

# CRS Report for Congress

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## **Mexico-U.S. Relations: Issues for the 109<sup>th</sup> Congress**

**Updated February 21, 2006**

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# Mexico-U.S. Relations: Issues for the 109<sup>th</sup> Congress

## Summary

The United States and Mexico have a special relationship as neighbors and partners under the North American Free Trade Agreement (NAFTA). The friendly relationship has been strengthened by President Bush's meetings with President Fox. This report, covering trade, migration/border, drug trafficking, and political issues, will be updated on a regular basis, with action on migration issues expected.

**Trade Issues.** Since 1994, NAFTA institutions have been functioning, trade between the countries has tripled, and allegations of violations of labor and environmental laws have been considered by the trilateral institutions. The Bush Administration argues that NAFTA has had modest positive impacts on all three member countries, but Mexican farmers have strongly criticized the effects of NAFTA. Notable bilateral trade disputes relate to trucking, telecommunications, tuna, sweeteners and anti-dumping measures.

**Migration/Border Issues.** In recent years, President Bush has called for immigration reform, and various congressional initiatives are under consideration. In May 2005, Congress passed the REAL ID Act of 2005, with provisions that strengthen border control and establish identity card standards for drivers' licenses. In June 2005, U.S., Canadian, and Mexican officials released a Report to Leaders with initiatives for trilateral cooperation under the "Security and Prosperity Partnership (SPP) of North America." In November 2005, the Administration launched initiatives to better secure U.S. borders. In December 2005, the House passed H.R. 4437 (Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005) that would strengthen border and immigration controls, including deployment of a fence and surveillance equipment along the Mexico-U.S. border.

**Drug Trafficking Issues.** Bush Administration officials have regularly praised Mexico's counter-narcotics efforts under Fox, especially action against major traffickers and efforts to improve the judicial system. Mexico remains the leading transit country for cocaine and a leading supplier of methamphetamine and numerous U.S. extradition requests were denied because of Mexico's prohibition against life sentences and capital punishment, however in November 2005 the Mexican Supreme Court overturned the prohibition against life sentences. Several bills (H.R. 3889, H.R. 2601) have been reported by committees to encourage a reduction of smuggling of methamphetamine from Mexico. The Foreign Operations Appropriations Act (H.R. 3057/P.L. 109-102) was enacted in November 2005, barring assistance to a country that refuses to extradite individuals accused of killing U.S. law enforcement officers, unless the Secretary of State certifies that such application is contrary to U.S. national interests.

**Political and Human Rights Issues.** Major party candidates for the July 2006 elections are Andres Manuel Lopez Obrador (PRD), Felipe Calderon (PAN), and Roberto Madrazo (PRI). In early 2006, attacks on press freedom are a cause of concern. While presenting the First Report on the government's National Human Rights Campaign on December 9, 2005, President Fox announced the abolition of the death penalty in Mexico and declared that Mexico fully respected human rights.

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# Mexico-U.S. Relations: Issues for the 109<sup>th</sup> Congress

## Most Recent Developments<sup>1</sup>

On December 16, 2005, the House passed H.R. 4437 (Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005) that would strengthen border security and employment screening, mandate retention of illegal immigrants, make it a crime to be in the United States illegally or to assist illegal aliens, and require the deployment of a fence and surveillance equipment along the Mexico-U.S. border. On December 16, 2005, the Mexican Foreign Ministry issued a press release asserting that reform that focuses only on security will be inadequate and pledging that the Mexican government would intensify efforts to encourage a comprehensive immigration reform in the United States, including a temporary worker program. On February 13, diplomats from 11 Latin American countries, including Mexico, met in Cartagena, Colombia, to coordinate diplomatic efforts against the construction of a wall along the U.S. border with Mexico.

On January 3, 2006, the Mexican Embassy in Washington, D.C. requested an investigation of the shooting of Mexican citizen Guillermo Martinez by a Border Patrol agent near San Diego, and on January 15, 2006, the Mexican Consulate in McAllen, Texas requested an investigation of the shooting of Mexican citizen Ismael Segura by a Texas police officer.

On January 23, 2006, Texas law enforcement encountered three SUVs believed to be smuggling marijuana into the United States. Department of Public Safety (DPS) troopers and Hudspeth County Sheriff Deputies pursued three SUVs believed to be loaded with marijuana toward the border where a humvee of armed men dressed in military style uniforms was sighted on the U.S. side of the border. The U.S. Ambassador to Mexico requested that the Mexican government investigate the incident. The Mexican government has stated that there was no Mexican military involvement. U.S. and Mexican authorities continue to investigate the incursion.

On February 3, 2006, the U.S. Department of Treasury requested that Starwood Hotels expel a Cuban delegation staying at the Maria Isabel Sheraton Hotel in Mexico City to attend a U.S.-Cuba energy seminar. U.S. sanctions prohibit U.S. corporations from conducting business with Cuba. Mexico's congress called for its government to send a diplomatic note to the United States asserting that the expulsion of the Cubans violated Mexico's sovereignty. Foreign Minister Luis

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<sup>1</sup> This report was originally written by K. Larry Storrs, who retired from CRS in February 2006.

Ernesto Derbez determined such action was unnecessary as the hotel is facing penalties under Mexican law. The hotel faces closure and fines of up to \$500,000.

## **U.S.-Mexico Relationship<sup>2</sup>**

### **Major Bilateral Linkages**

Mexico surpassed Japan in 1999 to become the United States' second most important trading partner following Canada. It is also the leading country in Latin America in terms of U.S. investment, with the total stock of U.S. investment being about \$61 billion in 2003. In addition, cooperation with Mexico is vital in dealing with illegal immigration, the flow of illicit drugs, and a host of border issues.

The United States is Mexico's most important customer by far, receiving about 87% of Mexico's exports, including petroleum, automobiles, auto parts, and winter vegetables, and providing about 77% of Mexico's imports. The United States is the source of over 60% of foreign investment in Mexico, and the primary source of important tourism earnings.

Until the early 1980s, Mexico had a closed and statist economy and its independent foreign policy was often at odds with the United States. Beginning under President Miguel de la Madrid (1982-1988), and continuing more dramatically under President Carlos Salinas de Gortari (1988-1994) and President Ernesto Zedillo (1994-2000), Mexico adopted a series of economic, political, and foreign policy reforms. It opened its economy to trade and investment, adopted electoral reforms that leveled the playing field, and increased cooperation with the United States on drug control, border issues, and trade matters. Cooperation under the North American Free Trade Agreement (NAFTA) and the annual cabinet-level meetings of the Binational Commission are the clearest indications of the close and increasing relationships between the countries.

### **Fox Administration**

Vicente Fox of the conservative Alliance for Change coalition was inaugurated as President on December 1, 2000, for a six-year term, promising to promote free market policies, to strengthen democracy and the rule of law, to fight corruption and crime, and to end the conflictive situation in the state of Chiapas. Fox's inauguration ended 71 years of presidential control by the long dominant party.

Fox was elected with 42.52% of the vote in the July 2, 2000 elections, with support from the conservative National Action Party (PAN) and the Green Ecological Party of Mexico (PVEM), which formed the Alliance for Change. Francisco Labastida from the long-ruling and centrist Institutional Revolutionary Party (PRI) came in second with 36.10% of the vote. Cuauhtemoc Cardenas from the leftist

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<sup>2</sup> This report draws heavily from CRS Report RL31876, *Mexico-U.S. Relations: Issues for the 108<sup>th</sup> Congress*, by K. Larry Storrs. That report summarizes legislation passed by the 108<sup>th</sup> Congress.

Alliance for Mexico came in third with 16.64% of the vote, with support from the center-left Party of the Democratic Revolution (PRD) and four minor leftist parties.

Results from the July 2000 legislative elections produced a pluralistic legislature where none of the major parties had a majority in either chamber. In the 128-member Senate, the PRI has 60 senators, the PAN has 46, and the PRD has 15.<sup>3</sup> Following the July 2003 elections to renew the Chamber of Deputies, the PAN dropped from 206 deputies to 153 deputies (31% of the total), putting it in a weaker position to support Fox's program, while the PRI's delegation increased from 211 to 224 (45% of the total) and the PRD's delegation increased from 50 to 95 (19% of the total).<sup>4</sup>

**Economic and Social Challenges.** With nearly 90% of the country's exports going to the United States, Mexico's economy was strongly affected by the slowdown in the United States following the terrorist attacks. Mexico's economy contracted 0.8% in 2001, and grew only 0.9% in 2002 and 1.3% in 2003, but it revived strongly in 2004 with a 4.4% growth rate, the best in Fox's presidency. Economic growth in 2005 is estimated to be at least 3% with a record 750,000 jobs created. The earlier meager growth results under Fox contrasted with economic growth averaging over 5% in the previous six years. Under the circumstances, President Fox has been forced to operate under austere budgets in 2001, 2002, 2003, and 2004, reducing the funding for promised health and education programs. Lacking majority support in Congress, Fox has been unable to obtain approval of major legislation, including a proposed tax reform and a proposed energy reform that would permit greater private participation in the hydrocarbon and electricity sectors, although Congress did pass a social security reform in July 2004.

