

U.S. POLICY IN MEXICO AND CENTRAL  
AMERICA: ENSURING EFFECTIVE POLICIES  
TO ADDRESS THE CRISIS AT THE BORDER

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HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS  
UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

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SEPTEMBER 25, 2019

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Printed for the use of the Committee on Foreign Relations



Available via the World Wide Web:  
<http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

43-885 PDF

WASHINGTON : 2021

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## **U.S. POLICY IN MEXICO AND CENTRAL AMERICA: ENSURING EFFECTIVE POLICIES TO ADDRESS THE CRISIS AT THE BORDER**

**WEDNESDAY, SEPTEMBER 25, 2019**

U.S. SENATE,  
COMMITTEE ON FOREIGN RELATIONS,  
*Washington, DC.*

The committee met, pursuant to notice, at 10:18 a.m. in room SD-419, Dirksen Senate Office Building, Hon. James E. Risch, chairman of the committee, presiding.

Present: Senators Risch [presiding], Gardner, Romney, Barrasso, Portman, Young, Cruz, Menendez, Cardin, Shaheen, Udall, Murphy, Kaine, Markey, and Merkley.

### **OPENING STATEMENT OF HON. JAMES E. RISCH, U.S. SENATOR FROM IDAHO**

The CHAIRMAN. The Committee on Foreign Relations of the United States Senate will come to order.

Today the committee meets to review measures taken by Congress and the Administration to reduce illegal migration flows from Central America.

There have been growing concerns about the changing nature of illegal immigration flows arriving at our southwest border, as we all know. The uncontrolled arrival of and illegal entry of immigrants, including unaccompanied minors and/or adults traveling with children, exposes vulnerable populations, especially women and children, to unspeakable dangers. Only human traffickers and other unscrupulous criminals benefit from this unresolved situation. Transnational criminal organizations target and exploit immigrants along the journey north which in turn fuels the violence and insecurity from which they flee.

Here in the U.S., they challenge our government's ability to protect the homeland and test the capacity of local and national authorities to respond to citizens' demands for safe and prosperous communities.

Let me be clear. Our nation has a strong and enduring national interest in a safe, prosperous, and democratic Central America. Congress has responded to the crisis by supporting foreign assistance programs that address the root causes of illegal migration in cooperation with the Governments of Mexico, Guatemala, Honduras, and El Salvador.

The need, however, far exceeds the financial ability of the U.S. or any government to solve this problem. U.S. security and judicial

cooperation have, however, helped Central American countries reduce homicide rates by nearly half and increasingly take on high profile cases in the fight against public corruption.

But much work remains to be done in reducing unacceptably high levels of violence, corruption, and economic insecurity, including to better enforcement of immigration laws. Certainly there are many challenges on the road ahead, but we can also see them as opportunities to engage with our neighbors in a meaningful way.

President Bukele in El Salvador has made important and positive commitments to improve the challenging situation he inherited from his FMLN predecessor. We ought to work with his Administration to make sure these commitments become a reality in short order. We had the opportunity to meet with him personally, and he has personally made these commitments.

The President-elect of Guatemala Giammattei also provides a new opportunity for engagement. Guatemala has the largest economy in Central America but faces significant challenges in improving living conditions for its people.

Honduras has been a strong U.S. security and diplomatic partner, but many are concerned about the impact of ongoing political disputes and the unfinished fight against widespread corruption. Honduras must double down on efforts to improve domestic conditions in the short term.

All three governments should work with the Administration on constructive solutions and enforceable commitments in these areas.

Lastly, I would be remiss if I failed to note this institution's own inability to take practical steps to ease the ongoing immigration and humanitarian crisis. Despite multiple attempts, Congress continues to fail to modernize our immigration laws and close loopholes being exploited by violent gangs, human traffickers, and other transnational criminal organizations that prey on the most vulnerable and the desperate and innocent people in the region.

With that, I welcome our guests here today. We are looking forward to what you have to say.

I would like to turn to Senator Menendez for his opening remarks.

[The prepared statement of Chairman Risch follows:]

#### PREPARED STATEMENT OF CHAIRMAN RISCH

The Committee meets today to review measures taken by Congress and the Administration to reduce illegal migration flows from Central America.

For nearly 8 years, there have been growing concerns about the changing nature of illegal migration flows arriving at our southwest border.

The uncontrolled arrival of migrants, including unaccompanied minors and/or adults traveling with children, exposes vulnerable populations, especially women and children, to unspeakable dangers.

Only human traffickers and other unscrupulous criminals benefit from this unresolved situation. Transnational criminal organizations target and exploit migrants along the journey north, which in turn, fuels the violence and insecurity from which they flee.

Here in the U.S., they challenge our government's ability to protect the homeland and test the capacity of local authorities to respond to citizens' demands for safe and prosperous communities.

Let me be clear, our nation has a strong and enduring national interest in a safe, prosperous, and democratic Central America.

Congress has responded to the crisis by supporting foreign assistance programs that address the root causes of illegal migration in cooperation with the governments of Mexico, Guatemala, Honduras and El Salvador.

U.S. security and judicial cooperation have helped Central American countries reduce homicide rates by nearly half, and increasingly take on high-profile cases in the fight against public corruption.

The peoples in the region have demonstrated a commitment to find solutions through democratic institutions. However, much work remains to be done in reducing unacceptably high levels of violence, corruption, and economic insecurity—including through better enforcement of migration laws.

Certainly, there are many challenges on the road ahead, but we can also see them as opportunities to engage with our neighbors in a meaningful way.

President Bukele in El Salvador has made important and positive commitments to improve the challenging situation he inherited from his FMLN predecessor. We ought to work with his Administration to make sure those commitments become a reality in short order.

The President-elect of Guatemala, Giammattei also provides a new opportunity for engagement. Guatemala has the largest economy in Central America, but faces significant challenges in improving living conditions for its people.

Honduras has been a strong U.S. security and diplomatic partner, but I am concerned about the impact of ongoing political disputes and the unfinished fight against widespread corruption. Honduras must double down on efforts to improve domestic conditions in the short term.

I urge all three governments to work with the Administration on constructive solutions and enforceable commitments in these areas.

Lastly, I would be remiss if I failed to note our own inability to take practical steps to ease the ongoing migration and humanitarian crisis.

Despite multiple attempts, Congress continues to fail to modernize our immigration laws and close loopholes being exploited by violent gangs, human traffickers, and other transnational criminal organizations that prey on the desperate and the innocent in the region.

With that, I will ask Senator Menendez if he wishes to make any opening remarks.

**STATEMENT OF HON. ROBERT MENENDEZ,  
U.S. SENATOR FROM NEW JERSEY**

Senator MENENDEZ. Thank you, Mr. Chairman. Let me thank you for convening the hearing to review U.S. policy towards Mexico and Central America.

This is an incredibly important hearing, which comes at a time when I believe the President is engaged in a calculated attempt to aggravate regional migration dynamics for domestic political gain at the expense of our national security. Since taking office, the President has systematically worked to politicize the U.S. immigration system and polarize Americans on this issue.

In 2017, the President sought to end the deferred action for childhood arrivals DACA program, a merciless decision that would have led to the deportation of more than 822,000 individuals who arrived to the United States as children.

In 2018, the Administration cruelly separated more than 2,814 immigrant children from their families.

In 2017, 2018, and 2019, the Trump administration lowered the number of refugees the United States would welcome to this nation, tarnishing our moral leadership and our historic role as a beacon of light for persecuted people.

In the same vein, the Administration's foreign policy decisions that we will review today appear to be intentionally aimed at fueling regional instability and deliberately designed to leave people in harm's way.

In May, President Trump took the unprecedented step of threatening Mexico, our second largest export market, our third largest trading partner, with the equivalent of escalating economic sanctions if their government did not take his definition of additional

steps to address regional migration. To prevent the potentially disastrous blow to the United States and Mexican economies that the President's temper tantrum might have unleashed, U.S. and Mexican negotiating teams scrambled to cobble together an agreement that barely passes the legal laugh test. For 6 weeks after it was signed, the Administration could not tell us whether the U.S.-Mexico Joint Declaration was legally binding under international law and still cannot tell us whether the Government of Mexico views it as legally binding.

In late July, the U.S. signed a so-called Safe Third Country Agreement with Guatemala with the intention of sending desperate asylum seekers back to Guatemala if they did not file an asylum application while passing through that country before arriving at the U.S. border. This must be the Trump administration's twisted attempt at a joke. With one of the highest homicide rates in the world, the Guatemalan Government cannot even protect its own citizens. Guatemala's obvious lack of capacity to carry out this agreement will only fuel more regional instability.

Just last Friday, the U.S. signed a similar agreement with El Salvador. Given that El Salvador has recently held the title of "The World's Murder Capital," any agreement to send asylum seekers back to El Salvador is incredibly disturbing.

So, Mr. Chairman, while I appreciate the spirit in which you worked with me to set up today's hearing, I would note that to this date, despite your best efforts, the Administration still refuses to provide us with complete copies of all of the agreements and arrangements that they are signing with Central American governments in relation to migration. There is no justification for withholding this information from Congress and from the American people other than this Administration does not want the public to know what it is doing in the name of the United States.

Now, I suppose it is no surprise that DHS is missing in action today. They did not bother showing up to even try to defend the Administration's policies.

We do know, however, that the Administration has expanded implementation of its deceptively named Migrant Protection Protocols along the entire U.S.-Mexico border. Under this abhorrent policy, the U.S. is pushing asylum seekers, including pregnant women and families with children, back over the border into some of Mexico's most violent cities to await adjudication of their asylum claims. Since the policy's inception in January, we have seen asylum seekers facing terrifying violence and tragedy. These decisions have consequences.

No one in today's hearing should ever forget the photo of Oscar Alberto Martinez Ramirez and his 23-month old daughter Valeria who drowned on the banks of the Rio Grande after they were unable to enter the United States at a port of entry to file their asylum claim.

Further fueling this instability, in March President Trump personally announced his cuts to U.S. foreign assistance to El Salvador, Guatemala, and Honduras, one of the most important tools that we have to defend our national interests and address the factors driving migration to the U.S. It seems that the President likes to use foreign assistance in political ways very often.



This is a self-inflicted wound to our national security. This, by the way, monies that were certified by the Secretary of State on several occasions to have been effective in pursuit of the policies that were seeking.

While the Administration has decided to go forward with limited funding for DHS and Justice Department initiatives, the White House has forced the State Department to reprogram \$450 million in funding that was appropriated by Congress. Congress made clear through the fiscal year 2018 appropriations omnibus that these funds should have gone to programs to improve the rule of law, combat drug trafficking and criminal gangs, professionalize local law enforcement, advance economic development, and strengthen the migration systems that will be overwhelmed by the Administration's new asylum agreements. Instead, we find ourselves without the necessary funds to address challenges in El Salvador, Guatemala, and Honduras.

I think every member of this committee should be asking whether the Administration is intentionally trying to destabilize Central America in order to fuel more chaos at the U.S. border.

With that in mind, I thank our witnesses for appearing today. I am going to have some very critical questions, and I look forward to your honest testimony in response.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Menendez.

We will now turn to our witnesses. The Honorable Kirsten Madison has served in various senior leadership positions at the State Department, White House, Department of Homeland Security, and our very own Foreign Relations Committee. Welcome back.

Ms. Madison's prior executive branch service includes serving as Deputy Assistant Secretary in the Bureau of Western Hemisphere Affairs, Director of the Western Hemisphere Affairs on the National Security Council, and Director of International Affairs and Foreign Policy Advisor to the Commandant of the Coast Guard.

Outside of her time in government, Ms. Madison served as Senior Advisor to the Secretary-General of the Organization of American States. She most recently worked at the American Enterprise Institute as Deputy Director for Foreign and Defense Policy Studies.

Ms. Madison, the floor is yours.

**STATEMENT OF HON. KIRSTEN D. MADISON, ASSISTANT SECRETARY, BUREAU OF NARCOTICS AND LAW ENFORCEMENT AFFAIRS, UNITED STATES DEPARTMENT OF STATE, WASHINGTON, DC**

Ms. MADISON. Thank you very much, Chairman Risch and Ranking Member Menendez and distinguished members of the committee. I very much appreciate the opportunity to testify before you today.

Transnational criminal organizations, or TCOs, continue to have a devastating and deadly impact on the United States and our citizens. In the region, they undermine citizens' security, erode the rule of law, and limit economic opportunity. In extraordinarily consequential ways, TCOs exploit our shared land border with Mexico and the porous borders of Central America to smuggle migrants,

traffic drugs and other illicit goods, and generate vast quantities of illicit revenue. Tackling these challenges does demand our continued focus, collaborative action, and cross-border cooperation.

TCOs leave a deadly wake behind them wherever they go. Nowhere is the impact more tangible for Americans than right here at home. Nearly 70,000 Americans lost their lives through a drug overdose in 2017, and taking into account recent indications that Mexico's role as a fentanyl trafficking hub is evolving to include fentanyl production, these trends underscore the urgency with which we must act collectively to combat this crisis.

The United States cannot effectively address the drug crisis nor the TCOs that perpetuate it without Mexico's direct action. While Mexico is working with us on many fronts, President Trump noted in his recent Majors List Determination that Mexico needs to do more. We must see better results that effectively contribute to a reduction in the amount of illegal narcotics flowing from and through Mexico. We want to see Mexican security forces and justice institutions root out the TCOs that destabilize the country.

Mexico needs to work and develop a comprehensive whole-of-government counternarcotics strategy with clear metrics so that we can better understand Mexico's progress and we can better understand how we can help. We are ready to jointly create unambiguous shared and measurable counternarcotics goals and targets, and in support of such a strategy, the United States needs Mexico to interdict more drugs, sustainably reduce poppy cultivation and heroin and synthetic drug production and bring more traffickers to justice while depriving them of their illicit profits.

In Guatemala, Honduras, and El Salvador, INL has worked to counter drug trafficking and combat TCOs seeking not only to traffic in drugs but also weapons, illicit goods, and human beings to the United States by doing the long haul work of improving the capacity of these governments' law enforcement and justice sectors to work to control their borders and address these threats.

The Guatemalan navy leads these countries in making positive strides in counternarcotics cooperation, much like El Salvador's law enforcement agencies lead in the fight against transnational criminal gangs. Although we are encouraged by Honduras' steps to work with us on gangs and other issues, we do need them to commit more resources and to improve training and institutional capacity, increase their operations, and continue to step forward to work with their other partners in the region.

To counter TCOs and strengthen border security, we are also working to improve not only the skills of border agencies across the region, but we are also working to improve the collection and exchange of biometric information among these countries and with the United States. This capability enhances our joint efforts to identify, track, and dismantle transnational criminal networks and other violent criminal groups, to track migration patterns, to analyze human trafficking networks, and to support cross-border investigations of gang members and other criminals to enable successful prosecutions. This is really contributing to the larger effort to try and take a bigger bite out of criminal organizations that are responsible for a variety of ills in the region.

For INL, the western hemisphere has long been a core focus. The work we do to take on these threats in the region can have an immediate impact on the security of our country, which is always priority one. Today, INL remains engaged in Guatemala, Honduras, El Salvador, and Mexico on a more limited basis but we remain engaged working to improve law enforcement, border security, and the main tools of cooperation like specialized embedded units between and among our law enforcement agencies. We do this in close partnership with organizations like CBP, Homeland Security investigations, DEA, and the FBI.

INL investments on behalf of the American taxpayer will have maximum impact where there is demonstrated will on the part of our counterparts to work with us to confront these profound and, frankly, evolving challenges. The benefit to the United States is clear, but I do kind of want to emphasize one point as I end.

This is also the key to governments in the region earning the trust and confidence of their citizens. To do that, they must demonstrate that they are willing and able to provide for security, to hold criminals and corrupt officials accountable, and to create the conditions in which ordinary citizens have more opportunity, economic and otherwise. We have been working with them on this, but in the end, they have to be the protagonists in their own story and taking these issues on.

With that, I will end, and I look forward to your questions.

[The prepared statement of Ms. Madison follows:]

#### PREPARED STATEMENT OF MS. MADISON

Chairman Risch, Ranking Member Menendez, distinguished members of the Committee: thank you for the opportunity to appear before you today to discuss the nature and scope of U.S. counternarcotics and law enforcement cooperation with Mexico and the Central American countries of El Salvador, Guatemala, and Honduras. Transnational criminal organizations (TCOs) continue to have a devastating and deadly effect on the United States and our citizens. In the region, they are undermining citizen security, eroding the rule of law and institutions that maintain it, and closing off opportunities for licit economic investment and growth. They thrive on corruptible public officials, and in many cases face no fear of punishment due to weak judicial institutions. In extraordinarily consequential ways, TCOs exploit our shared land border with Mexico and the porous borders of Central America and the Caribbean basin to traffic drugs, smuggle migrants and other illicit goods, and generate illicit revenue. Tackling this challenge demands our continued focus, collaborative action, and cross-border cooperation.

Transnational criminal organizations operating in the Western Hemisphere and beyond negatively affect the United States and its interests in a variety of ways, but nowhere are the consequences more sobering than in the ongoing drug crisis in our country. The U.S. Centers for Disease Control and Prevention (CDC) reported a staggering 68,588 drug overdose deaths in 2018, according to its preliminary data.<sup>1</sup> The reduction in fatalities compared to the more than 72,000 deaths reported by the CDC the year prior is an important initial decrease, but we cannot afford to lose sight of the work that remains. Fatal overdoses attributed to the types of drugs produced abroad and trafficked into the United States are near record-high levels, or in the case of synthetic opioids and methamphetamine, increasing. As we seek to disrupt and deter TCOs, a top priority of the Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL) is to reduce overdose deaths through programs, alongside our interagency colleagues, that build the capacity and increase the will of our foreign partners to address these threats before they reach the United States, as well as through diplomacy at the bilateral, regional, and global levels. While we are naturally focused on the effect of drugs at home, we also know that narco-trafficking and other forms of transnational crime have a profound, negative effect on the citizens and institutions of the countries where they originate or transit. Because the consequences of transnational crime transcend borders, so must the remedies we seek to apply.

## KEY CHALLENGES

Opioids, particularly synthetic opioids, continue to destroy the lives of Americans and tear at the very fabric of our communities. In 2017, nearly 68 percent of fatal drug overdoses in the United States involved opioids, and of those deaths, nearly 60 percent involved synthetic opioids.<sup>2</sup> Synthetic opioids, such as fentanyl, are smuggled into the United States via mail from China and to a lesser degree, via Canada and Mexico. Traffickers also smuggle fentanyl into the United States across the U.S.-Mexico border, sometimes in the form of counterfeit prescription pills. More concerning are indications that Mexico's role as a fentanyl trafficking hub is growing and evolving to include fentanyl production. Synthetic opioids are particularly hard to target. Criminals can produce them almost anywhere and change formulas to evade detection and outpace international mechanisms used to schedule and control them. Opium poppy cultivation in Mexico is also near an all-time high at 41,800 hectares (Ha)<sup>3</sup>, or around 160 square miles, and nearly 90 percent of the heroin seized in the United States originated in Mexico.<sup>4</sup>

Mexico is also the country of origin for most methamphetamine consumed in the United States, and along with Central America and parts of the Caribbean, it is a major transit route for cocaine from Colombia. Nationwide, U.S. Customs and Border Protection seizures of methamphetamine rose 16 percent between fiscal year (FY) 2017 and the first 10 months of FY 2019. The CDC estimated nearly 13,000 Americans fatally overdosed on methamphetamine and similar substances in 2018 compared to approximately 10,700 the year prior.

Added to the persistent challenge of plant-based drugs and the increasing danger of synthetic drugs are concurrent innovations in criminal behavior, such as criminal use of the "dark web", virtual assets, and encrypted communication platforms. TCOs and their affiliates exploit the anonymity and convenience afforded by these tools. TCOs increasingly seek to diversify or expand their activities beyond their traditional drug trafficking, kidnapping and extortion schemes, making illicit revenue streams more diffuse and networks harder to dismantle. These crimes include fuel theft; illegal mining; the trafficking of wildlife, guns, and counterfeit goods; as well as human smuggling and human trafficking.

TCOs, drug traffickers, and other criminal organizations also perpetuate violence and corruption. The people of Mexico, El Salvador, Guatemala, and Honduras suffer daily from the violence caused by the drug trade. In Mexico, the documented homicide rate hit a record high in 2018 at 29 per 100,000 inhabitants, compared to 16.1 in 2014, and homicides continue to climb in 2019, according to Mexican government statistics. In El Salvador, Guatemala, and Honduras, homicides have fallen in recent years compared to peak totals earlier in the decade, but they remain high. We have seen decreases in daily homicides in El Salvador since President Bukele took office and are hopeful this trend will continue, though in 2018 El Salvador still had the highest rates in the region at 50 per 100,000. Citizens often do not trust governments enough to report crimes, especially corruption and extortion, and for crimes that are reported, the alleged perpetrators often go unpunished.

We also know that criminal organizations—no matter what commodity they are trafficking—corrupt institutions and individuals as part of their business models. In Transparency International's Corruption Perceptions Index (CPI), Mexico, Honduras, and Guatemala fall into the bottom third of countries when ranked globally and within the hemisphere. El Salvador ranks in the middle of the road globally and according to the CPI, showed improvement between 2017 and 2018.

To varying degrees in each country, high levels of violence and crime contribute to the large number of Guatemalans, Salvadorans, and Hondurans attempting to migrate to the United States. Migrants are also motivated by difficult economic conditions; rampant corruption and impunity; and their governments' inability to effectively provide security and dispense justice, combined with their citizens' perception of that inability.

Border security institutions in the region, not immune to these pressures and suffering from a lack of resources, fail to effectively control the movement of drugs, illicit goods, and migrants. Porous borders and poor infrastructure compound the problems they face. The severity and interwoven nature of these challenges make our task difficult to reduce the number of Americans who fatally overdose on illicit drugs.

## WHERE DO WE GO FROM HERE

Mexico, El Salvador, Guatemala, and Honduras all have their own histories and their own unique set of circumstances. Nevertheless, the interconnectivity of the transnational crime issues and the scourge of the drug crisis require collective ac-

tion. Like the United States, each has a role to play in lessening the effect of this shared catastrophe.

Mexico remains one of the United States' most necessary bilateral partners. Our country cannot effectively address the drug crisis without Mexico's direct action. We continue to work with the Lopez Obrador administration to address our shared security priorities and seek to intensify cooperation on counternarcotics and other key security issues, such as improving border security and bolstering effective criminal justice in Mexico. The Merida Initiative remains the main vehicle for U.S.-Mexico security and law enforcement cooperation, including on counternarcotics. Over the last 2 and a half years, the U.S. Government refocused our efforts in Mexico to reflect the guidance of E.O. 13773, Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking, the National Security Strategy, and high-level security dialogues with the Mexican government. Programs attack each component of the TCO business model to reduce the production of heroin, fentanyl, methamphetamine, and the transit of cocaine. Programs also focus on supporting Mexico's efforts to secure its borders and ports, deprive TCOs of their illicit revenue streams, and reduce impunity and corruption.

Mexico has made progress over the last decade. Before the Merida Initiative, many Mexican law enforcement and justice sector institutions lacked any enforceable career standards and relied heavily upon on-the-job training. Today, Mexican institutions are improving standards for professionalization, including training programs, skills and competency certifications for personnel, and accreditation to international standards. Just last month, Mexico strengthened its asset forfeiture law, a key tool in the fight against TCOs, drug producers and traffickers, and their affiliates. We applaud Mexico for taking this long-awaited step and want to see the law used effectively. All of these steps are critical to enhancing shared security in the hemisphere in the long-term.

Mexico has undertaken efforts that will provide a better understanding of poppy cultivation and associated opium yields, enabling better monitoring and information sharing on poppy eradication. Cooperation between the United States, Mexico, and the United Nations Office on Drugs and Crime on these efforts is laudable. It has been, and will continue to be, essential to lessening the production and trafficking of heroin. Yet as President Trump noted in his recent Majors List determination, Mexico needs to do more to stop the flow of deadly drugs entering our country. We must see better results in order to reduce the number of fatal drug overdoses in the United States and to adequately degrade Mexican TCOs and their networks. Mexico needs to develop a comprehensive and whole-of-government counternarcotics strategy that includes clear metrics so the United States can better understand Mexico's progress—or the lack thereof—in reducing drug production and trafficking. We stand ready to jointly create unambiguous, shared, and measurable targets. In support of such a strategy, the United States needs Mexico to interdict more drugs, sustainably reduce poppy cultivation, and bring more drug traffickers to justice while removing their illicit profits. We recognize that inherent to this task are life-or-death consequences for citizens from both our countries, and we are grateful to the many Mexicans who are bravely meeting this challenge and confronting the TCOs that threaten us.

Earlier this year, the President directed the Department to reprogram foreign assistance funding from El Salvador, Guatemala, and Honduras over concerns these governments were doing too little to stop outward migration to the United States. While the President has approved some limited exceptions for INL-funded programs the message is clear that we need these governments to show they are committed to these priorities.

In El Salvador, Guatemala, and Honduras, under the U.S. Strategy for Central America, INL has worked to counter drug trafficking, combat TCOs, and decrease irregular migration to the United States by improving the capacity of these governments' law enforcement, migration, customs, and justice sectors to address these threats. Commitment to these goals is not uniform throughout the region, but the Guatemalan navy is a Central American leader making positive strides in counternarcotics cooperation, much like El Salvador does in the fight against transnational criminal gangs.

In Guatemala, through which TCOs routinely smuggle cocaine on its way north from Colombia, INL and its U.S. interagency partners are working closely with the country's Naval Special Forces (FEN), a highly regarded counternarcotics partner in Central America. The FEN is responsible for over 80 percent of Guatemala's total drug seizures and interdicted over 21 MT of cocaine in 2018. More needs to be done in Guatemala to stop the increase in clandestine flights arriving with narcotics in Guatemala's territory. El Salvador, even with a comparatively lower threat from drug trafficking, seized nearly 13 MT of illegal drugs in the same year. Honduras

has not demonstrated the same counternarcotics capacity and remains a permissive environment for trafficking. Though Honduras established its own FEN equivalent, the unit needs additional resources such as vessels or adequate fuel. Honduras seized just 3.7 MT of illegal drugs in 2018.

On law enforcement and anti-gang cooperation more broadly, INL and the U.S. Federal Bureau of Investigation (FBI) work with the Governments of El Salvador, Guatemala, and Honduras to support Transnational Anti-Gang (TAG) vetted units and an associated Regional Criminal Gang Intelligence Platform (SICAT). TAGs lead international efforts to target transnational criminal gangs such as MS-13 and Barrio 18. The Salvadoran TAG has facilitated the arrest of more than 150 MS-13 members in the United States since 2015. The International Law Enforcement Academy in El Salvador, a venue for U.S. law enforcement to provide specialized training to law enforcement officials from around the hemisphere, has also proven itself to be an effective tool in strengthening ties with U.S. law enforcement, creating regional law enforcement networks, and increasing capacity to combat TCOs and drug trafficking.

El Salvador is leading the charge in hosting an international fusion center of border security, law enforcement, and intelligence agencies (Joint Border Intelligence Group, or GCIF). This fusion center enables real-time collection, analysis, and dissemination of criminal intelligence among the United States, Mexico, Canada, Australia, Spain, and participating countries in Central America. From June 2017 to May 2019, information sharing facilitated by GCIF led to the identification of 1,330 gang members, the majority of whom were previously unknown to the United States. In this same period, GCIF also identified 132 human smugglers and 56 drug traffickers, among other criminals, many of whom were seeking entry to the United States. Additionally, information from GCIF led to significant arrests of gang members, including the June 2019 arrest of one of El Salvador's most wanted criminals who was seeking entry to the United States. While GCIF remains a vital tool for enhancing security through shared information, it can only succeed with greater commitment from its members. There is a need for additional analysts from Mexico and Guatemala. Most importantly, Honduras has yet to commit to providing permanent analysts. Countries' assignments of permanent analysts within GCIF would demonstrate commitment to enhancing regional security. El Salvador is unique amongst Central America in its political will and commitment to these partnerships.

Related to information sharing and strengthening border security, the U.S. Government will build on bilateral efforts with Mexico—and are working to expand in Central America—to routinely collect and exchange with the United States biometric information collected by border security and law enforcement agents. These capabilities enhance our countries' joint efforts to identify, track, and dismantle TCOs and other violent criminal groups; track migration patterns; to anticipate, plan for, and respond to migration surges; to analyze criminal networks; and to support cross-border investigations of gang members and other criminals. In this regard, Mexico's action on enforcing migration controls strengthens our own border security.

Beyond bilateral and sub-regional efforts to address the drug crisis, including associated crime and insecurity, the Department and INL are hard at work to find broader solutions to this global challenge. As a member of the Organization of American States (OAS) and as incoming Chair of the OAS Inter-American Drug Abuse Control Commission (CICAD), the United States works to advance key drug priorities in the Western Hemisphere. The Department aids OAS Member States in their implementation of global and regional drug control and organized crime treaties and helps to ensure that law enforcement and counternarcotics authorities collaborate effectively to disrupt and dismantle TCOs and their trafficking routes. We are also implementing a five-point, 5-year strategy to tackle the number one drug threat to the United States: synthetic opioids. The strategy guides our efforts to reduce the production of synthetic drugs, increase detection and interdiction, target online sales and associated financial transactions, reduce global demand for these drugs, and expand global partnerships that lead to action. The President carried this message to the United Nations General Assembly last year leading a Global Call to Action, momentum we were able to harness and build upon in March at the Commission on Narcotic Drugs in Vienna.

#### CONCLUSION

While the INL Bureau has worked to address some of the more immediate and acute challenges within our mandate—particularly the drug threat—we have historically applied solutions to the long-term challenges, such as working to strengthen the rule of law and give citizens hope that their governments are in fact capable of protecting them and holding criminals accountable. Successfully addressing these

complex challenges requires strong and willing foreign partners, meaningful regional cooperation, and a willingness and a capability to quickly adapt to new trends in criminal behavior. Over the long-term, success on this front can ultimately help to create conditions more conducive to economic investment and growth. Whether in the region, the hemisphere, or elsewhere in the world, INL is committed to addressing these challenges for as long as they remain with the tools at our disposal.

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#### Notes

<sup>1</sup> Predicted Number of Deaths for the Period Ending December 2018, <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>

<sup>2</sup> Drug and Opioid-Involved Overdose Deaths, United States, 2013–2017, [https://www.cdc.gov/mmwr/volumes/67/wr/mm675152e1.htm?s\\_cid=mm675152e1\\_w](https://www.cdc.gov/mmwr/volumes/67/wr/mm675152e1.htm?s_cid=mm675152e1_w)

<sup>3</sup> New Annual Data Released by White House Office of National Drug Control Policy Shows Poppy Cultivation and Potential Heroin Production Remain at Record-High Levels in Mexico, <https://www.whitehouse.gov/briefings-statements/new-annual-data-released-white-house-office-national-drug-control-policy-shows-poppy-cultivation-potential-heroin-production-remain-record-high-levels-mexico/>

<sup>4</sup> The 2016 Heroin Signature Program Report, <https://www.dea.gov/documents/2018/10/15/heroin-signature-report>

The CHAIRMAN. Thank you, Ms. Madison.

Now we will hear from Mr. Michael Kozak. He served as the Acting Assistant Secretary for Western Hemisphere Affairs since September 13. He has served in a number of senior positions at the State Department, including as senior bureau official for democracy, human rights, and labor; the Senior Advisor to the Assistant Secretary for Democracy, Human Rights, and Labor; and the Senior Director on the National Security Council staff. He also served as the Principal Deputy Assistant Secretary of State in the Bureaus of Democracy, Human Rights and Labor; Inter-American Affairs; and Legal Advisor; and as Assistant Secretary of State for extended periods. He was the Ambassador in Minsk, Belarus, and Chief of Mission in Havana, Cuba.

Welcome, Mr. Kozak. We are glad to have you here and anxious to hear your comments.

#### **STATEMENT OF HON. MICHAEL G. KOZAK, ACTING ASSISTANT SECRETARY, BUREAU OF WESTERN HEMISPHERE AFFAIRS, UNITED STATES DEPARTMENT OF STATE, WASHINGTON, DC**

Ambassador KOZAK. Well, thank you, Mr. Chairman.

Mr. Chairman, Ranking Member Menendez, and distinguished members of the committee. It is an honor to be asked to discuss our U.S. policy in Mexico and Central America.

Mexico and Central America share close bonds with the United States. The Administration's top objective remains ensuring the safety and security of the American people. But we also care deeply about the safety and security of those in the region. Today, they are being victimized by human traffickers.

People have been heading north from El Salvador, Guatemala, and Honduras for decades. Since 2014, however, the numbers have surged. Our systems are overwhelmed. The number of people arriving at the southern border now approaches the total annual number of immigrants worldwide authorized by law.

