U.S. Drug Policy: At What Cost?
Moving Beyond the Self-Defeating Supply-Control Fixation

Statement of

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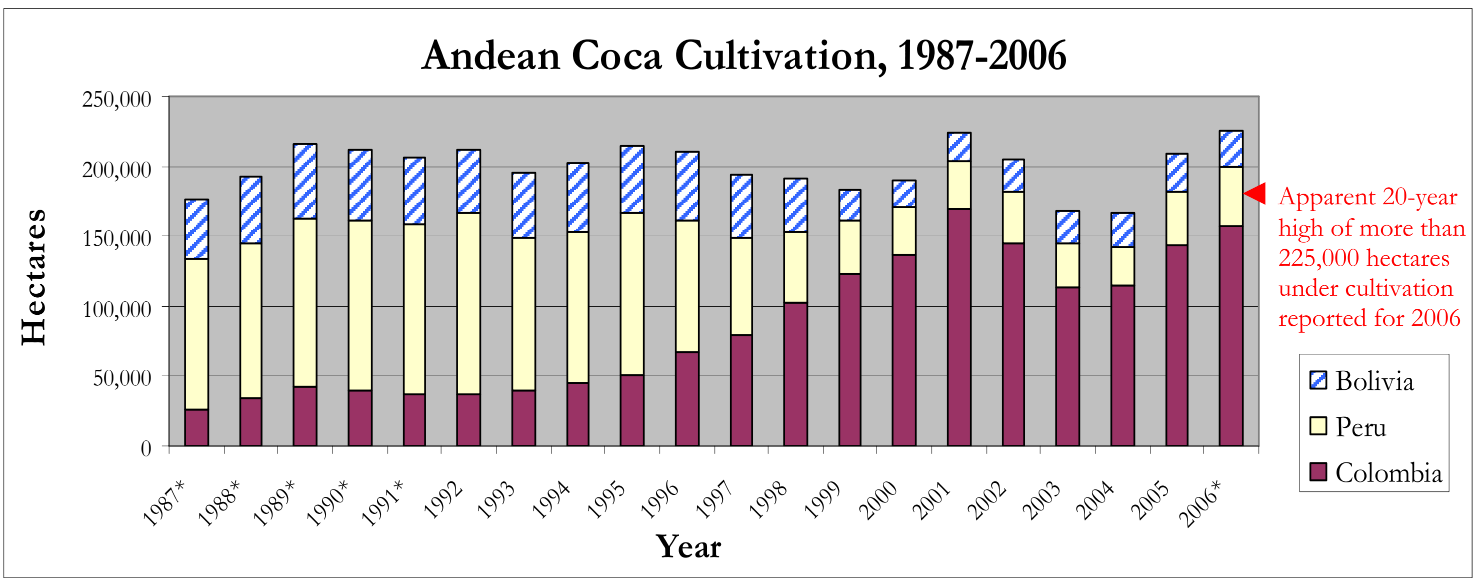
Chairman Webb and Members of the Committee, I am honored to testify before you today about U.S. drug policy. My organization, the Washington Office on Latin America (WOLA), has for many years conducted research and advocacy in support of more humane and effective drug control policies. WOLA is a founding member of the International Drug Policy Consortium (IDPC), a global network of NGOs that promotes open, objective debate on drug policy and supports evidence-based approaches that reduce drug-related harm and respect human rights. Within a matter of months, a new U.S. Administration will be in place, and the United Nations will be issuing a new political declaration setting the course for global drug control efforts in the decade ahead. This is therefore an opportune moment to promote a serious debate about the direction of U.S. drug policy at home and overseas, and I appreciate your initiative in doing just that.

Allow me to begin on a personal note. In what must be sheer coincidence, today's hearing occurs 22 years to the day after the cocaine overdose death of Len Bias, the University of Maryland basketball star. Bias's death came in the midst of the crack epidemic that was devastating so many urban minority communities, and was among the events that made drugs the American public's top concern and spurred Congress to pass the Anti-Drug Abuse Act of 1986. That law included the "certification process," which was intended to compel closer drug control cooperation by other governments, threatening economic sanctions. Len Bias's passing hit close to home for me personally because he was my contemporary; I had just graduated from Georgetown University (at the time a basketball power itself) and had avidly followed his rise to stardom.

