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



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

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

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**Notes:**

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

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

## Preface

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

The Task Force’s two Co-Directors, Carlos Heredia and Chappell Lawson, drafted this Executive Summary, based on the consensus of the Task Force membership where possible and the sense of the majority in other cases. Task Force Members endorse the report’s findings and policy recommendations and agree that the report is based on the group’s consensus or majority views, though not every Member necessarily agrees with every finding and recommendation. The report does not necessarily represent the views of PCIP, COMEXI or any of the institutions with which Task Force Members are or have been affiliated.

Background materials for Task Force meetings, commissioned papers, information on sponsorship, a list of advisors and observers, and additional detail on the Task Force itself, are available online at <http://www.pacificcouncil.org/interior.aspx?pageID=Studies&subID=3&itemID=47>.

## Acknowledgments

The Binational Task Force on the Mexico-United States Border, jointly organized by the Pacific Council on International Policy and the Mexican Council on Foreign Relations (Comexi), has benefited immeasurably from the contributions of many individuals. In addition to the Task Force members, the following individuals have provided valuable input: Immeasrmann, Alejandro Estivill, José Natividad González Parás, Roberta S. Jacobson, Marco A. Lopez, Patricio Martínez, José Guadalupe Osuna Millán, Jerry Sanders, Arturo Sarukhan, and Bruce Williamson.

The Task Force's meetings in San Diego/Tijuana, Monterrey and Tempe were enhanced by the perspectives offered by outside participants who wrote background papers and joined the discussion on a wide array of issues: Stephen Blank, Susana Chacón, Hilda García, Cecilia Imaz, José de Jesús Luévano, Christina Luhn, Armand Peschard, José Ramos, Rick Van Schoik, and David A. Shirk.

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

## Task Force Sponsors

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## Introduction

The 1,952-mile land boundary between the United States and Mexico is the place where the most contentious and difficult issues in the bilateral relationship play out – from undocumented migration and contraband trafficking to the allocation of water in a thirsty region. Nevertheless, the border region remains poorly understood – both by policymakers in distant federal capitals and by the public at large. Most people who do not live along the border or cross it frequently are unaware of the challenges of border management or of the ways in which Mexico and the United States are attempting to meet those challenges. Changes on the ground – and local responses to them – frequently outpace both national policies and public perceptions.

The conjunction of a technologically advanced, capital-rich society and a modernizing, labor-exporting country creates the potential for both synergy and strife. The challenge confronting Mexico and the United States is to mitigate the conflicts that inevitably arise from this dichotomy while seizing all potential opportunities the differences generate.

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

This Task Force Report provides analytically informed prescriptions for the U.S.-Mexico border region in six areas: (1) public safety and security, (2) facilitation of legal transit and commerce, (3) economic development, (4) water management, (5) the environment, and (6) migration. Because some problems at the border are merely visible manifestations of phenomena that extend far into the interior of each country, the Task Force’s recommendations inevitably touch on those root causes. Collectively, these recommendations offer a long-term strategy for managing the border, based on the notion of cooperative solutions to common problems.

## 1. Security

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The United States is the principal destination for drugs coming from Mexico and the principal source of guns and bulk cash from criminal activities flowing into Mexico. Mexico is the principal, proximate source of illegal drugs coming into the United States, as well as the principal destination for guns illegally purchased in and shipped from the United States. Both countries suffer as a result of this symbiotic contraband trade, and both have an obligation to help contain it. Moreover, closer collaboration will bring greater success on this front than would additional unilateral effort, however vigorous.

Interdiction at the frontier can only partially impede trafficking in people and goods. For this reason, both demand reduction and interior enforcement in of both countries are crucial components of any long-term solution to security problems at the border. Nevertheless, interdiction efforts will remain a component of law enforcement, and greater binational security cooperation at the border is essential to the success of these efforts.

The two most serious obstacles to closer collaboration are deficits in law enforcement capacity, including corruption, and the absence of mechanisms to coordinate operations across the border. To address these problems, the agencies in charge of border enforcement should be made parallel – either by reconfiguring existing bureaucracies or creating entire new agencies – and sufficient resources should be invested in these agencies to guarantee their professionalism.