**Political and Security Challenges.** President Fox has promised to end corruption, to operate a more transparent and open government, to strengthen the government's commitment to human rights, and to end the uncertainties relating to the state of Chiapas. He encouraged congressional passage of indigenous rights legislation in 2001, but the rebellious Zapatistas denounced the legislation as inadequate. He has attempted to professionalize the police under a new public security ministry to deal with widespread public concerns with security and police corruption, and he has undertaken vigorous efforts against illicit drug traffickers. In late March 2004, he proposed a judicial reform that would make the criminal justice system more efficient, transparent, and public, but the Mexican Congress did not complete action on the proposal. In December 2004, President Fox followed up with a series of proposed human rights reforms to discourage torture and to strengthen the rights of defendants in Mexico.

**Foreign Policy Challenges.** President Fox has indicated that Mexico will pursue a more activist and diversified foreign policy, with greater involvement in UN activities, and stronger ties to Latin America and Europe. He has promoted the so-called Puebla-Panama Plan, which promotes cooperative development efforts

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<sup>3</sup> For more detail on the 2000 elections, see CRS Report RS20611, *Mexico's Presidential, Legislative, and Local Elections of July 2, 2000*, by K. Larry Storrs.

<sup>4</sup> For more detail on the 2003 elections, see CRS Report RS21561, *Mexico's Congress and July 2003 Elections*, by K. Larry Storrs.

among the Central American countries and the southeastern states of Mexico. He is reviving the G-3 group (Colombia, Venezuela, and Mexico), and is seeking better ties with the Southern Common Market (Mercosur) countries in South America. He has sought to expand trade with the European Union under the EU-Mexico free trade agreement that went into effect in July 2000, and with Japan under the Mexico-Japan free trade agreement that entered into force in April 2005. Mexico held a temporary seat on the U.N. Security Council in 2002 and 2003 and expressed support for continuing diplomatic efforts under United Nations auspices to achieve the disarmament of Iraq, leading to expressions of disappointment from the Bush Administration.

President Fox has encouraged warm and friendly relations with the United States, and he has called for greater cooperation under NAFTA and for a bilateral migration agreement that would regularize the status of undocumented Mexicans in the United States. (See *Migration/Border Issues* below for more detail.) In 2001, Presidents Fox and Bush met in mid-February in Mexico, in mid-April in Canada, in early May in the United States, in early September in the United States on an official state visit, and in early October in the United States when President Fox expressed solidarity with the United States following the terrorist attacks. In 2002, the Presidents met in March in Monterrey, Mexico, following the U.N. conference on development, and in October in Los Cabos, Mexico, at the Asia-Pacific Economic Cooperation (APEC) summit. Relations seemed to be especially warm in 2001 when hopes were high for some sort of migration agreement, but the relationship cooled to some extent when the migration talks stalled following the terrorist attacks on the United States and when Mexico was reluctant to support U.S. action in Iraq in the UN Security Council. In 2003, the Presidents met in October, in Bangkok, Thailand, at the Asia-Pacific Economic Cooperation (APEC) summit, where they reaffirmed the desire to discuss bilateral immigration issues. In 2004, the Presidents met in January, in Monterrey, Mexico, for the Special Summit of the Americas, in March at President Bush's ranch in Crawford, Texas, and in November at the APEC summit in Santiago, Chile, with all three occasions providing opportunities to discuss President Bush's new immigration proposal. In 2005, the Presidents met in March in Texas, along with Prime Minister Martin of Canada, and launched the trilateral "Security and Prosperity Partnership (SPP) of North America."

## **Bilateral Issues for Congress**

### **Trade Issues**

Trade between Mexico and the United States has grown dramatically in recent years, under the North American Free Trade Agreement (NAFTA) between the United States, Mexico, and Canada. Total U.S. trade with Mexico more than tripled in 10 years, from \$81.5 billion in 1993 to a high of \$266.6 billion in 2004, but the balance of U.S. trade with Mexico has shifted from a surplus of \$1.3 billion in 1994 to a generally growing deficit of \$45 billion in 2004 (exports of \$110.8 billion; imports of \$155.8 billion), in part because of the late 1994 devaluation of the peso which made Mexican products cheaper. This change in the trade balance has caused some Members of Congress to question the benefits of NAFTA. Despite the deficit,

Mexico is one of the fastest growing export markets for the United States in recent years, and it became the second most important trading partner after Canada in 1999.

The NAFTA agreement was negotiated in 1991 and 1992, and side agreements on labor and environmental matters were completed in 1993. The agreements were approved by the respective legislatures in late 1993 and went into force on January 1, 1994. Under the agreements, trade and investment restrictions are being eliminated over a 15-year period, with most restrictions eliminated in the early years of the agreement. Over the years, Clinton Administration and Bush Administration spokesmen have argued that NAFTA has been successful in increasing U.S. exports to Mexico, particularly in heavily protected areas such as agricultural products, and in promoting job creation and investment in both countries.

**Functioning of NAFTA Institutions.** Several NAFTA institutions mandated by the agreements have been functioning since 1994. The tripartite Commission on Environmental Cooperation (CEC) was established in Montreal, Canada; and the Commission for Labor Cooperation (CLC) was established in Dallas, Texas. In addition, the bilateral Border Environment Cooperation Commission (BECC), located in Ciudad Juarez, Mexico; and the North American Development Bank (NADBank), headquartered in San Antonio, Texas, were created to promote and finance border environment projects along the U.S.-Mexico border. Following up on a March 2002 agreement by Presidents Bush and Fox in Monterrey, Mexico, to broaden the mandate of the NADBank, Congress agreed in March 2004 to permit the NADBank to make grants and nonmarket rate loans for environmental infrastructure along the border, and the measure (H.R. 254) was signed into law (P.L. 108-215) on April 5, 2004.

The NAFTA institutions have operated to encourage cooperation on trade, environmental and labor issues, and to consider nongovernmental petitions under the labor and environmental side agreements.

Under the *labor* side agreement, 34 petitions have been submitted alleging noncompliance by one of the NAFTA countries with existing labor legislation, and 22 of these have been against Mexico, although some of the cases against the United States involve working conditions and compensation for migrant workers.

Eleven submissions against Mexico were advanced to the next stage of ministerial consultations. In one case, the U.S. National Administrative Office (NAO) found that ministerial consultations were unnecessary as the record sufficiently established a violation of Mexican labor law, and the others were dropped or rejected on procedural grounds. In October 2003, complaints were jointly filed in Canada and the United States alleging violations of workers' rights in garment factories in Puebla, Mexico. In August 2004, the U.S. NAO recommended ministerial consultations. The Canadian NAO also recommended ministerial consultations in May 2005. In the past year, three new submissions have been filed against Mexico. In February 2005, the Washington Office on Latin America (WOLA) and a coalition of labor unions filed a submission alleging that the labor law reform proposed by the Mexican government violates workers' rights protected under the Mexican Constitution and the North American Agreement on Labor Cooperation. In May 2005, the Airline Pilots Association of Mexico alleged that Mexico had



violated its rights to organize and collective bargaining. A submission filed in January 2006 alleges violations of workers' rights, forced labor and child labor at a Rubie's de Mexico plant in Tepeji del Rio, Hidalgo.

Under the trilateral CLC, the countries are cooperating in many areas, especially occupational safety and rights of working women and children. Some argue that the provisions have encouraged Mexico to enforce its own labor legislation. Others argue that the provisions have been extremely weak and that numerous abuses persist.<sup>5</sup>

Under the *environmental* side agreement, 27 of the 53 petitions submitted since 1995 alleging non-compliance with environmental legislation involve Mexico. Five of the 11 active cases before the Commission for Environmental Cooperation Secretariat involve Mexico. In a major case involving the environmental impact of the construction of a cruise boat port in Cozumel, Mexico, the Council requested a response from the Mexican government and after evaluation directed the CEC Secretariat to prepare a full factual record on the case to highlight deficiencies. After receiving comments from Canada, Mexico, and the United States, the Council voted to make the factual report publicly available in October 1997. In 2006 the Commission closed a case involving Mexico and has acted on two of the five remaining cases that involve Mexico. On January 9, 2006, the Secretariat published the final record finding that Mexican government failed to respond within the time frame required by Mexican law to citizen complaints alleging illegal logging and mineral extraction filed by 28 members of indigenous communities in the Sierra Tarahumara. On January 10, 2006, the Council received a response from the Mexican government to a petition alleging that construction of a liquid natural gas reliquification terminal off the coast of Baja, California, is in violation of Mexican law. The council is now reviewing the petition and response to determine if it is necessary to prepare a full factual record. On January 27, 2006, the Council acknowledged receipt of a petition alleging that the Mexican government's cleanup of heavy metal contamination at the site of former BASF Mexico facilities does not sufficiently protect residents of Cuautla, Morelo, from exposure to heavy metals.<sup>6</sup>

The CEC also developed plans and reports to facilitate North American cooperation on environmental matters. In October 2005, the CEC began a project to analyze blood samples of first-time mothers in Canada, Mexico and the United States to determine maternal exposure to environmental contaminants. In November 2005, the CEC published North American Conservation Action Plans to improve cooperation in the conservation of each of the six species identified to be of particular concern under the Strategic Plan for North American Cooperation for the Conservation of Biodiversity. The six species of concern are the humpback whale, black-tailed prairie dog, ferruginous hawk, Pacific leatherback sea turtle, pink-footed

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<sup>5</sup> For more information on the functioning of this institution, see CRS Report 97-861, *NAFTA Labor Side Agreement: Lessons for the Worker Rights and Fast-Track Debate*, by Mary Jane Bolle.