The U.S. strategy for Central America adopted in 2015 was designed to reduce the migration push factor. It was to do so by helping governments in the region who had the will to combat corruption, crime, and antiquated economic models that protect those who have long benefited from the status quo.

Despite some significant programmatic successes, however, this approach failed. U.S. Customs and Border Protection encountered an average of 115,000 illegal migrants per month at the U.S. border from March to June of this year, and over 140,000 in May alone. Something had to change.

Consistent with the President's guidance earlier this year, the Department reprogrammed certain assistance intended for El Salvador, Guatemala, and Honduras to other countries. This reprogramming was designed to send a wakeup call to the governments that they need to do more to address outward migration and the factors that drive it.

The Administration identified the immediate problem and what the governments of these countries could do to address it.

Now, as to the problem, I think Mexican President Lopez Obrador described it best last month when he said—and I quote—we want to tell our people and our Central American brethren that they should not allow themselves to be manipulated and fooled by human smugglers. There is a huge network of human traffickers, and they charge huge amounts of money to transport migrants and organize these caravans.

And Mexico acted to address the problem. In the June 7 U.S.-Mexico Joint Declaration, Mexico committed to combat human smuggling, deploy its national guard throughout Mexico, and work with the U.S. to implement and expand the Migrant Protection Protocols. And this approach has worked. We have seen an almost 60 percent reduction in the numbers of illegal migrants arriving at the border.

We now have worked also to create mechanisms with the countries in Central America that will allow those who have legitimate refugee or asylum concerns to obtain protection in Central America. They need not undertake the perilous journey in the hands of smugglers. For example, through the Agreement between the United States and Guatemala on Cooperation Regarding the Examination of Protection Claims, a very succinct title, the United States plans to help Guatemala build an asylum processing system that can help those fleeing their own countries of origin who may have asylum concerns.

Salvadoran Foreign Minister Alexandra Hill just signed a similar agreement on September 20. And we are discussing similar arrangements with the Government of Honduras.

Now, these measures are having a substantial effect on countering the pull factors that cause people to think that they will be able to enter and live in the United States if they just pay the smugglers and endure the abuse that they mete out.

But these measures do not address the push factors that make people in the three countries leave home in the first place. Powerful criminal and political forces in these countries profit from irregular migration. The Governments of El Salvador, Guatemala, and Honduras must show the political will to do more to strengthen institutions, root out corruption, and fight impunity as their citizens themselves are demanding.

We will continue to work and consult with Congress on future steps as we look forward to fiscal year 2020. Our long-term success depends on fostering political will in the region to end years of cor-



ruption and impunity and to strengthen institutional capacity. As our partner governments take on this challenge—and we hope with seriousness of purpose—they will find us to be a close collaborator and friend.

Thank you, Mr. Chairman, members of the committee, and we look forward to your questions.

[The prepared statement of Ambassador Kozak follows:]

PREPARED STATEMENT OF AMBASSADOR KOZAK

Chairman Risch, Ranking Member Menendez, and distinguished Members of the Committee, it is an honor to be with you today on behalf of the State Department's Bureau of Western Hemisphere Affairs to discuss U.S. policy on Mexico and Central America and the Administration's response to the crisis at the U.S. southern border. This topic is of critical importance to the Administration, the American public, and Congress, so thank you for holding this hearing.

I am pleased to be here today with my colleague from the Bureau of International Narcotics and Law Enforcement Affairs, with which the Bureau of Western Hemisphere Affairs works closely on these complex issues. The President's National Security Strategy states the Western Hemisphere "stands on the cusp of prosperity and peace, built upon democracy and the rule of law," but that "transnational criminal organizations—including gangs and cartels—perpetuate violence and corruption, and threaten the stability of Central American states including Guatemala, Honduras, and El Salvador." These same organizations also control human trafficking and narcotics smuggling.

Mexico and Central America share close bonds with the United States through geographic proximity, commerce, and family ties as well as shared history, culture, and democratic values. The region has a significant impact on the American people and on our country's economic and security goals. The Department's top objective remains ensuring the safety and security of the American people. We work with Mexico and the Central American countries to address the common problems of human trafficking, transnational crime, and the production and movement of illicit narcotics. Our joint work in these areas is paramount to achieving our goal of ensuring security for the American people. Many of you have traveled extensively to the region and have seen firsthand our diplomatic teams working hard every day to advance U.S. interests by working with partner governments to combat these shared threats.

In meeting challenges posed by the malign influence of transnational criminal networks and some external actors, we remain focused on strengthening our collaboration with civil society, the private sector, and international organizations to achieve our goals. We are deepening U.S. engagement through our ongoing daily diplomatic interaction and high-level visits. Secretary Pompeo visited El Salvador and Mexico in July, and the Department has recently hosted several high-level visits in Washington, such as that of President-elect of Guatemala Alejandro Giammattei, whom I had the pleasure to have met personally, and Mexican Foreign Secretary Marcelo Ebrard.

The challenges facing Central America are not new. People have been heading north from the region for several decades, including during the civil war periods in El Salvador and Guatemala when violence in the region was rampant and tens of thousands of individuals were murdered. The key difference since 2014, however, has been the marked increase in the number of unaccompanied minors and family units arriving at the border. The total number of migrants has increased several fold. Most have been lured into paying smugglers who assure them they will easily be able to enter the United States and find lucrative jobs. Since 2014, the U.S. Government has responded to these changes with messaging aimed at educating intending migrants about the perilous journey that often results in physical violence or death of the victims at the hands of smugglers. We have also sought to make clear to those who might be targeted by the smugglers' assurances that U.S. enforcement initiatives significantly reduce the chances that individuals who do not qualify for refugee status or asylum will be able to evade our laws and take up residence and work in the United States. The U.S. Strategy for Central America, adopted in 2015, brought key capacity-building programs to the region. They were designed to help governments combat corruption, crime, and antiquated economic models that protect those who have long benefitted from the status quo rather than promoting broad-based economic growth.

At the urging of the United States, and facilitated by some of this U.S. foreign assistance, the governments of El Salvador, Guatemala, and Honduras have taken some important steps. They are advancing their Customs Union integration, which will contribute to further regional security and facilitate business and trade among the three countries. They have also improved their law enforcement, last month, El Salvador reported its lowest monthly homicide rate since the end of the civil war in 1992. Between 2009 and 2018, Guatemala's murder rate fell from a high of 45 persons per 100,000 to approximately 22 per 100,000. Honduras has made great strides in reforming its National Police force and its community policing model contributed to a steep decline in the reported homicide rate, which fell from 86 to 40 per 100,000 citizens between 2011–2018.

But even with such successes at the programmatic level, U.S. Customs and Border Protection (CBP) is encountering increasingly high levels of migrants arriving at the U.S. southern border—both at ports of entry and between the ports of entry. U.S. CBP officers encountered an average of 115,000 illegal immigrants per month from March to June of this year, and more than 140,000 in May alone—the highest numbers in recent history. Of these, approximately 70 percent were families or unaccompanied children, the majority from Honduras, Guatemala, and El Salvador. At that rate, the United States was on track to seeing one million encounters and apprehensions at our southern border this fiscal year, assuming nothing changed. Note that on an annualized basis those figures exceed significantly the total immigrants authorized by Congress and has vastly overloaded our immigration system. Clearly, the combination of stepped up enforcement at our border, messaging to the region, and the success of many of our foreign assistance programs were not getting the job done. Our assessment was that we had underestimated the pull factor from smugglers' messaging about the chances to enter and remain in the United States, and we underestimated the resilience of powerful, entrenched forces in the three countries that profit from the status quo and thus hindered all effects to promote good government and economic growth. Something had to change.

In March, consistent with the President's guidance, the Secretary directed the Department to reprogram certain foreign assistance that would have gone to El Salvador, Guatemala, and Honduras pending a demonstration that they were serious about addressing the crisis. This was not a punitive action. Instead, it was designed to send a wakeup call that these governments need to do more to address outward migration, and the factors that drive it. Our assistance programs can help governments improve governance and promote growth. But our programs cannot substitute for the political will these governments need to meet the challenge.

Our strategy has both short and long-term components. First, our homeland security experts assessed that the governments of these countries could take a number of steps in the short term, appropriate to the role each country has played in the crisis. Mexican President Andres Manuel Lopez Obrador said it best last month: "We want to tell our people and our Central American brethren that they should not allow themselves to be manipulated and fooled by human smugglers. There is a huge network of human traffickers and they charge huge amounts of money to transport migrants and organize these caravans." In the June 7 U.S.-Mexico Joint Declaration, Mexico committed to combat human smuggling, deploy its National Guard on its southern and northern borders, take increased steps to apprehend and repatriate irregular migrants consistent with Mexico's obligations under international law, and to work with the United States to implement and expand the Migrant Protection Protocols, known as MPP. The intent of this approach was to reduce the pull factors promoted by smugglers. And it has worked. Since signing the Joint Declaration in June, we have seen an almost 60 percent reduction in the numbers of illegal immigrants arriving at the U.S. southern border. Still, the numbers are too high. Hundreds of thousands of innocents from Central America are being put at extreme risk by smugglers.

The second part of the short-term strategy to combat the lure of the smugglers is to participate mechanisms with the countries in Central America that require those who have legitimate refugee or asylum claims to obtain protection in Central America, while deterring those who do not from undertaking the perilous journey in the hands of smugglers. In support of the July 26 Agreement between the United States and Guatemala on Cooperation Regarding the Examination of Protection Claims, the United States plans to help Guatemala build an asylum processing system that can provide refuge to those fleeing their countries of origin who may have asylum concerns, while weeding out those who do not. The July 30 Agreement Between the United States and Guatemala Concerning a Temporary Agricultural Workers Program is designed to give Guatemalans who are seeking temporary employment in the United States a safe and legal way to pursue their aspirations and to regulate the labor brokers involved to prevent abuse of the applicants.

These initiatives have real promise. But they will enter into force only when legal requirements in both countries have been fulfilled, including a determination by our Departments of Justice and Homeland Security that the Guatemalan asylum system meets applicable legal standards. I should note here the concern expressed by some that even with significant assistance and strengthening, the Guatemalan system could not possibly handle the number of applicants arriving at the U.S. border. We concur that Guatemala is not equipped to handle those kinds of numbers. But only a subset of those who claim asylum in the U.S. actually end up qualifying for it. The others come only because they wrongly believe the traffickers assurances that they can enter and reside in the United States even if they do not have a valid claim. So, the premise of this agreement is that only those who genuinely have a well-founded fear of persecution will pursue their claims in Guatemala. A strengthened Guatemalan system and calibrated management of the returns will make this approach workable.

And we are exploring these sorts of agreements elsewhere in the region. Our Deputy Assistant Secretary of State for Central America and Mexico just returned from discussing similar arrangements with the Honduran Government last week, and an Asylum Cooperation Agreement with El Salvador was signed September 20. These initiatives seek to strengthen coordination between our governments to expand the region's protection network. Once implemented they will ensure that countries in the region provide vulnerable individuals protection closer to home and discourage those who do not have genuine asylum concerns and thereby help address the humanitarian and security crisis at the U.S. southern border. The Department works closely with the Department of Homeland Security on these initiatives. We will undertake to keep the Committee apprised of progress in these negotiations.

We believe these relatively new measures can and are having a substantial effect on countering the "pull" factors that cause people to think they will be able to enter and live in the United States if they can survive the journey. But they do not address the "push" factors that make people in the three countries conclude that the only hope for a better future for themselves and their children lies in escaping their own countries and entering the United States. The second longer term part of our strategy is aimed at that aspect of the problem.

Recognizing the link between promoting prosperity in southern Mexico and Central America, the United States and Mexico are committed to fostering economic development and investment in southern Mexico and in Central America. The question is how to do that effectively. Powerful criminal and political forces in these countries benefit financially from irregular migration and see it as a release valve for a discontented population. These forces must be defeated in order to allow the capacities our assistance programs have helped build to have lasting effect. Our message is clear: the governments of El Salvador, Guatemala, and Honduras must do more to strengthen institutions, root out corruption, and fight impunity, which creates a permissive environment for transnational criminal organizations. Corruption in these nations enables those very organizations to profit from migrants' desperate decisions to abandon their life-long homes and undertake a dangerous and uncertain journey to reach the U.S. southern border.

This is not just our opinion. The people of El Salvador, Guatemala and Honduras are demanding better, as evidenced by the election of President Nayib Bukele of El Salvador earlier this year. President Bukele has heard the demands of Salvadoran citizens loud and clear and has said his Administration takes responsibility for the conditions that force Salvadorans to leave the country. El Salvador also launched a new border security civilian police force aimed at better managing migration flows and security threats. In Guatemala, we have seen broad based protests against corruption and impunity and those candidates who have been successful in the past government elections have been those who promised to address these problems even if their subsequent performance in office left much to be desired in this respect.

Those who have an abiding interest in preserving the status quo in each of these countries have proven remarkably resilient. While we can support those who are working for a better future, we cannot overcome the negative tendencies in their countries for them. Elected officials need to show the political will to take on these problems strongly and seriously. If they do, much is possible. We will encourage the U.S. private sector to help spur job growth where we see concrete action from our partner countries on corruption and rule of law that would make them good prospects for investment. One such example is the Overseas Private Investment Corporation's (OPIC) intention to make a \$350 million investment in a liquefied natural gas facility in El Salvador. This initiative will showcase the U.S. Government's strategic use of private sector partnerships to support President Bukele's central goal of creating economic opportunities so that Salvadorans can build a prosperous future at home. OPIC, which will soon be merged into the International Development

Finance Corporation along with USAID's Development Credit Authority, will be a critical tool for advancing U.S. interests in other countries in the region by catalyzing additional private sector and partner nation investments in support of U.S. policy goals of creating lasting prosperity and growth. There is no better partner for the region than the United States, which offers a transparent engine of economic growth. GDP growth solely through remittances is not sustainable and does not lead to balanced development. Rather, only when the governments and private sectors in these countries invest in their own people and economies will these countries realize what it truly means to be secure and prosperous.

The U.S. Government is ready to support the efforts of the governments of El Salvador, Guatemala, and Honduras clearly when we see real action and evidence of their political will. We will continue to consult and work with Congress on future steps as well as on the actions the governments of El Salvador, Guatemala, and Honduras can and are taking to address the President's concerns as we look ahead to Fiscal Year 2020.

There is nothing stopping the governments of El Salvador, Guatemala, and Honduras from adhering to their commitments under their own Alliance for Prosperity plan, other than a lack of political will. With real action—not just words—these governments can improve citizen security, expand economic opportunity, and strengthen good governance and democratic institutions. We see what success looks like in the examples of Costa Rica and Panama, where their citizens have created secure and prosperous lives at home. In July, Costa Rican and Panamanian authorities participated in a joint operation with Homeland Security Investigations to dismantle a human smuggling ring that operated throughout Central America. The Department of State made the operation possible by bringing our interagency and host nation partners together to secure borders and disrupt transnational criminal organizations. Costa Rica and Panama combined account for nearly a third of all drug interdictions in the region. The two countries are prime examples of the results we can expect to see when political will translates into action. We want to see El Salvador, Guatemala, and Honduras join them in charting a path to lasting prosperity and good governance.

In conclusion, the United States seeks a secure, democratic, and prosperous hemisphere so all people can build a future in their home countries and communities. While we face difficult challenges, there are many reasons to be optimistic that working together with our partners in the region we are finding solutions to the immediate crisis that negatively affects each of the countries involved. Our long-term success depends on fostering political will in the region to put an end once and for all to years of corruption and impunity, and to strengthen institutional capacity. As our partner governments take on this challenge with seriousness of purpose, they will find us to be a close collaborator and friend.

I look forward to your questions.

The CHAIRMAN. Thank you so much.

We are now going to do a 5-minute round of questions. I will reserve time. And with that, Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

Secretary Kozak, since this is the first hearing this committee has convened on Mexico with official witnesses since January of 2017, I think it is important we start with the basics. Can you provide us with information about what steps, if any, Secretary Pompeo and the State Department have taken to ensure that Mexico pays for the border wall, as President Trump has claimed will happen?

Ambassador KOZAK. I do not think the State Department has been the lead on that issue. I think you would have to go back and look at what the President said at different times about offsets and that sort of thing. I do not think we were expecting a check to be handed over. But you can look at the balances—

Senator MENENDEZ. So there is nothing you can tell me that the Secretary has done in pursuit of getting Mexico to pay for the border wall.

Ambassador KOZAK. Not that I can tell you, sir, but I will certainly take the question back—

Senator MENENDEZ. I realize that, but you are here. I admire what you did when you were in Cuba and other places. But you are the witness here and I have no choice but to deal with the witnesses we are given.

In that respect, to emphasize the point that the President never intended to have Mexico pay for the border wall, I would ask unanimous consent to include a question for the record from former Assistant Secretary Kimberly Breier, a political nominee from this Administration, in which she stated that she never intended to push Mexico on this issue. Mr. Chairman?

The CHAIRMAN. That will be included in the record.

[The information referred to above can be found at the end of this document.]

Senator MENENDEZ. Thank you, Mr. Chairman.

As I mentioned earlier, let me continue to pursue a line of questioning here. Mr. Kozak, the State Department refused to provide this committee with a copy of the supplementary agreement with Mexico and was unable to explain whether the United States considered the Joint Declaration to be legally binding under international law or not. When Legal Advisor Marik String testified before this committee in July, he told us that the Joint Declaration was, "an authoritative political agreement," a term that I understand has never been used to describe any agreement in the United States' history. Moreover, the few documents that we have received from the Administration, including in a response to a letter from the chairman, do not appear to represent the entire framework of binding and nonbinding agreements, implementing agreements, et cetera that the Administration has put in place with Mexico and the Northern Triangle. We have no idea what was the agreement signed with El Salvador last Friday. And as I understand it, DHS, CBP, and ICE have negotiated other agreements and instruments.

So do you know if the Mexican Government views the Joint Declaration as legally binding?

Ambassador KOZAK. Senator, I have not had a chance to talk with the Mexican Government, but I can address some of the other issues you raised there.

Senator MENENDEZ. Well, those issues would be giving me the documents and the committee the documents.

Ambassador KOZAK. Yes. And my understanding is that both the Joint Declaration and the supplementary agreement have now been provided to the committee. I believe you have also received copies of the agreement with Guatemala. If not, we will be sure to get it to you—

Senator MENENDEZ. We do not. So let me follow up.

Ambassador KOZAK. —and the one that was signed with El Salvador as well.

Senator MENENDEZ. Let me follow up then on that question. Will you commit to transmitting to the committee a copy of all the migration-related instruments, binding or nonbinding, annexes, appendices, implementation plans, guidance, and other related documents that the Administration has signed, agreed to, or otherwise joined with Mexico and the Central American governments so we can finally get a clear picture of what the Administration is doing here?

Ambassador KOZAK. Yes, sir, with the caveat that often agencies, implementing agencies, have understandings. Some of them are just procedural and oral, who will be the point of contact and that kind of thing. Those we would not necessarily have available to provide you. It is not that there is anything greatly secret.

But my understanding is on the Mexican accords, the latest state of play with the legal advisor's office—and I believe they briefed your staff as well—is that we do consider the supplementary agreement and the Joint Declaration, taken together, to constitute a legally binding agreement. We have so indicated to our Mexican counterparts. Those have been provided. I am not aware of any other agreements related to that. Obviously, as people implement it, they will have ways of—

Senator MENENDEZ. I sent the Department multiple questions about the U.S.-Mexico Declaration and supplementary agreement in early August, and I have asked for written responses to each question. We have yet to receive it. We are now almost at the end of September. Given the potentially important legal analysis underpinning the U.S. position on these instruments, I think it is critical for Congress to understand it.

Can you give us a commitment to get us answers to the questions that have been pending since August within the next week?

Ambassador KOZAK. Yes, sir. We will provide answers. Recently it is my understanding that the legal advisor's staff had come up and briefed the committee staff and hopefully had addressed those questions. But if there are others—

Senator MENENDEZ. We had a series of requests for written responses, and we have not received them.

Ambassador KOZAK. We will work to make sure you get that.

Senator MENENDEZ. Finally, can you tell me whether you can confirm whether the State Department's own website says that the Mexican State of Tamaulipas has the same travel level warning as Syria, level 4, do not travel due to high levels of violent crime there?

Ambassador KOZAK. That is my understanding.

Senator MENENDEZ. Can you also say that the Administration has made clear that levels of violence in Mexico City were not indicated as considered when deciding to implement the Migration Protection Protocols along the U.S. border?

Ambassador KOZAK. I do not know the answer to whether—

Senator MENENDEZ. That is what our staff was told by officials from DHS, the State Department's Western Hemisphere, and the PRM Bureau. So I would like you to reconfirm that for me. That is what they were verbally told.

And finally, can you tell me whether the Administration at a briefing told our staff and Republican staff, as I understand, that pregnant women in their third trimester and families with young children are not considered vulnerable populations and therefore will be sent back to Mexico under the "remain in Mexico" policy? Can you confirm that?

Ambassador KOZAK. I cannot confirm that either, sir. I will have to consult with DHS and—

Senator MENENDEZ. Would you do so for the record?

Ambassador KOZAK. We will do so.

Senator MENENDEZ. I have questions for Secretary Madison, but in deference to my colleagues, I will wait for a second round.

The CHAIRMAN. Senator Udall.

Senator UDALL. Thank you, Mr. Chairman. And thank you both for working on getting this hearing.

In an action that disgraces our nation and further erodes U.S. leadership around the world, President Trump and Vice President Pence walked out of the United Nations Climate Summit this week. In doing so, they not only turned their backs on the world, but on future generations and on the very people he is trying to dissuade from seeking asylum in the United States with his abusive border policies separating families and his unconstitutional wall paid for by the United States military.

In places like Central America, climate change is hitting hard, causing droughts, and raising temperatures. Since 2014, this drought has made subsistence farming nearly impossible. People are starving and unable to make a living.

Coffee, a crop that was once a ticket to a stable livelihood, has been devastated by outbreaks of coffee leaf rust. The United States has reacted not by providing aid to help stem the resulting economic collapse or to provide support with the irrigation or drought-resistant crops or to address the climate crisis in our hemisphere head on. Instead, this Administration has cut or frozen foreign aid to the region.

This question is to both of you. Was it appropriate for President Trump and Vice President Pence to turn their back on the world at the U.N. when the global community was addressing climate change this week?

Ambassador KOZAK. Well, I think the President has been clear on his rationale for the steps that he took. I have nothing that I could add beyond that.

Senator UDALL. Ms. Madison?

Ms. MADISON. Senator, I do not have anything to add on the climate policy.

I will say that I and others in the Administration have been in New York. I was up there working on synthetic opioids and other issues with the Chinese. The United States also supported what I thought was a pretty remarkable convening of will and purpose on protection of international religious freedom in the world. So I think there has been some very positive engagement by this Administration. I was up there myself doing a forum with companies on synthetic opioids. So I think that record speaks for itself.

In terms of the other issues, like Ambassador Kozak, I cannot add anything on climate change.

Senator UDALL. Did either of you recommend the United States mission at the United Nations address ways to support the climate refugees from Central America at the United Nations this week? Ms. Madison, you were up there.

Ms. MADISON. I did not.

Senator UDALL. Thank you.

Do you agree with former Customs and Border Patrol Commissioner Kevin McAleenan who said—and I am quoting here from the Commissioner—“food insecurity, not violence, seems to be a key push factor in informing the decision to travel from Guatemala

where we have seen the largest growth in migration flow this year.” Do you agree with that?

Ms. MADISON. My view on the drivers and the push factors on migration is that it is complicated. It is not one thing. It is an accumulation of different issues. It is also about the posture that we have in terms of enforcement here and the structure of our laws. But I think in countries, I think it varies widely what the drivers are and why people make individual decisions to leave. I think some of it has to do with crime. I am sure some of it has to do with economic opportunity. I do not think there is any one piece of the puzzle that explains it.

Senator UDALL. Mr. Kozak?

Ambassador KOZAK. I would concur in that. You can look at some of the indicators where there has been actual success in driving down the levels of violence. This would tend to support the statement that you just quoted, Senator. But the numbers of people leaving has gone up even as the murder rate has gone down. And again, it is a complex system.

From my past experience in dealing with mass migrations—and I go back to the Mariel boat lift in 1980 and again in the 1990s, we had both Haiti—

Senator UDALL. Let me just stop you a second because I have one more point I want to cover here.

NBC News reported last week that research compiled by Customs and Border Protection showed that crop failures were having a devastating impact on rural Central Americans and were largely the cause of the migration to the United States. It was also reported that the White House largely ignored these findings when it made the decision to cut and freeze aid to the region.

Did you read these reports, and do either of you believe that cutting aid to Central America will help address the root causes of migration?

Ambassador KOZAK. As I indicated in my testimony, I think the purpose with cutting the aid—and by the way, a lot of that aid was not addressed at providing food and so on. It was addressed at police training. It was addressed, some of it with my former bureau programs, to support independent journalists and this type of thing. All of these programs were good on their own merits. If you look at each one of them, I think you find that they were producing the results the programs were intended to produce.

What was missing, though, is the political will on the part of the governments to actually attack some of these big problems of corruption and transparency. All of the economic push factors can go back to the lack of growth. You look at Costa Rica and Panama, which are similar countries. They have good, strong economic growth. People are not trying to leave those countries. The three countries that we are talking about have perennially had very slow growth rates. It is in part because their systems are so dominated by illegal groups, drug traffickers, human traffickers, and people with protectionist instincts. They do not want competition in the economy. So all of this conspires to avoid investment coming in, both domestic and foreign investment, to build and grow the economy. So that is one of the big pieces of the puzzle we have to deal



with and I think would get at some of the factors that you are articulating, Senator.

That is part of what we are trying to do, we say to the governments there, "you need to get serious about this. You need to really do the reforms that are going to attract investment and make your economy strong and give your people a chance and a future in their own countries." We can train people and create capacity within their bureaucracy all day long. But if you do not have the political will to use that capacity and you allow what has traditionally gone on there to continue, that is the problem.

So there was a signal there. You can debate whether that was the right way to do it or not. The Administration felt that it was and it is producing results. What we are looking for is how do we signal this? The people in these countries—you look in every past election—they are electing people who are pledging to take on these kinds of problems in the society. Then they get elected and they do not do it. That has been the syndrome for some time. So that is what we are really focused on. We really look forward to working with the committee and trying to figure out ways to incentivize that and convince people of it.

Thank you.

Senator UDALL. I think cutting the aid cripples the countries. That is where I am coming from.

The CHAIRMAN. Thank you, Senator.

Mr. Kozak, thank you for that clear explanation based on your experience down there. Well said.

Senator Cardin.

Senator CARDIN. Secretary Madison, I want to follow up a little bit on the questioning from Senator Menendez as it relates to these migration agreements. But I want to start first with what I observed when I was on the border.

We had a congressional delegation that went to the McAllen area, the Rio Grande Valley, and we had a chance to talk with the border security people, as well as some of the migrants themselves.

And the question I want to focus is on the safety of those who are trying to seek asylum in the United States when they reach our border and they are confronted with a situation where they want to present themselves here for asylum hearings, but they are told they have to wait in Mexico for a particular length of time until their number comes up when they can present their case. We have been told that that could be weeks. It could be months. And they are, therefore, expected to remain in Mexico pending their opportunity to present their claim.

We were also told by our Border Patrol people that this town that they are in, in Mexico, is not a safe town. There are orders that our own personnel are not allowed to go to that city. And we have heard a lot of accounts about the abuses, particularly of women and children in these centers.

Can you explain to me what the U.S. policy is in regards to those individuals coming to our border to protect their safety during a process to determine whether they are eligible for asylum?

Ambassador KOZAK. I cannot speak to the exact DHS—

Senator CARDIN. I was asking the Secretary, but you can answer.

Ambassador KOZAK. I am sorry, sir.

Ms. MADISON. So INL's role in Mexico—we are not dealing directly with the question of what is going on with asylum claims and other things.

Senator CARDIN. But you have set up a policy of getting a number, which can be weeks or months away, before they can present themselves for asylum.

Ms. MADISON. Again, I am not directly involved in the mechanics of the migration piece of it.

What we do in Mexico is we work with the police, with the border officials, with the judicial system, and with the other instruments of the rule of law in Mexico that address security issues.

Senator CARDIN. Can you assure this committee today that those people who are waiting are being properly protected and they are not vulnerable to the type of circumstances we have heard of violence and rape and things like that?

Ms. MADISON. I am not in a position to assure the committee of what the circumstances are on the ground in a particular place in Mexico.

Senator CARDIN. Is there a reason why the U.S. policy would put people at that risk? That is, they cannot cross the border because you will not let them present the case until their number is called. Is there an explanation? Either one.

Ambassador KOZAK. I will add what I can on that, Senator, with the same caveats my colleague said we are not able to tell you about every place in Mexico.

Senator CARDIN. I have asked you about a specific place.

Ambassador KOZAK. What I can say is that our Bureau of Population, Migration, and Refugees has put—I think it is—in the order of \$56 million into helping build shelters for people who are in that situation to stay in Mexico.

Senator CARDIN. I am not aware that we have put resources on this border—

Ambassador KOZAK. Well, that is my understanding.

Senator CARDIN. —because I have been told that our people cannot go there. So we are putting resources. We are putting resources where we cannot go?

Ambassador KOZAK. We often do that because we are working through—

Senator CARDIN. How do we know that it is accountable that they are actually safe in these shelters? How do you know that if you do not visit them?

Ambassador KOZAK. The shelters are set up by nongovernmental organizations, humanitarian organizations.

Now, the reason people end up in that state—and you are, I think, talking about Tamaulipas and Nuevo Laredo—is the people who came into Tamaulipas and then came to our border point at Laredo, when they leave, they are going back where they came in. Now, they could go somewhere else in Mexico theoretically. But it is typical because—

Senator CARDIN. It is not theoretical. This is what they do. I heard numerous cases about this. They then try to find an illegal place to cross because it is not safe for them to stay in the town on the border because they will get raped, they will get abused. So they find an illegal place. And then they are picked up, and it

causes the large numbers of people who have illegally crossed into this country. That is the safest way, and it is not a safe way because many of them—we have seen deaths where people try to cross illegally, et cetera. It is not a safe way to go.

Ambassador KOZAK. With that I would agree, Senator, completely. And this is why, as I was indicating in my testimony, that step one in trying to deal with a mass migration like this is to try to find measures that deter people from taking those risks in the first place and instead channel their concerns or their desires for economic improvement into safe and lawful ways of doing it. That is what we are trying to do with in-country refugee programs in the region.

Senator CARDIN. If they could be safe. And again, I am extremely concerned that we do not have eyes on the ground to see what is actually happening. We heard case after case after case of people being abused, particularly women and children waiting in the border towns. And now you are suggesting under these agreements that they will be safe in a country in which they are fleeing because they are not safe.

Ambassador KOZAK. Well, let me add a couple things. One, my colleague is clarifying to me that we do visit these shelters with our regional security officers. We recommend people not just go on their own. But when we have an official purpose there, we do it, and that is one of our purposes. So we are visiting and seeing what is going on in the shelters.

Second, people are being abused and molested when they are trying to get there in the first place. We had the figures at 30 some percent of all women in the migration flow have been sexually assaulted during that time.

What we are trying to do is to say, “do not do this. Do not come. Do not overwhelm our border facilities and so on. But if you do have legitimate asylum concerns, there are other ways to deal with that that are safe and lawful.” My colleagues in the Refugee Bureau pointed out that for some time we have supported international entities operating in the three countries.

Senator CARDIN. If you will make available—since you do do inspections—could you make that information available to me and this committee where you have physically visited these sites and what you have learned in regards to the safety of the people there, recognizing that the person that you send in to make that has security with him or her because it is not safe for them to be there?

Ambassador KOZAK. Yes, certainly, sir.

Senator CARDIN. Thank you.

The CHAIRMAN. Thank you.

Senator Kaine.

Senator KAINE. Thank you, Mr. Chair.

And thank you to the witnesses.

I sort of want to follow up on the safety issue but from a different angle, the safe third country agreements. I know we have a safe third country agreement with Guatemala. I understand we have signed a protection cooperative agreement with El Salvador.

You would agree with me that we should not enter into a safe third country agreement with a nation that we believe to be unsafe, should we?

Ambassador KOZAK. Well, Senator, first I think the name of the agreement—the one in Guatemala has a very long name. It was quoted in my testimony. But safe third country like Canada applies to people coming from anywhere and everywhere in the world. These are much more particularized in my understanding. So people who have come through Guatemala on their way would go back there.

Senator KAINE. Do you think Guatemala is a safe country?

Ambassador KOZAK. The question is safe for whom.

