

MANAGING THE BORDER IN THE TWENTY-FIRST CENTURY AND COVID-19 (2017-2020)

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Introduction

This chapter analyzes the role and impact of binational border policy in the Twenty-First Century Border Management Initiative from its beginnings, questioning whether its lessons were taken into account for managing COVID-19 by using a policy to strengthen sanitary protocols along the binational border instead of closing the U.S. border to Mexican border residents with a U.S. visa. While the restrictive policy would in principle be only two months long, it was actually put in place permanently for regulating the risks of contagion along the world's most dynamic border.

I analyze here U.S. border security policy, its main strategies and impacts vis-à-vis border and binational relations with Mexico, honing in on the administration of President Donald Trump (2017-2021). I add the COVID-19 context, considering its global impact and its effect on border relations under the U.S.-Mexico Joint Initiative to Combat the COVID-19 Pandemic, which strengthens the notion of border security from the perspective of the United States, and is considered to marginalize effective border cooperation in the area of sanitary prevention, according to the corresponding protocols.

A Redefinition of Border Security with COVID-19?

Since the 2001 terrorist attacks, U.S. policies on national security, border security, public security, border management, drug trafficking, money laundering, and arms trafficking have been increasingly interdependent. The

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COVID-19 period has strengthened the notion of national security, leaving to one side the trans-border cooperation that traditionally characterized it in the framework of the Twenty-First Century Border Management Initiative for the last nineteen years.

The COVID-19 period is bringing with it a reconfiguration of borders, in which most countries have opted to close their borders, leaving to one side transborder or international cooperation good practices regarding health. This could heighten transborder asymmetries and social inequalities in less developed countries.

This is why I propose the following hypothesis: the COVID-19 context will change international relations, impacting bilateral relations regarding health risks, which will strengthen U.S. border security policy. This is why it is fundamental that the Mexican state promote effective multi-level governance in terms of improving security, competitiveness, well-being, and health. These impacts would translate into greater U.S. control of border security with regard to irregular migration and drug trafficking, which would, in principle, not affect the legal circulation of automobiles, persons, and cross-border trade.

Challenges to the U.S. with a Diverse Border Security Agenda

The advent of a new U.S. federal administration under President Donald Trump represented an opportunity to manage a complex relationship with different problems. This was particularly the case because a management experience already existed under the Twenty-First Century Border Management Initiative, signed in 2001 and institutionalized as such in 2011. Promoted by the Mexican and U.S. governments due to the terrorist attacks, this agreement has formed the basis for an effective security cooperation model against threats of terrorism and to make automobile, traveler, and trade-linked crossings more agile. It could be stated that this governance model for border crossings was one of the best management practices of one of the most dynamic borders internationally due to the number of crossings and their diverse impacts. This has met with the challenge of a partial closing due to COVID-19, which questions the model in effect for the last twenty years. For this reason, it is necessary to argue for strengthening this effective border security governance model on the U.S.-Mexico border during the

COVID-19 period, based on which health, competitiveness, economic growth, and migratory flow priorities have been effectively managed.

This implies that the Mexican government must focus on strengthening a binational, trans-border, and border management of this agenda with the United States according to its national priorities on a multi-level agenda. The period and effects of COVID-19 will force more binational coordination; however, the United States has set aside this agenda.

Mexico is one of the main countries whose relations with the United States on migratory issues have been affected. Mexico, however, has opted to co-operate with the United States, as can be seen in the June 2019 Binational Migration Agreement. Among Trump's main electoral campaign proposals and administration goals were the following: the construction of a big wall all along the southwestern border between Mexico and the United States; zero tolerance for immigrants who commit crimes in the United States; blocking federal funds for communities that do not report the presence of irregular immigrants; the reversal of Barack Obama's executive orders on immigration issues; and an immigration reform that would benefit U.S. citizens, particularly those with low wages.

A fundamental trait of border security under the Trump administration (2017) was strengthening control using the notion of national security. From this perspective, the security border policy focus is as follows: "Border security is critically important to the national security of the United States. Aliens who illegally enter the United States without inspection or admission pose a significant threat to national and public security. These foreigners have not been identified or inspected by federal immigration officials to determine their admissibility to the United States" (White House, 2017).

Insecurity and Risks on the Mexico-U.S. Border

Mexico's northern border has experienced increased insecurity and violence and a rise in organized crime since 2008, which has brought into question the institutional legitimacy of Mexico's local, state, and federal governments. This gave rise to the United States strengthening its security policy under the Obama administration with the idea of avoiding both Mexican and Central American immigration and the penetration of terrorism through its southern border.