But the manner of Bias's death was especially relevant to me in a more peculiar way: I had just begun a year-long Jesuit volunteer program in Peru, the country which at the time was the world's leading producer of coca leaves, the raw material for cocaine. As the "drug war" became headline news in the United States and the major Andean cocaine "source" countries, it became apparent to me early in my stay in Peru that an emphasis on forcibly eradicating coca bushes held little promise as a strategy to curb cocaine production and consumption. Without other alternatives in place to earn a living, farmers would replant coca sooner or later. Fast forward more than two decades, and that is precisely what has happened. Today, the Andean region is evidently growing as much coca and producing as much cocaine as ever, although Colombia has long since emerged as the top coca-growing country (see figure below; 2007 estimates should be available later in June 2008).



* 1987-1991 totals include small estimates for Ecuador: 1987, 300 hectares; 1988, 240; 1989, 150; 1990, 120; 1991, 40.

Note: For 2006, ONDCP reported only ranges for Bolivia or Peru. For Bolivia, the ranges reported for 2005 and 2006 were nearly identical, so this figure uses the same point estimate for 2006 as for 2005. For Peru, ONDCP reported a 17 percent increase for 2006 when compared to similar survey areas from 2005. The figure presented here takes a conservative approach, using an estimate for 2006 for Peru that represents only a 10.5 percent increase over 2005.

Sources: State Department and ONDCP

But the situation is actually worse than the relatively stable aggregate numbers suggest: as coca cultivation and production have shifted within and across borders, the environmental damage and violence that accompany the illegal drug trade have also spread. Still, the State Department, in its annual *International Narcotics Control Strategy Report*, has insisted that, "The cornerstone of U.S. supply reduction strategy remains source-zone eradication. We continue to strongly believe that drug crops are the weakest link in the drug production chain."

Those who support continued forced eradication efforts argue that production of illicit drugs would be even worse without the programs presently in place. But this assessment fails to account for the significant negative and counterproductive effects of forced crop eradication. The eradication of crops upon which farmers and their families depend pushes people deeper into poverty, and thereby reinforces their reliance on illicit crops. As the areas where these crops are grown are also the most marginalized, this also means that for many local farmers, their primary interaction with the state is via repressive anti-drug programs. Decades of forced eradication efforts in Latin America have left a trail of social conflict, political unrest, violence and human rights violations.

U.S. Drug Policy on Auto Pilot, with Money to Burn

My point in reviewing the experience with forced eradication is that a stiff dose of historical perspective is in order as policy makers contemplate the scope of the drug trade today, and engage in a critical examination of how to improve U.S. drug policies.

Current policies are not new, nor have they been resource-starved. At home and abroad, the enforcement-led approaches that dominate U.S. drug policy today took their shape by the mid- to late-1980s. Even as drugs receded as a top public concern, government spending at all levels continued apace, with the bulk of spending dedicated to prosecuting and incarcerating drug offenders. The combination of increased prosecutions and escalating penalties made drugs the leading contributor to an unprecedented explosion in the number of Americans behind bars. By my conservative calculations, since 1981, federal, state and local governments have spent at least $800 billion (adjusted for inflation) on drug control, including $600 billion on efforts typically classified as "supply control" (domestic enforcement, interdiction, and international programs). Come appropriations time, the winning formula for federal anti-drug agencies has generally been a variant of "We scored great successes against the drug traffickers last year – eradicating so many hectares of crops, seizing so many tons of drugs, arresting so many dealers – but the enemy remains formidable, so to sustain the progress we have made will require increased resources." More often than not, Congress has complied.

Beyond direct government spending on drug control, illicit drugs and drug control policies generate considerable economic costs to the nation. My estimate of direct expenditures does not include these burdens, which include cost categories such as productivity losses due to drug-related premature death or to drug-related incarceration. The White House Office of National Drug Control Policy (ONDCP) last published estimates of this sort in 2004, showing the overall annual economic costs of illicit drugs growing every year from 1992 ($108 billion) to 2002 ($181 billion). While the findings of such exercises are certainly subject to debate – given the many limitations of the underlying data and the numerous assumptions that have to be made – the wide range of sectors affected (heath care, crime and criminal justice, workplace productivity, etc.) suggests the large scale of the problem and the potential benefits of improving policies in ways that can reduce these steep social and economic costs.