Senator KAINE. The Immigration and Naturalization Act says to be safe, it is a place where the migrant's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group or political opinion and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.

Guatemala has one of the highest homicide rates in the world. Do you think Guatemala is a place where people's life and freedom are not threatened on account of race, religion, or political opinion?

Ambassador KOZAK. Yes, it is the latter point. It needs to be for one of those reasons that people are threatened.

But what I would say just yesterday—

Senator KAINE. Can I just say this? You would agree with me, would you not, the language should have a meaning, and we should not designate a country as a safe third country if in fact it is unsafe? Right? Can you agree with me on that proposition?

Ambassador KOZAK. I would agree we should not send someone who is liable to be persecuted on account of religion or political opinion or the other factors that you just read to a place where they would be persecuted for those reasons. That does not mean that a country that has a crime problem or something is unsafe in that respect if you are not one of the people who are likely to be—

Senator KAINE. But if individuals have a claim that they are, then they should not be returned to that country. Correct?

Ambassador KOZAK. Correct. If they have a well-founded fair persecution in that country, for those reasons they should not—

Senator KAINE. Yes. I just think—

Ambassador KOZAK. This is why we are working to try to help the Guatemalans develop their asylum capacity—to be sure that that happens. Just yesterday, OMB freed up another \$47 million of aid so that we can provide assistance to Guatemala in building that capacity.

Senator KAINE. Let me ask you this, Mr. Kozak. You indicated that you were defending the cut in aid, economic development and other aid, to the Northern Triangle countries because the governments were not doing enough in your view to take seriously these issues. I am kind of curious about that with respect to Honduras.

The Honduran elections were fraught with controversy. And the OAS actually said the country should strike the elections and rerun the elections. Now, we have been trying to support the OAS, and when the OAS speaks strongly on something like that, that is tough for them to do. But they took a fairly strong position that the elections should be rerun to deal with the kind of corruption challenges you raised.

The Trump administration actually ignored the OAS and recognized the legitimacy of the election of the current Honduran president. So having done that, now we are blaming them for not doing enough and cutting their aid. Why in your opinion did we not follow the OAS recommendation and recognize that corruption when the election occurred?

Ambassador KOZAK. Well, I am not sure of the connection between the two things.

But with respect to the election—

Senator KAINE. Well, I am just saying if we are blaming them for being corrupt and the OAS basically said the election shows they are corrupt, the U.S. please support us and call for new elections in Honduras, and instead we recognize the corrupt government and sort of vetoed what the OAS was proposing, why would we do that?

Ambassador KOZAK. I think, Senator, going back to my past job—and looking at the reports, there were election observers there from the EU and others. The consensus of the observers were that the election process, particularly the vote count, had been very badly handled. It undercut the appearance of transparency and so on. But on the other side, they said in the end in fact, the count was accurate and that the current president had narrowly been re-elected.

Senator KAINE. Do you know—did we consider the OAS position at all?

Ambassador KOZAK. I think we did do so. The OAS position was not that the vote was inaccurate but that there was so much of this controversy around it that it would be a good idea to rerun it again.

Senator KAINE. My time has expired, but I just want to point out if the United States is basically having an opportunity to speak out against corruption and support the OAS when the OAS has said there should be new elections, and we choose to ignore the OAS and recognize the corrupt government, and then we blame the corrupt government for not doing enough and cut their aid, we are trying to have it both ways. And I think that is pretty clear.

Thank you, Mr. Chair.

The CHAIRMAN. Thank you.

Senator Portman.

Senator PORTMAN. Thank you, Chairman Risch, and thanks for holding this committee hearing. And, Ranking Member Menendez, this is a critical part of our U.S. trade agenda right now, as well as critical for immigration policy and with regard to drug policy. So I am going to try to touch on all three quickly.

One, on the trade front, is USMCA good or bad for Mexico? Mr. Kozak?

Ambassador KOZAK. I think the Mexican administration seems to have made the judgment it is good because they have adhered to it and moved it forward.

Senator PORTMAN. In fact, they are done with their processes there. We have come up with an agreement that meets a lot of the criteria that many in this body have called for over the years like enforceable labor standards, enforceable environmental standards, in fact, a 70 percent requirement of steel coming from North Amer-

ica for our cars, and a minimum wage in North America for auto workers. So my hope is we can get that done because it is good for Mexico. It is also good for us, and it is good for deepening our relationship and other issues.

On the drug front, Secretary Madison, you spoke earlier about the flow of narcotics, and one thing you mentioned was the fentanyl coming now from the south. Fentanyl traditionally, as you know, has come through the mail system, mostly through the U.S. mail system, by the way, not the private carriers, directly from China. That poison comes right into our neighborhoods. But increasingly we are seeing it coming over the border.

Can you give us some sense of that, what the numbers are, and where is it being made? We have heard different things. One is that there were a couple fentanyl illicit chemical companies in Mexico that were shut down. Others say it is still being made south of border. Some say it is coming in from China to Mexico, then being often converted into pill form and coming in. Tell us a little about that. Fentanyl being the deadliest of all of the drugs, the opioid that is killing the most people in my home State of Ohio.

Ms. MADISON. Yes, Senator. Obviously, we do a lot of work on the opioid issue writ large. And you are correct. It is a very pernicious business model, sold on the dark net, direct to consumer, paid for with anonymizing financial mechanisms, and then dropped into the mail and showing up in tiny and large towns all across this country with very deadly results.

We are very concerned actually that, yes, we have begun to see production in Mexico and not on a huge, huge scale, but I do not think it takes a huge scale for it to be a problem. I think any production in Mexico should be of concern to us.

I do think precursor chemicals still come from China. I do think some finished product comes from China. I have been out talking to some other governments about what they are seeing, and I think there is a fair amount of transshipment going on where it gets mailed from China to a third country and then kind of makes its way here. So I think the traffickers are just basically adjusting to the countermeasures that we put in place.

With regard to Mexico specifically, we have been talking to the Government of Mexico about this particular issue and about the urgency and imperative for them to take it on. We have done a lot of work with them in their ports to get them up to our standards in their airports, in their maritime ports. We have done a lot of work with them on the border with nonintrusive inspection equipment, but more importantly, we have built a canine program there which is actually one of the more effective ways to tackle this. It is 500 dogs, and we did it in cooperation with the RCMP. So the Mexicans are doing some interdictions, but I think this production piece is of major concern.

Yesterday, as I mentioned, I was up in New York, and one of the things I did was meet with the deputy commissioner from China's national narcotics commission. One of the things I explicitly talked to him about was the need for them to be working with Mexico and working with us on the precursor flow because there is a pattern of behavior that existed before synthetic opioids which is methamphetamine production in Mexico. And so the neural pathway is

already there with the criminal organizations to send those precursor chemicals.

We have also worked with Mexico to update their system for tracking precursor chemical imports and exports, which is another piece of this puzzle.

Senator PORTMAN. Have they done everything they can do in terms of scheduling the precursors? China, as you know, has made some changes in its law. It is not enough yet and they are not enforcing it the way we would like them to. But at least they are doing something by making it illegal. Has that happened in Mexico with regard to the precursors?

Ms. MADISON. I think there is more work to be done in Mexico. I am going to be there next week particularly to talk about this.

Senator PORTMAN. Let us know what we can do in that regard.

You mentioned some of the measures that are being taken. One is one that came through this committee and others, which is the STOP Act, which is now law, which has helped to keep some of this flow coming through our mail system. And that is one reason you see the transshipments I believe because I think you are right. There is so much money in this.

On the crystal meth, we used to have meth labs in Ohio. We do not anymore. And it is not for a good reason. It is because it is so cheap and so much more powerful now coming directly from Mexico, and the same cartels are selling it, I am told, on the streets of Columbus, Ohio. It is less expensive than marijuana for a similar dose. So I do think the crystal meth issue has become now a new epidemic in a sense in a lot of our communities, and Mexico is the source, I am told, of almost all that crystal meth. Is that accurate?

Ms. MADISON. They are definitely a source. I do not know if it is all, but they are definitely a source. And I think from our perspective, there is a lot more work to do on the drug front with Mexico, and that is part of the reason I am going down there. But we have a very practical conversation that we need to have about what comes next.

The other thing I will just add is the challenge that we are going to have is as we go after the synthetic opioids and the fentanyl, what is going to happen is there is such agility in the synthetic drug market that they are going to continue to basically innovate, and we are going to have to sort adjust our strategies. And I think that is challenging because all these control mechanisms—they can quickly work their way out of them. And I think that is going to be one of the ongoing challenges that we have as we talk to governments about what else we can do.

Senator PORTMAN. We appreciate your service—my time has expired—and working directly with DHS because the Acting Secretary McAleenan is also, as you know, working on this issue. And again, the STOP Act is working. It is great. The INTERDICT Act is working. It is helpful. But you are right. There is so much money in it, and a slight change in the chemical compound and other adjustments in synthetic drugs is truly frightening. So thank you for your service there, and let us know what we can do to be more helpful.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Portman.

Senator Merkley.

Senator MERKLEY. Thank you very much.

Mr. Kozak, you are familiar with the statute on third safe country, and you have made reference to it—or safe third country. And has it been used by any previous administration?

Ambassador KOZAK. Yes. I am trying to remember which administration did it. I believe it was during the Clinton administration. We reached a safe third country agreement with Canada.

Senator MERKLEY. And that is the only safe third country agreement in our history. Is that not right?

Ambassador KOZAK. I believe that is correct.

Senator MERKLEY. So that was in 2002 with Canada, one of the safest countries in the world.

Now, we just signed a safe third country agreement with Guatemala. It has not been ratified by their Congress yet. That is yet to happen.

Now, the U.S. State Department—their commentary on Guatemala is that it remains among the most dangerous in the world, endemic poverty, abundance of weapons, legacy of societal violence, presence of organized criminal gangs. Do you consider that a safe country to return people to?

Ambassador KOZAK. Senator, I believe, as we were discussing before, it is safe in the sense of that the individual would not be persecuted for his political opinion, race, religion and so on.

Senator MERKLEY. That is not the question I asked you. Do you consider Guatemala to be safe, given the State Department's description, for people to be—who do not even come from Guatemala to be returned to?

Ambassador KOZAK. I would say it depends on who you are and where you are. I mean, Americans retire in Guatemala. I have friends who live there. I have been there myself and toured around.

Senator MERKLEY. But you would concede there is a huge difference between an American with resources and a refugee who has no funds, no family in Guatemala, no friends in Guatemala. Are they not extraordinarily vulnerable to this epidemic of endemic crime that is being described by the State Department? Would you want your family member to return there with no friends or family or money? What I want to know is how reasonable this is.

Ambassador KOZAK. People who are involved in this mass migration that is occurring are not safe in any of the places that they are going. They are being victimized by traffickers. Particularly if you go to a country and you are doing it illegally, you are vulnerable.

Senator MERKLEY. But you would agree it would be a lot safer if they were sent to Canada than sent to Guatemala.

Ambassador KOZAK. That is not the option.

Senator MERKLEY. In 2018, the State Department report says, "Guatemala, widespread corruption, human trafficking, threats targeting the LGBTQ persons, use of force and compulsory child labor." Now, Tom Carper and I went down to Guatemala recently and met with all the social groups, met with the president. And they just emphasized how all of this is extraordinarily unsafe for ordinary people in Guatemala, people who do not have family con-



nections to protect them, do not have resources. All of them were vulnerable. That is the point I want to make, that I do not think any American would want anyone they know who is without resources to be sent into that setting because they are just so vulnerable.

Now, El Salvador—we learned on September 20th that this agreement had been signed with El Salvador. It allows us to send people who are not from El Salvador back to El Salvador. In fact, it actually excludes El Salvadorans. Are you aware of that? Are you aware that children are not accepted? Are you aware that under this agreement, children from Africa could be returned to El Salvador, who do not speak the language, who do not have any sort of supportive structure? Are you aware of the State Department's description of El Salvador? Forced disappearance by military personnel, torture by security forces, widespread government corruption, and violence against women, and gangs, children engaged in the "worst forms of child labor." Is that a reasonable place to send children back who do not even come from El Salvador or do not even speak Spanish?

Ambassador KOZAK. Senator, first, the agreement with El Salvador has been signed, but it has not been put into force. The implementing agreements have not been done yet. What will happen to children is another matter.

If I may get in, though, regarding all of these cases. In Guatemala, I just mentioned, we are about to provide \$47 million in assistance to help the system. So you are not just sending somebody back into the environment without any resources. The idea is they go back to a place where there are international organizations that can provide protection and resources to them as they pursue their asylum claims.

Senator MERKLEY. My time is running out.

Ambassador KOZAK. The Department of Homeland Security is not planning on just sending anybody and everybody there. We understand the limited capacity they have now. But as capacity builds, they will be able to calibrate and modulate the return.

Senator MERKLEY. I need to correct one point. We are sending people back without resources routinely. I have been across the border. I have visited with those returned back who have no resources, who have been in extraordinarily dangerous situations across the border in Mexico. This is both under the MPP and the metering program extraordinarily difficult situations. Just symbolic of that are Oscar and his daughter Valeria who were coming to the border to ask for asylum who were rejected, sent back into Mexico with no resources, no protection from gangs, felt the only safe way that they could proceed was to surrender themselves to CBP, swam the river. As we know from that photo in the New York Times, Oscar and his daughter died arm-in-arm down in the river. We did not send them back with resources. They did not have protection.

And if you go to Tijuana and you go to the shelters there, people are terrified to leave the shelters. Are you even aware that the State Department does not allow our own personnel to travel between cities after dark or to solicit taxis on the street? This is a situation we are sending people back into. Whether it is under metering, whether it is under "remain in Mexico," whether it is under

a so-called safe third country when it is not a safe third country, those provisions in the law were designed for something like Canada, not a situation of this extraordinary danger, sending people into it without resources. It is an extraordinarily—in contravention of the entire vision of the Refugee Convention. And I hope you will deeply rethink being part of it.

The CHAIRMAN. Thank you.

Senator BARRASSO. Thank you very much, Mr. Chairman.

You were not able to respond. I do not know if you would like to add anything to what the prior speaker just said.

Ambassador KOZAK. Yes, I think I would, Senator. Thank you for the opportunity.

I would simply reaffirm again—there are safety and security problems in all of these countries. They are well documented in our human rights reports. That was my past job, making those reports.

But the element that we have to take into account is that when we are encouraging or attracting a greater and greater flow of people that is putting people at great risk too. They are putting themselves in the hands of human smugglers who are physically abusing them, who are extorting them, and leaving them in trucks in the middle of the desert and all manner of things.

So what we are trying to stop is the whole outflow, the uncontrolled mass outflow of people in very dangerous conditions. And then our systems get overwhelmed and that produces other problems as well. So what we are trying to say to people is do not do that in the first place. The way you accomplish that is to say “if you try to come in that fashion that is unsafe and terrible for you”—this was our experience with Cuba years ago. People were drowning trying to get here. So we said, “look, if we pick you up at sea, we are just going to put you back where you started from. However, if you go over to the U.S. Interest Section in Havana, you can apply for refugee status, and there is a safe, lawful way for you to get out.” And that worked.

So this is what we are trying to replicate here. We try to create opportunities for people to apply. They do have those opportunities, and some have taken advantage of it and have been able to get to the United States as refugees by applying in their own countries and being processed in San Jose, Costa Rica. But when you start this whole train of people going out with human smugglers and being subjected to abuses and so on, almost anything you do is not going to be very satisfactory.

So I do not want to discount in any way the human suffering that you are describing, Senator. It is terrible. But it is terrible when they are on the way here as well as often when they go back. We have got to find a better way. That is what we are trying to do.

Senator BARRASSO. Thank you very much.

Madam Secretary, I was reading an article. Guatemala joins ranks of cocaine producers as plantations and labs emerge. Can I ask you to just spend some time talking a little bit about the criminal groups, what is behind all of them in this effort? Because now Guatemala is becoming a producing nation.

Ms. MADISON. Yes. This is a major evolution to see this production shift up the isthmus because it has traditionally been a South

American challenge. There was some indication. Last year, there were some plants found, but this is a much bigger thing. This is a series of plantations. It is pretty significant.

I think the most important thing that happened immediately was that the Government of Guatemala acknowledged that they are now a producer and that they need to take this on. And we are already talking to them about what that looks like and how we can be of assistance. What this really shows is just the sort of pernicious nature of the criminal organizations that produce this stuff. As we put the pressure on them in South America, they are going to try and move their business model further north. And my guess is it has something to do with the effectiveness of some of the interdiction efforts that the Colombians and others are doing. They are just trying to get further up the food chain.

We obviously do a lot of counternarcotics in Guatemala already. Canine programs, we work with their navy, and a whole range of things that we do with them. This is an evolution. We are talking to them. We got to figure out what we are going to do together or what they are going to do on their own while we work on these other pieces. But it is not a welcomed evolution for sure.

Senator BARRASSO. And, Secretary Kozak, in your testimony you stated, "our message is clear. The governments of El Salvador, Guatemala, and Honduras must do more to strengthen institutions, root out corruption, fight impunity, which creates a permissive environment for transnational criminal organizations." So I completely agree. Widespread corruption, failed governance make it extremely difficult to combat the threats posed by these transnational gangs, organized criminal groups.

In your assessment, are the governments of El Salvador and Guatemala and Honduras capable and willing to do those things?

Ambassador KOZAK. Well, on the capable side, this is what we have been working on for a couple of decades now. My colleague's bureau has done some really yeoman work on this. We have trained judges. We have trained prosecutors. We have trained investigators. We have trained accountants to look into financial crimes. I worked on the side of training independent journalists so that they could pursue corruption and the links between people and so on.

So on the capacity side, they have developed a lot of capacity over time. But what is still absent, or at least not there to the degree we would like to see it, is the political will to use those capabilities. What you have in each of these countries is people who have profited from and continue to profit from having a system that is corrupt and non-transparent and where there is impunity. This is what I was saying earlier. It then contributes to a lack of growth. What investor wants to invest in a place where they know that if they start competing with somebody, that that privileged somebody can get the judge to rule in their favor or the tax authorities will take your money away or something. And so the result is really lousy growth rates in these countries. And that is one of the main factors that cause people to want to leave and look for economic opportunity here.

So we are not the only ones demanding this. You look at election after election in the three countries. People who are promising to

take that on are getting elected on that campaign promise. Unfortunately, they have not always been able to deliver. We are certainly hopeful. We are hearing the right things certainly from President Bukele in El Salvador who is riding a 90 percent popularity wave right now on those kinds of messages. President-elect Giammattei in Guatemala is making noises to that effect as well, that he wants to move on these things. So we are going to work whenever we see the will there. But we are trying to encourage people across the board in those countries to have that political will to take these factors on and end what has just been this chronic disease in the countries for years.

Senator BARRASSO. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

You know, at the U.N. General Assembly yesterday, President Trump demonstrated that he clearly does not grasp or care about the root causes of this crisis. Mr. Kozak, do you agree that crop failures and food insecurity have contributed to increased migration from Central America to the United States?

Ambassador KOZAK. I would say that the overall economic conditions, of which the situation of farming in those countries is one of them, have contributed.

Senator MARKEY. So, yes, food insecurity and crop failures have contributed.

Ambassador KOZAK. When they have occurred, of course.

Senator MARKEY. Okay. So the Trump administration obviously knows that the answer is yes. An internal Customs and Border Protection report in September of 2018 showed a clear correlation between food insecurity and high migration from Guatemala. I also have in my possession documents from your Department warning specifically that cuts in USAID food security programs would lead to increased migration from Honduras.

Can either of you explain why this Administration has cut food security funding knowing from your own agency's studies that doing so would increase migration from Central America by cruelly depriving people of a fighting chance at home?

Ambassador KOZAK. As I indicated in my testimony, Senator, the step on cutting assistance was more of a wakeup call than an analysis of the effect of each one of these programs. What is clear is we have had these programs going for years and years and years, and the migration numbers have gone up, up, up. So we were being programmatically successful on a lot of these things. We had all assessed that if we could make a dent in the murder rate, if we could make an improvement on food security, that that would reduce migration. But it was not having that effect.

Now, there are so many variables. We could discuss all day what we think was the main factor or the secondary factor.

So I do not think it was people sitting there saying that we are able to make a direct linkage between this and that. It was saying, look, we want to send a wakeup call to people and say "you guys in the region need to start acting differently too. And then we can look at what we can do with our assistance."

I would add too what we are looking at heavily now is what can we do to encourage investment in the region, not just providing more and more foreign assistance? Can we use OPIC funding, for example? There is a big liquid natural gas project that is going into El Salvador now. I think it is like \$350 million or something. This is going to create jobs. It is going to create——

Senator MARKEY. I just want to come back to your own Department's warning specifically that cuts in USAID food security programs would lead to increased migration from Honduras. That is not speculation or just speaking from the heart that these people really need food. That is an assessment made by the Department that it would have that consequence.

And again, when you are a poor person, when you have hungry children in your family and you get the message that there are going to be cuts in the programs that are going to be providing for food security for your family, that is a powerful message to move and get out of here. This is not a good situation.

So you might have just said that this is a signal that was sent, but the signal, of course, is going to the poorest people in their country that the food that they were relying upon is not going to be there any longer and that the United States Government is sending a signal that they are not going to be providing that help.

So I just think that from our government's perspective, the problem is being exacerbated. It is clearly, again, a misunderstanding of the underlying problems here, which are poverty, which is hunger, which is, yes, injustice in these countries. But the way to help these people or to convince them to stay is not to cut their food security. That is at the core of all of these issues. And crop failures, of course, are also related to a global climate resiliency strategy. And the President, of course, at the U.N. is not even talking about climate at all as a potential cause of this problem.

So are either of you aware of any proactive efforts by this Administration to assess climate change vulnerabilities to this region?

Ms. MADISON. I am not.

Ambassador KOZAK. Nor am I.

Senator MARKEY. So according to a GAO report, "the State Department stopped providing missions with guidance on whether and how to include climate change risks in their integrated country strategies." Why is that?

Ms. MADISON. I do not have any sense of why that decision was made, sir.

Ambassador KOZAK. Nor do I, but we will be happy to go back and——

Senator MARKEY. Well, again, we know the reason why. It has to do with Exxon Mobil, with LNG companies, with others who actually control the agenda of the Trump administration. And of course, what we do need ultimately alternatively is a proactive and coordinated effort to assess it and to address the climate change vulnerabilities in each of these countries because that also is related to the crop failures. And unless and until we do that, a small handful of jobs that come from an LNG facility in any of these countries is going to be far outweighed by the harm which is being done by climate change to those countries and to their ability to be able to sustainably provide for their own people.

So I am going to ask just to introduce into the record a letter which I am sending today to the President on these questions so that we at least try to elicit from the Administration answers to these critical questions.

The CHAIRMAN. Thank you, Senator. Your letter will be admitted into the record.

[The information referred to above can be found at the end of this document.]

The CHAIRMAN. Mr. Kozak, I am impressed with your understanding of this, having worked with it for so long. And I think the American people have questions about this. This is a horrible situation. It is a human tragedy of mammoth proportions. I appreciate your statement about, look, every person is different, what motivates them to leave their country and go somewhere else.

What would be your opinion—and I understand it varies from person to person. These people who come north—do they view us, the United States, people in the United States of America as having a responsibility to take care of them?

Ambassador KOZAK. Well, again, as you indicate, Mr. Chairman, everybody is different.

The CHAIRMAN. What is your general feeling?

Ambassador KOZAK. In my sense, it is not so much that we have a responsibility to take care of them. It is that they are saying, "I am not able to see a good future for myself or my family in my country because there are economic obstacles, there are lack of justice, lack of rule of law obstacles. I cannot aspire in my own country to say, gee, I could open up a store and compete with that guy down the street and gain more market share and employ my neighbors." They just cannot do any of that. So they look to us as saying, okay, here is a place where I can go and I can get a job, I can send money back to my family, and that kind of thing.

And this is what we are trying to channel that energy into a better place. When you look at these agreements that we are in the process of doing now with the three countries, they are not just the asylum element that we have discussed here this morning. There is also agreements on the H2A visa program. So that we will be working with our Department of Labor and the departments of labor in those countries so that there will be more opportunity for people to come here under H2A visas. They do not have to bring their whole family with them and go through the perils that we have been discussing. They would be able to come lawfully, legally, get a decent job, take money back home, and then maybe that helps them grow their opportunity in their own country.

So I think they look to us as a place of opportunity. That is why everybody wants to come. But not so much that the U.S. Government has a responsibility to provide them an income.

The CHAIRMAN. And I guess that takes me to the next step, and that is, as you point out, there are countries down there that do not have this kind of problem. The problems are well documented as what happens when they hit the border of the United States. Why would they not stay in Mexico and say, "well, here is a place for opportunity." Or why would they not go to Belize? Or why would they not go to Panama? Is it just because it is so much bet-

ter here, that things are so much better here that they are willing to take the risks to come here?

Ambassador KOZAK. I think that is some of it. It is also that there are a lot of familial relations now too. Look at the amounts of money that people have to pay. If you are somebody who is very impoverished in one of these countries and the coyotes are charging you \$7,000—I think is about the average—you do not have \$7,000. If you did, you would not be wanting to leave. But you have got family in the United States who can provide \$7,000. Probably not somebody in Mexico.

I would say, though, that Costa Rica and Panama are also destinations for people who are fleeing problems in their own countries. The bulk of the people who fled Nicaragua are in Costa Rica. Panama has got a sizeable chunk of Venezuelans at this point. So those countries are attractive to people.

The CHAIRMAN. We do not hear much about that.

Ambassador KOZAK. Yes. They just quietly take care of it, and they are doing a good job. We are trying to be helpful with them.

One thing I did not think I got on the record here, Chairman that might be useful. Aside from all these agreements that we are doing recently, we have had a program for some time in the three countries where the U.N. High Commissioner for Refugees, the International Organization for Migration, working with funding from the United States amongst other countries, has had in-country refugee programs. So let us say you are an investigative journalist in Guatemala who is writing stories about the connections between drug dealers and bribing local officials or judges or something and you get yourself into a position where you are going to be persecuted for that reason. You go to them and they say, "yes, you have got a—it sounds like a good claim." They will help you go over to Costa Rica where there is a regional processing center. And a lot of those people are ending up in the United States, in Europe, in other countries in the hemisphere. So there is a lawful way to deal with that kind of problem as well.

We are trying to enhance that and deter the everybody get in trucks and vans and get left out in the middle of the desert or molested, the way that the alien smugglers are doing it. So I think that is what we are trying to signal is there is a right way to do this and a wrong way. Let us put our emphasis on the right way.

The CHAIRMAN. Thanks so much for your insight on this. I appreciate it. It has been helpful.

Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

First, I would like to ask unanimous consent that a statement for the record be included by Congresswoman Veronica Escobar of El Paso and a series of documents, letters that have been sent by myself to the State on U.S.-Mexico agreements and State's non-responses be included for the record.

The CHAIRMAN. They will be included.

[The information referred to above can be found at the end of this document.]

Senator MENENDEZ. Mr. Secretary, I was listening to the conversation between you and the chairman, and I appreciate the context in which you answered the last question the chairman asked,

is there an expectation that we have to take care of them. So when Vietnamese refugees came here, they did not think we had to care of them. Right? When Cuban refugees came to the United States, they did not think we had to take care of them. Right? When Venezuelans fled under Chavismo, we did not feel that we had to take care of them. When Nicaraguans went during that period of time—so it is fair to say that these people fled either incredible oppression or in some cases horrific violence. Is that not a fair statement?

Ambassador KOZAK. The people from the countries you just mentioned, Senator? Yes, absolutely.

Senator MENENDEZ. And so they did not think we had to take care of them, but they knew this country was a country that was a beacon of light to the rest of the world as it relates to giving refuge when it is appropriate and the law is met to taking care of some of these challenges. So I think we have to think about that in that context as well.

Let me ask Secretary Madison. In March, the President cut funds appropriated by Congress to address root causes of migration from Central America. And while some DHS and DOJ programs will receive continued funding, these cuts terminated a wide range of programs designed to advance our national security.

Secretary Madison, INL sent us a list of all the programs your bureau had to cut due to the President's decision. The list included funds for police training, improving police forensics and intelligence, preventing gang recruitment, and combating the sexual exploitation of children, all initiatives that I think we could agree would stabilize Central America and slow migration. Is that the case?

Ms. MADISON. Senator, those are programs that we will have to suspend or have or will wind down. It depends on what the pipeline looks like. And I think what that reflects is, as my colleague has noted, a decision by the President that his highest priority was the migration numbers and that while we would preserve some of the specialized programs that we are doing in Central America to work on counternarcotics and port issues and TCOs, that in fact he was going to send a message to these countries—

Senator MENENDEZ. Let us talk about sending messages. Are you telling this committee that there are not other countries in the world rooted in deep corruption that we do not continue to have programs of your Department? And I would be happy to cite you some if you do not think there are any.

Ms. MADISON. Senator, we are not talking about the rest of the world. We are talking about—

Senator MENENDEZ. Well, we are. We are talking about comparisons, Madam Secretary. If you and the Secretary are going to say that the President's purpose is to send a message, well, I can assure you there is corruption in Afghanistan. I can assure you that there is corruption in a series of nations in which we are continuing to engage in programs from your part of the State Department. So let us not say we are sending a message in that regard because then we would be sending a global message. Right?

Ms. MADISON. Senator, this is not a message about corruption. This is a message from our President about the priority he places on these countries taking aggressive action to address the outflow



of their citizens and the crisis that we have on our southern border. And again, I think it is a time-honored tradition in this town to use foreign assistance as leverage. In fact, I think if you were to look at the statutes on foreign assistance, you would find them replete with conditions and cuts.

Senator MENENDEZ. You do not have to quibble. Do not talk to me about corruption as the reason that you are stopping funds because that is how you send them a message to get their act together when in fact there are countries that we send hundreds of millions of dollars that are in fact deeply rooted in corruption and have serious issues for which we are working in the hopes that they will change. Right? But when you cut funding combating the sexual exploitation of children, when you cut funding preventing gang recruitment, I do not know how that helps us at the end of day create greater stability in Central America and sends a message.

So can you confirm, Secretary Madison, that the President's cuts force you to reprogram, for whatever the reasoning that you want to justify, \$90 million from Central America that included the initiatives I listed?

Ms. MADISON. We were, in fact, directed to reprogram funding.

Senator MENENDEZ. Okay. Is your assessment that these programs that INL was funding under your leadership were effective and were helping to address violence and improve the rule of law in the region?

Ms. MADISON. Senator, these programs, while they programmatically can be effective, as my colleague has noted, our Secretary testified on the Hill and made the absolutely critical point for this Administration, which is the only metric that matters is the question of what the migration situation looks like on the southern border. So we were asked to reprogram—

Senator MENENDEZ. I did not ask you about migration. Listen to my question. You are a former staffer of this committee. You understand very well, and you have adopted the State Department's ability to deviate from the question.

My question is, is it your assessment that these programs that INL was funding under your leadership were effective and were helping to address violence and improve the rule of law in the region? Yes or no.

Ms. MADISON. Senator, again, I believe that these programs have been programmatically effective, but the issue is the pace with which it is—

Senator MENENDEZ. I did not ask you about migration. I asked you—

Ms. MADISON. Sir.

Senator MENENDEZ. —whether the programs were effective. Yes or no.

Ms. MADISON. Sir, I actually have answered that question. I have said I believe—

Senator MENENDEZ. Okay. So the answer is yes.

Ms. MADISON. —that these programs can be programmatically effective. But that is a different question than whether or not all these—

Senator MENENDEZ. You do not get to ask the questions. You get to answer them.

Ms. MADISON. Sir.

Senator MENENDEZ. It is a different question as to whether you want to use this for migration. It is a different issue. I want to know whether the programs were effective. The answer is yes. And it must be yes because I am sure you can confirm to the committee that the State Department, the Secretary sent Congress nine different reports that acknowledge progress was made and certified that benchmarks were being met. Is that not true? On these programs.

Ms. MADISON. Sir, I cannot confirm the number. I feel certain that certifications have been sent.

Senator MENENDEZ. Secretary Kozak, can you confirm the number?

Ambassador KOZAK. I cannot confirm the number, but it sounds right.

Senator MENENDEZ. So I would be happy to——

Ambassador KOZAK. I would not question the number you have given.

Senator MENENDEZ. —produce some documents for you that we have——

Ambassador KOZAK. I would not question the number.

Senator MENENDEZ. There are nine different reports that the Secretary of State acknowledged progress was being made and certified to the Congress that benchmarks were being met.

So given that progress was being made, as determined by the Secretary of State, can you explain to us the impact on our national security and national interests when we ultimately end those programs for which we were making progress and certifying benchmarks?

