

# **HOMELAND SECURITY ADVISORY COUNCIL**



## **SOUTHWEST BORDER TASK FORCE REPORT THIRD SET OF RECOMMENDATIONS FALL 2011**

MEMORANDUM FOR: Judge William H. Webster  
Chairman  
Homeland Security Advisory Council

FROM: Secretary Napolitano

SUBJECT: Homeland Security Advisory Council -  
Southwest Border Task Force Tasking

DATE: April 11, 2011

Thank you for your most recent set of recommendations on ports of entry and increasing information sharing between federal, state, local, and tribal agencies. The commerce subgroup provided helpful suggestions on ways to expedite the flow of trade. Facilitating legitimate commerce and travel across our shared border is crucial for North American competitiveness and remains a priority of the Department. Your recommendations provided timely insight into ways we can work with partners in the private sector to build a 21st century border. The recommendations regarding coordination with state, local, and tribal law enforcement partners are also extremely useful to the Department as we devote unprecedented federal resources to the Southwest border in coordination with these partners.

Building upon your previous recommendations, I request the Task Force provide recommendations on shared border management and examine the potential for expanding the corridor security concept throughout the Southwest border environment.

- 1) **Shared Border Management:** How can the concepts of pre-clearance, pre-screening, and pre-inspection of cargo be further applied in the land border environment and connected to existing trusted shipper programs such as the Free and Secure Trade Program (FAST)?
- 2) **Corridor Security Approach:** How can the corridor security concept currently being implemented in the Alliance to Combat Transnational Threats in Arizona and New Mexico/West Texas - a whole-of-government approach to fight transnational criminal activity by attacking the entire enterprise of criminal organizations-be expanded to other areas of the Southwest border?

**Southwest Border Task Force  
Third Set of Recommendations  
Executive Summary**

The Southwest Border Task Force (SWBTF) was originally chartered in June 2009 to provide the Homeland Security Advisory Council (HSAC) with recommendations to address issues facing the Southwest border. Led by Task Force Chairman Judge William Webster and Vice-Chairs Ambassador Jim Jones and Sheriff Lupe Trevino, the Task Force completed their third set of recommendations which focused on enhancements on the corridor security program and looking at potential pre-inspection programs. In their third set of recommendations, the Task Force outlined specific recommendations on the corridor security approach being discussed by the Department as well as looking at ways to improve border commerce.

The first three recommendations of the report discuss the Corridor Security approach being discussed by the Department. The Task Force called for the Department to:

- 1) Adopt a Corridor Security approach to border security, using a whole-of-government approach and collaborative partnerships between law enforcement agencies.
- 2) Identify corridor-specific transnational threats and criminal groups.
- 3) Proactively anticipate moves by criminal organizations by expanding the Corridor Security strategy to additional corridors.

Recommendations 4 – 14 focused on the Alliance to Combat Transnational Threats (ACTT) model that has been implemented in Arizona and New Mexico/West Texas in the past two years. ACTT, launched in September 2009, continues to utilize a collaborative, cooperative enforcement approach that leverages the capabilities and resources of Department of Homeland Security agencies in selected sectors in partnership with other federal, state, local, tribal governments and the government of Mexico against criminal organizations that pose a threat to the United States. The recommendations the Task Force proposed on the ACTT were:

- 4) All federal agencies involved in combating transnational threats should be included in corridor ACTTs.
- 5) A Headquarters-level coordinating council should be established to set and monitor objectives for each ACTT.
- 6) The ACTT Coordinating Council should engage the government of Mexico and encourage the creation of Mexican counterparts to the ACTT.
- 7) Each ACTT should establish clear expectations and procedures through guiding documents accepted by all participants.
- 8) ACTTs should strive for unity of effort through a joint command structure headed by a rotating principal Federal official.
- 9) All significant transnational operations should be vetted through the ACTT to avoid operational overlap and conflicts and to assure appropriate endgames.
- 10) DHS should actively publicize the ACTT and Corridor Security approach.

- 11) Each ACTT should be tailored to the specific operational needs and threats of its particular corridor and avoid the application of a national-driven “cookie cutter” approach.
- 12) The Corridor Security concept and ACTTs should be adequately funded and supported by all levels of government.
- 13) Federal grants should be allocated to state, tribal and local law enforcement to support their participation in ACTTs.
- 14) The ACTTs should involve the United States Attorney within the relevant corridor, and the U.S. Attorney’s Office should play the lead role in organizing state and local prosecutors in support of ACTT operations.
- 15) ACTTs should establish a uniform reporting process for participants.

In this difficult climate, the Task Force also looked at ways to streamline border inspections at ports of entry. Recommendations 16 – 20 discuss ways to improve efficiency at ports of entry.

- 16) Recommendation 16 outlines a series of steps to do so including:
  - a) The use of automated risk management to determine what cargo warrants inspection and what does not.
  - b) Establish an automated release process.
  - c) Establish a “single window” for importers, exporters and customs brokers to provide any and all data elements for imports and exports required by USG agencies by using the Automated Commercial Environment (ACE)/International Trade Data System.<sup>1</sup>
- 17) The U.S. Government (USG) should engage the federal Government of Mexico (GOM) in advancing the dialogue that would lead the GOM to adopt best practices, including those identified in Recommendation #16 above and support establishing common regulatory processes at the border, including developing electronic manifest with common data elements on both sides of the border.
- 18) The U.S. Government should continue to work with their Mexican counterparts on potential new Ports of Entry configurations to consolidate inspections where customs officials from both countries would potentially be able to share facilities and detection equipment.
- 19) The Southwest Border Task Force should work with CBP in developing an interagency economic competitiveness/trade effort to coordinate with Federal, State, Tribal, Local government, business-related stakeholders and our international partners.