Under President Trump, this policy was strengthened, using the argument of Mexican migrants' criminal records and drug traffic from Mexico. The difference between the two administrations was the new administration's emphasis on the idea that migrants were the root of the problems in U.S. security and economy.

Trump's U.S. border security policy was to strengthen the focus on border control and the criminalization of migrants. The legal basis for this policy is the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) (INA), the Secure Fence Act of 2006 (Public Law 109367) (Secure Fence Act), and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Division C of Pub.L. 104–208), all aimed at guaranteeing U.S. security and territorial integrity.

President Trump's administration associated the building of the wall, one of his main proposals, with an alternative for reducing drug trafficking from Mexico, particularly that of cocaine, methamphetamines, and heroin. The consumption of these drugs has increased over the last five years given deficient U.S. prevention and prosecution policies. This context may make it possible for the Mexican government to redefine a more strategic policy on its military and naval agendas with the United States, in accordance with national and border security priorities under a multidimensional Mexican agenda.

It should be pointed out that, given the growing insecurity and violence along Mexico's northern border—almost 30 percent of federal crimes committed are perpetrated in Mexico's northern border states—transborder trade, tourism and economic activity with the United States have not diminished; particularly the growth of Mexico's maquiladora industry. This situation is due to the fact that most of those flows are promoted by the population of Mexican origin, plus the comparative advantages of industrial location.

Another factor that contributes to the insecurity of Mexico's northern border not affecting transborder dynamics is that U.S. border cities have radically reduced their crime rates in recent years. In 2015, while the average number of homicides in Mexican border cities was 208 per 100,000 residents, in U.S. border counties, the rate was 3.2, even lower than the U.S. national average of 5.3 (Centro de Estudios Internacionales Gilberto Bosques, 2017).

From NAFTA to the USMCA (2020)

The renovation of the North American Free Trade Agreement (NAFTA) and its replacement with the United States-Mexico-Canada Trade Agreement (USMCA) reflects a protectionist, nationalist vision in a framework in which the U.S. economy has been undergoing globalization processes that have made its economic growth possible.

In the last twenty-five years, NAFTA created a modern, competitive export sector, generated foreign investment, established the rule of law at least for foreign investors and companies, and contributed in part to Mexico's belated democratization (Castañeda, 2020). In this context, the trade, financial, and investment integration process between the two countries seems to be marginalized. From there, one can state that almost fourteen million jobs have been generated as a result of the NAFTA trade and productive integration.

The U.S. business sector linked to NAFTA would presumably not favor industrial relocation given the comparative advantages offered by the northern border and, in general, the trade and productive relationship with Mexico.

President Trump's positions reflected his interest in fulfilling the demands of his electorate and those of the political establishment, particularly those associated with his national security agenda. The management of those contexts and of the identification of key actors makes it possible to define national strategies with the United States.

Therein lies the importance of linking the binational terrorism agenda to NAFTA, considering the growing military influence on the U.S. national security agenda (DHS, Pentagon, and cabinet coordination). This context may make possible a more strategic dialogue among the national priorities regarding national security and the border, which could diminish the polarization around the rest of the agenda.

Current State, Origin, and Development of the Twenty-First Century Border Management Initiative

The Twenty-First Century Border Management Initiative emerged in the framework of the need to strengthen border security in 2001, but also to promote agile border crossings for cars, travelers, and goods. It is an effective

example of multi-level coordination between Mexico and the United States, rooted in a security, competitiveness, and well-being agenda.

It has been backed by the California, Arizona, New Mexico, and Texas state governments, considering the trade integration processes derived from NAFTA and the advantages of taxes paid by Mexican tourists and buyers.

One indicator of the impact of border crossings is that in 2001, only fifteen border-crossing points existed from Tijuana to San Diego. At the time of this writing (2017), twenty-five crossings and eight smart card crossings exist. This reflects the importance of trade and transborder tourism integration and of the effectiveness of multi-level management of binational border crossings in the framework of the management initiative.

The first phase of the initiative lasted from 2001 to 2006. The institutional framework was the Smart Border: 22 Point Agreement-U.S.-Mexico Border Partnership Action Plan, signed in Monterrey on March 22, 2002, which put forward the creation of an “efficient border for the twenty-first century” that would make it possible to deal with migratory problems, facilitate trade, and increase security in the area. This mechanism gave rise to the creation of the Security and Prosperity Partnership of North America (SPP) in 2005. From 2006 to 2012, the border security agenda generated more tensions and conflicts due to increased violence, insecurity, and criminality along the border with the United States.