Ms. MADISON. Not all programs have been severed. The programs that we continue to fund and to support are programs that are focused on the highest priorities of counternarcotics, transnational criminal organizations, and borders and immigration. The issue, which I will try again to put on the table, is that these programs are not moving the needle fast enough to address the situation on our southern border. And that is the benchmark and the measure our President has put on the table.

Senator MENENDEZ. You are saying that the only reason we did these programs was, in fact, to stop migration to the southern border? That is why we did these programs. No other reason.

Ms. MADISON. Senator, I am not saying that. What I am saying is that is the measure that matters to the President.

Senator MENENDEZ. You are trying to conflate something, and I am just not going to permit you to conflate it. The reality is that these programs were meant to create institutional capacity building in the very countries that we say do not have the capacity. And, yes, I am all with you on getting governments to have the will to do what is necessary, but to believe that those governments on their own with the institutional incapacity that exists, with the lack of resources that exists could actually make this happen, to think that cutting funds for ultimately hurting, you know, on the

effort to combat the sexual exploitation of children, come on. That is just irrational. Irrational.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

I find your testimony completely rational, and I think you are excellent spokespersons for what is happening there. I am going to give you the last opportunity, both of you.

First of all, I want to express appreciation of the committee, of the American people for what you do under very difficult circumstances for a most tragic situation that everyone would like to make different. And I know you are working in good faith to do that.

So, first, starting with you, Ms. Madison, could you give us a closing statement, anything you want to add to the dialogue that has taken place in the committee today.

Ms. MADISON. Thank you, Mr. Chairman. I appreciate it.

Obviously, I chose to lead the Bureau of International Narcotics and Law Enforcement Affairs for a reason, after having been the oversight person on this committee who worked on it many years ago.

I do believe that these programs are beginning to help these countries move along the spectrum. It is obviously not working on a sort of meta-level, and I think we are going to look at them as we are in this period of suspension and figure out what we do differently.

In the meantime, I would say that we are still focused on the priorities of counternarcotics and working with border officials and working on transnational organized crime, which is absolutely essential to the security of this country. And it is a national security priority for us to do that, and we preserve those efforts.

And while I fully appreciate the disagreements that exist regarding the larger goal of this Administration and the use of these assistance dollars, I want to assure you that I take very seriously my stewardship of these resources in securing results for the American people.

Thank you.

The CHAIRMAN. Thank you, Ms. Madison. Well said.

Mr. Kozak?

Ambassador KOZAK. Well, thank you, Mr. Chairman, and thank you, Ranking Member Menendez, and your colleagues for giving us the opportunity here today.

I would emphasize that despite the fact that we clearly do not agree on a lot of methodology, I think there is agreement on the goal. I think all of us would like to see safe, orderly migration from the region. We would like to see the region developed to the extent that people are not trying to leave in droves. I think there is a lot of work to be done there. There is no magic bullet to do this.

The Administration has taken an approach that we are trying to work and we think is being effective. At the same time, we are very open to other ideas. There may be other things that we can try. We would look forward to working very closely with the committee and trying to debate these things back and forth and see if there are things that we can do together that would stem this tide of illegal

migration and get things back on a track where people are safe and can start to have a real future in their own countries.

So thank you again for the opportunity.

The CHAIRMAN. Thank you so much. And, again, thank you both for your service.

For the information of members, the record will remain open until the close of business on Friday. We ask witnesses to respond as promptly as possible. Your responses will also be made a part of the record.

With the thanks of the committee and the thanks of American people, this committee is adjourned.

[Whereupon, at 11:55 a.m., the hearing was adjourned.]

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#### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

RESPONSES OF ASSISTANT SECRETARY KIRSTEN D. MADISON AND ACTING ASSISTANT SECRETARY MICHAEL G. KOZAK TO QUESTIONS SUBMITTED BY SENATOR ROBERT MENEDEZ

*Question.* Has Secretary of State Pompeo formulated a diplomatic strategy to ensure that Mexico pays the costs related to the construction of a border wall between the United States and Mexico?

*Answer.* Border infrastructure is one part of a comprehensive approach to improve security at our southern border. The United States and Mexico continue to cooperate closely to manage and protect our nearly 2,000-mile border and to combat shared threats posed by transnational criminal organizations, including human smugglers. Mexico like the United States has devoted major resources to combatting the mass migration that affects both countries and endangers the migrants. We appreciate Mexico's invaluable contribution to resolving the overall problem.

*Question.* What steps has Secretary of State Pompeo taken to ensure that Mexico pays the costs related to the construction of a border wall between the United States and Mexico?

*Answer.* Border infrastructure is one part of a comprehensive approach to improve security at our southern border. The United States and Mexico continue to cooperate closely to manage and protect our nearly 2,000-mile border and to combat shared threats posed by transnational criminal organizations, including human smugglers. Mexico like the United States has devoted major resources to combatting the mass migration that affects both countries and endangers the migrants. We appreciate Mexico's invaluable contribution to resolving the overall problem.

*Question.* Has Secretary of State Pompeo spoken with the current or former government of Mexico to reiterate President Trump's statement that Mexico will pay the costs related to the construction of a border wall between the United States and Mexico? If so, what message was conveyed by the Secretary and how did the Government of Mexico respond?

*Answer.* Border infrastructure is one part of a comprehensive approach to improve security at our southern border. The United States and Mexico continue to cooperate closely to manage and protect our nearly 2,000-mile border and to combat shared threats posed by transnational criminal organizations, including human smugglers. Mexico like the United States has devoted major resources to combatting the mass migration that affects both countries and endangers the migrants. We appreciate Mexico's invaluable contribution to resolving the overall problem.

*Question.* Did Secretary of State Tillerson formulate a diplomatic strategy to ensure that Mexico pays the costs related to the construction of a border wall between the United States and Mexico?

*Answer.* The prior Secretary worked to develop a common strategy with Mexico to address the common problem of uncontrolled mass migration that affects both countries and endangers and victimizes the migrants.

*Question.* What steps did Secretary of State Tillerson take to ensure that Mexico pays the costs related to the construction of a border wall between the United States and Mexico?

*Answer.* The prior Secretary worked to develop a common strategy with Mexico to address the common problem of uncontrolled mass migration that affects both countries and endangers and victimizes the migrants.

*Question.* Has Secretary of State Tillerson spoken with the current or former government of Mexico to reiterate President Trump's statement that Mexico will pay the costs related to the construction of a border wall between the United States and Mexico? If so, what message was conveyed by the Secretary and how did the Government of Mexico respond?

*Answer.* The former Secretary conveyed our commitment to working with Mexico to combat human trafficking, transnational crime, and the movement of drugs and illicit goods across our shared border. Mexico is an important partner in combatting mass migration, and we cooperate to improve border controls and stop human smuggling networks that victimize the migrants.

*Question.* Please provide a list of all agreements, instruments, and arrangements, binding or non-binding; annexes; appendices; implementation plans, guidance and other related documents that the Trump administration has signed, agreed to, or otherwise joined with Mexico and the Central American governments so that we can finally get a clear picture of what this Administration is doing in the name of the American people? Please ensure that the list includes agreements signed by the Department of Homeland Security, Department of Justice, Department of Defense, and all of their respective agencies and instrumentalities. Please ensure that the list includes the title of the agreement; the date it was signed; the entities and officials that signed it; and whether the agreement includes any supplemental agreements, annexes or implementation plans (or other supporting documents).

*Answer.* The Department has provided all relevant agreements under the Case-Zablocki Act and will continue to transmit agreements consistent with the requirements of the Act moving forward. This includes the Joint Declaration and Supplementary Agreement the Department transmitted to the Congress pursuant to the Case Act on August 6, 2019.

*Question.* Please provide a copy of all of these agreements, arrangements, instruments, supplemental agreements, annexes, appendices and implementation plans.

*Answer.* The Department has provided all relevant agreements under the Case-Zablocki Act and will continue to transmit agreements consistent with the requirements of the Act moving forward. This includes the Joint Declaration and Supplementary Agreement the Department transmitted to the Congress pursuant to the Case Act on August 6, 2019. With respect to the Department's reporting practice with regard to the Case Act, my understanding is that the Department follows the criteria set out at 22 CFR 181.2 in deciding whether any undertaking, oral agreement, document, or set of documents, including an exchange of notes or of correspondence, constitutes an international agreement within the meaning of the Case Act, and that it will continue to do so. These criteria include the identity and intention of the parties; the significance of the arrangement; specificity, including objective criteria for determining enforceability; the necessity for two or more parties; and the form of the instrument.

*Question.* What agreements has the United States Government signed with the Government of El Salvador since January 1, 2017. As the State Department is the lead agency on U.S. diplomacy with foreign governments, please ensure that the list includes agreements signed by the Department of Homeland Security, Department of Justice, Department of Defense, and all of their respective agencies and instrumentalities. Please ensure that the list includes the title of the agreement; the date it was signed; the entities and officials that signed it; and whether the agreement includes any supplemental agreements, annexes or implementation plans (or other supporting documents). Please provide a copy of all of these agreements, supplemental agreements, annexes, and implementation plans.

*Answer.* The Asylum Cooperation Agreements with El Salvador has not yet entered into force. Should it enter into force in the future, it will be transmitted to Congress within 60 days of the date of their entry into force. Pursuant to 1 U.S.C. § 112b, "the Secretary of State shall transmit to the Congress the text of any international agreement (including the text of any oral international agreement, which agreement shall be reduced to writing), other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter."

*Question.* What agreements has the United States Government signed with the Government of Guatemala since January 1, 2017. As the State Department is the

lead agency on U.S. diplomacy with foreign governments, please ensure that the list includes agreements signed by the Department of Homeland Security, Department of Justice, Department of Defense, and all of their respective agencies and instrumentalities. Please ensure that the list includes the title of the agreement; the date it was signed; the entities and officials that signed it; and whether the agreement includes any supplemental agreements, annexes or implementation plans (or other supporting documents). Please provide a copy of all of these agreements, supplemental agreements, annexes, and implementation plans.

*Answer.* The Asylum Cooperation Agreement with Guatemala entered into force on November 15, 2019, and will be transmitted to Congress within 60 days of that date. Pursuant to 1 U.S.C. § 112b, “the Secretary of State shall transmit to the Congress the text of any international agreement (including the text of any oral international agreement, which agreement shall be reduced to writing), other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter.” In addition, the Department of Homeland Security and Guatemala’s Ministry of Government signed a Memorandum of Cooperation (MOC) on May 27, 2019. This MOC describes areas in which the two governments commit to work in good faith to enhance cooperation on border security, training, joint actions to counter illicit flows of people, drugs, and money, and improvements in the identification, administration, and detention of illegal immigrants. For this MOC with Guatemala, I would refer you to the Department of Homeland Security for further information.

*Question.* What agreements has the United States Government signed with the Government of Honduras since January 1, 2017. As the State Department is the lead agency on U.S. diplomacy with foreign governments, please ensure that the list includes agreements signed by the Department of Homeland Security, Department of Justice, Department of Defense, and all of their respective agencies and instrumentalities. Please ensure that the list includes the title of the agreement; the date it was signed; the entities and officials that signed it; and whether the agreement includes any supplemental agreements, annexes or implementation plans (or other supporting documents). Please provide a copy of all of these agreements, supplemental agreements, annexes, and implementation plans.

*Answer.* The Asylum Cooperation Agreement with Honduras has not entered into force. Should it enter into force in the future, it will be transmitted to Congress within 60 days of the date of their entry into force. Pursuant to 1 U.S.C. § 112b, “the Secretary of State shall transmit to the Congress the text of any international agreement (including the text of any oral international agreement, which agreement shall be reduced to writing), other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter.”

*Question.* What was the strategic reason and rationale for suspending and reprogramming U.S. foreign assistance to El Salvador?

*Answer.* The President directed the Secretary and the Department to reprogram certain assistance that would have benefitted El Salvador. In addition, the Department further decided to pause some Fiscal Year 2017 foreign assistance funds until the Department is satisfied the Government of El Salvador, is taking sufficient action to reduce the number of migrants coming to the U.S. border. The Department and USAID will revisit the use of these funds no later than April 2020.

*Question.* What evaluation did the State Department conduct about the repercussions to U.S. national interests and national security of suspending and reprogramming U.S. foreign assistance to El Salvador? When did such an evaluation start and when did it finish? What were the findings of any such evaluation?

*Answer.* In April 2019, the Secretary initiated a review of all Department of State and United States Agency for International Development (USAID) Fiscal Year 2017 foreign assistance funding for current agreements and awards for El Salvador. This complex review encompassed \$617 million in planned assistance spanning 707 individual programs and activities for the northern triangle countries. The review focused on costs that would be incurred by shutting down existing activities. As a result of the review, the Secretary decided certain Fiscal Year 2017 funds, including those previously awarded via grants and contracts to implementing partners, would continue. These activities total approximately \$450 million.

*Question.* What specific steps does the United States want El Salvador to take prior to obligating new U.S. foreign assistance for El Salvador? Has El Salvador

taken any such steps? What is the potential timeline for reinstating U.S. foreign assistance to El Salvador?

*Answer.* We expect the government of El Salvador to take action to stem irregular migration to the United States, such as combatting migrant smuggling and human trafficking rings, enhancing border security, dissuading its citizens from illegally immigrating, and receiving and reintegrating its returned citizens.

El Salvador has taken important steps in this direction in recent weeks, including signing an Asylum Cooperation Agreement and agreeing to further discussions on additional measures. Providing appropriate assistance to help our counterparts carry out these measures will be part of our strategy and appropriate Congressional consultations and notifications will occur as the strategy is implemented.

*Question.* Is the Government of El Salvador speaking with any other foreign donors or investors—including, but not limited to the Government of China—to offset the impact of the U.S. cuts during this period in which we have suspended foreign assistance?

*Answer.* No, not to our knowledge. We actively engage governments on both the risks posed by problematic Chinese assistance as well as the opportunities presented by working with democratic development partners that bring international quality standards, transparency, and respect for human rights. These alternatives include Japan, South Korea, Taiwan, and multilateral development finance institutions such as the Inter-American Development Bank as well as the U.S. Increasing engagement by China and Russia in the region poses a nascent but serious challenge to U.S. national security interests.

*Question.* What was the strategic reason and rationale for suspending and reprogramming U.S. foreign assistance to Guatemala?

*Answer.* The President directed the Secretary and the Department to reprogram certain assistance that would have benefitted Guatemala. In addition, the Department decided to pause some Fiscal Year 2017 foreign assistance funds until the Department is satisfied the Government of Guatemala, is taking sufficient action to reduce the number of migrants coming to the U.S. border. The Department and USAID will revisit the use of these funds no later than April 2020.

*Question.* What evaluation did the State Department conduct about the repercussions to U.S. national interests and national security of suspending and reprogramming U.S. foreign assistance to Guatemala? When did such an evaluation start and when did it finish? What were the findings of any such evaluation?

*Answer.* In April 2019, the Secretary initiated a review of all Department of State and United States Agency for International Development (USAID) Fiscal Year 2017 foreign assistance funding for current agreements and awards for Guatemala. This complex review encompassed \$617 million in planned assistance spanning 707 individual programs and activities for the Northern Triangle. The review focused on costs that would be incurred by shutting down existing activities. As a result of the review, the Secretary decided certain Fiscal Year 2017 funds, including those previously awarded via grants and contracts to implementing partners, would continue. These activities total approximately \$450 million.

*Question.* What specific steps does the United States want Guatemala to take prior to obligating new U.S. foreign assistance for Guatemala? Has Guatemala taken any such steps? What is the potential timeline for reinstating U.S. foreign assistance to Guatemala?

*Answer.* We expect the government of Guatemala to take action to stem irregular migration to the United States, such as combatting migrant smuggling and human trafficking rings, enhancing border security, dissuading its citizens from illegally immigrating, and receiving and reintegrating its returned citizens.

Guatemala has taken important steps in this direction in recent weeks, including signing an H2A agreement concerning temporary agricultural workers; an Asylum Cooperation Agreement; a border security arrangement; and a biometrics data sharing arrangement. Providing appropriate assistance to help our counterparts carry out these measures will be part of our strategy and appropriate Congressional consultations and notifications will occur as the strategy is implemented.

*Question.* Is the Government of Guatemala speaking with any other foreign governments—including, but not limited to the Government of China—to offset the impact of the U.S. cuts during this period in which we have suspended foreign assistance?

*Answer.* No, not to our knowledge. We actively engage governments on both the risks posed by problematic Chinese assistance as well as the opportunities pre-

sented by working with democratic development partners that bring international quality standards, transparency, and respect for human rights. These alternatives include Japan, South Korea, Taiwan, and multilateral development finance institutions such as the Inter-American Development Bank as well as the U.S. Increasing engagement by China and Russia in the region poses a nascent but serious challenge to U.S. national security interests.

*Question.* What was the strategic reason and rationale for suspending and reprogramming U.S. foreign assistance to Honduras?

*Answer.* The President directed the Secretary and the Department to reprogram certain assistance that would have benefitted Honduras. In addition, the Department decided to pause some Fiscal Year 2017 foreign assistance funds until the Department is satisfied the Government of Honduras is taking sufficient action to reduce the number of migrants coming to the U.S. border. The Department and USAID will revisit the use of these funds no later than April 2020.

*Question.* What evaluation did the State Department conduct about the repercussions to U.S. national interests and national security of suspending and reprogramming U.S. foreign assistance to Honduras? When did such an evaluation start and when did it finish? What were the findings of any such evaluation?

*Answer.* In April 2019, the Secretary initiated a review of all Department of State and United States Agency for International Development (USAID) Fiscal Year 2017 foreign assistance funding in Honduras. This complex review encompassed \$617 million in planned assistance spanning 707 individual programs and activities for the Northern Triangle countries. The Review focused on costs that would be incurred by shutting down existing activities. As a result of the review, the Secretary decided certain Fiscal Year 2017 funds, including those previously awarded via grants and contracts to implementing partners, would continue. These activities total approximately \$450 million.

*Question.* What specific steps does the United States want Honduras to take prior to obligating new U.S. foreign assistance for Honduras? Has Honduras taken any such steps? What is the potential timeline for reinstating U.S. foreign assistance to Honduras?

*Answer.* We expect the government of Honduras to take action to stem migration to the United States, such as combatting migrant smuggling and human trafficking rings, enhancing border security, dissuading its citizens from illegally migrating, and receiving and reintegrating its returned citizens.

Honduras has taken important steps in this direction in recent weeks, including signing an Asylum Cooperation Agreement and agreeing to further discussions on additional measures. Providing appropriate assistance to help our counterparts carry out these measures will be part of our strategy and appropriate Congressional consultations and notifications will occur as the strategy is implemented.

*Question.* Is the Government of Honduras speaking with any other foreign governments—including, but not limited to the Government of China—to offset the impact of the U.S. cuts during this period in which we have suspended foreign assistance?

*Answer.* No, not to our knowledge. We actively engage governments on both the risks posed by problematic Chinese assistance as well as the opportunities presented by working with democratic development partners that bring international quality standards, transparency, and respect for human rights. These alternatives include Japan, South Korea, Taiwan, and multilateral development finance institutions such as the Inter-American Development Bank as well as the U.S. Increasing engagement by China and Russia in the region poses a nascent but serious challenge to U.S. national security interests.

*Question.* The Department of Homeland Security recently signed asylum related agreements with the governments of El Salvador, Guatemala, and Honduras. Did DHS inform the State Department of its intention to sign these agreements, prior to signing them? If so, when?

*Answer.* The Secretary of Homeland Security sought and received authority from the Secretary of State before signing each agreement.

*Question.* Did the State Department provide any assessments or evaluations to DHS regarding the capacity of the Salvadoran, Guatemalan, and Honduras migration and asylum systems prior to DHS signing the agreements? If so, what was the content of these assessments or evaluations? How and by who were such assessments and evaluations transmitted to DHS?



Answer. I cannot discuss internal and interagency deliberations, nor can I discuss specific documents or communications that are involved in such deliberations.

*Question.* Does the State Department currently assess that the Government of El Salvador has the capacity to receive by asylum seekers that reached the U.S. border? If so, how many asylum seekers does the State Department assess that the Government of El Salvador is capable of receiving back on a monthly basis?

Answer. The Attorney General and the Secretary of Homeland Security must certify that these countries meet the requirements of 8 U.S.C. § 1158(a)(2)(A) prior to implementation, including that individuals cannot be removed to a country in which the individual would be persecuted and that the individual will have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.

*Question.* What is the name of the Salvadoran asylum agency? What is its annual budget? How many employees does it have?

Answer. The Commission for Refugee Status (CODER) is responsible for refugee status determinations for the Salvadoran government and is staffed by employees of the Ministry of Foreign Affairs. CODER does not have its own budget.

*Question.* What is the name of the Salvadoran migration agency? What is its annual budget? How many employees does it have?

Answer. The Dirección General de Migración y Extranjería is the organization within the Government of El Salvador responsible for migration issues.

Pursuant to this question, the Department of State is seeking specific information regarding its budget and staffing but has not received a response at this time.

*Question.* Does the State Department currently assess that the Government of Guatemala has the capacity to receive by asylum seekers that reached the U.S. border? If so, how many asylum seekers does the State Department assess that the Government of Guatemala is capable of receiving back on a monthly basis?

Answer. The Attorney General and the Secretary of Homeland Security must certify that a country meet the requirements of 8 U.S.C. § 1158(a)(2)(A) prior to implementation, including that individuals cannot be removed to a country in which the individual would be persecuted and that the individual will have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.

*Question.* What is the name of the Guatemalan asylum agency? What is its annual budget? How many employees does it have?

Answer. The National Commission for Refugees (CONARE) is the Guatemalan agency responsible for asylum issues. It has four participating officials (one from the National Migration Institute (IGM), and one from each of the Ministries of Government, Labor and Social Development, and Foreign Affairs). Currently none of these officials is dedicated to CONARE full-time. CONARE meets to review asylum petitions and submit recommendations to the National Migration Authority (AMN) for final decision.

The Office of International Migration Relations (ORMI) has seven full-time employees (three caseworkers, three investigators seconded to CONARE, and one supervisor). They conduct investigations in support of CONARE recommendations. The Department of State has not yet been able to confirm what CONARE's current budget is. With funding from the Department of State's Bureau of Population, Refugees, and Migration (PRM) UNHCR is assisting the government of Guatemala in scaling up its asylum capacity over the coming year.

*Question.* What is the name of the Guatemalan migration agency? What is its annual budget? How many employees does it have?

Answer. The Government of Guatemala is currently in the process of institutional reform to strengthen its migration management capabilities. Under the new pending Migration Authority Agreement, the National Migration Authority (AMN), including the National Migration Institute (IGM), was scheduled to move out of the Ministry of Government in August 2019 to become a "decentralized entity."

The AMN is composed of representatives from seven governmental institutions: four ministries, the IGM, the Council for Guatemalan Migrants, and the Office of the Vice-President as the head. It does not have its own budgeted staff. The budget for the newly decentralized AMN was still under negotiation as of October 2019.

*Question.* Does the State Department currently assess that the Government of Honduras has the capacity to receive by asylum seekers that reached the U.S. bor-

der? If so, how many asylum seekers does the State Department assess that the Government of Honduras is capable of receiving back on a monthly basis?

Answer. The Attorney General and the Secretary of Homeland Security must certify that a country meet the requirements of 8 U.S.C. § 1158(a)(2)(A) prior to implementation, including that individuals cannot be removed to a country in which the individual would be persecuted and that the individual will have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.

*Question.* What is the name of the Honduras asylum agency? What is its annual budget? How many employees does it have?

Answer. The Human Rights Management office within the National Migration Institute (INM) manages the process for making asylum determinations within the Government of Honduras. The officers make recommendations to the Commission for the Analysis, Revision, and Dictum on the Status of Refugees. The commission is composed of three members of the Ministry of Justice, Governance and Decentralization and three members of the INM. Additionally, two eligibility officers assist the human rights manager in the presentation of cases to the commission for adjudication. The INM Director signs the final approval to grant asylum.

Pursuant to this question, the Department of State is seeking specific information regarding its budget.

*Question.* What is the name of the Honduras migration agency? What is its annual budget? How many employees does it have?

Answer. The National Migration Institute (INM) is the umbrella entity within the Government of Honduras covering migration issues. Pursuant to this question, the Department of State is seeking specific information regarding its budget and staffing but has not received a response at this time.

*Question.* To whom, when, and where does this agreement apply?

Answer. Guatemala and the United States signed an Asylum Cooperative Agreement on July 26, 2019. The Attorney General and the Secretary of Homeland Security determined that Guatemala's asylum system provides full and fair access to individuals seeking protection, as required by U.S. law, prior to the ACA entering into force on November 15, 2019. The first individual was sent to Guatemala under the agreement on November 21, 2019. While the ACA is a bilateral agreement between the United States and Guatemala, humanitarian assistance efforts funded by the Bureau of Population, Refugees, and Migration complement its implementation through partners like the United Nations High Commissioner for Refugees and the International Organization for Migration. The ACA with Guatemala helps address the humanitarian and security crisis at our southern border, while simultaneously fulfilling our mandate to provide protection and resolve the plight of persecuted and uprooted people.

*Question.* Given known violence and humanitarian concerns in Guatemala, how is this agreement consistent with our international obligations related to asylum seekers and refugees?

Answer. On November 15, the agreement the United States signed with Guatemala entered into force following certification by the Attorney General and the Secretary of Homeland Security pursuant to 8 U.S.C. § 1158(a)(2)(A) that individuals seeking asylum who are removed to Guatemala will have access to a full and fair procedure for determining their asylum claim or equivalent protection and following an exchange of diplomatic notes. Individuals who would be persecuted or tortured in Guatemala will not be sent to that country pursuant to this same statutory provision.

*Question.* Given the limitations of Guatemala's existing asylum system, how is the country equipped to process and adjudicate potentially thousands of asylum seekers?

Answer. The Department of State's Bureau of Population, Refugees, and Migration (PRM) provided more than \$26 million in humanitarian assistance funding for UNHCR to assist the government of Guatemala in scaling up its asylum capacities over the coming year.

*Question.* What is your understanding of the resources—financial and personnel—the Government of Guatemala budgets for processing asylum claims?

Answer. The Attorney General and the Secretary of Homeland Security must certify that a country meet the requirements of 8 U.S.C. § 1158(a)(2)(A) prior to implementation, including that individuals cannot be removed to a country in which the

individual would be persecuted and that the individual will have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.

The National Commission for Refugees (CONARE) is the Guatemalan agency responsible for asylum issues. It has four participating officials (one from the National Migration Institute (IGM), and one from each of the Ministries of Government, Labor and Social Development, and Foreign Affairs). Currently none of these officials is dedicated to CONARE full-time. CONARE meets to review asylum petitions and submit recommendations to the National Migration Authority (AMN) for final decision.

The Office of International Migration Relations (ORMI) has seven full-time employees (three caseworkers, three investigators seconded to CONARE, and one supervisor). They conduct investigations in support of CONARE recommendations. The Department of State has not yet been able to confirm what CONARE's current budget is. With funding from the Department of State's Bureau of Population, Refugees, and Migration (PRM) UNHCR is assisting the government of Guatemala in scaling up its asylum capacity over the coming year.

The Government of Guatemala is currently in the process of institutional reform to strengthen its migration management capabilities. Under the new pending Migration Authority Agreement, the National Migration Authority (AMN), including the National Migration Institute (IGM), was scheduled to move out of the Ministry of Government in August 2019 to become a "decentralized entity."

The AMN is composed of representatives from seven governmental institutions: four ministries, the IGM, the Council for Guatemalan Migrants, and the Office of the Vice-President as the head. It does not have its own budgeted staff. The budget for the newly decentralized AMN was still under negotiation as of October 2019.

*Question.* What is Guatemala's current capacity for the number of asylum claims it can process annually based on the resources currently budgeted for asylum claims?

*Answer.* The National Commission for Refugees (CONARE) is the Guatemalan agency responsible for asylum issues. It has four participating officials (one from the National Migration Institute (IGM), and one from each of the Ministries of Government, Labor and Social Development, and Foreign Affairs). Currently none of these officials is dedicated to CONARE full-time. CONARE meets to review asylum petitions and submit recommendations to the National Migration Authority (AMN) for final decision.

The Office of International Migration Relations (ORMI) has seven full-time employees (three caseworkers, three investigators seconded to CONARE, and one supervisor). They conduct investigations in support of CONARE recommendations. The Department of State has not yet been able to confirm what CONARE's current budget is. With funding from the Department of State's Bureau of Population, Refugees, and Migration (PRM) UNHCR is assisting the government of Guatemala in scaling up its asylum capacity over the coming year.

Due to the ongoing reorganization of ORMI, the State Department cannot yet provide an accurate estimation of Guatemala's asylum processing capacity at this time. The United States government is actively working with our partners and the Government of Guatemala to better understand its current capacities.

*Question.* In light of the agreement, what is the expected increase in the number of asylum claims in Guatemala, and what amount of additional resources will be required to handle such claims?

*Answer.* The United States and Guatemala have not yet finalized an implementation plan, which would include more details on how both governments plan to implement the ACA.

In line with its own strategic priorities and the state-led Comprehensive Regional Protection and Solutions Framework (MIRPS), with humanitarian assistance funding from the Department, UNHCR will support the Guatemalan government to scale up its asylum capacity.

*Question.* What is your understanding of the ability and willingness of the Government of Guatemala to devote such additional resources to asylum claims to cover the increase?

*Answer.* The Guatemalan government is committed to strengthening its asylum system based on its 2017 commitments under the Comprehensive Regional Protection and Solutions Framework. State's support for UNHCR in Guatemala bolsters Guatemala's efforts to implement its national action plan, which includes a series of measures to strengthen the asylum system.

*Question.* Where will asylum seekers sent to Guatemala pursuant to this agreement be located in Guatemala?

Answer. The Asylum Cooperation Agreement (ACA) between the U.S. and Guatemala has not yet entered into force. The Department of State, in coordination with the Department of Homeland Security, is actively engaging with the Government of Guatemala to finalize detailed plans for implementation of the agreement.

*Question.* Do you assess that such asylum seekers will be subject to the same crime and insecurity plaguing Guatemala?

Answer. The Attorney General and the Secretary of Homeland Security must certify that these countries meet the requirements of 8 U.S.C. § 1158(a)(2)(A) prior to implementation, including that individuals cannot be removed to a country in which the individual would be persecuted or tortured for political reasons, and that the individual will have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.

*Question.* Does this agreement (the Safe Third Country Agreement with Guatemala) require a rule or further bilateral documents to become effective?

Answer. Pursuant to the terms of the Asylum Cooperative Agreement (“ACA”) between the United States and Guatemala, the ACA will enter into force after the parties exchange notes indicating that each has complied with all necessary domestic legal procedures for the ACA to enter into force. As of the date of this hearing, this exchange has not yet occurred and accordingly the agreement has not entered into force. I defer to the Departments of Justice and Homeland Security regarding any need to modify existing regulations to provide for the U.S. implementation of this and any other ACAs that the United States enters into.

*Question.* Given that 8 U.S.C. § 1158(a)(2)(A) states that the designation of a safe third country requires the Attorney General to determine that the “the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection,” will the U.S. Attorney General issue findings regarding the fullness and fairness of Guatemala’s asylum system and, if so, when?

Answer. The Attorney General and the Secretary of Homeland Security must both determine that the Guatemalan refugee protection system satisfies the “access to full and fair procedure” requirements of 8 U.S.C. § 1158(a)(2)(A) before the Asylum Cooperative Agreement between the United States and Guatemala enters into force. I defer to the Departments of Justice and Homeland Security as to when they anticipate those determinations will be made.

*Question.* Please indicate any change in U.S. policy or regulations related to Guatemala during the pendency of the negotiation of this agreement or since its conclusion.

Answer. To the best of my understanding, there have been no changes to U.S. policy or regulations related to Guatemala during ACA negotiations.

*Question.* To whom, when, and where does this agreement apply?

Answer. Honduras and the United States signed an Asylum Cooperative Agreement (ACA) on September 25, 2019. The ACA between the United States and Honduras has not yet entered into force. The United States and Honduras have not yet finalized an implementation plan, which would include information on how both governments plan to implement the ACA.

*Question.* Given known violence and humanitarian concerns in Honduras, how is this agreement consistent with our international obligations related to asylum seekers and refugees?

Answer. I understand no individual can be sent to a country in which the individual would be persecuted or tortured. The Attorney General and the Secretary of Homeland Security must certify that Honduras meets the requirements of 8 U.S.C. § 1158(a)(2)(A) prior to implementation of the Asylum Cooperation Agreement, including that individuals will have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.

*Question.* Given the limitations of Honduras’s existing asylum system, how is the country equipped to process and adjudicate potentially thousands of asylum seekers?

