

MEXICO – UNITED STATES



**Redefining the
Relationship
for Prosperity in
North America**



The Mexican Council on Foreign Relations, COMEXI, is a nonprofit independent organization, dedicated to the analysis, study, and debate of major global trends and their impact on Mexico. We seek to inform society with insightful, up-to-date information, as well as to impact opinion leaders, and influence public policy.

Our activities include discussion panels, roundtable meetings, high-level conversations and international forums on the most pressing topics of the global agenda. Through public discussions and publications, we promote a non-partisan vision of the country's international agenda.

COMEXI's membership consists of more than 500 associates, including recognized experts in various fields, Mexican companies with an international reach, global corporations based in Mexico, embassies, international organizations, academics, research centers, among others.

Our members share their knowledge and expertise through Working Groups. They participate in our public events, conferences, webinars and other activities we organize specifically for them. In order to motivate public debates on the issues and priorities that interest Mexican society, COMEXI aims to engage, on a regular basis, with government, civil organizations, the private sector and other relevant stakeholders.



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PRESENTATION

The Mexican Council on Foreign Relations (COMEXI, for its acronym in Spanish) submits for the consideration of political and business leaders, as well as of public opinion, ideas to help guide the U.S.-Mexico relationship in the new binational context.

The initiative is made up of general guidelines, as well as a series of specific recommendations for each of the main components of the relationship: NAFTA, Security, Migration, Border, Consulates and Communications.

Because of the impending NAFTA re-negotiations, the chapter related to trade is much more detailed, and much longer, than the other position papers. For this reason, we have chosen to keep the recommendations and quotes from the text of the agreement within the main body of the text. The issues are, by nature, technical and detail-driven. The upshot is one of the most complete papers that has been published on the topic in recent times. We are confident that it will become required reading during the long negotiation process that is just beginning.

This English-language compendium contains a complete translation of the original text in Spanish. Our guiding principle is that what is good for Mexico is good for the rest of North America, and vice versa. For this reason, we are fostering this dialogue in both languages, confident that a mutually beneficial, “win-win” view of the relationship will ultimately prevail for the benefit of the 475 million inhabitants of our region.

This product of the Working Group on the Future of the U.S.-Mexico Relationship is the culmination of an effort on behalf of COMEXI, under the leadership of its Chairman, Luis Rubio. It is born out of the participation of the membership of the Council, as well as other recognized experts, who came together on an issue-by-issue basis to give rise to the works that are collected here. Finally, it is important to highlight the valuable collaborations of Mariana Campero, Executive Director of COMEXI, and Miguel Toro, whose help in editing and formatting the work were fundamental to its fruition.

Agustín Barrios Gómez / Working Group on the Future of the US-Mexico Relationship



THE U.S.-MEXICO RELATIONSHIP AN OVERVIEW

Mexico's relationship with the United States has gone from broad and deep cooperation that served both countries' economic and national security interests, to a cooperative, but tense, relationship that, even a few months into the new U.S. Administration, has yet to be articulated as a new American policy. After two years of anti-Mexican rhetoric during his presidential campaign, and now as President, Mr. Trump has put a significant strain on the relationship that, for a quarter of a century, had been based on seeking out "win-win", mutually beneficial solutions. He has created a negative environment in his country for Mexico and Mexicans, and has fostered a negative opinion about the U.S. government in Mexican public opinion. This Mexico-bashing has raised the specter of anti-Americanism in Mexico that had all but disappeared over the last twenty years, and has been detrimental to the interests of both countries.

Because of the asymmetry that exists between the U.S. and Mexico, decisions made in Washington have disproportionate impact on Mexico. Barring a major crisis in Mexico, the reverse is not true (there is no better example of this than the effect that Mr. Trump's statements have had on the Mexican Peso). The upshot is that a feeling has emerged in the United States that Mexico is to blame for many of the ills that afflict the economy and society of the neighboring country. According to this narrative, Mexico and/or Mexicans are responsible for drugs, for social crime, for unemployment, and for unjust bilateral trade. This adversarial view of our shared relationship is fundamentally wrong and needs to be effectively repudiated. For both country's sakes, it is imperative that Americans understand that Mexico is a strategic partner for the United States, and that only a stable, prosperous, and friendly Mexico will give them the national security Americans need in an otherwise very hostile world. Further, as an economic partner, Mexico is key to the competitiveness of the U.S. economy and only to-

gether can we be successful in a global economy where the rise of Asia represents significant challenges.

For the coming months and years, the **main objective** of Mexico regarding the United States should be to create, in the eyes of that country's public opinion, an awareness that we have a **common destiny**. Proximity and integration have given us the concept of co-responsibility, as highlighted by Secretary of State Rex Tillerson. This must be the priority across the board for current and future Mexican administrations, besides becoming the umbrella under which we conduct every aspect of the bilateral relationship.

The Mexican government has decided to focus its strategy on the relationship, changing the previous methodology of isolating different issues to avoid one issue, or dispute, "contaminating" others. The relationship between the United States and Mexico, with all of its components and issues, contains areas that are of greater interest for one country, whereas other issues are more important for the other. Therefore, only the totality — the recognition that everything constitutes the relationship, and not just the parts — will allow for a negotiation in which both nations can gain something. Accordingly, the concept of common destiny must be, from now on, the guiding principle. In commercial issues, it is both countries' economic security and competitiveness. In migratory issues, it is Mexico's collaboration that allows the U.S. to keep track of who enters North America, on the one hand, and the recognition of the contribution of Mexicans in the United States to its economy and its social fabric, on the other. An integral focus for the relationship should not imply that all fronts be addressed and/or negotiated simultaneously. What it does mean, however, is that a holistic vision needs to permeate all discussions in order to avoid disrupting a relationship that is fundamental for both countries.

The new Administration's decision to blame Mexico and, therefore, to attempt to isolate Mexicans behind walls, either physical or conceptual, will end up impacting both countries and their societies, but the effect will be much greater in Mexico, possibly exacerbating basic governance issues that already threaten stability, and feeding social unrest. By any metric, social, economic, strategic, military, etc., it is the wrong approach.

A much more effective framework can be seen in the Security and Prosperity Partnership (SPP, or ASPAN, in Spanish), which was created in 2005 by the Bush, Fox and Martin administrations of the U.S., Mexico, and Canada, respectively. The belief that economic and national security complement each other, and that only by cooperating on both fronts can North America flourish, is the same cornerstone that is needed today.

Recommendations

- American prosperity and national security, directly depend on a prosperous and cooperative Mexico. Only a stable Mexico, willing to cooperate with the United States government, can guarantee **U.S. security** and hemispheric interests in a very hostile world.
- Our economic alliance, mainly within NAFTA, has created jobs, fostered competitiveness, and contributed to an integration whose value chains make North America competitive and an **economic powerhouse** on the world stage.
- The Mexican government must position itself strategically within the context of the relationship as a whole, without focusing on its individual parts. We share a **common destiny**, a reality that constitutes the over-arching narrative.
- The idea of a common destiny in the context of a "win-win" relationship should be the guiding principle of all bilateral exchanges, be they in commerce, investment, migration, or security. On the **commercial** front, it is about shared prosperity and the opportunities to build joint competitive platforms. In **migratory** issues, it is about the recognition of the contribution Mexicans make to the U.S. economy and society. This, at the same

time as Mexico assumes its responsibility to promote the wellbeing of its citizens and help to control immigration from third countries seeking to enter the United States through our shared border.

- A Mexico with internal governance issues, with widespread criminal violence, and a Mexico that is under the threat of social unrest, is a serious problem for Mexicans, but also constitutes an important danger to the United States.
- As was stipulated under the Security and Prosperity Partnership (SPP) of 2005, shared prosperity should be the guiding principle for regional security and the North American security perimeter should cover the region from the Canadian Arctic to Mexico's southern border.
- Trade issues should be addressed from a trilateral perspective. Canada is a market of growing importance for Mexican imports and exports and all three countries participate in the North American supply and production chain. The three nations would be strengthened by a fruitful NAFTA modernization process.
- The Mexican government's policies of cooperation with the U.S. give it bargaining chips that could allow it to react firmly in the face of further provocations. Playing them intelligently, and publicizing the fundamental importance of Mexican cooperation, would reduce the political benefits of insulting Mexico and Mexicans, and would show the country as a strong and serious partner.
- Mexico must open back-channel lines of communication and bring together natural allies of the relationship between both countries, many of whom are not aware that their prosperity depends on the bilateral relationship's functionality and success. Further, many of those that do know have no idea how they can participate in promoting their own interests. Both of these issues must be dealt with immediately.
- Civil society participation is key to nurture and strengthen Mexico's stance through its own connections with their North American counterparts. Again, an action plan is required to organize and mobilize societal actors.

- It is urgent to create a central Mexican message (government, businesses, workers, civil society, and academia) to take control over the narrative, and to reduce the political benefits of using Mexico as a scapegoat. This is similar to “The Mexican Agenda”, a document put out quarterly in the early 1990s that was instrumental in promoting NAFTA.

- The Mexican Council on Foreign Relations (COMEXI) believes that these ideas help illustrate the framework that Mexico must navigate in its relationship with the new American Administration, as well as the tools and arguments it has at its disposal. The sole purpose of the proposals that are put forth in the following chapters is to promote the general welfare of our country, specifically, and of the North American region, in general.

Proposals by topic

NAFTA

NAFTA’s renegotiation is the most pressing issue. In North America as a whole, trade must be addressed from a trilateral perspective, since the three countries take part in North America’s supply and production chains. Mexico has insisted on this and has sought to create awareness in the Canadian government of how dangerous it would be to try to negotiate separately. Recent threats and trade barriers put forth by the American Administration have helped bring our Canadian partners around.

The NAFTA chapter encourages the establishment of shared objectives, based on the necessity to increase our region’s competitiveness in the world. We highlight that the two pillars of the original negotiation must be kept: universality (everything is included, except that which is mentioned explicitly), and symmetry (the three countries are treated equally).

This is, by far, the most detailed and extensive chapter. It highlights that there are mechanisms within the original agreement that are useful for its modernization. In terms of expanding the Agreement

to other sectors, we consider: Energy, licensing and certifications standardization (“single window” initiatives), transport and logistics integration, expanding the remit of the North American Development Bank (NADBANK), medical tourism, and demographic complementarity.

It is clear that the internal struggle within the new administration between isolationists and experts has created (and still generates) a lot of uncertainty. However, this document offers a great deal of opportunities that can be built to generate growth for Mexico, the U.S., and Canada, building on top of what we already have, for the benefit of all three countries.

The worst mistake we could make would be to fall for the simple arguments of protectionism. The Mexican government’s negotiation must be focused on improving the Mexican economy’s capacity to flourish in the context of the international trading system. As such, we must keep a clear eye on increasing the productivity of industry, specifically, and of the rest of our economy, in general. We must take advantage of new opportunities to reduce costs in the Mexican economy — in both traditional industries and new, tech-based ones, with cloud access, free data flows, etc. We must focus on how to improve Mexican producers’ ability to compete, which could mean making difficult decisions, like, for example, keeping tariffs low even in the face of a commercial conflict with the United States, avoiding all kinds of service traffic restrictions, regardless of where servers and providers are located. In the end, what is crucial is to keep in mind the country’s long-term development, beyond the current complexities of our relationship with the United States.

SECURITY

The document regarding security explains the Mérida Initiative as a cornerstone for security cooperation between Mexico and the United States. It highlights that the security relationship with the United States is deeper and more complex than is generally known.

Mérida's relevance is not limited to mere collaboration in the fight against organized crime. It is also a coordination and cooperation mechanism and a way to share responsibilities. It is an instrument that recognizes the co-responsibility inherent to the security relationship. The Initiative was not conceived as a funds channeling program (in cash, or in kind), nor as a mechanism to obtain funds or critical equipment, *per se*. What the program does is to allow access to a certain kind of operations, communications, and intelligence equipment (SIGINT) that otherwise would have implied very cumbersome financial and bureaucratic processes.

Since the Initiative began, the Mexican government has budgeted and spent much larger amounts than those earmarked in the Initiative for the country's public and national security. The importance of Mérida is the consolidation of a profound collaborative relationship that is not assistance-based, but is effective at facing the integral security needs of the North American region in the 21st century. It implies an ongoing exchange of intelligence and cooperation, underpinned by the shared responsibility paradigm. This program's implementation closed off channels that were formerly independent, uncoordinated, and often politically-driven. Channels previously used by American agencies to transfer equipment to their favored counterparts. Therefore, it enabled the standardization and interoperability of equipment and capacities in Mexico's interior, as well as on both sides of the border. Likewise, the Mérida Initiative established a level of strategic regional, and global, cooperation that was without precedent.

The Mérida Initiative thus became the cornerstone of what is arguably the most important relationship for the United States (that with Mexico) and, within that context, it provided a best-in-class framework for executing cooperation in the most important issue for the United States, security. Therefore, it is imperative that Mexico emphasize the transcendent importance of the Mérida Initiative as the guiding principle of the bilateral relationship in the area of security, independent of the amount of resources assigned, or of the past political objectives that led to this advanced level of cooperation.

In the chapter about Security, there is an emphasis on how Mexico's main challenge is to strengthen the rule of law within its territory. To be more precise, Mexico's biggest problem is not a drug problem, or a terrorism problem, or a violence problem: It is the lack of basic governance in large parts of its territory; the lack of a government that actually governs. Left unattended, the serious flaws in the field of public security will come back to haunt any and all efforts undertaken by Mexico, whether economic, social, or in the area of international relations.

After establishing the primacy of the issue and its impact across the board, the document analyzes the issues across five fronts: border security; drugs, arms and illegal financial flows; corruption and rule of law; handling of migratory quotas and binational communities; and pacification and socioeconomic stability.

For border security, the document gathers the contributions of former American "Border Czar" Alan Bersin, and the 21st Century Border. It considers that it is essential to expand the border security zone inland to face challenges before they arrive at our territorial limits. Regarding drugs, arms and illegal financial flows, the document urges to reevaluate the drug policy from one that is based on criminal justice, to a public health approach, and it urges to redouble efforts regarding arms trafficking into Mexico. The document also calls upon the authorities to leave behind anti-money laundering regulations that have hindered legitimate commercial activity without tackling the money laundering problem. Simply put, banks should not be prosecutors and basic government responsibilities, such as vetting people, should not be delegated to them.

Regarding corruption and rule of law, the document recalls the concept of national security established by the Security and Prosperity Partnership (SPP) of 2005, in which the government, civil society and the private sector coordinated their efforts. The United States has a lot to contribute in this area: intelligence, technology and best practices. However, the main element for its success is Mexican political will.

Regarding the handling of immigration enforcement, the document suggests that Mexico asks the U.S. government for the participation of representatives from the Mexican government in deportation processes of Mexican citizens, with the aim of guaranteeing: a) the origin of those prosecuted, b) the compliance with procedural guarantees and the respect of human rights, c) adequate consular assistance and legal defense of their cases (allowing for the legalization of their status in the United States, or their orderly repatriation to Mexico), and d) the organization of a shelter strategy designed to prevent violence and crime.

Finally, the document suggests that, regarding the full cooperation on issues of national security, it will always be necessary to base the bilateral relationship on friendship and trust. Mexican administrations will be pressured to end cooperation with the United States if Mexico is seen as the victim of smears from the American federal government. Or, for example, if American protectionism were to cause an economic crisis in Mexico. Misunderstanding the nature of the relationship could create geopolitical fallout and generate severe instability in our region. This must be avoided at all costs.

After re-affirming a “win-win”, mutually beneficial, model of cooperation, we can go further still. There is much to do in terms of binational law and order initiatives, taking advantage of dual citizenship, and other “outside the box” thinking that could finally solve, not just mitigate, the security problems that obstruct progress along so many fronts.

THE BORDER

This chapter aims for much greater binational institutional cooperation at every level of government, as well as the development of binational economic-commercial relationships (“mega-regions”), and the strengthening of a safer and more efficient border.

A fundamental issue is the systematization and institutionalization of cooperation between the various border states in each country. Here, it is urgent to relaunch the Border Governor’s Conference (BGC) as the

mechanism for high-level dialogue. In the same spirit of strengthening local action, the North American Development Bank (NADBANK) must be able to fund urban development, as well as its current portfolio of infrastructure and border environmental initiatives. Border cities have a big impetus for growth and prosperity. Each side of the border is growing faster than the interiors of their respective countries and we are not taking advantage of the critical mass that is already established there. An example is Laredo/Nuevo Laredo, the biggest international inland port in the world, with \$270 billion dollars’ worth of commerce that goes through its four area bridges, without generating much value-added.

Above all, it is urgent for Washington and Mexico City to see the border region as the opportunity that it is, rather than see it through the lens of fear that is created by ignorance. It is very hard to find, in either country, an area with a bigger economic and social development potential than our shared border. This has to be reflected on mutual support policies, instead of in rhetoric of repudiation and division.

MIGRATION

The starting point to approach the migration phenomenon has to be that, territorially, our two peoples were born together and grew up linked to each other. All approaches to the migration issue must highlight that the Mexican experience in the United States goes back to the founding of the two nations and is, mostly, an orderly and legal phenomenon. Today, almost 80 percent of the 36,9 million Mexicans and Mexican-Americans in the United States are American citizens, or immigrants with papers, not undocumented immigrants. Also, our migration narrative has to recognize that it is a two-way street: Mexico is, by far, the main destination of the American diaspora, with somewhere between 1 and 3 million Americans in Mexico at any given time.

After establishing the basic narrative of our shared history, the document urges the creation of protocols among Customs and Border Patrol (CBP) officers, reducing their discretion and removing the arbitrary

way that so many visitors are treated at U.S. Immigration facilities. The objective is to allow for enough leeway for officers to do their jobs, all the while respecting the entrant's right to privacy and expeditious crossing.

Mexicans go through rigorous scrutiny to obtain their B1/B2 visas/" Border Crossing Cards", which means that it should be in truly exceptional circumstances that they need to be checked, again. Clear legal recourse should be established when a visitor's privacy, rights and/or personal dignity are infringed.

