

MERIDA INITIATIVE TO COMBAT ILLICIT NARCOTICS AND
REDUCE ORGANIZED CRIME AUTHORIZATION ACT OF
2008

MAY 22, 2008.—Ordered to be printed

Mr. BERMAN, from the Committee on Foreign Affairs,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 6028]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 6028) to authorize law enforcement and security assistance, and assistance to enhance the rule of law and strengthen civilian institutions, for Mexico and the countries of Central America, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Merida Initiative to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

TITLE I—ASSISTANCE FOR MEXICO

Sec. 101. Findings.
Sec. 102. Declarations of policy.

Subtitle A—Law Enforcement and Security Assistance

Sec. 111. Purposes of assistance.
Sec. 112. Authorization of assistance.
Sec. 113. Activities supported.
Sec. 114. Limitation on assistance.
Sec. 115. Authorization of appropriations.

Subtitle B—Assistance to Enhance the Rule of Law and Strengthen Civilian Institutions

Sec. 121. Sense of Congress.
Sec. 122. Authorization of assistance.
Sec. 123. Activities supported.
Sec. 124. Authorization of appropriations.

TITLE II—ASSISTANCE FOR COUNTRIES OF CENTRAL AMERICA

Sec. 201. Findings.
Sec. 202. Declarations of policy.

Subtitle A—Law Enforcement and Security Assistance

Sec. 211. Purposes of assistance.
Sec. 212. Authorization of assistance.
Sec. 213. Activities supported.
Sec. 214. Limitation on assistance.
Sec. 215. Authorization of appropriations.

Subtitle B—Assistance to Enhance the Rule of Law and Strengthen Civilian Institutions

Sec. 221. Authorization of assistance.
Sec. 222. Activities supported.
Sec. 223. Authorization of appropriations.

TITLE III—ADMINISTRATIVE PROVISIONS

Sec. 301. Conditions on provision of assistance.
Sec. 302. Limitations on provision of assistance.
Sec. 303. Limitation on monitoring.
Sec. 304. Exemption from prohibition on assistance for law enforcement forces.
Sec. 305. Relationship to other authority.
Sec. 306. Rule of construction.

TITLE IV—SUPPORT ACTIVITIES IN THE UNITED STATES

Sec. 401. Report on reduction of drug demand in the United States.
Sec. 402. Reduction of southbound flow of illegal weapons.
Sec. 403. Reduction of southbound flow of illegal precursor chemicals and bulk-cash transfers.
Sec. 404. Report.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Coordinator of United States Government Activities to Implement the Merida Initiative.
Sec. 502. Metrics and oversight mechanisms.
Sec. 503. Report.
Sec. 504. Sense of Congress.
Sec. 505. Sunset.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

(2) COUNTRIES OF CENTRAL AMERICA.—The term “countries of Central America” means Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama and includes Haiti and the Dominican Republic.

(3) MERIDA INITIATIVE.—The term “Merida Initiative” means the program announced by the United States and Mexico on October 22, 2007, to fight illicit

narcotics trafficking and criminal organizations throughout the Western Hemisphere.

TITLE I—ASSISTANCE FOR MEXICO

SEC. 101. FINDINGS.

Congress finds the following:

(1) The drug crisis facing the United States remains a significant national security threat.

(2) The Government Accountability Office (GAO) estimates that 90 percent of illegal drugs that enter the United States come through the Mexico-Central America corridor.

(3) The same smuggling routes that are used to bring illegal narcotics north are utilized to illegally distribute arms, precursor chemicals, and bulk cash transfers south.

(4) Drug gangs that operate in the United States, Mexico, and Central America have become sophisticated and vertically-integrated operations expert at penetrating the United States-Mexico border.

(5) Narcotics-related activity and expanding cross-border trafficking is dangerously undermining the security environment for our neighbors to the South, as well as in the United States.

(6) Mexico can and has served as a critical ally and partner in stemming the flow of illegal narcotics into the United States. Under the leadership of Mexican President Felipe Calderón, the United States and Mexico have initiated an approach of joint responsibility to confront the threat of illicit narcotics trafficking and organized crime in the Western Hemisphere.

(7) The spread of illicit narcotics through United States borders and the violence that accompanies it cannot be halted without a comprehensive interdiction and security strategy planned and executed jointly with our southern neighbors.

(8) In March 2007, President George W. Bush and Mexican President Calderón held a summit in the Mexican City of Merida and agreed that the United States and Mexico must expand bilateral and regional cooperation to fight violence stemming from narcotrafficking and regional criminal organizations.

(9) On October 22, 2007, the United States and Mexico issued a joint statement announcing the Merida Initiative, a program to fight illicit narcotics trafficking and criminal organizations throughout the Western Hemisphere.

(10) In the joint statement—

(A) Mexico pledged to “strengthen its operational capabilities to more effectively fight drug-traffickers and organized crime”;

(B) the United States pledged “to intensify its efforts to address all aspects of drug trafficking (including demand-related portions) and continue to combat trafficking of weapons and bulk currency to Mexico”; and

(C) both nations pledged to “augment cooperation, coordination, and the exchange of information to fight criminal organizations on both sides of the border”.

(11) A long-term strategy to adequately contain the northbound and southbound flows of illicit narcotics along the United States-Mexico border, as well as protect the vast and free flow of trade, will require the United States to partner with its southern neighbors in their efforts to build the capacity of their own law enforcement agencies and enhance the rule of law, as well as to fortify United States illicit narcotics reduction efforts.

SEC. 102. DECLARATIONS OF POLICY.

Congress makes the following declarations:

(1) The Merida Initiative is a critical part of a growing partnership and strategy of cooperation between the United States and its southern neighbors to confront the illegal flow of narcotics as well as violence and organized crime that it has spawned.

(2) The United States needs to ensure the free flow of trade between the United States and its critical neighbor, Mexico, while ensuring that the United States border is protected from illegal smuggling into the United States.

(3) The United States must intensify efforts to stem the flow of precursor chemicals, bulk cash, and the so-called “iron-river” of arms illegally flowing south, as well as demand-related aspects of the illicit narcotics phenomenon.

(4) The United States should provide its expertise to meet immediate security needs along the United States-Mexico border, fight the production and flow of illicit narcotics, and support Mexico in its efforts to do the same.

(5) The United States should support the Government of Mexico's work to expand its own law enforcement to independently conduct successful counter-narcotics and organized crime-related operations.

(6) The Merida Initiative reflects the belief that Mexican military involvement is required in the short-term to stabilize the security situation, but that most aspects of this problem fall into the realm of law enforcement.

(7) In implementing the Merida Initiative, the United States should work with its southern neighbors to mitigate the so-called "balloon effect" in which successful counternarcotics efforts shift narcotics-related activities to other areas.

(8) The United States should coordinate with the Congress of the Union of Mexico to ensure full partnership on the programs authorized under this Act.

Subtitle A—Law Enforcement and Security Assistance

SEC. 111. PURPOSES OF ASSISTANCE.

The purposes of assistance under this subtitle are to—

(1) enhance the ability of the Government of Mexico, in cooperation with the United States, to control illicit narcotics production, trafficking, drug trafficking organizations, and organized crime;

(2) help build the capacity of law enforcement forces of Mexico to control illicit narcotics production, trafficking, drug trafficking organizations, and organized crime;

(3) aid the support role that the armed forces of Mexico is providing to law enforcement agencies of Mexico as the security situation in Mexico is initially stabilized;

(4) protect and secure the United States-Mexico border, and control illegal activity going south as well as north;

(5) strengthen the bilateral and regional ties of the United States with Mexico and the countries of Central America by assuming shared responsibility and offering concrete assistance in this area of great mutual concern;

(6) strengthen respect for internationally recognized human rights and the rule of law in efforts to stabilize the security environment relating to illicit narcotics production and trafficking and organized crime; and

(7) support the judicial branches of the Government of Mexico and the countries of Central America, as well as support anti-corruption efforts in those countries; and

(8) respond to the direct requests of the Government of Mexico that the United States reduce the demand for illicit narcotics in the United States, stem the flow of illegal arms into Mexico from the United States, stem the flow of illegal bulk-cash transfers into Mexico from the United States, and stem the flow of illegal precursor chemicals into Mexico from the United States.

SEC. 112. AUTHORIZATION OF ASSISTANCE.

To carry out the purposes of section 111, the President is authorized to provide assistance for Mexico to support the activities described in section 113.

SEC. 113. ACTIVITIES SUPPORTED.

(a) **IN GENERAL.**—Activities that may be supported by assistance under section 112 include the following:

(1) **COUNTERNARCOTICS AND COUNTERTRAFFICKING.**—To assist in building the capacity of law enforcement and security forces of Mexico to eradicate illicit narcotics trafficking and reduce trafficking-fueled violence, including along the United States-Mexico border, including assistance such as—

(A) radar and aerial surveillance equipment;

(B) land and maritime interdiction equipment and training, including—

(i) transport helicopters and night-operating capabilities;

(ii) surveillance platform planes; and

(iii) maintenance and training relating to maintenance of aircraft;

and

(C) training of security and law enforcement units to plan and execute counternarcotics operations.

(2) **PORT, AIRPORT, AND RELATED SECURITY.**—To assist in monitoring and controlling the United States-Mexico border and the border between Mexico and Central America to combat illicit narcotics trafficking, including assistance such as—

(A) computer infrastructure and equipment;

- (B) secure communications networks; and
- (C) nonintrusive monitoring technology.

(3) OPERATIONAL TECHNOLOGY.—

(A) ASSISTANCE OBJECTIVES.—To assist in investigation and collection of intelligence against illicit drug trafficking organizations, including—

- (i) expansion of intelligence databases; and
- (ii) hardware, operating systems, and training for updating the communications networks of security agencies.

(B) SENSE OF CONGRESS.—It is the sense of Congress that—

- (i) operational technology transferred to the Government of Mexico for intelligence or law enforcement purposes should be used solely for the purposes for which the operational technology was intended; and
- (ii) the Government of Mexico should take all necessary steps to ensure that use of operational technology described in clause (i) is consistent with United States and Mexican law, including protections of freedom of expression, freedom of movement, freedom of association, and full respect of privacy rights.