Recommendation 20 focused on working to improve rail security along the Southwest Border. The Task Force called on the U.S. Government to:

- 20) Make a concerted effort to work with their Mexican counterparts and the private sector partners on improving rail security on the Mexican side of the border.
  - a) The U.S. Government should support the Mexican federal police’s effort to enhance security efforts for rail security on their side of the border by

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<sup>1</sup> <http://www.itds.gov/xp/itds/toolbox/background/background.xml>

improving the quality of security forces protecting trains and train movements.

- b) U.S. government should support Mexican efforts to activate rapid response capabilities to help protect train cargo headed across the border.
- c) The U.S. Government should work with their Mexican counterparts to move northbound rail cargo through the border faster, where possible given legitimate security concerns. Further, it should work to standardize inspections on both sides of the border in order to minimize delays.
- d) DHS should work with the relevant agencies to streamline processes at the U.S.-Mexico border to follow the same or similar protocols as those used at the U.S.-Canada border. The two governments should work on increasing intelligence-sharing and supply chain security efforts to ensure rail shipments are secure and free of contrabands.

Recommendation 21 discussed the recent Executive Steering Committee discussions between the governments of the U.S. and Mexico.

- 21) The Task Force supports the 21<sup>st</sup> Century Border Management framework; where the U.S. and Mexico work together to promote their economic competitiveness and development, recognize the impediments to this goal, but also the benefits that their joint efforts will produce: easing congestion at the ports of entry, reducing transaction costs, increasing exports, and enhancing security.

The final recommendation in the Southwest Border report dealt with expanding the pre-inspection in both the U.S. and Mexico. Specifically, the Task Force stated:

- 22) The U.S. Government should work with their Mexican counterparts to expand pre-inspection programs, by:
  - a) The U.S. Government should work with the GOM to allow Mexico to station law enforcement officers abroad and permit Mexico to have foreign customs officials stationed in Mexico to conduct pre-inspection and pre-clearance activity.
  - b) The U.S. Government should continue to support pre-inspection and pre-clearance pilot programs and work with their Mexican counterparts to identify more high-volume locations on the other side of each other's mutual border.
  - c) The U.S. Government should continue to work with Mexican counterparts to look at pre-inspection programs not just at or near the border, but also in the interior of each country, taking into account security risks for CBP officers in Mexico.
  - d) CBP should identify appropriate mechanisms for reimbursement of staffing time at pre-inspection/pre-clearance/pre-screening facilities including seeking any necessary regulatory or legislative changes.

## **Corridor Security Approach**

### **Recommendation #1**

**Findings:** The Corridor Security strategy recognizes that transnational criminal organizations rely on well-established smuggling corridors and infrastructure on both sides of the border to conduct their illicit activities and provides a framework for coordinating synchronized responses that attack the continuum of illicit activities. The strategy is a viable and useful concept that is now being utilized at certain corridors, principally Arizona-Sonora and New Mexico/West Texas-Chihuahua, to enhance border security and disrupt transnational criminal organizations. This concept is or should be understood as part of a broader bilateral strategy to weaken and destroy Mexican drug cartels while substantially reducing organized criminal activity proximate to the U.S.-Mexico borderland region.<sup>2</sup>

**Recommendation No. 1:** DHS should adopt a Corridor Security approach to border security, using a whole-of-government approach and collaborative partnerships between law enforcement agencies. We believe that this Corridor Security strategy is a valuable new approach, one that should inform and help galvanize DHS in a whole-of-U.S. Government attack on transnational crime. Recognizing that each corridor extends well into the U.S. and Mexico, the Corridor Security strategy should also facilitate partnership between the relevant USG law enforcement agencies and their counterparts with the Government of Mexico (GOM) on developing and implementing a strategic and coordinated USG-GOM attack on transnational crime and smuggling. The Corridor Security strategy should be carried out through the Alliance to Combat Transnational Threats (ACTT) model or a similar collaborative and cooperative approach to law enforcement coordination, information sharing, planning, and execution.

### **Recommendation #2**

**Findings:** Broadly speaking, six transnational criminal activities are of primary concern for the Southwest border and pose a threat to the safety and security of American and Mexican communities:

- Smuggling and trafficking of drugs;
- Smuggling and trafficking of illegal aliens;
- Smuggling and trafficking of weapons;
- Movement of illicit proceeds, including bulk cash smuggling;
- Violence perpetrated by the transnational criminal organizations which is occurring primarily in Mexico; and,
- Potential national security threats.

**Recommendation No. 2:** DHS and its strategic partners should conduct corridor specific assessments to identify specific threats and vulnerabilities in each corridor, as well as the specific criminal groups and their capabilities and intentions.

### **Recommendation #3**

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<sup>2</sup> *Alliance to Combat Transnational Threats (ACTT)/Corridor Security*. Customs and Border Protection, May 2011.

**Findings:** Law enforcement needs to be flexible and move more quickly and nimbly than criminal organizations. This includes building upon successes and best practices from previous and current efforts to inform new efforts and anticipate the next moves by criminal organizations, in order to act to anticipate and rapidly counter shifts to new corridors and the establishment of new infrastructure.<sup>3</sup>

**Recommendation No. 3:** DHS should not wait to implement the Corridor Security strategy, whether through an ACTT or similar model, in additional areas. Efforts should be extended beyond those in Arizona and West Texas/New Mexico to all corridors along the Southwest Border to mitigate one or more transnational threats, and to include the Southern California and Rio Grande corridors, and other threat corridors that are or may reasonably be expected to be exploited by transnational criminal organizations.

