



TESTIMONY OF

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BEFORE

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ON

“Unprecedented Migration at the U.S. Southern Border: The Year in Review”

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Chairman Johnson, Ranking Member Peters, and Members of the Committee, thank you for the opportunity to discuss the tremendous accomplishments of U.S. Customs and Border Protection (CBP) employees during one of the most challenging fiscal years our agency has faced. I will also address the current conditions at the Southwest Border, the strain that these conditions placed on CBP law enforcement resources, and the progress we are making to mitigate the resulting humanitarian and national security crises. I am honored to speak on behalf of the men and women of CBP who are on the frontlines of our nation's border security.

Fiscal Year 2019 in Review

CBP's uniformed personnel – and the thousands of career professionals who support them – keep our country safe every single day. When CBP's officers and agents secure the border, they protect every city, county, and community across the nation.

Alien Apprehensions and Findings of Inadmissibility

From October 1, 2018, to September 30, 2019, the number of individuals apprehended or found inadmissible nationwide totaled 1,148,024, an increase of 68 percent over the previous fiscal year. Nationwide, U.S. Border Patrol (USBP) apprehensions rose 113 percent, totaling 859,501. Individuals found inadmissible by our Office of Field Operations (OFO) totaled 288,523, an increase of approximately three percent over the previous fiscal year. Our Air and Marine Operations (AMO) personnel assisted in the apprehension of 52,036 individuals, an increase of nine percent.

Narcotics, Currency, and Weapons

Narcotics interceptions also increased in Fiscal Year 2019. Border Patrol agents and CBP officers seized nearly 750,000 pounds of dangerous drugs nationwide, including cocaine, heroin, fentanyl, methamphetamines, and marijuana. Seizures of every drug category except marijuana saw meaningful increases.

Cocaine seizures by Border Patrol agents and CBP officers totaled nearly 101,000 pounds, an increase of 73 percent over Fiscal Year 2018. This includes an incident in June at the Port of Philadelphia where 40,000 pounds of cocaine was seized. AMO also contributed to the seizure or disruption of an additional 285,000 pounds of cocaine in the transit zone.

Similarly, USBP and OFO seizures of fentanyl rose 30 percent in Fiscal Year 2019 to reach nearly 2,800 pounds. Methamphetamine interceptions also increased, rising by 23 percent over Fiscal Year 2018 levels to total more than 83,000 pounds. Additionally, Border Patrol agents and CBP officers seized more than 6,200 pounds of heroin, an eight percent increase over Fiscal Year 2018.

CBP also seized more than \$75 million in illicit currency. At ports of entry, CBP officers seized 1,761 inbound weapons, an increase of 300 percent over Fiscal Year 2018. CBP officers also stopped nearly 1,100 weapons during outbound inspections, nearly 60 percent more than Fiscal Year 2018.

Gangs and Criminals

Behind virtually all of these threats are transnational criminal organizations (TCOs). TCOs are highly mobile, maintain sophisticated cross-border networks, and engage in a wide range of organized criminal activities including firearms trafficking, drug smuggling, human smuggling, and human trafficking.

Gangs such as Mara Salvatrucha (MS-13) and the 18th Street Gang have been a regional threat for many years, but they have now proliferated throughout the United States. They have taken full advantage of the migration crisis that has unfolded on our Southwest Border by hiding among these large groups of migrants in order to accompany these groups to enter our country, thereby threatening our population and confronting our domestic law enforcement partners with the daily risk of gang violence and narcotics and weapons trafficking.

In Fiscal Year 2019, Border Patrol arrests of gang members nationwide totaled 976 – up 20 percent from Fiscal Year 2018. Border Patrol agents encountered nearly 4,300 criminal aliens in Fiscal Year 2019, the vast majority of whom had outstanding warrants. At our Nation's ports of entry, CBP officers encountered more than 12,700 criminal aliens.

Facilitating Lawful Travel and Trade

The threat picture we face on our front line involves more than just national security. It also involves our economic security. Ensuring an efficient, secure supply chain, and safe and efficient international travel is imperative for a strong economy.

In Fiscal Year 2019, CBP processed more than 414 million travelers – a record high. Enrollment in our flagship Trusted Traveler Program, Global Entry, rose by 17 percent, and the program now serves more than 6.7 million travelers.