<sup>6</sup> For more information, see CRS Report 97-291, *NAFTA: Related Environmental Issues and Initiatives*, by Mary Tiemann.

shearwater, and Western burrowing owl. In January 2006, the CEC published a report on children's health and environmental indicators in North America.

**Recent Trade Disputes.** Major trade disputes between the countries involve: the access of Mexican trucks to the United States; opening the Mexican telecommunications sector to international long distance competition; the access of Mexican sugar and tuna to the U.S. market; the access of U.S. sweeteners to the Mexican market; and Mexico's recently removed ban on U.S. beef products following the discovery of mad cow disease.

With respect to trucking issues, the Mexican government objected to the Clinton Administration's refusal, on safety grounds, to allow Mexican trucks to have access to U.S. highways under the terms of the NAFTA pact. A NAFTA dispute resolution panel supported Mexico's position in February 2001. President Bush indicated a willingness to implement the provision, but the U.S. Congress required additional safety provisions in the FY2002 Department of Transportation Appropriations Act (P.L. 107-87). On November 27, 2002, with safety inspectors and procedures in place, the Administration announced that it would begin the process that will open U.S. highways to Mexican truckers and buses, but environmental and labor groups went to court in early December to block the action. On January 16, 2003, the U.S. Court of Appeals for the Ninth Circuit ruled that full environmental impact statements were required before Mexican trucks would be allowed to operate on U.S. highways, but the U.S. Supreme Court reversed that decision on June 7, 2004. On September 22, 2004, the House approved 339-70 an amendment to the Transportation-Treasury Appropriations (H.R. 5025) that would prohibit implementation of a rule allowing Mexican and Canadian truck operators an additional two years to bring their trucks into compliance with U.S. safety provisions, and this was eventually incorporated into the Consolidated Appropriations Act for FY2005 (H.R. 4818/P.L. 108-447) that was approved by the Congress and the President in November-December 2004. Movement toward implementation is being made as safety and operational concerns are addressed.

Regarding telecommunications issues, the United States filed a complaint with the World Trade Organization (WTO) in August 2000, following previous warnings, over Mexico's failure to reduce Telmex's continuing dominant position in the telecommunications industry. Despite efforts to reach a negotiated solution, the USTR's April 2001 report on telecommunication trade barriers cited Mexico for continued failure to open its long-distance market to competition, and in mid-February 2002, it requested a WTO dispute resolution panel to rule on the U.S. complaint. On March 12, 2004, the dispute panel issued its final report, generally upholding U.S. claims and finding that Telmex interconnection fees were above what cost-oriented rates should be. In June 2004, Mexico agreed to settle the dispute in accordance with the panel's findings, and in August 2005 it adopted regulations providing non-discriminatory treatment to foreign carriers, after which the countries ended dispute panel proceedings.

With regard to sugar/sweetener issues, Mexico argues that it is entitled to ship its net sugar surplus to the United States duty free under NAFTA, while the United States argues that a sugar side letter negotiated along with NAFTA limits Mexican shipments of sugar. Mexico also complains that imports of high fructose corn syrup

(HFCS) sweeteners from the United States constitute dumping, and it imposed anti-dumping duties for some time, until NAFTA and WTO dispute resolution panels upheld U.S. claims that the Mexican government colluded with the Mexican sugar and sweetener industries to restrict HFCS imports from the United States. In late 2001, the Mexican Congress imposed a 20% tax on soft drinks made with corn syrup sweeteners to aid the ailing domestic cane sugar industry, and the tax was extended in late 2002, 2003, and 2004, despite U.S. objections. In 2004, USTR initiated WTO dispute settlement proceedings against Mexico's HFCS tax, and following interim decisions, the WTO panel issued a final decision on October 7, 2005, essentially supporting the U.S. position. About the same time, the United States announced a new tariff-rate quota of 250,000 metric tons of raw or refined sugar from Mexico in FY2006, and Mexico followed suit by allowing up to 250,000 metric tons of HFCS from the United States in the same period. In mid-November 2005, the Mexican Senate extended the tax on HFCS products, and in early December 2005, Mexico decided to appeal the adverse panel ruling.

On tuna issues, the Clinton Administration lifted the embargo on Mexican tuna in April 2000 under relaxed standards for a dolphin-safe label in accordance with internationally agreed procedures and U.S. legislation passed in 1997 that encouraged the unharmed release of dolphins from nets. However, a federal judge in San Francisco ruled that the standards of the law had not been met, and the Federal Appeals Court in San Francisco sustained the ruling in July 2001. Under the Bush Administration, the Commerce Department ruled on December 31, 2002, that the dolphin-safe label may be applied if qualified observers certify that no dolphins were killed or seriously injured in the netting process, but Earth Island Institute and other environmental groups filed suit to block the modification. On April 10, 2003, the U.S. District Court for the Northern District of California enjoined the Commerce Department from modifying the standards for the dolphin-safe label. On August 9, 2004, the federal district court ruled against the Bush Administration's modification of the dolphin-safe standards, and reinstated the original standards in the 1990 Dolphin Protection Consumer Information Act, but that ruling is being appealed.

On other issues, in early October 2002, the U.S.-Mexico working group on agriculture dealt with major agricultural issues, including Mexico's recent anti-dumping decisions on apples, rice, swine, and beef, and safeguard actions on potatoes. In January 2003, the countries agreed to permit Mexican safeguard measures against U.S. imports of chicken legs and thighs, and in July 2003, these safeguard measures were extended until 2008, with tariffs declining each year. In October 2003, Mexico demanded further consultations on a U.S. request for a WTO dispute panel to rule on Mexico's imposition of anti-dumping duties on rice imports, but a WTO panel was formed in February 2004, and it issued a preliminary ruling in March 2005 that was favorable to the United States. Mexico banned beef imports from the United States in December 2003 following the discovery of one cow infected with mad cow disease in Washington state. In early March 2004, following the announcement of new U.S. procedures that would exclude unhealthy or downer cattle from the food chain, Mexico announced that it was resuming beef trade with the United States, with some restrictions, and it expanded the list of eligible beef products in early April 2004.

## Migration/Border Issues

**Nature of the Immigration Problem.** Widely cited demographers at the Pew Hispanic Center estimated in June 2005 that there were 5.9 million undocumented Mexican migrants residing in the United States in 2004, accounting for 57% of the total estimated illegal alien population of 10.3 million.<sup>7</sup> Mexico takes the view that the migrants are “undocumented workers,” making the point that since the U.S. market attracts and provides employment for the migrants, it bears some responsibility. Mexico regularly voices concern about alleged abuses suffered by Mexican workers in the United States, and for the loss of life and hardships suffered by Mexican migrants as they utilize increasingly dangerous routes and methods to circumvent tighter border controls. Mexico benefits from illegal migration in at least two ways: (1) it is a “safety valve” that dissipates the political discontent that could arise from higher unemployment in Mexico; and (2) it is a source of remittances by workers in the United States to families in Mexico, estimated to be about \$10 billion per year.

In the 1980s and 1990s, Congress passed two major sets of mechanisms for controlling illegal immigration. One set was the Immigration Reform and Control Act of 1986 (P.L. 99-603). Main provisions of the act included civil and criminal penalties for U.S. employers who knowingly hire undocumented workers; increased border control and enforcement measures; anti-discrimination safeguards; provision for legalization of illegal aliens who resided continuously in the United States before 1982; and a special legalization for farm workers previously employed on American farms. The other set was the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA, P.L. 104-208) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193). The first measure sought to control illegal immigration by adding 1,000 Border Patrol agents per year for five years (FY1997-FY2001), along with additional personnel, equipment, and procedures. The IIRIRA increased penalties for unlawful presence and created the expedited removal program.<sup>8</sup> Individuals who depart the United States after more than 180 days of unlawful presence now face either a three or 10 year bar to admission to the United States, depending on the total period of unlawful presence. Both measures reduced the attractiveness of immigration by restricting the eligibility of aliens for federal programs.<sup>9</sup>

Congress also increased funding for the Immigration and Naturalization Service, including the Border Patrol, through the regular Commerce, Justice, State, and Judiciary Appropriations Acts, more than tripling INS’s budget from \$1.5 billion in

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<sup>7</sup> Pew Hispanic Center, *Unauthorized Migrants: Numbers and Characteristics*, by Jeffrey Passel, June 14, 2005, using the March 2004 data from the Current Population Survey (CPS) conducted by the U.S. Bureau of the Census and the Bureau of Labor Statistics. For more detail and comparisons with earlier years, see CRS Report RS21938, *Unauthorized Aliens in the United States: Estimates Since 1986*, by Ruth Ellen Wasem.