The Migration chapter then divides the issues in three topics: Border Wall, Deportations, and Central America. With respect to the Border Wall, Mexico needs to be clear that it will not pay for any physical barrier along the border. It must prohibit this clearly in law, and stipulate specific sanctions in case the resources of Mexico, or Mexicans, are illegitimately seized for this purpose. It is obvious that Americans have the right to build what they please on their territory, but the document makes the case for protecting the delicate environment of our shared border region.

In the field of deportations, the essay calls for the strengthening of our consular presence in the United States. It highlights that our diplomatic representations require more resources to serve Mexicans in situations that are becoming more complex every day. The general theme is that Mexico benefits from its community abroad and must provide them the tools for them to be able to defend their interests, in line with their rights and obligations under U.S. law.

Regarding Central America, the document recognizes that Mexico is able to limit most third-country migration into the United States through its territory. Nevertheless, this is unsustainable in the long term since, more than economic migrants, they are refugees fleeing violence that is partly related to the legacy left by the American interventions of the 20th century. The United States, in partnership with Mexico, must work with our neighbors of the "Northern Triangle" to find a lasting solution.

CONSULATES

The section on Consulates recognizes the enormous challenges that both the Mexican Consular System and the Institute for Mexicans Abroad (IME, according to its Spanish acronym) currently face. It proposes overhauling their strategies, and it recognizes the need for additional resources so they can strengthen both their operation capabilities and their reach. The document proposes to revive some of the activities historically performed by our consulates in the United States, which consisted on strategies for servicing the community, which have been abandoned over time, as other basic services have grown more and more important.

Hence, the importance of recognizing consular diplomacy as a key tool of the Secretary of Foreign Affairs is highlighted, with the aim of leveraging the Mexican consular network - the largest of any country, and to transform it into a key partner for lobbying and communication strategies at a local level.

Finally, the document recognizes the need to improve the professional services of consulates and consuls in order to streamline procedures and lower costs. The objective being to provide Mexicans with a solid legal defense, as well as acceptable identification documents, regardless of their immigration status. Similarly, the document suggests increasing the number of consular agencies in key states, with the aim of serving people in vulnerable areas. Further, it recommends the creation of specialized attachés in strategic consulates for issues such as energy, culture, science, technology, and innovation, among others. And, lastly, the document proposes the creation of a Consular Intelligence System that provides appropriate intelligence to the Mexican government about the relationship with the United States at the local level.

COMMUNICATION

Given the decentralized and highly institutionalized nature of the U.S. political system, it is indispensable to have a communications strategy that speaks directly to the American society and, in parallel, an information and promotion effort regarding Mexican issues and interests at the government level. These are two distinct efforts, each requires a distinctive strategy.

Centralizing the Mexican message (government, businesses and civil society) is urgently required to retake control of the narrative and reduce the political benefits of using Mexico as a scapegoat. This includes recruiting natural allies, many of whom don't necessarily know that their livelihood depends on the bilateral relationship. Likewise, a permanent communications effort with sympathetic sections of the American population, including groups like American retirees and tourists in Mexico, is required to raise awareness about the importance of the bilateral relationship. The participation of civil society is key to strengthening cross-border ties via their own connections in American society. Every day there are, literally, millions of exchanges that are hugely beneficial for both countries. Building on these exchanges can underpin a more robust and more nuanced narrative, which is lost for two reasons: 1) no one is paying attention, 2) a lack of a communications strategy aimed at generating positive "content". The right hand does not know what the left one is doing, which weakens the impact of real and beneficial actions (described in the document as "using micro examples").

In the early 1990s, Mexico deployed a joint strategic communication and lobbying effort that constitutes the only example of the successful promotion of Mexico's national interests abroad. In the area of strategic communications, after completely ignoring this issue for the past 20 years, the urgency of making our case has become a cliché in foreign policy circles. The document contains specific actions that need to be taken in order to make it happen.

The issue of lobbying is different. In the 1990s, the objective was clear, and it was focused on a particular event, with a defined date and success criteria: to get NAFTA passed before January 1, 1994. This clarity of purpose allowed for, among other things, a precise mapping of allies and enemies, which is a precondition for success in lobbying, and a precise answer to the question "What does Mexico want, and how can it be achieved?"

These definitions have to be solved before hiring lobbying firms, approaching editorial boards, meeting with senators, starting advertising campaigns, or finding allies. For example, the interests of companies that have investments in Mexico can coincide with those of the Mexican government at the beginning of the negotiation, but will have their own agendas regarding the Administration of President Trump, and of the Mexican government. It is one thing to have a common interest to negotiate, but quite another to have common interests in the resulting negotiations. American companies will obviously move forward with their own agendas, and will pressure American negotiators into offering them advantages and opportunities. These interests are independent of Mexican interests.

Many lobbying efforts have failed because they focused more on the tactical elements than on strategy. Lobbying firms can lead a project, but they shouldn't be the ones who define the objectives. An incorrect, or incomplete, definition of objectives leads to a waste of resources. Most lobbying firms follow pre-established mechanisms and are guided by quantitative criteria (number of interviews, meetings, editorials, etc.) and not by concrete outcomes. We should not aim at a mechanical effort, but at a strategic, shared, and highly sophisticated vision that might not yield immediate results, but will be effective in the medium to long terms, once influence networks have been established and nurtured, and once the corresponding messages have been developed and disseminated. This is why we decided not to venture a specific chapter on this important subject. Not because it is not necessary, but because the foundations to deploy it successfully are not yet fully established.

CONCLUSION

While the term “intermestic” originated to describe those aspects of international relationships that impact daily life in the United States (and, thus, are often “domestic” issues), in the case of Mexico, the term is especially appropriate. When our country was negotiating its entry into NAFTA, in the early 1990s, the criticisms that emerged regarding a lack of democracy in Mexico were instrumental in building one of the most sophisticated electoral systems in the world. This international scrutiny also helped avoid a bloodbath during the Zapatista rebellion of January, 1994.

With the United States’ blockade of drug traffic routes in the Caribbean and Florida, the already weak Mexican justice system was overwhelmed when drugs started to flow through its territory. American money and arms boosted Mexican criminal elements, overwhelming local, state, and federal police departments. It is true that the administrations led by the Partido Revolucionario Institucional (PRI) and Partido Acción Nacional (PAN), which spent more time engaging in clientelism and patronage than in effective basic governance, contributed significantly to the failure of the State with regards to this challenge. However, it is also evident that American drug policy and unlimited resources, coupled with Mexican criminals’ significant talent, and ruthless ingenuity, undermined basic order throughout Mexico, making existing government institutions irrelevant. That is to say that, even if the central problem of violence, corruption and drugs lies in the weakness, or even the non-existence, of poli-

tical will vis-à-vis basic law and order, it is impossible to ignore the bilateral dimension intrinsic to this equation. Mexico has to rebuild the capacity to govern itself and, at the same time, demand that the United States government takes responsibility for presiding over a multi-billion-dollar market that does not care about borders, or jurisdictional authorities.

After more than a century of having been “distant neighbors”, our societies have integrated with an intensity that rivals that of any two other countries. Neither Americans, nor Mexicans, have the “luxury” to ignore the other side, because success for one is, at this moment of our shared history, automatically the success of the other. More than neighbors, we have become roommates, each intimately affected by the challenges the other faces.

That is why our leaders must stop being followers, reacting (often incorrectly) to the processes of integration that our own people have created. The many millions of Mexicans and Americans who live integration (and prosper from integration), have to tell their own story inside their respective countries, or risk losing it all in a squall of ignorance and fear. The U.S.-Mexico relationship is a space in which all Mexicans must participate with a shared sense of purpose. As far as the team represented here is concerned, we manifest that our efforts have no other motivation beyond promoting the common good of all Mexicans, whose well-being is intimately linked with the destiny of every other inhabitant of North America.



TRADE (NAFTA)

A possible agenda for NAFTA's renegotiation

After a few months after his inauguration, it is evident that the campaign proposals of President Donald Trump regarding the North American Free Trade Agreement (NAFTA) have to be revisited to truly realize the potential of the regional integration with Canada and Mexico, the main markets for the U.S. It is rather clear that the renegotiation will not be centered on unrealistic threats, such as discretionary 35 percent duties, but on the principles of modernization, openness and symmetry. Nevertheless, the result of the negotiation seems highly uncertain given the foreseen difficulties regarding both its process and content.

For a successful renegotiation, the definition of common objectives on behalf of the governments of the three countries is necessary. This strategy goes against President Trump's campaign rhetoric. His original approach, in which he argued for a renegotiation that only benefits the United States, implies that Canada and Mexico would have to grant concessions to the U.S. without reciprocity, therefore, going against two revolutionary and unique characteristics of NAFTA that make it one of the most advanced and comprehensive agreements in the world: symmetry and universal coverage. Rights and obligations are the same for the three partners and apply in the same degree and manner in all goods covered and in all services and investment sectors included, except for reserves that are listed on annexes that would be reduced as each of the countries unilaterally modified its legislation to increase its opening to other markets. Thus, any legislative or regulatory domestic reform post NAFTA in Mexico, the U.S. and Canada to open previously closed or reserved markets automatically become part of NAFTA.

The NAFTA countries need to arrive at the negotiating table with a clear understanding of the importance of their domestic markets for exports from the two other nations, as well as their capacity to create

added value and attract significant levels of investment. Furthermore, the three countries need to be certain that their installed capacity plays an essential role in North America's production and supply chains. In this sense, the NAFTA countries must not accept a renegotiation that destroys symmetry, undermines trade opening, reduces competitiveness or promotes managed trade, nor which favors a return to favoritism and "below the table" arrangements to protect a given sector from the rigors of open competition, thus, damaging the consumers and the citizens' rights, as well as hindering economic growth.

Nonetheless, what the three countries can and should entertain is a revision of NAFTA that aims to make North America more competitive and open to the world. Therefore, the three countries need to acknowledge that much can be achieved in terms of modernization using the mechanisms within NAFTA's current structure. Furthermore, the full use of these mechanisms should serve as a first step before going even further and including new sectors and disciplines.

Twenty years after, NAFTA continues to be an ambitious tool in terms of its institutions, its capacity for improvement and mechanisms to ensure its implementation and to process changes. Nevertheless, these instruments and mechanisms have not been used as often as they could have and require an in-depth revision in light of the new technological and productive realities. Therefore, the first essential point in the renegotiating agenda is the commitment of the three parties to fully implement NAFTA and to revise, modernize and optimize these institutions.

Moreover, it is necessary for the United States, Canada and Mexico to propose an agreement with new objectives in key areas, which should be more ambitious in terms of openness, integration and regional competitiveness. These should be aimed at making North America a more competitive region in an incre-

asingly complex world where eliminating duties and traditional trade barriers are no longer the default option. Therefore, the negotiating priority should be to integrate further in order to take full advantage of human capital and resources to trade with the rest of the world. If NAFTA was conceived, in 1994, as a tool to increase trade and investment amongst Canada, the United States and Mexico, today's challenge lies in making production in North America competitive worldwide.

This document will be divided in two sections. The first one will provide an assessment of the areas of opportunity, which have not been fully taken advantage of, within the text itself. The second one proposes a complementary agenda to make the NAFTA region more attractive and competitive. Taken together as a common strategy both sections acknowledge the need to have greater openness, more integration and commitments from the three countries.

1. NAFTA'S BUILT-IN OPPORTUNITIES

This section will address the opportunities of improvement that derive from the mechanisms and commitments that already exist in the structure of NAFTA. The section is organized based on the table of contents of NAFTA.

1.1 First Part: General Aspects

Article 102 establishes NAFTA's objectives, which should serve as a guide for any negotiation. Objective 1(f) highlights the possibility of "further trilateral cooperation... to expand and enhance the benefits of this Agreement." In other words, NAFTA has built-in provisions for its improvement.

Article 102: Objectives

1. *The objectives of this Agreement, as elaborated more specifically through its principles and rules, including national treatment, most-favored-nation treatment and transparency, are to:*

a) *eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the Parties;*

b) *promote conditions of fair competition in the free trade area;*

c) *increase substantially investment opportunities in the territories of the Parties;*

d) *provide adequate and effective protection and enforcement of intellectual property rights in each Party's territory;*

e) *create effective procedures for the implementation and application of this Agreement, for its joint administration and for the resolution of disputes; and*

f) *establish a framework for further trilateral, regional and multilateral cooperation to expand and enhance the benefits of this Agreement.*

2. *The Parties shall interpret and apply the provisions of this Agreement in the light of its objectives set out in paragraph 1 and in accordance with applicable rules of international law.*

1.2. Second Part: Trade in Goods

On this matter, much can be advanced using the following provisions to modernize the process of integration and to increase the region's competitiveness:

1.2.1 Article 316: Jamboree clause

- Jamboree clause: One of the most powerful, and unused, NAFTA provision is Article 316, the so-called jamboree clause, that brings together all listed agencies dealing with cross-border trade to examine the issue of facilitating trade in goods and implement measures to eliminate any unnecessary trade barriers. The full implementation of this clause implies the creation of a permanent working agenda to improve border crossing procedures and to eliminate trade barriers. Nevertheless, the parties have met only a few times with this purpose under Article 316.

Article 316: Consultations and Committee on Trade in Goods

1. *The Parties hereby establish a Committee on Trade in Goods, comprising representatives of each Party.*

2. *The Committee shall meet on the request of any Party or the Commission to consider any matter arising under this Chapter.*

3. *The Parties shall convene at least once each year a meeting of their officials responsible for customs, immigration, inspection of food and agricultural products, border inspection facilities, and regulation of transportation for the purpose of addressing issues related to movement of goods through the Parties' ports of entry.*

1.2.2 Articles 317, 1504 and 1907: Third Party Dumping, Competition and a Substitute System

- **Dumping and competition:** Although third country dumping provisions have been part of the GATT framework for a long time, they have not been used widely. It is rare that countries see the need for third party dumping cases in the absence of a customs union on duties. A more credible case could be made for third country dumping once the underlying premise is that free trade has fully integrated the regional market holds after years of zero duties and that, therefore, unfair trading practices could be addressed through antitrust mechanisms. For this reason, article 317 should be read in conjunction with articles 1504 and 1907:

Article 317: Third-Country Dumping

1. *The Parties affirm the importance of cooperation with respect to actions under Article 12 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade.*

2. *Where a Party presents an application to another Party requesting antidumping action on its behalf, those Parties shall consult within 30 days respecting the factual basis of the request, and the requested Party shall give full consideration to the request.*

Given the possibility of establishing third country dumping cases, the Working Group on Trade and Competition becomes central for a deeper integration either in selected sectors or for the economy as a whole.

Article 1504: Working Group on Trade and Competition

The Commission shall establish a Working Group on Trade and Competition, comprising representatives of each Party, to report, and to make recommendations on further work as appropriate, to the Commission within five years of the date of entry into force of this Agreement on relevant issues concerning the relationship between competition laws and policies and trade in the free trade area.

The conclusions reached by the working group could then be used as pillars of a substitute system of rules for dealing with unfair trade practices according to paragraph 2(b) of Article 1907.

Article 1907: Consultations

1. *The Parties shall consult annually, or on the request of any Party, to consider any problems that may arise with respect to the implementation or operation of this Chapter and recommend solutions, where appropriate. The Parties shall each designate one or more officials, including officials of the competent investigating authorities, to be responsible for ensuring that consultations occur, when required, so that the provisions of this Chapter are carried out expeditiously.*

2. *The Parties further agree to consult on:*

(a) *the potential to develop more effective rules and disciplines concerning the use of government subsidies; and*

(b) *the potential for reliance on a substitute system of rules for dealing with unfair transborder pricing practices and government subsidization.*

The “substitute system” can take several forms. The most ambitious initiative would entail replacing AD/CVD investigations for the NAFTA region with antitrust cases. This would require significant legislation and coordination among antitrust agencies in the three countries, and, more importantly, the recognition that the relevant market is regional and no longer domestic. Recognizing the region as one market would make it much more attractive in terms of investment and would become one of its most appealing comparative advantages.

A less ambitious, but still a very important upgrade, would be to eliminate antidumping cases only in certain sectors with a very high degree of integration and with common challenges regarding dumping cases with third parties.

Alternatively, another possible improvement would be to limit the scope of AD/CVD cases by introducing antitrust elements in unfair trade practices investigations. In this case, small exporters with low market share in the destination country would be exempt from AD/CVD margins on the grounds that they lack an incentive to enter into predatory pricing. Also by analogy, antidumping protection should not be awarded in heavily concentrated domestic markets given that challenging that concentration by low price strategies is, in itself positive

1.2.3 Article 414: Consultation and Modifications (with regards to rules of origin)

- **Rules of origin:** One of the main proposals of the Trump Administration has been to modify rules of origin to increase regional content in production. NAFTA contemplates the modification of rules of origin. In this sense, Article 414 provides a specific mechanism to address developments in production processes and submit supporting rationale to make modifications to rules of origin.

Article 414: Consultation and Modifications

1. The Parties shall consult regularly to ensure that this Chapter is administered effectively,

uniformly and consistently with the spirit and objectives of this Agreement, and shall cooperate in the administration of this Chapter in accordance with Chapter Five.

2. Any Party that considers that this Chapter requires modification to take into account developments in production processes or other matters may submit a proposed modification along with supporting rationale and any studies to the other Parties for consideration and any appropriate action under Chapter Five.

1.2.4 Article 513: Working Group and Customs Subgroup

- **Customs modernization:** One of the areas that can have a major impact on the integration of the three economies is the improvement of customs procedures for border crossing. The parties have been remiss in scheduling their work obligations in customs matters, in spite of recurrent complaints by importers and exporters. The working group and subgroup, which are established under Article 512, have the mandate to ensure the permanent modernization of customs procedures. It is strategically important that this working group and the subgroup function and comply with their mandates.

Article 513: Working Group and Customs Subgroup

1. The Parties hereby establish a Working Group on Rules of Origin, comprising representatives of each Party, to ensure:

a) the effective implementation and administration of Articles 303 (Restriction on Drawback and Duty Deferral Programs), 308 (Most-Favored-Nation Rates of Duty on Certain Goods) and 311, Chapter Four, this Chapter, the Marking Rules and the Uniform Regulations; and

b) the effective administration of the customs-related aspects of Chapter Three.

