the product of higher wages and greater employment opportunities in the United States. For most migrants, the “pull” factor is demand for Mexican labor in the United States; the “push” factor is weak job creation and low wages in Mexico.

Although unlawful crossings have fallen sharply over the last two years, as a result of sluggish economic growth in the United States and stepped-up border enforcement efforts, tens of thousands of economic migrants still succeed in entering the United States illegally each year via Mexico. Intense concern over illegal migration from Mexico fuels support for physical barriers in the United States and could create a backlash against Mexicans living in the United States regardless of their legal status; the backlash against migrants will be even more pronounced if they become linked in the public eye to drug-related violence.

The two countries perceive migration very differently. In Mexico, the focus is on labor market complementarities and the manifest need in the United States for (mainly low-skill) Mexican labor – at least during periods of economic growth. In the United States, recognition of this need is coupled with concern over the effect of immigration on wages and labor protections. The U.S. approach to immigration is also influenced by family reunification, which does not correspond to labor market logic. Finally, in the United States, immigration is not only an economic issue, but also a cultural and social issue.

Many Americans have decidedly ambivalent views on immigration. On the one hand, they acknowledge that their country is a nation of immigrants, and that immigration has helped make the country great; on the other hand, they express concern about the extent of illegal immigration and the inability of the United States to control its borders. The surge in the immigrant population over the last three decades, and the perceived lack of assimilation by some of these new immigrants into American society exacerbates these concerns. Trepidation about the cultural impact of migration might be assuaged if there were a comprehensive program to integrate new immigrants into American life, but at least in the meantime, they impose an additional constraint on public receptivity to additional immigration.

In this context, it is important to emphasize that not all aliens residing in the United States illegally are from Mexico; perhaps 40% are citizens of other countries. (Some of these individuals entered the United States legally, but overstayed the period authorized by their visas.) In addition, not all immigrants from Mexico are undocumented; Mexicans

living in the country illegally constitute less than 60% of the Mexican immigrant population and less than one-quarter of the larger Mexican-origin population in the United States. These Mexican-Americans – both immigrants and native-born – enrich U.S. society economically and culturally.

The challenges

The United States has gone through one major attempt at immigration reform in the last three decades, the Immigration Reform and Control Act (IRCA) of 1986. This initiative failed because it did not address two key elements of any comprehensive immigration reform: an enforceable system of employer sanctions and a plan for managing immigration in the future. Penalties for employers who hired undocumented aliens were weak – less than the cost of doing business using illegal labor – and the system for determining work authorization was and still is rife with fraud. In short, although it regularized the status of approximately three million people then living in the United States illegally, the 1986 Act provided no plan for stemming future illegal migration or managing prospective legal flows.

One additional problem with past efforts at immigration reform has been their unilateral nature. The immigration debate in the United States is complex, and assembling a political coalition for reform is challenging enough without taking into account Mexican preferences. Nevertheless, efforts to control undocumented migration will prove far more effective over the long run if they enlist Mexico as a partner.

Domestic political considerations in Mexico introduce further complexity into the equation. Some politicians in Mexico have argued that Mexico's constitution, which guarantees citizens freedom of movement, prevents the Mexican government from taking active measures to prevent illegal border crossing to the United States. In fact, the Mexican constitution allows the government to regulate travel and transit by law, and current laws require that transit take place through authorized ports of entry and exit. Thus, Mexico can readily take steps to counter undocumented migration between the ports of entry if it chooses. So far, however, Mexico has not developed a shared vision of how it wishes to approach the issue of immigration, much less of what role it should play in preventing northward migration at the border.

In the short run, economic crisis in the United States will limit undocumented migration, because jobs are scarce. Enforcement of existing laws will also increase, both at the border and in the interior, in part because public toleration of unauthorized immigration tends to wane when unemployment rises. Nevertheless, there is no evidence that migrants already in the United States are returning home in massive numbers. In fact, tighter border enforcement discourages undocumented workers from going back home for fear of not being able to return to work later.

The solutions

Long-term solutions to unlawful migration demand both broad-based economic development in Mexico and comprehensive immigration reform in the United States. With regard to the former, most Mexican members of the Task Force believe that rapid growth in Mexico will require (a) fiscal reform to increase federal tax revenues, (b) “trust-busting” to foster competition in sectors now dominated by one or two firms, (c) energy reform to permit greater private investment in that sector, (d) labor reform to encourage union democracy, (e) education reform aimed at improving the quality of public schooling, and (f) industrial policies designed to expand linkages between the modern export sector and the rest of the economy. Adopting these policies, which are not associated with any one political faction, requires a robust national dialogue and visionary political leadership able to articulate and implement broad, ambitious goals.

U.S. members of the Task Force believe that the United States urgently needs comprehensive immigration reform. Most would support a proposal that includes the following four key elements: (a) a system of effective border enforcement; (b) a mechanism that allows employers to comply with prohibitions against hiring unauthorized workers, along with stiff sanctions for those who fail to comply; (c) earned legal status for those Mexicans and others currently living in the United States without authorization; and (d) a plan for providing for future immigration flows, especially from Mexico. American members also believe that, when it comes to migration, treating Mexico in the same way as all other countries whose nationals seek immigration to the United States defies demographic, geographic, and economic realities.

Although the Obama Administrations has promised comprehensive immigration reform, it is unlikely to take up this issue this year. Economic growth in Mexico is an even more complex and longer-term project. Rather than wait for these changes, both governments should adopt policies now that are congruent with the larger vision but that do not require new legislation.

