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"Challenges and Opportunities for the U.S. and Mexico to Disrupt Firearms Trafficking to Mexico"

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Senator Menendez, Ranking Member Rubio, and Members of the Subcommittee I am grateful for the opportunity to appear before you today on behalf of the Woodrow Wilson Center to discuss an issue of enormous importance in U.S. – Mexican relations, firearms trafficking.

As you know, in 2007 Presidents George W. Bush and Felipe Calderón Hinojosa announced a landmark security cooperation agreement called the Mérida Initiative. The significance of this agreement was not only the money and equipment involved but the innovative framework of "shared responsibility" that formalized the commitment of both countries to work together to address the serious security problems posed by organized crime. For the first time both countries acknowledged that the roots of the crime and violence convulsing Mexico were to be found in both countries. Mexico acknowledged that it needed to more aggressively confront organized crime by increasing deployments of its security forces, and dramatically strengthening its institutions by rooting out corruption, professionalizing its police, transforming its justice system, and improving the capacity of its military and intelligence services. For its part, the United States acknowledged that consumption of illegal drugs in the U.S., the profits generated, and the trafficking of firearms was feeding the violence in Mexico.

The Obama administration continued and deepened this cooperative framework and re-emphasized the shared nature of the problem and the urgency of working cooperatively to address the problem.

Last year, the Wilson Center's Mexico Institute, which is part of the Latin America Program directed by Dr. Cynthia Arnson, undertook an extensive study of the security challenges posed by organized crime in U.S.-Mexico relations. We commissioned 13 papers to examine multiple aspects of the problem. The resulting volume is entitled, "Shared Responsibility: U.S.-Mexico Policy Options for Confronting Organized Crime," which I had the honor to co-edit with Dr. Andrew Selee, Director of the Mexico Institute, and Dr. David Shirk, Director of the Trans-Border Institute at the University of San Diego.

Since I have been invited today to talk specifically about firearms trafficking to Mexico, I would like to take the remainder of my time to summarize some of the key findings in the chapter on the subject authored by Colby Goodman and Michel Marizco, and add some additional information that has come to light since our publication. While our study focused on a number of issues related to the nature and consequences of U.S. firearms trafficking to Mexico, I am going to focus on the issues most relevant to the Senate Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs. After an

overview of the main findings of the report, I will provide more detail about the challenges the U.S. and Mexican government are facing in working together to tackle this problem, especially related to firearms trace requests, intelligence sharing, and border enforcement, and offer some policy options for addressing these challenges.

Firearms Violence. Traditionally, Mexican organized crime groups used firearms to establish and maintain dominance over trafficking routes, access points into the United States, and territory (known as "plazas" in Spanish), usually by wresting rival drug syndicates away and establishing the environment necessary to maintain a reliable trafficking enterprise. Much of this was performed through specific assassinations, focused attacks that allowed for the establishment of regional control. However, as the rivalries between criminal organizations increased, and the Mexican government more directly challenged organized crime, the demand for firearms increased dramatically, especially for more sophisticated military-style firearms from the United States. In the last three years we have witnessed the use of these weapons in open combat with rival organizations, and often resulting in the increasing lethality of these attacks and the deaths of innocent by-standers. The resulting murder rate is now seven times what it was at the beginning of the decade, and Mexico's democratic governance is at serious risk. The most recent data from the Government of Mexico shows a 60 percent increase in homicides between 2009 and 2010 with last year being the most violent since the beginning of the Calderón Administration with approximately 15,300 people were killed in organized-crime related violence.

While most of the violence and killings are amongst and between organized crime groups they have also used firearms to target both local and federal officials, politicians, journalists, businesses, and the general public. In late 2006, for example, in the Sinaloan village of Zazalpa, 60 drug traffickers looking for a rival DTO gathered all the residents and destroyed the town, raking buildings with U.S.-purchased AR-15 firearms. According to Mexican President Calderón, crime groups are also "imposing fees like taxes in areas they dominate and trying to impose their own laws by force of arms." In February 2010, U.S. and Mexican citizens waiting to cross into Mexico from Nogales, Arizona, were trapped in a firefight erupted in the plaza on the Mexican side. In the spring of 2008, tourists returning through the Lukeville port of entry were also trapped in line waiting to cross when a gunfight ensued. In that same year, a woman from Nogales, Arizona, was murdered at a fake checkpoint on a federal interstate in Sonora. Authorities said she was shot with AK-47 gunfire. A Mexican government official familiar with the murder said three .50 BMG caliber rifle shells were found at the scene.

