



Mexico: Issues for Congress

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Summary

The United States and Mexico have a close and complex bilateral relationship. As neighbors and partners under the North American Free Trade Agreement (NAFTA), the United States and Mexico have extensive economic linkages, with bilateral trade valued at almost \$400 billion in 2010. In recent years, security issues have dominated the bilateral relationship, and the United States is providing more than \$1.9 billion worth of training and equipment to Mexico through the Mérida Initiative to support efforts against drug trafficking and organized crime. Roughly \$896 million of that assistance had been delivered as of December 31, 2011. Immigration and border security have also returned to the forefront of the bilateral agenda since Arizona became the first state to enact a strict law against illegal immigration in April 2010.

In his sixth and final year in office, President Calderón of the conservative National Action Party (PAN) has an approval rating of about 50% (February 2012). The Calderón Administration has arrested record numbers of drug kingpins, but the brazen violence committed by warring criminal groups, partially in response to the government's aggressive anticrime efforts, has led to increasing criticism of its security strategy. According to Mexican government data, organized crime-related violence claimed more than 47,500 lives in Mexico between December 2006 and September 2011. President Calderón is still working to boost jobs, expand access to health insurance, and reform the country's security apparatus. His government is also responding to the effects of a severe drought that began in May 2011 and is now affecting more than half of the country. However, with the end of his administration approaching, President Calderón may now be unable to shepherd much-needed structural reforms through the Mexican Congress.

Security and the economy are likely to be major issues in the July 1, 2012 presidential, legislative, and state elections. Recent polls show Enrique Peña Nieto of the Institutional Revolutionary Party (PRI), former governor of the state of Mexico, leading Andrés Manuel López Obrador, the populist PRD candidate who narrowly lost the 2006 presidential election, and Josefina Vázquez Mota, a former Education Minister and congresswoman, of the PAN. The PRI's prospects for recapturing the presidency have strengthened since its candidates won four of the six gubernatorial elections contested in 2011. However, analysts predict that the presidential race will tighten as the elections approach. The parties will not officially register their candidates until mid-March, with the campaign beginning on March 30.

Congress has maintained an active interest in Mexico with counternarcotics, border security, and trade issues dominating the agenda. Congressional funding and oversight of the Mérida Initiative is likely to continue. The Obama Administration asked for \$269.5 million in assistance for Mexico in its FY2013 budget request, including \$234.0 million in Mérida assistance. Congress may also monitor how organized crime and government efforts to suppress it are affecting human rights and democracy in Mexico, particularly as the Mexican elections approach. Drug trafficking-related violence in northern Mexico is likely to keep border security on the agenda of congressional oversight committees. While comprehensive immigration reform is unlikely to advance this year, Congress may consider discrete immigration measures to facilitate the admission of nurses and other high-skilled workers. Efforts to boost bilateral trade and increase economic integration, as well as to resolve periodic trade disputes under the NAFTA, are also likely to be of interest to Congress.

Contents

Background on Mexico.....	6
Political Developments During the Calderón Administration.....	7
July 1, 2012, Elections.....	8
Drug Trafficking and Heightened Violence and Crime in Mexico.....	9
Economic Conditions.....	10
Social Conditions.....	12
Foreign Policy.....	13
Mexican-U.S. Relations: Issues for Congress.....	13
Obama Administration.....	14
U.S. Assistance to Mexico.....	16
Bilateral Cooperation on Counternarcotics and Security Efforts.....	17
Mérida Initiative.....	18
Department of Defense Support to Mexico.....	19
Overview of Related Southwest Border Initiatives.....	20
Money Laundering and Bulk Cash Smuggling.....	21
Firearms Trafficking.....	23
Alien Smuggling and Human Trafficking.....	24
Human Rights.....	25
Migration.....	27
Trends in Mexican Immigration to the United States.....	27
Mexico’s Immigration Policies.....	28
Efforts to Enact Comprehensive Immigration Reform in the United States.....	30
Mexico’s Reaction to Arizona’s S.B. 1070 and Other State Laws to Deter Unauthorized Immigration.....	31
Energy and Environmental Issues.....	32
Trade Issues.....	34
Functioning of NAFTA Institutions.....	34
Trade Disputes.....	35
North American Cooperation on Security and Economic Issues.....	36
Legislation in the 112 th Congress.....	37
Approved Measures.....	37
Considered Measures.....	38
Legislation in the 111 th Congress.....	40
Approved Measures.....	40

Figures

Figure 1. Map of Mexico, Including States and Border Cities.....	6
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Tables

Table 1. U.S. Assistance to Mexico by Account, FY2007-FY2013.....	17
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Table 2. FY2008–FY2013 Mérida Funding for Mexico by Aid Account and
Appropriations Measure 19

Contacts

Author Contact Information..... 42
Key Policy Staff..... 42

Political Developments During the Calderón Administration

The serious economic and security challenges that Mexico has faced over the last few years have overshadowed the policy achievements of the Calderón Administration.² Despite taking office in a relatively weak position after a disputed election, President Calderón shepherded several significant reforms through the Mexican Congress. The Calderón government has maintained macroeconomic stability amidst an unstable global economy, expanded access to health insurance, and reformed Mexico's Federal Police. Mexico-U.S. relations have grown stronger through cooperation under the Mérida Initiative, as have Mexico's relations with Latin America. Nevertheless, Mexico has experienced weak economic growth punctuated by a severe economic crisis (in 2009) and a growing security crisis that has occurred, at least in part, because of the government's aggressive campaign against organized crime. Escalating violence, persistent poverty and joblessness, and lingering corruption and impunity have caused President Calderón's popularity to decline and prompted some negative assessments of his presidency thus far.³

In the first half of his term, President Calderón, whose PAN became the largest party in the Senate and Chamber of Deputies after the 2006 legislative elections, had some success in turning to the PRI for help in advancing his legislative agenda. In 2007, he secured passage of long-awaited fiscal and pension reforms that had stalled under the PAN Administration of Vicente Fox (2000-2006). In June 2008, President Calderón signed a judicial reform decree after securing the approval of Congress and Mexico's states for an amendment to Mexico's Constitution. Under the judicial reform, Mexico will have until 2016 to move from a closed door process based on written arguments to a public trial system with oral arguments and the presumption of innocence. In October 2008, the government secured approval of an energy sector reform designed to improve the transparency and management flexibility of state-owned oil company *Petroleos Mexicanos* (PEMEX). Critics maintained that the law, which provides only limited opportunities for private investment in the company, would not do enough to encourage new oil exploration.⁴

Mexico held mid-term elections in July 2009. The PRI performed even better in those elections than polls had suggested it would, capturing 237 of 500 seats in the Chamber of Deputies and five of six governorships. Analysts have attributed the PRI's strong performance to growing popular concern about the country's economic downturn, as well as the party's effective use of its still formidable national machinery. Although President Calderón remained popular, the PAN lost seats in the Chamber (from 206 to 147) and two key governorships, with voters expressing frustration with the party's failure to distinguish itself from the PRI. (The PAN still controls the Senate, however.) The PRD fared even worse than the PAN in the mid-term elections, winning just 72 seats in the Chamber, as internal divisions within the party led López Obrador to throw his support behind left-leaning candidates from smaller parties, many of whom won.

The composition of the current Chamber of Deputies, which was sworn in on September 1, 2009, has complicated President Calderón's legislative agenda, which had included enacting a package of comprehensive political reforms.⁵ The PRI, with the support of the allied Green Ecological

² This paragraph draws from: Pamela K. Starr, "Mexico's Big, Inherited Challenges," *Current History*, February 2012.

³ See, for example, Adriana Gomez Licon and Katherine Corcoran, "Violence Tops Results of Mexico's 5-yr Drug War," *Associated Press*, December 10, 2011.

⁴ Alexandra Olson, "Mexico Approves Oil Reform Bill in General Terms, Experts Call it Disappointment for Investors," *AP*, October 28, 2008.

⁵ Those reforms, submitted to Congress in December 2009, included proposals to allow re-election of federal legislators (continued...)

Party (PVEM) party, now controls a majority in the Chamber and appears to be reluctant to enact legislation that could cost the party votes in the 2012 elections. During the legislative session that ended on December 15, 2011, reforms to the national security law, labor reforms to regulate unions, political reforms, and anti-money laundering legislation that had passed the Senate remained pending in the Chamber.⁶ Several presidential initiatives have not passed either body, including a law to reorganize municipal and state police and a reform of the federal criminal procedures code that is necessary for the 2008 judicial reforms to advance. Earlier in 2011, the Congress did enact antitrust legislation, a new immigration law giving migrants (including illegal migrants) increased human rights protections, constitutional reforms on human rights, and a reform to strengthen the National Human Rights Commission. As 2012 progresses, many analysts predict that President Calderón will enter “lame duck” status and his ability to shepherd legislation through the Congress is likely to diminish.

Outside the legislative realm, political attention in Mexico throughout 2010 and 2011 focused on the outcomes of state and local elections as predictors of how the major parties might perform in the 2012 presidential elections. Voters in most states turned out in larger numbers than had been expected for the July 4, 2010 elections, despite an electoral campaign marred by drug trafficking-related violence that culminated in the June 28, 2010 killing of a popular gubernatorial candidate in Tamaulipas. The PRI claimed victory in nine states, but lost three states it had previously controlled (Sinaloa, Oaxaca, and Puebla) to candidates representing “Stop the PRI” alliances of the PAN, PRD, and other small left-leaning parties. Although some alliances performed better than analysts had predicted in those 2010 state-level contests, they were not replicated in 2011’s gubernatorial elections. The PRI won four of the six governor’s races held in 2011.

