

CRIMINAL ENTERPRISES HEADQUARTERED IN MEXICO ARE A SUBSTANTIAL AND URGENT THREAT TO MEXICAN AND U.S. ECONOMIC STABILITY

I come here to propose a new three-cornered partnership: 1) among all U.S. Law enforcement—federal, state, and local; 2) among all U.S. law enforcement and Mexican law enforcement; and 3) between U.S. and Mexican law enforcement and affected industries, particularly transnational businesses that are victims of or are being misused by criminal enterprises.

The criminal enterprises operating in and from Mexico present an immediate and escalating threat to the economic well-being of the region and therefore to North America.

Smuggling activity is present on virtually every international border. The necessary existence of import restrictions creates profit-making opportunities for smugglers.

The U.S./ Mexico border separates the largest economy in the world and the U.S.'s second largest trading partner. Accordingly, smuggling across this border is a profitable activity. Generations of generally familial smuggling organizations exist on both sides of the border. These organizations have deep roots in the fabric of the cities and towns along all of the trade routes between the U.S. and Mexico.

Mexican criminal enterprises now present a new and different threat to North American well-being. They are fiercely competitive multi-crime criminal enterprises. This discussion uses the term "criminal enterprises" because this term is used in federal and state racketeering statutes.

There are many sources of the increased power of criminal enterprises.

1. Immigration into the U.S. brought Mexican criminals to U.S. cities in large numbers in the 1990s. Substantial Mexican criminal populations allow drug organizations to rely on extended ties to integrate their distribution networks.
2. The Mexican Criminal Enterprises have incorporated influences from the "Zetas," former members of an elite military unit originally recruited by a drug organization as mercenaries in inter-enterprise warfare. The Zetas brought with them greater eagerness to diversify into criminal opportunities other than drug smuggling.
3. Other opportunities for bringing young men to northern Mexico included preparation for people to illegally cross the border. Maquiladoras plants brought many unemployed young men to northern Mexico. Underemployed, disaffected young men, feeling the self-perceived invincibility of youth and eager to prove themselves are ready for recruitment into criminal organizations and related street gangs. When conflicts mean that a kingpin's relatives may die or be injured, naked aggression is not as attractive as when the casualties will be replaceable strangers. Aggression and brutality became more acceptable.

4. The threat posed by the Mexican Criminal Enterprises continues to escalate because of persistent popular ignorance and misinformation on both sides of the border.

It does not appear to be widely understood that continued consumption of Mexico-sourced drugs is the direct root cause of the erosion of the free democracy in Mexico and ultimately of the economy of North America. Young people forego tuna that has not been harvested with adequate care for dolphins. They are acutely aware of the indirect consequences of their consumer decisions. Yet they continue to buy Mexico-sourced drugs as if there were no consequences for these decisions.

The Criminal Enterprises are engaging in diversified organized criminal activity, such as diverting petroleum products, hijacking truck and train cargo, extorting major businesses, and targeted intelligence-driven kidnappings of business leaders. They are uniquely situated for attacks on trade because they grew out of smuggling organizations, so they have deep roots on the key trade routes between the U.S. and Mexico. Apart from the direct injury to the immediate victims, these criminal activities are strategically significant in two ways. First, they are sources of income and therefore sources of power to the Criminal Enterprises. Second, they infiltrate, burden and ultimately destroy trade-related activity and investment.

The Criminal Enterprises may not intend to strangle commerce. Indeed, they may have no thought that this could happen and no desire for this result. But a pack of wolves may decimate a deer population without a thought about what that may mean to future wolves years hence. They act like wolves because that is their nature. Criminal Enterprises act as they do because that is their nature. They will continue to escalate their parasitic criminal conduct without regard to whether their crimes will ultimately kill the host. They will continue unless they are stopped. So the diversification of criminal conduct will continue as long as the economic opportunities are there and will take whatever advantage of those opportunities that they can get away with.