Seizures and Tracing. In light of the increasing use of firearms by organized crime groups in more dangerous and threatening ways, the U.S. and Mexican governments have increased their efforts both independently and collectively to curb Mexican DTO's access to firearms and ammunition in the last few years. The Mexican government, for example, has significantly increased the number of firearms it has seized per year since the start of the Calderón Administration. According to the latest figures from Mexico, the Mexican government confiscated 32,332 firearms in 2009, an increase of more than 22,770 firearms over 2007 seizures. From December 2006 to May 2010, Mexico seized more than 85,000 total firearms, including 50,000 AK-47 and AR-15 riles. An estimated 5 million rounds of ammunition has been confiscated from December 2006 to May 2010.

Recognizing that submitting firearm trace requests to the United States is key to combating U.S. firearms trafficking, the Mexican authorities have also increased the number of firearm trace requests to ATF in the last few years. In late October 2009, for example, the Mexican military submitted an extensive list of firearms seized over the past few years to ATF for tracing. While ATF was not able to use much of the data –because it either already had information on the firearm or there were duplicates in the list – among other challenges, the list provided ATF with new data on tens of thousands of firearms recovered in Mexico. As of May 2010, ATF said they had inputted data on a total of 69,808 firearms recovered in Mexico from 2007 to 2009. Since then, the Washington Post has reported that number has increased to around 75,000.

To assist Mexican authorities with firearms tracing and related investigations, ATF and ICE have pledged to add personnel to U.S. Consulates in Mexico and to provide Mexican officials with training and support on electronic firearms tracing or eTrace. In late December 2009, ATF started the initial rollout of a bilingual (Spanish and English) version of eTrace with limited deployment to Mexico and other Central American countries for testing. Through eTrace, Mexican officials can submit a firearm trace request to ATF electronically, which is more accurate than the older paper-based tracing system. If ATF is able to trace the firearm to the first purchaser, then officials from both governments can use this information to build leads on firearms trafficking investigations and prosecution. From FY 2007 to 2008, ATF personnel trained 375 Mexican law enforcement officials on eTrace. Once eTrace is expanded throughout Mexico, as planned, ATF expects to provide more training to Mexican authorities. ATF and ICE officials have also been tracing some firearms seized in Mexico themselves, particularly in cities close to the U.S.-Mexico border.

Cooperation in the United States has also increased. Personnel from the office of Mexico's federal Attorney General (PGR in Spanish) now work with ATF directly in Phoenix, Arizona, and they have sent a PGR specialist to work with U.S. authorities at the El Paso Intelligence Center (EPIC) in El Paso, Texas.

For the future, the United States and Mexico will reportedly establish a working group to increase the number of firearms trafficking prosecutions on each side of the border and create a unit to help link firearms to drug cartels for prosecution. Mexico also plans to develop a list of individuals who have a history of obtaining firearms in Mexico to share with the U.S. government.

Firearms and Ammunition Origins. According to information provided by U.S. and Mexican government officials, U.S.-origin firearms account for the vast majority of firearms seized in Mexico over the last few years. As Mexico has submitted many more firearms to ATF for tracing, ATF now has a much better capability to determine the percentage of U.S.-origin firearms recovered in Mexico than it had just two years ago. However, ATF has been unwilling to release this information because of a debate within ATF about what constitutes a U.S. origin firearm. In many cases, for example, ATF has been unable to trace a firearm recovered in Mexico to the first purchaser in the United States and, thus, there are questions as to whether the firearm is of U.S. origin. In other cases, ATF has been able to determine that the firearm was manufactured in or imported into the United States, and as a result, ATF officials have said they can only determine there is a very strong possibility the firearm was sold in the U.S. domestic market and directly smuggled into Mexico.