### **Alliance to Combat Transnational Threats**

#### **Recommendation #4**

**Findings:** The Corridor Security strategy and ACTTs should be the basis for organizing and galvanizing a whole-of-government effort to reduce and potentially eliminate transnational criminal threats.<sup>4</sup> ACTT should include all U.S. federal agencies that have a role, capability, and law enforcement jurisdiction to assist in curtailing the transnational threats identified above, either through investigative and/or interdiction activities.<sup>5</sup>

**Recommendation No. 4:** At a minimum, ACTTs should include both the DHS (CBP, ICE, USCG) and Department of Justice (FBI, DEA, ATF, USMS) law enforcement agencies which have operational presence within a particular corridor.

#### **Recommendation #5:**

**Findings:** The interaction between intelligence, interdiction, and investigation are critical to the success of a Corridor Security strategy. All three must work harmoniously to achieve the optimal effect against targeted transnational threats and criminal organizations behind them.<sup>6</sup> Synchronizing these activities and the involved agencies will require strategic-level coordination at the headquarters level of involved agencies.<sup>7</sup>

**Recommendation No. 5:** A Headquarters-level coordinating council should be established to set and monitor objectives for each ACTT. The Headquarters-level ACTT coordination council would be responsible for setting the specific objectives for each ACTT based on corridor specific threats identified by intelligence or reasonably anticipated based upon discernable patterns of targeted transnational criminal organizations operating in the respective corridors. This should include senior level representatives from DHS and DOJ and their respective component agencies, under the

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<sup>3</sup> Donna Bucella. Testimony before the Senate Committee on Homeland Security and Governmental Affairs Subcommittee on Disaster Recovery and Intergovernmental Affairs on “Exploring Drug Gangs’ Ever Evolving Tactics to Penetrate the Border and the Federal Government’s Efforts to Stop Them.” 31 March 2011. Web.

<sup>4</sup> “Fact Sheet: Alliance to Combat Transnational Threats – Arizona/Sonora Corridor.” Customs and Border Protection. 8 February 2011. Web. <[http://www.cbp.gov/xp/cgov/newsroom/fact\\_sheets/border/arizona\\_factsheet.xml](http://www.cbp.gov/xp/cgov/newsroom/fact_sheets/border/arizona_factsheet.xml)>.

<sup>5</sup> *National Southwest Border Counternarcotics Strategy*. Office of National Drug Control Policy. 2011. Web. p. 19.

<sup>6</sup> *National Drug Control Strategy*. Office of National Drug Control Policy. 2010. Web. p. 63.

<sup>7</sup> *National Southwest Border Counternarcotics Strategy*. Office of National Drug Control Policy. 2011. Web. p. 24.

auspices of the National Security Council. The ACTT coordinating council, in consultation with each corridor-specific ACTT, would also establish and monitor measures of success.

**Recommendation #6:**

**Findings:** The USG and GOM should work in concert to achieve the biggest impact in negatively affecting and deterring transnational criminal organizations.<sup>8,9</sup>

**Recommendation No. 6:** The ACTT Coordinating Council should engage the Government of Mexico and encourage the creation of Mexican counterparts to the ACTT. The ACTT Coordinating Council, working in coordination with the National Security Staff, the State Department, and the U.S. Embassy, should engage with Government of Mexico (GOM) partners, so that targeting and operational activity operations against cross-border criminal organizations can be coordinated on both sides of the corridors, to the maximum extent possible. The Coordinating Council should encourage the GOM to establish an ACTT-type coordinating or steering council at the national level, and ACTT-type structures of the appropriate and relevant GOM agencies within each identified corridor. The Mexican ACTTs would be able to share and receive intelligence, through vetted units as necessary, and coordinate responsive operational activity.

**Recommendation #7**

**Findings:** Proper collaboration and coordination among diverse agencies requires clear expectations, goals, and procedures.<sup>10</sup>

**Recommendation No. 7:** Each ACTT should establish clear expectations and procedures through guiding documents accepted by all participants. Each ACTT should have an approved charter, an appropriately tailored mission statement, and protocols that are accepted by participating agencies pursuant to national direction by the ACTT Coordination Council.

**Recommendation #8**

**Findings:** ACTTs need a joint command structure. In a multi-agency, multi-department structure, a true unified command may be an unrealistic objective.<sup>11</sup> Unity of effort, as opposed to unity of command, should drive the ACTT's command structure.<sup>12</sup>

**Recommendation No. 8:** Establish a joint multi-jurisdictional command structure with a rotating principal Federal official for each ACTT. There should be clear goals for the

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<sup>8</sup> *Managing the United States-Mexico Border: Cooperative Solutions to Common Challenges*. Binational Task Force on the United States-Mexico Border. 13 November 2009. Web. p. 8-9.

<sup>9</sup> Clare Ribando Seelke and Kristin M. Finklea. *U.S.-Mexican Security Cooperation: the Mérida Initiative and Beyond*. Congressional Research Service. 16 February 2011. Web. p. 2-5.

<sup>10</sup> Patricia Hill. "San Diego Maritime Unified Command (MUC)." Presentation to the Homeland Security Advisory Council's Southwest Border Task Force. 14 July 2011.

<sup>11</sup> *Border Security: Additional Actions Needed to Better Ensure a Coordinated Federal Response to Illegal Activity on Federal Lands*. United States Government Accountability Office. November 2010. Web. p. 25-27.