Lessons from the Supply Side

Since the basic elements of current U.S. drug policy have been in place for at least two decades, and drug control agency budgets have generally grown rather than shrunk, it is fair to say that a track record has been established. Were these well-established policies to have succeeded, the successes should presumably have been evident by now. And were they to have failed, or at least fallen short of expectations, those failures should also be discernible by now. In either case, we should be able to draw some lessons, whether positive or negative.

It should go without saying that more and better social science research on drug control strategies is desperately needed – especially regarding enforcement, which has received the lion's share of resources but has been the subject of negligible research and evaluation. Indeed, the next U.S. Administration and Congress can do much to set in motion a fruitful research. In the meantime, as preface to a look at the illegal drug trade today, especially with regard to the U.S.-Mexico border, I offer three fundamental points about the dynamics of the drug trade and the limits of supply control that policy makers should bear in mind. First, a cautionary note about the numbers swirling about the drug policy debate is in order.

Because they offer the aura of objectivity and precision, numbers are the coin of the realm in debates over public policy, including drug control, and have created the impression that we are measuring drug control progress in a sophisticated and meaningful way. But the variety of numerical estimates regarding the size and scope of the illegal drug industry are just that – estimates – and they should all come with a warning label: Handle with Care! The clandestine nature of the drug trade frustrates accurate quantitative measurement. Participants in an illegal activity obviously do not welcome scrutiny, and go out of their way to avoid detection. This applies not only to the drug smuggler trying to evade the police, but also to the drug user wanting to avoid social disapproval. Given the numerous, complex factors at play and the difficulties of gathering reliable information about a clandestine and dangerous activity, measurement uncertainty is a given.

Rather than allowing these considerable uncertainties to be masked by seemingly precise figures, policy makers should insist that the uncertainties be made explicit, through presentation of the estimates as plausible ranges, not single figures ("point estimates"). To its credit, last year ONDCP began to present its Andean coca cultivation estimates as ranges, opening the door to more realistic consideration of the coca growing and cocaine production estimates. Specifically, ONDCP reported that its 2006 estimate of 157,200 hectares under coca cultivation in Colombia was "subject to a 90 percent confidence interval of between 125,800 and 179,500 hectares." In other words, ONDCP was 90 percent confident that the true level of Colombian coca cultivation in 2006 was somewhere between 125,800 and 179,500 hectares.

Lesson 1: The Balloon Effect

The first, and perhaps the most obvious lesson of recent drug control history is that there is essentially no such thing as unalloyed drug policy success on the supply side. This is because the so-called "balloon effect" is as relevant as ever. Simply put, increased pressure on the drug trade at a given time and location tends to displace activities elsewhere, much as squeezing a balloon in one place forces it to expand in others. The balloon effect continues to describe the mobility of coca cultivation in Colombia, in the face of aerial herbicide spraying and forced manual eradication. It also applies to smugglers' adaptation to intensified enforcement pressure in one zone by shifting to new routes and/or new smuggling methods. As far as the evolution and status of Mexican drug trafficking organizations, the most momentous example of the balloon effect was the late 1980s-early 1990s shift of Colombian traffickers away from their favored Caribbean and south Florida routes to the U.S. market and toward Mexico, where they partnered with Mexican criminal groups with pre-existing networks and smuggling routes into the United States. In addition, as relatively unsophisticated smuggling methods are countered by enforcement pressure, traffickers have adapted with new techniques, whether tunnels, semi-submersibles, utilizing container shipping, etc. In this way, enforcement operations that are trumpeted as successes often contribute, however unintentionally, to new scenarios that can be even worse and pose greater enforcement challenges than what came before.