Although the above information is important for understanding the total amount of U.S.-origin firearms seized in Mexico, it does not provide a clear sense of the number of firearms regularly and illegally crossing the U.S.-Mexico border. Data on U.S. prosecutions shines some light on this issue. According to ATF congressional testimony in March 2010, individuals illegally transferred an estimated 14,923 U.S. firearms to Mexico from FY 2005 to FY 2009. In FY 2009 alone, an estimated 4,976 U.S. firearms were trafficked to Mexico, up more than 2,000 firearms from FY 2007. A Violence Policy Center (VPC) study that reviewed just 21 indictments alleging illegal firearm trafficking filed in U.S. federal courts from February 2006 to 2009 showed that defendants also participated in trafficking 70,709 rounds of ammunition to Mexico. It is likely these annual trafficking numbers only represent a small percentage of the total amount of trafficking per year because these numbers are only based on U.S. prosecutions and do not include thousands of U.S. firearms seized in Mexico per year that are not part of U.S. prosecutions.

Another way to approximate the demand for U.S. firearms in Mexico is by examining the price differential between U.S.-origin AK-47 semi-automatic rifles sold just across the U.S.-Mexican border ($1,200 to $1,600) and U.S.-origin AK-47s sold in southern Mexico ($2,000 to $4,000). Such a price difference suggests a strong demand for U.S. firearms in Mexico and the lack of quality assault-type rifles from Central America.

As ATF does not regularly attempt to trace rounds of ammunition, it is harder to assess the annual trafficking of ammunition to Mexico. Hundreds of thousands of rounds of ammunition intended for Mexico and seized each year in the United States suggests it is a significant problem. In addition, several U.S. law enforcement authorities in El Paso, Texas say traffickers regularly use large amounts of ammunition in their firearm attacks. The quantity of rounds of ammunition owned by some criminals has helped them win some firefights with Mexican authorities. For instance, in May 2008 seven Mexican federal police officers were gunned down trying to raid a home in Culiacán, Mexico. The traffickers inside the house responded to the Mexican federal police officers raid with AK-47s and overpowered the federal police after a period of time because the police ran out of ammunition.

New data from ATF on firearms recovered in Mexico from 2007 to 2009 also shows that Texas, California, and Arizona respectively are the top three U.S. states where U.S. firearms are purchased and later trafficked to Mexico. It, however, is important to note that this data does not show when the firearm was purchased in the United States. As the average time-to-crime was 15.7 years for U.S. firearms recovered in Mexico and traced to the first purchaser in 2009, it is possible there are significant differences in which U.S. states account for the most firearm purchases in the last three to five years. Despite California being a top source state, ATF in California has said the state is not among the top three U.S. source states if one limits the analysis by firearms purchased in the United States in the last three years. ATF in California also reports that most of their investigations in the last few years involve individuals transporting firearms through California to Mexico instead of purchasing the firearms in California. This shift in purchasing patterns for firearms trafficked to Mexico appears to be the result of stiffer laws on buying firearms in California.

Trafficking Trends. Based on firearms recovered in Mexico and where ATF was able to determine that the firearm was purchased in the U.S., the top two firearms were AK-47 type semi-automatic rifles and then AR-15 semi-automatic rifle clones. The Romarms (Romanian manufactured) AK-47 rifle and the Bushmaster AR-15 rifle clone have been particularly popular. The NORINCO (Chinese manufactured) AK-47 was also popular for 2010. While these firearms were in a semiautomatic configuration when purchased in the United States, many of them were converted to fire as select fire machine-guns by the time they were discovered in Mexico. ATF officials have also said organized crime continues to seek. 50 BMG caliber rifles, which are especially lethal because they can strike accurately from more than a mile away and penetrate light armor, as well as FN Five-seven 5.7 mm pistols. There has also been some concern about .50 BMG caliber uppers conversions fitted into AR-15s because of the lack of federal restrictions on purchasing these uppers in the United States.[1]

According to officials from Immigration and Customs Enforcement (ICE) and the Bureau for Alcohol, Tobacco, Firearms, and Explosives (ATF), individuals and groups seeking to traffic U.S. firearms to Mexico use several different schemes to purchase and transport U.S. firearms to Mexico. In a large number of cases, several straw purchasers and one or more intermediaries or brokers are used to traffic the firearms to Mexico. The straw purchasers are eligible to purchase firearms in the United States while the brokers are usually legally prohibited from purchasing firearms because they are convicted felons, not U.S. citizens or residents, or for other reasons. Sometimes taking orders from a person in Mexico, the U.S.-based broker may hire three or more straw purchasers to buy a few firearms each at various locations. In a more complex scheme intended to better hide a trafficker's identity and avoid prosecution, a managing broker hires additional brokers, and these brokers then hire the straw purchasers.