2. The Working Group shall meet at least four times each year and on the request of any Party.

3. The Working Group shall:

- a) monitor the implementation and administration by the customs administrations of the Parties of Articles 303, 308 and 311, Chapter Four, this Chapter, the Marking Rules and the Uniform Regulations to ensure their uniform interpretation;
- b) endeavor to agree, on the request of any Party, on any proposed modification of or addition to Article 303, 308 or 311, Chapter Four, this Chapter, the Marking Rules or the Uniform Regulations;
- c) notify the Commission of any agreed modification of or addition to the Uniform Regulations;
- d) propose to the Commission any modification of or addition to Article 303, 308 or 311, Chapter Four, this Chapter, the Marking Rules, the Uniform Regulations or any other provision of this Agreement as may be required to conform with any change to the Harmonized System; and
- e) consider any other matter referred to it by a Party or by the Customs Subgroup established under paragraph 6.

4. Each Party shall, to the greatest extent practicable, take all necessary measures to implement any modification of or addition to this Agreement within 180 days of the date on which the Commission agrees on the modification or addition.

5. If the Working Group fails to resolve a matter referred to it pursuant to paragraph 3(e) within 30 days of such referral, any Party may request a meeting of the Commission under Article 2007 (Commission - Good Offices, Conciliation and Mediation).

6. The Working Group shall establish, and monitor the work of, a Customs Subgroup, comprising

representatives of each Party. The Subgroup shall meet at least four times each year and on the request of any Party and shall:

a) endeavor to agree on

- i. the uniform interpretation, application and administration of Articles 303, 308 and 311, Chapter Four, this Chapter, the Marking Rules and the Uniform Regulations,
- ii. tariff classification and valuation matters relating to determinations of origin,
- iii. equivalent procedures and criteria for the request, approval, modification, revocation and implementation of advance rulings,
- iv. revisions to the Certificate of Origin,
- v. any other matter referred to it by a Party, the Working Group or the Committee on Trade in Goods established under Article 316, and
- vi. any other customs-related matter arising under this Agreement;

b) consider

- i. the harmonization of customs-related automation requirements and documentation, and
- ii. proposed customs-related administrative and operational changes that may affect the flow of trade between the Parties' territories;

c) report periodically to the Working Group and notify it of any agreement reached under this paragraph; and

d) refer to the Working Group any matter on which it has been unable to reach agreement within 60 days of referral of the matter to it pursuant to subparagraph (a)(v).

7. Nothing in this Chapter shall be construed to prevent a Party from issuing a determination of origin or an advance ruling relating to a matter under consideration by the Working Group or the Customs Subgroup or from taking such other action as it considers necessary, pending a resolution of the matter under this Agreement.

1.2.5 Articles 706 and 722: Committee on Agricultural Trade and of Sanitary and Phytosanitary measures

- **Regional agricultural agenda:** The growth of agricultural trade, for the three economies, exemplifies one of the most successful areas of integration under NAFTA. Now, North America has the chance to pursue further integration in this matter in order to export agricultural products all over the world as a region. The agreement stipulates the creation of the Agricultural Trade Committee which has also not done significant substantive work other than be a forum to complain about disputes. Nonetheless it could serve as catalyst for deeper integration and common exporting objectives outside the region.

Article 706: Committee on Agricultural Trade

1. The Parties hereby establish a Committee on Agricultural Trade, comprising representatives of each Party.

2. The Committee's functions shall include:

a) monitoring and promoting cooperation on the implementation and administration of this Section;

b) providing a forum for the Parties to consult on issues related to this Section at least semi-annually and as the Parties may otherwise agree; and

c) reporting annually to the Commission on the implementation of this Section.

Phytosanitary and sanitary agenda: From a sanitary perspective North America is a region with

common challenges and difficulties. Therefore, the handling of common sanitary issues is key to develop the region's competitiveness. Due to their integration, the three agricultural sectors have the necessary resources to become Asia's main source of food. Article 722 stipulated the creation of a committee that, in theory, should foster the cooperation needed for this goal. Nevertheless, this and other committees have been ineffective in solving and advancing sanitary and phytosanitary issues, particularly regarding Equivalence as stated in Article 714. When issues arise, they are solved in an ad-hoc fashion, with scant commitment and lack of transparency. As a result, they have not established useful administrative practices, which would help to facilitate transactions and the region's sanitary integration.

Article 722: Committee on Sanitary and Phytosanitary Measures

1. The Parties hereby establish a Committee on Sanitary and Phytosanitary Measures, comprising representatives of each Party who have responsibility for sanitary and phytosanitary matters.

2. The Committee should facilitate:

a) the enhancement of food safety and improvement of sanitary and phytosanitary conditions in the territories of the Parties;

b) activities of the Parties pursuant to Articles 713 and 714;

c) technical cooperation between the Parties, including cooperation in the development, application and enforcement of sanitary or phytosanitary measures; and

d) consultations on specific matters relating to sanitary or phytosanitary measures.

3. The Committee:

a) shall, to the extent possible, in carrying out its functions, seek the assistance of relevant international and North American standard-

izing organizations to obtain available scientific and technical advice and minimize duplication of effort;

- b) may draw on such experts and expert bodies as it considers appropriate;
- c) shall report annually to the Commission on the implementation of this Section;
- d) shall meet on the request of any Party and, unless the Parties otherwise agree, at least once each year; and
- e) may, as it considers appropriate, establish and determine the scope and mandate of working groups.

Article 714: Equivalence

1. Without reducing the level of protection of human, animal or plant life or health, the Parties shall, to the greatest extent practicable and in accordance with this Section, pursue equivalence of their respective sanitary and phytosanitary measures.

2. Each importing Party:

- a) shall treat a sanitary or phytosanitary measure adopted or maintained by an exporting Party as equivalent to its own where the exporting Party, in cooperation with the importing Party, provides to the importing Party scientific evidence or other information, in accordance with risk assessment methodologies agreed on by those Parties, to demonstrate objectively, subject to subparagraph (b), that the exporting Party's measure achieves the importing Party's appropriate level of protection;
- b) may, where it has a scientific basis, determine that the exporting Party's measure does not achieve the importing Party's appropriate level of protection; and
- c) shall provide to the exporting Party, on request, its reasons in writing for a determination under subparagraph (b).

3. For purposes of establishing equivalence, each exporting Party shall, on the request of an importing Party, take such reasonable measures as may be available to it to facilitate access in its territory for inspection, testing and other relevant procedures.

4. Each Party should, in the development of a sanitary or phytosanitary measure, consider relevant actual or proposed sanitary or phytosanitary measures of the other Parties

1.2.6 Article 801: Bilateral Actions

Injury compensation through bilateral actions: During the presidential election in the US, statements were made relative to the damage that NAFTA has done to whole industries in the US. Nevertheless, the agreement provides for mechanisms to address such injuries through Article 801 paragraphs 3 and 4. These do entitle the establishment of a safeguard to prevent injury from a surge of imports, but also the injuring party to be compensated for an equivalent value. Article 801 provides a mechanism to deal with import surges, but with a compensation mechanism with the dual objective of preventing abuse and rebalancing benefits to exporting countries.

Chapter VIII: Emergency measures

Article 801. Bilateral Actions

[...]

3. A Party may take a bilateral emergency action after the expiration of the transition period to deal with cases of serious injury, or threat thereof, to a domestic industry arising from the operation of this Agreement only with the consent of the Party against whose good the action would be taken.

4. The Party taking an action under this Article shall provide to the Party against whose good the action is taken mutually agreed trade liberalizing compensation in the form of con-

cessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the action. If the Parties concerned are unable to agree on compensation, the Party against whose good the action is taken may take tariff action having trade effects substantially equivalent to the action taken under this Article. The Party taking the tariff action shall apply the action only for the minimum period necessary to achieve the substantially equivalent effects.

Moreover, it is necessary to highlight that Article 801 contemplates that the party that implements these measures has to provide the other with a compulsory compensation. In this way, NAFTA establishes the conditions so that any of the three governments can adopt safeguard policies, but with appropriate disciplines. It could be proposed to change the language in article 801 in order to make the imposition of the measures less burdensome. This, however, has to apply for the three Parties alike. This would imply that exporters from the United States could be subject to safeguard policies from Canada and Mexico.

1.3 Third part: Technical barriers to trade

1.3.1 Article 913: Committee on Standards-Related Measures

- **Relevance of technical standards:** Standards have not been the focus of NAFTA disputes or criticism, with few exceptions. However, technical standards are a critical component for trade, competitiveness and future trade negotiations. Canada, Mexico and the U.S. could advance on these issues through the work of the Committee established in article 913, particularly now that negotiations between the U.S. and the E.U. are on hold.

Article 913: Committee on Standards-Related Measures

1. The Parties hereby establish a Committee on Standards-Related Measures, comprising representatives of each Party.

2. The Committee's functions shall include:

- a) monitoring the implementation and administration of this Chapter, including the progress of the subcommittees and working groups established under paragraph 4, and the operation of the inquiry points established under Article 910;
- b) facilitating the process by which the Parties make compatible their standards-related measures;
- c) providing a forum for the Parties to consult on issues relating to standards-related measures, including the provision of technical advice and recommendations under Article 914;
- d) enhancing cooperation on the development, application and enforcement of standards-related measures; and
- e) considering non-governmental, regional and multilateral developments regarding standards-related measures, including under the GATT.

3. The Committee shall:

- a) meet on request of any Party and, unless the Parties otherwise agree, at least once each year; and
- b) report annually to the Commission on the implementation of this Chapter.

4. The Committee may, as it considers appropriate, establish and determine the scope and mandate of subcommittees or working groups, comprising representatives of each Party. Each subcommittee or working group may:

- a) as it considers necessary or desirable, include or consult with
 - i. representatives of non-governmental bodies, including standardizing bodies,
 - ii. scientists, and
 - iii. technical experts; and

b) determine its work program, taking into account relevant international activities.

5. Further to paragraph 4, the Committee shall establish:

a) the following subcommittees

i. Land Transportation Standards Subcommittee, in accordance with Annex 913.5.a-1,

ii. Telecommunications Standards Subcommittee, in accordance with Annex 913.5.a-2,

iii. Automotive Standards Council, in accordance with Annex 913.5.a-3, and

iv. Subcommittee on Labelling of Textile and Apparel Goods, in accordance with Annex 913.5.a-4; and

v. such other subcommittees or working groups as it considers appropriate to address any topic, including:

vi. identification and nomenclature for goods subject to standards-related measures,

vii. quality and identity standards and technical regulations,

viii. packaging, labeling and presentation of consumer information, including languages, measurement systems, ingredients, sizes, terminology, symbols and related matters,

ix. product approval and post-market surveillance programs,

x. principles for the accreditation and recognition of conformity assessment bodies, procedures and systems,

xi. development and implementation of a uniform chemical hazard classification and communication system,

enforcement programs, including training and inspections by regulatory, analytical and enforcement personnel,

xii. promotion and implementation of good laboratory practices,

xiii. promotion and implementation of good manufacturing practices,

xiv. criteria for assessment of potential environmental hazards of goods,

xv. methodologies for assessment of risk,

xvi. guidelines for testing of chemicals, including industrial and agricultural chemicals, pharmaceuticals and biologicals,

xvii. methods by which consumer protection, including matters relating to consumer redress, can be facilitated,

xviii. and (xiv) extension of the application of this Chapter to other services.

xix. Each Party shall, on request of another Party, take such reasonable measures as may be available to it to provide for the participation in the activities of the Committee, where and as appropriate, of representatives of state or provincial governments.

7. A Party requesting technical advice, information or assistance pursuant to Article 911 shall notify the Committee which shall facilitate any such request.

1.4. Fourth part: Government Procurement

1.4.1 Article 1021: Joint programs for Small and Medium Enterprises (SME)

- **Joint programs for Small and Medium Enterprises (SME):** President Trump has issued an Executive Order to guarantee that U.S.'s government agencies favor US companies in government procurement under the Buy American criteria. A way to address his concern can be found in NAFTA's provisions (article 1021) which contemplate the creation of a SME Committee, which shall promote SME's effective participation in government tenders carried out in the three countries. The Committee's role

and powers may be enhanced in order to secure a tangible commitment of the three members in guaranteeing that regional SME's actively participate in government procurement.

Article 1021: Joint Programs for Small Business

1. *The Parties shall establish, within 12 months after the date of entry into force of this Agreement, the Committee on Small Business, comprising representatives of the Parties. The Committee shall meet as mutually agreed, but not less than once each year, and shall report annually to the Commission on the efforts of the Parties to promote government procurement opportunities for their small businesses.*

2. *The Committee shall work to facilitate the following activities of the Parties:*

- a. *identification of available opportunities for the training of small business personnel in government procurement procedures;*
- b. *identification of small businesses interested in becoming trading partners of small businesses in the territory of another Party;*
- c. *development of data bases of small businesses in the territory of each Party for use by entities of another Party wishing to procure from small businesses;*
- d. *consultations regarding the factors that each Party uses in establishing its criteria for eligibility for any small business programs; and activities to address any related matter.*

- **Modifications regarding coverage:** Moreover, NAFTA's chapter on government procurement includes the possibility of modifying its coverage, but, as in other treaty dispositions, with the use of disciplines. Section 2(c) of article 1022 mandates granting of compensation measures to the other two members if one of the Parties modifies either the depth or the coverage of trade integration in matters of government procurement.

Article 1022: Rectifications or Modifications

1. *A Party may modify its coverage under this Chapter only in exceptional circumstances.*

2. *Where a Party modifies its coverage under this Chapter, the Party shall:*

- a. *notifies the other Parties and its Section of the Secretariat of the modification;*
- b. *reflects the change in the appropriate Annex; and*
- c. *proposes to the other Parties appropriate compensatory adjustments to its coverage to maintain a level of coverage comparable to that existing prior to the modification.*

- **Future negotiations:** NAFTA allows, under article 1024, for a substantial expansion of coverage in government procurement. This is particularly relevant in the Mexico-U.S. relation, since state's government procurement is not included in the agreement's coverage. If extended to the state level, the disciplines set forth in Chapter X would be applied to state government budget. This would benefit the three Parties, since the disciplines of Chapter X enhance transparency, accountability and other elements of government procurement that favor, promote and facilitate access to government procurement for all potential suppliers, but especially for SMEs.

Expansion in government procurement coverage to state levels could also achieve a multiplying effect for Mexican exporters of goods and services, who would have access to compete in government procurement in U.S. states such as Texas and California, but also in the rest of the U.S. and in the Canadian provinces. Likewise, Canadian and U.S. companies could compete in government procurement of Mexican state governments. It is worth mentioning that the budget of Mexican states has grown considerably since 1994, at the time of NAFTA's negotiations, when government procurement coverage was limited to federal expenditure.

Article 1024: Further Negotiations

1. *The Parties shall commence further negotiations no later than December 31, 1998, with a view to the further liberalization of their respective government procurement markets.*

2. *In such negotiations, the Parties shall review all aspects of their government procurement practices for purposes of:*

- a. assessing the functioning of their government procurement systems;*
- b. seeking to expand the coverage of this Chapter, including by adding*
 - i. other government enterprises, and*
 - ii. procurement otherwise subject to legislated or administrative exceptions; and*
- c. reviewing thresholds.*

3. *Prior to such review, the Parties shall endeavor to consult with their state and provincial governments with a view to obtaining commitments, on a voluntary and reciprocal basis, to include within this Chapter procurement by state and provincial government entities and enterprises.*

4. *If the negotiations pursuant to Article IX:6(b) of the GATT Agreement on Government Procurement ("the Code") are completed prior to such review, the Parties shall:*

- d. immediately begin consultations with their state and provincial governments with a view to obtaining commitments, on a voluntary and reciprocal basis, to include within this Chapter procurement by state and provincial government entities and enterprises; and*
- e. increases the obligations and coverage of this Chapter to a level at least commensurate with that of the Code.*

5. *The Parties shall undertake further negotiations, to commence no later than one year after the date of*

entry into force of this Agreement, on the subject of electronic transmission.

Annex 1001.1a-3: State and Provincial Government Entities

Coverage under this Annex will be the subject of consultations with state and provincial governments in accordance with Article 1024.

1.5. Fifth part: Investment, services and related issues

Chapters XI (investment) and XII (cross border-trade in services) include high level disciplines regarding trade. NAFTA differs in this from most trade agreements, including the World Trade Organization, due to the fact that it was negotiated under a negative list approach (all remaining service sectors were automatically opened). Furthermore, articles 1108 1(c) and 1206 1(c) mandate that unilateral opening of the reserves in Annexes I and III (for article 1108) and Annex I (for article 1206) shall be subject to the disciplines of national treatment, most favored nation treatment, performance requirements and local presence, and, therefore, NAFTA automatically includes them. This high level of discipline to services and investment is called "the ratchet clause" in trade parlance.

This implies that investors and services providers from the three Parties are benefited, under NAFTA, from all the reforms that increase the opening of any sector previously reserved, for as long as the agreement is in place. In other words: the recent Mexican reforms in energy, telecommunications and financial sectors are, due to the ratchet clause, part of NAFTA. If either Canada or the U.S. choose to leave the agreement under the provisions of article 2205, their companies would no longer benefit from such reforms.

Financial services and their cross-border trade: the financial integration of the Parties was regarded, during the 1994 negotiations, as a natural complement for the opening of goods, services and investment under Chapter X. Article 1403 sets forth the right of a given Party to establish financial institutions in the territory of the other Parties, while article 1404 establishes cross-border trade of financial services. Both articles aimed to promote the establishment of finan-

cial institutions in the Parties and to allow and facilitate cross border trade.