The main areas of binational intervention established in the SPP were to undermine organized crime’s operational capabilities; institutionalize the ability to maintain the rule of law; create a structure oriented to the Twenty-First Century Border Initiative; professionalize and develop institutions; and promote the culture of legality. In April 2009, the U.S. government proposed that the border be a priority issue on the competitiveness agenda. To do that, it was proposed that the border be modernized through an agreement to coordinate actions on a federal and state level and based on a comprehensive vision of the border. Later, both governments proposed in a joint statement (May 19, 2010) the Competitiveness Agenda of North America, which stipulated as one of its priorities the creation of the border for the twenty-first century.

As is clear, the intention to jointly manage the border was put in black and white for the first time here through the following institutional frameworks: the mandate to create the Twenty-First Century Border Bilateral Exec-

utive Steering Committee (ESC) Executive Steering Committee and the design of a Plan of Action at the end of 2010. Border management in the Twenty-First Century Initiative has three dimensions: economic competitiveness, the mobility of people, and security.

The first dimension includes the following objectives: the harmonization of customs regulations; the expansion of cargo precertification programs (FAST [Free and Secure Trade Program], C-TPAT [Customs-Trade Partnership against Terrorism]); joint risk management; identifying new sources of funding for the construction and operation of ports of entry; promoting public-private partnerships; and seeking solutions to prevailing trade disputes. The second dimension, traveler mobility, has the following aims: safe, legal, orderly management of people; expanding precertification programs for persons (SENTRI [Secure Electronic Network for Traveler's Rapid Inspection]); pre-clearance for passengers in Cancún; the incorporation of Mexico into the Global Entry Program; and developing a safe travelers program in Mexico); improving security practices in airport passenger reviews; and information exchange regarding foreigners of special interest. The third dimension, involving security, proposes the following objectives: joint analysis of border vulnerabilities; the inter-institutional coordination of monitoring and reactions; expansion and improvement of information exchange mechanisms; the coordination of strategies and operations to fight organized crime; the establishment of protocols for dealing with emergencies; the fight against the trafficking of persons, drugs, arms, and money; and the involvement of transversal border communities (SRE, 2013). These three dimensions reflect the institutionalization process of a cooperation policy on border security issues in the framework of merging the anti-terrorist agenda with making the border crossings of travelers, cars, and goods more agile.

During a High-Level Economic Dialogue meeting in February 2016, Mexico and the United States recognized their common border's strategic importance as an essential part of the bilateral relationship. From there springs the importance of strengthening binational coordination processes to collaborate on priority projects and policy issues in order to make significant headway in this area.

Initiatives for Strengthening the Twenty-First Century Border (2017-2020)

The importance of this initiative is that it is an already institutionalized mechanism, regardless of the changes in federal administrations or bilateral political differences or tensions. The challenge is how this kind of mechanism, which has been very effective, has not had an impact on a better management of bilateral anti-drug and migration policies. One of the reasons is the urgency or priority of the border crossings agenda, which involve processes of competitiveness, investment, and generally have an impact on the well-being of border communities.

A technical meeting of the Bilateral Executive Steering Committee on November 17, 2017 agreed on the importance of the bilateral cooperation mechanism for improving border security and promoting economic competitiveness. Mexico's then Vice-Minister Sada said, "This has made it possible to identify and advance in a coordinated way on priority matters for the sustainable development of the border region" (SRE, 2013). This priority could have fit into the U.S.-Mexico Joint Initiative to Combat the COVID-19 Pandemic of March 21, 2020.

At that meeting, both parties also reviewed the results of the 2017 Action Plan regarding infrastructure, safe flows, and the administration of justice. Finally, they committed to continue working to establish a plan to guide their actions in 2018.

By contrast, however, on May 23, 2018, the Ninth Meeting of the Mexico-United States Bilateral Executive Steering Committee was held in Washington, D.C. This meeting was important because it took place in the context of the polarization of bilateral relations due to President Donald Trump's policies. This political context did not limit the processes of bi-national and transborder strategic planning associated with the initiative. On the contrary, the institutionalization of the mechanism and its different initiatives that benefited competitiveness and border security continued to be strengthened.

On security issues, the High-Level Economic Dialogue reiterated the parties' interest in maintaining close coordination for information exchange in order to deal with the border's common challenges. This means that the mechanism is one of the most important for strengthening planning and

transborder coordination that make it possible to promote competitiveness and well-being.