<sup>8</sup> For more information on expedited removal, see CRS Report RL33109, *Immigration Policy on Expedited Removal of Aliens*, by Alison Siskin and Ruth Ellen Wasem.

<sup>9</sup> See CRS Report 95-881, *Immigration Legislation in the 104<sup>th</sup> Congress*, by Joyce Vialet.

FY1993 to \$6.2 billion in FY2002.<sup>10</sup> With various groups, including the AFL-CIO in February 2000, calling for amnesty for illegal immigrants in the United States and a more lenient immigration policy, Congress considered measures to increase the number of H-2A agricultural workers and to legalize the status of undocumented aliens through registry and various forms of amnesty.<sup>11</sup>

**Executive-Legislative Initiatives.** When President Bush met with President Fox in mid-February 2001, migration issues were among the main topics, with Mexican officials expressing concern about the number of migrants who die each year while seeking entry into the United States. President Fox has been pressing proposals for legalizing undocumented Mexican workers in the United States through amnesty or guest worker arrangements as a way of protecting their human rights. In the Joint Communique following the Bush-Fox meeting, the two presidents agreed to hold cabinet-level negotiations to address migration and labor issues.

During the opening day of President Fox's official visit to Washington, D.C. in early September 2001, he called for the two governments to reach agreement on migration proposals by the end of the year. The Joint Communique issued at the end of the meeting called for the countries to reach agreement as soon as possible on a range of issues, including border safety, a temporary worker program, and the status of undocumented Mexicans in the United States. However, following the September 2001 terrorist attacks, many policymakers called for tighter border controls.

During the Bush-Fox meeting in Monterrey, Mexico, on March 22, 2002, the Presidents noted that important progress had been made to enhance migrant safety, and they agreed to continue the cabinet-level talks to achieve safe, legal, and orderly migration flows between the countries. In the press conference, President Bush called for passage of legislation to extend the period for adjustment to legal permanent resident status of undocumented persons under Section 245(I) of the immigration act. The Presidents also announced a U.S.-Mexico Border Partnership Action Plan with greater cooperation and technological enhancements at the border and a "Partnership for Prosperity" Action Plan with public-private initiatives to promote domestic and foreign investment in less developed areas of Mexico with high migration rates. During the cabinet-level Binational Commission meetings in Mexico City, on November 25-26, 2002, Secretary of State Powell and Foreign Secretary Castaneda reaffirmed the intention to continue talks toward a migration agreement.

Even so, in 2001 and 2002, most congressional action focused on strengthening border security and alien admission and tracking procedures through the USA Patriot Act of 2001 (P.L. 107-56), and the Enhanced Border Security and Visa Entry Reform Act of 2002 (P.L. 107-173). With a similar security focus, the Homeland Security Act of 2002 (P.L. 107-296) incorporated the INS/Border Patrol, Customs, and other

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<sup>10</sup> For more details, see CRS Report RS20908, *Immigration and Naturalization Service's FY2002 Budget*, by William J. Krouse.

<sup>11</sup> See the following CRS reports by Ruth Ellen Wasem: CRS Report RL30780, *Immigration Legalization and Status Adjustment Legislation*, and CRS Report RL30852, *Immigration of Agricultural Guest Workers: Policy, Trends, and Legislative Issues*.

agencies into the new Department of Homeland Security, which officially began operations on March 1, 2003.

In mid-May 2003, 19 migrants from Mexico and Central America died from asphyxiation and heatstroke near Victoria, Texas, after being crammed into an insulated trailer truck, and this incident prompted President Fox to appeal again for U.S. action on an immigration accord. On June 3, 2003, U.S. and Mexican officials announced a joint effort to save the lives of migrants by deploying more resources in the desert regions and by taking more forceful measures against smugglers.

In early 2004, President Bush seeking to revive the immigration discussion, proposed an overhaul of the U.S. immigration system on January 7, 2004, to permit the matching of willing foreign workers with willing U.S. employers when no Americans can be found to fill the jobs. Under the President's proposal, temporary legal status would be available to new foreign workers who have work offers in the United States and to undocumented workers already employed in the United States for a term of three years that could be renewed but would end at some point. The proposal includes some incentives to encourage workers to return to their home countries, such as credit in the worker's national retirement system and tax-deferred savings accounts that could be collected upon return.<sup>12</sup> A few days after his proposal, President Bush met with President Fox in Monterrey, Mexico, for a Special Summit of the Americas, and President Fox welcomed the Bush proposal as a very important step forward. On January 20, 2004, President Bush called for passage of his immigration reform proposal in the State of the Union address.

In the 108<sup>th</sup> Congress, legislative initiatives in this area included S. 1387 (Cornyn) that would establish new temporary foreign worker programs under agreements with foreign countries; and S. 1645 (Craig)/H.R. 3142 (Cannon), the "AgJobs" Bill, that would streamline the H-2A agricultural worker program, with provision for adjusting to legal permanent resident (LPR) status. More comprehensive proposals that would grant temporary legal status to foreign workers and to undocumented workers already employed in the United States, with provision for adjusting to LPR status, included S. 1461 (McCain)/H.R. 2899 (Kolbe), S. 2010 (Hagel and Daschle); and S. 2381 (Kennedy)/H.R. 4262 (Gutierrez).

On February 19-20, 2004, Department of Homeland Security Secretary Tom Ridge met with Mexican Government Secretary Santiago Creel in Mexico City to review progress under the U.S.-Mexico Border Partnership. The two leaders signed the U.S.-Mexico Action Plan for Cooperation and Border Safety for 2004, as well as a Memorandum of Understanding on the Safe, Orderly, Dignified and Humane Repatriation of Mexican Nationals. They also committed to develop six new Secure Electronic Network for Traveler's Rapid Inspection (SENTRI) lanes for pre-screened, low-risk individuals, and to develop five new Free and Secure Trade (FAST) lanes for pre-cleared cargo.

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<sup>12</sup> For information on the President's proposal and the congressional initiatives, see CRS Report RL32044, *Immigration: Policy Considerations Related To Guest Worker Programs*, by Andorra Bruno.

On March 5-6, 2004, President Fox visited President Bush at his ranch in Crawford, Texas, and it was announced that Mexicans with border crossing cards would be exempted from the end-of-the-year requirement to be photographed and finger-scanned upon entry into the United States under the US-VISIT program. On a related matter, on June 29, 2004, Mexico and the United States signed a social security totalization agreement, subject to congressional approval, that would eliminate dual social security taxation and fill gaps in benefit protection for affected employees who work in both countries.

On July 22, 2004, the 9/11 Commission issued its final report, calling in one of its recommendations for the United States to undertake major efforts to collaborate with other governments in counter-terrorism efforts and to raise border security standards. The separate House and Senate versions of S. 2845, passed in October 2004, to implement the 9/11 Commission recommendations, contained differing measures to increase immigration law enforcement personnel and to adopt more stringent border control and identity document standards.<sup>13</sup> Some of the differing provisions were among the most difficult to resolve in conference, however.

Eventually, after lengthy negotiations and an agreement to consider the left out matters early in the 109<sup>th</sup> Congress, the conferees agreed upon a report (H.Rept. 108-796) that was filed on December 7, 2004.<sup>14</sup> The conference report was approved by the House and the Senate on December 7 and 8, respectively, and was signed into law (P.L. 108-458) as the Intelligence Reform and Terrorism Prevention Act of 2004 by the President on December 17, 2004. The enacted legislation contains provisions requiring more law enforcement personnel for enforcing immigration laws, closer monitoring of the entry and exit of aliens, and standards for identification documents and drivers' licenses. Under a leadership agreement with certain Representatives, it was agreed that several provisions in the House bill that were dropped in the conference report would be addressed early in the 109<sup>th</sup> Congress, namely, provisions that would have banned the acceptance of Mexican consular ID cards by federal officials, that would have prohibited the issuance of drivers' licenses to undocumented aliens, and that would have required the completion of a section of a wall along the border with Mexico in California.

On February 10, 2005, the House passed the REAL ID Act of 2005 (H.R. 418) that would establish identity card standards for the issuance of drivers' licenses, waive laws to facilitate the construction of a border fence, and require a pilot test of ground surveillance technologies at the border. This bill was introduced on January 26, 2005, by Representative Sensenbrenner, as a holdover from consideration of the intelligence reform bill mentioned above. As introduced, H.R. 418 would revise the standards for asylum applicants, expand the grounds for inadmissibility and deportability of aliens for terrorist-related activities, establish identity card standards for the issuance of drivers' licenses that would seem to preclude the use of consular ID cards, and provide waivers of laws to ensure expeditious construction of a fence

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<sup>13</sup> For more information, see CRS Report RL32616, *9/11 Commission: Implications for U.S. Immigration Law and Policy*, by Michael John Garcia and Ruth Ellen Wasem.