<sup>12</sup> "Alliance to Combat Transnational Threats." Briefing to the Homeland Security Advisory Council. May 17, 2011.

ACTTs and Headquarters-level of commitment to these goals in order to facilitate agency participation at the field level.

**Recommendation #9:**

**Findings:** De-confliction of operations is important to avoid “blue-on-blue” situations and to ensure that the relevant agencies are aware of operations and involved as appropriate, as no one agency acting alone can achieve the goal of dismantling organizations posing transnational threats.<sup>13</sup> Given concerns about operational security, de-confliction may need to happen among a small or high-level group of personnel from each agency. In order to maintain operational security, this coordination may need to be at a high level of the participating agencies, but it should be borne in mind that no one agency acting alone can achieve the goal of dismantling organizations posing transnational threats of the type identified above.

**Recommendation No. 9:** All significant transnational operations should be vetted through the ACTT to avoid operational overlap conflicts and to assure sound and appropriate endgames.<sup>14</sup>

**Recommendation #10**

**Findings:** The 2011 National Southwest Border Counternarcotics Strategy highlighted the ACTT as a successful framework for enhancing coordination between federal, state, local, and tribal law enforcement efforts in the southwest border region.<sup>15</sup> The ACTT is also receiving increased attention in the Congressional testimonies of DHS leadership, including Director John Morton and Commissioner Alan Bersin.<sup>16,17</sup>

**Recommendation No. 10:** The broad purpose of the ACTT/Corridor Security concept should be more widely publicized as a new border security initiative.

**Recommendation #11**

**Findings:** Securing the border is more than securing the mere boundary line that separates Mexico from the U.S. True border security requires securing the corridors that transverse and intersect the border perpendicularly against transnational criminal threats. While the Southwest border is a contiguous, linear national boundary and the overall goals to secure each corridor are the same, the corridors present a somewhat differing threat and operational environments that need to be accounted for in the planning and execution of each ACTT.<sup>18</sup>

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<sup>13</sup> *National Southwest Border Counternarcotics Strategy*. Office of National Drug Control Policy. 2011. Web. p. 24.

<sup>14</sup> This cooperation will help eliminate uncoordinated agency operations through the ACTT vetting process and help assure meaningful law enforcement endgames.

<sup>15</sup> *National Southwest Border Counternarcotics Strategy*. Office of National Drug Control Policy. 2011. Web. p. 24.

<sup>16</sup> John Morton. Testimony before the U.S. House of Representatives Committee on Appropriations, Subcommittee on Homeland Security on “Update on Southwest Border; The Challenges that DHS Continues to Face.” 14 April 2010. Web.

<sup>17</sup> Alan Bersin. Testimony before the Senate Caucus on International Narcotics Control on “Money Laundering and Bulk Cash Smuggling Along the Southwest Border.” 9 March 2011. Web.

<sup>18</sup> *Alliance to Combat Transnational Threats (ACTT)/Corridor Security*. Customs and Border Protection, May 2011.

**Recommendation No. 11:** Each ACTT should be tailored to the specific operational needs and threats of its particular corridor and avoid the application of a national-driven “cookie cutter” approach. At the same time, each ACTT should share and derive lessons learned from other ACTTs in other cross-border corridors, and anticipate and plan for certain predictable shifts in the threats from one corridor to another. To effectively maintain a contemporary pace with and preempt criminal activity, it will be imperative that operations be queued by intelligence, investigative information, and interdiction data that have been analyzed to depict shifting trends and predict with accuracy the next threat corridor.

**Recommendation #12:**

**Findings:** ACTTs receive no independent funding; participants use their own budgets for operations.<sup>19</sup> Personnel dedicated to ACTT Arizona, including its Chief of Staff, are assigned through details that require their previous positions to be backfilled locally.<sup>20</sup> Grants to state and local law enforcement through Operation Stonegarden are the only potential, existing sources of external funding for ACTTs.<sup>21</sup>

**Recommendation No. 12:** The Corridor Security concept and ACTTs should be adequately funded and supported by all levels of government. If they are to fully succeed, the Corridor Security concept and ACTTs should be a separately funded and sustained, long-term commitment at all relevant jurisdictional levels of the USG, federal, state, tribal and local as well as the GOM at appropriate levels. While we recognize the challenging budget environment, it is recommended that the necessary funding not be absorbed by DHS or its operational components. Rather, there should be a separate appropriation for ACTTs, as has been the routine for similar multi-agency task forces in the past (e.g., BEST, HIDTA, OCEDTF, etc.).

**Recommendation #13**

**Findings:** Participation of state, tribal, and local law enforcement and prosecutorial offices in ACTTs is of importance to its success.<sup>22</sup>

**Recommendation No. 13:** Federal grants should be allocated to state, tribal, and local law enforcement to support their participation in ACTTs. DHS or USG grant funds should be prioritized or otherwise allocated for hiring and covering some of the costs of state, tribal, and local law enforcement personnel in border regions that are or should be participating in ACTTs. In addition, the USG should ensure ACTTs are adequately equipped with the latest technology and field equipment to accomplish the mission.

**Recommendation #14**

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<sup>19</sup> Angel Rascon and Thomas Martin. “Arizona ACTT Overview.” Presentation to the Homeland Security Advisory Council’s Southwest Border Task Force. 18 May 2011.

<sup>20</sup> Matthew Allen. Presentation to the Homeland Security Advisory Council’s Southwest Border Task Force. 14 July 2011.

<sup>21</sup> Angel Rascon and Thomas Martin. “Arizona ACTT Overview.” Presentation to the Homeland Security Advisory Council’s Southwest Border Task Force. 18 May 2011.