In May 2019, the Tenth Meeting of the Mexico-United States Bilateral Executive Steering Committee took place in Mexico's Foreign Relations Ministry headquarters. The central aim was to promote the development of the Mexico-U.S. border, understanding that region as fundamental to North America's competitiveness and development (SRE, 2019).

Most recently, the Steering Committee held its twelfth meeting in Mexico City's Foreign Relations Ministry with the aim of strengthening bilateral collaboration on priority issues along the common border. Both countries committed to continuing the close coordination on the most important bilateral issues such as fostering the legitimate flow of goods and travelers, promoting public security, and fighting translational crime (SRE, 2020).

The delegations approved the "Twenty-First Century Border Management Initiative Strategy," which provides a framework to collaborate more closely on promoting the shared border as a safe and competitive region, while also highlighting the key role it plays in the economic development and well-being of its communities (SRE, 2020).

It should be pointed out that the last meeting took place in the midst of the beginning of the world COVID-19 pandemic crisis, which has brought into question the whole initiative, given that on March 21, 2020, the border to the United States was closed to Mexican residents with U.S. tourist visas. The closure was then renewed for a second month because of the effects of the pandemic. This was unprecedented in the binational border relationship, considering that the binational sanitary protocols were not strengthened for crossings from the U.S. side, where a much larger number of people were detected with the virus (almost 70,000) compared to about 3,000 on the Mexican side in April 2020.

U.S.-Mexico Joint Initiative to Combat the COVID-19 Pandemic

This initiative strengthens U.S. border security policy because it puts forward a model for a partial closure of the border, which strengthens a notion of national security promoted today by a binational health body that includes

the U.S. Center for Disease Control and Prevention (CDC), which operates quarantine stations in El Paso and San Diego. The option for similar functioning to that of the Twenty-first Century Border was not pursued, which had made it possible to control and reduce the terrorist risk at the time of the 2001 terrorist attacks. In addition, this management model did not prevent the reduction of the flows of cars, travelers, and goods across the border. That is, for nineteen years, both governments achieved the institutionalization of an effective model of multi-level governance, which made it possible to strengthen the growth of both economies based on Mexico-U.S. border crossings.

In this framework, the joint initiative could have planned a similar model that could have reduced the vulnerability to COVID-19 contagion based on a basic sanitary protocol to be used in crossings and effective cooperation and coordination on issues of binational health, which together would have had the effect of a less stringent closure of the border for Mexican border residents with U.S. tourist visas. That would have created fewer negative effects on the local and transborder economy.

Among the actions included in the joint initiative and in the framework of the COVID-19 pandemic, all non-essential trips were temporarily restricted starting on March 21, 2020. Therefore, journeys considered essential continued without obstacles from then on. This restriction applies solely to Mexican border residents with U.S. visas. It does not apply to U.S. residents and citizens who live in Mexican border cities. Thus, the balance between effective control of terrorism and making border crossings more agile that had characterized the Twenty-first Century Border Initiative for the last nineteen years was set aside.

From the binational perspective, “this collaborative and reciprocal initiative is an extension of our nations’ prudent approach that values the health and safety of our citizens in the joint decisions made by our respective leaders regarding cross-border operations” (SRE, 2020). However, the joint initiative did not establish sanitary protocols for the crossing of automobiles from the United States to Mexico at most border crossings. This reflects the scant importance given to the health of border communities on both sides, but particularly the Mexican side. This would be one of the reasons that the number of cases rose in Tijuana, one of the most dynamic cities nationally and bi-nationally.

Another contradiction of the joint initiative is that, despite recognizing the solid trade links between Mexico and the United States, “in response

to the ongoing global and regional health situation, [both countries] require particular measures both to protect bilateral trade and our countries' economies and ensure the health of our nations' citizens" (SRE, 2020).

The initiative "prevent[s] spread of the COVID-19 virus and address the economic effects resulting from reduced mobility along our shared border" (SRE, 2020). However, it does not establish the sanitary strategies for border crossings to prevent that spread. In addition, the strategy for dealing with the economic effects of the partial border closure on border residents with U.S. visas is not clear.

Both border communities will, indeed, be affected by the drop in tourism on both sides. For example, in the framework of the initiative, almost 65 percent of northern border residents, approximately six million Mexican inhabitants, could not cross for a month into the United States; that period was extended due to the advance of the pandemic.

In addition, the initiative recognizes that "critical services such as food, fuel, healthcare, and life-saving medicines must reach people on both sides of the border every day" (SRE, 2020). One of the problems is that Mexican border residents with U.S. visas cannot cross to the neighboring country to purchase those products, which are habitually part of their purchases; this will affect U.S. southern border businesses.