<sup>14</sup> See Cleared Intelligence Rewrite is Big Finish for the 108<sup>th</sup>, *CQ Weekly*, Dec. 11, 2004, p. 2937.

for controlling illegal access on the Mexico-United States border near San Diego, California.<sup>15</sup> As amended, the bill included provisions that facilitated repatriation of aliens ordered deported by clarifying existing delivery bond authority, and that required an assessment of security needs along U.S. borders, a plan to facilitate communications among relevant border agencies, and a pilot project to test ground surveillance technologies to improve border security. On March 16, 2005, the House passed the Emergency Supplemental Appropriations for FY2005 (H.R. 1268), which included the text of H.R. 418, the REAL ID Act, with identity card standards and provisions to facilitate the completion of fencing along the U.S.-Mexico border. (See the *Legislation* section for more detail.)

On March 23, 2005, President Bush hosted meetings in Texas with President Fox and Prime Minister Martin, in which the leaders established the trilateral “Security and Prosperity Partnership (SPP) of North America.” The SPP will seek to advance the common security and the common prosperity of the countries through expanded cooperation and harmonization of policies. To operationalize this partnership, the leaders established Ministerial-led working groups that are to develop measurable and achievable goals in the specified areas. In June 2005, the SPP working groups submitted their report to SPP leaders outlining completed initiatives and proposing new initiatives to ensure common security and prosperity. Completed initiatives included measures to facilitate trade, such as the signing of a Framework of Common Principles for Electronic Commerce,<sup>16</sup> and border security through, among other measures, an agreement between the U.S. and Mexico to create an Alien Smuggler Prosecution Program along the common border.

When the Senate considered the FY2005 Emergency Supplemental (H.R. 1268) in April 2005, three immigration measures were introduced, but only the Mikulski amendment was passed; it exempted seasonal workers who had worked in the United States in previous years from the cap on H-2B visas for seasonal activities like tourism and the harvesting and picking of seafood like crabs and lobsters. In conference, the Mikulski amendment from the Senate version and the provisions from the REAL ID Act in the House version were essentially retained in the conference report (H.Rept. 109-72). The conference report was approved by the House on May 5, 2005, and it was approved by the Senate on May 10, 2005. It was signed into law (P.L. 109-13) by the President on May 11, 2005.

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<sup>15</sup> For more detail on this measure, see CRS Report RL32754, *Immigration: Analysis of the Major Provisions of the REAL ID Act of 2005*, by Michael John Garcia, Margaret Mikyung Lee and Todd Tatelman. For more information on the consular ID issue, see CRS Report RL32094, *Consular Identification Cards: Domestic and Foreign Policy Implications, the Mexican Case, and Related Legislation*, by Andorra Bruno and K. Larry Storrs. For more information on national standards for identity documents, see CRS Report RL32722, *Intelligence Reform and Terrorism Prevention Act of 2004: National Standards for Drivers’ Licenses, Social Security Cards, and Birth Certificates*, by Todd B. Tatelman. For more information on the border fence, see CRS Report RS22026, *Border Security: Fences Along the U.S. International Border*, by Blas Nuñez-Neto and Stephen R. Viña.

<sup>16</sup> For more information, see CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.



In addition to the enacted measures, a number of immigration initiatives have been introduced in the 109<sup>th</sup> Congress, including some that were considered in the debate on the FY2005 Emergency Supplemental. S. 359 (Craig)/H.R. 884 (Cannon), the “AgJobs” Bill, would streamline the H-2A agricultural worker program, with provision for adjusting to legal permanent resident (LPR) status. S. 1033 (McCain-Kennedy)/H.R. 2330 (Kolbe) would grant temporary legal status to foreign workers and to undocumented workers already employed in the United States, with provision for adjusting to LPR status under various provisions and penalties. S. 1438 (Cornyn and Kyl) would establish a new temporary foreign worker program under agreements with foreign countries, but only after workers have returned to their home country. Hearings on these bills, the Administration’s proposal, and related immigration and border issues have been held in relevant committees, most recently on October 18, 2005, in the Senate Judiciary Committee, with two administration witnesses.

On November 2, 2005, Homeland Security Secretary Chertoff launched the “Secure Border Initiative,” characterized as a comprehensive, multi-year plan to secure U.S. borders and to reduce illegal immigration. Drawing upon increased funding approved by Congress in early October 2005 in the Department of Homeland Security Appropriations Act (H.R. 2360/P.L. 109-90), the SBI, according to Secretary Chertoff, would provide “an integrated mix of increased staffing, more robust interior enforcement, greater investment in detection technology and infrastructure, and enhanced coordination on the federal, state, local, and international levels.”

On December 16, 2005, the House passed H.R. 4437 (Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005) that would, among other things, strengthen border security and employment screening, mandate retention of illegal immigrants, make it a crime to be in the United States illegally or to assist illegal aliens, and require the deployment of a fence and surveillance equipment along the Mexico-U.S. border. On December 16, 2005, the Mexican Foreign Ministry issued a press release asserting that reform that focuses only on security will be inadequate and pledging that the Mexican government would intensify efforts to encourage a comprehensive immigration reform in the United States, including a temporary worker program. On February 13, 2006, foreign ministers from 11 Latin American countries, including Mexico, met in Cartagena, Colombia, to coordinate diplomatic efforts against construction of a wall along parts of the U.S.-Mexico border.

## **Drug Trafficking Issues**

**Nature of the Problem.** Mexico remains a major supplier of heroin, methamphetamine, and marijuana, and the major transit point for cocaine sold in the United States. Although U.S.-Mexico counter-narcotics efforts have been marked by distrust at times in the past, with criticisms mounting in March of each year when the President was required to certify that drug producing and drug transit countries were cooperating fully with the United States, relations have been improving in recent years. In the late 1990s, Congress acted to strengthen Border Patrol and international interdiction efforts along the Southwest Border, and it passed the Foreign Narcotics Kingpin Designation Act (P.L. 106-120), which strengthened the President’s authority under the International Emergency Economic Powers Act (IEEPA) to block the assets in the United States of designated international drug

traffickers. Following the July 2000 election of Vicente Fox as President of Mexico, bills were introduced but not enacted to exempt Mexico from the drug certification requirements or to modify the requirements.<sup>17</sup>

**Executive-Legislative Actions.** President Bush certified, on March 1, 2001, as previous presidents had done, that Mexico had been a fully cooperative country in efforts to control drug trafficking. He cited the arrest of two key members of the Tijuana-based Arellano Felix Organization, aggressive eradication programs, and growing cooperation with the United States by the new Fox Administration. In presidential meetings in 2001, Presidents Bush and Fox agreed to enhance law enforcement and counter-narcotics cooperation, and President Fox called for reform of the U.S. drug certification process. The Senate Foreign Relations Committee reported out S. 219 and S. 1401 in 2001 to modify the drug certification process, but no final action was taken. Instead, the certification requirements were temporarily modified in late 2001 by enactment of the Foreign Operations Appropriations Act for FY2002 (H.R. 2506/P.L. 107-115). This measure waived the drug certification requirements for FY2002 and required the President to designate only countries that had demonstrably failed to meet international counter-narcotics obligations.<sup>18</sup>

The Bush Administration's overall drug control policy, as articulated in February 2002, seeks to prevent drug use before it starts through education and community action, to provide adequate treatment resources for drug users, and to disrupt the marketplace for drugs at home and abroad through eradication, interdiction, and anti-money-laundering activities. The State Department's March 2002 International Narcotics Control Strategy Report noted that Mexico's efforts had resulted in tangible successes against the three major drug cartels in the country — the Arellano Felix Organization (AFO), the Carrillo Fuentes Organization (CFO), and the Gulf Cartel. It also noted that the Fox Administration sustained the aggressive eradication program carried out by past administrations and increased the quantities of drugs seized. Later that month, Mexican authorities announced the arrest of drug lord Benjamin Arellano-Felix, the killing of his brother Ramon Arellano Felix, and the arrest of Manuel Herrera Barraza, another key figure in the Arellano Felix organization.<sup>19</sup>

In September 2002, Congress passed and the President signed the Foreign Relations Authorization for FY2003 (P.L. 107-228), with Section 706 of the act dealing with International Drug Control Certification Procedures. The new procedures require the President to make a report, not later than September 15 of each year, identifying the major drug transit or major illicit drug producing countries. At the same time, he is required to designate any of the named countries that has "failed demonstrably," during the previous 12 months, to make substantial efforts to

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<sup>17</sup> See CRS Report 98-174, *Mexican Drug Certification Issues: U.S. Congressional Action, 1986-2002*, by K. Larry Storrs.

<sup>18</sup> See CRS Report RL30892, *Drug Certification Requirements and Congressional Modifications in 2001-2002*, by K. Larry Storrs.