For reasons not related to prudential measures, during the last years several measures (informally known as derisking) have been implemented to avoid regulatory or reputational risk. Nonetheless, these measures hinder both the establishment of financial institutions and cross-border trade. Section 3 of article 1403 and section 4 of article 1404 consider that “the Parties shall review and evaluate market access” and “shall consult regarding future cross border liberalization of trade services”. A review of NAFTA must become an opportunity to evaluate how to avoid having derisking become a practice that obstructs opening and integration of the region’s financial sector.

Article 1403: Establishment of Financial Institutions

1. *The Parties recognize the principle that an investor of another Party should be permitted to establish a financial institution in the territory of a Party in the juridical form chosen by such investor.*

2. *The Parties also recognize the principle that an investor of another Party should be permitted to participate widely in a Party’s market through the ability of such investor to:*

- a. *provide in that Party’s territory a range of financial services through separate financial institutions as may be required by that Party;*
- b. *expand geographically in that Party’s territory;*
and
- c. *own financial institutions in that Party’s territory without being subject to ownership requirements specific to foreign financial institutions.*

3. *Subject to Annex 1403.3, at such time as the United States permits commercial banks of another Party located in its territory to expand through subsidiaries or direct branches into substantially all of the United States market, the Parties shall review and assess market access provided by each Party in relation to the principles in paragraphs 1 and 2 with a view to adopt-*

ing arrangements permitting investors of another Party to choose the juridical form of establishment of commercial banks.

4. *Each Party shall permit an investor of another Party that does not own or control a financial institution in the Party’s territory to establish a financial institution in that territory. A Party may:*

- a. *require an investor of another Party to incorporate under the Party’s law any financial institution it establishes in the Party’s territory; or*
- b. *impose terms and conditions on establishment that are consistent with Article 1405.*

5. *For purposes of this Article, “investor of another Party” means an investor of another Party engaged in the business of providing financial services in the territory of that Party.*

1.5.1 Article 1605: Work Group (temporary entry)

• **Exchange of workers and professionals:** Cross-border flows by workers and professionals in North America have been stigmatized for political reasons. This stigma fails to acknowledge the fact that the demographic profile of each of the Parties complements the profile of the other two; this complementarity in North America is, unquestionably, one of the key comparative advantages of the region with respect to the rest of the world.

NAFTA acknowledges this strategic advantage and provide for increased opportunities for the cross-border exchange of professionals and workers under the NAFTA visa. This exchange must also rely on the reciprocal recognition of professional capabilities, certifications, and academic degrees. Achieving this would also serve to positively modify the anti-migration discourse.

Article 1605 of NAFTA establishes a working group for the Parties to advance in the aim of facilitating cross-border transit of workers and professionals. It also mandates the design and implementation of policies and programs that allow for the Parties to take

full advantage of the demographic bonus and the demographic complementarity through the access they may achieve, thanks to NAFTA, to the offer of capable workers and professionals in the three countries.

A key element to achieve this is to promote not only temporary entry (which might generate the perverse incentive of overstaying in the receiving country permanently) but rather multiple entry visas, so that workers can provide partial services in the production processes and commute back and forth among the three countries regularly.

Article 1605: Working Group

1. The Parties hereby establish a Temporary Entry Working Group, comprising representatives of each Party, including immigration officials.

2. The Working Group shall meet at least once each year to consider:

- a. the implementation and administration of this Chapter;*
- b. the development of measures to further facilitate temporary entry of business persons on a reciprocal basis;*
- c. the waiving of labor certification tests or procedures of similar effect for spouses of business persons who have been granted temporary entry for more than one year under Section B, C or D of Annex 1603; and*
- d. proposed modifications of or additions to this Chapter.*

1.6. Sixth part: Intellectual Property

Article 1719 sets forth the commitment of the Parties to collaborate and promote technical assistance in terms of intellectual property protection.

Article 1719: Cooperation and Technical Assistance

1. The Parties shall provide each other on mutually agreed terms with technical assistance and shall promote cooperation between their competent authorities. Such cooperation shall include the training of personnel.

2. The Parties shall cooperate with a view to eliminating trade in goods that infringe intellectual property rights. For this purpose, each Party shall establish and notify the other Parties by January 1, 1994 of contact points in its federal government and shall exchange information concerning trade in infringing goods.

1.7. Seventh part: Institutional administrative dispositions

1.7.1 Article 2001: Free Trade Commission

One of NAFTA's virtues –and also one of its defects- is the absence of a costly and cumbersome institutional framework. Nonetheless, article 2001 mandates the establishment of the Free Trade Commission. It is one of the most relevant institutions of the agreement, but also one of the least used, especially when its performance is weighed against its relevance.

The Commission has not met enough and has not verified if working groups and committees fulfill their responsibilities. This apathy is a clear indicator of the generalized approach of the Parties towards the political agenda and commitment to integration. Nevertheless, the three Parties should consider that if the Commission worked efficiently to its full capacity and exercised its powers it will guarantee not only the correct implementation of NAFTA, but also "oversee its further elaboration".

Chapter Twenty: Institutional Arrangements and Dispute Settlement Procedures

Section A - Institutions

Article 2001: The Free Trade Commission

1. The Parties hereby establish the Free Trade Commission, comprising cabinet-level representatives of the Parties or their designees.

2. The Commission shall:

- a. supervise the implementation of this Agreement;*
- b. oversee its further elaboration;*

- c. resolve disputes that may arise regarding its interpretation or application;
- d. supervise the work of all committees and working groups established under this Agreement, referred to in Annex 2001.2; and
- e. consider any other matter that may affect the operation of this Agreement.

3. The Commission may:

- a. establish, and delegate responsibilities to, ad hoc or standing committees, working groups or expert groups;
- b. seek the advice of non-governmental persons or groups; and
- c. take such other action in the exercise of its functions as the Parties may agree

4. The Commission shall establish its rules and procedures. All decisions of the Commission shall be taken by consensus, except as the Commission may otherwise agree.

5. The Commission shall convene at least once a year in regular session. Regular sessions of the Commission shall be chaired successively by each Party.

1.7.2 Article 2202: Amendments

Article 2202 allows for changes and reforms to the agreement; which approval depends on the corresponding legal procedures that have to be undertaken by each of the Parties.

Article 2202: Amendments

1. The Parties may agree on any modification of or addition to this Agreement.
2. When so agreed, and approved in accordance with the applicable legal procedures of each Party, a modification or addition shall constitute an integral part of this Agreement.

1.7.3 Article 2205: Withdrawal

Lastly, NAFTA also provides –as do all treaties without an expiration date- the possibility for any of the Parties to withdraw from it. This process also depends on the specific legal processes of each of the Parties.

It is indispensable to read article 2205 integrally, since it clearly sets forth that “If a Party withdraws, the Agreement shall remain in force for the remaining Parties”. For Mexico, NAFTA is, under article 133 of the Mexican Constitution, supreme law and it precedes federal laws. Thus, in Mexico NAFTA will remain supreme law regardless of the fact that a Party withdraws from the treaty.

2. COMPLEMENTARY CONTENT FOR A PRO-COMPETITIVE RENEGOTIATION

In addition to using NAFTA’s contents to modernize it and deepen the regional integration –as was mentioned above-, it is also possible to consider additional and complementary elements to improve the agreement and, more importantly, to enhance regional competitiveness vis-à-vis the rest of the world. A clear opportunity can be found in the new provisions of the Transpacific Partnership (TPP). Many of TPP’s elements could be included in a renegotiated NAFTA. Hereby follows a list of TPP chapters (as numbered in the text) that might easily serve to complement NAFTA:

- Chapter 13: Telecommunications
- Chapter 14: E-commerce
- Chapter 17: State Owned Enterprises and Designated Monopolies
- Chapter 18: Intellectual Property
- Chapter 19: Labor
- Chapter 20: Environment
- Chapter 21: Cooperation and Capacity Building
- Chapter 22: Competitiveness and Business Facilitation
- Chapter 23: Development

- Chapter 24: Small and Medium Enterprises
- Chapter 25: Regulatory Coherence
- Chapter 26: Transparency and Anti-corruption
- Chapter 28: Dispute Settlement

In addition to the elements of NAFTA and TPP, Canada, the U.S. and Mexico could also consider the opening of other sectors to shore up regional competitiveness and advance regional integration. Amongst them are the following:

Integration program for the energy market

Energy abundance has become a key comparative advantage of North America for its industrial development and for the incorporation of higher regional value added per unit produced. Availability of competitive energy, particularly natural gas, is the main incentive to produce in the region final products and production inputs that are intensive in natural gas (steel, glass, fiber glass and its derivatives, petrochemicals, synthetic fibers and fertilizers) and to have these products being exported from North America to the rest of the world. The full integration of the North American energy market is, therefore, a measure with higher probabilities of success (to increase regional value in North American production) than hardening rules of origin in NAFTA.

After the opening of the energy market in Mexico, the key element to achieve an integrated energy market in the region is the construction and development of infrastructure for the transport of energy products. This implies large investments, but also allowing cross-border interconnectivity of ducts and transmission lines, as well as the use of trains, freight transport and maritime transport in energy trade. Cross-border interconnectivity implies strong bilateral cooperation between Canada and the U.S. and between the U.S. and Mexico; it also implies the full opening in the three transport modes, including cabotage, should be negotiated amongst the three Parties as an indispensable element to achieve a highly competitive regional energy market.

An integrated regional energy market also facilitates investment and collaboration for the development of clean and renewable energies.

Harmonization of certifications and efficient and speedy certification through the use of reciprocal exclusive windows

The possibility that each of the Parties establishes exclusive regulatory windows for the other members of NAFTA has been discussed several times. These exclusive windows would serve to harmonize procedures, reach reciprocal and instant recognition of certifications, speed processes, and avoid having regulations, certifications, requirements or norms in any of the Parties that hinder trade with the others. If, even with an exclusive window, one of these obstacles remained, it should be dealt with as a priority of the exclusive windows.

Prioritized attention implies that regulatory agencies, especially sanitary agencies¹, establish exclusive windows and dedicated personnel to address the needs of the Parties on a reciprocal basis.

Achieve full integration of a transport system for logistic excellence

In 1994, NAFTA was designed to increase trade and investment amongst the Parties. In 2017, the challenge ahead is for North America to compete with the rest of the world. For Mexico, the opportunity lies on becoming North America's export platform to the world, and not only in manufactured products, but also agricultural and agro-industrial products, as well as services. Thus, regional competitiveness depends on the development of a system of logistic excellence that also contributes to augment the original East-West direction of the transportation systems of Canada and the U.S. East-West, to also be North-South.

¹ In Canada the Public Health Agency (including the agencies of Health Promotion and Chronic Disease Prevention and the Infectious Disease Prevention and Control) in the US the Food and Drug Administration and the Animal and Plant Health Inspection Service (APHIS) and in México the Comisión Federal para la Protección contra Riesgos Sanitarios (Cofepris) and the *Servicio Nacional de Sanidad, Inocuidad y Calidad Agroalimentaria (Senasica)*.

The best way to promote the investment in logistics and transport infrastructure is to achieve opening in all the transport modalities (air, land and maritime) and for all routes and transport combinations, including cabotage. This implies a policy of full open skies (up to the ninth freedom) and land and maritime cabotage for North American companies in all the region. Many would consider that achieving this degree of transport opening is politically difficult, if not impossible. Nonetheless, a serious re-negotiation of NAFTA, that is truly committed to deepen the opening and integration and to ensure regional competitiveness, cannot be understood without a system of logistic excellence and a high degree of custom simplification

Furthermore, the development of a logistic system serves as response to one of the most frequent critics to trade opening and NAFTA: that the benefits of the agreement in terms of investment and job creation have not reached equally all the regions, particularly impoverishes states and communities. An integrated and competitive transport system allows for the integration of regions that are today isolated from foreign trade, not only in West and Southern Mexico, but also in the north of Central America.

One of the most controversial aspects of these negotiations –but also the most relevant one– is that Mexico and Canada obtain from the U.S. an exception to the *Jones Act*², which would be particularly relevant to transform the economy and psychology of the Gulf of Mexico, and promote the development of southern Mexico, Central America and with Louisiana Alabama and Florida.

The Gulf of Mexico is one of the most valuable geographical resources, but its development potential as an instrument for the impoverished sea front states has been greatly wasted. The Gulf is indeed relevant for littoral states, but, thanks to the Isthmus of Tehuantepec, it is also important for Chiapas, Oaxaca, Guatemala, El Salvador and Honduras. For southern Mexico its value does not reside on connecting the Atlantic and the Pacific (and thus competing with Los Angeles/Long Beach and the Panama Canal) but on its potential as an exports platform.

Developing regular maritime service lines from Coatzacoalcos and Progreso with strategic harbors of the U.S. in the Gulf of Mexico, such as Mobile, Alabama and Saint Petersburg, Florida, would imply opening a new frontier that draws the Mexican Gulf and Isthmus states to eastern U.S. states. If Mexico succeeds in establishing a logistic system in Coatzacoalcos and Progreso, Mexican high-quality exports (seafood, fruit, vegetables, drinks, manufactures, chemical products and many more) could reach New York in 72 hours –after crossing the Gulf. This calls for the complete modernization of the Chiapas-Mayab train line that runs from Tapachula to Progreso and goes through the Isthmus. It should also contemplate the extension of this train line to Tegucigalpa in Honduras.

The Mexican energy reform must also become a trigger for the navy and maritime industry in the Gulf. It is now possible to visualize Mexican oil platforms and embarkations established in the Gulf of Mexico having maintenance and repair services by U.S. vessels, and vice versa. Those services are, today, illegal.

To achieve this vision and to change the physiology of the Gulf it is indispensable to reform maritime legislation both in the U.S. and in Mexico. US must grant Mexico an exception to the Jones Act, which not only prohibits cabotage amongst U.S. harbors, but also repair services and the construction of vessels that provide those services. On the Mexican side, changes are called for in article 39 of the *Ley de Navegación y Comercio Marítimo*, which limits cabotage activities by other states to reciprocity in trade agreements.

The North America Development Bank (NADBANK)

NADBANK began its operations in 1993, after the approval of NAFTA. Its key mandate has been to improve environmental conditions (waste management, water, residues) and strengthening municipal governments in the U.S.-Mexico border. NAFTA re-negotiation is a unique opportunity to optimize the bank's capabilities and expand its mandate, at least in three areas:

1. Capitalization: It is necessary to augment NADBANK financial capabilities through capital increase, in equal parts, from the governments

² The Jones Act is a Legislation that regulates maritime commerce between U.S. cities. The Jones Act of 1920 requires that goods and passengers transported by water between U.S. ports be done in U.S.-made ships, owned by U.S. citizens and crewed by U.S. citizens.

of U.S. and Mexico. An invitation to participate could be sent to Canada.

2. Sector expansion: It is highly desirable that NAD-BANK finances transport and energy infrastructure projects in order to achieve an efficient and interconnected border. Financing this sort of projects has the advantage of a competitive instrument to recover the investment, through charging fees for the use of the infrastructure.
3. Regional expansion: It is imperative that North American countries commit resources to expand transport and energy infrastructure to Guatemala, Honduras and El Salvador in Central America. Without this kind on infrastructure, those countries will continue to increase migration flows.

Medical tourism

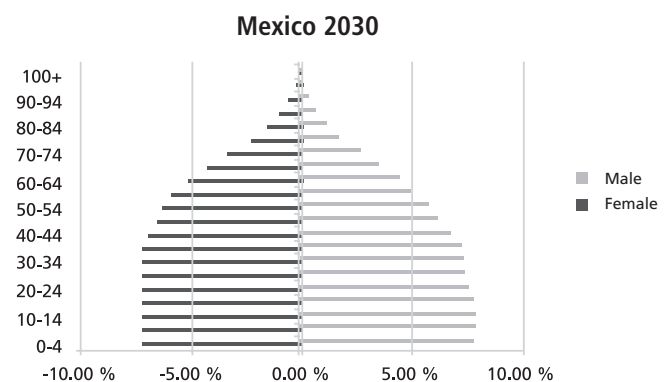
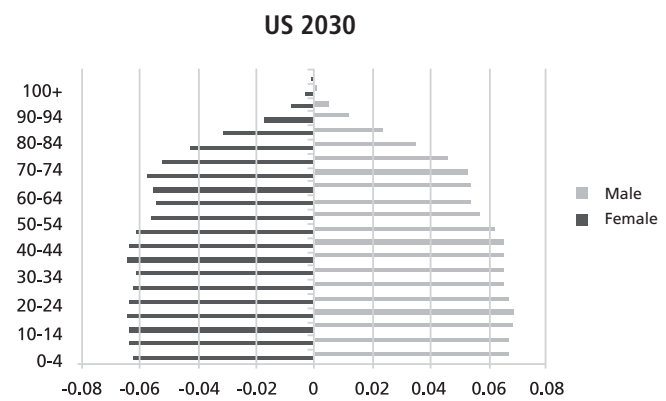
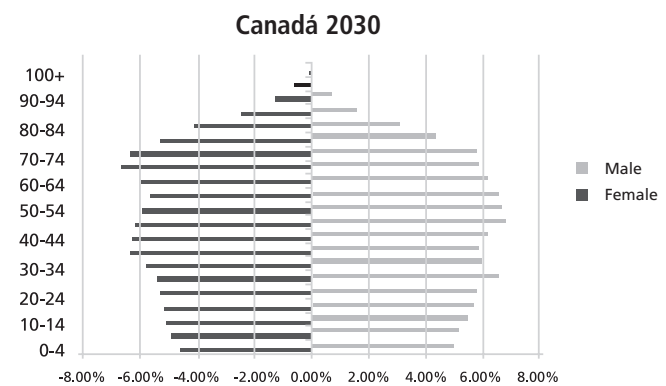
The largest sector of the U.S. economy and one that is growing rapidly in Canada and Mexico is healthcare. In spite of healthcare accounting for 17 per cent of U.S.'s GDP, the participation of Mexico and Canada in this sector is relatively minor, although not a small one. An important number of patients from both countries seek medical attention in the U.S., a factor that also attracts human capital (doctors and nurses). Mexico has also become a relevant provider of medical devices and highly technological medical instruments in all the region.