Answer. The Attorney General and the Secretary of Homeland Security must certify that a country meet the requirements of 8 U.S.C. § 1158(a)(2)(A) prior to implementation, including that individuals cannot be removed to a country in which the individual would be persecuted and that the individual will have access to a full and

fair procedure for determining a claim to asylum or equivalent temporary protection.

*Question.* What is your understanding of the resources—financial and personnel—the Government of Honduras budgets for processing asylum claims?

*Answer.* The Human Rights Management office within the National Migration Institute (INM) manages the process for making asylum determinations within the Government of Honduras. The officers make recommendations to the Commission for the Analysis, Revision, and Dictum on the Status of Refugees. The commission is composed of three members of the Ministry of Justice, Governance and Decentralization and three members of the INM. Additionally, two eligibility officers assist the human rights manager in the presentation of cases to the commission for adjudication. The INM Director signs the final approval to grant asylum.

Pursuant to this question, the Department of State is seeking specific information regarding its budget.

The National Migration Institute (INM) is the umbrella entity within the Government of Honduras covering migration issues. Pursuant to this question, the Department of State is seeking specific information regarding its budget and staffing but has not received a response at this time.

*Question.* What is Honduras's current capacity for the number of asylum claims it can process annually based on the resources currently budgeted for asylum claims?

*Answer.* The Department is taking steps to consult with our international organization partners and the Government of Honduras in order to verify such information.

*Question.* In light of the agreement, what is the expected increase in the number of asylum claims in Honduras, and what amount of additional resources will be required to handle such claims?

*Answer.* The United States and Honduras have not yet finalized an implementation plan, which would include more details on how both governments plan to implement the ACA. It is expected that the U.S. Government will begin working with the Government of Honduras to draft detailed plans for implementation of the agreement in the coming weeks.

*Question.* What is your understanding of the ability and willingness of the Government of Honduras to devote such additional resources to asylum claims to cover the increase?

*Answer.* Through its adoption and implementation of the "Comprehensive Regional Protection and Solutions Framework" (MIRPS, in Spanish), the Government of Honduras expressed its commitment to comprehensively improve its protection systems for refugees, asylum seekers, and internally displaced persons. We are prepared to support Honduras' goals in this regard, through our support for international humanitarian organizations.

*Question.* Where will asylum seekers sent to Honduras pursuant to this agreement be located in Honduras?

*Answer.* The Asylum Cooperation Agreement (ACA) between the U.S. and Honduras has not yet entered into force. The United States and Honduras have not yet finalized an implementation plan, which would include more details on how both governments plan to implement the ACA.

*Question.* Do you assess that such asylum seekers will be subject to the same crime and insecurity plaguing Honduras?

*Answer.* The Attorney General and the Secretary of Homeland Security must certify that these countries meet the requirements of 8 U.S.C. § 1158(a)(2)(A) prior to implementation, including that individuals cannot be removed to a country in which the individual would be persecuted or tortured for political reasons, and that the individual will have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.

*Question.* Does this agreement (the Safe Third Country Agreement with Honduras) require a rule or further bilateral documents to become effective?

*Answer.* Pursuant to the terms of the Asylum Cooperative Agreement ("ACA") between the United States and Honduras, the ACA will enter into force after the parties exchange notes indicating that each has completed all necessary domestic legal procedures for bringing the ACA into force and that an Initial Joint Implementation Plan has been established. This exchange has not yet occurred and accordingly the

agreement has not entered into force. I defer to the Departments of Justice and Homeland Security regarding any need to modify existing regulations to provide for the U.S. implementation of this and any other ACAs that the United States enters into.

*Question.* Given that 8 U.S.C. § 1158(a)(2)(A) states that the designation of a safe third country requires the Attorney General to determine that the “the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection,” will the U.S. Attorney General issue findings regarding the fullness and fairness of Honduras’s asylum system and, if so, when?

*Answer.* The Attorney General and the Secretary of Homeland Security must both determine that the Honduran refugee protection system satisfies the “access to full and fair procedure” requirements of 8 U.S.C. § 1158(a)(2)(A) before the Asylum Cooperative Agreement between the United States and Honduras enters into force. I defer to the Departments of Justice and Homeland Security as to when they anticipate those determinations will be made.

*Question.* Please indicate any change in U.S. policy or regulations related to Honduras during the pendency of the negotiation of this agreement or since its conclusion.

*Answer.* To the best of my understanding, there have been no changes to U.S. policy or regulations related to Honduras during ACA negotiations.

*Question.* To whom, when, and where does this agreement apply?

*Answer.* The United States and El Salvador signed an Asylum Cooperation Agreement on September 20, 2019. When it enters into force, the agreement will allow the United States to transfer third country nationals who wish to seek asylum or other forms of protection to El Salvador to access the Salvadoran government’s protection system.

*Question.* Given known violence and humanitarian concerns in El Salvador, how is this agreement consistent with our international obligations related to asylum seekers and refugees?

*Answer.* Under U.S. law, the ACA requires that DHS and DOJ certify that an asylum seeker has access to full and fair procedures for determining a claim to asylum or equivalent temporary protection in a third country, and that they would not face persecution or torture. We are prepared to work with El Salvador to strengthen its capacity to provide asylum to those who seek it. The Government of El Salvador remains ultimately responsible for addressing crime and insecurity in its country.

*Question.* Given the limitations of El Salvador’s existing asylum system, how is the country equipped to process and adjudicate potentially thousands of asylum seekers?

*Answer.* The Attorney General and the Secretary of Homeland Security must certify that a country meet the requirements of 8 U.S.C. § 1158(a)(2)(A) prior to implementation, including that individuals cannot be removed to a country in which the individual would be persecuted and that the individual will have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection. The United States and El Salvador have not yet finalized an implementation plan, which would include more details on how both governments plan to implement the ACA. We would welcome the opportunity to work with our international partners and the Government of El Salvador to strengthen the capacity of the asylum system.

*Question.* What is your understanding of the resources—financial and personnel—the Government of El Salvador budgets for processing asylum claims?

*Answer.* The Commission for Refugee Status (CODER) is responsible for refugee status determinations for the Salvadoran government and is staffed by employees of the Ministry of Foreign Affairs. CODER does not have its own budget. The Dirección General de Migración y Extranjería is the organization within the Government of El Salvador responsible for migration issues. Pursuant to this question, the Department of State is seeking specific information regarding its budget and staffing but has not received a response at this time.

*Question.* What is El Salvador’s current capacity for the number of asylum claims it can process annually based on the resources currently budgeted for asylum claims?

*Answer.* The Department is taking steps to consult with our international organization partners and the Government of El Salvador in order to verify such information.

*Question.* In light of the agreement, what is the expected increase in the number of asylum claims in El Salvador, and what amount of additional resources will be required to handle such claims?

*Answer.* The United States and El Salvador have not yet finalized an implementation plan, which would include more details on how both governments plan to implement the ACA. It is expected that the U.S. Government will work with the Government of El Salvador to draft detailed plans for implementation of the agreement.

*Question.* What is your understanding of the ability and willingness of the Government of El Salvador to devote such additional resources to asylum claims to cover the increase?

*Answer.* Through its adoption of the “Comprehensive Regional Protection and Solutions Framework” (MIRPS, in Spanish) in July 2019, the Government of El Salvador expressed its commitment to comprehensively improve its protection systems and join its neighbors in taking a coordinated approach to addressing forced displacement issues. It is expected that the Salvadoran government will develop a national action plan in accordance with the MIRPS framework.

*Question.* Where will asylum seekers sent to Guatemala pursuant to this agreement be located in El Salvador?

*Answer.* The Asylum Cooperation Agreement (ACA) between the United States and El Salvador has not yet entered into force. The United States and El Salvador have not yet finalized an implementation plan, which would include more details on how both governments plan to implement the ACA.

*Question.* Do you assess that such asylum seekers will be subject to the same crime and insecurity plaguing El Salvador?

*Answer.* The Attorney General and the Secretary of Homeland Security must certify that these countries meet the requirements of 8 U.S.C. § 1158(a)(2)(A) prior to implementation, including that individuals cannot be removed to a country in which the individual would be persecuted or tortured for political reasons, and that the individual will have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.

*Question.* Does the Safe Third Country Agreement with El Salvador require a rule or further bilateral documents to become effective?

*Answer.* Pursuant to the terms of the Asylum Cooperative Agreement (“ACA”) between the United States and El Salvador, the ACA will enter into force after the parties’ exchange notes indicating that each has completed all necessary domestic legal procedures for bringing the ACA into force. This exchange has not yet occurred and accordingly the agreement has not entered into force. I defer to the Departments of Justice and Homeland Security regarding any need to modify existing regulations to provide for the U.S. implementation of this and any other ACAs that the United States enters into.

*Question.* Given that 8 U.S.C. § 1158(a)(2)(A) states that the designation of a safe third country requires the Attorney General to determine that the “the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection,” will the U.S. Attorney General issue findings regarding the fullness and fairness of El Salvador’s asylum system and, if so, when?

*Answer.* The Attorney General and the Secretary of Homeland Security must both determine that the Salvadorian refugee protection system satisfies the “access to full and fair procedure” requirements of 8 U.S.C. § 1158(a)(2)(A) before the Asylum Cooperative Cooperation Agreement between the United States and El Salvador enters into force. I defer to the Departments of Justice and Homeland Security as to when they anticipate those determinations will be made.

*Question.* Please indicate any change in U.S. policy or regulations related to El Salvador during the pendency of the negotiation of this agreement or since its conclusion.

*Answer.* To the best of my understanding, there have been no changes to U.S. policy or regulations related to El Salvador during ACA negotiations.

#### AUTHORITATIVE POLITICAL AGREEMENTS

*Question.* Please explain why the Department characterized the Joint Declaration (JD) as an “authoritative political agreement,” which appears to blur the line between instruments that are binding under international law—generally referred to

as legal agreements—and instruments that are not binding under international law—generally referred to as political arrangements or commitments.

Answer. As you know, the President announced that the United States and Mexico had entered into this agreement on June 7. Two days later, the Mexican Government issued a statement indicating a view that this arrangement was not legally binding.

In the wake of this Mexican statement, we believed it was important to take time to review the status of the arrangement and engage with the Government of Mexico before stating a definitive position, and it was during this period that we communicated the position that we viewed this arrangement as an “authoritative political agreement.”

While we recognize the ambiguity of this statement, we believed it was important at that time, given those ongoing discussions. We have now clearly communicated our view to the Government of Mexico that the arrangement is legally binding, consistent with the requirements and timeframe envisioned by the Case Act.

*Question.* Please explain the precise characteristics that lead to the classification of a written instrument or oral commitment as an “authoritative political agreement.”

Answer. The President announced that the United States and Mexico had entered into this agreement on June 7. Two days later, the Mexican Government issued a statement indicating a view that this arrangement was not legally binding.

In the wake of this Mexican statement, the Department believed it was important to take time to review the status of the arrangement and engage with the Government of Mexico before stating a definitive position, and it was during this period that we communicated the position that we viewed this arrangement as an “authoritative political agreement.”

While the Department recognizes the ambiguity of this statement, we believed it was important at that time, given those ongoing discussions.

The Administration has now clearly communicated our view to the Government of Mexico that the arrangement is legally binding, consistent with the requirements and timeframe envisioned by the Case Act.

*Question.* Please provide examples of other “authoritative political agreements” in U.S. history.

- i. Were such instruments or oral commitments referred to as “authoritative political agreements” at the time they were finalized or concluded? If not, when were they classified as such?
- ii. For any examples, please indicate whether they are binding or non-binding for purposes of international law, and whether they were reported under the Case Act (if finalized subsequent to enactment of that statute).

*Question.* Does the United States ever enter into political agreements that are not “authoritative?” If yes, please explain why, and please provide examples of such non-authoritative political agreements.

Does the Department generally transmit to Congress authoritative or non-authoritative political agreements pursuant to the Case Act? If yes, please provide examples. If no, please explain why not.

Answers. It is the Department’s understanding that we have not previously used the specific term “authoritative political agreement”. Further, it is the Department’s understanding that this situation presented a number of unique issues. As you know, the President announced that the United States and Mexico had entered into this agreement on June 7. Two days later, the Mexican Government issued a statement indicating a view that this arrangement was not legally binding.

In the wake of this Mexican statement, the Department believed it was important to take time to review the status of the arrangement and engage with the Government of Mexico before stating a definitive position, and it was during this period that the Department communicated the position that we viewed this arrangement as an “authoritative political agreement.”

While we recognize the ambiguity of this statement, the Department believed it was important at that time, given those ongoing discussions. We have now clearly communicated our view to the Government of Mexico that the arrangement is legally binding, consistent with the requirements and timeframe envisioned by the Case Act.

With respect to the decision to report this under the Case Act, the Department’s understanding is that the Department followed the criteria set out at 22 C.F.R. 181.2 in deciding whether any undertaking, oral agreement, document, or set of documents, including an exchange of notes or of correspondence, constitutes an inter-



national agreement within the meaning of the Case Act. These include the identity and intention of the parties; the significance of the arrangement; specificity, including objective criteria for determining enforceability; the necessity for two or more parties; and the form of the instrument. The Department transmitted to Congress the Mexico Joint Declaration and Supplementary Agreement under the Case Act on August 6, 2019.

With respect to your second question, as described above the Department used the phrase “authoritative political agreement” to describe the arrangement at a point in time that the United States was engaged in discussions in order to state a definitive U.S. position on the nature of the arrangement. We recognize the ambiguity of the statement; as a general principle, the Department would typically consider any finally-negotiated arrangement, whether it is legally-binding or non-binding in nature, to be “authoritative” with respect to the text negotiated by the parties.

With respect to your third question, as noted above, the Department transmits agreements that are binding under international law to Congress, pursuant to the Case Act.

#### CIRCULAR 175 (C-175) AUTHORITY

*Questions.* Were the JD and Supplementary Agreement (SA) negotiated and concluded pursuant to C-175 authority?

- a. If yes, did the C-175 authorization and underlying memorandum of law indicate that the JD, the SA or both, individually or collectively, would constitute a binding agreement under international law? Please explain.
- b. If yes, please provide the date(s) any such C-175 authority was issued.
- c. If yes, please provide copies of the authority and underlying memorandum of law.

If the JD and/or the SA were not negotiated and/or concluded pursuant to C-175 authority, please explain why.

*Answers.* The Administration has been engaged in ongoing discussions with the Government of Mexico with a view to addressing the shared challenges of illegal migration, including the entry of migrants into the United States across our shared border in violation of U.S. law.

In connection with these discussions, in the summer of 2018, the Department proposed that the United States and Mexico negotiate a binding international agreement regarding burden-sharing and the assignment of responsibility for processing refugee status claims of migrants. The decision to pursue negotiations for such an agreement was fully coordinated and approved within the executive branch in accordance with the Circular 175 process.

In June 2019, the Administration engaged with Mexico on the details of a binding international agreement regarding burden-sharing and the assignment of responsibility for processing refugee status claims of migrants, which was consistent with the Circular 175 process noted above. During those negotiations, the Government of Mexico introduced other proposed measures to address the challenges of illegal migration, and we and the Government of Mexico sought to reduce to writing the proposed way forward. Ultimately, as noted previously, the Joint Declaration and Supplementary Agreement were drafted and agreed to by the two parties to set the stage for a further set of discussions to advance these joint policy objectives; this approach couples a commitment to pursue further negotiations on a safe third country agreement with commitments to pursue a set of other measures.

Given that the Circular 175 process is an internal executive branch process for coordinating and facilitating review and approval of proposed international agreements, the Administration is not in a position to share the underlying documentation given that this presents issues regarding internal Executive Branch deliberations and attorney-client communications. The Department can assure you, however, that the Joint Declaration and Supplementary Agreement were reviewed and approved prior to their conclusion. The Administration transmitted these instruments to Congress, in accordance with the Case Act, on August 6.

#### ANALYSIS OF WHETHER JD AND SA ARE BINDING UNDER INTERNATIONAL LAW

*Question.* Please indicate whether the JD alone is binding under international law?

Please identify the characteristics of the JD from which it can be concluded that both the United States and Mexico regard the JD as binding under international law?

Please indicate which specific provisions of the JD impose binding obligations on either the U.S., Mexico, or both.

Please indicate whether the SA alone is binding under international law?

Please identify the characteristics of the SA from which it can be concluded that both the United States and Mexico regard the SA as binding under international law.

Please indicate which specific provisions of the SA impose binding obligations on either the U.S., Mexico, or both.

Answer. The Department regards the Joint Declaration and Supplementary Agreement collectively to constitute a legally binding agreement under international law. The two components of this agreement contain a series of commitments to address irregular migration, some of which are legally binding and others of which are not legally binding. The essential objective of this agreement was to commit the Government of Mexico to implement a series of measures designed to stem the flow of migrants into the United States. In addition, it was essential to the Administration to ensure the firmest possible commitment from the Government of Mexico to take specific further actions in the event the other measures identified in the agreement were unsuccessful in addressing the migrant flow problem.

In particular, the Supplementary Agreement specifies that the United States and Mexico will immediately begin discussions to establish definitive terms for a binding bilateral agreement to further address burden-sharing and the assignment of responsibility for processing refugee status claims of migrants. In addition, it establishes an obligation on the part of Mexico to take all necessary steps under domestic law with a view to ensuring that this further binding agreement will enter into force within 45 days if the United States determines that the measures adopted by the Government of Mexico pursuant to the Joint Declaration have not sufficiently achieved results in addressing the flow of migrants to the southern border of the United States. In this way, it is necessary to read the Joint Declaration and Supplementary Agreement together to identify the legal obligations established with regard to the negotiation and entry into force of a further binding agreement to address burden-sharing and the assignment of responsibility for processing refugee status claims of migrants.

Since the conclusion of these instruments, the United States and Mexico have focused their efforts on implementation of the range of commitments reflected in the Joint Declaration in order to address challenges posed by illegal migration at the southern border. In light of our current progress, the United States and Mexico have not to date pursued further negotiations to finalize the text of a binding agreement contemplated by the Supplementary Agreement, and the United States therefore has not triggered the obligation for Mexico to take necessary steps to bring such an agreement into force.

The Department understands that some confusion has arisen regarding the legal character of the Joint Declaration and Supplementary Agreement in light of statements about them in weeks immediately following their conclusion. The President announced that the United States and Mexico had entered into this agreement on June 7. Two days later, the Mexican Government issued a statement indicating a view that the instruments were not legally binding. In the wake of this Mexican statement, we believed it was important to take time to review the status of the instruments and engage with the Government of Mexico before stating a definitive position, and it was during this period that we communicated the position that we viewed the instruments as an "authoritative political agreement." While we recognize the ambiguity of this statement, we believed it was important at that time, given those ongoing discussions. We have now clearly communicated our view to the Government of Mexico that the arrangement is legally binding and transmitted the agreement to Congress consistent with the requirements and timeframe envisioned by the Case Act.

*Question.* Please identify and explain in detail the specific factors that the Department analyzed in arriving at the position that the JD and SA collectively are binding under international law.

Please provide a detailed explanation, with relevant examples, of the legal theory by which the Department believes it is possible for a subsequent instrument, such as the SA, to render a change in the legal character of a prior instrument that was not itself previously considered binding under international law?

Please indicate whether the Department's analysis of the binding nature of the JD, SA, and the JD and SA collectively is consistent with the practice and precedent of the United States on international agreements and arrangements, or if the anal-

ysis departs from the practice and precedent of the United States in this area. If it does differ, please explain the following:

- i. how it differs;
- ii. why the executive branch departed from U.S. practice and precedent;
- iii. whether the executive branch's position on the JD, SA, and SA and JD collectively is a one-time departure from U.S. practice and precedent, or whether the departure represents a shift in executive branch practice;
- iv. whether the executive branch has made the Government of Mexico aware of any departure.

#### POSITION OF THE UNITED STATES WITH REGARD TO THE JD AND SA

*Questions.* During the course of the negotiations of the JD and SA, what was the position of the United States on whether the JD, the SA, and the JD and SA collectively were binding under international law?

Upon finalizing the JD and SA, what was the position of the United States on whether the JD, the SA, and the JD and SA collectively were binding under international law?

Acting Legal Adviser String appeared to indicate in his July 24 testimony that questions of whether the JD and SA were binding under international law were still being considered within the executive branch. If the United States did not have a position on the question of whether the instruments were binding during the negotiation or when the instruments were finalized, please explain why that would be the case.

Did the position of the United State on whether the instruments were binding change from the outset of the negotiations to the date the instruments were finalized or at any point between the date the instruments were finalized to the July 29 communication from the Department to SFRC staff. If yes, please explain the substance of the change(s)—i.e. from what to what—and the reason(s)?

Position of the Government of Mexico (GOM) with regard to the JD and SA (as understood by the executive branch)

*Answers.* With respect to the our reporting practice with regard to the Case Act, the Department follows the criteria set out at 22 C.F.R. 181.2 in deciding whether any undertaking, oral agreement, document, or set of documents, including an exchange of notes or of correspondence, constitutes an international agreement within the meaning of the Case Act, and that it will continue to do so.

With respect to your second question, the Department does not agree with the premise of the question given that both the Joint Declaration and Supplementary Agreement were agreed upon jointly.

With respect to your remaining questions, the United States regards the Joint Declaration and Supplementary Agreement collectively to constitute a legally binding agreement under international law, which is consistent with practice, despite the unique set of issues presented by the negotiations, described at length above in response to other questions.

Namely, the two components of this arrangement contain a series of commitments, some of which are legally binding and others of which are not legally binding. The essential objective of this arrangement was to commit the Government of Mexico to implement a series of measures designed to stem the flow of migrants into the United States.

As the negotiations unfolded, it became essential to the Administration to secure the firmest possible commitment that the Government of Mexico would commence the negotiation of a safe third country agreement to ensure that the Administration could put such an agreement in place if the other measures identified in the arrangement were unsuccessful in addressing the migrant flow problem.

In our view, it is necessary to read the two components of the arrangement—the Joint Declaration and Supplementary Agreement—together as establishing and identifying the triggering conditions for the Mexican obligation to “take the all necessary steps under domestic law with a view to ensuring that the agreement will enter into force within 45 days.”

Since the conclusion of these instruments, the United States and Mexico have focused their efforts on implementation of the range of commitments reflected in the Joint Declaration in order to address challenges posed by illegal migration at the southern border. In light of our current progress, the United States and Mexico have not to date pursued further negotiations to finalize the text of a binding agreement contemplated by the Supplementary Agreement, and the United States therefore

has not triggered the obligation for Mexico to take necessary steps to bring such an agreement into force.

*Questions.* Has the position that the JD and SA collectively constitute a binding agreement under international law been conveyed to the GOM?

- a. If yes, please indicate when this position was first conveyed to the GOM.
- b. If no, please explain why it has not been conveyed to the GOM.

What is the Department's understanding of the position of the GOM on the following:

- a. whether the JD is binding for purposes of international law,
- b. whether the SA is binding for purposes of international law, and
- c. whether the JD and SA collectively are binding for purposes of international law.

\*Please note that the preceding questions are not a request for the Department to speak on behalf of the GOM; rather we are interested in the Department's understanding of the GOM's position.

*Answer.* The Department understands that we clearly communicated our view to the Government of Mexico that the arrangement is legally binding prior to the agreement being transmitted to Congress consistent with the requirements and timeframe envisioned by the Case Act.

With regard to your next set of questions, we also understand that some confusion has arisen regarding the legal character of the Joint Declaration and Supplementary Agreement in light of statements about them in weeks immediately following their conclusion. The President announced that the United States and Mexico had entered into this agreement on June 7. On June 9, the Mexican Government issued a statement indicating a view that the instruments were not legally binding.

The Department's understanding is also that the Mexican Government has appreciated our ongoing and candid communications on these important policy issues that are of shared concern to our two nations. Our nations have together focused on addressing these issues of shared concern through a variety of measures.

#### IMPACT OF POTENTIAL DIFFERING POSITIONS BETWEEN UNITED STATES AND MEXICO

*Questions.* If the GOM does not share (and never has shared) the executive branch position that the JD and SA collectively are binding under international law, would that change the executive branch position that the JD and SA collectively are binding? If no, please explain.

If the GOM does not share (and never has shared) the executive branch position that the JD and SA collectively are binding under international law, could the GOM be bound by any provision of such instruments? If yes, please explain.

#### CASE ACT TRANSMITTAL

In light of the executive branch position that the JD and SA collectively are binding under international law and the indication that they will be transmitted to Congress pursuant to the Case Act, does the Department commit to transmitting to Congress, pursuant to the Case Act, all similarly-situated instruments going forward?

*Answers.* The Department understands that, with respect to your first two questions, the Administration has been engaged in ongoing discussions with the Government of Mexico with a view to addressing the shared challenges of illegal migration, including the entry of migrants into the United States across our shared border in violation of U.S. law. The results of their efforts are memorialized in two documents concluded on June 7, 2019—the U.S.-Mexico Joint Declaration and the Supplementary Agreement between the United States and Mexico. As we have previously indicated, the Administration regards these two documents, collectively, to constitute a binding agreement under international law. This is the Administration's position, and the Administration is proceeding in our diplomatic efforts on the basis of this position.

In relation to the Government of Mexico's compliance with the provisions of these instruments since they were concluded, the United States and Mexico have focused their efforts on implementation of the range of commitments reflected in the Joint Declaration in order to address challenges posed by illegal migration at the southern border. In light of our current progress, the United States and Mexico have not to date pursued further negotiations to finalize the text of a binding agreement contemplated by the Supplementary Agreement, and the United States therefore has

not triggered the obligation for Mexico to take necessary steps to bring such an agreement into force.

With respect to your final questions regarding the Department's reporting practice with regard to the Case Act, the Department's understanding is that we follow the criteria set out at 22 C.F.R. 181.2 in deciding whether any undertaking, oral agreement, document, or set of documents, including an exchange of notes or of correspondence, constitutes an international agreement within the meaning of the Case Act, and that it will continue to do so.

#### DOMESTIC LEGAL AUTHORITY FOR JD AND SA

*Question.* The Department has indicated that it "consider[s] the Joint Declaration and Supplementary Agreement to be, collectively, an executive agreement, concluded in the exercise of the President's constitutional authority for the conduct of foreign relations:"

- a. Please be more specific concerning the constitutional authority asserted as the basis for the JD and SA. Which specific provisions of the Constitution does the Department view as providing the domestic legal authority for the JD and SA?
- b. Prior to the JD and SA, had the United States concluded any international instrument related to immigration or migration and asserted "the President's constitutional authority for the conduct of foreign relations" or any other constitutional authority of the President as the sole domestic legal basis for the instrument(s)?
  - i. If yes, please provide a list of each instrument that meets these criteria, the date it was concluded, and a statement of the specific constitutional provisions that provide the asserted authority.

*Answer.* It is the Department's understanding that we transmitted the Mexico Joint Declaration and Supplementary Agreement under the Case Act on August 6, 2019 and that the accompanying report indicated that the legal authority for entering into the agreement was Article II of the U.S. Constitution.

Further, the Department understands that reliance on Article II as the sole source of authority for entering into an international agreement is not uncommon in situations where an agreement either imposes obligations only on the treaty partner, but not on the United States, or imposes obligations on the United States limited to matters within the President's constitutional authority, such as the negotiation of international agreements.

*Question.* Does the Department generally transmit to Congress authoritative or non-authoritative political agreements pursuant to the Case Act? If yes, please provide examples. If not, why not.

*Answer.* The Department used the phrase "authoritative political agreement" to describe the arrangement at a point in time that the United States was engaged in discussions in order to state a definitive U.S. position on the nature of the arrangement. We recognize the ambiguity of the statement; as a general principle, the Department would typically consider any finally negotiated arrangement, whether it is legally-binding or non-binding in nature, to be "authoritative" with respect to the text negotiated by the parties. The Department transmits agreements that are binding under international law to Congress, pursuant to the Case Act.

*Question.* Can you confirm that, according to the State Department's own website, the Mexican state of Tamaulipas has the same travel level warning as Syria—level 4 do not travel—due to high levels of violent crime there?

*Answer.* The Mexican state of Tamaulipas currently has a do not travel advisory for that state due to crime and kidnapping. Violent crime, such as murder, armed robbery, carjacking, kidnapping, extortion, and sexual assault, is common. Gang activity, including gun battles and blockades, is widespread. Armed criminal groups target public and private passenger buses as well as private automobiles traveling through Tamaulipas, often taking passengers hostage and demanding ransom payments. Federal and state security forces have limited capability to respond to violence in many parts of the state. Syria has a do not travel advisory due to terrorism, civil unrest, kidnapping, and armed conflict. No part of Syria is safe from violence. Kidnappings by armed groups, arbitrary arrests, the use of chemical warfare, shelling, and aerial bombardment pose significant risk of death or serious injury. The destruction of infrastructure, housing, medical facilities, schools, and power and water utilities has also increased hardships inside the country.

*Question.* During a briefing for SFRC staff by officials from DHS and the State Department's WHA and PRM bureaus, the Administration admitted that levels of

violence in Mexican cities were not indicators considered when deciding where to implement the Migrant Protection Protocols along the U.S. border. Can you explain this?

Answer. Questions on how locations were identified should be directed to the Department of Homeland Security.

*Question.* During the State-DHS briefing, the Administration also told SFRC Democratic and Republican staff that pregnant women in their third trimester and families with young children are not considered “vulnerable populations” and therefore will be sent back to Mexico under the Remain in Mexico policy. Can you confirm this? How can you possibly explain this?

Answer. Questions about Migrant Protection Protocol procedures should be addressed to the Department of Homeland Security.

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RESPONSES OF ASSISTANT SECRETARY KIRSTEN D. MADISON TO QUESTIONS  
SUBMITTED BY SENATOR BEN CARDIN

*Question.* 2017 marked a record level of U.S. overdoses, with more than half of the 72,000 overdose deaths involving opioids. In Maryland there were 2,143 opioid-related deaths last year. Mexican drug trafficking organizations pose the greatest crime threat to the United States and have “the greatest drug trafficking influence,” according to the annual U.S. Drug Enforcement Administration’s (DEA’s) National Drug Threat Assessment. They are involved in extensive money laundering, bribery, gun trafficking, and corruption, causing Mexico’s homicide rates to spike:

To what extent, if at all, has the need to address migration issues inhibited U.S. and Mexican efforts to address other issues such as counter-narcotics and trade?

Answer. The Mexican government continues to address multiple priorities of importance to the United States, including migration, trade, and counternarcotics. Since President Lopez Obrador took office in late 2018, the Mexican government has surged significant resources to focus on migration and fuel theft, which is a major revenue stream for criminal trafficking organizations. At the highest levels, the United States continues to engage with Mexico on a range of U.S. priorities, including the need for Mexico to intensify its counternarcotics efforts.

*Question.* 2017 marked a record level of U.S. overdoses, with more than half of the 72,000 overdose deaths involving opioids. In Maryland there were 2,143 opioid-related deaths last year. Mexican drug trafficking organizations pose the greatest crime threat to the United States and have “the greatest drug trafficking influence,” according to the annual U.S. Drug Enforcement Administration’s (DEA’s) National Drug Threat Assessment. They are involved in extensive money laundering, bribery, gun trafficking, and corruption, causing Mexico’s homicide rates to spike:

How have drug seizures and migrant border wait times trended over the past several months?

Answer. For trends on drug seizures by U.S. authorities and migrant wait times at the U.S.-Mexico border, the Department of State refers you to the Department of Homeland Security. The Department of State partners with Mexican authorities to reduce drug trafficking across our border and production in Mexico, disrupt transnational criminal organizations and remove their illicit revenue, and bring criminals to justice. The Department of State is focused in particular on addressing increases in the amount of synthetic opioids that transnational criminal organizations produce in and traffic through Mexico. Reducing the flow of these drugs into the United States is a top priority.

*Question.* What are you doing to strongly and publicly signal that INL and the Department of State are committed to supporting the fight against corruption in Central America?

Answer. Reducing corruption and enhancing transparency and integrity is a cornerstone of the Department’s approach in Central America. The Department works with host government partners to professionalize justice sector institutions in Central America and ensure they have the capabilities to combat corruption. The Department is also committed to utilizing the variety of sanctions and visa restriction tools, including Section 7031(c) of the annual appropriations bill and the Global Magnitsky Human Rights Accountability Act, to prevent corrupt individuals from traveling to and spending their ill-gotten gains in the United States and as valuable tools to hold the corrupt accountable and deter further corruption.

*Question.* Until recently, INL supported programs in Central America that established, trained, and/or strengthened police units dedicated to addressing gender-based violence. What is the status of these programs now?

How were they impacted by recent Administration decisions to defund programs in the Northern Triangle?

Answer. Several gender-based violence programs and initiatives continue to function with previous fiscal year funds. Once prior fiscal year funds are expended, no new FY2017 nor FY2018 funds will be available and gender-based violence programs will cease until new funds are made available.