July 1, 2012, Elections

On July 1, 2012, Mexico will hold presidential, legislative, and state elections. Mexican voters will elect a president who will serve a six-year term that begins on December 1, 2012. All 128 seats in the Senate and all 500 seats in the Chamber of Deputies are also up for election, with senators serving six-year terms and deputies serving three-year terms that begin on September 1, 2012.⁷ Elections for local and state offices will take place in the federal district and 14 states, five of which will hold gubernatorial elections. The three major parties competing in the elections are the centrist Institutional Revolutionary Party (PRI) party that governed Mexico from 1929 to 2000, the conservative National Action Party (PAN) that has held the presidency since 2000, and the leftist Party of the Democratic Revolution (PRD). The PRI is in alliance with Green Ecological Party (PVEM) party, while the PRD is in alliance with the Workers’ Party (PT) and Citizens’ Movement (PMC).

Given the security and economic challenges that Mexico has experienced during the current PAN Administration, and the recent weak electoral performances of the leftist PRD, many observers are predicting a strong showing by the PRI in the 2012 elections. The PRI possesses formidable campaign machinery and will seek to build on the momentum it has gathered after winning four

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and mayors, reduce the size of the Senate and Chamber of Deputies, permit independent candidates for political office, and give the president a line-item veto.

⁶ Jorge Monroy and Rolando Ramos, “El Congreso Acumula Pendientes,” *El Economista*, January 6, 2012.

⁷ A portion of each Chamber is selected through direct election (300 senators and deputies) and the remainder are chosen through a closed-list proportional representation system.

of the six gubernatorial races held in 2011. Polls from early February 2012 showed Enrique Peña Nieto of the PRI, the former governor of the state of Mexico, with a significant lead over Josefina Vázquez Mota, a former Education Minister and congresswoman, the recently-named PAN candidate, and Andrés Manuel López Obrador, the populist PRD candidate.⁸ However, analysts predict that this lead will narrow as the elections approach, particularly since Vázquez Mota has just been selected as the PAN candidate.⁹ The parties will not register their candidates until mid-March, with the campaign beginning on March 30.

Drug Trafficking and Heightened Violence and Crime in Mexico¹⁰

Mexico is a major producer and supplier to the U.S. market of heroin, methamphetamine, and marijuana, and the major transit country for more than 95% of the cocaine sold in the United States.¹¹ Mexico is also increasingly becoming a consumer of illicit drugs, particularly in northern states where criminal organizations have been paying their workers in product rather than in cash. According to the National Drug Intelligence Center's 2011 *National Drug Threat Assessment*, Mexican drug trafficking organizations (DTOs) and their affiliates "dominate the supply and wholesale distribution of most illicit drugs in the United States" and are solidifying that dominance.¹² Violent struggles within and among the DTOs in Mexico has escalated as an increasing number of groups have battled each other for control of the drug trafficking routes into the United States and local drug distribution in Mexico. President Obama and top officials in his Administration have acknowledged that some of that violence has been fueled by U.S. drug demand, and by the trafficking of firearms and illicit funds from the United States into Mexico.¹³

Since taking office in December 2006, President Calderón has made combating drug trafficking and organized crime a top priority of his administration. His government's anticrime strategy has involved (1) carrying out joint police-military operations to support local authorities and citizens; (2) increasing the operational and technological capacities of the state, such as increasing the size of the Federal Police; (3) initiating legal and institutional reforms; (4) strengthening crime prevention and social programs; and (5) strengthening international cooperation.¹⁴ Increased intelligence-sharing with U.S. law enforcement agencies have resulted in high-profile arrests and killings of DTO leaders. In 2009, the Mexican government identified the country's 37 most wanted criminals, and by the end of 2011, at least 22 of them had been captured or killed.¹⁵

⁸ A poll conducted on February 8, 2012 by Consulta Mitofsky showed 40% support for Peña Nieto, 24% support for Vázquez Mota, and 18% support for López Obrador. Consulta Mitofsky, *La 2012 Eleccion: Preferencias Ciudadanas*, No. 14, February 2012, http://consulta.mx/web/images/eleccionesmexicopdf/Variables_febrero12.pdf.

⁹ Shannon K. O'Neill, "Vázquez Mota and the 2012 Mexican Election," *Foreign Affairs*, February 8, 2012.

¹⁰ For more information, see CRS Report R41576, *Mexico's Drug Trafficking Organizations: Source and Scope of the Rising Violence*, by June S. Beittel, CRS Report R41349, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*, by Clare Ribando Seelke and Kristin M. Finklea.

¹¹ U.S. Department of State, *International Narcotics Control Strategy Report (INCSR)*, March 2011, <http://www.state.gov/p/inl/rls/nrcrpt/2011/>.

¹² U.S. Department of Justice (DOJ), National Drug Intelligence Center, *National Drug Threat Assessment: 2011*, August 2011, <http://www.justice.gov/ndic/pubs44/44849/44849p.pdf>.

¹³ White House, Office of the Press Secretary, "Remarks by President Obama and President Calderón of Mexico at Joint Press Conference," press release, March 3, 2011.

¹⁴ Government of Mexico, "Mexico's Fight for Security: Strategy and Main Achievements," June 2011.

¹⁵ Email from Mexican Embassy official, January 10, 2012.

Despite these advances, the increasingly brazen violence committed by criminal groups, partially in response to government pressure, has led to criticism of Calderón's strategy and the formation of a peace movement led by Javier Sicilia, a Mexican poet whose son was killed by drug gangs in March 2011. According to Mexican government estimates, organized-crime related violence resulted in more than 47,500 deaths in Mexico between December 2006 and September 2011.¹⁶ Targets of the violence have most often included rival DTOs or affiliated gang members, but have also included Mexican police, military, and government officials, journalists, and civilians, including Americans. The increasingly violent illegal drug trade has also increased the prevalence of related crimes. According to recent estimates, kidnappings in Mexico have increased by 188% since 2007, armed robbery by 47%, and extortion by 101%.¹⁷ Experts assert that in order to recover popular support for its security policies, the Calderón government will have to show success in dismantling the DTOs while also reducing drug trafficking-related violence and ensuring that the human rights of civilians are protected from abuses by security forces.

Economic Conditions¹⁸

In the late 1980s, Mexico began to transition from a protectionist economy to a free market economy with a strong export sector. This transition accelerated after Mexico entered into the North American Free Trade Agreement (NAFTA) with the United States and Canada in 1994. Through NAFTA, the United States, Mexico, and Canada form the world's largest free trade area, with about one-third of the world's total Gross Domestic Product (GDP). Since NAFTA took effect, U.S.-Mexican trade has more than tripled, with the value of total bilateral trade reaching some \$393 billion in 2010.¹⁹ Mexico remains the second-largest U.S. oil supplier, but its top exports to the United States now also include automobiles and automobile parts. The value of U.S. foreign direct investment (FDI) in Mexico increased from \$17 billion in 1994 to \$90.3 billion in 2010.²⁰

One downside of this economic integration is that the Mexican economy remains extremely dependent on the United States, the destination for the vast majority of its exports and its primary supplier of tourism revenues and investment. The Mexican economy grew 3.3% in 2007, the first year of the Calderón government. Slower growth was already anticipated for 2008 due in part to decreasing consumer demand in the United States and declining Mexican oil production. The global financial crisis further reduced GDP growth in 2008 to just 1.4%. For 2009, the Mexican economy contracted by 6.5%, the worst decline in six decades.

In 2009, the Calderón government struggled to cope with the combined effects of the U.S. and global recessions, a nationwide outbreak of H1N1 "swine" flu, and declining oil production. The U.S. recession resulted in steep declines in demand for Mexican exports, particularly in the manufacturing sector. Mexico's exports to the United States declined by 18.5% in 2009 as

¹⁶ Mexican government data for 2007-2010 is available here: <http://www.presidencia.gob.mx/base-de-datos-de-fallecimientos/> and data for January through September 2011 is available here: <http://www.pgr.gob.mx/temas%20relevantes/estadistica/estadisticas.asp>.

¹⁷ María de la Luz González, "Delitos Aumentan en el País, Alertan," *El Universal*, August 23, 2011, citing data from México Evalua that are available in Spanish at: <http://www.mexicoevalua.org/>.

¹⁸ For background on the Mexican economy and U.S.-Mexican economic relations, see CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

¹⁹ Data compiled by CRS using Global Trade Atlas database.

²⁰ Data is from the U.S. Department of Commerce, Bureau of Economic Analysis and Census Bureau.

compared to the previous year. Remittances from Mexicans in the United States fell to \$21.2 billion, the lowest level since 2005. These developments were further exacerbated by the outbreak of pandemic H1N1 “swine flu” in April 2009, which prompted the government to close restaurants and retail establishments for nearly two weeks and resulted in significant declines in tourism revenues. Declining oil prices and production also provided economic setbacks for Mexico, which depends on oil proceeds for over one-third of government revenue.

The Calderón government took a number of measures to cushion the Mexican economy from the fallout of the global economic crisis and U.S. recession. The government used billions in its international reserves to shore up the peso, and the Mexican central bank established a temporary reciprocal currency swap line with the U.S. Federal Reserve. The government also hedged its oil exports for 2009 at a price of \$70 a barrel in an effort to protect the economy from a decline in oil prices. The central government increased liquidity in the banking system. It also increased its credit lines with the World Bank, International Monetary Fund (IMF), and Inter-American Development Bank. In 2009, Mexico’s fiscal stimulus amounted to 2.5% of GDP and included infrastructure spending and subsidies for key household budget items. Government programs to support small and medium-sized businesses, worker training, job creation, and social safety nets were maintained and, in some cases, expanded.