<sup>22</sup> Matthew Allen. Presentation to the Homeland Security Advisory Council’s Southwest Border Task Force. 14 July 2011.

**Findings:** Prosecution and consequence management and delivery are critical aspects of the success of the ACTTs. Either Federal or state law may provide an appropriate criminal statute for prosecution.<sup>23</sup>

**Recommendation No. 14:** ACTTs should actively involve the U.S. Attorney’s Office and state, local, and Mexican prosecutors. The ACTTs should involve the United States Attorney within each relevant corridor, and the U.S. Attorney’s Office should play the lead role in organizing state and local prosecutors in support of ACTT operations. ACTT missions should be planned with an eye toward prosecution by the entity having the clearest jurisdictional authority and the best available penalties for the targeted conduct. Prosecutors should be involved in operational planning to ensure cases emanating from a particular operation are routed for prosecution by the appropriate entity and that the prosecution offices involved are aware of the likely influx of new cases. In appropriate cases, through OASSIS and similar programs, prosecutions should be referred to Mexican authorities. To ensure that the five (5) federal judicial districts on the Southwest border are aligned with the six (6) transnational criminal threats outlined in Recommendation #2, it would be appropriate to have the Department of Justice and the Executive Office for U.S. Attorney’s support the Corridor Security Strategy/ACTTs as national guidance.

**Recommendation #15**

**Findings:** All participants in ACTT Arizona have internal reporting requirements.<sup>24</sup> For example, Immigration and Customs Enforcement’s (ICE) Office of Investigations in Arizona reports daily to ACTT on enforcement operations relevant to ACTT initiatives.<sup>25</sup> However, ACTT Joint Command does not have a standard, integrated reporting process for all participants.<sup>26</sup>

**Recommendation No. 15:** ACTT participants should establish a uniform and standard reporting process. This information should then be routinely reviewed by the Headquarters level ACTT coordinating council referred to in Recommendation #5 in order to help them shape objectives and measure success.

**Streamline Border Inspections at Ports of Entry**

**Recommendation #16**

**Findings:** At Ports of Entry, Customs and Border Protection (CBP) works with other relevant agencies on the inspection of goods entering the U.S. This includes, but is not limited to, the Food and Drug Administration (FDA), the Consumer Products Safety Commission, U.S. Fish and Wildlife and several others. With the exception of the FDA, only CBP has inspectional personnel at our nation’s ports of entry. Nonetheless, as a June 2011 Chamber of Commerce report noted, nine different U.S. government agencies have

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<sup>23</sup> Joseph Koehler. “ACTT: An AUSA’s Perspective.” Presentation to the Homeland Security Advisory Council’s Southwest Border Task Force. 14 July 2011.

<sup>24</sup> “Alliance to Combat Transnational Threats.” Briefing to the Homeland Security Advisory Council. May 17, 2011.

<sup>25</sup> Matthew Allen. Presentation to the Homeland Security Advisory Council’s Southwest Border Task Force. 14 July 2011.

<sup>26</sup> *Border Security: Additional Actions Needed to Better Ensure a Coordinated Federal Response to Illegal Activity on Federal Lands*. United States Government Accountability Office. November 2010. Web. p. 25-27.

“hold authority” over goods crossing the border, highlighting the long wait times created by agencies without on-site inspection personnel.<sup>27</sup> To remedy this, the Chamber of Commerce report recommended that “if a U.S. Government agency has hold authority, it should select one of two ways to execute that authority: The agency should have staff with the authority to resolve the hold at the port of entry during CBP processing times, or the agency should delegate the authority to CBP to resolve the hold.”<sup>28</sup> The report also recommended that the FDA and CBP better coordinate hours of operation and integrate IT systems.

The Automated Commercial Environment (ACE) is the United States’ commercial trade processing system designed to automate border processing, to enhance border security and foster our Nation's economic security through lawful international trade and travel. ACE will eventually replace the current import processing system for U.S. Customs and Border Protection (CBP), the Automated Commercial System (ACS).<sup>29</sup> The International Trade Data System (ITDS) facilitates inter-agency participation in ACE as the “single window” for all data required by U.S. government agencies for imports and exports.<sup>30</sup> Previously, the Office of Management and Budget issued direction to Heads of agencies that they needed to support this “single window”, government-wide approach and that budgets would not be individually authorized for agency specific systems.

The June 2011 U.S. Chamber of Commerce report noted that the funding for the Automated Commercial Environment (ACE) has steadily declined over the years, making companies operate in two different systems. The report also noted that lack of progress on the International Trade Data System (ITDS) has forced companies to “enter repetitive data to each government agency involved.”<sup>31</sup> The Chamber of Commerce report recommended that “our goal in the next three years should be the retirement of the U.S. Automated Commercial System and the full use of ACE by the entire trade community.” The report also supported further efforts to simplify the data entry process for shippers.<sup>32</sup>

**Recommendation 16:** CBP should take the lead with other relevant federal agencies in adopting best practices related to border inspections, including:

- a) The use of automated risk management, similar to that established by CBP at the National Targeting Center, to determine what cargo warrants inspection and what does not.
- b) CBP and all other USG agencies referred to above shall as expeditiously as possible establish an automated release process.
- c) CBP and all other USG agencies referred to above will move expeditiously to establish a “single window” for importers, exporters, and customs brokers to

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<sup>27</sup> U.S. Chamber of Commerce, “Steps to a 21st Century U.S.-Mexico Border,” June 13, 2011, p. 13.