(4) PUBLIC SECURITY AND LAW ENFORCEMENT.—To assist in the modernization of law enforcement entities and prevent crime, including assistance and activities such as—

(A) law enforcement training and equipment, including—

- (i) transport helicopters;
- (ii) surveillance aircraft, including Cessna Caravan light utility aircraft;
- (iii) nonintrusive inspection equipment; and
- (iv) human rights training for law enforcement units;

(B) enhancement of the Government of Mexico's financial intelligence unit;

(C) safety-related equipment for law enforcement officers and prosecutors, including protective vests and helmet sets;

(D) reduction of drug demand in Mexico, including activities such as—

- (i) assistance to the National Council Against Addictions (CONADIC) to establish an Internet web-based support network;
- (ii) establishment of a national data center to support the CONADIC; and
- (iii) training of CONADIC and other agency staff in best practices and outreach and treatment programs, and design of a methodology to implement best practices in conjunction with the National Network for Technological Transfers in Addiction.

(b) PROVISION OF HELICOPTERS.—Funds made available to carry out this subtitle to provide helicopters to the Government of Mexico, shall, to the extent possible, be used to procure or provide helicopters that are of a similar manufacture to those helicopters already in the possession of the Government of Mexico in order to facilitate integration of those assets into Mexico's existing air fleet.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the United States shall ensure, to the extent possible, that assistance under this subtitle is made available and cross-utilized by the armed forces of Mexico and relevant law enforcement agencies of the Government of Mexico, including the Mexican Office of the Attorney General.

SEC. 114. LIMITATION ON ASSISTANCE.

(a) LIMITATION.—No assistance may be provided under this subtitle to any unit of the armed forces of Mexico or any unit of the law enforcement agencies of Mexico if the Secretary of State determines that, consistent with section 620J of the Foreign Assistance Act of 1961 (22 U.S.C. 2378d), there is credible evidence that such unit has committed gross violations of human rights.

(b) EXCEPTION.—The limitation in subsection (a) shall not apply if the Secretary of State determines and reports to the appropriate congressional committees that the Government of Mexico is taking effective measures to bring the responsible members of the unit of the armed forces or law enforcement agencies, as the case may be, to justice.

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle, there are authorized to be appropriated to the President \$350,000,000 for fiscal year 2008, \$390,000,000 for fiscal year 2009, and \$40,000,000 for fiscal year 2010.

(b) LIMITATION.—

(1) IN GENERAL.—Of the amounts appropriated pursuant to the authorization of appropriations under subsection (a)—

(A) not more than \$205,000,000 may be provided as assistance for the armed forces of Mexico for 2008;

(B) not more than \$120,000,000 may be provided as assistance for the armed forces of Mexico for 2009; and

(C) not more than \$9,000,000 may be provided as assistance for the armed forces of Mexico for 2010.

(2) **ADDITIONAL LIMITATION.**—None of the funds appropriated pursuant to the authorization of appropriations under subsection (a) for fiscal year 2009 may be provided as assistance for the Mexican Secretariat of Public Security until the President determines that the Mexican National Registry of Police Personnel (Registro Nacional de Personal Policial) is operational at the federal, state, and local levels.

(c) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

(2) in addition to funds otherwise available for such purposes, including funds available under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).

Subtitle B—Assistance to Enhance the Rule of Law and Strengthen Civilian Institutions

SEC. 121. SENSE OF CONGRESS.

It is the sense of Congress that, as a critical part of a joint, comprehensive security, counternarcotics, and organized crime initiative, the United States should support—

(1) programs of the United States Agency for International Development and other United States agencies focused on strengthening civilian institutions and rule of law programs in Mexico at the federal, state, and local levels; and

(2) anti-corruption, transparency, and human rights programs to ensure due process and expand a culture of lawfulness in Mexico.

SEC. 122. AUTHORIZATION OF ASSISTANCE.

The President is authorized to provide assistance for Mexico to support the activities described in section 123.

SEC. 123. ACTIVITIES SUPPORTED.

Activities that may be supported by assistance under section 122 include the following:

(1) **INSTITUTION BUILDING AND RULE OF LAW.**—To assist Mexico's efforts to expand the rule of law and build the capacity, transparency, and trust in government institutions, including assistance such as—

(A) rule of law and systemic improvements in judicial and criminal justice sector institutions, including—

(i) courts management and prosecutorial capacity building;

(ii) prison reform activities, including those relating to anti-gang and anti-organized crime efforts;

(iii) anti-money laundering programs;

(iv) victim and witness protection and restitution; and

(v) promotion of transparent oral trials via training for the judicial sector;

(B) police professionalization, including—

(i) training regarding use of force;

(ii) human rights education and training;

(iii) training regarding evidence preservation and chain of custody; and

(iv) enhanced capacity to vet candidates;

(C) support for the Mexican Office of the Attorney General, including—

(i) judicial processes improvement and coordination;

(ii) enhancement of forensics capabilities;

(iii) data collection and analyses;

(iv) case tracking and management;

(v) financial intelligence functions; and

(vi) maintenance of data systems.

(2) **ANTI-CORRUPTION, TRANSPARENCY, AND HUMAN RIGHTS.**—To assist law enforcement and court institutions in Mexico to develop mechanisms to ensure due process and proper oversight and to respond to citizen complaints, including assistance such as—

- (A) enhancement of polygraph capability in the Mexican Police agency (SSP);
- (B) support for greater transparency and accountability in the Mexican legal system, including—
 - (i) establishment of a center in the Mexican Office of the Attorney General for receipt of citizen complaints;
 - (ii) establishment of clerk of the court system to track cases and pretrial detentions;
 - (iii) reorganization of human and financial resources systems; and
 - (iv) equipping and training of criminal investigators; and
- (C) promotion of human rights, including—
 - (i) support for human rights organizations, bar associations, and law schools; and
 - (ii) training for police, prosecutors, and corrections officers.
- (3) PREVENTION.—To assist in the prevention of individuals from participating in illicit narcotics-related violent activities, such as—
 - (A) establishment of programs that address domestic violence and increase school attendance rates; and
 - (B) expansion of intervention programs, including after-school programs and programs for at-risk and criminal involved youth.
- (4) DEVELOPMENT.—To assist in the development of areas where lack of jobs breeds illicit narcotics-related violence, including—
 - (A) expansion of alternative livelihood programs, including job creation programs and rural development programs and the provision of microenterprise development assistance under title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2211 et seq.); and
 - (B) establishment of gang reeducation and training programs.

SEC. 124. AUTHORIZATION OF APPROPRIATIONS.

- (a) IN GENERAL.—To carry out this subtitle, there are authorized to be appropriated to the President \$120,000,000 for fiscal year 2008, \$100,000,000 for fiscal year 2009, and \$110,000,000 for fiscal year 2010.
- (b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—
 - (1) authorized to remain available until expended; and
 - (2) in addition to funds otherwise available for such purposes, including funds available under chapter 8 of part I of the Foreign Assistance Act of 1961.

TITLE II—ASSISTANCE FOR COUNTRIES OF CENTRAL AMERICA

SEC. 201. FINDINGS.

Congress finds the following:

- (1) A May 2007 report by the United Nations Office on Drugs and Crime (UNODC) argues that countries of Central America are particularly vulnerable to violent crimes fueled by illicit narcotics trafficking and corruption because such countries are geographically located between the world's largest drug producing and drug consuming countries.
- (2) According to Assistant Secretary of State for Western Hemisphere Affairs Thomas Shannon, “[T]he nations of Central America have committed to collective action to address these common security concerns. Through the Central American Integration System (SICA), the governments have expressed the political resolve to join forces to strengthen regional security; however they lack sufficient tools and capacity to execute such will.”
- (3) Crime and violence in Central America has increased in recent years.
- (4) In 2005, the estimated murder rate per 100,000 people was roughly 56 in El Salvador, 41 in Honduras, and 38 in Guatemala.
- (5) Youth gang violence has been one of the major factors contributing to increased violence in Central America, with the United States Southern Command estimating that there are 70,000 gang members in Central America.
- (6) Many Central American youth gangs are transnational and negatively impact both Central America and the United States.
- (7) Youth gang violence cannot be curbed only through enforcement, but must also include a substantial investment in prevention, rehabilitation, and reintegration.

(8) Deportees sent from the United States back to Central America, while not a central cause of crime and violence, can contribute to crime and violence in Central America.

(9) Guatemala has experienced a surge in murders of women in recent years, many of which have been committed by illicit narcotics traffickers and other organized criminals.

(10) Violence between partners, particularly violence by men against their wives or girlfriends, is widespread in Central America, and an international violence against women survey comparing selected countries in Africa, Latin America, Europe, and Asia found that 60 percent of women in Costa Rica—often considered the least violent country in Central America—reported having experienced domestic violence during their lives.

(11) Weak justice systems in the countries of Central America have led to a high level of impunity in Central America.

(12) The United Nations International Commission against Impunity in Guatemala (CICIG) was recently created to begin to address impunity related to illegally armed groups in Guatemala.

(13) The United States and the Central American Integration System (SICA) signed an agreement in July 2007 to improve intelligence sharing and policing and to institutionalize dialogue on regional security.

SEC. 202. DECLARATIONS OF POLICY.

Congress makes the following declarations:

(1) A long-term United States strategy to curb illicit narcotics trafficking must include Central America, which is the corridor for 90 percent of the cocaine that transits from South America to the United States.

(2) It is in the interest of the United States to support a long-term commitment to assisting the countries of Central America to improve security by combating illicit narcotics trafficking, investing in prevention programs, increasing intelligence sharing, improving regional security coordination, improving border and customs capabilities, professionalizing police, justice, and other government officials, and funding programs to reintegrate deportees from the United States.

(3) The countries of Central America are committed to combating illicit narcotics trafficking and its related violence and crime, including gang violence, and the United States must seize the opportunity to work in partnership with Central America.

Subtitle A—Law Enforcement and Security Assistance

SEC. 211. PURPOSES OF ASSISTANCE.