Perhaps not surprisingly, some brokers arranging firearms trafficking to Mexico are also involved in other illegal activities. According to ATF, ICE, and Drug Enforcement Administration (DEA) officials based along the U.S. and Mexican border, there are cases in which individuals involved in distributing illegal narcotics in the United States are also engaged in trafficking U.S. firearms to Mexico.

ATF officials also say firearms traffickers purchase firearms at U.S. gun stores and pawn shops as well as U.S. gun shows and other secondary sources, which require fewer checks on a person's identity and criminal history.

According to U.S. authorities, it appears there has been little change in the main routes used by traffickers to transport firearms purchased in the United States across the border into Mexico. In September 2009, for instance, the U.S. Department of Justice's Inspector General included the most recent official map of trafficking routes in an interim review of ATF's Project Gunrunner. The three main trafficking corridors are: "(1) the "Houston Corridor," running from Houston, San Antonio, and Laredo, Texas, and crossing the border into Nuevo Laredo, Reynosa, and Matamoros; (2) the "El Paso Corridor," running from El Paso, Texas, across the border at Ciudad Juarez; and (3) the "Tucson Corridor," running from Tucson, Arizona, across the border at Nogales. ATF officials, however, are increasingly concerned

[1] http://www.safetyharborfirearms.com/news/articles/arrifleman.pdf

that an additional corridor could be from Florida to Guatemala to Mexico. ATF officials say that once the firearms reach Mexico, they mostly follow major transportation routes through Mexico.

By far, the most common method of transporting the firearms across the U.S.-Mexican border is by vehicle using U.S. highways. While U.S. authorities sometimes catch individuals with dozens of firearms, most are carrying smaller numbers of firearms in order to avoid detection. ATF officials have said a good time to catch firearm smugglers is right after a U.S. gun show in Arizona or Texas. A source within the Mexican Center for Research and National Security (CISEN) said most weapons now cross through remote Arizona ports of entry, such as Lukeville and Sasabe. These two ports see very little traffic compared to nearby Nogales or Tijuana and, more importantly, there is no checkpoint infrastructure beyond that of Mexican Customs at the port of entry.

Both U.S. and Mexican citizens are also engaged in smuggling firearms with commercial and non-commercial vehicles, and they use various techniques –some unsophisticated like concealing a weapon in a detergent box, and some quite sophisticated such as underground tunnels. Using cars, trucks, vans, or buses traffickers employ techniques such as zip-tying the firearms to a hidden compartment of the vehicle, or they stuff the firearms under a truck bed liner or in a fuel tank. In other cases, the transporters have no fear of capture. For example, traffickers had about 30,000 rounds of ammunition sitting near the front seat of a civilian passenger bus when Mexican authorities caught them at an inspection point several miles inside Mexico from the Arizona border in March 2010.

Some Major challenges in U.S.-Mexican Government Efforts. Several U.S. government agencies are involved in fighting firearms trafficking to Mexico including a number in the Department of Homeland Security – Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), and the Department of Justice's Drug Enforcement Administration (DEA). But the agency with the largest responsibility is DOJ's Bureau for Alcohol, Tobacco, Firearms and Explosives (ATF).

Despite increased efforts by the U.S. and Mexican governments to combat firearms trafficking, both countries continue to face significant challenges in bringing the phenomenon under control. One major challenge is the incompleteness and timeliness of some of Mexico's firearm trace requests to ATF. Of the estimated 20,451 firearms recovered in Mexico in 2009 and for which ATF had information, it was only able to trace 4,999 firearms to the first U.S. purchaser. According to ATF, one major reason is that Mexican authorities often leave out the import stamp number for AK-47 variants and other essential identification information on U.S. manufactured firearms. Since many AK-47s sold in the United States are imported from other countries, ATF needs the import number to determine where the firearm was first sold in the United States. ATF officials face difficulties with AK-47 part kits imported to the United States as well as because there are no markings on the parts that indicate they have been imported into the United States. Firearms traffickers are also increasingly obliterating the serial numbers on the firearms.