CBP is transforming the travel process by using facial biometrics as the key to enhance security and facilitate legitimate travel in all modes of transportation. CBP created a robust cloud-based matching service that leverages existing advance passenger information to create a pre-positioned “gallery” of face images from U.S. Government holdings.

Together with travel industry stakeholders and U.S. Government partner agencies, CBP is conducting various facial recognition pilots to facilitate the implementation of a streamlined biometric Entry/Exit system, as mandated by Congress. In the air environment, for example, CBP has successfully implemented facial recognition capabilities at 16 airports, including four Preclearance locations.

CBP also enhances our economic security by facilitating lawful trade while ensuring the safety and security of the global supply chain. CBP officers processed \$2.45 trillion in imports and screened 28.7 million containers, ensuring that the goods coming into the country are safe and legal. CBP also collected approximately \$74.5 billion in duties, taxes, and other fees in Fiscal Year 2019, including more than \$64.8 billion in duties – an increase of nearly 59 percent over the previous fiscal year.

Southwest Border: Humanitarian and National Security Crises

From October 1, 2018, to September 30, 2019, the number of individuals apprehended or found inadmissible by CBP on the Southwest Border reached 977,509, an increase of 87.6 percent over the previous fiscal year. That averages to nearly two apprehensions or findings of inadmissibility every minute of every day for the course of the entire year-long period. In addition, that number represents 85 percent of the 1.14 million individuals apprehended or found inadmissible nationwide in Fiscal Year 2019.

On the Southwest Border, the U.S. Border Patrol's apprehensions totaled 851,508 for Fiscal Year 2019, an increase of 115 percent over Fiscal Year 2018 apprehensions. That number also represents more apprehensions than full fiscal year totals for the previous ten years. During the month of May alone, a total of nearly 133,000 people crossed the border illegally between the ports of entry. In just one 24-hour period, we recorded more than 5,800 illegal border crossings, and on another single day, we had nearly 20,000 persons in custody.

In Fiscal Year 2019, USBP apprehended 473,682 individuals as part of family units, representing the highest number for any year on record and 342 percent higher than the previous year's record of 107,212. The number of Unaccompanied Alien Children (UACs) encountered between the ports totaled 76,020 in Fiscal Year 2019, 52 percent higher than the previous year's UAC total of 50,036. UAC and family units represented 64.5 percent of all individuals apprehended by the Border Patrol at the Southwest Border.

Exacerbating these challenges, USBP began apprehending large groups between ports of entry. 213 large groups, each comprised of more than 100 members (primarily Guatemalan and Honduran families), were apprehended between ports of entry in Fiscal Year 2019. In June, Border Patrol reached an unfortunate record when more than 1,000 migrants illegally entered the United States in the largest single group ever encountered – more than 900 people in family units and more than 60 UACs. Most recently, on October 23, Border Patrol agents in Tucson Sector encountered a group of 103 migrants near Sasabe, Arizona.

At our ports of entry on the Southwest Border, CBP officers encountered 126,001 inadmissible aliens in Fiscal Year 2019 – approximately 2,500 more than the previous fiscal year. Similar to what we have seen between the ports of entry, CBP is experiencing increased numbers of migrants at POEs, including family units and other aliens who arrive without documents sufficient for lawful entry. Large groups of inadmissible aliens, sometimes in the hundreds, arriving at POEs strain our processes and divert our officers from their priority missions, as our officers shift their focus to processing these migrants in a humane and efficient manner.

Reasons for Crisis

For decades, single adult males from Mexico constituted the vast majority of apprehensions made by USBP; however, we have seen a series of demographic changes along the Southwest Border in recent years. The majority of individuals encountered now originate from the three countries of Central America: Guatemala, Honduras, and El Salvador. In Fiscal Year 2019, 71

percent of all Southwest Border apprehensions came from the Northern Triangle, the vast majority of which were family units and UACs. In fact, the number of Northern Triangle migrants has exceeded the number of Mexican migrants in four of the past five fiscal years.