Since late 2009, the Mexican economy has rebounded, partially as a result of a resumption in U.S. demand for Mexican manufacturing exports. Mexico’s GDP grew by 5.5% in 2010 and an estimated 3.9% in 2011, with strong growth in remittances from the United States.²¹ As the economy has recovered, the Mexican government has gradually rolled back stimulus measures and increased taxes, but has also extended its credit line with the IMF through January 2013 and continued to hedge its oil exports. In recent months, the Calderón government has taken steps to try to boost consumer spending and housing construction so that, in the event that the U.S. and global economies contract, Mexico’s domestic economy will remain as strong as possible.²²

Despite this recovery, some investors are still concerned about Mexico’s long-term growth potential. Economists have warned that continued sluggish growth in the U.S. economy could be a “material drag”²³ on economic growth in Mexico. Some analysts are also concerned that drug trafficking-related violence may be discouraging tourism and deterring foreign investment in some parts of the country, including the business and financial capital of Monterrey.²⁴ Still others have identified Mexico’s low tax base and over-reliance on declining oil revenues, rigid labor market, weak education system, and lack of competition in many sectors as additional obstacles to more sustainable economic growth.²⁵

²¹ Economist Intelligence Unit (EIU), *Country Report: Mexico*, January 2012.

²² Ibid.

²³ International Monetary Fund (IMF), *Mexico: Staff Report for the 2011 Article IV Consultation*, IMF Country Report No. 11/250, July 11, 2011, <http://www.imf.org/external/pubs/ft/scr/2011/cr11250.pdf>.

²⁴ J.P. Morgan's chief economist for Mexico estimated that drug trafficking-related violence cost the country some \$4 billion in foreign direct investment in 2010. Nicholas Casey and James R. Hagerty, "Companies Shun Violent Mexico," *Wall Street Journal*, December 17, 2010.

²⁵ Francisco Gonzalez, "Drug Violence Isn't Mexico's Only Problem," *Current History*, February 2011; Organization for Economic Cooperation and Development (OECD), *OECD Economic Surveys: Mexico*, May 2011.

Social Conditions

As elsewhere in Latin America, the 2009 economic downturn in Mexico had a negative impact on the country's recent progress in reducing poverty. With a population of 113.7 million (July 2011), Mexico is classified by the World Bank as an upper middle income developing country, with a per capita income level of \$9,330 (2010). According to the U.N. Economic Commission for Latin America and the Caribbean, the percentage of Mexicans living in poverty fell between 2000 and 2006, but rose again between 2006 and 2008 to include almost 45% of the population. Recent data from the Mexican government show that the percentage of Mexicans living in poverty increased again between 2008 and 2010 to include 46.2% of the population, or roughly 52 million people. This increase in poverty occurred despite successful government efforts to expand access to health care, social security, and housing.²⁶ Rural subsistence farmers have been particularly hit hard by the effects of a drought that began in May 2011 and now affects more than half of the country. The Mexican government has set aside \$2.5 billion for drought relief, including support for infrastructure to provide drinking water and emergency food aid to affected communities.²⁷

Mexico's main poverty reduction program is *Oportunidades* (Opportunities). The program, formerly known as *Progresa* (Progress), began under President Ernesto Zedillo (1994-2000) and has since expanded to benefit 5.8 million Mexican families (34 million individuals) mostly in rural areas. *Oportunidades* seeks not only to alleviate the immediate effects of poverty through cash and in-kind transfers, but to break the cycle of poverty by improving nutrition, health standards, and educational attainment. It provides cash transfers to families in poverty who demonstrate that they regularly attend medical appointments and can certify that their children are attending school. While some have praised *Oportunidades* for its positive effects on educational and nutritional outcomes, others have criticized it for creating dependency on government handouts.²⁸ The Calderón government has established a new program within *Oportunidades* for people in urban areas such as Ciudad Juárez. In 2010, more than 1.3 million urban beneficiaries began receiving assistance through that program.

Another key aspect of Mexico's recent social policy efforts has been to expand access to health insurance for people who are not covered by the country's social security system under a program known as *Seguro Popular* (Popular Health Insurance). In 2003, the Mexican Congress passed a law establishing a system by which public funding for health care would be gradually increased over seven years to achieve universal health insurance. Some 43 million people benefitted from the *Seguro Popular* program in 2010 and the Calderón government aimed to enroll a total of 49 million people in the program by the end of 2011.²⁹ Many have praised *Seguro Popular* for expanding low-income Mexicans' access to medication and health care, while some have criticized it for being inefficient and for not reaching the poorest communities.³⁰

²⁶ Consejo Nacional de Evaluación de la Política de Desarrollo Social, *Medición de Pobreza 2010*, July 29, 2011, <http://www.coneval.gob.mx/>.

²⁷ "Mexican Official Says Drought Likely To Intensify," Dow Jones International News, January 26, 2012; "Government Steps up Support," *Latin American Mexico & NAFTA Report*, February 2012.

²⁸ Santiago Levy, *Good Intentions, Bad Outcomes—Social Policy, Informality and Economic Growth in Mexico*. Washington D.C.: Brookings Institution, April 2008.

²⁹ Government of Mexico, "Mexico's Fight for Security: Strategy and Main Achievements," June 2011.

³⁰ Julio Frenk, Octavio Gómez Dantés, and Felicia Marie Knaul, "The Democratization of Health in Mexico: Financial Innovations for Universal Coverage," *Bulletin of World Health Organization*, 2009; Jason M. Lakin, "The End of Insurance? Mexico's Seguro Popular: 2001-2007," *Journal of Health, Politics, and Law*, Vol. 35, No. 3, June 2010; (continued...)

Foreign Policy

While the bilateral relationship with the United States has continued to dominate Mexican foreign policy, President Calderón has, like his predecessor Vicente Fox, sought to strengthen Mexico's ties with Latin America. Calderón regularly met with former Colombian President Álvaro Uribe, and is continuing close collaboration with the government of Juan Manuel Santos, with whom he has signed a series of agreements, including an extradition treaty. The Calderón government has explored the possibility of forming a Brazil-Mexico free trade agreement (FTA), as well as developing greater energy cooperation between PEMEX and Petrobras, Brazil's state-owned oil company. Mexico has recently signed an FTA with Peru and another with Central America (excluding Panama). President Calderón has pledged support for the Central American Security Strategy³¹ adopted in June 2011 and recently offered \$160 million to set up an infrastructure fund for Central America.³² The Mexican government sent significant financial support and humanitarian supplies to Haiti in the aftermath of the devastating earthquake that hit that country in January 2010. President Calderón has also tried to mend relations with Cuba and Venezuela, which had become tense during the Fox Administration.

Mexico has also taken on a more active role with respect to global issues. President Calderón has played a leading role in global climate change negotiations. Mexico hosted the Sixteenth U.N. Climate Change Conference in Cancún in late 2010. At the Asia-Pacific Economic Cooperation (APEC) Forum in November 2011, the Mexican government announced that it would seek consultations with partner countries with a view towards joining the negotiations for a Trans-Pacific Partnership (TPP) Agreement.³³ Mexico assumed the rotating head of the Group of 20 (G-20)³⁴ nations in December 2011 and will host the next G20 Summit in June 2012. The Mexican government has identified its goals for the G-20 as stabilizing the global economy, strengthening the global financial system, protecting food security, and promoting sustainable development.

Mexican-U.S. Relations: Issues for Congress

Until the early 1980s, Mexico had a closed and statist economy and its independent foreign policy was often at odds with the United States. Those policies began to shift, however, under President Miguel de la Madrid (1982-1988), and changed even more dramatically under President Carlos Salinas de Gortari (1988-1994) and President Ernesto Zedillo (1994-2000). President Salinas opened Mexico's economy to trade and investment, while President Zedillo adopted electoral reforms that leveled the playing field for opposition parties and increased cooperation with the United States on drug control and border issues.

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Elisabeth Malkin, "Mexico's Universal Health Care is a Work in Progress," *New York Times*, January 29, 2011.

³¹ Mexico is a member of the "Group of Friends of Central America," a donor group consisting of country and multilateral organizations, which has pledged to support the Central American Security Strategy (CASS) adopted at a summit in Guatemala in June 2011.

³² "Central America and Mexico Shore up Ties," *Latin News Daily Briefing*, December 6, 2011.

³³ For background on the TPP trade agreement negotiations, see: CRS Report R40502, *The Trans-Pacific Partnership Agreement*, by Ian F. Fergusson and Bruce Vaughn.

³⁴ The Group of Twenty, or G-20, is a forum for advancing international economic cooperation among 20 major advanced and emerging-market countries. For more information, see: CRS Report R40977, *The G-20 and International Economic Cooperation: Background and Implications for Congress*, by Rebecca M. Nelson.

President Fox (2000-2006) encouraged strong relations with the United States, and called for greater cooperation under NAFTA and for a bilateral migration agreement that would regularize the status of undocumented Mexicans in the United States. In the aftermath of the September 2001 terrorist attacks in the United States, the focus of relations shifted to border security issues as the United States became increasingly concerned about homeland security. Relations became strained during the debate on immigration reform in the United States. After then-President George W. Bush approved the Secure Fence Act of 2006, Mexico, with the support of 27 other nations, denounced the proposed border fence at the Organization of American States.