The balloon effect can also be thought of in policy terms, where apparent success in one supply-control realm can increase the odds against success in another. This is especially important regarding the interplay between crop eradication and drug interdiction, which are typically presented as complementary approaches, but may work at cross-purposes in practice. Drug interdiction is generally preferable to crop eradication, both on efficacy and justice criteria: crop eradication achieves little impact on traffickers' bottom lines or on overall supplies because the crops are so readily and inexpensively replaced, even as the brunt of enforcement falls on those who gain the least and suffer the most from the activities of the drug trade. Interdiction at least targets higher levels of the criminal organizations, and beyond the quantities of drugs seized, can provide information that helps to apprehend more significant drug trade figures. But success in interdiction (and traffickers' expectation that some significant fraction the drugs they are smuggling will not make it to their intended market) also increases traffickers' incentives to promote more cultivation, to make up for the anticipated losses.

The importance of bearing in mind the balloon effect is that, while such consequences may well be unintended, at this point they can no longer be considered unforeseeable. Why belabor a point that seems as obvious as it is important? The answer is that, unfortunately, high-ranking U.S. drug policy officials have appeared to be in denial about the balloon effect, engaging in wishful thinking rather than a realistic assessment of outcomes. For example, in touting the intensified pace of fumigation in Colombia in 2003, ONDCP Director John Walters declared that, for "those who have been religious like believers in the balloon effect, the balloon is not growing, the balloon is not moving, the balloon is shrinking, and it's shrinking at historic levels. It's maybe time to get another God."

But the air has not gone out of the balloon effect, as subsequent U.S. estimates on coca growing and cocaine production have made clear. WOLA's new report on fumigation in

Colombia, *Chemical Reactions*, documents how the aerial herbicide spray operations "tend to reinforce rather than weaken Colombian farmers' reliance on coca growing, prompting more rather than less replanting, thereby contributing to coca's spread into new areas of the country." In designing strategies intended to reduce illicit crop growing or shut down smuggling routes, the balloon effect must be considered, not wished away. For example, if massive replanting continues to undermine forced eradication (a classic and recurring form of the balloon effect), then more realistic crop reduction strategies are required. Specifically, alternative livelihoods must be available to growers before pressure to curtail illicit crop growing can have any chance of sustainable success.

In fact, the most recent United Nations Office on Drugs and Crime (UNODC) report on alternative development and crop eradication notes explicitly that "some interventions continued to be improperly sequenced – focusing efforts and resources on eradication without due regard for livelihoods" and recommends ensuring "that eradication is not undertaken until small farmer households have viable and sustainable livelihoods and interventions are properly sequenced." U.S. policy should embrace this more promising approach and leave behind the many failures of forced eradication.

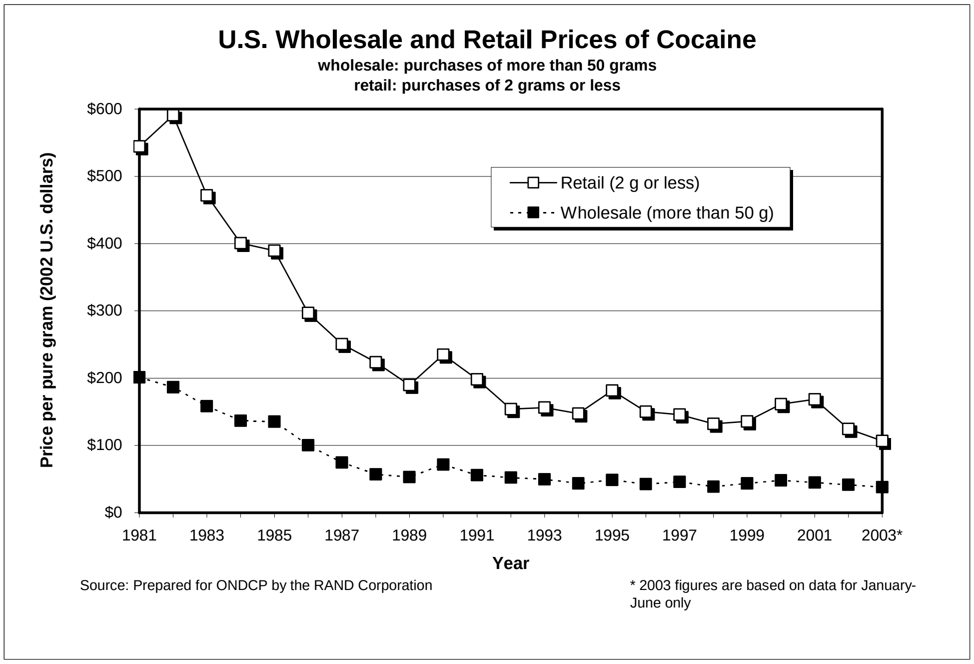
Lesson 2: Mature Markets, Robust Availability

A second lesson to draw from the emphasis on supply control over the past few decades is that the targeted illicit drugs, including cocaine, have nevertheless remained quite available in the United States.