Nevertheless, the largest growth opportunity can be found in medical tourism. Mexico offers important advantages that make it an ideal destination for the treatment of certain conditions and the execution of several medical procedures, while the U.S. has a comparative advantage for highly specialized treatments. In addition to its benign climate, Mexico can also educate an attractive offer of healthcare professionals (to work in Mexico, but also in Canada and the U.S.) and invest in world class medical infrastructure. To promote this development, it is indispensable that the Parties collaborate in certification processes of doctors, nurses and other health care professionals, and in hospital and laboratory harmonized certification, as well as in the efficient use of medical insurance to refund medical expenditure in the region.

Demographic complementarity

North America has one of the best demographic profiles in the world for the upcoming decades, especially when compared with the high dependency demographic profiles (infants + senior citizens/labor force) in Europe and Asia.

The increase of fertility rates in the U.S. in the last few years, the constant migration to that country and the fact that Mexico is in the region, account for the fact that, in spite of Canada's aging population, the region is a demographically attractive one.



Source: Demographic prognosis for 2030, US Economic Census Bureau

Therefore, the competitiveness potential of North America when compared to its demographic bonus, presents a possibly unique development opportunity. Nonetheless, the demographic pyramids are not uniform in the three parties, and represent for each of them different tasks at hand:

- Canada has an inverted pyramid. This implies that its population is aging. Thus, its main concerns can be found in comprehensive attention for senior citizens, which must include medical attention, permanent care and a benign climate.
- U.S. has a good profile with a mixed population: a growing young sector that interacts with an important sector of pensioned and retired citizens, who require, as in the Canadian case, specialized care and treatment.
- Mexico must also anticipate an increase in its pensioned population, but it is, undoubtedly, the “youngest” of the three Parties.

Cooperation amongst the three economies in NAFTA can and must become an instrument that contributes to the use of the relatively favorable demographic profile of the region. Some steps have

already been addressed in this text (such as professional certification harmonization, temporary entry, deepening of trade exchange, logistics and financial services integration) but it is also necessary to:

- Increase academic exchange and professional residences of students of a given Party in the academic institutions of the others. This calls for the creation and joint financing of NAFTA scholarships.
- Harmonize study plans and establish permanent dialogue amongst universities in the three countries regarding the permanent update of study plans and full incorporation of innovation and technological advances to curricula.
- Advance in bilingual education in elementary and middle school to facilitate cross-border crossings of workers and professionals.
- Advance in quality of schooling and educational interconnectivity in isolated regions, with the aim of incorporating indigenous communities (in the three countries) to harmonized educational processes.



SECURITY

Problem

The security of Mexico and The United States is intrinsically linked and dealing with it extends beyond the border area. The relationship of interdependence that both countries have built over decades -marked by a deepening of the economic, social and cultural integration processes that began with the signing of NAFTA- has given the security issue a double dimension that includes both the attention to the problems of instability produced by the criminal activity inside the borders and the control of the transnational criminal dynamics.

In this sense, to achieve the security objectives set by both countries, it is necessary to understand that the nature of the problems they are suffering from is not only complex but, in many cases, the problems are mutual and/or caused by realities that exist in the neighboring country. Therefore, the efforts that must be made to solve them are complementary, if not dependent. **In other words: a secure United States needs a secure Mexico and vice-versa.**

In addition, in a context where the bilateral relationship has been affected by President Trump's open hostility towards our country, which has put many real and perceived issues of delinquency, criminality and corruption under the reflector of national and foreign public attention, the Mexican government is being called on to assume a proactive role that will allow it to assert and defend the interests of its people. This can be broken down into the following fronts, among others: the pacification of the country and the fight against corruption, the reduction of the criminal activity that threatens the very viability of the Mexican State today, the adequate management of the immigration phenomenon, border security and the fight against terrorism.

Context

Although the bilateral cooperation between Mexico and the United States has increased significantly in recent decades, there is still a long way to go before both governments recognize that they have a shared responsibility in solving the threats they face. In the medium and long term, greater cooperation would make it easier to achieve the security objectives shared by both nations and to develop the necessary capacity to prevent an increase in criminal activity.

During the second half of the 2000s, both Mexico and the United States came to think about the implementation of a cooperation strategy based on four pillars that emphasized the need to work together to break up criminal organizations, strengthen the police institutions and institutionalize the capacity to maintain the Rule of Law, build a border in accordance with the needs of the XXI century and develop strong, resilient communities. However, today that spirit of cooperation is at risk. It is necessary to return to the lessons and contributions of the Security and Prosperity Partnership of North America (SPP), which put forward the idea that shared prosperity is the axis of regional security.

In January of this year, the Mexican government specified ten objectives that it will pursue in the negotiations with the new U.S. government under the premise of constructing a new stage of bilateral dialogue. Some of its most important points are: shared responsibility, the commitment to work together to promote the development of the Central American countries, the will to reduce the illegal traffic of arms and drugs as well as the need to promote a border that unites instead of dividing its communities.

We firmly believe that a scenario of cooperation is and always will be more desirable and effective than one of conflict, since in that scenario it is possible to work at the political, technical and social levels to find innovative and participative solutions that attend to the needs of everybody in a “win-win” logic. However, with the recent unilateral actions of the U.S. government there is a risk of making said cooperation impossible and fomenting a conflict. In such a scenario, all the agendas should be on the table.

In the case of conflict, the danger would be of passing to a “lose-lose” situation. For this reason, the Mexican government should maintain a firm position in which the negotiable and non-negotiable elements are made clear and where cooperation is limited to the areas where conditions of equality and reciprocity exist. In those areas where an agreement favorable to both nations is not reached, Mexico must use its position of strength in security matters to condition Mexican support to the U.S. agencies with regard to the fight against terrorism, drug control and immigration to the objective of modifying the most adverse positions for the stability of the country and of the Mexican community in the United States. In a conflict scenario, it will be of vital importance to be clear about the limits of the cooperation, good will and flexibility as well as to have an exit strategy on specific issues that contemplate cooperation and economic, technological and military assistance with other nations.

Strategy

We have identified five areas of action:

1. Border security
2. Drugs, arms and illicit financial flows
3. Corruption and Rule of Law
4. Management of migrant contingents and binational communities
5. Economic and social pacification and stability

Border security

Border security is a central point of the negotiations between Mexico and the United States since it encompasses both the different problems identified by both countries (illegal traffic of arms, drugs and persons) and the most crucial points of tension in the bilateral relationship (the building of the wall, the mass deportations, the role played by the American gun stores in the possession of arms by Mexican organized crime groups, etc.). Unfortunately, the current political discourse reduces the idea of border to its most basic dimension (dividing line) and with that loses the opportunity to cooperate and reflect on how to maintain the security of these places of encounter without affecting the economic, human, social, cultural and environmental dimensions.

The “XXI Century Border” concept, developed by Alan Bersin, seems useful for recovering this idea of complexity and proposing actions based on reciprocity and efficacy, focused on “pushing” the borders beyond the physical limits.

However, it is important to recognize that although the United States is completely free to adopt the border control methods that suit it best, Mexico does not share the vision of building a physical barrier because it considers that such a measure would be useless and shameful and would limit both countries’ efforts to maintain the security of their societies. We believe in cooperation, in the exchange of information and the design of differentiated solutions depending on the context of each contact zone.³

³ For example: Tijuana - San Ysidro-Otay, Mexicali - Calexico West, Nogales -Arizona, Ciudad Juarez - El Paso, Piedras Negras - Eagle Pass, Nuevo Laredo - Laredo, Reynosa -Condado de Hidalgo and Matamoros – Brownsville. As well as the actions oriented towards improving the security at these crossings we must consider the alternatives for cooperation with the border states since the viability of many of the actions proposed by President Trump will depend on these. The influence of states such as Texas and California on the federal decisions, given their large representation in Congress, should be analyzed and where appropriate used in benefit of the relationship since up to now there have been strong pockets of opposition in these states, which will make it difficult to materialize impulsive reforms and potentially could invite the parties to a more instructive dialogue.

Drugs, arms and illicit financial flows

The drug problem is complex and multidimensional and in some countries the understanding of it has evolved and left behind the traditional paradigm of control of supply and demand that divided the world into good and bad countries, consumers and producers. In spite of these advances in other parts of the world, Mexico and the United States have maintained different trajectories with regard to drugs and do not share the costs fairly or grant the same prerogatives to choose one policy or the other. For example, in the United States, even though at the federal level there has been no substantial change in the position towards the problem, several states have advanced with the legalization of cannabis and have implemented reforms that include partial decriminalization and the strengthening of the controls for its use. Mexico, on the other hand, has toughened its laws and policies to the point of declaring a “war on drugs”. These measures have not succeeded in reducing the black market or putting an end to the illegal trafficking.

Today, drug trafficking is just one of the activities engaged in by organized crime. Its role in the propagation of violence is acting as a “beachhead” for the rest of the activities that give rise to violence and are a great threat to the Mexican state today. The drug dealers enter a market place, their “turf”, corrupt the authorities with their offer of “silver or lead” and acquire a workforce that they train and dehumanize. It is this workforce that later opens “franchises” of extortion, kidnapping, robbery and human trafficking. What the drug trafficking provides is the enormous “seed capital” and the arms (normally from the United States) that makes possible the violence that, in fact, has been spreading like an epidemic.

The Mexican government has cooperated with the U.S. authorities pointing out the shared responsibility for a consumption phenomenon that originates in Mexico but where the principal destination of the illicit substances produced in our country is the growing U.S. market. However, given the hostility with which President Trump has decided to approach this issue, the Mexican government’s strategy cannot remain unaffected.

Mexico will have to redouble its efforts in promoting, together with the U.S. Government, a comprehensive solution to the problem of drug dependence that will include the provision of services of prevention, harm-reduction and treatment in the United States, and, if Mexico wants to reduce the ravages caused by the operation of a highly violent black market, the solution would entail the legal legalization of the drugs, taking the business away from the traffickers. However, it should be noted that legalization would only eliminate the first barrier between the traffic and consumption, but this is not the solution to the underlying problem. **In Mexico, the biggest problem is not drugs, nor terrorism nor violence; but the lack of a government that governs.**

The issues of arms control, the prevention and sanction of money-laundering and the reduction of financial flows that finance the criminal activity are equally complex and dealing with them also requires mutual cooperation. In both cases, the solution lies in the compliance with previously signed agreements as well as redoubling efforts to eliminate corruption and the coordinated application of national measures that can be carried out within the existing legal frameworks.

Corruption and Rule of Law

Corruption and the lack of Rule of Law represent the principal challenges for Mexicans. The economic, technological and educational advances will be limited by the corruption that exists at all levels of Mexican society; and one of the issues most affected is security. Corruption explains an important part of the existing impunity associated with a weak rule of law. The fragility of the country’s institutions makes it easier for the citizens to solve their problems outside the legal channels fostering a lack of accountability.

Given the above, it is difficult to imagine how Mexico is going to get out of the trap of insecurity where the dynamics of crime, violence, impunity and corruption undermine the efforts to put the country on the road towards governability.

Management of migrant contingents and binational communities

It is important to seek greater cooperation with the U.S. and Central American authorities to improve the security of the southern border, managing the migrant flow coming from said countries and **guaranteeing the same treatment that we demand from the United States for our citizens.**

Likewise, Mexico must seek the necessary cooperation mechanisms to prevent the victimization of the migrant contingents both at the time of their detention in the United States and during their deportation and reception in Mexico, including family separation, unnecessary confinement, deportation to the crossing point, local and transnational criminal activity that could target them, and recruitment by criminal organizations.

In addition to the above, our country will have to participate in the design of a joint program for the orderly repatriation of Mexican citizens with criminal records that will permit their return to the country in controlled conditions, which: minimize the risk of escape and criminal backsliding, permit the adequate identification of the criminal conducts committed and the separation of dangerous and non-dangerous criminals, guarantee the exchange of information in duly compiled records, including orders issued by international organizations, and the full exercise of their procedural rights. Mexico must not allow the sending of dangerous criminals who enter Mexican communities freely, it must ensure that those who represent a danger are kept apart.

Economic and social pacification and stability.

An integral focus on security should also consider the multiplicity of challenges associated with this both economically and socially (e.g. unemployment, poverty, inequality, etc.) There is an undeniable link between security, peace and justice and economic growth and social welfare. Without public policies that manage to eliminate the interests of those who benefit from maintaining the status quo, and without a legal framework that will provide legal certainty, we will not manage to encourage investment and,

with that, the creation of wealth and well-paid jobs. We will not be able to achieve social welfare that will foster a sense of territorial roots and offer its citizens opportunities for development, particularly to those who find an opportunity in illegal activities. **Insecurity destroys businesses, families, expectations and, above all, the confidence that is key to progress.**

Proposals

1. To revert to the lessons and contributions of the Security and Prosperity Partnership of North America (SPP), which proposed that the focus of the present negotiation should be a shared prosperity, as the axis of regional security.
2. To justify the principle of mutual and shared responsibility with regard to drugs, recognizing that the solution to the problems of abuse, violence and criminality related to trafficking lies in public health. This might reduce individual and social harm and permits the exploration of alternative policies including legal regulation.
3. To establish a protection mechanism for Mexican society in the face of the repatriation of violent criminals, exploring the possibility of their imprisonment in Mexico if they continue to represent a danger.
4. To suggest the creation of a binational intelligence force made up of agents not linked to the border zone, which will identify, investigate and sanction the acts of corruption that enable the illicit traffic of goods and persons on both sides of the border, also studying the possibility that the agents could have dual nationality and dual assignments with jurisdiction in both countries, to avoid the criminals from seeking protection in the nooks and crannies of the two legal frameworks.
5. To ask the U.S. government for the participation of representatives of the Mexican government in the deportation proceedings against Mexican citizens in order to guarantee: a) the origin of the accused b) the observance of the procedural guarantees and the respect for their human rights c) the appropriate consular assistance and legal defense of

their cases (permitting their regularization in U.S. territory or their orderly repatriation to national territory) and d) the organization of a reception strategy aimed at preventing violence and crime by and against said contingent.

6. To revitalize the binational efforts to sanction money laundering and effectively dismantle the financial structure of the criminal groups. Unlike the efforts in the past, this means identifying the criminals and neutralizing their networks, NOT hampering legitimate business activity as has happened with mechanisms such FATCA and “*Know Your Customer*”. In fact, it will be necessary to review the regulations that have mistakenly turned financial agents into experts and investigators, changing to a system of government intelligence and effective administration and law enforcement.
7. To reiterate that the reinforcement with regard to the fight against terrorism that the Mexican government provides to the United States can only be maintained if the principles of dialogue and cooperation between both countries are respected and joint actions are encouraged that will lead to keeping peace in our territories and the institutional strengthening of the Mexican State. In this context, we must make it clear that we cannot be allies if we are not friends.

8. To demand compliance with the commitments acquired in 2007, within the framework of the Merida initiative, in which the United States undertook to intensify the actions to prevent the illicit traffic of firearms to Mexico and the Americas and strengthen the national efforts with regard to: a) recording, tracking and management of seizures b) licensing and supervision of points of sale (in particular although not exclusively the gun stores located along the border) c) the import and export of weapons for the exclusive use of the army, d), the assignment of weapons to police forces and e) the restriction of the carrying of arms by civilians.

Conclusions

The security in Mexico and the United States is and will continue to be a relevant issue for both nations. The deep integration in multiple economic, social and cultural processes has linked the countries in such a way that it is in the interest of each of them to attend to the issues that affect the security of the other. In spite of the hostility of the discourse of some of the policies undertaken by Donald Trump’s administration, arms smuggling, drug trafficking, border security and the fight against terrorism and corruption are issues that represent real threats to both countries and if they are faced jointly, they can be solved more effectively.



BORDER

Problem

The border region exhibits and magnifies the different dimensions that make up the bilateral relationship: trade, investment, immigration, security, tourism, culture and environment. An impact on the 3,142-kilometer-long border could have a negative effect on both countries, considering that the trade is worth over 500 billion dollars a year. In spite of its asymmetries and challenges, it is also one of the most dynamic regions in the world, with over 56 points where 300,000 vehicles cross everyday⁴, and it has the potential to become an area that will foster development, competitiveness and the connectivity between both nations. It is also an area of rich cultural exchange with a binational, bicultural and bilingual population.

The tightening of the immigration policy by the U.S. government has particularly affected the border region, since the growing number of deportations of persons makes it difficult to assimilate them in the border towns. This has put a lot of pressure on those towns, which have received a population demanding employment, housing and basic services, adding to the existing problems such as: a fluctuating offer of jobs, social housing built on unsuitable ground, traffic jams, overspent municipal budgets, crime and violence.

Moreover, the recent introduction of a larger number of surveillance mechanisms at the border crossings has affected the shared production processes creating

delays in the flows of products and persons, which results in higher transaction costs. Finding the balance between security and facilitating trade has been one of the priorities of binational cooperation since the 90's, and this is reflected in programs such as: *the North American Trusted Traveler Program* (incorporating *Global Entry*, *SENTRI* and *Viajero Confiable*), the *New Scheme of Certified Companies*, *NEEC* and the *Custom Trade Partnership against Terrorism (C-TPAT)*, among others. In 2015, 41% of the Mexican exports to the United States entered in the C-TPAT/NEEC category.⁵

Another of the big problems faced by the border has to do with the crossing of arms and drugs. The demand for illegal substances in the United States has compromised the region, converting it into a gangland. Furthermore, the corruption, impunity, and the absence of Rule of Law have contributed to the growth of the problem, putting the credibility of the Mexican State at risk.

Another relevant issue has to do with the environment and the shared natural resources. The fact that the natural course of three important rivers (Grande, Tijuana and Colorado) touches both nations, has been and will continue to be part of the cross-border agenda. The signing of the minute on the Colorado River in 2012 signified a great advance but we must continue to explore avenues of cooperation on this and other issues that affect the environment and sustainability of the region.