Under the Calderón government, security cooperation, rather than immigration or trade, has dominated the U.S.-Mexican relationship. During then-President Bush's March 2007 visit to Mexico, President Calderón called for U.S. assistance in combating drug and weapons trafficking. Calderón's willingness to increase narcotics cooperation with the United States led to the development of the Mérida Initiative, a multi-year U.S. assistance effort announced in October 2007 to help Mexico and Central America combat drug trafficking and crime.

Obama Administration

U.S.-Mexican relations have continued to be close under the Obama Administration, with security cooperation intensifying under a new Mérida Initiative strategy that encompasses institution-building, border issues, and development in Mexico. In January 2009, President Calderón visited then President-elect Obama in Washington, DC. That pre-inaugural meeting, which has become somewhat of a tradition for recent U.S. presidents, demonstrated the importance of strong relations with Mexico. Secretary of State Hillary Clinton then traveled to Mexico in March 2009 to discuss a broad range of bilateral issues, including the Mérida Initiative. Secretary Clinton criticized the failure of past U.S. antidrug policy and acknowledged that an "insatiable demand for illegal drugs" in the United States "fuels the drug trade."³⁵ Clinton's visit to Mexico was followed in early April 2009 with trips by Homeland Security Secretary Janet Napolitano and Attorney General Eric Holder.

Presidents Obama and Calderón met twice more in 2009. In April 2009, President Obama traveled to Mexico to discuss security issues, immigration reform, and climate change with President Calderón. During the visit, President Obama acknowledged the U.S. demand for drugs was helping to keep the Mexican drug traffickers in business, and that "more than 90% of the guns recovered in Mexico come from the United States."³⁶ At the North American Leaders' Summit in Guadalajara, Mexico, in August 2009, President Obama praised Mexico's response to the H1N1 swine flu outbreak and gave his full support for President Calderón's struggle against organized crime. President Obama, President Calderón, and Canadian Prime Minister Harper pledged to work to restore economic growth in North America and to combat climate change.

Throughout 2010, U.S.-Mexican consultations continued at the highest levels. On March 23, 2010, Secretary Clinton chaired a cabinet-level delegation to Mexico. The delegation participated in a Mérida Initiative High-Level Group meeting with their Mexican counterparts at which they agreed to a new strategy for the Mérida Initiative. President Obama then welcomed President

³⁵ Mark Lander, "Clinton Says Demand for Illegal Drugs in the U.S. 'Fuels the Drug Trade' in Mexico," *New York Times*, March 26, 2009.

³⁶ "President Obama and Mexican President Felipe Calderón Hold News Conference," *CQ Newsmaker Transcripts*, April 16, 2009.

Calderón to the White House for a state visit on May 19, 2010, during which the leaders pledged to continue working together to combat the organized criminal groups that traffic drugs into the United States and illicit weapons and cash into Mexico. They also reaffirmed their commitment to foster economic competitiveness, produce clean energy, and build a 21st century border.

In 2011, U.S. officials continued to praise the Calderón government's efforts against organized crime and to tout bilateral cooperation that had occurred as a result of the Mérida Initiative, but tensions emerged between the two governments. On February 15, 2011, two U.S. Immigration and Customs Enforcement (ICE) agents were shot by Mexican DTOs, one fatally, raising U.S. concerns about the safety of U.S. officials working in Mexico. Also in February, allegations first surfaced that the Department of Justice (DOJ) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) mishandled a Phoenix, AZ-based gun trafficking investigation known as "Operation Fast and Furious" that resulted in hundreds of weapons being smuggled into Mexico (see "Firearms Trafficking" below). In March 2011, the U.S. Ambassador to Mexico Carlos Pascual resigned after President Calderón criticized the comments he had made about deficiencies in Mexico's antidrug efforts in confidential diplomatic cables that were leaked to the press.³⁷

Despite these tensions, U.S. and Mexican officials continued working together to advance their bilateral agenda. On March 3, 2011, Presidents Obama and Calderón met in Washington D.C. after which they vowed to continue bilateral security cooperation and announced a resolution to a longstanding NAFTA trucking dispute. On April 29, 2011, Secretary Clinton and Mexican Foreign Secretary Patricia Espinosa chaired the third annual meeting of the Mérida Initiative High-Level Group in Washington DC. Both governments "ratified their shared commitment to achieving long-term solutions to challenges to the rule of law posed by transnational organized crime."³⁸ The U.S. government pledged to deliver \$500 million worth of training and equipment to Mexico in 2011, a pledge that has been met.³⁹ President Obama then quickly nominated and the Senate approved, Earl Anthony Wayne, a career diplomat, to serve as U.S. Ambassador to Mexico, a post which he assumed in September 2011.

Since 2012 is an election year in both Mexico and the United States, few analysts are predicting any major shifts in current bilateral efforts or new bilateral initiatives. The results of the July 1, 2012 Mexican elections and November 6, 2012 U.S. elections could have an impact on the future of U.S.-Mexican relations. For this reason, U.S. policy makers may follow each of the Mexican candidate's positions on security, trade, migration, and energy policy, just as Mexicans are closely following the positions of the U.S. presidential candidates. U.S. policy makers have an interest in helping the Mexican government ensure that the July elections are carried out in a transparent manner that is free from the influence of criminal groups and that deteriorating security conditions in some areas of the country do not interfere with the electoral process.

³⁷ Denise Dresser, "U.S. Ambassador to Mexico Resigned 'for Doing his Job,'" *Miami Herald*, April 18, 2011.

³⁸ U.S. Department of State, "Joint Statement on U.S.-Mexico Merida High Level Consultative Group on Bilateral Cooperation Against Transnational Criminal Organizations," press release, April 29, 2011, available at: <http://www.state.gov/t/pa/prs/ps/2011/04/162245.htm>.

³⁹ The U.S. government delivered \$504.6 million worth of Mérida assistance to Mexico in 2011, including \$415.0 million worth of equipment. U.S. Department of State, "Mérida Initiative at a Glance," December 30, 2011.

U.S. Assistance to Mexico

In recent years, Congress has played an increasingly active role in shaping U.S.-Mexican relations through funding and overseeing the Mérida Initiative, an anticrime and counterdrug assistance package first funded in FY2008. Prior to that time, Mexico, a middle income country, had not been a major recipient of U.S. foreign assistance. As a result of the Mérida Initiative, U.S. assistance to Mexico rose from \$65 million in FY2007 to almost \$406 million in FY2008. **Table 1** provides an overview of recent U.S. assistance to Mexico funded through State Department aid accounts, while **Table 2** provides a breakdown of Mérida assistance by account. Mérida Initiative assistance to Mexico has flowed through the International Narcotics Control and Law Enforcement (INCLE), Foreign Military Financing (FMF), and Economic Support Fund (ESF) accounts. At times, Congress has earmarked funds for specific purposes in order to ensure that certain programs are prioritized, such as efforts to support institutional reform in Mexico. Congress has also included funding for Mexico in supplemental appropriations measures in an attempt to hasten the delivery of certain equipment.

Congress has also influenced U.S.-Mexican relations in the area of human rights by placing conditions on Mérida-related assistance beyond the requirements in Section 620J of the Foreign Assistance Act (FAA) of 1961. Section 620J of the FAA states that units of a foreign country's security forces are prohibited from receiving assistance if the Secretary of State receives "credible evidence" that such units have committed "gross violations of human rights." The conditions, first included in P.L. 110-252 and included in some form in all subsequent appropriations for Mérida, require that 15% of INCLE and FMF assistance be withheld until the Secretary of State reports in writing that Mexico is taking action in certain human rights areas.

Apart from Mérida-related funding, Mexico receives development assistance (DA) aimed at reducing poverty and inequality and helping the Mexican economy benefit from the North American Free Trade Agreement. Assistance provided through the Global Health and Child Survival (GHCS) supports programs aimed at helping the Mexican government both prevent and treat HIV/AIDS and other infectious diseases, particularly among high-risk populations. Mexico also benefits from military training programs funded through the State Department's International Military Education and Training Account (IMET), as well as counterterrorism assistance provided through the Non-proliferation, Anti-terrorism and Related Programs (NADR) account.

Table I. U.S. Assistance to Mexico by Account, FY2007-FY2013
(U.S. \$ millions)

Account	FY2007	FY2008 ^a	FY2009 ^b	FY2010	FY2011	FY2012 (est.)	FY2013 (req.)
INCLE	36.7	242.1	454.0 ^c	365.0 ^d	117.0	248.5	199.0
ESF	11.4	34.7	15.0	15.0	18.0	33.3	35.0
FMF	0.0	116.5	299.0 ^e	5.3	8.0	7.0	7.0
IMET	0.1	0.4	0.8	1.0	1.0	1.6	1.5
NADR	1.3	1.4	3.9	3.9	5.7	5.4	4.0
GHCS^f	3.7	2.7	2.9	3.5	3.5	1.0	0.0
DA	12.3	8.2	11.2	10.0	25.0	33.4	23.0
TOTAL	65.4	405.9	786.8	403.7	178.2	330.2	269.5

Sources: U.S. Department of State, *Congressional Budget Justification for Foreign Operations FY2008-FY2012*, and *FY2013 Executive Budget Summary: Function 150 & Other International Programs*.