A perennial goal of U.S. drug policy has been to disrupt supplies enough to constrain availability. Reduced availability would mean higher prices and lower purity, which would encourage users to lower their consumption, and discourage others from initiating use. With respect to cocaine and other illicit drugs that are largely, if not entirely, produced outside the United States, interdiction, crop eradication, and overseas law enforcement have been at the center of the effort to reduce drug availability domestically. Until fairly recently, the conventional wisdom had held that trying to discourage illicit drug consumption by driving up prices was unlikely to accomplish much, on the assumption that the heavy drug users who account for the bulk of drug purchases were not very sensitive to changes in price. However, the new consensus among analysts is that prices do matter (that is, demand for drugs like cocaine is considered somewhat elastic with respect to price), and that price increases – if actually achieved and then sustained – could contribute to reduced consumption.

But even as this new consensus has taken shape, strong evidence has continued to accrue that cocaine prices have in fact been falling, not rising (similar trends prevail for heroin). The most recent comprehensive analyses, produced for ONDCP by the RAND Corporation and covering 1981 through mid-2003 (see figure below), showed U.S. wholesale and retail cocaine prices at or near their historic lows as of mid-2003, with purity at or near historic highs.

In recent years, students' perceptions of cocaine's availability have been fairly stable, and periodic assessments by the Justice Department's National Drug Intelligence Center (NDIC) have offered no reason to suppose that U.S. cocaine availability has been squeezed:



- *January 2005*: "Key indicators of domestic cocaine availability show stable or slightly increased availability in drug markets throughout the country…"
- *January 2006*: "Cocaine is widely available throughout most of the nation, and cocaine supplies are relatively stable at levels sufficient to meet current user demand."
- *October 2006*: Despite record levels of cocaine lost or seized in transit toward the United States, "there have been no sustained cocaine shortages or indications of stretched supplies in domestic drug markets."

Last November, ONDCP presented evidence of nationwide cocaine "shortages" in 2007 including estimates that cocaine's price had climbed nearly 50 percent during the year's first three quarters. While the methods behind these latest price estimates remain unclear, there seems little doubt that the U.S. cocaine market was disrupted in 2007. The disruptions appeared to stem from factors such as stepped-up drug enforcement and interdiction by Mexican authorities, disputes within and between Mexican drug trafficking organizations, increased shipment of cocaine to European markets (where currencies had become stronger against the U.S. dollar), and perhaps increased cocaine distribution within transit countries. Taking all these factors into account, it would have been surprising if no market disruptions had been detected.

But these shortages and concomitant price increases are likely to be temporary. NDIC's latest report, released in October 2007, put the disruptions in perspective, noting that Mexican drug trafficking organizations "will most likely undertake concerted efforts to reestablish their supply chain, and because cocaine production in South America appears to be stable or increasing, cocaine availability could return to normal levels during late 2007 and early 2008."

Adjustments by suppliers resulting in rebounding cocaine availability would comport with the historical pattern displayed in the figure above, as occasional price spikes have always been followed by declines, as producers and smugglers respond to higher prices. The record demonstrates that price increases have occurred with some frequency – but the record makes it equally clear that such increases have proved to be rather short-lived. This is not to say that larger and more durable price increases are impossible, but rather that the track record suggests very strongly that even the most impressive increases are likely to give way, sooner rather than later, to resumed price declines.

Price trends are of course a function of both supply and demand. While robust supply is evidently a large part of the equation, it may be that cocaine's historically low U.S. retail prices are also due to slackening demand. Indeed, total U.S. cocaine consumption appears to have peaked in the late 1980s, declined modestly through the 1990s, and then plateaued. There is no indication that consumption has been going down in recent years. Household and school-based surveys, for example, show that the percentage of Americans who use cocaine has remained basically stable since 2000. These surveys, however, say little about the numbers or consumption patterns of the chronic, heavy users who account for the bulk of cocaine consumption.