The purposes of assistance authorized by this subtitle are to—

(1) enhance the ability of governments of countries of Central America to control illicit narcotics production, trafficking, illicit drug trafficking organizations, and organized crime;

(2) help build the capacity of law enforcement agencies of the countries of Central America to control illicit narcotics production, trafficking, illicit drug trafficking organizations, and organized crime;

(3) strengthen the bilateral ties of the United States with the countries of Central America by offering concrete assistance in this area of great mutual concern;

(4) strengthen respect for internationally recognized human rights and the rule of law in efforts to stabilize the security environment relating to illicit narcotics production and trafficking and organized crime; and

(5) support the judicial branch of governments of the countries of Central America, as well as to support anti-corruption efforts in such countries.

SEC. 212. AUTHORIZATION OF ASSISTANCE.

To carry out the purposes of section 211, the President is authorized to provide assistance for the countries of Central America to support the activities described in section 213.

SEC. 213. ACTIVITIES SUPPORTED.

Activities that may be supported by assistance under section 212 include the following:

(1) COUNTERNARCOTICS, COUNTERTRAFFICKING, AND RELATED SECURITY.—

(A) ASSISTANCE OBJECTIVES.—To assist in the following:

- (i) Investigation and collection of intelligence against illicit narcotics trafficking.
- (ii) Combating illegal trafficking in arms.
- (iii) Prevention of bulk currency smuggling.
- (iv) Collection of information on crime and establishment of a regional database.
- (B) ASSISTANCE.—Activities under subparagraph (A) may include—
 - (i) automated fingerprint identification systems (AFIS);
 - (ii) vetting sensitive investigative units to collaborate on counter-narcotics at the federal, state, and local levels;
 - (iii) technical assistance to develop strong and effective financial crimes investigation units;
 - (iv) maritime security support, including refurbishing and procuring patrol boats;
 - (v) firearms interdiction training; and
 - (vi) illicit narcotics demand reduction programs.
- (2) PUBLIC SECURITY AND LAW ENFORCEMENT.—To assist in building the capacity of the police in countries of Central America, supporting efforts to combat transnational gangs, investing in gang prevention and rehabilitation programs, and programs for the reintegration of deportees, including assistance such as—
 - (A) funding to continue the United States-Central American Integration System (SICA) Dialogue;
 - (B) youth gang prevention activities, including targeted education for at-risk youth, vocational training and funding of community centers in areas with high youth gang violence rates and other risk factors;
 - (C) programs to reintegrate deportees from the United States back into the societies of their home countries to avoid further criminal activity;
 - (D) transnational anti-gang initiatives;
 - (E) police professionalization, including—
 - (i) training regarding use of force;
 - (ii) human rights education and training;
 - (iii) training regarding evidence preservation and chain of custody;
 - and
 - (iv) enhanced capacity to vet candidates;
 - (F) utilization of the International Law Enforcement Academy (ILEA) in El Salvador consistent with traditional respect for human rights and professional police practices;
 - (G) police training programs of the Organization of American States (OAS);
 - (H) police equipment, including communications equipment; and
 - (I) anti-domestic violence education programs and women's shelters.

SEC. 214. LIMITATION ON ASSISTANCE.

(a) LIMITATION.—No assistance may be provided under this subtitle to any unit of the armed forces of a country of Central America or any unit of the law enforcement agencies of a country of Central America if the Secretary of State determines that, consistent with section 620J of the Foreign Assistance Act of 1961 (22 U.S.C. 2378d), there is credible evidence that such unit has committed gross violations of human rights.

(b) EXCEPTION.—The limitation in subsection (a) shall not apply if the Secretary of State determines and reports to the appropriate congressional committees that the government of the relevant country of Central America is taking effective measures to bring the responsible members of the unit of the armed forces or law enforcement agencies, as the case may be, to justice.

SEC. 215. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle, there are authorized to be appropriated to the President \$60,000,000 for fiscal year 2008, \$80,000,000 for fiscal year 2009, and \$80,000,000 for fiscal year 2010.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

(2) in addition to funds otherwise available for such purposes, including funds under chapters 2 and 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2166 and 2291 et seq.).

(c) LIMITATION.—Of the amounts appropriated pursuant to the authorization of appropriations under subsection (a) for any fiscal year, at least \$15,000,000 should be made available to carry out section 213(2)(B).

Subtitle B—Assistance to Enhance the Rule of Law and Strengthen Civilian Institutions

SEC. 221. AUTHORIZATION OF ASSISTANCE.

The President is authorized to provide assistance for the countries of Central America to support the activities described in section 222.

SEC. 222. ACTIVITIES SUPPORTED.

Activities that may be supported by assistance under section 221 include assistance in building the capacity, transparency, and trust in the justice system of the countries of Central America and reducing high impunity rates in the countries of Central America, including assistance such as—

- (1) improved police academies and entry level training on crime investigations;
- (2) courts management and prosecutor capacity building;
- (3) witness and victim protection programs, including in Guatemala in coordination with the United Nations International Commission Against Impunity in Guatemala (CICIG);
- (4) programs to enhance transparency in the procedures to designate and remove personnel in the recipient country's judicial system;
- (5) prosecutor and judge protection programs, including in Guatemala and in coordination with the CICIG;
- (6) short-term assignment of United States Government personnel to the CICIG to provide technical assistance for criminal investigations, specifically but not limited to investigations involving money laundering so long as this assignment does not negatively impact United States domestic operations;
- (7) regional juvenile justice reform;
- (8) prison management;
- (9) programs to rehabilitate gang members released from prison, including job training; and
- (10) community policing, including human rights and use of force training for community policing projects.

SEC. 223. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this title, there are authorized to be appropriated to the President \$40,000,000 for fiscal year 2008, \$50,000,000 for fiscal year 2009, and \$95,000,000 for fiscal year 2010.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

- (1) authorized to remain available until expended; and
- (2) in addition to funds otherwise available for such purposes, including funds available under chapters 2 and 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2166 and 2291 et seq.).

TITLE III—ADMINISTRATIVE PROVISIONS

SEC. 301. CONDITIONS ON PROVISION OF ASSISTANCE.

(a) IN GENERAL.—The President may not provide assistance under title I or II to a foreign country for a fiscal year until the end of a 15-day period beginning on the date on which the President transmits to the appropriate congressional committees a determination that the requirements described in subsection (b) have been met with respect to the government of such foreign country for such fiscal year.

(b) REQUIRED DETERMINATION.—The requirements referred to in subsection (a) are the following:

- (1) The provision of assistance will not adversely affect the human rights situation in the foreign country.
- (2) Vetting procedures are in place to ensure that members and units of the armed forces and law enforcement agencies of the foreign country that may receive assistance under title I or II have not been involved in human rights violations.
- (3) The civilian authority in the foreign country is investigating and prosecuting any member of any government agency or entity receiving assistance under title I or II who has been credibly alleged to have committed human rights violations on or after the date of the enactment of this Act.
- (4) Equipment and material provided as support is being used only by officials and employees of the government of the foreign country who have been

approved by such government to perform counternarcotics activities, including on the basis of the background investigations by such government.

(5) The government of the foreign country has cooperated with the Secretary of State to ensure that—

(A) the equipment and material provided as support will be used only by the officials and employees referred to in paragraph (4);

(B) none of the equipment or material will be transferred (by sale, gift, or otherwise) to any person or entity not authorized by the United States to receive the equipment or material; and

(C) the equipment and material will, to the extent possible, be used for the purposes intended by the United States Government and will be utilized by those agencies for which such assistance is intended.

(6) The government of the foreign country has implemented, in consultation with the Secretary of State, a system that will provide an accounting and inventory of the equipment and material provided as support.

(7) The government of the foreign country will, along with United States personnel, conduct periodic observation and review of the use of the equipment and material provided as support under terms and conditions similar to the terms and conditions imposed with respect to such observation and review under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(8) To the extent the foreign country has received equipment in the past, it has utilized the equipment properly and in a manner that warrants additional provision of equipment or assistance.

SEC. 302. LIMITATIONS ON PROVISION OF ASSISTANCE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) activities undertaken under titles I and II of this Act should be performed wherever possible by official employees, personnel, or officers of the federal, state, or local government of the recipient foreign country; and

(2) the United States should limit, to the maximum extent possible, the number of United States civilians and foreign nationals retained as contractors in a recipient country.

(b) LIMITATIONS.—Except as provided in subsection (c)—

(1) none of the funds made available to carry out title I may be available for the employment of any United States individual civilian retained as a contractor in Mexico or any foreign national retained as a contractor if that employment would cause the total number of individual civilian contractors employed in Mexico in support of the Merida Initiative who are funded by United States funds to exceed 50;

(2) none of the funds made available to carry out title II may be available for the employment of any United States individual civilian retained as a contractor in a country of Central America or any foreign national retained as a contractor if that employment would cause the total number of individual civilian contractors employed in all countries of Central America in support of the Merida Initiative who are funded by United States funds to exceed 100; and

(3) none of the funds made available under this Act shall be made available for budget support or cash payments.

(c) EXCEPTION.—The limitations contained in subsection (b) shall not apply if the President determines that it is in the national interest of the United States that such limitations shall not apply and transmits to the appropriate congressional committees a notification thereof.

SEC. 303. LIMITATION ON MONITORING.

Beginning on October 1, 2009, no surveillance-related equipment may be transferred under this Act to any entity of Mexico or a country of Central America unless the President determines that the recipient country has cooperated with the United States to ensure that such equipment will be used principally for the purposes for which it is provided.

SEC. 304. EXEMPTION FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT FORCES.

Notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to foreign law enforcement forces), the President may provide assistance under title I or II if, at least 15 days before providing the assistance, the President notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of the Foreign Assistance Act (22 U.S.C. 2394–1), that (1) it is in the national interest to provide such assistance, and (2) the recipient country is making significant progress to eliminating any human rights violations.

SEC. 305. RELATIONSHIP TO OTHER AUTHORITY.

(a) ASSISTANCE UNDER TITLE I.—The authority to provide assistance under title I is in addition to any other authority to provide assistance for Mexico.

(b) ASSISTANCE UNDER TITLE II.—The authority to provide assistance under title I is in addition to any other authority to provide assistance for the countries of Central America.

SEC. 306. RULE OF CONSTRUCTION.

Nothing in title I or II shall be construed to alter, modify, or otherwise affect the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.) unless otherwise specified in this Act.