Notes: GHCS=Global Health and Child Survival; DA=Development Assistance; ESF=Economic Support Fund; FMF=Foreign Military Financing; IMET=International Military Education and Training; INCLE=International Narcotics Control and Law Enforcement; NADR=Non-proliferation, Anti-terrorism and Related Programs. Funds are accounted for in the fiscal year for which they were appropriated as noted below:

- a. FY2008 assistance includes funding from the Supplemental Appropriations Act, 2008 (P.L. 110-252).
- b. FY2009 assistance includes FY2009 bridge funding from the Supplemental Appropriations Act, 2008 (P.L. 110-252) and funding from the Supplemental Appropriations Act, 2009 (P.L. 111-32).
- c. \$94 million provided under P.L. 111-32 and counted here as part of FY2009 funding was considered by appropriators "forward funding" intended to address in advance a portion of the FY2010 request.
- d. \$175 million provided in the FY2010 supplemental (P.L. 111-212) and counted here as FY2010 funding was considered by appropriators as "forward funding" intended to address in advance a portion of the FY2011 request.
- e. \$260 million provided under a FY2009 supplemental (P.L. 111-32) and counted here as FY2009 funding was considered by appropriators "forward funding" intended to address in advance a portion of the FY2010 request.
- f. Prior to FY2008, the Global Health and Child Survival account was known as Child Survival and Health.

Bilateral Cooperation on Counternarcotics and Security Efforts

In the 1980s and 1990s, U.S.-Mexican counternarcotics efforts were often marked by mistrust, especially following the 1985 killing of DEA Special Agent Enrique Camarena in Mexico. Beginning in 1986, when the U.S. President was required to certify whether drug-producing countries and drug-transit countries were cooperating fully with the United States, Mexico often was criticized for its lack of effort, which in turn led to Mexican government criticism of the U.S. assessment. Reforms to the U.S. drug certification process enacted in September 2002 (P.L. 107-228) essentially eliminated the annual drug certification requirement, and instead required the President to designate and withhold assistance from countries that had "failed demonstrably" to make substantial counternarcotics efforts. In the aftermath of this legislative change, U.S. cooperation with Mexico on antidrug efforts improved considerably during the Fox administration (2000-2006).

Mérida Initiative⁴⁰

As previously stated, upon taking office in December 2006, Mexican President Calderón made combating drug trafficking and organized crime a top priority of his administration. In response to the Calderón government's request for increased U.S. cooperation, in October 2007 the United States and Mexico announced the Mérida Initiative, a new package of U.S. assistance for Mexico and Central America that would begin in FY2008 and last through FY2010.⁴¹ The Mérida Initiative, as it was originally conceived, sought to (1) break the power and impunity of criminal organizations; (2) strengthen border, air, and maritime controls; (3) improve the capacity of justice systems in the region; and (4) curtail gang activity and diminish local drug demand. The Bush Administration first requested funds for Mérida in its FY2008 supplemental appropriations request, with the bulk of funds requested focused on training and equipping Mexican police and military forces engaged in counterdrug efforts.

In March 2010, the Obama Administration and the Mexican government agreed to a new strategic framework for security cooperation under the Mérida Initiative. The four pillars of the new strategy were outlined in the Administration's FY2011 budget request and include (1) disrupting organized criminal groups; (2) institutionalizing the rule of law; (3) building a 21st century border; and (4) building strong and resilient communities. In terms of funding priorities, the Administration has asked Congress for less funding to provide equipment for Mexican security forces and more funding for training and technical assistance programs in Mexico.

Between FY2008 and FY2012, Congress provided more than \$1.9 billion in Mérida assistance to Mexico (see **Table 2** below).

Congress is considering the Administration's FY2013 budget request. Many have urged Congress to maintain support for equipment and bilateral intelligence-sharing and law enforcement efforts aimed at bolstering U.S.-Mexican efforts under pillar one of the strategy. At the same time, others have urged Congress to move away from providing equipment to security forces and to prioritize economic assistance to Mexico for rule of law programs and development efforts under pillars two and four of the new Mérida Initiative strategy. As future foreign aid budgets tighten, Congress is likely to have to decide how to balance the limited U.S. funding available to Mexico between security and economic assistance programs.

⁴⁰ For a more comprehensive discussion of the Mérida Initiative, see: CRS Report R41349, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*, by Clare Ribando Seelke and Kristin M. Finklea.

⁴¹ In FY2008 and FY2009, the Mérida Initiative included U.S. assistance to Mexico and Central America. Beginning in FY2010, Congress separated Central America from the Mexico-focused Mérida Initiative by creating a separate Central American Regional Security Initiative (CARSI). For historical information on the Mérida Initiative, see: CRS Report RS22837, *Mérida Initiative: U.S. Anticrime and Counterdrug Assistance for Mexico and Central America*, by Clare Ribando Seelke. For information on CARSI, see: CRS Report R41731, *Central America Regional Security Initiative: Background and Policy Issues for Congress*, by Peter J. Meyer and Clare Ribando Seelke.

Table 2. FY2008–FY2013 Mérida Funding for Mexico by Aid Account and Appropriations Measure

(\$ in millions)

Account	FY2008 Supp. (P.L. 110- 252)	FY2009 (P.L. 111- 8)	FY2009 Supp. (P.L. 111- 32)	FY2010 (P.L. 111- 117)	FY2010 Supp. (P.L. 111- 212)	FY2011 (P.L. 112- 10)	FY2012 Estimate (P.L. 112- 74)	Account Totals	FY2013 Request
ESF	20.0	15.0	0.0	15.0 ^a	0.0	18.0	33.3	101.3	35.0
INCLE	263.5	246.0	160.0	190.0	175.0	117.0	248.5	1,400.0	199.0
FMF	116.5	39.0	260.0	5.3	0.0	8.0	Not applicable ^b	428.8	Not applicable
Total	400.0	300.0	420.0	210.3	175.0	143.0	281.8	1,930.1	234.0

Sources: U.S. Department of State, *Congressional Budget Justification for Foreign Operations FY2008-FY2012*, *FY2013 Executive Budget Summary: Function 150 & Other International Programs*.

Notes: ESF=Economic Support Fund; FMF=Foreign Military Financing; INCLE=International Narcotics Control and Law Enforcement.

a. \$6 million was later reprogrammed for global climate change efforts by the State Department.

b. Beginning in FY2012, FMF assistance is not included as part of the Mérida Initiative.

Department of Defense Support to Mexico

Apart from the Mérida Initiative, Congress has given the Department of Defense (DOD) its own legislative authorities to provide certain counterdrug assistance. DOD programs in Mexico are overseen by the U.S. Northern Command (NORTHCOM), which is located on Peterson Air Force Base in Colorado. DOD can provide counterdrug assistance under certain circumstances outlined in Section 1004 of P.L. 101-510 as amended through FY2014, and can provide additional assistance to 22 countries as provided for in Section 1033 of P.L. 105-85 as amended through FY2013. DOD counternarcotics support to Mexico totaled roughly \$34.2 million in FY2009, \$89.7 million in FY2010, and \$71.7 million in FY2011.⁴² DOD is developing a plan to use some \$50 million in FY2011 per Section 1033 of P.L. 105-85 funds to improve security along the Mexico-Guatemala-Belize border. Total DOD support to Mexico in FY2012 may exceed \$75.5 million.⁴³

⁴² Department of Defense (DOD) response to CRS request, March 21, 2011. This data reflects non-budget quality estimates of DOD counternarcotics support provided or efforts in these nations/regions; DOD does not budget counternarcotics programs by regions/countries, but by program. These figures reflect both “direct” support to those countries (e.g., training, equipment, information sharing, infrastructure and other categories) and “indirect” support via DOD and other U.S. Government counterdrug operations with regard to those countries (e.g., transportation, communications, intelligence analysis, radar, air and maritime patrol, liaison personnel, and other categories).

⁴³ Ibid.

Overview of Related Southwest Border Initiatives⁴⁴

The increase in drug trafficking-related violence between and among DTOs in Mexico has generated concern among U.S. policy makers that the violence in Mexico might spill over into the United States.⁴⁵ U.S. federal officials have denied that the recent increase in drug trafficking-related violence in Mexico has resulted in a spillover into the United States, but acknowledged that the prospect is a serious concern.⁴⁶ In March 2009, Secretary of Homeland Security Janet Napolitano announced a set of Southwest border initiatives aimed at (1) guarding against violent crime spillover into the United States; (2) supporting Mexico's crackdown campaign against drug cartels in Mexico; and (3) reducing the movement of contraband in both directions across the border.⁴⁷ The Obama Administration authorized the deployment of 1,200 National Guard troops to the U.S.-Mexico border in July 2010 to support counternarcotics enforcement efforts. In December 2011, DOD and the Department of Homeland Security (DHS) announced a change in mission for the National Guard on the border to shift from the use of ground troops in law enforcement support roles to an emphasis on providing aerial surveillance support for the Border Patrol.⁴⁸ Escalating violence in Mexico has focused congressional concern on the efficacy of these efforts to secure the Southwest border. The 112th Congress has held hearings on the adequacy of DHS and other federal agencies' efforts to secure the Southwest border and may consider legislation to further bolster those efforts.⁴⁹

Components of DHS are providing significant assistance to secure the Southwest border. Immigration and Customs Enforcement (ICE) has created 21 Border Enforcement Security Task Forces (BESTs) since 2006, including 12 on the Southwest border and 1 in Mexico City. The task forces serve as platforms for cooperation among local, state, and federal agencies as well as a point of cooperation with Mexico's Secretary of Public Security (SSP). ICE has also coordinated the establishment of a Transnational Criminal Investigative Unit (TCIU) in Mexico that works with ICE special agents on criminal investigations and prosecutions. DHS components such as ICE, CBP, and the U.S. Coast Guard have long-standing relationships with their Mexican counterparts to jointly disrupt the activities of drug trafficking organizations. CBP and Mexican Customs are now coordinating southbound inspections in search of bulk cash and weapons. For FY2009 and FY2010, DHS also provided more than \$123 million in funds to reimburse Southwest border states for border-security related expenses through Operation Stonegarden.⁵⁰

⁴⁴ See the Appendix of CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea; CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Marc R. Rosenblum.