There are numerous “push” and “pull” factors contributing to this irregular migration. Some “push” factors that drive irregular migration from the Northern Triangle region include economic insecurity and limited employment and education opportunities. Rampant violence and gang activity have contributed to this exodus, as has climate change. The United Nations stated last year that lower-than-average rainfall and drier conditions have led to significant crop failures in the Northern Triangle, contributing to food insecurity.¹

As for “pull” factors, the robust U.S. economy and the growing job opportunities it offers undoubtedly appeal to many migrants fleeing Central America. Another “pull” factor is migrants’ pre-existing family ties. As of 2017, there were approximately 3.5 million Central American immigrants residing in the United States.² Roughly one-third of these immigrants are naturalized U.S. citizens, and most of those who received lawful permanent resident status in 2017 did so through family reunification channels.

Ongoing weaknesses and loopholes in our immigration laws serve only to contribute to the crisis. There are three key gaps in our legal framework that CBP has urged Congress to close.

First, the 1997 *Flores* Settlement Agreement requires the government to release alien minors from detention without unnecessary delay, or, if detention is required, to transfer them to non-secure, licensed programs “as expeditiously as possible.” In 2014, in response to the surge of alien families crossing the border, the Department of Homeland Security (DHS) increased the number of family detention facilities. Soon after, the U.S. District Court for the Central District of California reinterpreted *Flores* as applying not only to minors who arrive in the United States unaccompanied, but also to those children who arrive with their parents or legal guardians. The court also stated that ICE’s family detention facilities are not licensed and are secure facilities. These rulings limited DHS’s ability to detain family units for the duration of their immigration proceedings. Pursuant to this and other court decisions interpreting the *Flores* Settlement Agreement, DHS rarely detains accompanied children and their parents or legal guardians for longer than approximately twenty 20 days.

Human smuggling organizations have spread the word that, unlike single adult migrants from Mexico, UACs and families from Central America cannot be swiftly repatriated. Historically, families have been subject to expedited removals, but if they claim credible fear of torture or persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, then DHS has had to release them quickly – generally within 20 days – and

¹ Food and Agriculture Organization of the United Nations, FAO Regional Office for Latin America and the Caribbean. <http://www.fao.org/americas/noticias/ver/en/c/1150344/>

² United States Census Bureau 2010 and the 2017 American Community Surveys. Campbell J. Gibson and Emily Lennon, "Historical Census Statistics on the Foreign-Born Population of the United States: 1850-2000" (Working Paper no. 81, U.S. Census Bureau, Washington, DC, February 2006), [available online](#).

allow them to stay in the United States indefinitely while awaiting immigration court proceedings.

Second, the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Public Law 110-457, requires that the U.S. government extend certain protections to UACs. Specifically, the TVPRA requires that, once a child is determined to be a UAC, the child must be transferred to HHS within 72 hours, absent exceptional circumstances, unless the UAC is a national or habitual resident of a contiguous country and is determined to be eligible to withdraw his or her application for admission voluntarily (i.e., not a trafficking victim, does not have a fear of return, and is able to make an independent decision to withdraw). UACs from countries other than Canada and Mexico are exempt from the TVPRA provision allowing for the voluntary return of Canadian and Mexican UAC. During Fiscal Year 2019, 79 percent of the UACs apprehended by USBP on the Southwest Border originated in Northern Triangle countries. Therefore, these individuals fall outside the TVPRA expeditious voluntary return framework; cannot avail themselves of a voluntary return provision like UACs from Canada or Mexico; and further encumber HHS' resources to house UACs and DOJ's already-overburdened immigration courts.

Third, CBP has seen a significant increase in the number and percentage of aliens who seek admission or unlawfully enter the United States and then assert an intent to apply for asylum or claim a fear of persecution. This dramatic increase is due to the systemic deficiencies created by the ineffective legal standards, which further strains border security resources, immigration enforcement and courts, and other federal resources.

CBP carries out its mission of border security while adhering to legal obligations for the protection of vulnerable and persecuted persons. The laws of the United States, which are consistent with international treaties to which we are a party, allow people to seek asylum on the grounds that they have a well-founded fear of persecution in their country of nationality (or of last habitual residence, if stateless) on account of their race, religion, nationality, membership in a particular social group, or political opinion. Our laws also prohibit the removal of individuals to countries where they face a likelihood of torture. CBP understands the importance of complying with the law and takes its legal obligations seriously.