(<http://www.uschamber.com/reports/steps-21st-century-us-mexico-border>)

<sup>28</sup> U.S. Chamber of Commerce, “Steps to a 21st Century U.S.-Mexico Border,” June 13, 2011, p. 13.

(<http://www.uschamber.com/reports/steps-21st-century-us-mexico-border>)

<sup>29</sup> Customs and Border Protection, ACE 101, August 2011,

<http://cbp.gov/linkhandler/cgov/trade/automated/modernization/ace/ace101.ctt/ace101.pdf>.

<sup>30</sup> Century Alternatives Inc., “Customs and Border Protection (CBP) Trade Systems,”

<http://cbp.centuryalt.com/serv02.htm>. Accessed September 5, 2011.

<sup>31</sup> Ibid., p. 15

<sup>32</sup> Ibid., p. 15

provide any and all data elements for imports and exports required by USG agencies. The Automated Commercial Environment (ACE)/International Trade Data System<sup>33</sup> (ITDS) should provide the platform for the “single window”. By a certain date, there should be only one USG portal or collection point for all electronic data elements relating to imports and exports, eliminating the multiple portals of different USG agencies which presently exists. Given the current budget situation facing government today, this smarter approach to government spending makes not only good fiscal sense, but will provide for more efficiency at the borders and for the U.S. private sector involved in international trade.

### **Recommendation #17**

**Findings:** A December 2010 draft version of the Executive Steering Committee report called on the U.S. and Mexico to develop recommendations for legislative and regulatory changes necessary to allow pre-clearance and the use of private sector funds for staffing and operating costs.<sup>34</sup>

ACE electronic truck manifest capabilities developed by CBP enable the agency to pre-screen trucks and shipments to ensure the safety and security of incoming cargo. Electronic manifests detailing shipment, conveyance, and carrier information are required when entering the nation’s 99 land border ports. CBP has found that E-manifests are currently processed 21 percent faster than paper manifests.<sup>35</sup>

**Recommendation 17:** The U.S. Government should engage the Federal Government of Mexico (GOM) in advancing the dialogue that would lead the GOM to adopt best practices, including those identified in Recommendation #16 above and support establishing common regulatory processes at the border, including developing electronic manifest with common data elements on the both sides of the border. In addition to harmonizing as many data elements as possible, there should also be a standardization of data format to ensure that the elements can be more easily shared and systems can be networked. In order to increase the acceptance of bilateral information sharing, there will also need to be a critical focus by both governments on the protection of trade secrets and other proprietary information, as well as the secure storage of the data and other transactional information.

### **Recommendation #18**

**Findings:** Improve bi-national coordination in planning, financing, permitting, designing, building, and operating ports of entry, including considering shared priorities for investments in border infrastructure, funding mechanisms for infrastructure projects, and optimal staffing of ports of entry.<sup>36</sup>

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<sup>33</sup> <http://www.itds.gov/xp/itds/toolbox/background/background.xml>

<sup>34</sup> A draft version of the Executive Steering Committee bi-national plan is available at: <http://www.usembassy-mexico.gov/pdf/plan-eng.pdf>.

<sup>35</sup> Customs and Border Protection, “ACE At a Glance,” May 3, 2011, ([http://cbp.gov/xp/cgov/newsroom/fact\\_sheets/trade/ace\\_factsheets/ace\\_glance\\_sheet.xml](http://cbp.gov/xp/cgov/newsroom/fact_sheets/trade/ace_factsheets/ace_glance_sheet.xml)).

<sup>36</sup> A draft version of the Executive Steering Committee bi-national plan is available at: <http://www.usembassy-mexico.gov/pdf/plan-eng.pdf>.

**Recommendation #18:** The U.S. Government should continue to work with their Mexican counterparts on potential new Ports of Entry configurations where inspections could be consolidated and where customs officials from both countries would potentially be able to share facilities and detection equipment. Given the current budgetary challenges and the land constraints for proper facility footprints, this may be one of the more realistic approaches for improved border management.

**Recommendation #19**

**Finding:** CBP conducts trade outreach on multiple levels with state, local, and regional stakeholders. The Office of Trade Relations also coordinates internally within CBP and collaborates with the Office of Field Operations and Office of International Trade to host roundtable meetings with local trade communities in various field locations throughout the United States.

**Recommendation #19:** The Southwest Border Task Force should work with CBP in developing an interagency economic competitiveness/trade effort to coordinate with Federal, State, Tribal, Local government and the business-related stakeholders and our international partners. They would be focused on economic opportunities and consist of appropriate stakeholders. The effort could help drive infrastructure and processing improvements and pre-inspection programs.

**Rail Security**

**Recommendation #20**

**Findings:** The Executive Steering Committee noted that the U.S. and Mexican governments would review regulations and other requirements that pertain to cross-border rail operations and work cooperatively to achieve additional efficiencies within the existing legal and regulatory environment.<sup>37</sup> The Task Force heard from several subject matter experts from the public and private sector in drafting their recommendations. Currently, trains from and to Mexico are required to change crews at the border while trains moving across the U.S.-Canada border can be operated by the same crew.

**Recommendation #20:** The U.S. Government should make a concerted effort to work with their Mexican counterparts and the private sector partners on improving rail security on the Mexican side of the border.