Making such changes requires political will on both sides of the border. Both countries are already taking the right steps in the right direction -- the recent replacement of 1,400 Mexican Customs agents is just one example – but sustained commitment is essential from policymakers and elected officials to realize the vision of deep, regular collaboration on border security.

**Both countries should take the following steps *immediately*:**

- Mexico should restructure its federal law enforcement institutions along the border to create a direct counterpart to U.S. border enforcement authorities, similar to the approach that Canada took after the terrorist attacks of September 11, 2001.
- Mexico should begin converting its Customs authority (Aduanas) into a multi-functional agency capable of addressing the threats posed by cross-border trafficking of all sorts. Mexican Customs and the Office of Field Operations of U.S. Customs and Border Protection should develop joint plans for securing all land ports of entry along the border.
- The United States and Mexico should expand cooperative law enforcement efforts along the border, such as the OASISS program (through which information collected by U.S. officials is used by Mexican authorities to prosecute smugglers apprehended in the United States).
- The United States should intensify efforts to curtail the smuggling of firearms, ammunition, and bulk cash into Mexico by aggressively investigating gun sellers, regulating gun shows, reinstating the Clinton-era ban on assault weapons, conducting targeted inspections of southbound traffic, and providing leads to a more robust Mexican Customs authority.
- The United States should dramatically expand assistance to Mexico beyond the Mérida Initiative, in order to help Mexico build up its law enforcement capacity.
- The United States should reduce demand for illegal drugs through enhanced prevention efforts, increased access to treatment programs, stricter street-level enforcement, expanded drug testing of a portion of the workforce (e.g., employees of firms with government contracts), and more careful surveillance of the prison and parolee populations. Mexico should also intensify its own efforts to reduce domestic drug consumption.

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

- Mexico should complete the establishment of a federal frontier police, either as a division of an existing entity or as a new federal law enforcement agency dedicated to securing the areas between the ports of entry on both Mexico's northern and southern borders.
- Mexico should consider bringing the federal frontier police and a transformed Customs authority together into a single, unified border protection agency.
- Mexico and the United States should reconfigure the zones of operation of their respective border enforcement agencies so that they mirror each other.
- Cross-deputized Mexican and U.S. border patrol officers should conduct joint operations between the ports of entry.
- Mexico and the United States should reconfigure their ports of entry so that appropriate officials on both sides have access to real-time data on vehicles and individuals crossing the border. Customs officers from both sides should meet regularly to review operations at their ports of entry.

## 2. Facilitation

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Congestion at crossing points imposes considerable costs on tourists, commuters, consumers, business owners, and border communities; the financial price alone of delays at the border reaches billions of dollars per year. In some areas along the border, including the San Diego-Tijuana corridor, expediting cross-border commerce is the single most important measure that the governments could take to promote economic development.

Although facilitation is often viewed as the flip side of security, there are ways to simultaneously expedite trade and improve security. For instance, new detection technologies and intelligent risk management strategies enhance public safety while facilitating cross-border travel and commerce.

One crucial barrier to trade facilitation is the deficit in border infrastructure, which simply has not kept pace with massive increases in trade and transit since ratification of the North American Free Trade Agreement. Federal spending on ports of entry would have a very high rate of return; for this reason, both countries should make a long-term commitment to fund border infrastructure and (in the short run) disproportionately direct stimulus money toward the ports of entry.

Even with additional stimulus spending, however, federal funding will remain insufficient to address the infrastructure deficit; both countries must find other sources of financing for border crossing points and the roads that feed into them. This money can come in part from the private sector, with the market rather than the state determining the magnitude of private investment in border infrastructure.

Beyond infrastructure, better exploitation of technology, refined risk-based segmentation of traffic, and operational changes at the ports of entry (including staffing) can all reduce transit time. Because the marginal cost of operating an existing port of entry is extremely low compared to both the cost of building a new port of entry and the marginal benefit of more rapid transit, inadequate staffing of the ports of entry should never become a bottleneck.

So far neither government has articulated a goal for wait times. The Task Force believes that average wait times at the border should not exceed 20 minutes in either direction, at any port of entry, with minimal variation about this average.