Finally, the tourist flows in both directions can also be affected to the extent that an aggressive narrative towards Mexicans persists. This could have an impact on both economies. Tourism to the United States does not only consist of relaxation, but also activities linked to specialized medical services and cultural and educational activities, etc. In fact, the number of Mexican visitors to the United States has dropped 30% since Trump became president.⁶

⁴ Sergio Alcocer, "The Anatomy of a Relationship: A Collection of Essays on the Evolution of U.S.-Mexico Cooperation on Border Management", Mexico Institute, 2015, https://www.wilsoncenter.org/sites/default/files/managing_the_mexico_us_border_alcocer.pdf

⁵ Milenio Noticias, "Mexico and the United States sign customs recognition agreement", October 19, 2014, http://www.milenio.com/negocios/SAT-acuerdo_aduanero-Mexico-EU-comercio_exterior_0_393560788.html

⁶ Excelsior, "Tourism to the U.S. plummets: fall estimated at 30% April 24, 2017, <http://www.excelsior.com.mx/nacional/2017/04/24/1159413>

Context

Since the second half of the XIX century, the border region of the north of Mexico received the exemption for the free import of food and other goods from the United States. By the beginning of the XX century, said exemptions became free-zone regimes, which would mark the beginning of the economic relationship.

As from then, various initiatives began to emerge which sought to attend to and strengthen the relationship between the urban border zones. Some important examples emerged during the 90's such as the 100 Cities Program (P100CDS), and the Integrated Border Environmental Plan (IBEP), which later gave rise to the Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADBANK).

With the coming into effect of the NAFTA, the levels of interdependence in the region deepened. It boosted the retail trade, the industrial activity, the crossing of merchandise, the cross-border labor market, the financial activities and even the recreational and medical tourism.

For decades, the principal border towns were the place of transit for our countrymen who sought to cross illegally to the United States and also the home of many others who sought employment opportunities in the export sector. The strong demand for low-skilled labor attracted many people from other regions of the country generating a population growth above the national average. However, according to the Pew Research Center, since 2007 the number of Mexicans who cross the border illegally has decreased by almost a million: from 6.9 million a year to 5.8 million in 2014.⁷ In fact, in the last three years the illegal crossings are made mainly by migrants from the so-called Northern Triangle of Central America (formed by El Salvador, Guatemala and Honduras).⁸ For example, just in 2016 the U.S. customs and border protection authority detained 46,000 minors and over 70,400 families coming from these three countries at the U.S. border with Mexico.⁹

After the September 11 events, border cooperation was affected. The vision of competitiveness based on a fast border crossing was replaced by a vision that stressed security. The direct result was increased checks (of people and merchandise) at the border crossings, with their respective effects on trade and industrial and tourist activities. This situation worsened due to the growth of violence related to drug trafficking and organized crime, which has led to the State Department issuing alerts for certain border towns on several occasions.

Strategy

The federal government's policies and actions towards the northern border of Mexico have lacked comprehensive planning for the social and economic development of the border states. The interest not only has to center on the potential trade relations with the United States, but also on the enormous migratory flow and the increase in criminal activities.

The economic development of the border states is also affected by the poor management capacity of the state and municipal governments. The institutional economic management capacity is unfocused; that is to say there is no planned interaction, which prevents the government's efficient development of activities that generate income and employment.

⁷ Pew Research Center: "What we know about illegal immigration from Mexico", March 2, 2017.

⁸ The Texas Tribune, "Illegal Central American Immigration Surges Again at U.S. Border", Septiembre 15, 2016. <https://www.texastribune.org/2016/09/15/central-american-illegal-immigration-us-border-100/>

⁹ Migration Policy Institute, "Central American Immigrants in the United States", April 5, 2017. <http://www.migrationpolicy.org/article/central-american-immigrants-united-states>

Also evident is the inability of some governments to take advantage of the opportunities offered by the potential strategic alliances for national and international cooperation, as well as the absence of projects to link the production processes to the education programs, scientific research and technological development. For these reasons, it is highly recommendable to coordinate the performance of the components responsible for the development of Mexico's northern frontier within the framework of comprehensive medium and long-term planning.

With this in mind, the construction of a better border between Mexico and the United States must recognize the interests of each of the parties. With this objective in mind, we propose 3 main axes:

- Better binational institutional cooperation at all levels of government.
- Development of binational, intelligent economic-trade regions ("megaregions").
- Having of a secure and efficient border.

Greater binational institutional cooperation to encourage integration and competitiveness.

The changes in the bilateral relationship are having a great impact on the daily interactions and dynamics of the border cities between Mexico and the United States. In spite of the change of stance of the present U.S. government, it is realistic to see the border strip on the Mexican side as a region with great potential for achieving a global economy independent from its integration with the U.S. economy. Paradoxically, its greatest competitiveness is associated with greater institutional cooperation between the border communities on each side of the dividing line. For this purpose it will be appropriate to strengthen the cooperation through various local mechanisms (at the state, municipal and city level) and reactivate institutions that represent the region, such as the Border Governors Conference (which includes 10 governors from the border states of Mexico and the United States) and the Border Mayors' Association.¹⁰ It should be pointed out that greater competitiveness in the border region will also benefit the

communities on the U.S. side making them partners in a shared development.

An important aspect of cooperation between the communities and governments of both countries lies in the boost to the region's human capital. Setting up a work group devoted to designing specific education policies for the border communities can accelerate the development of the region. Precisely in an area like education it is possible to count on the collaboration of universities and schools in the region to generate policies that will increase the skills of the workforce employed in the industries located on the border. Examples of this collaboration are the Advanced Materials Research Centers (CI-MAV) located in Monterrey and Chihuahua, which constitute a successful alliance between companies and educational institutes.¹¹ It is suggested that the development of human capital should be approached with a focus on knowledge clustering in which the education and business sectors are articulated positively and with incentives from the three levels of government.

Development of binational and intelligent economic-trade regions.

One of the main objectives of the Mexican government should be to underscore the enormous importance of the Mexican economy to the U.S. economy. That is to say, actions that harm the economy of the Mexican border zone have a direct impact on the economy of the U.S. side of the border. Not only do the border regions benefit from this relationship but also a large part of the country, since there are more than 30 states in the American Union that have Mexico as their principal international trade partner (e.g. Texas, California, New York and Florida).

The Mexican border region is located in a geostrategic position for global competitiveness. To have an efficient, modern infrastructure supported by the

¹⁰ Woodrow Wilson Center, "The Economy of the Mexico-United States Border in Transition", editors Erik Lee y Christopher Wilson, March 2015.

¹¹ *Ibid.*

digital technologies that will contribute to greater competitiveness has become the principal objective. In fact, an appropriate world-class infrastructure will improve the production capacity of both countries and open up new development opportunities for their populations. In particular, the connectivity of the transportation between Mexico and the United States (air, sea, land and rail) presents an area of opportunity with a potential for greater development. Said connectivity will have to go hand in hand with an improvement in the customs and immigration procedures and the development of border infrastructure and logistics corridors.

In addition, the decision makers could seek support from the academics and think tanks, highlighting the multiple studies that show the socio-economic level and interdependence that has developed between the two countries in the border region. This shows how the direct foreign investment in Mexico not only generates jobs in this area of the country but also in the area on the southern border of the United States and even that, given the skills and abilities of its workforce, the best-paid jobs stay on the U.S. side.

The majority of the industries that are located along the northern border participate in an industrial production based mainly on intra-firm relationships. Most of the industrial segments found in the border region are part of wide global production networks principally of U.S. origin, focusing particularly on finishes and assembly of end products such as electrical household appliances, automobiles and their parts, different medical instruments, electronic equipment, etc.

The border region would benefit from adopting a focus based on innovation-pools as creative collaboration spaces that, supported by the local talent, develop inventions that will be transferred to the market in the form of innovations. Said advances would not only have an application on the border itself but would be subject to export to the North American region and the rest of the world.

Having of a more secure and efficient border

Mexico-U.S. cooperation in security is more important than ever today. During the last federal governments (of both Mexico and the United States) it is important to highlight the cooperation that was built to make the border more secure for both countries. The Mexican government should support the efforts of the local governments to improve the communication and coordination with the security institutions of the different levels of the U.S. government and be able to count on secure, fast crossings on both sides of the border: to protect the Mexican border from the crossing of illegal arms and protect the U.S. border in particular from the crossing of drugs and illicit money.

In the area of immigration, Mexico must show that undocumented migration has decreased drastically in recent years, which is why the building of a wall is a media strategy and not an effective solution, since there are areas where there is not one wall but several walls and others where the geography acts as such a barrier. At the same time, the Mexican government must keep a more careful watch on immigrants' human rights and protest about the constant abuses of the border patrol and other agencies (such as ICE) that, with xenophobic racist attitudes, attack the population of Mexican origin. It is not possible to have a secure, efficient border if there is distrust between the two countries based on prejudices.

Since the arrival of president Trump, the United States has made a radical shift in its political asylum policy, reducing the quotas of refugees accepted and making an additional impact on the Mexican border towns. The most recent case is that of the Haitian and Nigerian population who, after being expelled from Brazil, made the long trek to the border city of Tijuana with the illusion of being received by the United States. This has created great social pressure, especially on the organizations that support the migrant population and the support of which depends more on the local and foreign population than on the local/state and/or federal government.

In this respect, the fight against the corruption of the border police is particularly important, since when a

xenophobic, racist attitude is unleashed, the migrant population (Mexican or not) is in much more danger than at other times. The Mexican government must fight against the mafias and criminal groups that abuse this highly vulnerable population and have infiltrated the forces of law and order in both countries.

Proposals

It is extremely important to prepare a comprehensive plan for the development of the northern border that will justify actions such as the following:

1. To develop a different model of cross-border cooperation that will use a multi-level governance scheme and incorporate the three levels of government (four in the United States), taking the local actors into account. The incorporation of the local governments and local organized society will contribute to enabling the formal cooperation schemes between both countries to become much more effective in solving the challenges on both sides of the border.
2. To review previous agreements such as the Security and Prosperity Partnership of North America (SPP) to identify areas of opportunity for cooperation and joint investment.
3. To locate the needs for infrastructure and basic public services that today limit the productivity and competitiveness of the production sector in the border corridor. In addition, and regardless of the result of the trade negotiations, it is relevant to encourage that more exports from Mexico to the United States flow via sea transportation in ports of the Pacific and the Gulf of Mexico with a view to decongesting the volume of cargo that passes through the ports of entry of Ciudad Juarez and Matamoros. Furthermore, the management systems and the use of technology to speed up trade flows at the border must be improved.
4. To support the development of economic groupings (innovation clusters) in the production sector and its connection with the education sector, principally throughout the logistics corridors and metropolitan areas that feed the flows of freight to the ports of entry.
5. To back and support the U.S.-Mexico Border Governors Conference (BGC) so that it will serve as an actor that defends and acts in favor of the interests of other cross-border actors. This implies that the federal government will be willing to cede to the local governments certain prerogatives on decisions that favor the development of this megaregion.
6. To propose the extension of the NADBANK functions in the NAFTA negotiations, so that it will give greater support to the urban development of the principal pairs of border cities and raise their competitiveness. In addition, to increase and strengthen sources of financing for the development of border-region infrastructure and that related to the development of economic clusters in metropolitan areas.
7. To consider the return of the free-zone regimes to ensure the free flow of merchandise in the border zones (as was the case before 1994), only in the event that the renegotiation of the NAFTA is unsuccessful and tariffs are reintroduced on the trade between the two countries.
8. To regulate the operation of the foreign companies established in Mexico through better coordination between the federal and state agencies, so as to guarantee compliance with the labor and environmental regulations.
9. To maintain and, where applicable, improve the mechanisms of coordination with the U.S. government to achieve an organized strategy for the deportation of Mexican immigrants. Their place of origin must be checked (only accepting those with Mexican nationality, as was stated in the immigration chapter) and respect for the human rights of the immigrants, particularly of the children and young people, must be guaranteed.
10. To create a work group from the civil society of Mexico and the United States to put forward a vision of development for the border, which will serve as a mechanism for direct communication between the border communities and the decision-makers at the Mexican Department of Foreign Affairs and the U.S. State Department.

11. To analyze the creation of a new Bilateral Cross-border Program (PRONAF 2.0). It would be advisable to align public policies to boost competitiveness and the growth of the national production sector in the Northern Border System. One of the areas where this collaboration could be very fruitful is in the development of renewable energy projects between both countries.

Conclusions

The 80 municipalities in six Mexican states and 48 counties in four U.S. states located 100 kilometers north and south of the 3,185 kilometers that make up the border, present the most advanced version of a historically complicated bilateral relationship. The interconnectivity in trade, culture, environment and the

movement of persons reveals how the problems on one side of the border are the other side's problems. The policies that harm the Mexican border communities will necessarily have a negative impact on the U.S. communities that are part of the same megaregions. The inability of one of the governments to understand this will cause its citizens to suffer part of the consequences of its shortsightedness.

Building a better border between Mexico and the United States can only be achieved when both countries deepen the cooperation at the different levels of government. Without abandoning the issues, they consider most relevant, in the extent to which institutional cooperation increases, it will be possible to develop more robust binational economic trade regions and have a more secure and efficient border.



MIGRATION

Problem

Since the beginning, the new U.S. federal government has followed an anti-immigrant policy. Proof of this is the ban on nationals of seven Muslim countries, the review of criteria for issuing the H1B visas, the 50% decrease in the number of refugee applications and the orders with regard to the deportation of illegal immigrants (irrespective of length of time in the United States, marital status, children born in that country or if they are elderly men and women). Added to this, its insistence on building a “wall” along the border with Mexico. This shows a radical change in the United States’ immigration policy, the negative effects of which could come to be of such a nature that Mexico will be forced to rethink the manner in which the government and society will approach this issue.

Context

In order to approach the immigration phenomenon between Mexico and the United States correctly, it is necessary to keep in mind that the two countries were born together and intertwined. In fact, the experience of the Mexican in what is now U.S. territory is not principally one of illegal immigration: of the 36.9 million Mexicans and Mexican Americans, approximately 80% are either American citizens or legal, not illegal, immigrants. Besides, the migration is two-way; Mexico is the principal destination of the American diaspora, there being between 1-3 million Americans in the national territory. Recognizing this historical reality greatly strengthens the position of the Mexicans in that country.

In contrast to this rich history of integration, the current president of the United States included in his government proposal an aggressive attitude towards the immigrants in his country, especially those who cross by the southern border who he described as “rapists, criminals and bad people”. To prevent them from managing to enter his country, he proposed build-

ing an “enormous, beautiful wall” along the whole of the border with Mexico, whose government would pay for it. To this he added a constant rhetoric with racist and xenophobic overtones that stigmatized all the persons who are in the United States without immigration documents with a view to expelling them from the country.

This rhetoric was unheard of in the recent history of the U.S. presidential campaigns, since during past decades the presidential candidates touched lightly on this issue, only referring to it when the Hispanic vote began to be relevant in certain electoral colleges. A discussion of the immigration issue with a bilateral approach was achieved in 2001 when the Mexican government attempted to come to an immigration agreement with that of the United States¹²; but, as we all know, due to the terrorist attack of September 11 the issue ceased to be a priority in the U.S. political climate. The bilateral relationship concentrated on preventing the incursion of terrorists crossing the common border and the consequent fight against the organized gangs involved in human trafficking, especially of citizens of the Middle East and Africa. Some years later and up to now, Washington’s agenda has concentrated on the fight against drug trafficking. It was towards the end of Obama’s government when the Senate approved a bill that comprehensively reformed the legislation on the matter. Opposing sectors mobilized because the law included several of the Mexican petitions and those from the pro-immigrant movement: ways to legalize the illegal resident population, reinforcement of border controls, modalities for the temporary hiring of foreign workers, among others. Unfortunately, the House of Representatives, already dominated by Republican legislators, refused

¹² Davidow, Jeffrey, *The bear and the porcupine. Testimonial from a U.S. ambassador in Mexico, Grijalbo, Mexico, 2003*

to process the senate bill, which was shelved without even an initial discussion. It should be pointed out that during that effort in 2013, President Trump's current adviser, Steven Miller, was pointed to as being instrumental to quashing the immigration reform. At that time, he worked with Senator Sessions, the current Attorney General of the United States. That is to say, the fiercest opponents of the immigration reform are now key figures in the new government.

In spite of the diversity that the United States has developed by receiving multiple waves of immigrants – which help explain its economic success in different moments of time – the fact that it continues to be the country that receives most immigrants in the world has been a sensitive issue both emotionally and politically, which makes it highly divisive¹³. Trump understood that and appealed to an important segment of society that feels threatened by the foreigners, by the workers who supposedly put their jobs at risk, who are “different” in their race, color, origin, religious beliefs and customs¹⁴.

The reading and analysis of the Executive¹⁵ Orders issued by Trump make it clear that he has distorted the historical principles of his country's immigration policy, based on reuniting families and the protection of those who flee from their places of origin due to violence, discrimination or political repression. Even by ordering the review of the H1B visas, which permit the immigration of top level qualified professionals, he goes against the historical principle that the United States seeks to incorporate “the best and most brilliant”, under the argument that they should give priority to U.S. human capital.

One of the orders that will have the most impact on Mexico is the one that instructs the Department of Homeland Security and its operating agencies¹⁶ to implement policies and procedures that will identify people who are in U.S. territory illegally and to proceed with their immediate expulsion. Not only does he give instructions to give priority to the deportation of all foreigners who have a criminal record, in the broad sense of the term, but he also includes without distinction any person who does not have the necessary immigration papers. Even though during the go-

vernments of Bill Clinton, George W. Bush and Barack Obama there was an unprecedented expansion of the agencies responsible for immigration policy¹⁷, Trump wants to increase the number of agents of the *Immigration and Customs Enforcement* (ICE) responsible for investigation and deportation from inside the United States as well as the agency in charge of the border controls CBP and the dreaded Border Patrol.

In spite of being known as the “Deporter in Chief” because of the unprecedented number of illegal immigrants that were deported during his administration, President Obama's immigration policy concentrated its efforts on deporting serious criminals and those who were detained in the border region; that is to say, it did not include families or individuals resident in the United States who have generally been living there for years. At the same time, Obama gave a respite to young students, the children of illegal immigrants, who are known as *Dreamers*.