The most recent published estimates of the number of chronic cocaine users and of total U.S. cocaine consumption were released by ONDCP in 2001; the estimates extended through 1999, with projections for the year 2000. Early in 2005, ONDCP received a study by Abt Associates that updated the cocaine consumption estimates through 2003. But more than three years later, ONDCP has still not released that study. One suspects that, had the study provided evidence of declining overall cocaine consumption, the findings would have been released by now. Given the importance of this issue, Congress should insist that ONDCP immediately clarify the status of the report.

An important corollary to the inability to drive up cocaine prices is that the reductions in the prevalence of cocaine use that have been recorded historically cannot plausibly be attributed to supply control success. Since prices have fallen over time, not risen, it stands to reason that whatever factors may have accounted for reduced use, supply control programs have not been among them. For example, the National Household Survey on Drug Abuse (now the National Survey on Drug Use and Health) found that the number of current (past-month) cocaine users declined from an estimated 5.7 million in 1985 to 1.5 million in 1995. Over this period, cocaine's retail price fell fairly steadily, and in 1995 the price stood at less than half its 1985 level. Clearly, the prevalence of cocaine use fell for reasons other than restricted availability and rising prices.

Lesson 3: Needle in a Haystack

A third lesson arising from the long U.S. experience with aggressive supply-control policies is that stemming illicit drug smuggling for sustained periods of time is unlikely to occur in a country and region that prizes international commerce and facilitates an enormous flow of legal goods across national borders. This lesson applies most emphatically to the U.S.-Mexico relationship. Last year, Mexico ranked as the third largest importer into the United States ($211 billion, trailing only China and Canada), and as the United States second largest export market ($136 billion, trailing only Canada). As of 2004, about a million people and

300,000 cars and trucks crossed the U.S. border with Mexico every day. And at just one U.S.-Mexico border post, about 15 million freight containers cross the border every year.

Legal commerce on this scale presents drug traffickers with nearly boundless opportunities to smuggle their product into the United States, and as detection technologies are improved, traffickers adapt with new smuggling techniques and routes. Unless this enormous influx of commercial goods into the country is dramatically curtailed (a scenario both unforeseen and unwelcome), drug seizure statistics will mean little as measures of ultimate drug control success. The quote below by Carnegie Mellon University drug policy expert Jonathan Caulkins is from a 2003 book, but it remains as apt as ever:

> "On the order of 300-400 metric tons of cocaine … enter the United States each year. Those quantities are a tiny, tiny fraction of the corresponding numbers for legitimate commerce, and that is what makes interdiction so difficult… Even with seizure rates of 25-40 percent, cocaine keeps flowing in at prices that, while high compared to legal drugs such as tobacco and alcohol … are still low enough to retain a mass market. The counter-drug experience with interdiction is sobering: making U.S. borders impermeable to cocaine and heroin has proven impossible. In a free society with substantial international trade and tourism, 'sealing' the borders is not practical."

The U.S.-Mexico Border and Drug Trafficking

The partnership between Colombian and Mexican drug trafficking organizations that took root in the 1990s did not bode well for Mexico. In the years since, the Mexican organizations have asserted their dominance over the lucrative trafficking routes and networks into and within the United States, growing in reach, wealth and firepower. According to the Justice Department's NDIC, Mexican trafficking groups now "control the transportation and wholesale distribution of most illicit drugs in every area of the country except the Northeast," and their "established overland transportation routes and entrenched distribution networks enable them to supply primary and secondary drug markets throughout these regions." The Southwest border region "is the principal arrival zone for most drugs smuggled into the United States."

Even as the Mexican drug trafficking organizations were gaining strength, Mexican politics and government was becoming more democratized, with the end of the PRI's long-standing monopoly on elected office. Old trafficking arrangements that existed under the PRI began to crumble as state, local and federal offices were at times held by three different political parties. Traffickers confronted a more complex political environment in which to do business. They had to confront, intimidate or buy-off new actors. The illicit drug trade in Mexico has been extremely violent in recent years. Much of the violence seen today relates to conflicts over key smuggling routes between rival cartels. But as government officials have sought to enforce the law, the police have been increasingly targeted. From January through April 2008, on average 27 police officers were killed each month, and in May the toll climbed to 64. As of mid-May, the Mexican media had tallied 1,245 cartel-related killings for the year, including the assassination of the acting head of the country's federal police, who had played a key role in organizing recent government operations against the Sinaloa cartel.