*Question.* Many programs in the Northern Triangle are designed and implemented with the aim of humanitarian and development purposes. These programs are intended to transform communities and foster development, but do not track impacts on migration as that was not the goal or mandate of the program.

How is this fact being considered in programming decisions?

Answer. The President has made clear that the Governments of El Salvador, Guatemala, and Honduras have not made enough progress and need to do more to address the drivers of irregular migration. We know that the root causes of illegal immigration to the United States—weak governance, insecurity, and lack of prosperity—must be addressed to reduce out-migration from Central America. We are engaging Central American governments on additional steps they should take to achieve those shared goals.

The Department of State and USAID routinely adjust our programming based on performance data and alignment toward U.S. policy goals. For example, in collaboration with our implementing partners, USAID is currently collecting data against new indicators related to the migration experiences, attitudes, and intentions of participants in the assistance programs we fund in the countries of El Salvador, Guatemala and Honduras. These new indicators will help USAID and implementing partners to better monitor the direct effects of our programs on improving governance, security, and economic prosperity.

*Question.* How does knowingly sending vulnerable women and children back to these conditions under the Remain in Mexico policy comply with the United States' international human rights and humanitarian obligations?

Answer. Mass migration promoted by human smugglers that results in sexual assault of over 30 percent of women and girls clearly is not supportive of their human rights. Our policies are designed to stop that and to channel uncontrolled illegal, unsafe mass migration into safe, orderly, and legal channels. The Department of State understands the Department of Homeland Security (DHS) does not return unaccompanied children to Mexico under the Migrant Protection Protocols (MPP) and may exclude other vulnerable individuals on a case-by-case basis. We refer you to DHS for additional details on MPP implementation.

The Government of Mexico has noted publicly that individuals under MPP are accorded all rights and freedoms recognized in Mexico's constitution, its migration laws, and the international treaties to which Mexico is a party.

In the June 7 U.S.-Mexico Joint Declaration, the Mexican government committed to offer jobs, healthcare, and education to migrants returned to Mexico under the MPP.

*Question.* The Trump administration is pushing forward with plans to harden the southern border to reduce the influx in migration. As a result, the Mexican government has found itself under pressure to take an increasing number of asylum seekers. Please assess the relative strength or weakness of Mexico's asylum system.

Answer. Mexico has an adequate legal framework governing its asylum system and, with U.S. support, the government's asylum processing capacity has tripled in the past year.

Mexico's domestic legal framework provides asylum seekers the right to access public services such as education and the right to work. Mexico is a party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Mexico applies the Cartagena Declaration to asylum seekers from Honduras, which, among other things, enables them to obtain refugee status if fleeing generalized violence.

*Question.* What type of assistance has the U.S. Government provided through UNHCR to support that agency?

Answer. In fiscal year 2019, the Bureau for Population, Refugees, and Migration (PRM) contributed more than \$51 million to UNHCR for its operations in Mexico to help build Mexico's asylum capacity and assist asylum seekers and refugees. Spe-

cifically, this money helps support Mexico's refugee agency, provides access to legal assistance, psychosocial counseling, refugee integration and shelter support.

With UNHCR technical assistance funded by PRM the Mexican Commission for Refugee Assistance (Spanish acronym COMAR) has expanded its capacity to meet growing operational needs, including the recruitment of 155 individual contractors, 27 of whom have been absorbed by COMAR and are now funded through the Government of Mexico directly. With the help of U.S.-funded UNHCR support, COMAR has opened new offices in Monterrey, Tijuana, and Palenque.

*Question.* In your view, what level of assistance would need to be provided over what length of time to help Mexico absorb the level of applications it is receiving?

*Answer.* At a minimum, assistance must continue at current levels to help the Mexican Commission for Refugee Assistance (Spanish acronym COMAR) finish clearing its current backlog of asylum applications, on which it has made significant progress over the past year. The backlog arose, in part, due to the 2017 earthquake, which resulted in significant loss of files and triggered various administrative capacity shortfalls and delays.

*Question.* How important is it for the Administration to conclude a safe third country agreement with Mexico?

*Answer.* Combatting illegal migration across the U.S. southern border is a top priority for the administration and we continue to interact with the Mexican government on a variety of ways to do so. We laud Mexico's ongoing efforts to curb the flow of illegal immigration to the United States through the enforcement of its immigration.

*Question.* Guatemala's National Commission for Refugees decides asylum claims: Please describe the Commission's current structure, such as the size of the Commission's staff, how often it meets, how many full-time dedicated staff it employs, and whether it has permanent staff and space.

*Answer.* The National Migration Authority (AMN) is charged with resolving all asylum claims based on recommendations submitted by the National Refugee Commission (CONARE), an advisor entity to the AMN. Currently, the Office of International Migration Relations (ORMI) has a team of seven full-time employees. Before February 2019, there were only four. Under Guatemala's new domestic arrangement on "migration authority," ORMI was set to be absorbed as a new sub-department under the AMN, but it is unclear at this time whether the reorganization process has been completed.

CONARE consists of working-level technical representatives from the Ministries of Government, Labor and Social Development, and Foreign Affairs, and a representative from the Guatemalan Institute for Migration (IGM). CONARE makes a technical recommendation to AMN to approve or deny asylum requests, based on its assessment of whether the case meets the requisite burden of proof. The representatives in CONARE remain on the payrolls of their respective ministries. Currently none of these people is dedicated to CONARE full-time.

AMN makes the final decision on asylum cases and ultimately is the entity that grants asylum. It is composed of seven governmental institutions: four ministries, the Guatemalan Institute for Migration (IGM), the Council for Guatemalan Migrants, and the Office of the Vice-President as the head. Like CONARE, AMN has a principal participant and stand-in from each institution, none of whom is dedicated full-time to asylum determinations.

*Question.* In the past 2 years, how many asylum applications did the Commission receive, process, and approve

*Answer.* According to the Government of Guatemala, CONARE received 262 applications in 2018 and 218 in 2019 as of July. CONARE was unable to work on cases for over a year while the Rules of Procedure for Refugee Status were being drafted. As of March 2019, there was a backlog of 210 cases. Though CONARE has been able to make about 30 recommendations since March, the National Migration Authority (AMN) has not reached a decision on these cases. CONARE is meeting bi-weekly, instead of monthly, over the next few months to make recommendations on the backlogged cases. Historically, Guatemala has had capacity to process about 100–150 cases per year.

*Question.* The United States has only signed a safe third country agreement with Canada, where the murder rate is only 1.8 per 100,000 residents, or one third of that of the United States. How can the U.S. Government in good conscience sign similar agreements with countries like Guatemala, El Salvador, and Honduras, where murder and other crime rates are some of the highest in the world?



**Answer.** The United States signed Asylum Cooperation Agreements (ACAs) with the governments of Guatemala (July 26), El Salvador (September 20) and Honduras (September 25). We expect these countries to meet the requirements of 8 U.S.C. § 1158(a)(2)(A) prior to implementation, so that the United States may, when appropriate, transfer asylum-seekers to pursue protection claims there.

**Question.** Women and girls can face violence, exploitation, and abuse throughout their journey. For example, a woman fleeing domestic violence in Guatemala is also highly vulnerable to further sexual assault, trafficking, or other abuse as she transits El Salvador. How does the recently announced agreement with the Government of El Salvador requiring asylum seekers to seek asylum in El Salvador before attempting to do so in the United States protect women and girls from experiencing violence during their journey?

**Answer.** In support of the Asylum Cooperation Agreement with El Salvador, which has not entered into force, the Department anticipates providing support for the Government of El Salvador to build up its asylum system and capacities, to include the appropriate staffing and expertise for assessing, identifying, and responding to protection concerns, including unique vulnerabilities of women and girls.

**Question.** What is your role in implementing this agreement? How does that comply with your mandate to strengthen systems, rule of law, and human rights when it is clear that an agreement of this sort is primarily intended to keep people from our borders rather than to address the severe vulnerabilities women and girls face along the way?

**Answer.** The Department of Homeland Security and the White House have led U.S. engagement with the Governments of El Salvador, Guatemala, or Honduras on asylum-related agreements. While the specific needs associated with strengthening partner nation institutional capacity are still being evaluated, existing INL programming works with host nation partners to strengthen judicial and law enforcement institutions, combat corruption, and improve professionalization.

**Question.** Why was the U.S. Government silent, and why did it not more forcefully defend such an institution (CICIG) that was helping to eliminate a key root cause of migration?

**Answer.** The United States remains committed to supporting Guatemalan institutions and the Guatemalan people in their ongoing fight against corruption and impunity. We take that fight seriously, knowing that the rule of law, reduced corruption, and an end to impunity are key to security, stability, and prosperity not only in Guatemala, but throughout the region and the world.

The departure of CICIG does not affect the Department's commitment to continue working with Guatemalan partners to build their capacity to fight corruption and impunity.

**Question.** What are we doing to help President Bukele of El Salvador establish a similar commission in his country?

**Answer.** On September 6, the Salvadoran government and the Organization of American States (OAS) announced the creation of the International Commission against Corruption and Impunity in El Salvador (CICIES). The Salvadoran Government and OAS have not yet worked out implementation details; we are engaging both to learn more about the effort as well as potential resource needs. In the framework of respect for El Salvador's sovereignty, we look forward to helping support President Bukele in this initiative, and encourage all constructive measures that seek to reduce corruption and impunity in El Salvador.

**Question.** Guatemalan authorities recently discovered a large coca plantation in their country—a first for Central America, which has traditionally served as a trans-shipment point for drugs exported from Colombia to Mexico and the United States. Is Central America turning into a drug-producing region?

**Answer.** We are analyzing the Guatemalan government's recent discovery of coca plants and cocaine labs. Traditionally we have viewed Central America mostly as a drug transit region. We continue to seek additional information about this most recent discovery and will continue to ensure our programming is targeted based on verified evidence of regional trends.

**Question.** The Federal Police in Mexico received significant assistance from the U.S. Government during the Bush and Obama administrations, but the latest move to centralize policing authority in Mexico has been the creation of the National Guard:

What progress has been made in Mexico on the creation of the new National Guard force?

*Answer.* In support of the National Guard, Mexico enacted a series of new laws, including a constitutional amendment; reassigned approximately 60,000 personnel from the Mexican Army (SEDENA), Navy (SEMAR), and Federal Police (PF) to the force; recruited approximately 2,500 new personnel to date; and deployed units to 150 locations throughout Mexico. President Lopez Obrador's proposed budget for 2020 dedicates \$192 million to the National Guard.

*Question.* What more could the U.S. Government do to help with the professionalization of this force, and what do we have to show for all of the resources previously expended by the U.S. Government in vetting and equipping the Federal Police?

*Answer.* As Mexico makes increasingly clear the intended roles and authorities of the National Guard (NG), the U.S. Government will continue to work with our Mexican counterparts to identify and evaluate the types of assistance that would most directly build capacity to support U.S. interests, including targeted professionalization programs as well as programs that support the achievement of more impactful counternarcotics results. Since the inception of the Merida Initiative, the Federal Police (PF) has been an instrumental partner in our shared efforts to counter transnational organized crime. The Department is engaging actively with the Government of Mexico to ensure it appropriately preserves and leverages previous and ongoing U.S. investments as the PF transitions into the National Guard.

*Question.* Mexico is in the midst of its most dangerous year on record, with unprecedented numbers of murders reported so far in 2019. Following the threat of tariffs against Mexico in June, President López Obrador diverted some 25,000 troops from the anti-drug fight to contend with successive waves of migrants from Central America:

To what extent has placating President Trump on border enforcement distracted Mexican security forces from other priorities, such as combating organized crime and securing the streets?

*Answer.* The Mexican Government continues to address multiple priorities of importance to the United States, including migration, trade, and counternarcotics. Since President López Obrador took office in late 2018, the Mexican government has surged significant resources to focus on migration and fuel theft, which is a major revenue stream for criminal trafficking organizations. At the highest levels, the United States continues to engage with Mexico on a range of U.S. priorities, including the need for Mexico to intensify its counternarcotics efforts.

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RESPONSES OF ACTING ASSISTANT SECRETARY MICHAEL G. KOZAK TO QUESTIONS  
SUBMITTED BY SENATOR BEN CARDIN

*Question.* How would you assess the current state of U.S. relations with Mexico, El Salvador, Guatemala, and Honduras?

*Answer.* I would assess the relationship with all four countries as close and productive. Mexico and Central America share close bonds with the United States through geographic proximity, commerce, and family ties as well as shared history, culture, and democratic values. We cooperate closely with Mexico, El Salvador, Guatemala, and Honduras on a broad range of political, security, migration, counternarcotics, trade, and economic issues. For example, we work closely with Mexico and the Central American countries to address irregular migration, human trafficking, transnational crime, and the production and movement of illicit narcotics. Our joint work in these areas is paramount to achieving our goal of ensuring security for the American people.

*Question.* Unauthorized immigration is just one of the many priorities the U.S. has in Central America. We are also critical trading partners and share a host of other regional objectives: How would you rank reducing migration among U.S. priorities for each of those countries and among the priorities of the governments of each of those countries?

*Answer.* The President has made it clear that reducing irregular migration to the United States is a top U.S. Government priority in Central America but it is not at odds with our other priorities, but is an integral part of achieving them and vice versa. The key is that the governments in the region may find the political will to help us stop the uncontrolled mass migration in the short term and to make the reforms necessary to create security, economic opportunity in the medium term. These are also top priorities for Central American populations. The Department of Homeland Security (DHS) signed a bilateral memorandum of cooperation on border security cooperation with Guatemala on May 28 and Asylum Cooperation Agree-

ments with Guatemala on July 26, El Salvador on September 20, and Honduras on September 25. The Department of Labor (DOL) signed a cooperative agreement with Guatemala on July 30 concerning H-2A nonimmigrant visas for temporary agricultural workers. And we are working to lobby about reforms that will create opportunities for economic advancement and prosperity.

*Question.* How would you assess Mexico's migration control efforts under the López Obrador government?

*Answer.* The June 7 U.S.-Mexico Joint Declarations reflects a scale and level of commitment not seen before. The López Obrador government has made significant progress to control Mexico's southern border and irregular migration, including deploying the Mexican National Guard throughout the country, significantly increasing apprehensions and repatriations, where appropriate, of irregular migrants and stepping-up activities against human smuggling and trafficking operations throughout the country. Thanks to these efforts, amongst others, we have seen substantial reductions in the flow of illegal immigrants to the United States.

*Question.* To what extent, if at all, do you share Mexico's proposition that the best way to reduce emigration from Central America is to improve security and economic development there?

*Answer.* We agree completely. We welcome the Comprehensive Development Plan launched by the Government of Mexico, in concert with the Governments of El Salvador, Guatemala, and Honduras, and with support from the U.N. Economic Commission for Latin America and the Caribbean, to promote our shared objectives. Our joint work in the areas of human trafficking, transnational crime, and the production and movement of illicit narcotics is necessary to achieving our goal of ensuring security for the American people. We know that the root causes of irregular migration—weak governance, insecurity, and lack of economic growth and opportunity—must be addressed to reduce out-migration from Central America. We look to Central American governments to show the political will for the reforms necessary to achieve those shared goals.

*Question.* The U.S. Strategy for Central America is a bipartisan, multi-year U.S. Government plan promoting institutional reforms and addressing developmental challenges. The Strategy aims to protect American citizens by addressing the security, governance, and economic drivers of migration and illicit trafficking, while increasing opportunities for U.S. and other businesses:

How have conditions in Central America changed since the launch of the U.S. Strategy for Engagement?

*Answer.* Since the U.S. Strategy for Central America was adopted in 2015, homicide rates have fallen dramatically in El Salvador, Guatemala, and Honduras. In August 2019, El Salvador reported its lowest monthly homicide rate since the end of the civil war in 1992. With U.S. Government assistance, the Governments of El Salvador, Guatemala, and Honduras have advanced their Customs Union integration, which has facilitated regional trade.

Though these projects were effective, they did not stop migration flows. Political will to change the status quo, which depends on corruption and lack of transparency, and produces lack of economic opportunity, has been insufficient. The President has made clear that the Governments of El Salvador, Guatemala, and Honduras need to do more to address the drivers of irregular migration.

*Question.* Have there been differences among the three Northern Triangle countries?

*Answer.* Yes. There are important differences in the political, economic, and social structures and demographics, developmental patterns, and criminal dynamics in each of the three states.

*Question.* What is your assessment of the effectiveness of the strategy, and what, if any, changes are necessary?

*Answer.* The U.S. Strategy for Central America has been successful in creating key capacity for governments to combat corruption, crime, and antiquated economic models. The Strategy's successes include, for example, supporting major reforms to Honduras' National Police force and strengthening the rule of law by training more than 1,700 human rights defenders in FY 2018 alone.

However, while these projects were effective at the programmatic level, they have not been sufficient to reduce irregular migration flows to the United States nor in ending corruption, impunity, or creating economic opportunity. The Governments of El Salvador, Guatemala, and Honduras have not shown the political will necessary to adequately address these root causes of outward migration.

*Question.* In June the Trump administration said it would withhold \$183 million of the \$432 million in aid allocated from the fiscal year 2017 and that it would also suspend the entire \$370 million allocated for fiscal year 2018:

How has the decision to withhold most foreign assistance to the Northern Triangle affected U.S. influence in the region?

*Answer.* The reprogramming of the FY 2018 assistance has received attention from the governments of all three countries, and we have had productive conversations on addressing irregular migration to the United States. For example, El Salvador's president Nayib Bukele has publicly acknowledged that he and his government must 'own' the migration problem and create Salvador-based solutions to address it, and in July 2019, the Salvadoran Government initiated a U.S.-Salvadoran Migration Task Force. Since President Bukele assumed office on June 1, 2019, apprehensions of Salvadorans at the U.S. southern border have dropped by 60% from the level of May 2019.

*Question.* How might an extended suspension of assistance affect migration trends?

*Answer.* The President's decision to reprogram certain foreign assistance intended for programs in El Salvador, Guatemala, and Honduras was designed to send a wake-up call that these governments need to take concrete steps to reduce irregular migration to the United States and the factors that drive these outward flows. We have already seen some signs that migratory flows from those countries have fallen. From March to August, the number of migrants apprehended along the U.S. southern border has dropped by nearly 40 percent. We are working with the Governments of El Salvador, Guatemala, and Honduras to enhance collaboration on border security, asylum cooperation, information sharing, and non-immigrant visa programs and will provide assistance to support measures that affect governments' political will to offer the economic and governance factors that push migration.

*Question.* What steps do the Northern Triangle governments need to take in order for the Administration to restart assistance?

*Answer.* We expect the Governments of El Salvador, Guatemala, and Honduras to take action to stem irregular migration to the United States, such as combatting migrant smuggling and human trafficking rings, enhancing border security, dissuading its citizens from illegally immigrating, and receiving and reintegrating its returned citizens.

El Salvador, Guatemala, and Honduras have taken important steps in this direction in recent weeks, including signing Asylum Cooperation Agreements and agreeing to further discussions on additional measures. Providing appropriate assistance to help our counterparts carry out these measures will be part of our strategy and appropriate Congressional consultations and notifications will occur as the strategy is implemented.

#### NORTHERN TRIANGLE GOVERNMENTS

The Northern Triangle deals with high levels of corruption, drug trafficking, and gang violence despite tough police and judicial reforms. While the U.S. has provided the three countries with billions of dollar in aid over the past decade, some analysts believe U.S. immigration policies have exacerbated threats to regional security:

*Question.* What is your assessment of the partners the United States works with in the Northern Triangle?

*Answer.* While the governments of El Salvador, Guatemala, and Honduras have begun taking steps to address migration challenges, they must do more to strengthen institutions, root out corruption, and fight impunity, which creates a permissive environment for transnational criminal organizations. Corruption in these nations enables those very organizations to profit from migrants' desperate decisions to abandon their life-long homes and undertake a dangerous and uncertain journey to reach the U.S. southern border. Our long-term success depends on continued political will by these governments to end corruption and impunity and to strengthen institutional capacity.

*Question.* To what extent are governments in El Salvador, Guatemala, and Honduras bolstering or undermining the effectiveness of U.S. assistance efforts?

*Answer.* The governments of El Salvador, Guatemala, and Honduras have taken some important steps, including signing arrangements related to asylum, border security, information sharing, and business opportunities. That said, they must continue to do more to strengthen institutions, root out corruption, and fight impunity.

As our partner governments take on these challenges with seriousness of purpose, they will find us to be a close collaborator and friend.

*Question.* How is the U.S. Government supporting reformers in the region in the absence of assistance?

*Answer.* The United States seeks a secure, democratic, and prosperous hemisphere so all people can build a future in their home countries and communities. Our long-term success depends on fostering political will in the region to end years of corruption and impunity, and to strengthen institutional capacity. The root and facilitating causes of irregular migration—insecurity, weak governance, and lack of economic opportunity—must be solved in coordination with regional governments; multilateral development banks; the international community; civil society; and the private sector.

*Question.* In your view, how likely is it that prosecutors in the Northern Triangle will be able to maintain their progress against entrenched official and elite corruption without U.S. support?

*Answer.* Those who have an abiding interest in preserving the status quo in each of these countries have proven remarkably resilient. While we can support those who are working for a better future, we cannot overcome the negative tendencies in their countries for them. Elected officials need to show the political will to take on these problems strongly and seriously. They must do more to strengthen institutions, root out corruption, and fight impunity, which creates a permissive environment for transnational criminal organizations. As part of the President's directive for assistance, we are continuing to provide assistance to DOJ-related priorities such as strengthening the rule of law and judicial institutions in these countries where we have willing partners.

*Question.* To what extent have the restrictions placed on aid to the governments of El Salvador, Guatemala, and Honduras contributed to policy changes in those nations?

*Answer.* The President's directive regarding foreign assistance served as wakeup call to the Governments of El Salvador, Guatemala, and Honduras. Since then, the Department of Homeland Security (DHS) signed a bilateral memorandum of cooperation on border security cooperation with Guatemala May 28, and Asylum Cooperation Agreements with Guatemala July 26, El Salvador September 20, and Honduras September 25. The Department of Labor (DOL) signed a cooperative agreement with Guatemala July 30 on the H-2A nonimmigrant visa program for temporary agricultural workers.

#### EFFECTS OF FOREIGN ASSISTANCE CUTS

*Question.* A lack of economic opportunity in the Central America region drives many people to migrate—in hopes of making basic ends meet and providing a better life for their children. This directly impacts the U.S. and also our neighbor, Mexico. Life-saving humanitarian aid was included in the Administration suspension and redirection of foreign assistance to Central America this summer. This included ending a USAID program implemented by Catholic Relief Services that was supporting food insecure households in the eastern dry corridor of Guatemala. Almost 30,000 people will not receive services as a result of discontinuing CRS's program alone:

How can we expect to address the humanitarian crisis at our southern border if we refuse to, at a minimum, provide basic life-saving humanitarian assistance to those suffering in the region?

*Answer.* The United States is continuing support for life-saving health and HIV/AIDS assistance as well as DOJ and DHS-related priorities. The governments of El Salvador, Guatemala, and Honduras must demonstrate political will to take sufficient actions to stem irregular migration to the United States. We know that the facilitating and root causes of irregular migration—governance, security, and lack of prosperity—must be addressed to reduce the flows. We continue to work with regional partners, multilateral development banks, the international community, civil society, and the private sector to address these challenges over the long-term, while we work on our immediate goals of addressing the humanitarian and security crisis at the U.S. southern border.

*Question.* Would you advise the White House to allow, at a minimum, life-saving humanitarian assistance to continue in the region?

*Answer.* The Department of State continues to provide life-saving HIV/AIDS assistance in El Salvador, Honduras, and Guatemala. In Mexico, the Department has also provided humanitarian assistance through our international organization (IO)

partners to help build asylum capacity; provide access to legal aid, psychosocial counseling, refugee integration services, and shelter; provide short-term cash and voucher assistance for asylum seekers and vulnerable migrants; and facilitate assisted voluntary return (AVR) activities. The Department has provided additional funding to our IO partners, including support for efforts in Guatemala to provide technical support for expansion of asylum and reception systems; shelter and integration assistance for asylum seekers and refugees; and counseling and transportation under an AVR program. Regionally, the funding also supports information awareness campaigns about the dangers of irregular migration; migration management regional capacity-building and research activities; and resettlement operations.

*Question.* Can we expect the Administration to allow Fiscal Year 2020 humanitarian funds to be expended in the region?

Answer. Yes.

*Question.* How do we ensure that other actors—especially China and Russia—do not take advantage of this void?

Answer. We do not seek to compete with China and Russia through our foreign assistance; rather we seek to show our partners that working with the United States is to their long-term advantage both commercially and politically. We promote the United States as the partner of choice.

We support and work with our partners in the Western Hemisphere to advance democracy, security, and economic prosperity. This includes our support for the rule of law, strong and independent institutions, transparency, and anti-corruption efforts, as well as frameworks that enable rules-based free market economies.

We are facilitating increased private investment in the region's infrastructure and energy needs through the new Development Finance Corporation and America Crece.

We actively engage governments on both the risks posed by problematic Chinese assistance as well as the opportunities presented by working with transparent private sector firms and democratic partners committed to the rule of law and the region's long-term development and institutional wellbeing, including the United States, Japan, or members of the European Union.

#### HUMAN RIGHTS DEFENDERS

*Question.* Across the region, human rights defenders, especially indigenous and Afro-descendant social leaders and environmental activists, as well as journalists, anti-corruption activists, women's rights activists and LGBTI community members, justice operators, opposition activists, union leaders, and student activists, continue to face attacks and increasingly punitive measures restricting their work. These threats originate from a combination of organized crime, corrupt state actors, and abusive security forces. U.S. support has also been crucial in building the capacity of local Attorneys General, protection mechanisms for human rights defenders and the United Nations Offices for the High Commissioner of Human Rights (OHCHR) in Guatemala and Honduras—all of which are crucial in protecting human rights defenders, and investigating and prosecuting threats against them:

Do you agree that the work of human rights defenders is crucial to free and fair societies, and that U.S. support to protect them is fundamental to strengthening the rule of law in the region? Please explain why you do or do not agree in your response.

Answer. Yes. Human rights defenders continue to face harassment, intimidation, and attacks for doing work that is integral to protecting democracy. Impunity for those who attack and threaten human rights defenders further compounds the abuse against defenders, stifles the promotion of human rights, and erodes the rule of law. We continue to work with our partners in the region to strengthen legal frameworks and training opportunities for the protection of human rights defenders. Our engagement and collaboration through multilateral organizations and initiatives continue, to include rapid response and emergency assistance programs to support embattled human rights defenders.

#### VIOLENCE AND RULE OF LAW IN MEXICO

*Question.* In 2018, Mexico faced its most violent year on record, with more than 33,300 homicides documented nationwide. The first 9 months of 2019 have been even more violent. Compounding this violence are weaknesses in Mexico's criminal justice institutions which have been unable to effectively investigate and prosecute crimes, with only 2 percent of cases ending in conviction. Strengthening the rule of

law in Mexico is an important way to address insecurity for Mexicans and asylum seekers alike.

What are the State Department's cooperation priorities in order to support Mexico to address widespread violence, corruption and impunity in the country?

Answer. The Department and USAID partner with Mexico to disrupt, deter, and ultimately dismantle transnational criminal organizations by reducing drug production; securing Mexico's borders and ports against the smuggling of drugs, weapons, cash, and people; depriving TCOs of their illicit assets; and ensuring criminals and their corrupt affiliates are held accountable. The United States also continues to support Mexican justice sector reforms. Together, these efforts improve collaboration across our criminal justice systems, reduce opportunities for corruption in Mexico, improve the protection of human rights, and contribute to stronger communities that can resist the presence of and recruitment by transnational criminal organizations.

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RESPONSES OF ASSISTANT SECRETARY KIRSTEN D. MADISON TO QUESTIONS  
SUBMITTED BY SENATOR EDWARD J. MARKEY

*Question.* Passed into law in 2018, the INTERDICTION Act funded opioid detection devices and equipment for U.S. personnel at the border. However, the continued influx of fentanyl into the United States necessitates that we dedicate more attention and resources to all aspects of the problem:

Considering that the majority of illicit drugs comes into the United States through legal ports of entry, what impact does the high number of migrants near them have on Mexican officials' ability to fully utilize their drug detection training to effectively stem the flow of fentanyl and other illicit substances into the United States?

Answer. The Mexican Government continues to address multiple priorities of importance to the United States, including migration, trade, and counternarcotics. Since President López Obrador took office in late 2018, the Mexican Government has surged significant resources to focus on migration and fuel theft, which is a major revenue stream for criminal trafficking organizations. At the highest levels, the United States continues to engage with Mexico on a range of U.S. priorities, including the need for Mexico to intensify its counternarcotics efforts throughout the country and along our shared border. In Mexico and elsewhere, the Department works to ensure that recipients of specialized anti-drug training and equipment make full and effective use of that assistance.

*Question.* Passed into law in 2018, the INTERDICTION Act funded opioid detection devices and equipment for U.S. personnel at the border. However, the continued influx of fentanyl into the United States necessitates that we dedicate more attention and resources to all aspects of the problem:

How is the United States maximizing its investment in funding and training Mexican officials to detect and intercept drugs before they flow northward into our country? In areas where we are falling short in working with our Mexican partners, where is your office prioritizing comprehensive solutions?

Answer. The Department partners with Mexican authorities to reduce drug trafficking across our shared border as well as drug production in Mexico, disrupt transnational criminal organizations and remove their illicit revenue, and bring criminals to justice. As the Department executes programs and policies in support of these efforts, it considers a variety of factors including stated and demonstrated political will, geography, the comparative advantage of certain types of U.S. assistance compared to others, the threshold for sustainability, and the level of expected, direct benefit for the United States. The Department is focused on pressing Mexico to create a comprehensive and holistic strategy and intensify its counternarcotics efforts.

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RESPONSES OF ACTING ASSISTANT SECRETARY MICHAEL G. KOZAK TO QUESTIONS  
SUBMITTED BY SENATOR EDWARD J. MARKEY

*Question.* What assistance is the State Department providing to Mexican authorities to ensure these asylum seekers are not subject to violence?

Answer. In fiscal year 2019, the State Department, through the Bureau of Population, Refugees, and Migration (PRM), contributed more than \$51 million to the U.N. High Commission for Refugees (UNHCR) for its Mexico response. With this funding, UNHCR is helping strengthen Mexico's asylum capacity and assisting asylum seekers and refugees, including providing access to legal assistance, psycho-

social counseling, refugee integration, shelter support, and countering misinformation on the U.S. asylum system.

The Mexican Government has noted publicly that individuals under the Migrant Protection Protocols are accorded all protections and freedoms recognized under its legal obligations. The Government of Mexico remains ultimately responsible for addressing crime and insecurity in its country.

*Question.* What assistance is the State Department providing to Mexican authorities to make sure these asylum seekers are not subject to inhumane living conditions while subject to the so-called metering policy?

Answer. In the June 7, 2019, U.S.-Mexico Joint Declaration, the Mexican Government committed to offer work permits, healthcare, and education, to migrants awaiting adjudication of their asylum claims under the Migrant Protection Protocols.

Of the more than \$24 million that the State Department, through the Bureau of Population, Refugees, and Migration (PRM) contributed to the International Organization for Migration (IOM) for programming to respond to needs in Mexico, more than \$17 million is supporting shelter and short-term cash and voucher assistance for vulnerable migrants and asylum seekers in cities along Mexico's northern border. With PRM support, IOM is also providing non-food item kits, hygiene kits, basic food staples, and support to help eligible beneficiaries obtain legal employment.

*Question.* What assistance is the State Department providing Mexico in order to protect asylum seekers who are being returned to Mexico under the Migrant Protection Protocols?

Answer. In FY 2019, the Bureau of Population, Refugees, and Migration (PRM) contributed more than \$51 million to the U.N. High Commissioner for Refugees (UNHCR) for its operations in Mexico. With this funding, UNHCR helps strengthen Mexico's asylum capacity and assists asylum seekers and refugees. Specifically, this funding supports Mexico's refugee agency, and helps provide access to legal assistance, psychosocial counseling, and refugee integration services, including shelter support.

PRM also supports an Assisted Voluntary Return program, implemented by the International Organization for Migration, that allows migrants from El Salvador, Guatemala, Honduras, and Nicaragua to return safely from Mexico to their country of origin or residence, if they so choose.

The Government of Mexico has stated publicly that it would ensure that individuals under the Migrant Protection Protocols have all rights and freedoms recognized in its constitution, Migration Law, and the international treaties to which Mexico is a party. The Department regularly engages with the Mexican government to help address security challenges.

We would refer you to the Government of Mexico to describe its efforts regarding security for individuals awaiting their U.S. asylum hearings in Mexican territory.