<sup>19</sup> See CRS Report RL31412, *Mexico's Counter-Narcotics Efforts under Fox, December 2000 to April 2002*, by K. Larry Storrs.

adhere to international counter-narcotics agreements (defined in the legislation) and to take other counter-narcotics measures.<sup>20</sup>

In November 2002, President Fox presented a tougher, more comprehensive, multi-year National Drug Control Plan, which recognized Mexico's growing drug problem and the need for greater cooperation among agencies, while noting Mexican successes against major drug traffickers. U.S. officials praised Mexico's counter-narcotics efforts when President Bush's drug certification determinations were made in late January 2003, under new procedures, and when the State Department issued the International Narcotics Control Strategy Report in early March 2003. In March 2003, Mexican law enforcement authorities captured alleged drug kingpin Osiel Cardenas-Guillen, and in July 2003, Mexican and U.S. officials announced the dismantlement of the Zambada Garcia drug cartel. On September 15, 2003, when President Bush designated the worst offending countries in counter-narcotics efforts under the new procedures, there was no mention of Mexico. In a troubling development, in late January 2004, a number of Mexican state police officers were being held in the border state of Chihuahua on suspicion of involvement with drug traffickers in the killing of 11 men from rival drug gangs.<sup>21</sup>

According to the State Department's March 2005 International Narcotics Control Strategy Report (INCSR), Mexico continues to be the leading transit point for cocaine entering the United States, the leading foreign source of marijuana, one of two major suppliers of heroin, and a major producing and transit country for methamphetamine and other synthetic drugs. Despite Mexico's major role as a producing and transit country in 2004, the Fox Administration was credited with carrying out major efforts to eradicate and seize illicit drugs, and with achieving tangible results against drug trafficking organizations, including the arrests of senior lieutenants of the Arellano Felix Organization, the Gulf Cartel, and the Osiel Cardenas Organization. The report also praised the Fox Administration for providing unprecedented cooperation with the United States. The State Department reported, however, that numerous U.S. extradition requests were denied based on the Mexican prohibition against life sentences and capital punishment.

In 2005, there were additional actions against major drug traffickers. On January 29, 2005, Mexico extradited Agustin Vasquez-Mendoza to the United States for trial for his alleged role in the 1994 murder of DEA agent Richard Fass. On March 16, 2005, the U.S. Immigration and Customs Enforcement (ICE) agency announced that 10 members of a Mexican drug cartel responsible for smuggling

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<sup>20</sup> U.S. assistance would be withheld from any designated countries unless the President determines that the provision of assistance to that country is vital to the national interest of the United States or that the designated country subsequently made substantial counter-narcotics efforts. Notwithstanding the general suspension of the previous drug certification and sanctions procedures, subsection 706(5)(B) provides that the President may apply those procedures at his discretion. A transition rule provides that for FY2003, the required report was to be submitted at least 15 days before foreign assistance funds are obligated or expended.

<sup>21</sup> For more detail, see CRS Report RL32669, *Mexico's Counter-Narcotics Efforts under Fox, December 2000 to October 2004*, by K. Larry Storrs.

cocaine into the United States had been arrested in Dallas, Texas, after an 18-month international investigation. On October 4, 2005, DEA announced the arrest of Mexican cocaine kingpin Agustin Haro-Rodriguez while crossing the border from Mexico to Arizona, and on October 13, 2005, DEA announced the dismantlement of a major Mexican cocaine, methamphetamine, and money laundering organization and the arrest of 28 individuals in the first phase of Operation Long Whine.

To date in 2006, there have been several significant developments on drug trafficking issues. On January 23, 2006, Texas Department of Public Safety (DPS) troopers and Hudspeth County Sheriff Deputies pursued three SUVs believed to be loaded with marijuana toward the border where a humvee of armed men dressed in military style uniforms was sighted on the U.S. side of the border. Following pursuit by the sheriff deputies and DPS troopers, the SUVs turned back toward Mexico and a humvee of men in what appeared to be Mexican military uniforms arrived to protect the SUVs and the drug shipment. U.S. law enforcement seized one SUV with over 1,400 pounds of marijuana and another SUV returned to Mexico. The third SUV became stuck in the Rio Grande and the armed men unloaded the marijuana before burning the SUV. According to the Department of Homeland Security, from FY2001 to FY2005 there were 144 border incursions by the Mexican military. Dialogue with the Mexican military has reduced the frequency of such incursions by half. On January 25, the Mexican government stated that the January 23 incident involved drug traffickers, not the Mexican military. On January 25, 2006, U.S. Ambassador Antonio O. Garza delivered a diplomatic note to Mexico requesting that the Mexican government investigate the border incursion. On February 7, 2006, the Investigations subcommittee of the House Committee on Homeland Security held a hearing on border incursions. The U.S. and Mexican governments continue to investigate the incident.

On January 26, U.S. Immigration and Customs Enforcement (ICE) announced the discovery of a tunnel from Tijuana to a warehouse in San Diego. Mexican officials seized 2 tons of marijuana and U.S. officials seized 200 pounds of marijuana. The 2,400-foot long tunnel is the longest tunnel ever found at the U.S.-Mexican border.

A joint operation between the DEA and Mexican Agencia Federal de Investigaciones (Federal Investigations Agency, AFI) resulted in the February 2 arrest of Oscar Arriola Marquez, leader of the Los Arriola Cartel. Oscar Arriola Marquez is wanted in the United States for cocaine trafficking and money laundering. According to the DEA, since 2001 the Los Arriola cartel smuggled an average of 2.4 tons of cocaine per month into the United States. The United States is requesting his extradition.

## **Political and Human Rights Issues**

**Concerns over Elections and Political Rights.** Over the years, major attention has focused on the fairness of elections in Mexico because the Institutional Revolutionary Party or PRI controlled the presidency until 2000, all gubernatorial posts until the 1990s, and had solid control of the two chambers of the Mexican Congress until 1997, although the PAN had made progress in capturing control of major cities for several decades. Following the controversial July 1988 presidential

election, however, major electoral reforms were enacted in the early 1990s and the mid-1990s, and subsequent elections produced a number of opposition victories and increasingly pluralistic legislatures.

In the period leading to the July 2000 presidential and congressional elections, former Government Minister Francisco Labastida was selected as the candidate of the PRI in an open nation-wide primary. Efforts by the PAN and the PRD to agree on a common candidate for the opposition came to an impasse, and former Governor of Guanajuato Vicente Fox was designated as the presidential candidate for the PAN, and former mayor of the Mexico City Federal District Cuauhtemoc Cardenas was designated as the presidential candidate for the PRD. On July 2, 2000, Vicente Fox of the Alliance for Change (PAN/PVEM) was elected President with 42.52% of the vote, marking the first election of a president from an opposition party in 71 years and erasing many doubts about the fairness of elections.<sup>22</sup>

On July 6, 2003, Mexico held nation-wide elections to renew the membership of the 500-seat Chamber of Deputies, and to elect local officials in ten states. Official results indicated that President Fox's conservative National Action Party (PAN) fared poorly, winning only 31% of the seats in the Chamber and two of the six governorships in contention. The previously long-ruling centrist Institutional Revolutionary Party (PRI) secured a dominant position in the Chamber with 45% of the seats, and it won four of the six gubernatorial races, while the leftist Party of the Democratic Revolution (PRD) increased representation in the Chamber to 19% of the seats, and consolidated local control in the Mexico City Federal District.<sup>23</sup>

In 2003, the Federal Electoral Institute (IFE) assessed steep fines against the two largest parties in the country for irregularities in campaign financing during the 2000 presidential election. In February 2003, the IFE assessed a fine against the PRI for illegally receiving funds for the 2000 campaign from the union of the Mexican petroleum monopoly (Pemex). In October 2003, the IFE assessed fines against the PAN and the PVEM for illegally receiving foreign contributions from the Amigos de Fox (Friends of Fox) organization in the 2000 campaign. In April 2004, the IFE imposed major fines upon all of Mexico's political parties for irregularities during the July 2003 Chamber of Deputies election, including five whose registry expired because of inadequate voting support, for exceeding campaign spending limits and other violations of law.

In 2004, considerable attention focused on the state and municipal elections in a number of states. In local elections in the state of Yucatan on May 16, 2004, the PAN won in 50 municipalities, including the capital city of Mérida, while the PRI won 50 and the PRD won 5 municipalities. In the state assembly, the PAN will have 13 deputies, the PRI will have 10, and the PRD will have 2. In state elections in Chihuahua, Durango, and Zacatecas on July 4, 2004, the PRI in alliance with the PVEM and the PT retained the governorships in Chihuahua and Durango, while the

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<sup>22</sup> For more detail, see CRS Report RS20611, *Mexico's Presidential, Legislative, and Local Elections of July 2, 2000*, by K. Larry Storrs.

<sup>23</sup> For more detail, see CRS Report RS21561, *Mexico's Congress and July 2003 Elections*, by K. Larry Storrs.

PRD in alliance with PAN retained control in Zacatecas. In state elections on August 1, 2004, the PRI won the mayoral race in the northern border city of Tijuana and claimed victory in the gubernatorial race in southern Oaxaca state where the result was contested, while the PAN won the gubernatorial election in Aguascalientes. On September 5, 2004, the PRI won the governorship in Veracruz in disputed elections, and on October 3, 2004, the PRI generally won in municipal elections in Oaxaca and Chiapas, winning control of several major cities previously controlled by the PAN.