ATF officials also recommend that Mexico submit more timely trace requests, among other challenges. It appears one major reason why it takes so long to submit the requests is that all Mexican firearm trace requests are submitted by the PGR in Mexico City, which has a limited number of staff working on

eTrace, instead of having federal or local officials throughout Mexico submit the requests to ATF directly.

When U.S. officials ask Mexican authorities to inspect and trace a firearm used in a crime in Mexico, the U.S. officials also sometimes run into problems. In some cities such as Tijuana, where U.S. law enforcement has a fairly strong relationship with Mexican law enforcement and the military, ATF receives regular access to the firearms. As a result, ATF has been able to trace a firearm within a few days after Mexican authorities seize it. In other Mexican states such as Sinaloa, where ATF has little presence and corruption is a larger problem, ATF is relatively restricted from accessing the firearms. ATF agents working with Mexican authorities say the key to getting access to firearms is a physical presence in the Mexican city and building personal relationships with the respective Mexican officials. These same ATF agents say it would also help if Mexico City provided clear support for ATF to physically inspect the firearms. In some cases, Mexican law enforcement has to seek approval for each firearm by a Mexican judge in order for ATF to inspect the firearm.

Thanks to some increased funding from the U.S. Congress in the last few years, ATF has hired additional staff to follow up on firearms trace requests and address U.S. firearms trafficking to Mexico in general. Starting in FY 2007, ATF had around 100 special agents and 25 industry operations investigators working for Project Gunrunner. According to ATF, as of mid-February 2010 they have about 190 special agents, 145 Industry Operations Investigators, and 25 support staff working on Project Gunrunner in states along the southwest border. While this staff increase appears to have helped with firearms seizures and prosecutions, ATF officials stationed along the U.S. southwest border say they still do not have enough staff to investigate many leads. Additionally, ATF's plans to add staff to U.S. consulates in Hermosillo, Guadalajara, Matamoros, Mérida, Nogales, and Nuevo Laredo , which are key to improving the accuracy and timeliness of Mexico's firearm trace requests, but ATF has not received specific congressional funding for such positions.

According to the U.S. Department of Justice Inspector General's report on Project Gunrunner released in November 2010, ATF could also do more to provide Mexican authorities with key information on U.S. firearms trafficking to Mexico. For example, "ATF has a substantial backlog in responding to requests for information from Mexican authorities, which has hindered coordination between ATF and Mexican law enforcement." This is in part because of lack of ATF officials in Mexico. "Although ATF has shared strategic intelligence products with Mexican and other U.S. agencies, it is not doing so consistently and systematically. For example, we [DOJIG] found that ATF is not systematically sharing strategic intelligence on cartel firearms trafficking – including trends and patterns in their operations, where they are operating, and the composition of their membership and associates – with Mexican law enforcement, the DEA, or ICE." ATF is also not regularly giving Mexican authorities the criminal histories of those who may be involved in firearms trafficking, which Mexico has repeatedly asked for.

The U.S. Department of Justice Inspector General report also noted that ATF was reluctant to develop cases against defendants engaged in U.S. firearms trafficking to Mexico using smuggling charges despite the longer sentence prosecutors could obtain from such charges. The IG report, for example, "found that from FY 2004 through FY 2009, only seven defendants in Project Gunrunner cases were convicted of

smuggling." The same report also "found that the average sentence for smuggling violations was 5 years (60 months), several times longer than the average sentences for the types of convictions frequently made from ATF investigations." It appears ATF's unwillingness to pursue cases in connection with smuggling charges is related to some difficulties in the interagency coordination between ICE and ATF.

Because it is difficult for federal and local authorities to search vehicles for illegally possessed firearms in the United States, ATF officials have said they sometimes prefer to call ahead to CBP and ask them to inspect a vehicle ATF suspects is smuggling firearms across the U.S.-Mexican border. However, sometimes CBP is not able to identify the vehicle before it crosses the border because some U.S. ports of exit do not have license plate readers or they are using license plate readers that sometimes confuse "8s" with "Bs". According to a Government Accountability Office report on Money Laundering released this month, CBP only has license plate readers at 48 of 118 outbound lanes on the southwest border. CBP officials may also attempt to stop a vehicle heading south by just standing in front of the cars, which could be dangerous if a vehicle decided to speed through the border check point. Compared with vehicles going north or into the United States from Mexico, U.S. authorities also conduct relatively few checks on vehicles going south.