TITLE IV—SUPPORT ACTIVITIES IN THE UNITED STATES

SEC. 401. REPORT ON REDUCTION OF DRUG DEMAND IN THE UNITED STATES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) supply-side drug reduction strategies when executed alone are not an effective way to fight the phenomenon of illegal narcotics;

(2) the Government of Mexico has identified reduction of United States drug demand as among the most important contributions the United States can make to a joint strategy to combat illicit narcotics trafficking; and

(3) the United States pledged in the United States-Mexico October 2007 Joint Statement on the Merida Initiative, to “intensify its efforts to address all aspects of drug trafficking (including demand related portions)” here in the United States.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report on the measures taken to intensify United States efforts to address United States demand-related aspects of the drug-trafficking phenomenon in accordance with the Joint Statement on the Merida Initiative announced by the United States and Mexico on October 22, 2007.

SEC. 402. REDUCTION OF SOUTHBOUND FLOW OF ILLEGAL WEAPONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) much of the increased violence in Mexico is perpetrated using firearms and ammunition smuggled illegally from the United States into Mexico;

(2) the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has told Congress of an “iron river of guns” with thousands of weapons per week illegally crossing into Mexico from the United States;

(3) more than 90 percent of the guns confiscated yearly in Mexico originate in the United States and approximately 40 percent of the total trafficked weapons are linked to drug trafficking organizations;

(4) along the 2,000 mile border from Brownsville, Texas, to San Diego, California, there are 6,700 licensed gun sellers, but only 100 Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) special agents to investigate allegations of weapons trafficking and only 35 inspectors to ensure compliance with United States laws;

(5) on January 16, 2008, ATF announced that it will add 25 special agents and 15 inspectors to their Project Gunrunner along the Southwest Border. And, the ATF budget request for fiscal year 2009 includes funding for another 12 inspectors; and

(6) an effective strategy to combat these illegal arms flows is a critical part of a United States contribution to a jointly executed anti-narcotics strategy with Mexico.

(b) PROJECT GUNRUNNER INITIATIVE.—

(1) IN GENERAL.—The Attorney General shall dedicate and expand the resources provided for the Project Gunrunner initiative (hereafter in this subsection referred to as the “initiative”) of the Bureau of Alcohol, Tobacco, Firearms, and Explosives to identify, investigate, and prosecute individuals involved in the trafficking of firearms across the United States-Mexico border.

(2) ACTIVITIES.—In carrying out this subsection, the Attorney General shall—

(A) assign additional agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives to the area of the United States adjacent to the United States-Mexico border to support the expansion of the initiative;

(B) establish not fewer than 1 initiative team in each State along the United States-Mexico border; and

(C) coordinate with the heads of other relevant federal law enforcement agencies and State and local law enforcement agencies to address firearms trafficking in a comprehensive manner.

(3) **ADDITIONAL STAFF.**—The Attorney General may hire additional persons to be Bureau of Alcohol, Tobacco, Firearms, and Explosives agents for, and may use such other resources as may be necessary to adequately support, the initiative.

(4) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this subsection, there are authorized to be appropriated to the Attorney General \$15,000,000 for each of the fiscal years 2008 through 2010.

(c) **ENHANCED INTERNATIONAL COOPERATION.**—

(1) **IN GENERAL.**—The Attorney General, in cooperation with the Secretary of State, shall—

(A) assign agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives to the United States mission in Mexico, specifically in areas adjacent to the United States-Mexico border, to work with Mexican law enforcement agencies in conducting investigations relating to firearms trafficking and other criminal enterprises;

(B) provide the equipment and technological resources necessary to support investigations and to trace firearms recovered in Mexico; and

(C) support the training of vetted Mexican law enforcement officers in serial number restoration techniques and canine explosive detection.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this subsection, there are authorized to be appropriated to the Attorney General \$9,500,000 for each of the fiscal years 2008 through 2010.

SEC. 403. REDUCTION OF SOUTHBOUND FLOW OF ILLEGAL PRECURSOR CHEMICALS AND BULK-CASH TRANSFERS.

It is the sense of Congress that—

(1) a significant quantity of precursor chemicals used in the production of illegal narcotics flows south from the United States to Mexico;

(2) the Government of Mexico has identified reduction of southbound flows from the United States of precursor chemicals and bulk-cash transfers as a critical component of its anti-narcotics strategy; and

(3) an effective strategy to combat these illegal flows is a critical part of a United States contribution to a jointly executed anti-narcotics strategy with Mexico.

SEC. 404. REPORT.

Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report on the measures taken to combat the southbound flow of illegal precursor chemicals and bulk cash transfers into Mexico.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. COORDINATOR OF UNITED STATES GOVERNMENT ACTIVITIES TO IMPLEMENT THE MERIDA INITIATIVE.

(a) **DECLARATION OF POLICY.**—Congress declares that the Merida Initiative is a Department of State-led initiative which combines programs of numerous United States Government departments and agencies and therefore requires a single coordinator to manage and track all Merida-related efforts government-wide to ensure accountability and avoid duplication.

(b) **DESIGNATION OF HIGH-LEVEL COORDINATOR.**—

(1) **IN GENERAL.**—The President shall designate, within the Department of State, a Coordinator of United States Government Activities to Implement the Merida Initiative (hereafter in this section referred to as the “Coordinator”) who shall be responsible for—

(A) designing an overall strategy to advance the purposes of this Act;

(B) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this Act;

(C) ensuring that efforts of the United States Government under this Act are in full consonance with the efforts of the Government of Mexico and the governments of Central America in implementing the Merida Initiative;

(D) tracking all United States Government assistance which fulfills the goals of the Merida Initiative or is closely related to the goals of the Merida Initiative, including information required under section 620J of the Foreign Assistance Act of 1961 (22 U.S.C. 2378d) with respect to Mexico and the countries of Central America;

(E) coordinating among agencies of the United States Government on all United States assistance to Mexico and the countries of Central America, including assistance from other relevant government agencies, which fulfills the goals of the Merida Initiative to avoid duplication or conflict among programs; and

(F) coordinating with federal, State, and local law enforcement authorities in the United States that are responsible for law enforcement activities along the United States-Mexico border.

(2) RANK AND STATUS OF THE COORDINATOR.—The Coordinator shall have the rank and status of ambassador.

SEC. 502. METRICS AND OVERSIGHT MECHANISMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) to successfully support building the capacity of recipient countries' civilian security institutions, enhance the rule of law in recipient countries, and ensure the protection of human rights, the President should establish metrics and oversight mechanisms to track the effectiveness of activities undertaken pursuant to this Act;

(2) long-term solutions to Mexico and Central America's security problems depend on strengthening and holding accountable civilian institutions;

(3) it is difficult to assess the impact of United States assistance towards these goals absent specific oversight and monitoring mechanisms; and

(4) the President, in developing metrics, should consult with Congress as well as the Government of Mexico and the Central American Integration System (SICA).

(b) REQUIREMENT.—The President shall develop metrics to identify, track, and manage the progress of activities authorized pursuant to this Act and use these metrics to determine the allocation of resources for counternarcotics- and organized crime-related efforts.

(c) INITIAL REPORT.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report that specifies metrics of achievement for each activity to be undertaken under this Act.

(2) CONTENTS OF REPORT.—The report shall be divided into two sections, the first addressing those activities undertaken pursuant to subtitle A of title I and subtitle A of title II, and the second addressing those activities undertaken pursuant to subtitle B of title I and subtitle B of title II. Metrics may include the following:

(A) Indicators on long-term effectiveness of the equipment and training provided to Mexican and Central American security institutions.

(B) Statistics of counter narcotics-related arrests.

(C) Number of interdictions of drug shipments.

(D) Specific progress on police reform.

(E) Counternarcotics-related arrests.

(F) Quantification of reduction of supply of illicit narcotics into the United States.

(G) Cross-utilization, if any, of equipment among the armed forces and law enforcement entities.

(H) Increased school attendance rates.

(I) Attendance in primary prevention programs

(J) The level of cooperation among United States, Mexican, and Central American law enforcement agencies.

SEC. 503. REPORT.

(a) IN GENERAL.—The President shall transmit to the appropriate congressional committees a report concerning the programs and activities carried out under this Act during the preceding fiscal year. The first report shall be transmitted not later than 180 days after the date of the enactment of this Act and subsequent reports shall be transmitted not later than October 31 of each year thereafter.

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include the following:

(1) METRICS.—A general description of the progress in stabilizing the security situation in each recipient country as well as combating trafficking and building its capacity based on the metrics developed under section 502.

(2) COORDINATION.—Efforts of the United States Government to coordinate its activities pursuant to section 501, including—

(A) a description of all counternarcotics and organized crime assistance provided to recipient countries in the previous fiscal year;