⁴⁵ CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea.

⁴⁶ See for example, Department of Homeland Security (DHS), "Remarks by Secretary Napolitano on Border Security at the University of Texas at El Paso," press release, January 31, 2011.

⁴⁷ DHS, "Secretary Napolitano Announces Major Southwest Border Security Initiative," press release, March 24, 2009.

⁴⁸ DHS, "DHS and DOD Announce Continued Partnership in Strengthening Southwest Border Security," press release, December 20, 2011. According to press reports, the new mission will involve a gradual reduction in National Guard forces to roughly 300 Air National Guard and a greater use of unmanned drones, helicopters, and surveillance aircraft. Stewart M. Powell, "Aircraft Will Have Eyes on Mexico," *Houston Chronicle*, December 21, 2011.

⁴⁹ See, for example: U.S. Congress, House Committee on Homeland Security, Subcommittee on Oversight, Investigations, and Management, *The US Homeland Security Role in the Mexican War Against Drug Cartels*, 112th Cong., 1st sess., March 31, 2011.

⁵⁰ U.S. Congress, House Committee on Homeland Security, Subcommittee on Oversight, Investigations, and Management, *On the Border and in the Line of Fire: U.S. Law Enforcement, Homeland Security and Drug Cartel* (continued...)

In March 2009, the Department of Justice (DOJ) announced increased efforts to combat Mexican drug cartels in the United States and to help Mexican law enforcement battle the cartels in their own country. DOJ components involved in the increased efforts include the FBI; Drug Enforcement Administration (DEA); ATF; U.S. Marshals Service (USM); the department's Criminal Division; and the Office of Justice Programs. Large-scale investigative operations against Mexican DTOs and their affiliates in the United States have led to the arrest of more than 5,500 suspects and the seizure of more than \$300 million in illicit funds.⁵¹ DOJ's Criminal Division has created a team focused on investigating and prosecuting cases against Mexican DTOs within its Asset Forfeiture and Money Laundering Section. DOJ is also pursuing increased extraditions from Mexico.

Money Laundering and Bulk Cash Smuggling

It is estimated that between \$19 billion and \$29 billion in illicit proceeds flow from the United States to drug trafficking organizations and other organized criminal groups in Mexico each year.⁵² Much of the money is generated from the illegal sale of drugs in the United States and is laundered to Mexico through mechanisms such as bulk cash smuggling. While bulk cash smuggling has been a prominent means by which criminals move illegal profits from the United States into Mexico, they have increasingly turned to stored value cards to move money.

By using stored value cards, criminals are able to avoid the reporting requirement under which they would have to declare any amount over \$10,000 in cash moving across the border. Current federal regulations regarding international transportation only apply to monetary instruments as defined under the Bank Secrecy Act.⁵³ Stored value cards are not considered monetary instruments under current law. As required by (P.L. 111-24), The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) has issued a notice of proposed rulemaking, intending to define "stored value" as "prepaid access" and to implement regulations regarding the recordkeeping and suspicious activity reporting requirements for prepaid access products and services.⁵⁴ The proposed rule would not, however, directly address whether stored value or prepaid access cards would be subject to current regulations regarding the international transportation of monetary instruments.

Aside from bulk cash smuggling and stored-value cards, Mexican traffickers move and launder money by using digital currency accounts, e-businesses that facilitate money transfers via the Internet, online role-playing games or virtual worlds that enable the exchange of game-based currencies for real currency, and mobile banking wherein traffickers have remote access—via cell

(...continued)

Violence, 112th Cong., 1st sess., May 11, 2011.

⁵¹ *Ibid.*

⁵² DHS, *United States-Mexico Bi-National Criminal Proceeds Study*, June 2010.

⁵³ 31 U.S.C. §5312 defines a monetary instrument as "(A) United States coins and currency; (B) as the Secretary may prescribe by regulation, coins and currency of a foreign country, travelers' checks, bearer negotiable instruments, bearer investment securities, bearer securities, stock on which title is passed on delivery, and similar material; and (C) as the Secretary of the Treasury shall provide by regulation for purposes of sections 5316 and 5331, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form."

⁵⁴ U.S. Department of the Treasury, FinCEN, "Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access," 75 *Federal Register*, pp. 36589-36608, June 28, 2010, <http://edocket.access.gpo.gov/2010/pdf/2010-15194.pdf>.

phones—to bank and credit card accounts as well as prepaid cards.⁵⁵ The proceeds may then be used by DTOs and other criminal groups to acquire weapons in the United States and to corrupt law enforcement and other public officials.

Countering financial crimes—including money laundering and bulk cash smuggling—is one effort outlined by the National Southwest Border Counternarcotics Strategy (SWBCS).⁵⁶ To curb the southbound flow of money from the sale of illicit drugs in the United States, the SWBCS includes several goals: stemming the flow of southbound bulk cash smuggling, prosecuting the illegal use of electronic payment devices, increasing targeted financial sanctions, enhancing multilateral/bi-national collaboration, and empirically assessing the money laundering threat.⁵⁷ Legislation has been introduced (S. 1419) in the 112th Congress that would seek to prevent the use of stored value cards and other electronic fund access means as being used for currency smuggling or money laundering.

In 2005, ICE and CBP launched a program known as "Operation Firewall," which increased operations against bulk cash smuggling in the U.S.-Mexico border region. Since 2005, Operation Firewall has resulted in more than 999 arrests and 5,123 seizures totaling more than \$494 million.⁵⁸ U.S. efforts against money laundering and bulk cash smuggling are increasingly moving beyond the federal level as well, as experts have recommended.⁵⁹ In December 2009, for example, ICE opened a bulk cash smuggling center to assist U.S. federal, state, and local law enforcement agencies track and disrupt illicit funding flows. Still, the GAO has identified several ways in which CBP outbound inspections and other U.S. efforts against bulk cash smuggling, particularly those aimed at combating the use of stored value cards, might be improved.⁶⁰

The United States and Mexico have created a Bilateral Money Laundering Working Group to coordinate the investigation and prosecution of money laundering and bulk cash smuggling. A 2010 Bi-national Criminal Proceeds Study revealed that some of the major points along the Southwest border where bulk cash is smuggled include San Ysidro, CA; Nogales, AZ; and Laredo, McAllen, and Brownsville, TX.⁶¹ Information provided from studies such as these may help inform policy makers and federal law enforcement personnel and assist in their decisions regarding where to direct future efforts against money laundering.

⁵⁵ Douglas Farah, *Money Laundering and Bulk Cash Smuggling: Challenges for the Merida Initiative*, Woodrow Wilson International Center for Scholars, Working Paper Series on U.S.-Mexico Security Cooperation, May 2010, p. 161, available at <http://www.wilsoncenter.org/topics/pubs/Farah.pdf>. (Hereafter, Farah, *Money Laundering*.)

⁵⁶ ONDCP, *National Southwest Border Counternarcotics Strategy*, 2011, available at http://www.whitehousedrugpolicy.gov/publications/swb_counternarcotics_strategy11/swb_counternarcotics_strategy11.pdf. Herein after, SWBCS, 2011. The SWBCS is implemented by the Director of National Drug Control Policy, in conjunction with the DHS Office of Counternarcotics Enforcement as well as the DOJ Office of the Deputy Attorney General.

⁵⁷ *Ibid.*, pp. 31 – 36.

⁵⁸ Email from DHS official, February 7, 2011.

⁵⁹ Farah, *Money Laundering*.

⁶⁰ GAO, *Moving Illegal Proceeds: Challenges Exist in the Federal Government's Effort to Stem Cross Border Smuggling*, GAO-11-73, October 2010, available at <http://www.gao.gov/products/GAO-11-73>.

⁶¹ DHS, *United States - Mexico Bi-National Criminal Proceeds Study*, 2010.

Firearms Trafficking⁶²

Many view illegal firearms trafficking from the United States as a significant factor in the escalating drug-related violence in Mexico. To address this issue, ATF stepped up enforcement of domestic gun control laws in the four Southwest border states under an agency-wide program known as “Project Gunrunner.” ATF has also trained Mexican law enforcement officials to use its electronic tracing (eTrace) program, through which investigators are sometimes able to trace the commercial trail and origin of recovered firearms. In the past, ATF has periodically released data on firearms traces performed for Mexican authorities. Although substantive methodological limitations preclude using trace data as a proxy for the larger population of “crime guns” in Mexico or the United States, trace data have proven to be a useful indicator of trafficking trends and patterns. In June 2009, GAO recommended to the Attorney General that he should direct ATF to regularly update its reporting on aggregate firearms trace data and trends.⁶³ For the last two years, however, ATF has only released limited and arguably selected amounts of trace data.

In February 2011, ATF came under intense congressional scrutiny for a Phoenix, AZ-based Project Gunrunner investigation known as Operation Fast and Furious, when ATF whistleblowers reported that suspected straw purchasers⁶⁴ had been allowed to acquire relatively large quantities of firearms as part of long-term gun trafficking investigations.⁶⁵ Some of these firearms are alleged to have “walked,” meaning that they were trafficked to gunrunners and other criminals before ATF moved to arrest the suspects and seize all of their contraband firearms.⁶⁶ Two of those firearms—AK-47 style rifles—were reportedly found at the scene of a shootout near the U.S.-Mexico border where U.S. Border Patrol Agent Brian Terry was shot to death.⁶⁷ While it remains an open question whether ATF or other federal agents were in a position to interdict the firearms used in these deadly attacks before they were smuggled into Mexico,⁶⁸ neither DOJ nor ATF informed their Mexican counterparts about these investigations and the possibility that some of these firearms could be reaching Mexico.⁶⁹

Operation Fast and Furious resulted in the indictment of 20 individuals on multiple counts of straw purchasing and other federal offenses related to firearms, drug trafficking, and money laundering.⁷⁰ Over the 15-month operation, they stand accused of trafficking 2,020 firearms. Of

⁶² For more information, see CRS Report R40733, *Gun Trafficking and the Southwest Border*, by Vivian S. Chu and William J. Krouse; CRS Report RL32842, *Gun Control Legislation*, by William J. Krouse.