Furthermore, the building of the border wall is still one of Trump's constant messages and he has ordered a study of technical and physical options to ensure that it will be “impenetrable from above and below”; dozens of companies are on the list to compete in the tender process.

¹³ Cristina F. Pereda, “Chronology of the migration to the United States”, El País, November 2014. Available at: http://elpais.com/elpais/2014/11/20/media/1416497358_287591.html

¹⁴ Samuel P. Huntington, “Who Are We?: The Challenges to America's National Identity”, Simon & Schuster, 2004.

¹⁵ The White House, “Executive Orders”, The White House, mayo de 2017. Available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/executive-orders>

¹⁶ <https://assets.documentcloud.org/documents/3468386/Read-the-memos-signed-by-DHS-Secretary-Kelly-on.pdf>

¹⁷ Migration Policy Institute, “U.S. Spends More on Immigration Enforcement than on FBI, DEA, Secret Service & All Other Federal Criminal Law Enforcement Agencies Combined”, MPI, January 2013. Available at: <http://www.migrationpolicy.org/news/us-spends-more-immigration-enforcement-fbi-dea-secret-service-all-other-federal-criminal-law>

From the beginning, Congress, including Republican legislators, has expressed serious reservations about financing its extremely high cost, to such an extent that the matter has become a central issue for the approval of the fiscal budget 2017/2018 since the Democrats and quite a few Republicans refused to include the allocation requested by Trump.

It should be pointed out that the perception that Trump created in the minds of the 60 million people who voted for him about the impact of illegal immigration, its risks and the lack of control of the border with Mexico, is not supported by any evidence: the flows of Mexican migrants to the neighboring country have already entered a downward cycle that appears to be structural. The migratory decline began following the 2008 crisis, but almost nine years afterwards, the trend has remained at low levels such as have not been seen in decades¹⁸. Stigmatizing the immigrant as a criminal was a rhetoric that was not only unjust but false. There are numerous studies that confirm that the immigrants contribute positively to the wellbeing and development of the United States and that they are less likely to commit violent crimes than the population in general¹⁹.

Strategy

President Trump's immigration decisions are one of the most complex challenges faced by Mexican diplomacy. Since he became president, the Mexican government has handled the bilateral relationship firmly and cautiously. Mexico has had to move in a delicate balance between pragmatism and the defense of the basic principles of its compatriots. The bilateral relationship must be analyzed as a whole, without isolating the issues of trade, immigration and security, approaching the agenda as an integrated whole.

¹⁸ Ana González Barreda and Jens Manuel Krogstad, "What we know about illegal immigration from Mexico", Pew Research Center, March 2017. Available at: <http://www.pewresearch.org/fact-tank/2017/03/02/what-we-know-about-illegal-immigration-from-mexico/>

¹⁹ AV Press Releases on September 22nd 2016, "National Academy of Sciences Study Confirms Immigrants Benefit America", America's Voice, September 2016. Available at: http://americasvoice.org/press_releases/national-academy-sciences-study-confirms-immigrants-benefit-america/

²⁰ Several of these measures are being implemented by the Mexican government.

With this in mind, we present three axes on which the proposals on the subject of immigration should be grouped:

1. The wall
2. The deportations
3. Central America

The initial objective should be for authorities to implement their president's orders and at the same time cooperate with Mexico, so as to prevent violations of human rights, family unity and the security of the Mexicans affected by this. The experience in recent years confirms that the management of this social phenomenon should have a component of bilateralism and shared responsibility, and not the unilateralism that appears to have inspired the orders from the White House up to now.

Proposals

The first actions that have been taken in this matter and suggestions about each of the abovementioned immigration issues that will make up the bilateral agenda for the coming years are presented below.²⁰

The "wall" and cross-border cooperation

President Enrique Peña Nieto expressed his categorical rejection to President Trump's claim that Mexico will pay to the wall. However, the greatest obstacle to the building of the wall will not come from the different postures of the two governments but from the U.S. government's reticence to authorize funds for the building of the wall. It is foreseeable that in reality it will be limited to: erecting some kind of physical barrier in certain areas of the border, increasing the number of border patrol agents and using additional technology to detect illegal crossings.

We propose:

1. To implement of protocols among the CBP agents, to standardize the treatment of the people who enter the United States, respecting their rights to privacy and fast crossing, except in specific cases of well-grounded doubts about the visitor's reasons for entering the country. Limiting the discretionary power of individual agents to prevent personal and discriminatory criteria is also an important ingredient of a Rule of Law.
2. To reject the construction of a barrier that goes against the spirit and reality of the bilateral relationship, but always recognizing that Mexico respects the sovereign decision of the United States to build whatever it deems pertinent on its side of the border.
3. To support the bill in the Mexican Senate that forbids the federal government to allocate resources to finance any barrier on the northern border. This same bill establishes that any seizure of Mexicans' funds for this purpose will be answered in the same manner against American economic interests in Mexico. This would send the message that Mexico will not be pressured into paying for the wall.
4. To adopt a bilateral vision of cross-border cooperation that not only considers the fight against illegality and crime, but also improves the physical infrastructure for the crossing of people and goods; for example, to expand the NADBank mandate and resources.
5. To agree on a bilateral strategy for the deployment of the border control, also to be used to prevent the illegal entry of arms and cash to Mexico.
6. To request that, if the wall is ever built, it will not harm the aquifers, the environment or the flora and fauna that live on both sides of the border.
7. To request the safe and orderly repatriation of the Mexicans who are deported to national territory,

with special mechanisms in the case of unaccompanied minors and families.

8. To refuse the return to Mexican territory of persons of any other nationality.
9. To urge that the Border Patrol is trained to act with full respect for the human rights of the migrants and apply the legal due process and consular protection.
10. To strengthen the border liaison mechanisms with a clear mandate in order for the authorities of both governments to collaborate in the correct administration of their respective duties and jurisdictions at the different crossing points.
11. To reinforce the exchange of intelligence on the traffic of arms, drugs and people with schemes based on reciprocity.

The deportations

Trump's decision to carry out the mass deportation of illegal immigrants is what will undoubtedly affect the greatest number of Mexicans. Even though the numbers of our countrymen deported in these last few months has not risen much compared with the pattern followed during Obama's administration, it will be just a question of time before we see a systematic increase that will harm thousands of families of Mexican origin²¹.

In spite of the fact that President Obama's immigration policy disillusioned many in the Latin community, it did not have an aggressive narrative that is so characteristic of the Trump administration, which will have important repercussions on the operation of the border controls. The group that makes up ICE is formed by agents who chase not only immigrants but also criminal organizations that operate inside the

²¹ Julie Myers, C. Stewart Verdery, Muzaffar Chishti and Doris Meissner, Panel "The First 100 Days: Immigration Policy in the Trump Administration", Migration Policy Institute, April 2017. Available at: <http://www.migrationpolicy.org/events/first-100-days-immigration-policy-trump-administration>

United States and on its borders; these agents work in coordination with other agencies such as the DEA and the FBI. Experience shows that the border agents must be constantly monitored to prevent excesses and violations of human dignity and rights.

For this same reason, the consular protection and the legal defense of the Mexican community before the courts in the United States and international authorities will become critically important.

We propose:

1. To emphasize systematically the historical ties existing between the two peoples and refute the stereotype of the Mexican as a predominantly illegal immigrant.
2. To allocate enough resources to the Mexican consulates in the United States. One billion pesos were allocated in 2017 to the legal defense of our fellow citizens. At least the same amount should be given for 2018.
3. To request that the Mexicans resident in the United States should be given the opportunity to legalize their migratory status subject to compliance with certain requirements (to be defined). Over and beyond the political viability at this juncture, the request is legitimate and would attend to the demands of millions of our countrymen, the determination shown by the Mexican government will be evaluated over time as a defense of its diaspora, of family unity and the dignity of said community²². To fight for these measures should be considered a question of principles and as the true defense of the wishes of millions of our fellow citizens.
4. To litigate in the competent courts of the United States –or if possible before international authorities –against actions that violate human rights, in favor of respect for the legal process, international consular obligations and the rights of the child and the family. To continue, as the National Human Rights Commission has been doing, requesting precautionary measures before the InterAmerican Human Rights Commission.
5. To evaluate the effectiveness of the Institute for Mexicans Abroad (IME) and allocate an ample budget to promote a systematic campaign in the national and regional media in the United States to counteract the negative image that Trump has created of Mexico and the Mexicans.
6. To demand that the consulates should have the possibility of providing consular protection to all those Mexicans who are detained in the United States, through the signing of an agreement between the Department of Foreign Affairs and the Homeland Security Department.
7. To demand that the executive of the United States should issue the corresponding administrative decision or advance a legal amendment that will guarantee the legal stay of the so-called *Dreamers*.
8. To sign agreements for orderly, safe repatriation from inside the United States, in order to have sufficient time to notify the relatives of the persons affected and prepare their return to Mexico; in particular in the case where households are broken or of unaccompanied women or minors.
9. To strengthen the work of all agencies dedicated to the attention of immigrants in the United States by means of incentives from the federal government, such as the Forum of the National Coordination of State Officers for the Attention to Migrants (CONOFAM), created some years ago.
10. To sign an agreement between United States' Homeland Security and the Justice Department (in particular the Bureau of Prisons) and Mexico's Department of Foreign Affairs, Department of the Interior and the Office of the Attorney General, by which the deportation of Mexicans accused of serious crimes will be coordinated.

²² Gustavo Mohar, "Legalize", *Excélsior*, April 2017. Available at: <http://www.excelsior.com.mx/opinion/gustavo-mohar/2017/04/23/1159267>

11. To take advantage of the situation of the probable renegotiation of the NAFTA to review the NAFTA visas -which Mexico has made little use of –and encourage the already existing (and silent) integration of the labor markets in the three countries.

Central America

Today the main illegal immigration problem in the United States is the migration coming from the “Northern Triangle”: Guatemala, Honduras and El Salvador. It should be pointed out that this region suffered from American interventions in the 20th century that contributed to the economic stagnation and violence and is the main reason behind the human exodus. Although it is not possible to place a responsibility on somebody who does not accept it, this history should be considered part of the urgent diagnosis that Mexico and the United States have to make with regard to how to give those countries economic and social viability.

The reality is that Mexico detains and deports a larger number of Central American migrants than those who manage to enter across the border to the United States. The Southern Border Program²³ has succeeded in reducing the use of the train, and in eliminating great risks and serious incidents along the route. However, this measure has only moved the flows of migrants towards other means of transportation. Now they hire private and public transportation or even ships to enter Mexican territory.

Mexico recognizes that, in spite these actions, the Central American transmigratory flows through its national territory have increased. In fact, the border patrol’s statistics confirm that they detain more people from Honduras, Guatemala and El Salvador than from Mexico. In 2014, the unexpected arrival of some 60 thousand Central American minors in U.S. territory was an indication of the serious crisis faced by this region, which has expelled thousands of people

from their places of origin, seeking a better future in the United States.

Trump’s government has indicated that it hopes to continue to count on the cooperation of the Mexican government to “control” our southern border and has expressed its willingness to collaborate with equipment, technology and intelligence to support these efforts.

Mexico has a pending task in establishing a comprehensive migratory policy at its southern border that will achieve an appropriate administration in the medium and long term. This will be possible with dissuasion and containment measures and by means of a regional cooperation policy that will attack the causes of the Central American emigration.

We propose:

1. To increase the resources assigned to the National Immigration Institute in order to manage the Central American migration.
2. To center the cooperation with the U.S. government in Central American migration matters on adequate respect for the human rights of all migrants and on policies prepared jointly.
3. To recognize that the Mexican immigration policies have an indirect effect on Central American migration.
4. To collaborate with the U.S. government to strengthen the Mexican southern border using more intelligence and technological equipment. Also, to counteract the alternative means of transportation that the Central American migrants are using instead of using the train.
5. To ask the U.S. government for more resources for the adequate training of the Mexican security forces.
6. To resume and give proper follow-up to regional cooperation initiatives, seeking to avoid unilateral solutions.
7. To take advantage of the multiple studies and diagnoses that have been produced on this subject and use them to prepare joint policies.²⁴

²³ Federal Official Gazette, “Executive Order by which the Coordination for the Comprehensive Attention to the Migration at the Southern Border is created”, Department of the Interior, July 2017. Available at: http://www.dof.gob.mx/nota_detalle.php?codigo=5351463&fecha=08/07/2014

²⁴ For an example see: <http://www.migrationpolicy.org/programs/regional-migration-study-group/Espanol>

Conclusions

International migration will occupy a predominant part of the global agenda in the coming years. The movements of millions of people who decide to leave their homes for economic or political reasons is a reality that has put governments, international institutions and civil society to the test.

Mexico has been a country of migrants of origin, transit and destination. The regional migratory dynamics confirm that the countries of origin must assume the urgent need to create jobs for their inhabitants. Mexico will have less demographic and economic pressures, which will help to reduce the emigration of our countrymen. However, the Central American region will continue to expel its citizens, which will make it necessary for Mexico to recognize itself as a country of transit and destination. It is even possible that the number of citizens from other regions will increase (as was the case of the thousands of Haitians coming from Brazil), which will represent a challenge for our country to manage these cases appropriately.

Our dealings with the southern border and the relationship with the countries of the Central American Isthmus, especially those that make up the "Northern Triangle" must be a priority with regard to foreign policy. Mexico must be congruent between what it demands from the United States and what it does in its own territory with the transmigrants, with special attention to minors who are traveling unaccompanied.

An appropriate immigration policy must be accompanied by a substantial increase in the budget assigned to the National Immigration Institute. The immigration law approved in 2011 and its regulations in 2012 provide for the strengthening of this

Institute so that it can comply with its functions and with the humanitarian spirit that characterizes the text of these regulatory documents.

In addition to the above, there is the relevance that the subject has in the United States now and will have in the coming years. Over and above what President Trump's government manages to achieve, the change of paradigms seems inevitable. The political use of the immigration issue as a threat to national security stigmatizes the illegal Mexican residents. Trump's position has created a negative perception of us as neighbors, which can set back the advances made with so much effort to overcome the distrust, rejection and confrontation that existed between the two countries. It is necessary to work to revert this deterioration in the bilateral relationship.

In the short term, the voluntary or forced return of hundreds of thousands of Mexicans poses a complex institutional challenge for their reintegration into the country. Mexico does not have the institutional capacity to create effective reinsertion, job offers or education and health institution programs. In addition to the mass return of people, there could also be a reduction in the flow of remittances, which have been a source of subsistence in many Mexican municipalities and communities.

On the other hand, this opens up an opportunity to review laws, regulations and provisions in Mexico that will encourage the arrival of those foreigners who are not welcome in the United States and could represent an opportunity for creating development zones. Given the right conditions, an open, cosmopolitan Mexico has the opportunity to become that "land of opportunities" for entrepreneurs, scientists and professionals that the United States was.



CONSULATES

Problem

President Trump's Administration represents a threat to the safety and security of the Mexican migrant communities, especially to illegal immigrants. Their vulnerability can result in mass deportations that might separate families and tear apart the fabric of their community, among other consequences. The policies that are being implemented also represent a challenge to the Mexican Consular System (SCM), and, as an indivisible part of it, to the Institute for Mexicans Abroad (IME). This requires an immediate reassessment of Mexico's consular strategies.

Context

The Mexican consular network in the United States is the largest network that any country in the world has. Its size and coverage has been consistently growing, increasing the quantity and quality of its services (protection, documentation and attention to Mexican communities), thus earning a worldwide recognition. However, in the face of president Trump's policies, our consulates in the United States must redouble their efforts in order to protect and document the Mexican communities more efficiently and effectively, while offering timely, relevant, quality services in accordance to international norms.

To meet these challenges, it is essential and urgent to invest more resources and to strengthen our network so that it can provide a comprehensive, modern, forward-looking approach. It is also critical to recognize consular diplomacy as a key tool. Although the IME has received growing resources, they have been insufficient to attend to the community's growing demands. The current circumstances offer an opportunity to accelerate qualitative changes to the SCM and to revitalize the IME.

Moreover, our Mexican consulates must undertake lobbying and promotional efforts to promote Mexico's interests in the United States, emphasizing the positive impact the relationship with Mexico has in the U.S. population. This strategy will communicate that Mexicans are allies and not enemies of their interests and that the immigrants represent a contribution to society. The current circumstances also force us to establish promotion and communication strategies at local levels.

Proposals

The following proposals are aimed to strengthen the institutions of the Mexican foreign-service:

1. To improve the operation and development capacities of the SCM and IME
2. To identify, apply, measure and follow-up on good consular practices
3. To promote and disseminate the interests of Mexico and Mexicans
4. To strengthen the protection provided to Mexican communities
5. To develop and operate a Consular Intelligence System
6. To value and recognize consular work inside the Secretary of Foreign Affairs.

To improve the operational and developmental capabilities at the SCM and IME

Considerable resources and a more efficient work structure is required in order to improve the operational capabilities of the SCM and the IME. For this, the six proposals outlined below seek to shore up resources and assist in the professionalization of personnel.

- To repeat the 1,000 million pesos investment done this year in the coming years.
- To formalize the Consular Revenue Committee in order to comply with the law by reimbursing consular revenue into the operation and development of the SCM.
- To review and, if necessary, to replace consuls with more professional profiles and experts in specific issues.
- To review income levels and benefits of the local employees.
- To revitalize the work of the consular coordination mechanisms.
- To modify the organizational structure of the IME so that it has one Director and deputy directors with well-defined areas and responsibilities.

These proposals will strengthen the institutionalization of the SCM and the IME with additional resources destined to revitalize its operations and development while adding transparency and accountability, as established by law. In addition, it will enable the Mexican consular network to have the right people to build the necessary relationships among various sectors of society in the United States, simplifying cooperation. Lastly, the better working of the institutions will increase the talent pool and make it easier to maintain a staff that is motivated and committed to the consulates' activities while advancing the interests of Mexico and the Mexican communities.