(B) an assessment of how such assistance was coordinated; and

- (C) recommendations for improving coordination.
- (3) **TRANSFER OF EQUIPMENT.**—A description of the transfer of equipment, including—
- (A) a description of the progress of each recipient country toward the transfer of equipment, if any, from its armed forces to law enforcement agencies;
 - (B) a list of organizations that have used the air assets provided to the government of each recipient country, and, to the extent possible, a detailed description of those agencies that have utilized the air assets, including a breakdown of the percentage of use by each agency; and
 - (C) a description of training of law enforcement agencies to operate equipment, including air assets.
- (4) **HUMAN RIGHTS.**—Consistent with sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)) and section 504 of the Trade Act of 1974 (19 U.S.C. 2464), an assessment of the human rights impact of the equipment and training provided under this Act, including—
- (A) a list of accusations of serious human rights abuses committed by the armed forces and law enforcement agencies of recipient countries from the date of enactment of this Act; and
 - (B) a description of efforts by the government of recipient countries to investigate and prosecute allegations of abuses of human rights committed by any agency of the recipient countries.
- (5) **EFFECTIVENESS OF EQUIPMENT.**—An assessment on the long-term effectiveness of the equipment and maintenance packages and training provided to each recipient country's security institutions.
- (6) **MEXICO PUBLIC SECURITY STRATEGY.**—A description of Mexico's development of a public security strategy, including—
- (A) an update on the effectiveness of the Mexican federal Registry of Police Personnel to vet police recruiting at the National, state, and municipal levels to prevent rehiring from one force to the next after dismissal for corruption and other reasons; and
 - (B) an assessment of how the Merida Initiative complements and supports the Mexican Government's own public security strategy.
- (7) **FLOW OF ILLEGAL ARMS.**—A description of efforts to reduce the south-bound flow of illegal arms.
- (8) **USE OF CONTRACTORS.**—A detailed description of contracts awarded to private companies to carry out provisions of this Act, including—
- (A) a description of the number of United States and foreign national civilian contractors awarded contracts;
 - (B) a list of the total dollar value of the contracts; and
 - (C) the purposes of the contracts.
- (9) **CENTRAL AMERICAN REGIONAL SECURITY PLAN.**—A description of implementation by the countries of Central America of the Central American Regional Security Plan, including an assessment of how the Merida Initiative complements and supports the Central American Regional Security Plan.
- (10) **PHASE OUT OF LAW ENFORCEMENT ACTIVITIES.**—A description of the progress of phasing out law enforcement activities of the armed forces of each recipient country.
- (11) **DISPLACEMENT AND DIVERSION OF DRUG TRAFFICKING PATTERNS.**—A description of any displacement effect and diversion of drug trafficking patterns from Mexico and the countries of Central America to other routes, including through potentially vulnerable Caribbean countries.
- (12) **IMPACT ON BORDER VIOLENCE AND SECURITY.**—A description of the impact that activities authorized under this Act have had on violence against United States and Mexican border personnel and the extent to which these activities have increased the protection and security of the United States-Mexico border.

SEC. 504. SENSE OF CONGRESS.

It is the sense of Congress that—

- (1) the United States Government requires an effective public diplomacy strategy to explain the purposes of the Merida Initiative; and
- (2) to the extent practicable, the Secretary of State, in coordination with other relevant heads of agencies, shall design and implement a public diplomacy campaign regionally regarding the Merida Initiative.

SEC. 505. SUNSET.

The authority of this Act shall expire after September 30, 2010.

SUMMARY

H.R. 6028, the Merida Initiative to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008 (the “Act”), provides nearly \$1.6 billion over 3 years for the purposes of stopping illicit narcotics-related violence and crime in Mexico and Central America (as defined by this Act); modernizing the law enforcement agencies of recipient countries; and enhancing institution-building and rule of law in recipient countries. The Act concentrates considerable funding in the fragile Central American region. It contains significant human rights safeguards as well as end-use monitoring provisions for the equipment and training provided. It does not provide cash payments or budget support of any kind. It calls on the President to devise metrics up front to measure the success of the Act, and subsequently to regularly report on them to the Congress. It bolsters the U.S.’s efforts in stemming the illegal flow of arms going south by significantly expanding the “Project Gunrunner” at the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Finally, it requires that the President, within the Department of State, designate a coordinator for the Act in order to harmonize both responsibility and accountability for its wide-ranging programs.

BACKGROUND AND PURPOSE FOR THE LEGISLATION

This bill authorizes assistance to Mexico and the countries of Central America in the areas of: counter-narcotics; the fight against organized crime and youth gang violence; law enforcement modernization; and institution-building and rule of law support. It provides, as well, a framework for delivery and strict accountability of that assistance.

The drug crisis facing the United States remains a top national security threat, with 90% of illegal drugs that enter the United States transiting the Mexico-Central America corridor. Drug cartels that operate in the United States, Mexico, and Central America are dangerously undermining the security environment for our neighbors to the south, and the spillover into our territory is palpable and real. In 2007, President George W. Bush and Mexican President Felipe Calderon met in the city of Merida, Mexico, and President Bush later sent to the Congress a proposal to confront this scourge. That proposal is largely reflected in this legislation.

Our neighbors to the south have stepped up their fight against organized drug trafficking organizations, and have paid a high price for it. In Mexico alone, drug cartels have been blamed for 6,000 deaths in the last 2½ years of this battle. On Thursday May 8, 2008, the Chief of Mexico’s Federal police was shot nine times—the tenth assassination of a Mexican Federal police official in the past 2 months. This legislation represents U.S. implementation of a partnership with Mexico and Central America to face the immediate security threat of drug cartels and youth gang violence, help build the capacity of our neighbors’ law enforcement agencies, and enhance the rule of law in the region.

The Act recognizes that responsibility for the drug problem is shared, and that we have arrived at a critical moment of opportunity to execute such a comprehensive, joint action plan. It reflects, as well, the need to reduce violence along the U.S.-Mexico

border, and control illegal activity going south as well as north, especially the so-called “iron-river” of arms illegally flowing south. Specifically, with respect to Mexico, it acknowledges that the armed forces have been called upon in the short-term to stabilize the security situation, but that this problem falls into the realm of law enforcement, and our focus should be to help build that capacity. Finally, the entire Act is underpinned by the belief that the long-term solution to overcoming illicit drug trafficking and organized crime lies in strengthening the rule of law and those institutions charged with upholding it.

In broad strokes, the purpose of the legislation is to:

- Enhance the ability of the government of the recipient countries to control the violence and corruption associated with illicit narcotics production, trafficking, drug trafficking organizations and organized crime—in particular by working with law enforcement agencies to help build the capacity to control illicit narcotics production, trafficking, drug trafficking organizations and organized crime;
- Reduce violence along the U.S.-Mexico border and control illegal activity going south as well as north;
- Strengthen the bilateral ties of the United States with the recipient countries by offering concrete assistance in this area of great mutual concern;
- Strengthen respect for internationally-recognized human rights and the rule of law as part of efforts to stabilize the security environment relating to illicit narcotics production and trafficking and organized crime; and
- Respond to the direct requests of the Government of Mexico that the U.S. reduce the demand for drugs in the United States; stem the flow of illegal arms into Mexico from the U.S.; stem the flow of illegal bulk-cash transfers into Mexico from the U.S.; and stem the flow of illegal precursor chemicals into Mexico from the U.S.

Generally, the purposes of the legislation apply in equal measure to Mexico and the countries of Central America. The latter countries, however, have somewhat different requirements than Mexico, and the Act recognizes and targets those needs.

The legislation reflects that it is in the interest of the United States to support a long-term commitment to assist Central America in improving security, particularly through the use of the police forces rather than the armed forces. Ninety percent of the cocaine that flows from the Andean region to the United States travels through the Central American corridor. A commitment to Central America should include activities to combat drug trafficking, invest in prevention programs, increase intelligence sharing, improve regional security coordination and border and customs capabilities, professionalize police, justice and other government officials, and fund programs to reintegrate deportees from the United States. As such, the Act provides considerable funding for Central America.

Crime and violence in Central America has increased in recent years. In 2005, the estimated murder rate per 100,000 people was roughly 56 in El Salvador, 41 in Honduras and 38 in Guatemala. Youth gang violence in particular has been one of the major factors

contributing to increased violence in Central America, with the U.S. Southern Command estimating that there are 70,000 gang members in Central America. An important element of the gang phenomenon in Central America is that some youth gangs operating there are transnational and negatively impact both Central America and the United States. Youth gang violence cannot be curbed only through enforcement, but must also include a substantial investment in prevention, rehabilitation and reintegration. Deportees sent from the United States back to Central America, while not a central cause of crime and violence, can contribute to crime and violence in the sub-region. For each fiscal year, the Act sets aside \$15 million to address the youth gang issue.

Weak justice systems in Central America have contributed to a high level of impunity in this sub-region. The United Nations International Commission against Impunity in Guatemala (CICIG) was recently created to begin to address impunity related to illegally armed groups in Guatemala. This Act provides operational and technical assistance to the CICIG, as long as it does not negatively impact U.S. domestic operations. The Act also provides support for the creation of witness and victim protection programs in Central America.

Finally, the spread of illicit drugs through this region and into the United States and the violence that accompanies it in the region cannot be halted without a comprehensive interdiction and security strategy planned and executed jointly with our southern neighbors. This legislation provides and authorizes that framework.

HEARINGS

The Committee held four hearings directly related to the subject matter of the bill. A Full Committee hearing took place on November 14, 2007, and focused on the counternarcotics initiative discussed in Merida the previous month. Witnesses included the Honorable Thomas A. Shannon, Jr., Assistant Secretary, Bureau of Western Hemisphere Affairs, Department of State, and the Honorable David T. Johnson, Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs, Department of State.

The Subcommittee on the Western Hemisphere conducted a hearing on October 25, 2007, which focused both on the proposed Merida Initiative and a Government Accountability Office (GAO) report on U.S.—Mexico joint counternarcotics efforts. Witnesses included Mr. Jess T. Ford, Director, International Affairs and Trade, Government Accountability Office; the Honorable James R. Jones, Co-Chairman and CEO of Manatt Jones Global Strategies, Dr. John Bailey, Georgetown University Center for Latin American Studies; Ms. Joy Olson, Executive Director of the Washington Office on Latin America; and Mr. Armand Peschard-Sverdrup, Senior Associate, Center for Strategic and International Studies.

A second Subcommittee on the Western Hemisphere hearing took place on February 7, 2008, and focused on U.S. domestic obligations under the Merida Initiative, particularly the U.S. commitment in the October 22, 2007 U.S.-Mexico Joint Statement to “intensify efforts to address all aspects of drug trafficking (including demand-related portions) and continue to combat trafficking of weapons and bulk currency to Mexico.” Witnesses included the

Honorable Scott Burns, Deputy Director, Office of National Drug Control Policy; the Honorable Thomas A. Shannon, Jr., Assistant Secretary, Bureau of Western Hemisphere Affairs, Department of State; the Honorable Marisa R. Lino, Assistant Secretary for International Security Affairs, Department of Homeland Security; the Honorable William Hoover, Assistant Director for Field Operations, Bureau of Alcohol, Tobacco, Firearms and Explosives; Mr. Anthony Placido, Chief of Intelligence, Drug Enforcement Agency; and Mr. Kenneth W. Kaiser, Assistant Director, Federal Bureau of Investigation.