**To achieve this goal, both countries should take the following steps *immediately*:**

- Encourage public-private partnerships to erect new ports of entry, along the lines of Otay Mesa East, permitting whatever toll structures are necessary to finance these projects.
- Require that planning for every new port of entry and the infrastructure that feeds into it be conducted by a single binational body or (failing that) by mirror-image bodies in which representatives of each country sit on the planning board of the other.
- Expand trusted traveler (such as SENTRI) and shipper (FAST-C-TPAT/EXPRESS-AEO) programs without lowering the bar for inclusion in these programs.
- Staff ports of entry adequately to cope with the current volume of trade and transit, and eliminate transaction costs associated with customs broker inspections.
- Undertake a cost-benefit analysis of projects to be financed by new economic stimulus plans in both countries, channeling more spending toward the ports of entry if border infrastructure has a higher multiplier effect than other projects.

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

- Give officers at the ports of entry the equipment necessary to communicate directly and instantaneously with their counterparts.
- Fully deploy, on both sides of the border, non-intrusive inspection technologies that reduce wait times without jeopardizing security.
- Encourage the formation of a border-wide network – possibly virtual – of state and local governments, community organizations, and business groups to advocate for policies that expedite legal commerce and transit.
- Complete planning and begin construction of new SENTRI and FAST/EXPRESS lanes to accommodate increasing travel and trade between Mexico and the United States.

### 3. Development

Fifteen years after the passage of NAFTA, levels of trade and investment across borders in North America have risen dramatically. The same period, however, has made it equally clear that commercial openness alone is insufficient to generate sustained, broad-based economic growth in the border region. Although further steps to liberalize commerce (e.g., terrestrial broadcasting and trucking) would bring incremental benefits, the NAFTA agenda is largely exhausted. Both governments should now focus their attention primarily on facilitating trade along the lines discussed in the preceding section.

In addition, Mexico and the United States should also take affirmative steps to promote economic development in the border region. The North American Development Bank (NADBank), created alongside NAFTA, has historically focused on water, wastewater and environmental projects; although it has made remarkable progress on those fronts, its mandate prevents it from investing in a number of other types of projects that could also boost standards of living.

Mexican border states have above-average levels of income, but areas of profound poverty persist in both countries. Raising standards of living on both sides of the border will require large-scale poverty alleviation programs, the precise nature and scope of which is beyond the scope of this report.

**To promote economic development in the border region, Mexico and the United States should take the following step *immediately*:**

- Expand the NADBank's mandate to allow it to invest in new sorts of infrastructure projects, including those that intimately affect border communities but are not necessarily located in the border region (e.g., logistics corridors).

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

- Create a binational Border Development Authority that would coordinate all the activities of the NADBank under a broader mandate, with higher levels of capitalization and access to grant money to help local governments develop their administrative capacity.
- Once the Border Development Authority demonstrates its ability to integrate the interests of legislators, governors, mayors, business groups, and grassroots organizations, it should be charged with encouraging regional development initiatives and coordinating infrastructure planning along the border.
- Reestablish the trans-border land transportation demonstration project.

## 4. Water

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Intelligent management of transboundary waters involves more than their division according to prescribed formulas; it also entails conservation, upstream efforts to protect river systems, and the development of new sources of supply. Unfortunately, the current approach to shared water resources is based on a 19th century notion of sovereignty and a much older notion of religion (praying that it rains). The 1944 Water Treaty, which provides the framework for binational management of rivers that cross the border, was designed for an era in which the most important use of surface water was power generation. Recent controversies over U.S. lining of the All-American Canal, seepage from which flowed to Mexico, reveal how the current institutional fabric is already fraying.

Whatever its traditional limitations, the International Boundary and Water Commission (IBWC) is an effective, bilateral institution that brings technical expertise to bear on potentially contentious issues. Moreover, the Task Force believes that re-opening up the 1944 Treaty now would provoke more controversy and conflict than it would resolve. For the time being, therefore, bilateral water management through the IBWC should continue to evolve through the existing process of Minutes, as amendments to the 1944 Treaty are known.

Over the long run, both countries will ultimately need to adopt sound, market-oriented, environmentally sustainable water policies to cope with growing demand for water in a fundamentally arid region. Chief among these policies are cross-border sales of water (through the federal government on the Mexican side if necessary) and more rational pricing regimes.