By contrast, no restrictions exist for U.S. residents, transmigrants, or U.S. citizens living in Mexican border cities making those purchases. This could generate scarcity in Mexican businesses if panic buying begins. In addition, these flows will be a higher risk, considering the greater number of COVID-19 cases on the U.S. side of the border compared to the Mexican side.

The determining factors for the possibilities of the spread of the virus include the following: by May 2, 2020, the United States nationwide had seen 1,132,512 cases and 66,368 deaths (CSSE, 2020). Along the border, on that same date, there had been 92,007 cases on the U.S. side: California (50,442); New Mexico (3,513); Arizona (8,364); and Texas (29,688) (CSSE, 2020), compared to the 3,401 persons diagnosed in Mexico's northern border states: Baja California (1,557), Sonora (300), Chihuahua (400), Coahuila (420), Nuevo León (338), and Tamaulipas (366) (OMS, 2020).

The differences in the number of cases for U.S. and Mexican border states can be attributed to both countries' different capabilities, comprehensive management, and mechanisms for inter-institutional coordination in terms

of the application of the model for managing the identification of cases and their later care and recovery.

What are the risks to human security of the lack of sanitary protocols for border crossings from the United States to Mexico? The answer involves the following transborder flows from the United States:

- a) Mexican and U.S. transmigrants who live in Mexico and habitually cross over to work in the United States and then return to Mexico. They number approximately 120,000, but they could normally be around 350,000.
- b) Population of Mexican origin that lives in the United States and visits their families during vacations using the Paisano Program (March 17-April 17, 2020). This population comes to almost 30,000 Mexicans who could cross into Mexico during the program.
- c) Tourists of U.S. and Mexican origin who could visit Mexican border cities; on average, 15,000 tourists a day cross the border to purchase basic products in Mexico.
- d) Irregular migrants detained and deported to Mexico by U.S. authorities; an estimated 7,000 a week without any sanitary protocols by authorities on either side of the border.
- e) Migrants awaiting a response to their asylum application hearing. An estimated 30,000 Central American migrants reside in Mexican border cities.

In the framework of COVID-19, the new measures established by the U.S. government in the USDHHS Accord include migratory restrictions and the immediate expulsion of those who arrive in an irregular fashion, without even contemplating a period of detention or due process for asylum-seekers.

The implications of COVID-19 in U.S. border security policy reflect a strengthening of border control in accordance with its national security priorities. On the Mexican side, there is no strategic COVID-19 border strategy agenda with a proposal of a sanitary protocol for border crossings from the United States and the adaptation of certain COVID-19 good practices in the cities of Los Angeles, San Diego, and the state of California in general.

One option that could have been included is the role of the U.S. Centers for Disease Control and Prevention (CDC). They could have played an im-

portant role in this joint initiative, particularly in the application of a minimal sanitary protocol in automobile border crossings from the United States to Mexican border cities. However, the CDC's argument is biased against crossings from the Mexican side, disregarding the potential spread of cases from flows from the U.S. side, particularly considering the almost 92,000 cases in U.S. southern border states by May 2, 2020.

Conclusions

The tensions in U.S. relations with Mexico under President Trump cannot be generalized to the entire bilateral agenda. That is, the level of cooperation achieved under the Twenty-first Border Initiative over the last 19 years with regard to cooperation to stem terrorism is not the same as that regarding immigration and drug trafficking policies. Nevertheless, in matters of migration, protocols have been promoted for the safe, orderly deportation of Central Americans, which reflect a level of binational coordination in the framework of the June 2019 Mexico-U.S. Joint Statement.

In the case of border cities, the U.S. Centers for Disease Control and Prevention (CDC) located in southern U.S. border states could have played an important role in the U.S.-Mexico Joint Initiative to Combat the COVID-19 Pandemic (March 20, 2020), particularly in the application of a minimal sanitary protocol in automobile border crossings from the United States to Mexican border cities.

Unfortunately, this protocol was not created, and it is a noteworthy absence in a context of a worldwide and binational pandemic, detracting from the lessons learned from the Twenty-first Century Border Initiative. One option could have been the strengthening of sanitary protocols, which would not have implied a substantial decrease in border flows. The agenda balancing sanitary management and border flows will have to be a permanent priority considering the risks and transborder effects of COVID-19.

The U.S. government's border security initiatives imply the integration of the agendas in matters of national security, public safety, terrorism, drug trafficking, human rights, criminalization, health, and development (USDHHS, 2020). Therefore, the Mexican government's responses must include a model of strategic, transversal governance with inter-institutional policies.

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