The Subcommittee on the Western Hemisphere conducted a third hearing on May 8, 2008, that focused on the Central America portion of the Merida Initiative. Witnesses included the Honorable Thomas A. Shannon, Jr., Assistant Secretary, Bureau of Western Hemisphere Affairs, Department of State; Geoff Thale, Program Director of the Washington Office on Latin America; Mr. Harold Sibaja, Regional Representative, Creative Associates International, Inc.; and Ms. Beatriz C. Casals, President, Casals and Associates, Inc.

COMMITTEE CONSIDERATION

On May 14, 2008, the Committee considered H.R. 6028 during a Full Committee markup, and ordered the bill favorably reported, as amended, by voice vote, a quorum being present.

VOTES OF THE COMMITTEE

There was one vote during consideration of H.R. 6028:

Amendment offered by Mr. Tancredo—to Section 301(a) and Section 301(b)—adds to conditions on provision of assistance—defeated by a rollcall vote of 10–23.

Voting yes: Giffords, Burton, Rohrabacher, Royce, Tancredo, Wilson, Barrett, McCaul, Poe and Bilirakis

Voting no: Berman, Ackerman, Faleomavaega, Payne, Sherman, Wexler, Engel, Meeks, Watson, Smith (WA), Carnahan, Woolsey, Jackson Lee, Hinojosa, Crowley, Wu, Miller, Sanchez, Sires, Klein, Lee, Ros-Lehtinen and Fortuno

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with Clause 3(c) (2) of House Rule XIII, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 6028, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 21, 2008.

Hon. HOWARD L. BERMAN, *Chairman,*
Committee on Foreign Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6028, the Merida Initiative to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte, who can be reached at 226-2840.

Sincerely,

PETER R. ORSZAG.

Enclosure

cc: Honorable Ileana Ros-Lehtinen
Ranking Member

H.R. 6028—Merida Initiative to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008.

SUMMARY

H.R. 6028 would authorize assistance for Mexico and Central American countries to control drug trafficking and organized crime and direct the Department of Justice to expand its efforts to prevent trafficking of firearms across the U.S.-Mexico border. It would authorize the appropriation of \$1.6 billion over the 2008–2010 period for those purposes. CBO estimates that implementing H.R. 6028 would cost \$1.5 billion over the 2008–2013 period, assuming appropriation of the authorized amounts. Enacting the bill would not affect direct spending or revenues.

H.R. 6028 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 6028 is shown in the following table. The costs of this legislation fall within budget functions 150 (international affairs) and 750 (administration of justice).

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 6028 will be enacted in June 2008, that the specified amounts will be appropriated each year, and that outlays will follow historical spending patterns for similar programs. (Funding for 2008 would have to be provided in

a supplemental appropriations act; most of the outlays from any such 2008 funding would occur in later years.)

By Fiscal Year, in Millions of Dollars

	2008	2009	2010	2011	2012	2013	2008– 2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Assistance for Mexico							
Authorization Level	470	490	150	0	0	0	1,110
Estimated Outlays	58	371	381	180	49	11	1,050
Assistance for Central American Countries							
Authorization Level	100	130	175	0	0	0	405
Estimated Outlays	10	85	117	107	38	14	371
Department of Justice Programs							
Authorization Level	25	25	25	0	0	0	74
Estimated Outlays	2	37	30	5	0	0	74
Total Changes							
Authorization Level	595	645	350	0	0	0	1,589
Estimated Outlays	70	493	528	292	87	25	1,495

Note: Numbers may not sum to totals because of rounding.

Assistance for Mexico

Title I would authorize the State Department to provide assistance to train and equip the Mexican armed forces and law enforcement agencies to control drug trafficking and organized crime, and to strengthen that nation's judicial system. The bill would authorize the appropriation of \$1.1 billion for Mexico over the 2008–2010 period. CBO estimates that implementing the provisions of title I would cost about \$1 billion over the 2008–2013 period, assuming appropriation of the specified amounts.

Assistance for Central American Countries

Title II would authorize the appropriation of \$405 million over the 2008–2010 period to provide assistance to several countries in Central America: Belize, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, and Panama. Those funds would be used for purposes similar to those specified for Mexico in title I of the bill. CBO estimates that implementing the provisions of title II would cost about \$370 million over the 2008–2013 period, assuming appropriation of the specified amounts.

Department of Justice Programs

Title IV would authorize the appropriation of \$24.5 million for each of the fiscal years 2008 through 2010 for the Department of Justice to combat the trafficking of firearms across the U.S.-Mexico border. CBO estimates that implementing those provisions would cost \$74 million over the 2008–2013 period, assuming appropriation of the specified amounts.

Other Provisions

Section 501 would require the Secretary of State to designate a coordinator to oversee the programs authorized under H.R. 6028. In addition, the bill would require several reports on the implementation of the bill's provisions. CBO estimates that implementing

those requirements would cost less than \$500,000 over the 2009–2013 period, assuming the availability of appropriated funds.

INTERGOVERNMENTAL AND PRIVATE–SECTOR IMPACT

H.R. 6028 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

ESTIMATE PREPARED BY:

Federal Costs:

Department of Justice Programs—Mark Grabowicz (226–2860)

Other Federal Costs—Sunita D'Monte (226–2840)

Impact on State, Local, and Tribal Governments: Neil Hood (225–3220)

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ESTIMATE APPROVED BY:

Peter H. Fontaine

Assistant Director for Budget Analysis

PERFORMANCE GOALS AND OBJECTIVES

The Act is intended to combat illicit narcotics trafficking and reduce organized crime in Mexico and Central America.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d) (1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

NEW ADVISORY COMMITTEES

H.R. 6028 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 6028 does not apply to the Legislative Branch.

EARMARK IDENTIFICATION

H.R. 6028 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short Title.

Section 1 cites the Act as the “Merida Initiative to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008.”

Section 2. Definitions.

This section provides definitions for use in the Act. In subsection (2), the Committee includes Haiti and the Dominican Republic in the definition of “Central America” in recognition of the fact that the illicit narcotics-related violence afflicting mainland countries in

Central America is also afflicting those countries used as transit routes for narcotics.

TITLE I—ASSISTANCE FOR MEXICO

Title I authorizes assistance to Mexico to enhance the ability of the Government of Mexico to combat illicit narcotics production, trafficking, drug trafficking organizations, and organized crime, and to enhance the rule of law and strengthen civilian institutions. Title I also authorizes appropriations to carry out such assistance; limits the amounts of assistance that may be provided to the armed forces of Mexico; and limits such assistance where credible evidence exists regarding human rights violations.

Section 101. Findings.

This section articulates findings that explain the genesis of the Act, including the finding that narcotics-related activity and expanding cross-border trafficking is dangerously undermining the security environment for the United States and its neighbors to the south; and calls attention to President Bush and Mexican President Calderon's joint statement announcing the Merida Initiative to fight illicit narcotics trafficking and criminal organizations throughout the Western Hemisphere. In the joint statement, Mexico pledged to more effectively fight drug-traffickers and organized crime, the United States pledged to intensify efforts to address drug trafficking, including domestic demand, weapons trafficking, and bulk currency smuggling, and both nations pledged to augment cooperation and coordination to fight criminal organizations on both sides of the border.

Section 102. Declarations of Policy.

This section declares that: the Merida Initiative is a critical part of a growing partnership and strategy of cooperation between the United States and its southern neighbors to confront the illegal flow of narcotics as well as violence and organized crime that it has spawned; the United States needs to ensure the free flow of trade between the U.S. and Mexico while ensuring that the border is protected from illegal smuggling into the United States; the United States must undertake actions to complement those of Mexico, including efforts to stem the flow of precursor chemicals, bulk-cash, and the so-called "iron-river" of arms illegally flowing south, as well as demand-related aspects of the illicit drug phenomenon; and that the Mexican military is currently involved in counter-drug activities to stabilize the security situation, but that law enforcement agencies are ultimately responsible to address the narcotics-related problems.

SUBTITLE A—LAW ENFORCEMENT AND SECURITY ASSISTANCE.

This subtitle authorizes assistance to Mexico for law enforcement and security assistance purposes.

Section 111. Purposes of Assistance.

This section establishes principles that should undergird the provision of assistance authorized under Subtitle A. These principles include that assistance should enhance the ability of the Government of Mexico, in cooperation with the United States, to control

illicit narcotics production, trafficking, drug trafficking organizations (DTOs), and organized crime; help build the capacity of law enforcement forces of Mexico to control illicit narcotics production, trafficking, DTOs, and organized crime; and strengthen respect for internationally-recognized human rights and the rule of law in efforts to stabilize the security environment relating to illicit narcotics production and trafficking. In establishing these principles, the Committee recognizes that although a solution to drug-fueled violence rests, among other things, in enhancement of the rule of law in Mexico and its neighbors, short-term security efforts are needed to stabilize the situation, including assistance to the armed forces of Mexico.

Section 112. Authorization of Assistance.

This section authorizes the President to provide assistance for Mexico to carry out the purposes of section 111.

Section 113. Activities Supported.

This section authorizes four general categories of assistance (counternarcotics and countertrafficking; port, airport, and related security; operational technology; and public security and law enforcement). Collectively, these categories constitute the bulk of security assistance to be provided to Mexico in order to enhance that country's military and law enforcement capacity to disrupt illicit narcotics trafficking and combat DTOs. The categories also generally track those categories of assistance proposed by the State Department. The Committee intends that the Department of State has latitude in determining how to best implement the Merida Initiative, although Congress expects the Administration to consult with Congress generally on implementation.

Subsection 113 (a)(1) authorizes assistance to help build the capacity of law enforcement and security forces of Mexico to eradicate illicit narcotics trafficking and reduce trafficking-fueled violence. Such assistance may include the transfer of helicopters—on a loan or lease basis—to Mexico's armed forces, along with surveillance platform planes, and land and maritime interdiction equipment. This subsection also authorizes the training of security and law enforcement units solely for the purpose of planning and executing counternarcotics operations. The Committee recognizes that terrorists and other entities could exploit the trafficking routes used by narcotics smugglers. To the extent a terrorist threat exists, the Committee intends that other authorities, including Section 1206 authority of the National Defense Authorization Act for Fiscal Year 2006 (P.L. 109–363), be used for such purposes.