Policy options: The Woodrow Wilson Center is a non-partisan research institution created by the U.S. Congress. We do not make recommendations nor do we promote specific solutions to policy questions. Our goal is to provide the best in scholarly research to inform issues of policy importance and relevance to the U.S. government. In conducting our research we have developed a number of policy options that the U.S. Congress and Administration may want to consider as it wrestles with these complex issues. These include:

Increase funding for ATF programs that have demonstrated a positive impact on prosecutions and seizures, including adding ATF staff along the southwest U.S. border and in Mexico where U.S. firearms are being seized. As demonstrated by ATF's GRIT operation in Houston, Texas in 2009, an influx of 100 ATF agents into an area of heavy U.S. firearms trafficking resulted in a large increase in U.S. prosecutions, as well as, firearms and ammunition seizures. Since the Mexican government is seizing a large number of firearms in the Mexican states of Michoacán, Sinaloa, Tamaulipas, and Jalisco, increased funding for ATF to add agents to U.S. consulates in Guadalajara (for Jalisco and Michoacán), Hermosillo (for Sinaloa), and Nuevo Laredo and Reynosa (for Tamaulipas) might be considered. This increase in ATF funding and resulting staff could be used to help ATF better respond to Mexican requests for information on criminal histories of arms traffickers and on trends and patterns of DTO operations, among other types of information. It would also show that the United States continues to recognize this as a serious problem that needs to be addressed immediately.

The U.S. government could continue to encourage the Mexican government to improve some of its efforts related to tracing firearms. In order to speed up the time between when a firearm is seized in Mexico and when it is submitted for tracing to ATF, the PGR could more quickly move ahead with plans to provide field staff in all Mexican states with the capacity to independently submit an electronic trace request to ATF. This action would be key for ATF to track down criminal suspects in the United States

and thwart future firearm trafficking to Mexico. Once PGR's plan is approved, it would help if ATF provided PGR officials in Mexican states with Spanish-language eTrace, training on identifying firearms and filling out the eTrace forms, and eventually and potentially full access to ballistics information through NIBIN. The PGR should also create a formal policy that allows ATF to physically inspect firearms housed with Mexican authorities to speed up the tracing and assist with U.S. criminal prosecutions in the United States.

Both the U.S. and Mexican governments could strengthen some of their efforts at the border that would help stem firearms smuggling and not curtail the flow of passenger and commercial vehicle traffic significantly. For instance, U.S. authorities at the border could improve their ability to detect and stop vehicles they are aware are attempting to smuggle firearms from the United States to Mexico, including increasing the number of quality license plate readers for southbound operations at the border. Building some infrastructure at U.S. southbound areas would also help prevent vehicles from escaping inspection by speeding across the border and protect CBP and ICE staff. Both the U.S. and Mexican governments could also engage in random inspections of vehicles at times where the likelihood of firearms smuggling may occur. For example, it is more likely that one would find a few cars attempting to smuggle firearms into Mexico several hours after a U.S. gun show in U.S. cities along the U.S.-Mexico border. Pursuing such efforts could also improve the number of cases where defendants are charged with arms smuggling, which often provides stiffer penalties and may be more attractive for U.S. Attorneys.

The U.S. government could also consider changes in federal law related to firearms purchasing and some federal enforcement practices. Similar to when individuals buy multiple handguns, for example, a federal or state law could be created so that U.S. authorities would be notified when individuals buy a certain amount of military-style firearms in a short period of time.

Since the U.S. government already bans the importation of semi-automatic assault rifles into the United States and many assault rifles that reach Mexican Organized crime groups come from U.S. imports, ATF could better enforce this law. The U.S. government might also consider requiring some type of import markings are placed on AK-47 semi-automatic rifle part kits imported into the United States.

Finally, the U.S. government has an historic opportunity to assist the Government of Mexico to reduce the violence and weaken transnational criminal organizations operating from Mexico. Helping curb access to large quantities of sophisticated firearms and ammunition and thus their ability to carry out atrocities against civilians and overpower Mexican authorities is one critical way the U.S. government can address this serious threat to Mexico and increasingly to the United States.