In 2005, the parties contested local elections and selected candidates for the July 2006 presidential elections. Much early attention focused on the July 2005 gubernatorial race in the important state of Mexico. In the end, PRI candidate Enrique Peña won with 48% of the vote, while the PAN candidate received 25%, and the PRD candidate received 24%, although the losing parties claimed that PRI campaign expenditures exceeded the legal limits. In subsequent months, attention focused on the party primaries, and by mid-November 2005, the major candidates had been selected. The presidential candidate for the PRI in the 2006 race is Roberto Madrazo, until recently the president of the party and a former Governor of the southern state of Tabasco, who won overwhelmingly in the PRI primary on November 13, 2005, after his major opponent dropped out of the race in late October 2005. The presidential candidate for the PAN is Felipe Calderon, the former president of the party and the former Energy Minister, who easily won the three-stage PAN primary by October 23, 2005, and avoided a national runoff with the Government Minister. The candidate of the PRD is Andres Manuel Lopez Obrador, the former mayor/governor of the Mexico City Federal District; he was uncontested and generally leads the polls against the other candidates.

**Allegations of Human Rights Abuses.** According to the State Department's report issued in late February 2005 on human rights conditions in 2004, the Mexican government generally respected human rights during the year, but many serious problems remained. The conduct of state law enforcement officials and the human rights situations in the southern states of Guerrero, Chiapas, and Oaxaca were areas of special concern. Kidnaping was a major problem, with unofficial estimates of 3,000 kidnapings during the year, some allegedly with police involvement. There were credible reports that the police sometimes tortured suspects to force confessions and that these confessions were used in prosecution despite a constitutional prohibition. While the government took action against some improper behavior by law enforcement personnel, many officers committed crimes with impunity, and without fear of prosecution. Narcotics-related killings and violence increased, particularly in the northern border states, and there were credible reports that police and military forces were protecting drug traffickers. Despite various judicial reforms, lengthy pretrial detentions, lack of due process, and judicial inefficiency and corruption persisted. Three journalists were killed in northern border areas and others were threatened. Human rights workers were subjected to attacks, although reports of such attacks diminished. Violence and discrimination against women, indigenous people, religious minorities, homosexuals, and individuals with HIV/AIDS persisted. Finally, there were reports of restrictions on freedom of association and inadequate protection of worker rights.

President Fox, even before taking office, appointed well known human rights activist Mariclaire Acosta as a Special Ambassador for Human Rights, and Mexican

spokesmen have asserted that Mexico will be open to visits by human rights organizations and foreign visitors and will take strong human rights positions. Immediately after his inauguration, President Fox signed an agreement with the United Nations to provide technical assistance on human rights. The killing of human rights lawyer Digna Ochoa y Placido on October 19, 2001, raised questions about the government's human rights policies, and prompted calls for prompt action by the government from domestic and foreign human rights organizations. Criticism has also been expressed over the government's allegations in May and June 2002 and again in July 2003 that her death may have been a suicide. President Fox freed two well known Mexican environmentalists that Digna Ochoa had represented and defended, namely Rodolfo Montiel and Teodoro Cabrera, on November 8, 2001.

The National Commission on Human Rights presented a report to President Fox, on November 27, 2001, that documented human rights abuses and disappearances of persons in the 1970s and early 1980s, and President Fox named legal scholar Ignacio Carrillo as a Special Prosecutor to investigate these and other cases on January 4, 2002. President Fox ordered the release from prison of General Jose Francisco Gallardo on February 9, 2002, but did not pardon him, despite the fact that human rights groups argue that his conviction in military courts for theft and corruption was fabricated because of his advocacy of a human rights ombudsman for the Mexican military. On May 31, 2002, 26 indigenous peasants were killed in an incident in southern Oaxaca, and 15 men and one woman were arrested in early June 2002 for the killings that were purportedly motivated by longstanding land disputes in the area. In June 2002, President Fox signed a new Freedom of Information Act for Mexico, and released secret government archives. In late September 2002, Mexican army officers General Mario Arturo Acosta and Francisco Quiros, both already in prison on drug trafficking charges, were charged, along with retired Major Francisco Javier Barquin, with homicide for the killings of 143 anti-government activists in the 1970s.

On March 24, 2003, authorities charged Luis de la Barrera Moreno, the former head of the now disbanded secret police, with torture and murder of alleged guerrilla leader Jesus Piedra Ibarra in the mid-1970s. Although the Mexican government has arrested a number of suspects for involvement in the past abuses, Human Rights Watch issued a report in late July 2003 arguing that the special prosecutor has failed to produce significant results, and that the office has received inadequate support from the government. Critics argue that the government has been reluctant to press human rights issues while courting support from the long-ruling PRI, and they point to the elimination, in early August 2003, of the position of Special Ambassador for Human Rights as evidence.

In late January 2004, President Fox named a special prosecutor to coordinate the federal and state efforts to find and punish those responsible for a decade of killing of over 300 women in Ciudad Juarez, across the border from El Paso, Texas. On February 18, 2004, the former chief of Mexico's secret police, Miguel Nazar Haro, was arrested and charged with the torture and murder of alleged guerrilla leader Jesus Piedra Ibarra in the mid-1970s. On July 24, 2004, a Mexican judge refused the special prosecutor's request for an arrest warrant against former President Luis Echeverria for involvement in a 1971 massacre, on grounds that the statute of limitations had expired. On December 10, 2004, President Fox, responding to an

analysis by the UN High Commission for Human Rights, presented a series of proposed human rights reforms that would discourage torture and strengthen the rights of defendants in Mexico.

While presenting the First Report on the government's National Human Rights Campaign on December 9, 2005, President Fox announced the abolition of the death penalty in Mexico and declared that Mexico fully respected human rights and was open to international inspection.

Violations of press freedom are a cause for concern in early 2006. On February 6 gunmen suspected of ties with drug traffickers attacked the offices of El Mañana newspaper in Nuevo Laredo, severely wounding one reporter. On February 7, El Mañana announced it would cease investigative reporting of drug trafficking. Tapes released on February 15 implicate Puebla Governor Mario Marin in a plot to arrest journalist Lydia Cacho in December 2005. Lydia Cacho was arrested in Cancun and driven to Puebla where she was charged with libel for allegations against a prominent businessman in her book about pedophile networks. Mexico announced the creation of a special prosecutor for crimes against journalists on February 15. The Deputy Attorney General for Organized Crime will continue to be responsible for crimes against journalists committed by drug traffickers, terrorists, and human traffickers.

## Foreign Policy Issues

On February 3, 2006, the U.S. Department of Treasury requested that Starwood Hotels expel a Cuban delegation staying at the Maria Isabel Sheraton Hotel in Mexico City to attend a U.S.-Cuba energy seminar. U.S. sanctions prohibit U.S. corporations from conducting business with Cuba. The Mexican congress called for the Mexican government to send a diplomatic note to the United States alleging that the expulsion of the Cubans violated Mexico's sovereignty. Foreign Minister Luis Ernesto Derbez determined such action was unnecessary as the hotel is facing penalties under Mexican law. The hotel faces closure and fines of up to \$500,000.

The President's Budget Request for FY2007 cuts International Military Education and Training (IMET) aid to Mexico from \$1.25 million to \$50,000 because Mexico has not signed a bilateral immunity agreement, or Article 98 agreement, with the United States. In February Ruben Aguilar, spokesman for President Fox, stated, that while the U.S. is "within its rights" in suspending military aid, this would not persuade Mexico to change its stance on full adherence to the International Criminal Court (ICC) 'at whatever cost.'<sup>24</sup>

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<sup>24</sup> Latin News. "Mexico-U.S.: Cut in Military Aid Fails to Budge Fox on ICC," February 14, 2006.



## Legislation Relating to Mexico in the 109<sup>th</sup> Congress

### **REAL ID Act of 2005 (H.R. 418)/Emergency Supplemental Appropriations for FY2005 (H.R. 1268/P.L. 109-13)**

H.R. 418, the REAL ID Act of 2005, was introduced on January 26, 2005, by Representative Sensenbrenner, as a holdover from consideration of the Intelligence Reform and Terrorism Prevention Act of 2004 (S. 2845/P.L. 108-458) in December 2004. H.R. 418 was referred to the House Committees on the Judiciary, Homeland Security, and Government Reform, but no formal consideration was undertaken. As introduced, this bill would revise the standards for asylum applicants, expand the grounds for inadmissibility and deportability of aliens for terrorist-related activities, establish identity card standards for the issuance of drivers' licenses that would seem to preclude the use of consular ID cards, and provide waivers of laws to facilitate construction of a fence on the border near San Diego.