- a) The U.S. Government should support the Mexican federal police's effort to enhance security efforts for rail security on their side of the border by improving the quality of security forces on trains.
- b) U.S. Government should support Mexican efforts to activate rapid response capabilities to help protect train cargo headed across the border.
- c) The U.S. Government should work with their Mexican counterparts to move northbound and southbound rail cargo through the border more expeditiously, where this can be done consistent with legitimate security concerns. Further, it should work to standardize inspections on both sides of the border in order to

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<sup>37</sup> A draft version of the Executive Steering Committee bi-national plan is available at: <http://www.usembassy-mexico.gov/pdf/plan-eng.pdf>.

minimize delays. DHS should work with the relevant agencies to streamline processes at the U.S.-Mexico border to follow the same or similar protocols as those used at the U.S.-Canada border. The two governments should work on increasing intelligence-sharing and supply chain security efforts to ensure rail shipments are secure and free of contraband.

## **U.S. Executive Steering Committee**

### **Recommendation #21**

**Findings:** On May 19, 2010, the United States and Mexico declared their intent to collaborate on enhancing the U.S.-Mexican border.<sup>38</sup> To drive this initiative, the two countries established the Twenty-First Century Border Bilateral Executive Steering Committee (ESC). The United States-Mexico Executive Steering Committee (ESC) on Twenty-First Century Border Management has agreed to focus initially on the following priority projects, some of which are elements of larger initiatives, with the intent that the U.S. and Mexican governments accomplish them in twelve months, or less. When the U.S. and Mexican governments complete any listed initiative, another initiative, agreed to bilaterally would replace it after endorsement by the ESC or its delegates in each country.<sup>39</sup>

On December 15, 2010, the ESC held its inaugural meeting in Mexico City during which it adopted a bi-national action plan. The plan is focused on: coordinating infrastructure development, expanding trusted traveler and shipment programs, establishing pilot projects for cargo pre-inspection and/or pre-clearance, and improving information sharing among law enforcement agencies.<sup>40</sup>

**Recommendation #21:** The Task Force supports the 21<sup>st</sup> Century Border Management framework; one in which U.S. and Mexico work together to promote their economic competitiveness and development, recognize the impediments to this goal, but also the benefits that their joint efforts will produce: easing congestion at the ports of entry, reducing transaction costs, increasing exports, and enhancing security.

## **Pre-Inspection Programs**

### **Recommendation 22**

**Findings:** The Executive Steering Committee (ESC) called for steps to be taken on pre-clearance, pre-screening, and pre-inspection of people, goods, and products, in order to alleviate congestion at land ports of entry and intercept dangerous individuals, hazardous

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<sup>38</sup> Congressional Research Service, "U.S.-Mexican Security Cooperation: the Mérida Initiative and Beyond," Clare Ribando Seelke and Kristin M. Finklea, August 15, 2011. (<http://www.fas.org/sgp/crs/row/R41349.pdf>). The White House, "Declaration by The Government Of The United States Of America and The Government Of The United Mexican States Concerning Twenty-First Century Border Management," press release, May 19, 2010, <http://www.whitehouse.gov/the-press-office/declaration-government-united-states-america-and-government-unitedmexican-states-c>. As mentioned, U.S. - Mexican security cooperation along the border did not begin with the Mérida Initiative. This ESC is one of the most recent developments in the bilateral cooperation.

<sup>39</sup> A draft version of the Executive Steering Committee bi-national plan is available at: <http://www.usembassy-mexico.gov/pdf/plan-eng.pdf>.

<sup>40</sup> Congressional Research Service, "U.S.-Mexican Security Cooperation: the Mérida Initiative and Beyond," Clare Ribando Seelke and Kristin M. Finklea, August 15, 2011. (<http://www.fas.org/sgp/crs/row/R41349.pdf>). A draft version of the bi-national plan is available at: <http://www.usembassy-mexico.gov/pdf/plan-eng.pdf>.

or counterfeit goods, plant and animal pests, adulterated or spoiled food, and contraband before they cause harm.<sup>41</sup>

Furthermore, the ESC called for: exploring options for different models of pre-clearance at locations of mutual interest; developing recommendations for legislative and regulatory changes necessary to allow pre-clearance and the use of private sector funds for staffing and operating costs; defining a bi-national statement of standards and policy for pre-clearance and pre-inspection programs; and initiating pilot pre-clearance, pre-screening, and pre-inspection programs at locations such as the Laredo airport and the Nogales-Mariposa port of entry.<sup>42</sup>

The Task Force was briefed on several of the on-going pre-clearance projects by Department officials. Currently, legal impediments on the Mexican side of the border, including the need for statutory authority for Aduana officers to perform their functions outside their national territory as well as possible constitutional changes to the Mexican constitution which would permit CBP to perform its functions independent from Aduana POEs in Mexico, create obstacles to negotiating a reciprocal pre-clearance agreement.<sup>43</sup>

The pre-inspection programs being discussed currently is at the Laredo airport, which would have Mexican officers doing pre-inspection for air cargo destined for Mexico in the U.S.; and programs in the Nogales-Sonora, opposite Otay Mesa and in San Jeronimo with CBP officers doing pre-inspection on the Mexican side of the border.<sup>44</sup> Currently, all of the CBP pilot pre-screening/pre-inspection pilots under consideration, with the exception of Nogales, Sonora, are very near the border.<sup>45</sup>

**Recommendation 22:** The U.S. Government should work with their Mexican counterparts to expand pre-inspection and pre-clearance programs, by:

- a) The U.S. Government should work with the GOM to support their Mexican counterparts to allow Mexico to station law enforcement officers abroad and permit Mexico to have foreign customs officials stationed in Mexico to conduct pre-inspection and pre-clearance activity. The perceived need for legal authority on the Mexican side of the border has created obstacles to potential pre-clearance programs. The USG, through the U.S. Embassy and other USG agencies, should encourage the Mexican government to approve legislation, if necessary, to remove these obstacles.
- b) The U.S. Government should continue to support pre-clearance pilot programs and work with their Mexican counterparts to identify more high-volume locations on both sides of the border. In order to increase U.S. exports, reduce transaction costs and further the goals of President Obama and President Calderon's Joint Declaration in May 2010 that the GOM should be urged to

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<sup>41</sup> A draft version of the Executive Steering Committee bi-national plan is available at: <http://www.usembassy-mexico.gov/pdf/plan-eng.pdf>.