Subsection 113(a)(2) authorizes assistance to help Mexico monitor and control the United States-Mexico border and the border between Mexico and Central America. The Committee is aware that improving the monitoring of the U.S.-Mexico border is a critical priority in the fight against smuggling, as is safeguarding ports of entry. The Committee intends that assistance authorized pursuant to this section address immediate needs to improve the monitoring of activity along the U.S.-Mexico border.

The Administration's initial proposal to Congress referenced the transfer of Mobile Gamma Ray and Ion scanners for the armed forces of Mexico. The Committee believes that such assistance

should be directed exclusively to civilian law enforcement agencies and its use governed by the latter, though the armed forces may be involved in the utilization of such assistance.

Subsection 113(a)(3) authorizes assistance to help Mexican law enforcement agencies to investigate and collect intelligence against DTOs. Such assistance may include provision of hardware, operating systems, and communications networks for Mexican intelligence agencies. Provision of such assistance is premised on the notion that to fight drug organizations and reduce violence, Mexico must enhance the intelligence gathering capabilities of its security agencies.

The Committee is well aware of instances in the past where the Government of Mexico has used its access to modern technology to observe the activities of its citizens. The Committee urges the Government of Mexico in the strongest possible terms to use such equipment solely for the limited purposes of enhancing control of the border and monitoring drug trafficking organizations, other criminal organizations and terrorist networks. The Committee strongly encourages the Administration to monitor how such intelligence-related technology provided to the Government of Mexico is being used and to take all necessary steps to ensure that the use of such equipment is consistent with internationally-recognized human rights standards.

Subsection 113(a)(4) authorizes assistance to facilitate the modernization of law enforcement entities and prevent crime. Such assistance may include provision of helicopters, surveillance aircraft, and human rights training. Subsection 113(b) makes clear the Committee's intent that funds made available to purchase helicopters pursuant to this Act are used to procure helicopters that are of a similar manufacture to those helicopters already in the possession of the Government of Mexico. The Committee believes that transfer of helicopters of a similar manufacture will greatly facilitate integration of such equipment into Mexico's existing fleet.

As noted in Section 111 (Statement of Purpose), the Committee believes that military assistance should be phased out as Mexico's law enforcement agencies assume more of the fight against drug trafficking organizations. In that spirit, it is the Committee's intent that all equipment transferred to the armed forces of Mexico be cross-utilized by other relevant law enforcement agencies, and that the U.S. Department of State track how well the armed forces of Mexico are sharing such assets with law enforcement agencies.

Finally, the Committee acknowledges the concerns expressed by human rights organizations regarding authorization for the transfer of helicopters to Mexico. The Committee believes that such assistance is critical at this juncture to combat the scourge of illicit narcotics but that the U.S. Government must maintain strict oversight over such air assets to ensure they are deployed for appropriate purposes.

Section 114. Limitation on Assistance.

Section 114 incorporates the "Leahy" human rights limitation of Section 620J of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2378d), into the bill and prohibits assistance to any unit of the armed forces of Mexico or law enforcement agency of Mexico if the Secretary of State determines that there is credible evidence

that such unit has committed gross violations of human rights. The Committee expects that existing Leahy procedures will be used to ensure compliance with this provision, including the vetting of all units of security forces that will receive funding pursuant to this Act. The Committee expects that the State Department will ensure that members of a unit against whom credible evidence has been found, are not reassigned to other “clean” units that do not trigger vetting problems.

Section 115. Authorization of Appropriations.

Subsection 115(a) provides an authorization totaling \$780 million over Fiscal Years 2008–2010.

Subsection 115(b) limits the amount of funds that may be provided to the armed forces of Mexico over Fiscal Years 2008–2010. This limitation reflects the Committee’s belief that although the armed forces of Mexico may be necessary to stabilize the security situation in the short-term, law enforcement agencies must ultimately spearhead the fight against drug-related violence.

SUBTITLE B—ASSISTANCE TO ENHANCE THE RULE OF LAW AND
STRENGTHEN CIVILIAN INSTITUTIONS.

This subtitle authorizes assistance to Mexico for the purposes of enhancing Mexico’s judicial system, civilian institutions, and rule of law. It is intended to complement security assistance to Mexico authorized in Subtitle A.

Section 121. Sense of Congress.

Section 121 reiterates the Committee’s belief that the solution to drug-related violence ultimately rests in “smart power” programs to enhance the rule of law and fortify Mexico’s civilian institutions.

Section 122. Authorization of Assistance.

Section 122 authorizes the President to provide assistance for Mexico to carry out the activities described in section 123.

Section 123. Activities Supported.

Section 123 authorizes four general categories of assistance (institution building and rule of law; anti-corruption, transparency, and human rights; prevention of individuals from participating in illicit narcotics-related activities; and development).

Subsection 123(1) authorizes assistance for Mexico’s efforts to expand the rule of law and build the capacity, transparency, and trust in government institutions. Such assistance includes funding to support the development of: a Clerk of Court system; prosecutor capacity building; technical assistance for prison management; and prison reform activities. Assistance also includes maintenance of data systems, including costs of 2 years of maintenance for transferred equipment, with the intent that the Government of Mexico will have sufficient time to incorporate such expenditures in its own budget.

Subsection 123(2) authorizes assistance to help Mexican law enforcement and court institutions develop mechanisms to ensure due process.

Subsection 123(3) authorizes assistance for prevention programs focused on at-risk youth.

Subsection 123(4) authorizes assistance for development purposes. The Committee recognizes that joblessness fuels narcotics-related violence. The Committee believes that development will help stem violence in the long-term and is a critical component of a successful counternarcotics strategy.

Section 124. Authorization of Appropriations.

This section authorizes \$330 million over Fiscal Years 2008–2010 to carry out the purposes of subtitle B. This figure constitutes a significant plus up of the Administration’s proposal.

TITLE II—ASSISTANCE FOR COUNTRIES OF CENTRAL AMERICA

This title authorizes funds for assistance to Central America. It is intended to mirror many of the kinds of assistance provided to Mexico in Title I as well as address specific problems in Central America, such as youth gangs.

Section 201. Findings.

This section includes various findings regarding Central America’s particular problems with illicit narcotics-related violence, as well as the proliferation of transnational youth gangs and the sharp increase in murders in the sub region.

Section 202. Declarations of Policy.

This section declares, among other things, that a long-term U.S. strategy to curb illicit narcotics trafficking must include Central America, and that the United States must seize the opportunity to work in partnership with Central America to address the growing issue of drug trafficking and related violence.

SUBTITLE A—LAW ENFORCEMENT AND SECURITY ASSISTANCE.

Subtitle A authorizes assistance for law enforcement and security forces of countries in Central America.

Section 211. Purposes of Assistance.

This section establishes the basis upon which assistance should be provided to Central America. These purposes include combating youth gang violence. The Committee is aware of human rights abuses committed by the armed forces and police forces of several potential recipient countries. It is the Committee’s intention that assistance provided pursuant to this Act strengthens respect for internationally-recognized human rights and the rule of law in recipient countries.

Section 212. Authorization of Assistance.

Section 212 authorizes the President to provide assistance for the countries of Central America to carry out the purposes of section 211.

Section 213. Activities Supported.

Section 213 enumerates the activities authorized under the bill, including: counternarcotics, countertrafficking, and related security; and public security and law enforcement.

Section 214. Limitation on Assistance.

Section 214 incorporates the “Leahy” human rights limitation into the Central America subtitle.

Section 215. Authorization of Appropriations.

Section 215 authorizes \$220 million over Fiscal Years 2008–2010 to carry out the activities of Subtitle A.

Subsection 215(c) requires that at least \$15 million of appropriated funds be made available to carry out section 213(2)(B) (youth gang prevention activities). The Committee intends to attack a key source of violence—youth gangs—through a long-term investment in prevention programs.

SUBTITLE B—ASSISTANCE TO ENHANCE THE RULE OF LAW AND
STRENGTHEN CIVILIAN INSTITUTIONS.

Subtitle B authorizes assistance for non-security programs to address the endemic conditions giving rise to trafficking-related violence in Central America.

Section 221. Authorization of Assistance.

This section authorizes the President to provide assistance for the countries of Central America to carry out the activities enumerated in section 222.

Section 222. Activities Supported.

Section 222 authorizes the President to undertake activities to build the capacity, transparency, and trust in the justice systems of recipient countries and reduce unacceptable high impunity rates in Central American countries. Assistance may also be used to enhance the Electronic Travel Document (ETD) System and Repatriation Notification System.

Section 223. Authorization of Appropriations.

Section 223 authorizes \$185 million over Fiscal Years 2008–2010 to carry out the activities of Subtitle B.

TITLE III—ADMINISTRATIVE PROVISIONS

Title III places several conditions on provision of assistance to recipient countries, caps the number of contractors present in each recipient country, and prohibits cash payments.

Section 301. Conditions on Provision of Assistance.

Section 301(a) prohibits the President from providing assistance under title I or II to a foreign country under the Act until 15 days after the President determines that the requirements described in subsection (b) have been met. This Committee intends this determination to be consistent with, and in some cases, stronger than, existing requirements in law, including section 1033 of the National Defense Authorization Act for Fiscal Year 1998, as amended.

Subsection 301(b) spells out the requirements referred to in subsection (a). These requirements include:

- (1) Human rights. The committee expects the President to assess whether there is a reasonable expectation that assistance could adversely affect the human rights situation in

a recipient country. This assessment could be based on the recent history of the country—including assessments in the Department of State’s Country Reports on Human Rights Practices, the proposed units to be funded, and other relevant factors.

- (2) Vetting. The President must determine that vetting procedures are in place within the U.S. Government to ensure that units to be funded have not been involved in human rights violations. The Committee expects these procedures to be consistent with, and perhaps based on, existing procedures for “Leahy” human rights vetting.
- (3) Civilian prosecution. The Committee remains concerned regarding reports that the armed forces and elements in police forces in several potential recipient countries have failed to prosecute alleged human rights violators. The Act therefore requires the President to determine that a civilian authority in the foreign country is investigating and prosecuting any member of any agency receiving assistance under title I or II who has been credibly alleged to have committed human rights violations from the date of enactment of this Act.
- (4) Background investigations. The Committee expects a recipient country to conduct background checks to ensure equipment and material provided as support will be used by appropriate personnel.
- (5) End-use monitoring. The conditions enumerated in subsections 301(b)(5)–301(b)(8) are intended to reinforce existing end-use monitoring provisions.