Some observers of the present violence have written that President Calderon's decision to call in the military was the initial cause of the present violence. However, the rise of the newly aggressive and power-acquiring Criminal Enterprises was not caused by Calderon's administration.

The Zetas arrived on the scene in the late 1990s, bringing their military tactics and new ruthlessness and opportunism.

The Criminal Enterprises' tactics are clearly intended to undermine representative government by instilling lack of confidence and fear in the Mexican people. These outrages to civil life include murders, extortion of city residents, car bombings, and beheadings.

In any event, in the present circumstances, it is not really possible for the Mexican government to back down. While it has long been believed by some in the U.S. that

Mexican government officials accepted bribes to allow Mexican drug and human smugglers to operate with relative amnesty, that was in the context of the crimes of drug and human smuggling. From the Mexican perspective, these are quasi-victimless crimes. The crimes have changed. They now include diversion of petroleum, hijacking cargo, kidnapping business people, extorting insurance companies, extorting whole cities, and atrocious murders, including of clergy, journalists, and political leaders. No government can look the other way in connection with such conduct, no matter what bribe amount is offered, so there is no “back down” solution.

Nor would the Criminal Enterprises accept a return to the former order, even if could be offered. Once the Criminal Enterprise has enjoyed the criminal benefits of operating with impunity in a governmentally challenged area and parceled out those income streams to the inner circle, its nature does not permit unforced retreat. A leader who proposed to his inner circle that the group henceforth limit itself to drug and human smuggling and abandon the other criminal opportunities would not remain the leader for long.

Some have proposed legalizing drugs as a panacea by which the violence could be stopped and the strength of Mexico’s representative government restored, deflecting the threat to the economy. This is not possible. Consider the economics of, say, a hypothetical “National Cocaine Corp.,” a new business formed to sell hypothetically recently legalized cocaine in the U.S. As the first order of business, it must undertake the expense of getting an FDA approval. The Mexican Criminal Enterprises won’t have any of these expenses. In addition, some young people will inevitably be deemed too young to use the drugs legally. This market would not be available to a legal company, but the Criminal Enterprises would keep selling to this market. There is no legal product that can match the price of good old smuggled drugs. So the Mexican Criminal Enterprises would stay in business and would continue smuggling the same products, but for a larger market because the products are approved by the government as “legal.”

Sealing the border cannot fully resolve the threat to trade. This would not stop the Criminal Enterprises in Mexico from operating. They would continue to develop diversified criminal activities, in addition to selling drugs in Mexico. They would complete the escalation of their dominance over the representative government, strangling U.S./Mexico trade from the south side of the perfect wall. They would still cause economic collapse. The collapsed Mexican representative government would then have little control of the growth of the Criminal Enterprises. The Criminal Enterprises would turn their attention to penetrating the U.S. with diversified criminal activities, using the collapsed northern Mexican areas as staging grounds.

The sober truth is that the U.S. faces a substantial and immediate risk that the Mexican criminal enterprises will drive the U.S.’s neighbor and second largest trading partner into economic ruin in the next few years. There is no easy “back down” solution, no “legalize drugs” solution. Mexican Criminal Enterprises pose a serious threat to U.S./Mexico trade, which in turn poses a serious threat to the economic health of Mexico and therefore of North America.

Success depends in part on Mexican action because if the Mexican government loses the battle for control of the trade routes, the U.S. and Mexican economies will be damaged.

We—the U.S. and Mexico acting together—must act decisively now. It will require a close partnership with, and often following the leadership of, the Mexican government. The alternative is the catastrophic consequences of a destabilized Mexico.

In the short term, focusing on preserving U.S./Mexico commerce points to several parallel goals:

1. focusing U.S. and Mexican investigation and prosecution on the Criminal Enterprises' incursions into commercial activities, with the investigations centered in Mexico and the prosecutions in the U.S.;
2. cutting off Criminal Enterprises from sources of income and materiel that the U.S. has direct influence over, specifically money laundering, including the payments for illegal drugs and aliens, and the weapons flowing south from the U.S.; and
3. recasting and vastly expanding efforts to prevent and treat U.S. use of Mexico-sourced drugs.