To identify, apply, measure and provide adequate follow-up to good consular practices

The vulnerable circumstances of the Mexican communities in the United States has reinforced the need to have professional consulates that provide optimal services and adequate follow-up to the communities' problems. For this, we propose the following five actions:

- To reapply performance metrics focused on providing services to migrants and in closing the gap that exists between them and U.S. citizenship.

- To review, simplify and reduce the time and cost of all requirements and procedures conducted at the Secretary of Foreign Affairs as in all other entities.
- To provide consular services in the most vulnerable areas
- To develop a communication strategy and the necessary protocols to inform on the services provided, emphasizing those related to the protection and documentation of people (in conjunction with the Human Rights Commission, among others)
- To accelerate the implementation of good consular practices in the areas of documentation, protection, community and consular diplomacy, and to ensure their adequate follow-up.

These proposals will benefit immigrants in receiving faster and cheaper services, advance the consular agendas, and strengthen the consulates' work in the different localities. By providing comprehensive attention to the immigrant population in vulnerable areas, the presence of the Mexican state is reinforced while being able to reach a greater number of Mexicans and assure that they know their rights as the services available to them. The Mexican consulates must be able to provide direct, timely and reliable information on the state of affairs.

To promote the interests of Mexico and the Mexicans

The success of a communication strategy that promotes the interests of Mexicans in the United States is strongly dependent on the support it can obtain from American opinion leaders in each of these communities. For this, we suggest the following:

- To identify all relevant players at local level and to create protocols for gathering, systematizing and analyzing information.
- To execute a communications strategy aimed at promoting the benefits and advantages for the United States population of a strong, close relationship with Mexico and its relevant actors (NGOs, companies, universities, etc.) while leveraging the Bilateral Forum on Higher Education, Innovation and Research (FOBESII), of the Mexico-U.S. Entre-

preneurship and Innovation Council (MUSEIC) and the networks pre-established by Proméxico.

- To work with Promexico to promote a good image of Mexico through the organization of various events with business leaders in each region.
- To strengthen the support and work conducted with local organizations in the United States
- To implement a political action program aimed at having more elected politicians that are friends of Mexico.
- To create specialized attaché offices in key consulates related to energy, culture, sciences, technology and innovation, among others

An adequate strategy will identify Mexico's allies and detractors as well as those of the immigrant communities, and be able to mobilize allies when necessary. In parallel, it will be important to provide resources for scholarships (from the IME) in order to support the activities of the Mexican immigrants and to empower their communities.

Moreover, this strategy should identify allies in the Executive, Legislative and Judicial branches as well as at the three levels of government. In addition, the work of the specialized attaché offices should be communicated and intelligence on areas where Mexico could benefit should be gathered.

To strengthen the documentation and protection of the Mexican communities

To achieve this goal, more resources are necessary for their legal defense and to provide them with ways for easy identification. For this, we propose the following actions:

- To fortify the Program for Legal Assistance to Mexicans through External Legal Advice in the United States (PALE) by incorporating additional law firms, university-based legal clinics and immigrant defense organizations.
- To increase the number of consular representations: to open a consulate in Tennessee and consu-

lar agencies in states without consulates but with an important Mexican presence (e.g. Ohio). There should be at least one consular representation in each state of the American Union.

- To negotiate with other countries their intervention in cases of protection (e.g. Alaska).
- To strengthen the Civil Rights Advisory Group for Mexicans Abroad (MCRAAG).
- To make the consular identification card an identification document that is accepted and recognized by state and local governments.
- To promote the advantages of the naturalization of Mexicans as citizens of the United States.

The benefits of strengthening the protection of the Mexican communities through documentation are numerous. Firstly, it would increase the resources and services available for the timely legal defense of the immigrants. Secondly, it would increase the presence of the Mexican State in the United States, with a potential improvement of its image, at the same time as they would make it easier to obtain experience and identify new opportunities for collaboration with the U.S. civil society organizations. Finally, it would give the Mexicans greater legal certainty and a means of identification irrespective of their migratory status, reducing their vulnerability.

To develop and operate a Consular Intelligence System (SIC)

One of the essential resources for providing better services to the Mexican communities would be a Consular Intelligence System containing precise information about the different communities and about the American allies and detractors that exist in each of them. Below are a series of proposals:

- To develop an IT tool to collect data and information and to perform data mining and analysis in order to develop intelligence. To reduce the load of bureaucratic reports that distracts from more important issues.

- To centralize data and strategic information on Mexico's allies and detractors at the local level.
- To develop a Risk Management strategy.
- To create an area that will operate the SIC in the office of the Undersecretary for North America.

The development of the SIC would allow the Mexican government to have timely, relevant, reliable and robust intelligence about the Mexico-U.S. relationship at the local level. This system could be extended to Canada. With this information, it would be possible to carry out actions that strengthen and promote the advantages for the United States of a good relationship with Mexico. It will also allow for the implementation of preventive responses and mitigation actions. The ability to design responses, interventions and promotion and dissemination actions, with a preventive and prospective focus between the SSAN and the Mexican Embassy in the United States, to be developed by the consular network, would be simpler.

To recognize the consular work inside the Secretary of Foreign Relations.

Finally, one last strategy lies in recognizing as diplomatic the work of the consular personnel inside the Department of Foreign Affairs:

- To recognize the consular personnel's work as being at the same level as that of the diplomatic staff.

A reassessment of consular work as being comparable to diplomatic work would not only motivate the consular personnel at the Department of Foreign Affairs but would also have the positive externalities of facilitating the achievement of the previous strategies, having people who are more competitive and committed to achieving these objectives.

Conclusions

The arrival of Donald Trump to the presidency of the United States has changed the paradigm of the relations between the two countries. His aggressive rhetoric during his campaign and some of the hostile policies he is implementing have put the immigrant communities and the Mexican community in the United States in a more vulnerable situation. To mitigate the risk, not only must the Mexican consulates in the United States provide better services but they will also have to be the spearhead of a communication strategy that seeks to spread the message that Mexicans are allies, not enemies of American interests. By means of opportune legal advocacy, such as lobbying, the Mexican consular institutions must also have the task of promoting Mexico's interests in the local communities of the United States.

COMMUNICATION

American society is almost completely unaware of Mexico's strategic importance to the United States. Worse, in many cases, what Americans think they know is simply wrong, such as the fact that Mexican immigration is mainly illegal (it is not), or that NAFTA has been negative for the U.S., when all serious studies show a net positive effect on the economy, on employment, for the consumer and for American competitiveness. While images of violence permeate the airwaves, there is no mention of the fact that there is not a single documented instance of a terrorist trying to enter the U.S. from Mexico (unlike Canada), despite having the most legally crossed border in the world. There is very little coverage of the fact that Mexico's entire visa policy is designed to protect the United States, for example. Or that, at the request of the American government, Mexico deport more Central Americans than the U.S. does. People don't know that Mexican leadership gave our hemisphere one of the most successful nuclear non-proliferation treaties (the Treaty of Tlatelolco), whose main beneficiary was the United States. For this reason, the political cost of trashing Mexico and Mexicans openly, is quite low. In fact, the anti-Mexican discourse easily turns ugly, painting Mexican immigrants as criminals when they are, in fact, less likely to commit a violent crime than the general population.

This ignorance regarding Mexico and Mexicans is bad for the United States, where fully 10% of the citizen population is of Mexican descent, as well as for the region. It turns what is a crucial, mutually beneficial relationship, into a target, dividing the two countries and re-igniting anti-Americanism in Mexico. Nevertheless, the hostile narrative is not being countered either by the companies that benefit from North American trade, by the Mexican government, or by an American government that should know better. It is urgent that this silence end.

Strategy

The objective of any communication strategy must first be to inform. It should be aimed at countering the falsehoods and generating respect for the country and its people. Specific segments of the population need to understand what Mexico and Mexicans do for them. Wherever possible, interested parties need to be mobilized to increase the costs of insulting Mexico, or spreading lies about Mexicans. The strategy should target each group according to the message that is most appropriate to it.

The overall narrative must be in accordance with a succinct and accurate description of the country:

Mexico is a large and diverse country. It is a leader in culture, commerce, talent, and hospitality. It is a middle-income power, a democracy, that is strategically located, and whose main problems are uneven economic development, and the inability of its government to consolidate the Rule of Law.

The overarching narrative with respect to what Mexico is, and how it relates to Americans, needs to be the starting point for all of the subsequent talking points. These, in turn, should be adapted to each target audience.

With respect to the United States, our stories are intimately linked. Mexicans and Americans were born together, as neighboring peoples of North America, and Mexicans have been an integral part of the American story, from providing the bedrock of Western territory and culture, to enriching the region with its food, music, traditions, and hard work. Mexicans share American values of freedom, democracy, and share a Judeo-Christian legacy that is, nonetheless, tolerant of all religions. Despite having lost half of its territory to its more powerful neighbor, Mexicans generally bear no ill will towards Americans. This level of harmony between two large countries is uncommon in the world and should not be taken for granted.

Mexico is the most important country in the world to the United States, in the sense that no other country has as much of an impact on the daily lives of Americans. More specifically, American prosperity and national security directly depend on a cooperative and stable Mexico. That's what makes this effort as urgent for Americans as it is for their neighbors.

Proposals:

1. All communications must be centralized in a single office in the United States, with a counterpart in Mexico City that can generate content. The organization must have the resources to call on spokespersons from a variety of disciplines who are respected in their fields. These "ambassadors" need to be present wherever Mexican issues are being discussed throughout the United States. All should be well-versed in the narrative and carry with them the most recent version of the talking points.
2. It is urgent that Mexico have a presence on all major radio and television news and opinion networks, from Fox to NPR. Mexico is relevant, but producers are not clear whom they can call on to put on the air. Here, the example is Israel, whose spokespersons, academics, and specialists populate programs that are relevant to its interests.
3. A program that brings American opinion leaders to Mexico City to see, first hand, North America's largest city and witness its thriving economy and culture. This is in line with the American Jewish Committee's efforts to take American influencers to Israel; efforts that have been proven to sway people's opinion with respect to their narrative.
4. A natural, and huge, constituency that needs to be brought on board is the 14 million-strong workforce in the United States that depends on trade with Mexico and Canada. This diverse and geographically dispersed community could be given the tools to protect their livelihoods whenever protectionism threatens trade. It is easy to imagine a "grass-roots" campaign that turns the table on populists with thousands of pickup trucks in the Midwest

sporting "This job is a NAFTA job" bumper stickers, or mail campaigns to members of Congress who want to take away the freedom to trade.

5. Another constituency is the more than 20 million Americans who visit Mexico every year, as well as the 1-3 million Americans who make their home in Mexico at any given time. The first should be given a small symbol of friendship to take back home. A ribbon, or something small they can wear. This could easily turn into a symbolic way to reject all divisive and hateful speech.
6. Lobbying is a key part of the communications equation. In its simplest form, it can be reduced to getting the right message to the right politician in such a way as to convince them to make your interests their own. From the perspective of American national interests, this should be a no brainer: above all, what the U.S. needs is a strong and prosperous Mexico that can defend North America and buy American goods and services. Nevertheless, an effective lobbying effort is able to mobilize resources on several fronts, neutralizing threats and promoting the overall vision.

It is important to remember that much of this has been done before, successfully, by Mexico. "The Mexican Agenda" was a document that was prepared quarterly by the Salinas Administration in the runup to the NAFTA vote. This established the narrative and the talking points for the army of people who were involved in talking up Mexico and the trade agreement, from government officials to chambers of commerce.

A key question that needs to be resolved is the role of the private sector. There is no doubt that they need to become very involved. Also, given that they are the ones who are directly benefited by the \$580 billion dollars' worth of trade that is threatened by Mexico's poor reputation, it stands to reason that they should be the principle source of finance for an effort of this sort. Not to mention the fact that, if the government were to fund the initiative, it could be caught up in feuds over budget allocation, and could well become politicized, or poorly executed.

Nevertheless, these are companies that pay a lot of money in taxes and the communications campaign is very much a public good. Also, paramount to the project's success is that it remains apart from the interests of any particular company, or industry. In the 1990s, the effort was a 50/50 partnership between Los Pinos and the private sector. There, the key was a powerful president who convinced private sector participants that the effort represented a significant commitment on behalf of Mexico's leadership.

Whatever the "right" mix of public-private participation is today, this is a conversation that needs to take place as quickly as possible because, for the moment, the forest of harmony and prosperity in North America is being overshadowed by the trees of who pays for what. Business leaders end up simply making speeches, when they should be identifying the best promoters of their interests and empowering them with the necessary resources.

We all act in accordance with the stories that we tell ourselves. These stories are the source of our beliefs. Today, our two people have forged a mutually beneficial framework of cooperation that underlies peace and prosperity in North America. Ignorance regarding Mexico is putting it at risk. It is time to come together around an effective strategy that serves the interests of all of our people.



CONCLUSIONS

Despite our differences, over the last two decades, the relationship between Mexico and the United States has intensified as never before, strengthening the economic and security interests of both nations. However, the impact of this integration has been different in the many sectors of the population, contributing to the narrative that when benefits accrue in one country, it means that the other country loses. In reality, the prosperity and the national security of the American people are intrinsically tied to the stability and prosperity of Mexico. The myopia of the American Government about the nature of the bilateral relationship must be met by efforts, on behalf of the Mexican government, to showcase the multiple issues that bind us and to highlight that only joint solutions to our common problems can work.

As such, security must be at the center stage of the negotiation between both countries: economic security and social stability in Mexico on the one hand, and security as it relates to immigration, information-sharing, and anti-terrorism efforts, as it relates to the Americans. Focusing on the problems we need to tackle together, with a natural emphasis on “win-win” solutions, will move us away from dangerous “zero-sum” attitudes where the neighbor is blamed for the other’s problems, putting everyone at risk.

In the context of the NAFTA renegotiation, having a holistic, inclusive, approach to the relationship between both countries does not imply that all subjects need to be part of, or have to be broached within the process at the same time. Rather, the key is Mexico’s ability to communicate the stark reality that aggressive negotiating tactics on behalf of the American superpower neighbor affects the country disproportionately, creating a very real danger for social discontent and unrest. This is a huge risk for the United States. Mexico’s entire economy is 8% of the American economy – there is no way that, by itself, it can be either the savior, or the nemesis, of the American worker.

Nevertheless, an unstable and/or unfriendly country of 120 million people attached to the entire American south would be a geostrategic catastrophe for a world power that already faces a very hostile world. These are not negotiating strategies, they are potential existential risks that both countries need to avoid.

Throughout this document, a series of recommendations have been offered for the Mexican government to follow in conducting its foreign policy with respect to the United States. As it relates to commerce, the NAFTA renegotiation must be handled trilaterally. The Mexican governments’ hand will be more robust insofar as it communicates to its other two partners that all three are strengthened when there is greater cooperation. This includes modernizing the treaty, promoting continental manufacturing processes, and expanding the scope of the treaty to areas that were not included in the original agreement, including energy and e-commerce. The establishment of common goals that expand the competitiveness of the region will help give Mexico greater economic stability. This, in turn, will make it a more robust partner for the United States, which is, above and beyond everything else, what the United States requires most from Mexico for its own security.

Similarly, and more broadly, the security of both nations depends on the Mexican State’s ability and willingness to establish the Rule of Law, throughout its two million square kilometers. Beyond specific subjects such as drugs, illegal arms, corruption, or violence, the only thing that would position Mexico as a reliable partner in the development of the region, would be to have a Government with both the tools and the political will to govern the country effectively. This is the most urgent task, bar none.

Such a commitment would dramatically enhance cooperation with the U.S. and would go a long way to remedying the image of Mexico and Mexicans among Americans. A good place to start would be at the border, where “mega-regions” (large economic regions

on both sides of the border) should become a priority. Mega-regions would strengthen the border by making its communities more efficient, secure, and all-around more robust. Here, we should also focus on binational urban development, to take advantage of the strengths inherent in our communities on both sides of the border. A good existing tool could be NADBANK, an institution that needs to enlarge its scope of work beyond relatively small environmental projects to large-scale border infrastructure investments. The socio-economic potential of these binational communities would be sufficient reason to reject the idea of a border wall that divides them.

With respect to the border wall, Mexico must be very clear (to the point of passing legislation) that it will not be blackmailed into paying any aspect of a physical barrier between our two peoples. The country respects the decision of the American government to build whatever infrastructure it wants on its own territory, but Mexico cannot be a part of it.

On the subject of immigrants, the Mexican government has to emphasize that Mexican migrants contribute to the betterment of American society as valued members of the community. We should highlight that the Mexican experience in the U.S. goes back to the origins of both countries and that it is mostly a legal phenomenon, with 80% of the 37 million Mexicans and Mexican-Americans in the U.S. being either U.S. citizens, or legal residents. With respect to undocumented migration, the Mexican government must emphasize that they, too, contribute to American society and that the solution is more cooperation, not less. Two things are needed: 1) specific policies aimed at attacking the causes of migration, 2) creating legal mechanisms

that satisfy the very real demand for immigrant labor in the destination country. This need not include a "path to citizenship", but it does need to provide certainty and clarity to immigrants and their employers. Lastly, particular emphasis should be placed in respecting the human rights of the migrants by law enforcement, and the creation of mechanisms that allow for the orderly return of those who are deported.

Finally, we must, once and for all, develop a communication strategy that reaches out to various segments of the U.S. population. An obvious place to start is with the 14 million Americans who have a job thanks to trade with Mexico and Canada. At the same time, we must promote Mexico's interests at the three levels of government (local, state, and federal). These are two, separate, activities, but they must be done side-by-side. The strategy must involve all relevant actors –governments, businesses and civil societies from both countries - around a core message with clear objectives. That message, and its subsequent talking points, must be centralized and they should be communicated by approved representatives who need to have talking points to use when Mexican issues are debated.

The relationship between Mexico and the United States impacts millions of people on both sides of the border every single day. No matter if they are people from border sister cities that share the same last name, or inhabitants of communities in the Midwest whose jobs, businesses, and even culture, is intertwined with the neighboring country, the relationship should serve all of us, together. Neither country can afford to ignore the problems and needs of our neighbor precisely because we share a common destiny that extends to each one of the 475 million inhabitants of our North America.

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