*Question.* In what ways is the State Department working with Mexico to ensure the human rights of asylum seekers are not being violated when they are turned away from the United States under MPP?

Answer. Mexico and the U.S. have cooperated closely to stem the mass migration that has endangered hundreds of thousands of people placing their physical safety and human dignity in jeopardy. Once the individuals are in Mexico, the Mexican Government is responsible for ensuring the safety and rights of all individuals in its territory. Mexico has a sound legal framework governing its asylum system and is a signatory to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, and is a party to the 1984 Convention against Torture.

The Government of Mexico agreed in the June 7 U.S.-Mexico Joint Declaration to authorize the entrance of individuals under the Migrant Protection Protocols (MPP) for humanitarian reasons, and offer jobs, healthcare, and education to migrants returned to Mexico under the MPP.

The Department of State and U.S. Mission Mexico are closely monitoring the situation of the returnees. Department personnel are in direct contact with shelter administrators, National Institute of Migration staff, and Mexican Secretariat of Foreign Relations leadership about migrants returned to Mexico under the Migrant Protection Protocols, including living conditions, health, and security, including through on-site visits. All U.S. Government-funded programming implemented by the International Organization for Migration and the U.N. High Commissioner for Refugees to support migrants in Mexico is executed under the principle of ensuring the preservation of human rights.



## FOREIGN FOOD-RELATED AID

*Question.* State Department personnel raised alarm earlier this year regarding your Administration's sudden cuts to food security programs in Honduras. Concerned personnel warned explicitly that reduced assistance would likely increase migration rates while leaving tens of thousands of Hondurans more vulnerable to environmental disruptions. A State Department document cites findings suggesting that affected assistance programs have reduced people's intention to migrate as well as actual rates of irregular migration:

Are you aware of any efforts to raise to the White House views from the State Department or USAID personnel that (a) cutting agricultural and food security assistance programs in Central America would lead to increased migration; or (b) such food security assistance programs should be expanded rather than cut?

*Answer.* The State Department and USAID have followed the policy set by the White House regarding curtailing funding to assistance programs in Central America.

*Question.* Have any State Department personnel suggested that the Federal Government should consider climate-change vulnerabilities in the region in an effort to enhance resilience to climate-change impacts?

*Answer.* The United States recognizes for Central American countries are vulnerable to food insecurity caused by drought and other natural disasters. We will work with willing partners in Central America to increase their resilience to drivers of food insecurity and malnutrition. The governments of Central America must also address these challenges through their action as well. U.S. efforts in the region incorporate the need to address environmental degradation and protect the environment while advancing economic growth.

*Question.* According to a GAO report (<https://www.gao.gov/assets/700/696460.pdf>), the State Department stopped providing missions with guidance on whether and how to include climate change risks in their integrated country strategies. Why?

*Answer.* The 2016 EAP-AF ICS cycle included a Climate-risk annex that missions had to include in their strategy if, after screening their Mission Objectives, it was determined there was a medium or high climate risk. After that cycle was completed, the Department's planning and performance steering committee advised and encouraged missions that wanted to discuss climate in the ICS to include it in their risk discussion under each Mission Goal. The supporting materials provided for the climate annex remain available to posts. Many of the ICS completed in 2018 include climate change/risk points.

The Department intends to publish new ICS guidance by the end of October, which will include the following guidance for an optional annex section:

Missions may choose to submit annexes either with their final ICS, or shortly after it is finalized, to provide additional details not included in the main portions of the strategy. These annexes would provide implementation focus to specific policy priorities. Recent examples of this from the field include, but are not limited to, climate risk, stabilization, CVE, and cyber-planning.

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RESPONSES OF ASSISTANT SECRETARY KIRSTEN D. MADISON AND ACTING ASSISTANT SECRETARY MICHAEL G. KOZAK TO QUESTIONS SUBMITTED BY SENATOR TODD YOUNG

*Question.* How does the State Department plan to address the root causes of violence and instability that are driving migration, since most assistance to the Northern Triangle was suspended in March?

*Answer.* The root causes of illegal immigration from El Salvador, Guatemala, and Honduras to the United States—insecurity and lack of economic opportunity—require political will on the part of the governments of El Salvador, Guatemala, and Honduras, as well as action by multilateral development banks; the international community; civil society; and the private sector to address these challenges through both promoting expanded private sector opportunities and strengthening regional institutions.

We continue to urge the Governments of El Salvador, Guatemala, and Honduras to follow through on their commitments to their Plan for the Alliance for Prosperity.

*Question.* What is the rationale for cutting off funding that is going directly to assist these vulnerable communities? What specific improvements would the Administration like to see to these programs?

**Answer.** The decision to reprogram certain foreign assistance intended for programs in El Salvador, Guatemala, and Honduras was designed to send a wake-up call that these governments need to do more to reduce illegal immigration to the United States and the factors that drive these out flows. The President and the Secretary believe that these governments must take clear action to stem illegal immigration to the United States and expect to see reductions in the number of illegal immigrants from El Salvador, Guatemala, and Honduras prior to making any decisions to restart assistance to these countries.

**Question.** What specific additional steps is the Administration looking to see from the governments in Guatemala, Honduras, and El Salvador in order to reverse the freeze on funding?

**Answer.** The President and the Secretary have asked the governments of El Salvador, Guatemala, and Honduras to take concrete steps to stem irregular migration to the United States. The President and the Secretary have said that the crucial metric is a decrease in the number of migrants apprehended at the U.S.-Mexico border. As the President has made clear, there cannot be a resumption of assistance until our partners demonstrably do their part to reduce out-migration.

Accordingly, in the time since the President decided to cut foreign assistance, the U.S. Government has provided the governments of El Salvador, Guatemala, and Honduras with additional migration-related asks. At the regional level, those asks included addressing the drivers of out-migration—especially corruption and impunity—and strengthening actions under the Plan of the Alliance for Prosperity. At the national level, those asks include signing agreements related to asylum cooperation, biometric data-sharing, agricultural worker visas, and border security.

**Question.** Given the Administration's focus on burden-sharing, what update can you provide on any burden-sharing agreements?

**Answer.** The Department of State, in collaboration with other U.S. Government agencies, is engaging governments in the region to address the humanitarian and security crisis at the U.S. southern border. The Department of Homeland Security signed a quadrilateral memorandum of cooperation on border security with El Salvador, Guatemala, and Honduras March 28 and a separate bilateral memorandum of cooperation on border security with Guatemala May 28. DHS also signed bilateral Asylum Cooperation Agreements with Guatemala July 26, with El Salvador September 20, and with Honduras September 25. The Department of Labor signed a cooperative agreement with Guatemala July 30 on the H-2A nonimmigrant visa program for temporary agricultural workers.

**Question.** Are investments in Guatemala's immigration and judicial systems simply efforts to address the symptoms of our flawed immigration policy rather than addressing the underlying factors that are causing illegal immigration?

**Answer.** U.S. foreign assistance to Guatemala is designed to address both immediate challenges and the root causes of irregular migration. Our assistance continues to build the capacity of Guatemala's institutions by strengthening the Government's ability to uphold rule of law, root out corruption and impunity, improve its counternarcotic efforts, and keep its citizens safe; helping create the conditions necessary to inspire hope among the Guatemalan people that they do not have to leave their country to meet their basic safety and material needs. But this must be a partnership, the Government of Guatemala must demonstrate the political will to do more to strengthen institutions in order for our capacity building efforts to succeed and to implement their commitment to increase economic growth and opportunity under the Plan for the Alliance for Prosperity. The Department continuously evaluates assistance to ensure taxpayer resources are aligned with Administration foreign policy priorities.

**Question.** What type of return has the United States received on large investment of Merida Initiative?

**Answer.** The Merida Initiative enables greater cooperation between U.S. and Mexican law enforcement agencies, prosecutors, and judges as they share best practices and expand bilateral cooperation in confronting transnational criminal organizations (TCOs), the production and trafficking of illegal drugs, and money laundering. Because of our collaboration, securing our shared border is more of a priority than ever before, information sharing is more fluid, and Mexico is more capable of confronting transnational crime thanks to state-of-the-art equipment, training, and technical assistance provided through the Merida Initiative.

Our cooperative efforts prioritize reducing drug production, inhibiting cross-border movement of drugs, cash, and weapons, and denying illicit revenue to transnational criminal organizations. Continued U.S. support for Mexico's justice sector reforms

improves collaboration across our criminal justice systems, reduces opportunities for corruption, improves the protection of human rights, and contributes to stronger communities that can resist the presence of and recruitment by transnational criminal organizations.

*Question.* Does the Mérida Initiative include any efforts to do public messaging to potential migrants on the limitations of U.S. immigration law in an attempt to dissuade them from traveling to the U.S.-Mexico border?

*Answer.* The Mérida Initiative does not fund public messaging; however, U.S. missions to Guatemala, El Salvador, Honduras, and Mexico all conduct public messaging to potential irregular migrants in Central America and those already en route to the U.S.-Mexico border to discourage potential migrants from embarking on a hazardous and ultimately, futile journey. These messages are delivered regularly via social media; radio, TV, and press interviews with Ambassadors or other U.S. officials; and off-the-record discussions to explain U.S. policy. Messages target populations in areas of high out-migration and focus on the realities of the asylum process, testimonials from individuals who have decided to return home from the United States or Mexico, the risks of the journey, and the importance of building a future in one's home country.

*Question.* In December 2018, Mexican President López Obrador agreed to allow Central American migrants to be returned to Mexico under the U.S. Migrant Protection Protocols (MPP) while they await a court date in the United States. How is this policy being received among the Mexican public? How long can we expect the support of the Mexican Government to continue?

*Answer.* The influx of illegal immigrants to the United States through Mexico places additional stresses on the communities along both sides of the U.S.-Mexico border. We recognize these common challenges and are grateful for the Mexican Government's cooperation in working with us to resolve these issues as quickly and smoothly as possible. The work we have done together pursuant to the Joint Declaration has resulted in a 60 percent reduction in migrant flows, which benefits Mexico as well as the U.S.

President López Obrador, who maintains high approval ratings from the Mexican public, has stated his priority to maintain a good relationship with the United States and address potential differences through peaceful resolution, including agreements and dialogue. In this spirit, the Department of State engages in ongoing discussions with the Government of Mexico to ensure MPP is implemented smoothly along our shared border, as evident by the June 7 U.S.-Mexico Joint Declaration. Following the September 10 meeting with Vice President Pence, Foreign Secretary Marcelo Ebrard publicly stated the Government of Mexico would continue to implement the commitments that came from the Joint Declaration, not foreseeing any changes.

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RESPONSE OF ASSISTANT SECRETARY NOMINEE KIMBERLY BREIER TO A QUESTION  
SUBMITTED BY SENATOR ROBERT MENENDEZ ON JUNE 13, 2018

*Question.* As our principal diplomat for the Americas, do you intend to formulate a strategy to make Mexico pay for a border wall between our countries?

*Answer.* No, but I am committed to helping secure our borders. The United States and Mexico work together to stop the flow of drugs and other contraband that travel in both directions across our shared border. We also work together to improve efficiencies at ports of entry to ensure the legitimate flow of commerce and travelers. Border infrastructure is an integral part of border security. Mexico has consistently stated it will not pay for a border wall.

The President and Congress will ultimately make a decision about funding.

LETTER FROM SENATOR EDWARD J. MARKEY TO THE TRUMP ADMINISTRATION  
CONCERNING FOREIGN FOOD-RELATED AID CUTS TO THE CENTRAL AMERICAN REGION

EDWARD J. MARKEY  
MASSACHUSETTS

COMMITTEES:  
ENVIRONMENT AND PUBLIC WORKS  
FOREIGN RELATIONS  
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AND INTERNATIONAL ENVIRONMENTAL POLICY  
CONSUMER, BUSINESS, AND TRANSPORTATION  
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SMALL BUSINESS AND ENTREPRENEURSHIP  
CHAIRMAN:  
U.S. SENATE CLIMATE CHANGE TASK FORCE

United States Senate

September 25, 2019

Senate SO-255  
Dwight D. Eisenhower  
Washington, DC 20510-2107  
Toll-free 1-800-458-7442

975 JERICHO ROAD, SUITE 100  
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The Honorable Donald J. Trump  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear Mr. President,

We seek an explanation why, knowing that crop shortages and food insecurity were fueling Central American migration, your administration cut foreign food-related aid to the region — all the while decrying the increased flow of migrants from Guatemala, Honduras, and El Salvador to the United States.

According to an NBC News report, in September 2018, U.S. Customs and Border Protection (CBP) determined that crop shortages, especially in Guatemala's western highlands, were a key driver of record-setting migration to the United States.<sup>1</sup> CBP reportedly found a clear correlation between high migration rates and areas suffering food insecurity. Yet, just one month later, in October 2018, your administration inexplicably announced its intention to cut foreign aid aimed at building food security. This included funds used to mitigate the effects of climate change on small farms.<sup>2</sup>

In doing so, the White House seemingly ignored CBP's findings, which then-CBP Commissioner Kevin McAleenan amplified publicly when he stated: "Food insecurity, not violence, seems to be a key push factor informing the decision to travel from Guatemala, where we have seen the largest growth in migration flow this year."<sup>3</sup> Cutting food aid in the face of food insecurity also defies common sense. It should come as no surprise that the humanitarian organization Mercy Corps found that improved access to agricultural technology and finance in Guatemala significantly blunted residents' motivation to migrate and encouraged them to "stay and fight to have a better future."<sup>4</sup>

<sup>1</sup> Jacob Soboroff and Julia Ainsley, *Trump admin ignored its own evidence of climate change's impact on migration from Central America*, NBC News (Sept. 20, 2019), <https://www.nbcnews.com/news/ncna/1056381>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Mercy Corps, *Subsist or Persist? Assessing Drivers of Migration and Effects of Foreign Assistance Programs on Migration from the Northern Triangle* (Apr. 2019), [https://www.mercycorps.org/sites/default/files/Subsist\\_or\\_Persist\\_Full\\_Report.pdf](https://www.mercycorps.org/sites/default/files/Subsist_or_Persist_Full_Report.pdf).

I am also in possession of a document showing that State Department personnel raised alarm earlier this year regarding your administration's sudden cuts to food security programs in Honduras. Concerned personnel warned explicitly that reduced assistance would likely increase migration rates while leaving tens of thousands of Hondurans more vulnerable to environmental disruptions. The document cites findings suggesting that affected assistance programs have reduced people's intention to migrate as well as actual rates of irregular migration.

Humanitarian organizations such as Catholic Relief Services, CARE International, Project Concern International, and Cristosal now report that your aid cuts are forcing them to curtail or terminate relief programs. In Guatemala alone, these include programs supporting discount agricultural supply markets; rural health clinics; community savings and loan funds; conservation of ecologically sensitive landscapes; and re-integration services for returned migrants.<sup>5</sup>

Your decision to cut foreign aid that helps mitigate migration is difficult to understand, especially given your administration's anti-immigrant rhetoric and policies. Any good-faith effort to respond to the immigration crisis south of our border must address its root causes. And that includes the impacts of climate change, which experts consider to be a contributing factor to the region's crop failures and food insecurity,<sup>6</sup> and which your administration has denied and ignored.

A strategic focus on global climate resilience would likely have anticipated the impacts of climate change in Central America, giving the United States a head start on addressing the environmental hardship that is driving displacement. Indeed, a strategic approach is sorely needed as climate change aggravates the frequency and severity of hazards, amplifying, among other consequences, the displacement of people within and across borders.<sup>7</sup> The Internal Displacement Monitoring Centre predicts that the end-of-year figure for disaster displacement will be among the highest ever recorded.<sup>8</sup>

Given that the impacts of climate change will vary by region as they increase in severity, we urge a coordinated effort to assess vulnerabilities and enhance resilience in partnership with foreign countries. Unfortunately, we have seen nothing remotely resembling this kind of effort from your administration. In light of these concerns, we request written responses to the following questions by October 16, 2019:

<sup>5</sup> Tim McDonnell, *Trump Froze Aid To Guatemala, Now Programs Are Shutting Down*, NPR (Sept. 17, 2019), <https://www.npr.org/sections/goatsandsoda/2019/09/17/761266169/trump-froze-aid-to-guatemala-now-programs-are-shutting-down>.

<sup>6</sup> World Food Programme, *Food Security and Emigration, Why people flee and the impact on family members left behind in El Salvador, Guatemala and Honduras* (Aug. 2017), [https://docs.wfp.org/api/documents/WFP-0000022124/download/?\\_ga=2.186416544.849116656.1503506467-813076901.1503506467](https://docs.wfp.org/api/documents/WFP-0000022124/download/?_ga=2.186416544.849116656.1503506467-813076901.1503506467); see also Jonathan Blitzer, *How Climate Change Is Fueling the U.S. Border Crisis*, The New Yorker (Apr. 3, 2019), <https://www.newyorker.com/news/dispatch/how-climate-change-is-fuelling-the-us-border-crisis>.

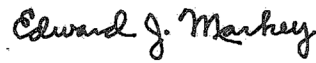
<sup>7</sup> International Panel on Climate Change and Land, *Climate Change and Land* (Aug. 7, 2019), [https://www.ipcc.ch/site/assets/uploads/2019/08/Edited-SPM\\_Approved\\_Microsite\\_FINAL.pdf](https://www.ipcc.ch/site/assets/uploads/2019/08/Edited-SPM_Approved_Microsite_FINAL.pdf).

<sup>8</sup> Internal Displacement Monitoring Centre, *Mid-Year Figures, Internal Displacement from January to June 2019* (Sept. 12, 2019), [http://www.internal-displacement.org/sites/default/files/publications/documents/2019-mid-year-figures\\_for%20website%20upload.pdf](http://www.internal-displacement.org/sites/default/files/publications/documents/2019-mid-year-figures_for%20website%20upload.pdf).

- 1) Do you agree with assessments from CBP and State Department personnel that crop failures and food insecurity have contributed to increased migration from Central America to the United States?
  - a. If so, then why did you chose to cut agricultural and food security assistance programs in Central America?
  - b. If not, why do you disagree with your administration's assessments?
- 2) Given your administration's own analysis linking food insecurity to increased migration, was it ever suggested to you that the U.S. should expand agricultural and food security assistance programs in Central America? If so, why did you instead cut this foreign assistance?
- 3) Given your vocalized desire to limit migration into the United States, what strategy do you have to address climate change-related displacement (a) in Central America and (b) around the world?

Thank you for your prompt attention to this matter.

Sincerely,



Edward J. Markey  
United States Senator

STATEMENT BY CONGRESSWOMAN VERONICA ESCOBAR OF EL PASO AND A SERIES OF  
DOCUMENTS AND LETTERS SENT BY SENATOR MENENDEZ TO THE STATE ON U.S.-  
MEXICO AGREEMENTS AND STATE'S NON-RESPONSES

Rep. Veronica Escobar (TX-16)  
Written testimony for the Senate Committee on Foreign Relations  
U.S. Policy in Mexico and Central America: Ensuring Effective Policies to Address the Crisis at the  
Border

September 25, 2019

Thank you for calling this hearing. I only wish I was able to testify in person.

I am proud to live on the U.S.-Mexico border, in El Paso, Texas, a community that has long been safe and secure, and our modern-day Ellis Island.

For nine months, my office has facilitated delegation visits to El Paso — 12 so far, and more to come — and I'm grateful for all those who have been able to (or will soon) join us, to bear witness to what is happening at the hands of the U.S. government. I invite all of you as well.

There is no doubt that the increasing number of migrants at our southern border has presented a challenge.

Unfortunately, in the last two years, our country has failed to live up to our founding values when addressing that challenge.

Before I focus on what our government is doing, let me tell you what my community is doing.

For years, but especially in this last year, El Paso has stepped up, helping feed, shelter, and offer hospitality to thousands of migrant families released by DHS week after week.

My community, with a fraction of the resources available to the federal government, has responded more strategically, thoughtfully, and compassionately than the federal government has.

We have always known this is not a matter of resources, but a matter of will.

El Paso has had to stand up shelters on a moment's notice, provide meals for and transport hundreds of migrants daily, using only volunteers, and we've opened our wallets and our hearts to ensure every one of those vulnerable souls has a clean, safe place to stay once out of custody.

El Paso made the choice to employ compassion and good will.

And then we have the choice that our government has made.

Our government, at the hands of this administration, has exhibited an incompetence and cruelty that has created a human rights crisis in our own country.

Under the Trump Administration, border communities have borne witness to:

- **The deaths of at least six children in government custody since September**
- **Family Separation**, a practice called “illegal”<sup>1</sup> by the United Nations, one which, according to the American Academy of Pediatrics, inflicts deep life-long trauma
- A policy so heinous, that the sound of a weeping child secretly recorded in a detention facility moved even the most hardline anti-immigrant Americans.
- And, a policy that continues to this day.
- **We’ve seen severe overcrowding** in Border Patrol processing centers that is so inhumane, that the DHS Office of the Inspector General described it as “dangerous” because it represents “an immediate risk” to agents and migrants alike.<sup>2</sup>
- **We’ve seen conditions that dehumanize migrants**, stripping them of their dignity, sending good agents into states of despondency, giving cover to bad agents who abuse their authority.
- **Long-term detention** in ICE facilities, where in my district, groups of men requesting asylum who had been detained for nearly a year became so desperate, they went on a hunger strike.
- They were force-fed and hydrated through tubes that were placed down their nose.
- Speaking through their pain and their bloodied tubes, they told me they would rather die in America than be sent back to India.

<sup>1</sup> <https://www.nytimes.com/2018/06/05/world/americas/us-un-migrant-children-families.html>

<sup>2</sup> [https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-51-Jul19\\_.pdf](https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-51-Jul19_.pdf)



- **Migrant Protection Protocols (MPP)** is this administration's practice of sending legal asylum seekers into another country to await their hearing.
- A violation of due process that puts vulnerable populations in danger.
- In one case, a woman who had warned CBP about the danger she faced in Ciudad Juarez, was sent back to Mexico, only to be kidnapped and brutally raped.<sup>3</sup>
- There are innumerable cases of kidnapping, extortion and terror because of MPP and metering.

My district has unfortunately been ground zero for these atrocities.

My district has also been ground zero for dangerous rhetoric about the border and immigrants.

I would be remiss if I didn't mention that the racist and anti-immigrant rhetoric used by this administration to describe immigrants has consequences. Calling Mexicans "criminals," "rapists," and "drug dealers," and using words like "animals" and "invasion" when describing immigrants inspires fear and hatred. So much so that last month, a killer confessed that he drove over 600 miles from central Texas to El Paso so that he could slaughter immigrants and Mexicans.

What makes immigrant and minority communities unsafe — what creates a crisis — is not the immigrants or the minorities themselves, but the language used to describe them.

And it's not the immigrants arriving at our front door that create a crisis — it's the way we treat them that creates the crisis.

It's the policies I've outlined that have created the humanitarian crisis, and a moral one as well.

To truly address the challenges we face, not with cruelty, but with common sense, we must:

- Ensure that we work closely with countries in the northern triangle to address root causes, and that includes ensuring funding is provided and used appropriately;

<sup>3</sup> <https://www.texastribune.org/2019/07/03/expansion-remain-mexico-policy-brings-tension-fear-border-cities/>

- Reinststate in-country refugee processing;
- Acknowledge that families arriving at our front door are not national security threats to be jailed or sent to a country that is not their own;
- Ensure asylum seekers have due process rights, including eliminating metering and MPP which violate due process and an erosion of the American legal asylum system;
- Return to family case management and expand other alternatives to detention;
- Consider temporary protected status (TPS) for Central American families (and others in our hemisphere) fleeing violence and famine;
- Eliminate the “safe third country” agreements made with countries that are indeed unsafe;
- Work in good faith with all leaders in our hemisphere to discuss solutions for what is sure to be increasing migration from countries with high poverty rates and significantly impacted by climate change.

This is not simply about resources.

And to prove that, just look at what El Paso has done with a dime from the federal government.

This is about having the will to treat people with dignity.

This is about cherishing and protecting American values.

We have the power to change this.

Do we have the will?

JAMIE R. RISH, IDAHO, CHAIRMAN

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**United States Senate**  
 COMMITTEE ON FOREIGN RELATIONS  
 WASHINGTON, DC 20510-6225

July 3, 2019

The Honorable Mike Pompeo  
 Secretary of State  
 U.S. Department of State  
 2201 C Street, N.W.  
 Washington, D.C. 20520

Dear Secretary Pompeo:

I write in regards to the refusal of the State Department to respond to information requests from the Senate Committee on Foreign Relations. This situation prevents the Committee from performing constitutionally-authorized oversight of the Department and U.S. foreign policy. It is unacceptable, and I request that you address the problem on an urgent basis.

On June 8, 2019, my staff asked a series of basic questions about the U.S.-Mexico Joint Declaration, the arrangement by which President Trump purportedly solved his self-induced tariff crisis with Mexico, as well as a related agreement with Guatemala. The questions included requests for copies of the official documents, an indication of whether the Department views them to be binding under international law, and information on the substance of the commitments undertaken by the United States, Mexico and Guatemala. To date, the Administration has withheld all of the requested information without any explanation.

This refusal is not an isolated incident. I am still waiting for substantive responses to questions sometimes posed months ago on a range of major foreign policy and national security matters – Saudi Arabia's murder of Jamal Khashoggi, China's nuclear weapons posture, climate change and trafficking in persons to name a few. When the Department does choose to engage, it is frequently after significant and inexplicable delays and rarely includes the detailed information required for the Committee to assess whether critical foreign policy decisions are connected to a discernable and coherent strategy.

As Ranking Member of the Committee, I am committed to working to advance U.S. foreign policy, including providing the State Department with the authorities and personnel it needs to be successful in its mission. In performing this role, my responsibilities include oversight of the Department and U.S. foreign policy. As Secretary of State, one of your key responsibilities, among the many, is accommodating such oversight. At minimum, this means keeping the Committee fully and currently informed on Administration policy.

Prior administrations, both Republican and Democratic, understood the benefits from proactive engagement with the Committee and acted accordingly. I am hopeful you will right the ship, which will go a long way in facilitating a positive, cooperative, and productive relationship between the Committee and the Department. In this vein, I request a comprehensive written response to each of the June 8 questions (set out below), as well as a commitment that the Department will provide expeditious and substantive responses to such requests going forward.

Sincerely,

A handwritten signature in black ink, reading "Robert Menendez". The signature is fluid and cursive, with a large, stylized "R" and "M".

Robert Menendez  
Ranking Member

CC:  
Honorable James E. Risch  
Chairman  
Senate Committee on Foreign Relations

June 8<sup>th</sup> Questions from Senate Foreign Relations Committee to the State Department on U.S.-Mexico and US-Guatemala agreements

*NOTE: These questions were asked on June 8. Since that time some information related to the questions has come out through press reports. Nonetheless, comprehensive written responses from the State Department are still requested for each question.*

1. Is the Department's position that the U.S.-Mexico Joint Declaration is binding or non-binding under international law?
2. If the Department considers the Declaration to be binding under international law, please indicate whether, for domestic legal purposes, the Department considers the Declaration to be a treaty that will be submitted to the Senate for advice and consent (and if so when), or if it is viewed as an executive agreement. If the latter, please provide the domestic legal authorities pursuant to which it was concluded.
3. Does the Joint Declaration constitute the entirety of commitments, binding or non-binding, that led to the resolution of the Mexico tariff crisis of the last few weeks? Please indicate whether there are any additional commitments, whether binding or non-binding, written or oral. If yes, please provide the text of any written commitments and/or a detailed description of any oral commitments.
4. Recently, the Administration signed an agreement with the Government of Guatemala, apparently related to migration issues. What is the content and what was agreed to? Please provide a copy of any written agreement and/or a detailed description of any oral agreement.
5. Please apply all questions above related to U.S.-Mexico Joint Declaration to the agreement between the US and Guatemala.
6. With regard to the U.S.-Mexico joint declaration, did Mexico commit to a specific timeline for the deployment of its 6,000 National Guard troops to its southern border? If so, what was the specific timeline provided?
7. The joint declaration and press coverage about the negotiations indicate that the United States will be expanding its 'Remain in Mexico' policy along the length of the U.S.-Mexico border. How many ports of entry will this affect (please provide a specific number and the name of the ports of entry)? When will the expansion of this policy be implemented (please provide a specific date)?
8. There are indications that the U.S. agreed to increase the number of migrants that are permitted to enter the U.S. on a daily basis to request asylum and decrease the amount of time needed for adjudication of these asylum requests. Please provide details about the number of migrants that are currently permitted to enter the United States to request asylum under the 'Remain in Mexico' policy, and the increased number agreed to under

the joint declaration. What commitments did the U.S. make in order to decrease the adjudication time for these asylum requests?

9. The joint declaration and related press coverage indicate that the United States will work with Mexico to expand investments in southern Mexico and the Northern Triangle countries in order to address the underlying factors driving irregular migration in the region. Please provide a detailed description of these commitments. How will the U.S. carry out any such commitments when the Administration has suspended and is in the process of reprogramming US foreign assistance to the Northern Triangle countries?
10. Please provide copies of any recently-concluded written agreements or arrangements between the U.S. and Mexico and the U.S. and Guatemala, as well as detailed descriptions of any oral agreements or commitments.



United States Department of State

Washington, D.C. 20520

The Honorable  
Robert Menendez, Ranking Member  
Committee on Foreign Relations  
United States Senate  
Washington, DC 20510

AUG 01 2019

Dear Senator Menendez:

Thank you for your July 3 letter regarding the U.S.-Mexico Joint Declaration. Enclosed please find responses to the initial three questions posed by your staff, as well as a copy of the Supplementary Agreement that was signed on June 7. Your staff had additional questions related to the Joint Declaration and to Guatemala, and those responses were transmitted on July 12. Please note that not all of the questions we received are questions to which the Department of State can provide answers. Likewise, some of the agreements whose texts you requested do not reside with the Department of State. While the Department of Homeland Security and the National Security Council are aware of your request for information and document texts, I understand the committee has sent a formal request for information to the Department of Homeland Security as well. The enclosed responses answer all the questions you have asked of the Department of State.

Sincerely,

Mary Elizabeth Taylor  
Assistant Secretary  
Bureau of Legislative Affairs

Enclosure:  
As stated.

CC:  
Honorable James E. Risch  
Chairman  
Senate Committee on Foreign Relations

June 8<sup>th</sup> Questions from Senate Foreign Relations Committee to the State Department on U.S.-Mexico and U.S. Guatemala agreements

1. Is the Department's position that the US-Mexico Joint Declaration is binding or non-binding under international law?

Answer: We can now confirm that the United States regards the June 7 Joint Declaration and the Supplementary Agreement with Mexico, which we have previously provided to the Committee, collectively to constitute a binding agreement under international law. We will be transmitting these instruments to Congress, in accordance with the Case Act.

2. If the Department considers the Declaration to be binding under international law, please indicate whether, for domestic legal purposes, the Department considers the Declaration to be a treaty that will be submitted to the Senate for advice and consent (and if so when), or if it is viewed as an executive agreement. If the latter, please provide the domestic legal authorities pursuant to which it was concluded.

Answer: We consider the Joint Declaration and Supplementary Agreement to be, collectively, an executive agreement, concluded in the exercise of the President's constitutional authority for the conduct of foreign relations.

3. Does the Joint Declaration constitute the entirety of commitments, binding or non-binding, that led to the resolution of the Mexico tariff crisis of the last few weeks? Please indicate whether there are any additional commitments, whether binding or non-binding, written or oral. If yes, please provide the text of any written commitments and/or a detailed description of any oral commitments.

Answer: The Joint Declaration and Supplementary Agreement constitute the only commitments entered into with Mexico since June 7 to address the shared challenges of irregular migration.



Supplementary Agreement between the United States and Mexico

In reference to the Joint Declaration of the Governments of the United States and Mexico of June 7, 2019, the parties further agree to the following measures to address the current situation at the southern border of the United States.

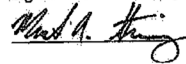
The United States and Mexico will immediately begin discussions to establish definitive terms for a binding bilateral agreement to further address burden-sharing and the assignment of responsibility for processing refugee status claims of migrants.

At a minimum, such agreement would include, consistent with each party's domestic and international legal obligations, a commitment under which each party would accept the return, and process refugee status claims, of third-party nationals who have crossed that party's territory to arrive at a port of entry or between ports of entry of the other party. The parties further intend for such an agreement to be part of a regional approach to burden-sharing in relation to the processing of refugee status claims of migrants.

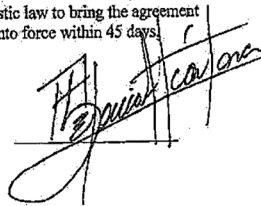
Mexico also commits to immediately begin examining domestic laws and regulations with a view to identifying any changes that may be necessary to bring into force and implement such an agreement.