**To better manage shared water resources, Mexico and the United States should take the following steps *immediately*:**

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

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

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

## 5. The Environment

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The border region is an area of striking beauty and biodiversity, but also of significant pollution and environmental damage. Because emissions and effluents cross the border easily, only coordinated action on this front can safeguard environmental standards.

In general, efforts to facilitate commerce, promote economic development, and properly manage water resources will all advance environmental goals. For instance, cutting wait times at the border reduces air pollution from idling vehicles. In addition to these measures, however, governments must also take direct steps to preserve the border region's natural heritage and reduce environmental degradation.

**To this end, they should take the following steps *immediately*:**

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

**Mexico and the U.S. should take the following steps *within three years*:**

- Devise strategies to improve water and air quality in the border region, including regional emissions trading systems if appropriate.
- Give the Binational Water Board (discussed in the previous section) the authority to develop standards for water quality and reduce non-point source pollution in shared waterways.

## 6. Migration

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Hundreds of thousands of people cross the border illegally each year. The vast majority are economic migrants from Mexico seeking work in the United States. Unauthorized migration is a perennial irritant in the bilateral relationship; it fuels support for economically and politically expedient but counter-productive border enforcement measures in the United States, contributes to broad misunderstanding between the two countries, and creates antipathy toward Mexico and Mexican migrants in the United States.

As with law enforcement, however, long-term solutions to unlawful migration must be premised on shared responsibility for the current situation: comprehensive immigration reform in the United States and sustained, broad-based economic development in Mexico, a multi-dimensional, long-term endeavor. Most Mexican members of the Task Force believe that rapid growth in Mexico will require (a) fiscal reform to increase federal tax revenues, (b) “trust-busting” to foster competition in sectors now dominated by one or two firms, (c) energy reform to permit greater private investment in that sector, (d) labor reform to encourage union democracy, (e) education reform aimed at improving the quality of public schooling, and (f) industrial policies designed to expand linkages between the modern export sector and the rest of the economy. Adopting these policies, which are not associated with any one political faction, requires a robust national dialogue and visionary political leadership able to articulate broad, ambitious goals.

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

**To reduce unauthorized migration – and its deleterious effects on individuals, families, and communities in both countries – the following steps should be taken *immediately*:**

- The United States should officially acknowledge that, when it comes to migration, Mexico is unique and that addressing Mexican migration requires a set of policies tailored to the situation.
- Mexico and the United States should establish a joint commission of economists, demographers, prominent businessmen, and labor leaders to analyze the labor market complementarities produced by long-term demographic trends and economic integration; the Commission should report to the President and Congress of each country. If a joint commission is not possible, the two governments should establish parallel commissions with the same charge, which should work in tandem.
- Both governments should jointly develop a plan for managing future flows (both temporary and permanent) that takes into account the demographic and labor market realities of both countries. This plan must address the potential for fraud by recruiters and ensure that labor rights are fully protected.

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

- The United States should adopt a set of policies that addresses both the status of unauthorized Mexicans living in the country and future flows from Mexico. The level of future legal flows should be flexible, reflecting economic conditions and the demand for labor.
- Once such reforms are in place, Mexico should actively prevent unauthorized northward migration by ensuring that people who leave the country to enter the United States do so at designated crossing points and with the required documents.

## Conclusions

Mexico and the United States have long squandered opportunities for constructive collaboration along their shared border. The costs have been massive – billions of dollars in economic losses, crime and violence, and the widespread sense that the border is “broken” or dysfunctional.

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

We invite them to take the next step. We urge both governments to articulate a shared vision of the border that promises tangible, substantial benefits for both countries. The elements of this vision are:

- a model of binational law enforcement in which officials from parallel, professionalized agencies work together as a matter of course;
- a coherent economic strategy for the border region, based on expediting legitimate commerce, relaxing federally-imposed restrictions on what border communities can do to build new infrastructure or provide better social services, and endowing existing development institutions with greater authority;
- intelligent management of shared natural resources; and
- a comprehensive, binational solution to migration.

Taken together, these steps will transform management of the border from a source of contention and frustration into a model of cooperation in confronting common challenges.