The House considered H.R. 418 on February 9-10, 2005, under a structured rule allowing a manager's amendment and five additional amendments. Two amendments were defeated: the Nadler amendment that sought to strike Section 101 with revised asylum standards,<sup>25</sup> and the Farr amendment that sought to strike Section 102 with waivers of laws to facilitate construction of a border fence. Three amendments were approved: the Sessions amendment that facilitated repatriation of aliens ordered deported by clarifying existing delivery bond authority, the Castle amendment that required the entry into aviation security screening databases of information on persons convicted of using a false drivers' license for boarding an airplane, and the Kolbe amendment that required an assessment of security needs along U.S. borders, a plan to facilitate communications among relevant agencies at the border, and a pilot project to test ground surveillance technologies to improve border security. H.R. 418 as amended was later attached to the FY2005 Emergency Supplemental Appropriations (H.R. 1268) as Division B, and the broader measure was approved by the House on March 16, 2005.

When the Senate considered H.R. 1268 in April 2005, three immigration measures were introduced. The first was the Chambliss amendment that would have allowed guest farm workers to remain in the United States for up to nine years. The second was the Craig-Kennedy amendment that would have allowed guest farm workers who had worked in the United States for 100 days in the last year and who worked 360 days in the next three to six years to become legal permanent residents. The third was the Mikulski amendment to exempt seasonal workers who had worked in the United States in previous years from the cap on H-2B visas for summer tourism activities and the harvesting and picking of seafood like crabs and lobsters. In the end, the Mikulski amendment was the only immigration provision to be approved by the Senate.

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<sup>25</sup> For more detail on changes to asylum standards, see CRS Report RL32621, *U.S. Immigration Policy on Asylum Seekers*, by Ruth Ellen Wasem.

In conference, the Mikulski amendment from the Senate version and the provisions in the REAL ID Act in the House version were essentially retained in the conference report (H.Rept. 109-72) on the FY2005 Emergency Supplemental (H.R. 1268). The conference report was approved by the House on May 5, 2005, and it was approved by the Senate on May 10, 2005. It was signed into law (P.L. 109-13) by the President on May 11, 2005.

### **Foreign Relations Authorization for FY2006-FY2007 (H.R. 2601/S. 600)**

The Senate Foreign Relations Committee reported out S. 600 (S.Rept. 109-35) on March 10, 2005, with no provisions dealing with Mexico. The Senate has not yet considered the legislation.

The House International Relations Committee reported out H.R. 2601 (H.Rept 109-168) on July 13, 2005, with one provision on Mexico, and two additional provisions were added during floor consideration on July 19-20, 2005, when the bill was approved by the House and sent to the Senate for consideration.

**Training and Assistance to Identify Victims in Ciudad Juarez.** Section 1048 of the House-passed bill (H.R. 2601), a floor amendment by Representative Reyes, urges the President and Secretary of State to continue to express concern to Mexican officials over the abductions and murders of young women in the Mexican border city of Ciudad Juarez and authorizes the Secretary of State to provide forensic training and assistance to Mexico to identify unknown murder victims in the city.

**Extradition of Violent Criminals from Mexico.** Section 1124 of H.R. 2601, a modified amendment by Representative Tancredo approved in the Committee markup, states the sense of Congress that the U.S. government should work with the Mexican government to urge the Mexican Supreme Court to revisit a 2001 decision so that the possibility of life imprisonment without parole will not prevent the extradition of criminal suspects from Mexico to the United States. It also calls for annual reports on the number of requests for extradition by Mexico and the United States and the number of extraditions by Mexico and the United States. Two recent decisions by the Mexican Supreme Court will facilitate extraditions to the United States. In November 2005, the Mexican Supreme court ruled that criminals facing life imprisonment may be extradited to the United States. A January 2006 ruling that U.S. extradition requests only need to meet the requirements of the 1978 bilateral treaty, not the general law on international extradition, is likely to speed up the extradition of criminals wanted by the United States.

**Prevention of Smuggling of Methamphetamine.** Section 1414 of H.R. 2601, a floor amendment by Representative Hooley, calls upon the Secretary of State to take actions to prevent the smuggling of methamphetamine into the United States from Mexico, including the provision of equipment and technical assistance, and encouraging the Mexican government to reduce the diversion of pseudoephedrine by drug trafficking organizations. It also calls for an annual report on implementation efforts.

## **Foreign Operations Appropriations for FY2006 (H.R. 3057/P.L. 109-102)**

The House passed H.R. 3057 on June 28, 2005, with the Beauprez and the Deal floor amendments relating to extradition and Mexico. The Senate passed H.R. 3057 on July 20, 2005, with the Chambliss floor amendment relating to extradition and Mexico. The conference report on H.R. 3057 (H.Rept. 109-265) was approved by the House on November 4, 2005, and by the Senate on November 10, 2005. It was signed into law (P.L. 109-102) by the President on November 14, 2005.

**Limitation on Assistance to Countries that Refuse to Extradite Individuals Accused of Killing U.S. Law Enforcement Officers.** Section 581 of the conference report on H.R. 3057 bars assistance to a country that refuses to extradite to the United States any individual indicted in the United States for killing a law enforcement officer, unless the Secretary of State certifies in writing that the application of the restriction is contrary to the national interest of the United States.

## **Methamphetamine Epidemic Elimination Act (H.R. 3889)**

On November 9, 2005, the House Judiciary Committee ordered reported H.R. 3889, to further regulate conduct relating to the production and trafficking of methamphetamine. This legislation included provisions in Title II relating to the international regulation of precursor chemicals used in the production of methamphetamine.

**Title II. International Regulation of Precursor Chemicals.** Section 201 would require importers of precursor chemicals to provide information on the foreign chain of distribution of the chemicals. Section 202 would require the Secretary of State to identify the five largest exporting countries and the five largest importing countries of precursor chemicals and to certify annually that these countries are cooperating fully with the United States in drug control efforts. Section 203 would require the Secretary of State to cooperate with the government of Mexico to prevent the smuggling of methamphetamine into the United States from Mexico, and to report annually on the implementation efforts.

## **Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (HR. 4437)**

H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005, was introduced on December 6, 2005, by Representative Sensenbrenner and was referred to relevant committees. It was reported amended by the Committee on the Judiciary (H.Rept. 109-345) on December 13, 2005, and discharged from the Committees on Homeland Security, Education and Workforce, and Ways and Means within the next few days. The bill, with numerous amendments, was considered on December 15-16 and was approved on December 16, 2005, by a 239-182 vote. As passed by the House, the bill would, among other things, strengthen border security, compel employers to use a pilot system to check for employment eligibility, mandate retention of illegal immigrants, make it a crime to be in the

United States illegally or to assist illegal aliens, and require the deployment of a fence and surveillance equipment along the Mexico-U.S. border. Senate action on the measure is expected in early 2006.

## For Additional Reading

### CRS Products

CRS Report RL32616. *9/11 Commission: Legislative Action Concerning U.S. Immigration Law and Policy in the 108<sup>th</sup> Congress*, by Michael John Garcia and Ruth Ellen Wasem.

CRS Report RL33106. *Border Security and the Southwest Border: Background, Legislation and Issues*, by Lisa Seghetti, Coordinator.

CRS Report RS22026. *Border Security: Fences Along the U.S. International Border*, by Blas Nuñez-Neto and Stephen R. Viña.

CRS Report RL32094. *Consular Identification Cards: Domestic and Foreign Policy Implications, the Mexican Case, and Related Legislation*, by Andorra Bruno and K. Larry Storrs.

CRS Report RL32038. *Drug Certification/Designation Procedures for Illicit Narcotics Producing and Transit Countries*, by K. Larry Storrs.

CRS Report RL30892. *Drug Certification Requirements and Congressional Modifications in 2001-2002*, by K. Larry Storrs.

CRS Issue Brief IB88093. *Drug Control: International Policy and Approaches*, by Raphael Perl.

CRS Report RL32169. *Immigration Legislation and Issues in the 108<sup>th</sup> Congress*, by Andorra Bruno, Coordinator.

CRS Report RL32044. *Immigration: Policy Considerations Related to Guest Worker Programs*, by Andorra Bruno.

CRS Report RL33181. *Immigration Related Border Security Legislation in the 109<sup>th</sup> Congress*, by Blas Nuñez-Neto.

CRS Report RL31386. *Industry Trade Effects Related to NAFTA*, by M. Angeles Villarreal.

CRS Report 98-174. *Mexican Drug Certification Issues: U.S. Congressional Action, 1986-2002*, by K. Larry Storrs.

CRS Report RL32669. *Mexico's Counter-Narcotics Efforts Under Fox, December 2000 to October 2004*, by K. Larry Storrs.

CRS Report RL31412. *Mexico's Counter-Narcotics Efforts under Fox, December 2000 to April 2002*, by K. Larry Storrs.

CRS Report RS20611. *Mexico's Presidential, Legislative, and Local Elections of July 2, 2000*, by K. Larry Storrs.

CRS Report 97-861. *NAFTA Labor Side Agreement: Lessons for the Worker Rights and Fast-Track Debate*, by Mary Jane Bolle.

CRS Report RS21737. *NAFTA at Ten: Lessons from Recent Studies*, by J.F. Hornbeck.

CRS Report 97-291. *NAFTA: Related Environmental Issues and Initiatives*, by Mary Tiemann.

CRS Report RL32004. *Social Security Benefits for Noncitizens: Current Policy and Legislation*, by Dawn Nuschler and Alison Siskin.

CRS Report RL32934. *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.