⁶³ GAO, *Firearms Trafficking: U.S. Efforts to Combat Arms Trafficking to Mexico Face Planning and Coordination Challenges*, GAO-09-709, June 2009, p. 59.

⁶⁴ A “straw purchase” occurs when an individual poses as the actual transferee, but he is actually acquiring the firearm for another person. In effect, he serves as an illegal middleman. Straw purchases can be prosecuted under two provisions of the Gun Control Act of 1968, as amended (18 U.S.C. 922(a)(6) and 18 U.S.C. §924(a)(1)(A)).

⁶⁵ James v. Grimaldi and Sari Horwitz, “ATF Probe Strategy Is Questioned,” *Washington Post*, February 2, 2011.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ Operation Fast and Furious was launched in November 2009. It was approved as an Organized Crime and Drug Enforcement Task Force (OCDETF) investigation in February 2010. As an OCDETF investigation, it was then directed largely by the U.S. Attorney’s Office in Phoenix. While ICE and Internal Revenue Service (IRS) agents were also part of this investigation, so far their role in this operation has not generated public or congressional scrutiny.

⁶⁹ Richard A. Serrano, “U.S. Embassy Kept in Dark as Guns Flooded Mexico,” *Salt Lake Tribune*, July 25, 2011.

⁷⁰ Indictment, *United States v. Avila*, No. 11-cr-00126-JAT (D. Ariz. January 19, 2011).

those firearms, the *Huffington Post* reported that nearly 700 had been recovered: 276 in Mexico and 389 in the United States, according to ATF data through October 20, 2011.⁷¹

Alien Smuggling and Human Trafficking

Mexican and U.S. officials share an interest in combating alien smuggling and human trafficking. Alien smuggling involves people who pay to be illegally transported from or through Mexico into the United States. Many of the smugglers who profit from this activity also have ties to other criminal enterprises in Mexico and the United States; and in some cases smugglers involve migrants in criminal enterprises, kidnap migrants, and/or expose migrants to dangerous conditions. Human trafficking refers to cases in which migrants are coerced into sexual exploitation or forced labor;⁷² some migrants who contract with smugglers eventually become victims of human trafficking. U.S. and Mexican officials also share security concerns about the increasing involvement of organized crime groups in alien smuggling, as well as the presence of Special Interest Aliens (SIAs)⁷³ among the smuggled aliens who have been apprehended.

Bilateral cooperation on migration enforcement mainly involves ICE and CBP within the United States and the Mexican Interior Ministry and Federal Police. In the border region, CBP's International Liaison Unit (ILU) maintains regular contact with Mexican law enforcement agencies, and border patrol sector chiefs and Mexico's Center for Investigation and National Security co-chair monthly meetings among border-area law enforcement agencies. These regular lines of communication between U.S. and Mexican law enforcement agencies at and around the border are a key tool for information sharing and coordination with respect to smuggling and trafficking. U.S. and Mexican law enforcement agencies also work together through the aforementioned BEST program and ICE's Transnational Criminal Investigative Unit in Mexico City. U.S. and Mexican law enforcement agencies also collaborate to prosecute smugglers through the Operation Against Smuggling Initiative on Safety and Security (OASISS), a bi-lateral program that enables Mexican alien smugglers apprehended in the United States to be prosecuted in Mexico. From the time of its inception in 2005 through the end of FY2011, OASISS generated 2,617 cases, but it is unclear how many of those cases were successfully prosecuted.⁷⁴

Programs to combat smuggling and human trafficking already receive support from Congress, and Congress could consider additional investments in similar programs, including by providing dedicated funding for ICE-vetted units in Mexico or other binational enforcement programs.⁷⁵

⁷¹ Pete Yost, "Fast and Furious-Like 'Gun-Walking' Probe Mentioned In 2007 Bush Administration Memo," *Huffington Post*, November 4, 2011.

⁷² Severe forms of trafficking in persons have been defined in U.S. law as "sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or ... the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. *Victims of Trafficking and Violence Protection Act of 2000 (TVPA)* (P.L. 106-386).

⁷³ SIAs have been defined as aliens who originate from 1 of 35 countries named by CBP in 2004 as "special interest" countries because they had been "designated by our intelligence community as countries that could export individuals that could bring harm to our country in the way of terrorism." Testimony of U.S. Border Patrol Chief David Aguilar, U.S. Congress, Senate Judiciary Committee, Subcommittee on Immigration, Border Security, and Citizenship, "Joint Hearing with the Terrorism, Technology and Homeland Security Subcommittee on Border Security Technology," 109th Cong., 1st sess., April 28, 2005.

⁷⁴ Data provided to CRS by U.S. Border Patrol in an email, 10/17/2011.

⁷⁵ On November 4, 2011, the House Homeland Security Committee approved H.R. 915, which would formally authorize funding for ICE's BEST program, while also requiring annual reports on its effectiveness.

Congress could also consider making such programs more of a priority under the Mérida Initiative. On the other hand, Mexico already receives more U.S. anti-TIP assistance than most other Western Hemisphere countries, and any effort to expand bilateral anti-smuggling or anti-TIP efforts further would likely have to occur within existing resource constraints. In addition, U.S. law enforcement agencies may find it to be more effective to carry out their own investigations, given ongoing concerns about corruption in Mexico as well as cost constraints within the United States; and some Members of Congress may prefer to focus on unilateral enforcement policies.

Human Rights

According to the State Department's human rights report covering 2010, the Mexican government generally respected human rights at the national level, but serious problems remained.⁷⁶ These included unlawful killing by security forces; kidnappings; physical abuse; poor and overcrowded prison conditions⁷⁷; arbitrary arrests and detention; corruption, inefficiency and lack of transparency that engendered impunity in the judicial system; confessions coerced through torture; and violence against journalists leading to self-censorship. In 2010, nine Mexican journalists were killed and four disappeared.⁷⁸ Societal problems highlighted in the report included domestic violence; trafficking in persons; social and economic discrimination against some members of the indigenous population; and child labor. The report mentions an increase in politically motivated killings likely committed by organized crime in 2010, including the deaths of 14 local mayors and a gubernatorial candidate. The report also cited an estimate from Mexico's National Human Rights Commission (Comisión Nacional de Derechos Humanos or CNDH) that some 20,000 migrants were kidnapped while attempting to transit the country in 2010, including 72 migrants killed in a massacre in Tamaulipas in August 2010. The National Migration Institute has disputed CNDH's figures.

The State Department report maintained that neither the Mexican government nor its forces committed any politically motivated killings, but that there were reports that security forces killed several people during the year, including two university students and one U.S. citizen. The report asserted that the number of allegations of human rights violations committed by military and police forces engaged in counterdrug efforts brought before Mexico's CNDH increased as compared to 2009. The report cites multiple cases of forced disappearances allegedly committed by army and police forces, a problem which the United Nations has also identified as a serious human rights issue that Mexico needs to address through prevention, investigation, punishment and reparation for victims.⁷⁹ Corruption was reported to be a major problem, particularly at the state and local level, with police involved in kidnapping, extortion, or providing protection for organized crime and drug traffickers. Impunity was pervasive, according to the report, and was a reason that many victims were reluctant to file complaints.

⁷⁶ U.S. Department of State, *2010 Human Rights Report: Mexico*, April 2011, available at: <http://www.state.gov/g/drl/rls/hrrpt/2010/wha/154512.htm>.

⁷⁷ According to the report, prisons were roughly 26% overcrowded at mid-year. By year's end, some 150 inmates had died and 407 had escaped from prison.

⁷⁸ Freedom House recently lowered Mexico's annual ranking on press freedom from "partly free" to "not free" as a result of the increased violence and intimidation being carried out against journalists in the country. Freedom House, *Freedom of the Press 2011 Survey*, May 1, 2011.

⁷⁹ U.N. Office of the High Commissioner for Human Rights, *United Nations Working Group on Enforced or Involuntary Disappearances Concludes Visit to Mexico*, March 31, 2011.

Human rights organizations generally lauded the inclusion of human rights conditions in Mérida Initiative appropriations legislation.⁸⁰ More recently, however, there have been concerns that Mexico has not been fulfilling the conditions set forth in the legislation. In particular, Mexican and international human rights groups have criticized the Mexican government for failing to hold military and police officials accountable for past abuses against civilians.⁸¹

On August 13, 2009, the State Department submitted a human rights progress report (also referred to as a 15% report) for Mexico to Congress, thereby meeting the statutory requirements for FY2008 supplemental and FY2009 regular funds to be released. While acknowledging that serious problems remain, the report outlined steps that the Mexican government had taken to improve police transparency and accountability, consult with Mexican human rights organizations and civil society on the Mérida Initiative, investigate and prosecute allegations of human rights abuses by security forces, and prohibit the use of torture.⁸² Human rights groups criticized the State Department report, and the release of Mérida funds that were on hold.⁸³

On September 2, 2010, the State Department submitted a second human rights progress report on Mexico to Congress.⁸⁴ According to that report, the Mexican government had demonstrated enough progress to enable \$36 million in FY2009 and FY2010 regular funds that had been on hold to be released. The report credited the Calderón government with initiating legislation to strengthen the authority of the CNDH, carrying out human rights training for military and police officials, and formalizing a bilateral dialogue on human rights issues with the United States. Despite these advances, the State Department report stated that further improvements needed to be made in the areas of transparency and combating impunity in order for \$26 million in FY2010 supplemental funds on hold to be released. The State Department urged the Mexican Congress to approve pending legislation that would strengthen the power of the CNDH and the Calderón government to submit legislation to reform the Military Justice Code so that military officials accused of human rights crimes against civilians would be tried in civilian courts.