The following steps should be taken immediately:

- The United States should officially acknowledge that, when it comes to migration, Mexico is unique and that addressing Mexican migration requires a set of policies tailored to the situation.
- Mexico and the United States should establish a joint commission of economists, demographers, as well as prominent business and labor leaders to analyze the labor market complementarities produced by long-term demographic trends and economic integration; the Commission should report to the President and Congress of each country. If a joint commission is not possible, separate, parallel commissions with the same charge should be established and work in tandem.
- Both governments should jointly develop a plan for managing future flows (both temporary and permanent) that takes into account the demographic and labor

market realities of both countries. This plan must address the potential for fraud by recruiters and ensure that labor rights are fully protected.

- The United States should use existing laws to investigate and sanction employers that hire undocumented workers, focusing initially on employers who hire large numbers of undocumented workers or rely on undocumented workers as part of their business model.
- The United States should develop a reliable electronic verification system and incentivize employers to use it.
- The United States should simplify existing U.S. visa categories, establishing those that will be needed under a reformed immigration regime.
- The United States should begin strengthening and modernizing Citizenship and Immigration Services now, so that it will be ready to handle comprehensive immigration reform when it comes to pass.

The following steps should be taken *within the next three years*:

- The United States should adopt a set of policies that addresses both the status of unauthorized Mexicans living in the country and future legal flows from Mexico. The level of future legal flows should be flexible, reflecting economic conditions and the demand for labor.
- Once such reforms are in place, Mexico should actively prevent unauthorized northward migration by ensuring that people entering the United States from Mexico do so the country at designated crossing points and with the required documents.
- The United States should staff consular offices and Citizenship and Immigration Services sufficiently to accommodate the demand for new visas and the processing of them.
- The United States should develop a plan for the full integration into American society of those granted permanent residency as a result of comprehensive immigration reform.
- Mexico should adopt policies that discourage migration by promoting broad-based economic development.

IX. Conclusions

Mexico and the United States have long squandered opportunities for constructive collaboration along their shared border. The costs have been massive – not simply tens of billions of dollars in economic losses but a widespread sense that the border is “broken” or dysfunctional.

The last year has offered some auspicious signs, however. In pursuing its campaign against organized crime, Mexico's government has moved beyond the reflexive and excessive preoccupation with sovereignty that long frustrated binational collaboration on law enforcement. Meanwhile, a new administration in Washington has committed itself to comprehensive immigration reform and acknowledged the United States' shared responsibility for the trafficking in drugs and arms. Both governments seem ready to replace nationalist finger-pointing with a twenty-first century approach to border management that benefits both sides.

We invite them to take the next step. We urge both governments to articulate a shared vision of the border that promises tangible, substantial benefits for both countries. The first element of this vision is a model of binational law enforcement in which officials from parallel, professionalized agencies work together as a matter of course. The second is a coherent economic strategy for the border region, based on expediting legitimate commerce, relaxing federally-imposed restrictions on what border communities can do, and endowing existing development institutions with greater authority. The third component is intelligent, comprehensive management of the natural resources that both countries share. The fourth is a comprehensive, binational solution to migration. Taken together, these steps will transform management of the border from a source of contention and frustration into a model of cooperation in confronting common challenges.

Map [from IBWC]

Notes

Page 1, land border estimates: According to *World Factbook* (produced by the U.S. Central Intelligence Agency) the border is 3,141 kilometers long, or 1,951.7 miles. The IBWC's Mexican Section gives the same distance for the sum of river and land boundaries, though it adds 22 kilometers of maritime boundary (13.7 miles) on both the Pacific and Gulf sides. The boundary map provided by the IBWC's American Section (http://www.ibwc.state.gov/Files/US-Mx_Boundary_Map.pdf, also shown on the introduction screen of its website) puts the border at 1,954 miles. Because this figure represents the exact sum of the two river boundaries and land boundary whose distances are also listed on the map; it could be off as a result of rounding. (The kilometers of each leg of the border on the Mexican Section's webpage do not sum to the overall figure.) Wikipedia claims the border to be 1,969 miles; the source is a dead link to IBWC.

Page 1, other land borders: All lengths are taken from the *World Factbook*.

Page 1, trade: The Bureau of Transportation Statistics of the Research and Innovative Technology Administration (U.S. Department of Transportation) puts surface trade with Mexico at \$293 billion in fiscal year 2008 (http://www.bts.gov/press_releases/2009/bts014_09/html/bts014_09.html). Surface trade comprises shipments made by truck, rail, pipeline, mail, foreign trade zones, and other transportation; trade only by truck and rail comes to \$282 billion. These figures capture total trade in both directions (i.e., U.S. imports and U.S. exports). Because some goods may cross the border more than once at different stages in production, a portion of this volume is double-counted in terms of value-added.

Page 1, legal crossings: The Bureau of Transportation Statistics of the Research and Innovative Technology Administration (U.S. Department of Transportation) put entries of people as pedestrians or passengers in buses, trains, and personal vehicles into the United States from Mexico at 206,301,125 in 2008. Not all crossings involve unique individuals, so the number of total crossings is much larger than the number of people who have crossed the border. These figures only include entries into the U.S., not departures.

Page 4, Mexican-origin population: The Pew Hispanic Center estimated the Mexican origin population in the United States at 29,189,344 in 2007 (<http://pewhispanic.org/files/factsheets/hispanics2007/Table-5.pdf>).

Page 6, land borders: The U.S.-Mexico land border includes river borders. Mexico and the United States also share a maritime border in the Gulf of Mexico of close to 1,000 miles. Land boundaries that are longer than the U.S.-Mexico border are, in order: U.S.-Canada, Russia-Kazakhstan, Argentina-Chile, China-Mongolia, India-Bangladesh, China-Russia, Russia-Mongolia, Brazil-Bolivia, and China-India.