CBP has designed policies and procedures based on these legal standards to protect vulnerable and persecuted persons in accordance with these legal obligations. If a CBP officer or agent encounters an alien who is subject to expedited removal at or between ports of entry, and the person expresses an intention to apply for asylum, a fear of persecution or torture, or a fear of being returned to his or her home country, CBP processes that individual for a fear screening with an asylum officer. CBP officers and agents processing aliens for expedited removal do not make credible fear determinations for expedited removal. Nevertheless, economic migration is not, and has never been, a basis for claiming asylum. Those who exploit the low credible fear threshold deprive those who actually qualify for asylum the humanitarian protection they deserve.

CBP continues to raise concerns about fraudulent family units, where people falsely claim familial relationships – particularly to the children they are bringing. In Fiscal Year 2019, CBP

recorded 6,388 individuals as fraudulently claiming family relationships to one or more persons in their groups. Of this number, 4,554 were adults and 1,834 were juveniles.

To be clear, these families, and those posing as families, are generally not concerned with being caught by USBP – they actually turn themselves in, knowing that they will be processed and released with a court date that is scheduled in the future, often times with permission to work while their case is pending, as provided for under current law. Smugglers are exploiting this dynamic to encourage more migration and are benefiting from it financially every day under the current outdated laws that are encouraging this to occur. Closing these loopholes is also essential to protect American communities from MS-13 and other criminal gangs who exploit these catch-and-release policies to expand their criminal enterprise.

Throughout the current crisis, CBP has pursued, and continues to pursue, all avenues within its authority to promptly transfer, transport, process, release, or repatriate those in our custody, including family units and UACs. However, I must again stress that, without Congressional action to address outdated laws and judicial interpretations, member of these vulnerable populations will continue to fall victim to human smugglers and transnational criminal organizations.

Impacts

Impacts to migrants and those they leave behind are devastating: in the violence and lives lost along the journey, and in the flight of generations of youth from the countries of the Northern Triangle. The only people who profit are the TCOs who have added human smuggling to their business models, joining narcotics and weapons smuggling.

The impacts of this crisis on CBP have also been significant. The enormous numbers of migrants who arrived at our Southwest Border in Fiscal Year 2019 pulled CBP's law enforcement resources away from frontline mission-critical duties. For example, CBP temporarily shifted 731 CBP officers away from their duties at ports of entry in other areas of the country to assist Border Patrol agents on the Southwest Border. In addition, more than 3,600 Border Patrol agents from all over the nation have been sent to the Southwest Border to assist fellow agents as part of Operation Secure Line and Operation Southern Support.

Fewer officers at POEs meant that pedestrians, passenger vehicles, and commercial trucks trying to cross the border experienced delays at some ports of entry. Some ports of entry were forced to close travel lanes and curtail weekend cargo processing hours, all affecting the flow of commerce and travel into the United States.

The impacts on the Border Patrol were even more severe. In high-flow sectors, Border Patrol was forced to divert between 40 and 60 percent of its manpower away from the border security mission to provide humanitarian care to families and children. Further, this crisis depleted detention capacity of U.S. Immigration and Customs Enforcement (ICE) and greatly

overwhelmed its resources as ICE detention facilities became overcrowded amidst the crush of migrants seeking asylum.³

CBP's ability to transfer people out of its custody is dependent upon the capacity of our partners. Other agencies have more time than CBP to arrange placement before individuals enter their custody, and immigration courts can spread their dockets out over years. However, CBP must process individuals as they are apprehended and must maintain custody until our partners can accept them.

The influx of family units and UAC during Fiscal Year 2019 resulted in CBP facilities operating at unprecedented and unsustainable occupancy levels. CBP facilities are not designed to shelter families and children; rather, they are designed for single adults. In addition, the short-term holding facilities at ports of entry and Border Patrol stations were designed for neither large volumes of inadmissible persons and apprehensions nor long-term custody after processing is complete.

By way of reference, we generally consider 4,000 detainees to be a high number of migrants in custody. On any given day during the summer of Fiscal Year 2019, CBP held more than 8,000 detainees in custody. On June 3, the number was as high as 19,700 detainees.

Making Progress

Thanks to new programs and partnerships implemented this year, we no longer have a situation in which thousands of migrants are released into the U.S. to await court hearings. Working with the governments of Mexico, El Salvador, Guatemala, and Honduras, we are turning things around.

