

POLICY BRIEF

**RECOMMENDATIONS
FOR THE NEW
ADMINISTRATION**

Redefining and Governing the Border as a Binational Commons

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This brief is part of a series of policy recommendations for the administration of President Joe Biden. Focusing on a range of important issues facing the country, the briefs are intended to provide decision-makers with relevant and effective ideas for addressing domestic and foreign policy priorities. View the entire series at www.bakerinstitute.org/recommendations-2021.

The U.S.–Mexico border was established, as it stands today, in the late 1840s and the early 1850s. The last territorial dispute between the two countries was settled in the 1960s.¹ Since then, both countries have sought to establish full control of the 2,000-mile-long land strip, first considered a frontier and then a border that separates and unites two very different nations. To accomplish this, both Washington and Mexico City set out to create institutions² to govern shared natural resources, common environmental issues, public safety and security concerns, human mobility and migration patterns, public health crises, crossborder infrastructure and, more recently, trade and economic integration and energy markets. The resulting institutions are many—in the form of treaties, accords, organizations, working groups, conferences, etc.—and built to manage a complex relationship and its multidimensional features.

However, these institutions have evolved unevenly and progressed at different speeds, depending on the issue and the time, often in response to crisis and frequently by unilateral action. For example, to this day, there is no fully accepted definition of the borderland or

accurate assessment of the issues that should be considered binational.³ Yet, 15 million border residents (and many U.S. and Mexico residents living well beyond the borderline) depend on a well-managed border regarding issues as varied as water resources, infrastructure, trade, migration, security, and now climate change and public health. Even so, in general, there are relatively low levels of policy coordination between the two countries regarding their joint border⁴ and a low degree of local input, which points to a democratic deficit in border communities.⁵

Incomplete institution-building, with consequent low levels of policy coordination, is making the border not only an uninhabitable region for millions of people but also a burdensome transactional cost on the local and national economies, wasting an opportunity to see the border as a resource not only for border counties and states but also for both nations. The border has also become a heavy burden on the U.S. federal budget, with few problems resolved on the basis of the increased level of investment to control it—whether it be more financial resources, a greater number of agents, additional technology, or a border wall.



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RESETTING U.S.–MEXICO BORDER GOVERNANCE

The reconfiguration of global politics in the third decade of the 21st century, the direct and indirect costs of ineffective border management, and the emergence of anti-democratic politics focused on the border in recent years call for a reconsideration of the way both countries govern the border. Doing so, however, would involve the search for a more robust institutional scaffolding to deal with shared problems, on whose solutions depends a safer and more prosperous North American continent.

The Biden administration (2021–2025) should reexamine the assumptions behind the way the border is governed and seek to build better governance infrastructure to improve border management, lower its costs, make border operations more efficient and, wherever possible, create binational institutions that can take the border from being a transaction cost to being a resource for border residents and both countries. Below we offer some recommendations aimed at reconsidering border governance and at engaging a process toward its improvement. These recommendations are not directed at solving specific issues at hand, but at seeking to strengthen the institutional scaffolding that will then identify concerns and seek to increase policy coordination between the two countries to solve them in a sustained manner.

1. Create a Blue Ribbon Commission composed of former border officials, nongovernmental organizations, businesses, and experts to examine the basic assumptions on which current border management is built; the state of the institutional scaffolding dedicated to border management; the true costs and benefits of present investment on border management and its effectiveness; and the level of democracy of these institutions. The commission should make substantive recommendations, identifying and defining a different approach to governance, ways to save resources on its management, methods

to strengthen and build the institutions and organizations of border governance, and ways to increase local participation in the way the border is run.

2. Consider, in building on the strength of current institutions and organizations for border governance, the following suggestions:
 - a. Expanding the mandate of the International Boundary and Water Commission (IBWC) to include underground water resources, special climate change conditions and the impact on water resources, and other environmental issues.
 - b. Studying whether the IBWC can serve as a model institution to deal with issues having to do with cross-border infrastructure, border security, joint public health concerns, and human mobility and labor market integration. This would require negotiating new agreements with Mexico.
 - c. Enhancing the profile and mandate of the North American Development Bank over cross-border infrastructure projects of many different kinds, with powers to aid in the identification, elaboration, financing, and permitting processes of these projects, etc.
 - d. Establishing consultation processes to gather the input of border residents and stakeholders and systematize the ways in which their input is entered into the decision-making process regarding border issues.
 - e. On the state and local levels, revitalizing the Border Governors Conference, strengthening the Border Mayors Association, institutionalizing the Border Legislative Conference, and providing all three with an autonomous organization and funds to improve policy coordination and create more efficacious mechanisms of cooperation and communication to address shared challenges.

3. Prioritize modernization investments in land ports of entry to meet security needs and facilitate trade and mobility for a growing border population, as well as explore the role of private/public partnerships in balancing border security and efficiency.

By creating more effective governance institutions, these steps are directly related to the restart and reestablishment of concrete channels to deal with binational issues at the border, resulting in a stronger continent. A better border makes us all stronger.

ENDNOTES

1. Tony Payan, “How a Forgotten Border Dispute Tormented U.S.–Mexico Relations for 100 Years,” *Americas Quarterly*, February 8, 2016, <https://www.americasquarterly.org/fulltextarticle/how-a-forgotten-border-dispute-tormented-u-s-mexico-relations-for-100-years/>.

2. The word *institution* deserves a definition in this context. Although it is often used as a synonym for the term *organization*, its meaning is much more comprehensive. It can mean an organization or a corporation, characterized by a physical location, personnel, operating procedures, and budgets, as well as a mandate; but it can also mean a set of laws, norms, agreements, or regulations which establish commitments and sanctions for compliance or violation; or it can even be a significant practice, custom, or relationship which creates clear expectations of behavior among participants.

3. Payan, Tony and Pamela L. Cruz. 2017. *Managing the U.S.–Mexico Border First Requires Defining It*. Issue brief no. 04.20.17. Rice University’s Baker Institute for Public Policy, Houston, Texas.

4. Tony Payan and Pamela L. Cruz, eds., *Binational Commons: Institutional Development and Governance on the U.S.–Mexico Border* (Tucson: The University of Arizona Press, 2020).

5. Tony Payan, “Crossborder Governance in a Tristate, Binational Region,” in *Cities and Citizenship at the U.S.–Mexico Border: The Paso del Norte Metropolitan Region*, ed. Kathleen Staudt, César M. Fuentes, and Julia E. Monárrez Fragoso (New York: Palgrave Macmillan, 2010), 217–244.

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