Upon taking office in December 2006, Mexican President Felipe Calderón launched a series of high-profile military and police operations in states where organized crime was believed to be most concentrated. These operations have included 27,000 soldiers as well as federal police. However, the surge in violence does not appear to be abating in response to these tactics. On the contrary, as illustrated by the killing of the head of the federal police, the drug trafficking organizations have targeted senior government officials in Mexico City, as well as targeting high-ranking operatives in rival cartels. Like Calderón, his predecessors Ernesto Zedillo and Vicente Fox came into office promising to tackle organized crime and violence, expanding the role of the military to restore public order. Their efforts generated a temporary sense of improved citizen security through purges of corrupt officers, the creation of new forces, and a visible reliance on the military that brought some tactical victories, including the capture of a number of important cartel leaders. But the gains were eroded as new trafficking leaders and organizations emerged and government officials have been intimidated or corrupted.

Against this backdrop, in October 2007, the U.S. and Mexican governments issued a joint statement announcing the "Mérida Initiative," a multi-year plan for U.S. aid to help Mexico and Central Americans combat drug trafficking and organized crime. The Initiative has been billed as a cooperative effort between the U.S. and Mexican governments. It is clear that U.S. demand fuels the drug trade, and the easy availability of guns in the United States has helped turbo-charge drug violence in Mexico – where officials calculate that 90 percent of confiscated firearms originate north of the border. Yet there is nothing in the Mérida Initiative about what the United States will do to reduce demand, curb money laundering or slow the flow of weapons south. While the Bush Administration requested $500 million for Mexico for FY2008, the Congress appears likely to approve reduced but still significant funds in the pending "war supplemental" appropriations bill.

In any case, U.S. policymakers should recognize that the Mérida Initiative is unlikely to have much impact on the availability of illicit drugs in the United States. Mexico's crucial challenge is to buttress civilian institutions – especially the police, prosecutors and the judicial system – and invest in crime prevention. While the military can at times provide temporary relief, by occupying an area, only effective rights-respecting police and judicial institutions will be able to provide lasting solutions. Even if Mexico succeeds in diminishing the drug-related violence that racks that country today, it will not necessarily entail or lead to a reduction in the flow of illicit drugs into the United States. Given the scope of U.S.-Mexican legal commercial relations and a continued strong demand for illicit drugs within the United States, the drugs will flow.

Conclusions

The lessons drawn from the United States' many years in vigorous pursuit of supply-side drug control victories – the persistence of the balloon effect, the resilience of illicit drug markets, and the impossibility of "sealing the borders" – suggest that the United States' supply control objectives and expectations should be brought into line with reality. There will be no quick fixes, no silver bullets (e.g., fumigation). In the long term, sustained efforts to create alternative livelihoods and to strengthen justice institutions in producer and transit countries hold promise for reducing the scope and depredations of the illicit drug industry, but such an approach will require patience and a departure from a results-now mentality obsessed with crop and seizure statistics.

Moreover, even the most well-conceived and painstakingly implemented efforts on the supply side will stand little chance of success over time if the lucrative markets for illicit drugs (still anchored by the advanced industrial nations, including the United States), continue to grow. There is a strong case for much more ambitious efforts to reduce the size of the illicit market through proven demand-side programs such as treatment. But even so, dramatic declines in the size of illicit drug markets should not be expected any time soon. Rather than continue the search for the silver bullet, policy makers would do well to recognize that illicit drugs pose a perennial problem that cannot be eliminated, but can be managed significantly better than we have done thus far. This entails adopting a harm reduction approach that, broadly speaking, seeks to minimize the harms associated with illicit drug production, distribution and use, but also to minimize the harms generated by policies meant to control illicit drugs.

I applaud Chairman Webb and this Committee for helping to initiate a different, more constructive discussion about drug policy, and for ensuring that the debate includes both the international and domestic concerns.