For example, CBP has enrolled more than 55,000 people in a program called the Migrant Protection Protocols, or MPP, whereby CBP returns many migrants to Mexico to await their immigration hearings. Decisions about whether a person is placed in MPP are made by CBP on a case-by-case basis and the decision-making process includes consultation with medical professionals. Unaccompanied minors should not be sent back to Mexico, according to the program guidelines, but children can be sent back with their parents or legal guardians. Mexico is providing humanitarian protections and even work-authorizations to these individuals during their stay.

The results have been encouraging. From a high of nearly 20,000 in custody in June at the Southwest border, in October we averaged about 3,600 – a number we feel is still too high. The average number of unaccompanied children in custody has been reduced from more than 2,700 in May to only about 100 in October. At border stations, times in custody have also been reduced dramatically, with children moving to well-equipped HHS facilities in less than 24 hours.

³ New York Times, April 22, 2019: "ICE Faces Migrant Detention Crunch as Border Chaos Spills Into Interior of the Country. <https://www.nytimes.com/2019/04/22/us/immigration-detention.html>

MPP remains a cornerstone of DHS' efforts to restore integrity to the U.S. immigration system and relieve the crushing backlog of pending cases. Our nation is more secure because of the program, and migrants with meritorious asylum claims can receive protection in months, rather than waiting in limbo for years.

DHS continues to invest in this critical program despite the potential of adverse court action. Disruption of MPP would negatively impact U.S. foreign relations, risk sparking a renewed humanitarian and security crisis at the border, and most benefit those who seek to profit from human misery.

Another example of progress is reflected by Mexico's deployment of nearly 25,000 troops under its new Mexican National Guard – increasing its presence on Mexico's own southern border and disrupting the transportation hubs and corridors used by human trafficking and human smuggling organizations.

El Salvador, Guatemala, and Honduras are deploying more people and resources to patrol their borders, combat human smuggling, and detect fraudulent documents. We are committed to working with other countries to increase asylum capacity in the region, as part of the United Nation's comprehensive refugee response framework.

September marked the lowest number of enforcement actions during all of Fiscal Year 2019 – 52,546 – down 64 percent from the peak in May of 144,116.

Thanks to emergency supplemental funding received in June, DHS added more than 5,000 beds. DHS also constructed temporary, soft-sided facilities erected specifically to accommodate families and children. This also mitigated the overcrowding of single adults. In addition, CBP has ensured access to showers at major stations, and we have dramatically increased migrants' access to hot meals and age-appropriate meals.

The Department has also increased the presence of certified medical professionals in Border Patrol stations and POEs from approximately 20 to 200. DHS has provided clear policy guidance to make sure that all children are screened by medically trained personnel – agents trained as EMTs as well as contracted medical professionals – while enhancing transportation capacity.

As we began to exceed capacity at our facilities on the Southwest Border, we worked with non-governmental organizations (NGOs) to do everything in CBP's power to release migrants to conditions that were safe and humane – not just to transportation hubs. It must be noted that the logistics of this kind of effort are challenging, and they are not part of our operational training or expertise.

CBP made significant efforts to connect national charities and relief organizations with local shelters and food banks in the most affected areas, including the El Paso, Rio Grande Valley, and Yuma Sectors. We also appreciate the support provided by local government agencies, who have stepped up to provide shelter and other critical services. We remain committed to

continuing to work with NGOs on the Southwest Border, and we are always grateful to them for their cooperation and assistance.

CBP is well aware of reports that migrants returned to Mexico face certain hardships, and this Administration is doing everything it can to work with the Government of Mexico and NGOs, and it also continues to discourage migrant families from making the dangerous journey to the United States from the outset.

Finally, CBP hiring outpaced attrition in Fiscal Year (FY) 2019. In fact, CBP surpassed FY18 hiring by 46 percent, hiring a total of 3,448 law enforcement personnel, compared to 2,357 in FY18.

Our top mission support priority is to recruit, hire, train, retain, and support a world-class, resilient workforce. To that end, in Fiscal Year 2019, our staffing levels for CBP officers increased by 1,034 for a total of 24,511. Our staffing levels for Border Patrol agents increased by 93, for a total of 19,648.