If the United States determines, at its discretion and after consultation with Mexico, after 45 calendar days from the date of the issuance of the Joint Declaration, that the measures adopted by the Government of Mexico pursuant to the Joint Declaration have not sufficiently achieved results in addressing the flow of migrants to the southern border of the United States, the Government of Mexico will take all necessary steps under domestic law to bring the agreement into force with a view to ensuring that the agreement will enter into force within 45 days.

Signed on this 7<sup>th</sup> of June, 2019 in Washington, D.C. by:



On behalf of the United States



On behalf of Mexico

United States Senate  
WASHINGTON, DC 20510

August 7, 2019

The Honorable Mike Pompeo  
Secretary of State  
U.S. Department of State  
2201 C Street, NW  
Washington, D.C. 20520

Dear Secretary Pompeo:

I write concerning the State Department's disturbing and unprecedented reluctance to engage with the Senate Foreign Relations Committee (SFRC) on the legal status of the U.S.-Mexico Joint Declaration and Supplementary Agreement of June 7, 2019. SFRC jurisdiction and oversight responsibility include foreign policy, international agreements, and international law. The Joint Declaration is of particular interest given its recent prominence in the U.S.-Mexico relationship and in the Administration's regional migration "strategy," as well as the humanitarian crisis that "strategy" has created for the most vulnerable persons.

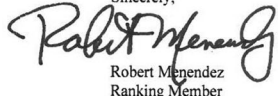
I have been seeking information on this matter since June 8. I have written you directly and have asked Acting Legal Adviser Marik String, when he testified before SFRC on July 24, with limited and unsatisfactory results.

I continue to seek clear answers to the most basic questions about the Joint Declaration: Is it a treaty or is it a political arrangement? Is it binding under international law or not? Regrettably, the Department's terse and tardy responses – provided after 51 days – raise more questions than they answer.

Below please find supplemental questions designed to cut through the confusion on this matter. I request that the Department provide a fulsome, accurate, and transparent written response to each question no later than August 12, 2019.

Thank you for your attention to this matter.

Sincerely,



Robert Menendez  
Ranking Member

### Supplemental Questions

The supplemental questions are designed to achieve an understanding of the following statements conveyed by the Department to the Committee in response to questions originally submitted to the Department on June 8, 2019:

- “We can confirm that we regard the Joint Declaration with Mexico to be a an authoritative political agreement that both governments will implement in good faith.” – email from the Bureau of Legislative Affairs (C. Donnelly) to SFRC staff, dated July 12. Acting Legal Adviser String, in his July 24 appearance before SFRC, testified that the JD is an “important, authoritative agreement.”
  - “We can now confirm that the United States regards the June 7 Joint Declaration and the Supplementary Agreement with Mexico, which we have previously provided to the Committee, collectively to constitute a binding agreement under international law. We will be transmitting these instruments to Congress, in accordance with the Case Act.” – email from the Bureau of Legislative Affairs (C. Donnelly) to SFRC staff, dated July 29, and letter from Assistant Secretary for Legislative Affairs to Ranking Member Menendez, dated August 1.
  - “We consider the Joint Declaration and Supplementary Agreement to be, collectively, an executive agreement, concluded in the exercise of the President’s constitutional authority for the conduct of foreign relations.” – email from the Bureau of Legislative Affairs (C. Donnelly) to SFRC staff, dated July 29, and letter from Assistant Secretary for Legislative Affairs to Ranking Member Menendez, dated August 1.
1. Authoritative political agreements
    - a. Please explain why the Department characterized the Joint Declaration (JD) as an “authoritative political agreement,” which appears to blur the line between instruments that are binding under international law – generally referred to as legal agreements – and instruments that are not binding under international law – generally referred to as political arrangements or commitments.
    - b. Please explain the precise characteristics that lead to the classification of a written instrument or oral commitment as an “authoritative political agreement.”
    - c. Please provide examples of other “authoritative political agreements” in U.S. history.
      - i. Were such instruments or oral commitments referred to as “authoritative political agreements” at the time they were finalized or concluded? If not, when were they classified as such?
      - ii. For any examples, please indicate whether they are binding or non-binding for purposes of international law, and whether they were reported under the Case Act (if finalized subsequent to enactment of that statute).
    - d. Does the United States ever enter into political agreements that are not “authoritative?” If yes, please explain why, and please provide examples of such non-authoritative political agreements.

- e. Does the Department generally transmit to Congress authoritative or non-authoritative political agreements pursuant to the Case Act? If yes, please provide examples. If no, please explain why not.
2. Circular 175 (C-175) authority
- a. Were the JD and Supplementary Agreement (SA) negotiated and concluded pursuant to C-175 authority?
    - i. If yes, did the C-175 authorization and underlying memorandum of law indicate that the JD, the SA or both, individually or collectively, would constitute a binding agreement under international law? Please explain.
    - ii. If yes, please provide the date(s) any such C-175 authority was issued.
    - iii. If yes, please provide copies of the authority and underlying memorandum of law.
  - b. If the JD and/or the SA were not negotiated and/or concluded pursuant to C-175 authority, please explain why.
3. Analysis of whether JD and SA are binding under international law
- a. Please indicate whether the JD alone is binding under international law.
  - b. Please identify the characteristics of the JD from which it can be concluded that both the United States and Mexico regard the JD as binding under international law.
  - c. Please indicate which specific provisions of the JD impose binding obligations on either the U.S., Mexico, or both.
  - d. Please indicate whether the SA alone is binding under international law.
  - e. Please identify the characteristics of the SA from which it can be concluded that both the United States and Mexico regard the SA as binding under international law.
  - f. Please indicate which specific provisions of the SA impose binding obligations on either the U.S., Mexico, or both.
  - g. Please identify and explain in detail the specific factors that the Department analyzed in arriving at the position that the JD and SA collectively are binding under international law.
  - h. Please provide a detailed explanation, with relevant examples, of the legal theory by which the Department believes it is possible for a subsequent instrument, such as the SA, to render a change in the legal character of a prior instrument that was not itself previously considered binding under international law.
  - i. Please indicate whether the Department's analysis of the binding nature of the JD, SA, and the JD and SA collectively is consistent with the practice and precedent of the United States on international agreements and arrangements, or if the analysis departs from the practice and precedent of the United States in this area. If it does differ, please explain the following:
    - i. how it differs;
    - ii. why the executive branch departed from U.S. practice and precedent;
    - iii. whether the executive branch's position on the JD, SA, and SA and JD collectively is a one-time departure from U.S. practice and precedent, or whether the departure represents a shift in executive branch practice;

- iv. whether the executive branch has made the Government of Mexico aware of any departure.

4. Position of the United States with regard to the JD and SA
  - a. During the course of the negotiations of the JD and SA, what was the position of the United States on whether the JD, the SA, and the JD and SA collectively were binding under international law?
  - b. Upon finalizing the JD and SA, what was the position of the United States on whether the JD, the SA, and the JD and SA collectively were binding under international law?
  - c. Acting Legal Adviser Shring appeared to indicate in his July 24 testimony that questions of whether the JD and SA were binding under international law were still being considered within the executive branch. If the United States did not have a position on the question of whether the instruments were binding during the negotiation or when the instruments were finalized, please explain why that would be the case.
  - d. Did the position of the United State on whether the instruments were binding change from the outset of the negotiations to the date the instruments were finalized or at any point between the date the instruments were finalized to the July 29 communication from the Department to SFRC staff. If yes, please explain the substance of the change(s) – i.e. from what to what – and the reason(s)?
5. Position of the Government of Mexico (GOM) with regard to the JD and SA (as understood by the executive branch)
  - a. Has the position that the JD and SA collectively constitute a binding agreement under international law been conveyed to the GOM?
    - i. If yes, please indicate when this position was first conveyed to the GOM.
    - ii. If no, please explain why it has not been conveyed to the GOM.
  - b. What is the Department's understanding of the position of the GOM on the following:
    - i. whether the JD is binding for purposes of international law,
    - ii. whether the SA is binding for purposes of international law, and
    - iii. whether the JD and SA collectively are binding for purposes of international law.

\*Please note that the preceding questions are not a request for the Department to speak on behalf of the GOM; rather we are interested in the Department's understanding of the GOM's position.

6. Impact of potential differing positions between United States and Mexico
  - a. If the GOM does not share (and never has shared) the executive branch position that the JD and SA collectively are binding under international law, would that change the executive branch position that the JD and SA collectively are binding? If no, please explain.
  - b. If the GOM does not share (and never has shared) the executive branch position that the JD and SA collectively are binding under international law, could the GOM be bound by any provision of such instruments? If yes, please explain.

7. Case Act transmittal
  - a. In light of the executive branch position that the JD and SA collectively are binding under international law and the indication that they will be transmitted to Congress pursuant to the Case Act, does the Department commit to transmitting to Congress, pursuant to the Case Act, all similarly-situated instruments going forward?
8. Domestic legal authority for JD and SA
  - a. The Department has indicated that it "consider[s] the Joint Declaration and Supplementary Agreement to be, collectively, an executive agreement, concluded in the exercise of the President's constitutional authority for the conduct of foreign relations."<sup>6</sup>
    - i. Please be more specific concerning the constitutional authority asserted as the basis for the JD and SA. Which specific provisions of the Constitution does the Department view as providing the domestic legal authority for the JD and SA?
    - ii. Prior to the JD and SA, had the United States concluded any international instrument related to immigration or migration and asserted "the President's constitutional authority for the conduct of foreign relations" or any other constitutional authority of the President as the sole domestic legal basis for the instrument(s)?
      1. If yes, please provide a list of each instrument that meets these criteria, the date it was concluded, and a statement of the specific constitutional provisions that provide the asserted authority.



United States Department of State

Washington, D.C. 20520

The Honorable  
Robert Menendez, Ranking Member  
Committee on Foreign Relations  
United States Senate  
Washington, DC 20510

SEP 09 2019

Dear Senator Menendez:

Thank you for your August 7 and August 26 letters regarding the U.S.-Mexico Joint Declaration and Supplementary Agreement. The Department appreciates the jurisdiction and oversight responsibilities of the Senate Foreign Relations Committee and welcomes the opportunity to provide further information to you and your staff. Below are the Department's responses to the two primary questions posed in your letter.

Q: Is the Joint Declaration a treaty or a political arrangement?

The Administration considers the Joint Declaration and Supplementary Agreement to be, collectively, an executive agreement, concluded in the exercise of the President's constitutional authority for the conduct of foreign relations.

Q: Is the Joint Declaration binding under international law?

The United States regards the June 7 Joint Declaration and the Supplementary Agreement with Mexico, which was previously provided to the Committee, collectively to constitute a binding agreement under international law.


To address the other questions identified in your correspondence as soon as possible, the Departments of State and Homeland Security are prepared to brief Senate Foreign Relations Committee staff on issues related to asylum cooperation issues with our regional partners. The Department is working with your staff to confirm such a briefing for September 10, 2019, at 10:00am.

The Department looks forward to making available a team of senior Department officials to conduct the briefing, including senior representatives from the Bureau of Western Hemisphere Affairs; Bureau of Population, Migration, and Refugees; and the Office of the Legal Adviser. We expect that the Department of Homeland Security will make available a similarly senior briefer for this discussion.

We look forward to the opportunity to address your questions in a comprehensive manner.

Please let us know if we may be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. E. Taylor', followed by a horizontal line.

Mary Elizabeth Taylor  
Assistant Secretary  
Bureau of Legislative Affairs



**Refugees International**  
**Statement for the Record**  
**Senate Committee on Foreign Relations**

*"U.S. Policy in Mexico and Central America: Ensuring Effective Policies to Address the Crisis at the Border"*

September 25, 2019

Thank for you for the opportunity to submit this written statement for this important hearing today.

Refugees International is a non-governmental organization that advocates for lifesaving assistance and protection for displaced people in parts of the world impacted by conflict, persecution, and forced displacement. We do not accept government or United Nations funding, which helps ensure that our advocacy is impartial and independent.

Refugees International is very concerned about the administration's negotiated arrangements to return asylum seekers to danger in Mexico and Central America. These policies and agreements effectively bypass the laws Congress adopted to protect refugees. Contrary to what the administration claims, these policies will also increase smuggling and trafficking.

The so-called Migration Protection Protocols (MPP), or Remain in Mexico policy, has returned 47,000 Spanish speaking asylum seekers—from the Northern Triangle of Central America, but also from Nicaragua, Cuba, and Venezuela—to cities in northern Mexico where they confront significant dangers. On visits to the border, Refugees International has spoken to individuals and families who have been kidnapped and extorted after being returned under this policy in ways that directly implicate the U.S. and Mexican governments. For instance, one father and son, who had been active participants in the political opposition in Nicaragua and asked for asylum in Texas, were understandably afraid to stay in Nuevo Laredo when returned there by Customs and Border Protection (CBP) in July. So they boarded a bus paid for by the Mexican government that took people from Nuevo Laredo and dumped them on the streets of Monterrey. Last week the man and his son had to make their way back to Nuevo Laredo to report on the international bridge at 4:30 a.m. for a U.S. immigration court date. They were kidnapped by a group of armed men on the way.

Not surprisingly, many in the MPP program are too afraid or too poor to wait for their court dates several weeks away. Several hundred asylum seekers returned to Ciudad Juarez have opted for the Assisted Voluntary Return Program administered by the International Organization for Migration (IOM) and paid for by the Department of State. IOM is not communicating with the Department of Homeland Security (DHS) or the Department of Justice about who it returns home so that, when asylum seekers miss their immigration court hearings, they are deported in *absentia* and then barred from asylum or unification with relatives in the United States (including relatives who are U.S. citizens or who have been living in the United States for up to two decades with Temporary Protected Status). Others in the MPP program have boarded buses paid for by the Mexican government, unaware that they were being transported all the way to Tapachula in southern Mexico.

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Bowing to pressure from the United States, Mexico has blocked, detained, and deported increasing numbers of asylum seekers. Unaccompanied children are particularly vulnerable to deportation from Mexico and have little access to the asylum system, so are pushed into hiding and into the hands of gangs and narco-traffickers. Others who have been returned to Mexico in the MPP program, desperate for refuge in the United States, hire smugglers to reenter the United States, especially through the notoriously dangerous state of Tamaulipas. In Matamoros, Refugees International met one Honduran asylum seeker in the MPP program who had ant bites all over her torso from having been abandoned in the desert by traffickers who had subjected her to forced prostitution in Reynosa. It is important to note that this woman had fled Honduras initially because she had been raped there; the man who investigated the rape had been murdered, and the court papers about her case had disappeared. This asylum seeker was returned to Mexico in the MPP program despite explaining to CBP what happened to her both in Honduras and in Mexico.

Through deals bolstering border security throughout the region, the Trump administration has aided Central American governments—governments that *cannot* adequately protect their own populations—to prevent these populations from migrating, effectively preventing refugees from being able to flee to safety. The Trump administration also claims that its agreements to return asylum seekers to El Salvador and Guatemala will come with U.S. efforts to build capacity of those countries' asylum systems. But that capacity does not now exist, and—of course—asylum capacity building does not automatically create safety and security in the broader society. In any event, under U.S. law, safe third country agreements require that capacity to process asylum seekers exist before any asylum seekers are returned. If implemented, the agreements will effectively trap asylum seekers in a region unequipped to process their claims fairly, keep them safe, or guarantee them decent living conditions.

Capacity building is important, especially as a means to promote responsibility sharing, and the United Nations has an existing program to steadily build the capacity of the Guatemalan asylum system, among others, and to promote shared responsibility for refugees in the region. But the Trump administration sees capacity building not as a means of responsibility sharing, but rather as a tool of responsibility shifting. Instead of sharing responsibility for the second largest refugee crisis in the world today—that of the Venezuelans—the United States is returning Venezuelan asylum seekers to Mexico under the MPP program and negotiating with Honduras for their return to that country. If the United States were truly interested in the safety of those forced to flee their home countries, it would not be banning asylum at the southern border, sending asylum seekers to danger, encouraging the closing of all borders, and shifting responsibility for refugees to other countries in the region. Instead of threatening to zero out all refugee resettlement, the administration would be creating a robust refugee resettlement program for refugees from Central America. And instead of cutting off humanitarian aid to the region, it would support efforts to address the root causes forcing people to flee, such as corruption, violence, climate change, and poverty.

Members of this committee understand the vulnerabilities of those in Mexico and Central America. From addressing root causes to emergency humanitarian aid to development investment, members of both parties have supported U.S. policies that have not only saved lives but provided protection and support. But much work remains, and the administration's devastating actions send a dangerous signal to an already fragile region.

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STATEMENT BY RICK JONES, SENIOR TECHNICAL ADVISOR FOR LATIN AMERICA AND  
THE CARIBBEAN, CATHOLIC RELIEF SERVICES

Thank you for the opportunity to submit this written statement for this hearing and for the opportunity to highlight the importance of U.S. engagement in Central America, and specifically the need for effective international poverty-reducing humanitarian and development assistance.

Catholic Relief Services (CRS) is the international relief and development agency of the Catholic community in the United States. Last year CRS celebrated its 75th anniversary and we were privileged to serve more than 127 million people in 114 countries. CRS also engages with and educates Catholics and people of good will in the United States about the challenges of global poverty and injustice.

I live in El Salvador and have worked in the region for nearly 30 years. CRS has worked in the Northern Triangle of Central America for more than 50 years to alleviate suffering, cultivate just and peaceful societies, and accelerate the end of poverty, hunger, and disease. In partnership with the U.S. Government, the local Catholic Church, and other civil society agencies, we have made gains. U.S. sponsored programs have helped reduce poverty, malnutrition, and violence. Homicide rates dropped by over half in El Salvador from 104 homicides per 100,000 people to 52 from 2015 to 2018 and by 35% in Honduras. Aid has provided economic opportunities for families and communities and fostered positive engagement with the private sector. We currently work with over 300 small businesses who hire young people graduating from our programs that have been funded by the U.S. Department of Labor (DOL).

Nevertheless, today we face a humanitarian crisis at our southern border that demands political, social, and economic attention. But we must not lose sight of the humanitarian crisis in Guatemala, Honduras, and El Salvador that is driving migration northward. Guatemala has the 6th highest rate of malnutrition in the world. Honduras and El Salvador experience two of the highest homicide rates for countries not involved in active war. And climate change and soil degradation drastically alter communities' opportunities to maintain sustainable livelihoods. The Catholic Church believes that people have the right to find opportunities in their home countries and that they have the right to migrate when conditions in their country of origin preclude them from providing for the safety and wellbeing of their families. My colleagues and I working in Central America witness poverty, violence, food insecurity, climate change, and an absence of hope, all contributing factors to what has resulted in hundreds of thousands of people fleeing despair.

Audelio Mejia, who supports his wife and three children by growing corn and beans in Lempira Honduras, is an example of someone who has found hope. He lives in what is called the "Dry Corridor" that runs through parts of Guatemala, Honduras, El Salvador, and Nicaragua. He thought about migrating to better feed his family in 2014 but he joined a CRS Project we now call Water Smart Agriculture instead and began seeing his corn and bean yields more than double—even in years of drought. In 2018 during 42 days of drought he lost just 10% of his crop, while his neighbors lost 80%. That is the difference between having to find other work for a couple of months in the off season and watching your family starve. Over 2 million small farmers have been affected by drought in the last 2 years. The Food and Agriculture Organization estimates that 1.4 million people are going hungry and that nearly half the migrants from Central America in the last several years have come from rural areas suffering drought and food insecurity. CRS applied for funds from the Office of Foreign Disaster Assistance to both mitigate hunger and help farmers learn the practices that Audelio Mejia is using to increase his corn and bean yields. The recent decision to suspend aid to Central America means that desperate families will not receive the life-saving support they need.

Cutting humanitarian and development assistance to people fleeing what Bishop Álvaro Ramazzini of Huehuetenango, Guatemala recently called the "violence of poverty" sends a message to many that they are on their own. The question we must ask ourselves today is not if the U.S. should engage or if the U.S. should invest in humanitarian and development programs, but how can we, the U.S. Government, civil society organizations such as CRS, and the private sector, engage more productively and effectively in Central America to address the root causes of migration, to provide opportunities for families to thrive in their home communities, and to uphold the human dignity of each and every person so that they are not forced to migrate. If we turn our backs on people like Audelio and retreat from providing humanitarian and development assistance, many will see no alternative but to migrate north.

CRS commends Congress' steadfast commitment to funding international poverty-reducing humanitarian and development assistance. Furthermore, we recognize Congress' recent efforts over the last five fiscal years to increase investment in the Northern Triangle through the U.S. Strategy for Engagement in Central America, which has targeted holistic concerns related to security, governance, and prosperity. In CRS' experience, U.S. investments have made a difference. Too often though we do not hear about the success stories. CRS implements projects in Guatemala, Honduras, and El Salvador in youth development, water-smart agriculture, education, health, and emergency response, targeting the people who are most vulnerable to migration due to violence, poverty, and food insecurity. We partner with the Department of State (DOS), the United States Agency for International Development (USAID), DOL, the United States Department of Agriculture (USDA), and the Overseas Private Investment Corporation (OPIC). The following program examples, funded by the United States and other private donors, not only have saved lives and

alleviated suffering but also have supported the long-term developmental needs of communities and societies, reducing the vulnerabilities to forced migration.

In 2012, CRS launched Food Security Focused on the First 1,000 Days (SEGAMIL) to reduce chronic malnutrition and improve food security in 263 communities for almost 100,000 people in San Marcos and Totonicapán, two regions in the highlands of Guatemala most vulnerable to food insecurity. Over the 6-year USAID funded project, CRS supported small-scale cooperatives and associations to increase production and sales with better technologies and practices; taught rural families the importance of saving for emergencies and investing in their future while providing affordable loans; and improved families' understanding of how to raise household livestock and expand income from the sale of animals and other related products. Through these three interventions, the project helped reduce the number of people living on less than \$1.25 per day by half. The project also reduced poverty in female-headed households from 29.6 percent to 8.3 percent. Furthermore, through strong social behavior change, chronic malnutrition in children under age five went down an average of 1.5 percentage points per year, more than five times the national average. These achievements illustrate the impact aid has when it is well targeted and sustained.

In Central America, one in four youth aged 15–24 are unemployed and not in school. Since 2009, CRS has worked with more than 10,000 youth across Central America to help them stay in school, return to school, find a job, or start an entrepreneurial venture. Our work has targeted at-risk youth living in high crime urban areas who have a higher propensity of becoming victims or perpetrators of crime and violence. Adapting the YouthBuild model, developed in the United States in the 1970s, CRS implements Youth Pathways, a DOL funded project, in Honduras and El Salvador. Youth Pathways follows program participants after graduation to ensure effectiveness and sustainability. A 2019 impact evaluation has highlighted results. The baseline study of participants showed 12% were employed. Six months after graduation, employment increased to 45%. Twelve months after graduation employment increased to 56%. And 18 months after graduation, employment increased to 59%. Furthermore, at enrollment, only 29% of program participants were working or studying. Eighteen months after graduation, 75% of graduates are now working or studying. Youth Pathways, and programs like it, are unleashing young people's potential to change their own lives. By increasing employment opportunities and reducing the gap between training opportunities and labor market demands, Youth Pathways combats two of the strongest push factors of migration, insecurity and limited economic opportunities.

Second Chances, a DOS funded private sector rehabilitation and reinsertion project in El Salvador, has worked with 670 inmates using cognitive behavioral curriculum to shape alternative behavior and self-control to break the cycle of violence. Inmates are showing major improvements. In partnership with El Salvador's General Directorate of Penal Centers, CRS is training key penitentiary staff to integrate our curriculum into the national rehabilitation system. CRS' curriculum provides program participants cognitive behavioral techniques to help adopt positive behaviors that allow them to re-enter society. Allowing youth and young people to thrive includes fostering environments where the system supports a second chance to become a contributing member of society.

In El Salvador, CRS has structured Azure, a blended finance and technical assistance provider, to improve water and sanitation services for underserved communities. Comprised of two integrated components: Azure Capital LLC, a U.S. based finance company that deploys loan capital through local financial institutions to upgrade and expand water and sanitation infrastructure; and Azure Technical Services, which provides water service providers with design and engineering, system diagnostics, loan application, and management support. Developed in partnership with the Inter-American Development Bank's Multilateral Investment Fund and supported by OPIC, Azure hopes to improve quality of services for 500,000 people through 2020. Innovative approaches to inclusive development such as Azure harness and embody the power of effective public-private partnerships.

Guatemala has 70% chronic malnutrition rates for children in the Western Highlands. CRS' USDA McGovern-Dole Food for Education program serves more than 65,000 students, teachers, and parents, covering 337 public, primary schools. The project provides nutritious school feeding, improves bilingual literacy and reading skills, strengthens the educational community, and supports local value chains by linking Guatemalan small producers to schools. Since 2017, student enrollment in the project area has increase by 2.74%, while national enrollment has decreased. Third grade literacy improved by 21.5% from 2014–2017. But results are not just program specific. In addition to direct provision of services, U.S. foreign assistance allowed CRS to be at the table with the national government to help pass a Na-

tional School Feeding Law by the Guatemalan Congress in November 2017. In 2018 and 2019, 50% of food will be procured locally, increasing up to 70% by 2020. The law also increased school feeding investment from \$0.15 per child per day in 2017 to \$0.41 in 2018 to \$0.55 per child per day in 2019. Disbursements in 2018 and 2019 from the Ministry of Education to schools have been timely and complete.

During the first year of drought, a farmer will eat their reserves from the previous years' harvest. The second year, they eat their livestock. The third year, they sell available assets. The fourth year, they leave. For smallholder farmers in Central America, erratic rainfall patterns, rising temperatures, and increasing drought threaten their livelihoods. An estimated 80% of farmland in Central America suffers from soil degradation. 2.2 million farmers in the Central American dry corridor suffer from crop losses, and 1.4 million are food insecure. CRS partners with the Howard G. Buffett foundation to support farmers through water-smart agriculture, the practice of managing soil to manage water and increase yields. Water-smart agriculture protects soil and makes efficient use of water to optimize productivity. In the 2018 drought, 80% of farmers using water-smart agriculture practices produced at least 15% more crops than those that did not. CRS has trained 40,000 people to implement water-smart agriculture. A recent study shows that 20% more farmers would meet their basic maize production needs if they adopted water-smart agriculture techniques. These skills can change a farmer and their family's life. As one farmer said, "To protect our crops, our livelihood and our future, we need to save and protect the soil and water." Water-smart agriculture helps address a cause of migration at the physical root. These efforts are cumulative and cutting off aid will erode the existing success, throwing people back to the conditions where they started.

In Honduras, coffee provides around 5% of national GDP, employs 1 in 4 workers at some point during the production, processing, and export of green coffee, and is the main source of earnings in rural areas. Since 2012, coffee farmers have been faced with plant diseases, drought, and dramatic price swings in green coffee prices. Recent harvests were characterized by reduced yields and low prices, representing a one-two punch in the gut to small scale farmers and their families. These issues led CRS to partner with Keurig Green Mountain to implement Blue Harvest, a program that seeks to protect water resources, assure coffee quality and productivity, and improve market efficiencies in order to secure a greater portion of value for the farmers. In 2018 alone CRS supported over 1,550 Honduran coffee producers by implementing water and soil protection practices to protect water sources in their highlands and have focused on improving coffee quality through better post-harvest processes. This focus on quality and sustainability has allowed cooperatives supported by Blue Harvest to export for 2 years consecutively to DR Wakefield and Café Nero with differentials as high as \$0.14/lb, generating over \$900,000 of income. Coffee Cooperatives supported by the program have a contract for 2019 with a \$0.15/lb differential above market value. This is solely based on CRS and partners' efforts to enhance the protection of water resources while assuring coffee quality.

These programs are illustrative examples of the combined impact of U.S. Government investment, civil society expertise, and private sector engagement. From public-private partnerships and national policy advocacy to increased literacy, youth employment, and a reduction in poverty, U.S. funded foreign assistance projects are addressing the root causes of migration. The answers to how we should engage are clear, invest in successful models, initiatives, and strategies that target assistance and catalyze development outcomes at scale. Disengaging will not only undermine our collective ability to improve human security, communal prosperity, and good governance today but also exacerbate forced migration tomorrow.

The Administration announced this summer their intent to suspend \$164M from Fiscal Year 2017 funds (approximately 27% of all FY17 funds), to reprogram \$404M from Fiscal Year 2018 allocations (approximately 82% of all FY18 funds), and to suspend all future humanitarian and development programming in the region. Cutting foreign assistance is counterproductive to addressing issues of security, governance, and prosperity and will create a vacuum for increased instability, poverty, and migration.

Suspending and redirecting funds will have a direct impact on human lives served. CRS was implementing a USAID funded, life-saving humanitarian program to support food insecure households in the eastern dry corridor of Guatemala. Due to the cuts, the project will close this month. More than 7,400 families and almost 30,000 people will not receive services as a result of discontinuing CRS' program alone. The program targeted populations that are vulnerable to migration, helping save the lives of acutely malnourished children and supporting families that have little to eat due to 5 years of recurrent drought. The project helped accelerate communities' recovery and build future resilience. Eliminating this program pre-

maturely will exacerbate human suffering. Furthermore, CRS leads a USAID funded program supporting 200 Guatemalan communities in 30 municipalities. Women make up 66% of the program participants. Due to the redirection of Fiscal Year 2018 funds and uncertainty about future funding, CRS will need to reduce or stop certain program activities. The project seeks to empower citizens to design and implement community development plans and to improve long-term sustainability of community development by increasing private sector engagement and resources. Decreased engagement will reduce the opportunities for people to thrive in their home communities.

In addition to the immediate, direct impact of cutting assistance to people participating in ongoing humanitarian and development projects, there will be indirect effects moving forward that could have a long-lasting influence on our work in the region. First, an absence of U.S. investment and engagement could halt progress and allow community achievements to regress. For example, reducing homicides requires robust initial investments. To maintain gains, we must follow through with sustained support for communities as they find their pathway out of poverty and violence. Withdrawing support will open the door for communities to slide back to previous levels of violence. Second, community trust is at the core of how we accompany communities and promote subsidiarity. Pulling back on commitments breaks that trust. Third, U.S. engagement and U.S. sponsored programming provide seats at the proverbial table for both civil society and the private sector to engage with local and national governments to foster inclusive development. If we lose trust and credibility as well as seats at the table, we will create a void for other actors to offer influence who may not have the best interest of the poor and the vulnerable in mind. U.S. sponsored projects such as the ones previously mentioned contribute to enhancing community and society conditions that reduce violence, food insecurity, and lack of economic opportunities. By stepping away, we risk increasing vulnerabilities that lead to migration.

Therefore, CRS recommends that Congress preserve and increase humanitarian and development programs in the region. Millions of Catholics support U.S. led efforts to serve the poor and the vulnerable overseas in places such as Central America. CRS commends Congress' steadfast leadership to address humanitarian crises and to seek solutions to human development challenges around the world. As we encounter a humanitarian crisis at our southern border and in Guatemala, El Salvador, and Honduras, we urge the Senate to introduce and pass bipartisan legislation that authorizes poverty-reducing humanitarian and development funding to the region in Fiscal Year 2020. We support the House of Representatives recent effort to pass H.R. 2615, The U.S.-Northern Triangle Enhanced Engagement Act, which would authorize funding to the region and prioritize inclusive economic growth and development. Furthermore, we urge the Senate to protect poverty-reducing funding to Central America in Fiscal Year 2020 State and Foreign Operations appropriations, including ensuring that international assistance can continue immediately in the region at Congressional appropriated levels for previous fiscal years.

Furthermore, CRS urges Congress to help catalyze development outcomes at scale. CRS has witnessed firsthand that U.S. programs have reduced poverty and malnutrition; increased employment and literacy while promoting policy changes at a national level; fostered public-private partnerships to improve the lives of the poor and vulnerable; and supported innovative agriculture techniques to meet new environmental challenges. To create lasting results, we urge Congress to catalyze development outcomes at scale by lifting up and supporting effective development models and strategies that can foster more just and peaceful societies.

Lastly, we urge Congress to expand U.S. leadership. The Catholic Church prioritizes the protection and promotion of human dignity. As Pope Paul VI wrote, our collective efforts and solidarity should "allow all peoples to become the artisans of their destiny." With high rates of violence, a changing environment and climate, lack of economic opportunities and dignified livelihoods, and continued large-scale migration, the U.S. must lead at a regional level to ensure we address these challenges in a humane and just manner. Expanding U.S. leadership does not always signify doing more. U.S. leadership also comes in the form of partnership with U.S. based agencies like CRS who sit at the table with government, business, and community leaders seeking local investments that benefit the poor. We urge Congress, through humanitarian and development programming, to empower and accompany local communities and the institutions that support their development to be effective and impactful leaders.