<sup>42</sup> A draft version of the Executive Steering Committee bi-national plan is available at: <http://www.usembassy-mexico.gov/pdf/plan-eng.pdf>.

<sup>43</sup> Briefing by Greg Olsavsky to Task Force, July 27, 2011.

<sup>44</sup> Briefing by Greg Olsavsky to Task Force, July 27, 2011.

<sup>45</sup> Briefing by Greg Olsavsky to Task Force, July 27, 2011.

establish Mexican pre-inspection in the interior of the U.S. for truck and rail cargo destined for Mexico.

- c) The U.S. Government should continue to work with Mexican counterparts to implement pre-inspection programs not just at or near the border, but also in the interior of each country. In this regard, there are no significant security risks regarding Mexican Customs officials carrying out pre-inspection or pre-clearance in the interior of the United States. However, security risks for CBP officers stationed in or going into Mexico to carry out pre-inspection or pre-clearance should be appropriately addressed.
- d) CBP should identify appropriate mechanisms for reimbursement of staffing time at pre-inspection/pre-clearance/pre-screening facilities including seeking any necessary regulatory or legislative changes.

## **Appendix A. Southwest Border Task Force Membership List**

**William “Bill” Webster** (Chair), Retired Partner, Milbank, Tweed, Hadley, & McCloy, LLP

**James “Jim” Jones** (Vice Chair), Chairman and CEO, Manatt Jones Global Strategies

**Guadalupe “Lupe” Trevino** (Vice Chair), Sheriff, Hidalgo County, Texas

**Jayson Ahern**, Principal, The Chertoff Group

**Norman “Norm” Augustine**, Retired Chairman and CEO, Lockheed Martin Corporation

**Ruben Barrales**, President and Chief Executive Officer, San Diego Regional Chamber of Commerce

**Andrea Bazan**, President, Triangle Community Foundation.

**Robert “Rob” Bonner**, Senior Principal, Sentinel Homeland Security Group and Counsel, Gibson, Dunn & Crutcher, LLP

**Ray Borane**, Former Mayor, City of Douglas, Arizona

**Stephanie Caviness**, President, Foreign Trade Association

**Raymond Cobos**, Sheriff, Luna County, New Mexico

**John Cook**, Mayor, City of El Paso, Texas

**Jeffrey Davidow**, President, Institute of the Americas

**Richard Dayoub**, President and Chief Executive Officer, Greater El Paso Chamber of Commerce

**Arturo Garino**, Mayor, City of Nogales, Arizona

**Victor Flores**, Director, Executive Projects, Arizona-Mexico Commission

**Francis “Pancho” Kinney**, Vice President, HNTB Federal

**Melvyn “Mel” Montano**, New Mexico National Guard

**Kenny Montoya**, Adjutant General, New Mexico National Guard

**Ned Norris**, Chairman, Tohono O'odham Nation

**Ralph Ogden**, Sheriff, Yuma County, Arizona

**Evelyn Rodriguez**, President and Chief Executive Officer, Rodriguez Health Consulting Services

**Jerry Sanders**, Mayor, City of San Diego, California

**Maurice Sonnenberg**, Senior International Advisor and Director, JP Morgan

**Hubert Williams**, President, Police Foundation

## **Appendix B. Subject Matter Experts**

- 1) **Matthew Allen**, Arizona Special Agent in Charge ICE
- 2) **Alan Bersin**, Commissioner, Customs and Border Protection
- 3) **Francis Brown**, Asst Dir-Border Security, and Outgoing COS for NM/WTX ACTT
- 4) **Nate Bruggeman**, Counselor to the Commissioner, Customs and Border Protection
- 5) **Ken Concepcion**, Program Manager, Border/Maritime Security, DHS Science & Technology
- 6) **Chris Gutierrez**, Executive Director, KC SmartPort
- 7) **Captain Patricia Hill**, Deputy Commander, San Diego Maritime Unified Command
- 8) **Randy Hill**, Chief Border Patrol Agent, Tucson Sector
- 9) **Ana Hinojosa**, Director of Field Operations, El Paso Field Office
- 10) **Joe Koehler**, Assistant Attorney, United States Attorney's Office, District of Arizona Criminal Division
- 11) **Thomas Martin**, ACPA TCA, ACTT Deputy Chief of Staff
- 12) **Dr. Chris Morris**, Los Alamos National Laboratory.
- 13) **Greg Olsavsky**, Director, Border Coordination, Customs and Border Protection
- 14) **Kevin O'Reilly**, Director for North America, National Security Staff
- 15) **Angel Rascon**, ASAC ICE HSI, ACTT Chief of Staff
- 16) **Jason Reinhardt**, Deputy Program Manager for Border and Maritime, Sandia National Laboratory
- 17) **Ben Rohrbaugh**, Policy Advisor to the Commissioner, Customs and Border Protection
- 18) **Ronald Vitiello**, Deputy Chief, Border Patrol
- 19) **Mike Winograd**, Security Consultant, Winograd & Associates, LLC