The first of these focal points will require significant new approaches and resources:

- a. U.S. government outreach to all U.S./Mexico international businesses. Enlist as allies those that are in some way facilitating the Criminal Enterprises, wittingly or unwittingly. As examples, money transmitters and stored value program operators are used by Criminal Enterprises to transfer value from the U.S. to Mexico without the risk and expense of smuggling bulk cash. Hundreds of millions of illicit dollars pass through these systems annually. Review anti-money laundering programs and industry contribution of data relating to these transactions and gather industry insights into how the illicit money flows and how industry members could prevent or report it.
- b. Recruit and train federal and state investigators and prosecutors in the U.S. and Mexico to address specific criminal industries and enlist victim businesses, to include petroleum theft, cargo hijacking, import-export fraud, kidnapping/extortion, and intellectual property theft aimed at international businesses. Expand existing federal and state civil racketeering efforts to support bringing trade-based civil racketeering cases in U.S. courts.
- c. Collect these investigators and prosecutors in multi-agency collocated task forces modeled on the High Intensity Drug Trafficking Area or Border Enforcement Security Taskforce task forces.
- d. Expand U.S. judicial and related support resources in the economic centers with most direct trade and business headquarter connections with Mexico, such as San Diego, Los Angeles, Phoenix, San Antonio, Houston, New Orleans, Miami, and New York.

The second of the focal points, money laundering, including bulk cash flow into Mexico, is being addressed by substantial U.S. resources. The strategic analysis here, as elsewhere, starts by identifying the components that permit the Criminal Enterprises to continue and prosper and thereby threaten U.S./Mexico trade. It proceeds to identify those components that are most essential to the Criminal Enterprises' endangerment of the U.S./Mexico economy, and then those components among them that are most vulnerable to government attack.

Regarding the flow of weapons, cross-border multi-jurisdictional task forces similar to those described above must focus on the reduction of the flow of weapons into Mexico. These prosecutions would include racketeering actions against U.S. gun sellers who are aware that their sales are facilitating Mexican Criminal Enterprises.

Preventing and treating use of Mexico-sourced drugs will require, above all else, broad recognition of the consequences of funding the Mexican Criminal Enterprises. A massive public education effort would get the truth to potential consumers, who, once aware of the consequences, will do the right thing. U.S. consumers have dramatically changed attitudes toward drunken driving and smoking once made aware of the consequences. They will also do so with regard to the threat to the economic survival of Mexico, the extreme violence, and the erosion of the quality of life in Mexico that are the consequences of Mexico-sourced drug use in the U.S.

Focusing on preserving US / Mexico commerce points to other long term goals, including:

1. expand support of Mexico's ongoing reforms of its judicial system to make it more transparent, more resistant to corruption, and therefore more credible in its results;
2. support of freedom of the Mexican press by assisting with investigations of intimidation and assassination of journalists and other media representatives;
3. form joint anti-corruption initiatives partnering with U.S./Mexico international businesses to address corruption that affects U.S./Mexico trade;
4. support of ongoing Mexican reforms of the federal and state police by offering training and technical support of Mexican law enforcement agencies and the Mexican military;
5. promote more effective Mexican statutes adapting concepts from U.S. forfeiture, racketeering, and terrorism statutes to the Mexican legal framework;
6. reduce the availability of young gunmen in northern Mexico by restructuring manufacturing opportunities as, perhaps, by encouraging plants to move from population centers, improving working conditions, and matching job supply and local demand for jobs more effectively to minimize excess labor supply.

A recent article in Foreign Affairs magazine pointed out that although Mexico has serious problems, Colombia had problems that were even more severe and yet Colombia prevailed. Hopefully, with US help, Mexico can also succeed.

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