Section 302. Limitations on Provision of Assistance.

Subsection 302(a) articulates the sense of Congress that to the extent possible, activities undertaken under Title I and II should be performed by employees and officers of the recipient country, not by U.S. citizens or foreign nationals retained as contractors in a recipient country. The Committee intends that the limitations enumerated in Section 302 address concerns regarding the extensive use of contractors to execute U.S. Government-funded counter-narcotics operations.

Subsection 302(b)(1) caps at 50 the total number of U.S. citizens or foreign nationals retained as contractors to carry out Title I of this Act. The purpose of this provision is to ensure that either officials or employees of the recipient country or U.S. Government employees implement programs under this Act.

Subsection 302(b)(2) caps at 100 the total number of U.S. citizens or foreign nationals retained as contractors to carry out Title II of this Act.

Subsection 302(b)(3) requires that none of the funds made available under this Act shall be made available for budget support or cash payments. The Committee fully expects that assistance provided under this Act will be in the form of equipment or training; no cash shall be offered to bolster a recipient country’s counter-narcotics efforts. The purpose of this limitation is to ensure that the assistance addresses those concerns identified by Mexico, Cen-

tral America and the United States, and that the United States maintains visibility over assistance provided.

Subsection 302(c) authorizes the President to waive the limitations in subsection (b) if it is in the national interest of the United States to do so. It is the Committee's belief that the President shall exercise this waiver only in limited circumstances.

Section 303. Limitation on Monitoring.

This section prohibits transfer of surveillance-related equipment to a recipient country unless the President determines that the recipient country has cooperated with the United States to ensure that such equipment will be used principally for the purposes for which it is provided. The Committee understands that there may be rare instances where such equipment would be used in a non-counternarcotics context, such as a humanitarian relief operation. The determination required would encompass transfer of equipment to the Mexican Intelligence Agency.

Section 304. Exemption from Prohibition on Assistance for Law Enforcement Forces.

This section authorizes the President, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) to provide assistance under Title I or II to the police forces of recipient countries. The Committee believes that such "notwithstanding" authority is necessary to ensure that assistance flows to police forces in recipient countries engaged in counternarcotics activities.

Section 305. Relationship to Other Authority.

This section makes clear that this Act is in no way intended to amend other authority to provide assistance to Mexico or Central America.

Section 306. Rule of Construction.

This section confirms that the Arms Export Control Act (22 U.S.C. 2751 et seq.) applies to all transfers of equipment under this Act, unless otherwise specified in this Act.

TITLE IV—SUPPORT ACTIVITIES IN THE UNITED STATES

This title authorizes activities in the United States to support the Merida Initiative. The Committee believes that the Merida Initiative will only be successful if the United States Government undertakes steps domestically, including reducing domestic drug demand and the southbound flow of illegal weapons.

Section 401. Report on Reduction of Drug Demand in the United States.

Subsection 401(a) expresses the sense of Congress that taking steps to reduce drug demand in the United States is one of the most important contributions the United States can make to combat illicit narcotics trafficking.

Subsection 401(b) requires the President to issue a report on the measures taken to reduce drug demand in the United States.

Section 402. Reduction of Southbound Flow of Illegal Weapons.

This section is based on H.R. 5869 (“Southwest Border Violence Reduction Act of 2008”).

Subsection 402(a) expresses the sense of Congress that the number of licensed gun sellers along the 2,000-mile U.S.-Mexico border dwarfs the number of ATF agents assigned to stop illegal weapons trafficking, and that a critical part of a United States contribution to the Merida Initiative is an effective strategy to combat the illegal southbound flow of arms.

Subsection 402(b) requires the Attorney General to expand resources for Project Gunrunner, an initiative to identify, investigate, and prosecute individuals involved in the trafficking of firearms across the United States-Mexico border. The Committee notes the critical role of the ATF in tracking weapons across the border and believes that enhanced presence of the ATF and other appropriate law enforcement agencies along the border is critical to stopping the “iron river” of weapons. Subsection 402(b)(4) authorizes \$15 million to carry out this subsection for each Fiscal Year 2008 through 2010.

Subsection 402(c) requires the Attorney General, in cooperation with the Secretary of State, to assign agents of the ATF to the U.S. mission in Mexico. These agents shall focus on training Mexican law enforcement officers to conduct investigations relating to firearms trafficking and serial number restoration techniques. They will also be responsible for supporting investigations and tracing firearms recovered in Mexico, a key asset of the ATF that must be shared with Mexican law enforcement agencies.

Section 403. Reduction of Southbound Flow of Illegal Precursor Chemicals and Bulk-Cash Transfers.

This section expresses the sense of Congress that the United States Government must take steps to halt the flow from the U.S. to Mexico of precursor chemicals used in the production of illegal drugs.

Section 404. Report.

This section requires the President to transmit a report regarding specific measures taken to stop the flow of precursor chemicals.

TITLE V. MISCELLANEOUS PROVISIONS.

This title establishes a coordinator of U.S. Government activities to implement the Merida Initiative; requires the Administration to establish metrics to gauge success and ensure accountability of the Initiative; and requires a comprehensive report on activities undertaken pursuant to this Act.

Section 501. Coordinator of United States Government Activities to Implement the Merida Initiative.

Subsection 501(a) declares that a single coordinator is required to manage and track all U.S. Government Merida-related efforts to ensure accountability and avoid duplication. Although the Committee has provided the State Department latitude in determining specifically how to implement this Act, the Committee also understands that numerous entities will be involved in implementation.

In turn, the Committee believes that a single coordinator is required to manage U.S. Government efforts and to serve as a point person for the recipient countries and the U.S. Congress. The Committee is particularly concerned regarding overlapping counter-narcotics authorities and programs among several Departments and the concomitant difficulties in programmatic oversight such overlap creates.

Subsection 501(b)(1) designates a high level coordinator within the Department of State to implement the Merida Initiative and spells out the responsibilities of the Coordinator, including designing an overall strategy to advance the purposes of this Act, and ensuring program and policy coordination among all agencies providing assistance under this Act. The Coordinator need not be a State Department employee prior to selection, but the position of the Coordinator shall be resident at the Department of State. Responsibilities include coordinating assistance provided by the Department of Defense pursuant to section 1004 of the National Defense Authorization Act for Fiscal Year 1991, as amended (Public Law 101-510) and section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85).

The key responsibility of the Coordinator will be to review, oversee, and harmonize programs authorized pursuant to this Act. In that regard, the Committee expects that the Coordinator shall have control over designating budgetary priorities for all funds appropriated to the Department of State for the Merida Initiative. The Committee also expects that the Coordinator will work closely with other agencies to ensure their budgetary priorities are consistent with those of the overall Initiative.

Subsection 501(b)(2) establishes that the Coordinator shall have the rank and status of ambassador. The Committee intends that the Coordinator shall work closely with the Assistant Secretary for Western Hemisphere Affairs, Department of State, but shall be independent of that office.

Section 502. Metrics and Oversight Mechanisms.

Subsection 502(a) expresses the sense of Congress that the President should establish metrics to track the effectiveness of activities undertaken pursuant to this Act.

Subsection 502(b) requires the President to develop metrics to identify, track, and manage the progress of activities undertaken pursuant to this Act. The Committee intends that the President will track metrics in order to determine the allocation of resources for counternarcotics and organized crime-related efforts. The Committee also expects that the President will consult with Congress in developing these metrics.

Subsection 502(c) requires the President to transmit to the appropriate congressional committees a report that spells out the metrics the President shall establish.

Section 503. Report.

This section requires the President to transmit to Congress a report on key aspects of the Act. The requirements are intended to mirror the provisions of the Act.

Section 503(b)(4) requires an assessment of the human rights impact of the equipment and training provided under this Act. The

Committee intends that all human rights reporting regarding activities undertaken pursuant to this Act will be catalogued in this report. To the extent such information would be relevant to the State Department's annual *Country Reports on Human Rights Practices*, required under sections 116(d) and 502(B) of the Foreign Assistance Act of 1961 (22 U.S.C 2151n(d) and 2304(b)) and section 504 of the Trade Act of 1974 (19 U.S.C. 2464), the Committee expects that the information will be inserted into that report as well.

Section 504. Sense of Congress.

This section expresses a sense of Congress that the United States Government requires an integrated public diplomacy strategy to explain the purposes of the Merida Initiative. In particular, the U.S. Government must explain how the Initiative involves a partnership among the United States, Mexico, and countries of Central America to eradicate narcotics-related violence and crime.

Section 505. Sunset.

This section provides that the authority for this Act shall expire after September 30, 2010.

ADDITIONAL VIEWS

This legislation confirms that it is in the interest of the United States to fund programs to reintegrate deportees from the United States back into the societies of their home countries to avoid further criminal activity and authorizes such programs. In fact, the United States has provided such transitional assistance in Haiti and elsewhere.

However, this is only one aspect of a three-part approach to the deportee dilemma. Last July, the Subcommittee on the Western Hemisphere held a hearing on deportees which examined this question and learned of specific problems relating to criminal deportations. First, we learned that when the United States departs an individual for a criminal act, the recipient country only learns of the offense triggering the deportation, not any other criminal act in the individual's past. This means a foreign government might not be prepared to receive a deportee with a very violent past simply because the U.S. did not transfer all of the relevant information about that person.

Second, tightened U.S. laws removed much of the discretion from the deportation process. In some instances, this has been a serious problem for individuals and families who have made this country their home. There are cases of legal permanent residents of the United States who have lived here for many years, are raising children, pay taxes, own a home, or even serve in the military, but are deported because they commit a minor crime. These may not be the type of people we should be deporting.

Congress needs to consider legislation to focus on all three parts of the deportation problem: Providing better information about criminal deportees by sending the full NCIC (National Crime Information Center) record on a criminal deportee to a foreign recipient government; increasing discretion so that a judge can determine if a person with deep ties to the U.S. who does not commit a serious crime might be eligible to remain in this country; and, helping countries absorb deportees through reintegration programs, as authorized under this act.

ELIOT L. ENGEL.

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