Several dozen improvements to CBP's hiring process, including the establishment of the National Frontline Recruiting Command, implementing an Applicant Care Program and exploring creative ways to use pay and compensation flexibilities have resulted in significant recruitment and hiring gains. We are also actively working to minimize attrition so we can retain experienced agents and officers so essential to securing the border.

Success Stories

CBP officers, agriculture and trade specialists, Border Patrol agents, and Air and Marine interdiction personnel all report for duty every day with a primary focus and a shared purpose: to prevent dangerous people and illicit contraband from entering this country.

In the midst of the crisis on our Southwest Border and under extraordinary, challenging circumstances, our agents and officers all over the country faithfully continued to perform their border security mission.

They continued to intercept dangerous drugs destined for the nation's interior. For example, at a highway checkpoint near Alamogordo, New Mexico, agents recently stopped more than 25 pounds of methamphetamine – worth more than \$850,000 – from reaching its destination in Kansas City, Missouri.

Fentanyl also continues to be a tremendous problem, contributing to 68,000 overdose deaths in the United States in 2018. CBP's seizures of fentanyl rose by 30 percent in Fiscal Year 2019 to total 2,770 pounds. At a pedestrian border crossing in Tucson, Ariz., for example, CBP officers caught a woman smuggling more than four pounds of fentanyl – worth nearly \$50,000 – in packages tied around her waist.

We know that for every seizure of synthetic opioids, especially fentanyl and its analogues, a life is potentially saved. But we also know that, for the vast majority of overdose deaths in this

country, we failed to detect the substance when it entered this country. We take this scourge very seriously.

DHS is bringing all its resources to bear in this fight. For example, in partnership with the Office of National Drug Control Policy, the U.S. Postal Inspection Service, and DHS Science and Technology Directorate, CBP has launched a \$1.5 million global prize competition calling on innovative companies to propose technologies to detect opioids in the international mail pathway. We plan to announce the winner of the competition next month.

Our agents and officers also continued to prevent criminals and gang members from entering the United States. For example, near Lukeville, Arizona, Border Patrol agents apprehended a Honduran national who was an admitted member of the violent MS-13 gang. The man tried to enter the country by mingling with a large caravan of migrants from Central America.

They continued to prevent criminals and gang members – people who wreak havoc in communities all across this country – from fleeing U.S. justice. For example, in Presidio, Texas, CBP officers working outbound operations apprehended a man who was wanted for a double homicide in Durham, North Carolina.

They continued to disrupt the southbound flow of illicit currency and weapons into Mexico. For example, in Hidalgo, Texas, CBP officers intercepted \$715,000 in unreported currency in a commercial bus on its way into Mexico.

And they continued to go above and beyond, rescuing people at risk of drowning in rivers and canals, dying in the desert, or abandoned in locked tractor-trailers. For example, near Eagle Pass, Texas, Border Patrol agents rescued 13 Honduran migrants, including six children, who were struggling in the swift current and deep waters of the Rio Grande River.

In fact, in Fiscal Year 2019, U.S. Border Patrol agents rescued more than 4,900 people on our Southwest Border alone. This kind of heroism was also demonstrated on our Northern and Coastal borders as well. For example, in October 2018, an AMO helicopter crew rescued a stranded hiker trapped on a mountain overnight near Bellingham, Washington. And in September, AMO organized the transport of generators, clothing, and other supplies to the Bahamas to help victims of Hurricane Dorian.

We Need Congress to Act

Although we have seen a decrease in the levels of apprehensions beginning in June of this year compared to previous months, irregular migration remains high, continues to overtax our finite law enforcement resources, and detracts from our national security mission.

We have dedicated every available resource to address the mass migration to our borders, including personnel, technology, infrastructure, and innovative outreach and engagement with international and non-governmental industry partners. However, despite our efforts, the system remains broken. As numerous DHS and CBP witnesses have stated in testimony before this

Committee, Congress must act to close the loopholes in our nation's immigration system that are being exploited daily.

Conclusion

We appreciate the continuous engagement we have had with Congress throughout the crisis on the Southwest Border. While we continue to discuss the best approach to mitigate the crisis and while we continue to work with our international partners on ways to address irregular migration, we urge Congress to take legislative action in support of CBP, our partners, and the rule of law.