Since the release of the FY2010 human rights progress report, the Mexican Congress has approved a series of reforms that elevate human rights conditions in international treaties signed by Mexico to the level of the constitution and strengthen the power of the CNDH and state-level human rights commissions. The reforms were promulgated in June 2011. President Calderón submitted legislation to the Mexican Congress in October 2010 that would reform the Military

⁸⁰ From FY2008-FY2011, Mérida appropriations bills withheld 15% of certain assistance until the Secretary of State reported in writing that Mexico was taking action in four areas: 1) improving transparency and accountability of federal police forces; 2) establishing a mechanism for regular consultations among relevant Mexican government authorities, Mexican human rights organizations, and other relevant Mexican civil society organizations, concerning implementation of the Mérida Initiative; 3) ensuring that civilian prosecutors and judicial authorities are investigating and prosecuting, in accordance with Mexican and international law, members of the Federal Police and military forces who have been credibly alleged to have committed violations of human rights, and the Federal Police and military forces are fully cooperating with the investigations; and 4) enforcing the prohibition, in accordance with Mexican and international law, on the use of testimony obtained through torture or other ill-treatment. The first two conditions are not included in the 15% withholding requirement in the FY2012 Consolidated Appropriations Act (P.L. 112-74)

⁸¹ See, for example, Human Rights Watch (HRW), *Neither Rights nor Security: Killings, Torture, and Disappearances in Mexico's "War on Drugs,"* November 2011, available at: http://www.hrw.org/sites/default/files/reports/mexico1111webwcover_0.pdf.

⁸² U.S. Department of State, *Mexico- Merida Initiative Report*, August 2009.

⁸³ Washington Office on Latin America (WOLA) et al., "Joint Letter to Secretary of State Hillary Clinton: Human Rights Concerns to Inform the U.S. Department of State's Merida Initiative Reporting on Mexico," May 27, 2010.

⁸⁴ U.S. Department of State, *Mexico-Mérida Initiative Report*, September 2, 2010.

Justice Code to establish civilian jurisdiction in cases where soldiers are accused of forced disappearance, rape, and torture. That legislation is still pending. However, on July 12, 2011, the Mexican Supreme Court rendered a decision that the current Military Justice Code should be reinterpreted so that cases involving credible allegations of human rights abuses committed by military forces against civilians are tried in civilian courts.⁸⁵ Recognizing this progress, the State Department obligated \$26 million that had been on hold in the fall of 2011. The next 15% progress report is likely to be submitted in the first half of this year.⁸⁶

Congress has maintained a strong interest in human rights conditions in Mexico. Congressional appropriators are likely to closely scrutinize the next 15% report for Mexico, particularly given the intense criticism that the Mexican government has recently received from Human Rights Watch (HRW) and other human rights organizations. HRW maintains that the Mexican government's security strategy has resulted in a "significant increase in killings, torture, and other abuses by security forces"⁸⁷ and that it has failed to make the reforms necessary so that soldiers accused of abuses against civilians are tried in civilian courts.⁸⁸ The Mexican government has challenged those assertions, noting that President Calderón has asked his Attorney General and top military leaders to try to find ways to begin transferring cases to civilian jurisdiction.⁸⁹ Congress may choose to augment Mérida Initiative funding for human rights programs, such as ongoing human rights training programs for military and police, or newer efforts, such as support for human rights organizations through ESF funds or the \$5 million program launched in FY2011 to support efforts to protect journalists and human rights defenders. Human rights conditions in Mexico are also likely to be an important oversight issue as well. In 2011, Members of Congress wrote letters to the State Department on several human rights issues, including the need to better protect Mexican human rights defenders and migrants transiting Mexico.

Migration

Trends in Mexican Immigration to the United States

Mexico is the leading country of origin among U.S. legal permanent residents (LPRs) and among unauthorized immigrants in the United States, according to the Department of Homeland Security Office of Immigration Statistics (OIS). While the Immigration and Nationality Act (INA) sets a ceiling on immigration from any one country at 7%, most Mexican immigrants are exempt from the statutory numerical limits because they enter as immediate relatives of U.S. citizens. Mexicans made up 62% of the unauthorized aliens living in the United States in 2010 according to estimates based upon the American Community Survey (ACS) of the U.S. Census Bureau. OIS demographers estimated from the ACS that there were 6.7 million Mexican nationals among the estimated 10.8 million unauthorized resident population in 2010.⁹⁰

⁸⁵ "Mexican Supreme Court Says Military Rights Violations Should be Reviewed by Civilian Courts," *Associated Press*, July 13, 2011.

⁸⁶ Email from State Department official, October 6, 2011.

⁸⁷ HRW, *World Report: 2012*, January 2012, available at: <http://www.hrw.org/world-report-2012>.

⁸⁸ See: Maureen Meyer, *Recent Developments on the Use of Military Jurisdiction in Mexico*, WOLA, January 31, 2012, http://www.wola.org/commentary/recent_developments_on_the_use_of_military_jurisdiction_in_mexico.

⁸⁹ "Informe de HRW no Refleja Situación Real en México: Segob," *Milenio*, January 23, 2011.

⁹⁰ Department of Homeland Security, Office of Immigration Statistics, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2010*, by Michael Hofer, Nancy Rytina, and Bryan C. Baker, 2011, (continued...)

Mexican migration flows, particularly unauthorized flows, began to decline in mid-2006 and have continued on a downward trajectory since that time. In fact, data from multiple sources show that the net rate of unauthorized migration from Mexico to the United States is fluctuating somewhere near zero.⁹¹ Researchers have variously attributed this declining emigration to the U.S. recession, to stepped up U.S. border security that has made the journey more hazardous, to increasing abuses of migrants by smugglers and transnational criminal organizations, and to expanding job opportunities in Mexico.⁹² Emigration flows may increase again once economic growth picks up in the United States. However, future flows may be smaller than in the past because young Mexicans may feel less pressure than previous generations to emigrate in order to find work.⁹³

Mexico's Immigration Policies

Mexico is in a unique position in the international migration system because in addition to its role as a source of international emigrants, it is also an important country of transit and, to a lesser extent, a destination country for transnational migrants. Most transit migration through Mexico consists of unauthorized migration of U.S.-bound Central American migrants. Central American migration was fueled by civil conflicts in the 1980s and later driven by a lack of economic opportunities for the region's expanding youth populations and by natural disasters. Unauthorized flows peaked in 2005, when there were roughly 430,000 illegal crossings into Mexico from Central America, before falling to an estimated 140,000 crossings in 2010.⁹⁴ Flows have declined for many of the same reasons that Mexico-U.S. emigration has declined, but particularly due to the fears that potential Central American migrants now have about being victimized by organized criminal groups in Mexico.⁹⁵

Until recently, Mexico lacked a cohesive migration policy, and successive Mexican governments appeared to express little concern about the number of Mexican citizens leaving for the United States without proper documents and often at great personal risk.⁹⁶ Beginning in the late 1990s,

(...continued)

available at: http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2010.pdf. For alternative analyses, see Jeffrey S. Passel and D'Vera Cohn, *Unauthorized Immigrant Population: National and State Trends, 2010*, Pew Hispanic Center, February 1, 2011, <http://pewhispanic.org/files/reports/133.pdf>.

⁹¹ Data from the U.S. Department of Homeland Security, the Pew Hispanic Center, the Mexican Migration Project at Princeton University, Mexico's 2010 Census, and Mexico's Northern Border International Migration (EMIF) survey support this finding.

⁹² See, for example: Jeffrey Passel and D'Vera Cohn, *Mexican Immigrants: How many Come? How Many Leave?*, Pew Hispanic Center, July 2009, pewhispanic.org/files/reports/112.pdf; Damien Cave, "Better Lives for Mexicans Cut Allure of Going North," *New York Times*, July 6, 2011; David Scott Fitzgerald, Rafael Alarcón, and Leah Muse-Orlinoff, *Recession Without Borders: Mexican Migrants Confront the Economic Downturn* (La Jolla, CA and Boulder, CO: Center for Comparative Immigration Studies (CCIS) and Lynne Reiner Publishers, 2011), p. 19.

⁹³ See Aaron Terrazas, Demetrios G. Papademetriou, and Marc R. Rosenblum, *Evolving Demographic and Human-Capital Trends in Mexico and Central America and Their Implications for Regional Migration*, Migration Policy Institute (MPI) and Woodrow Wilson International Center for Scholars, Washington, D.C., May 2011, <http://www.migrationpolicy.org/pubs/RMSG-human-capital.pdf>; Hanson et al., "The Demography of Mexican Migration to the United States," *American Economic Review*, vol. 99, May 2009.

⁹⁴ Gobierno Federal de México, Secretaría de Gobernación (SEGOB), *Apuntes Sobre Migración*, July 1, 2011; SEGOB, *Boletín Mensual de Estadísticas Migratorias*, 2005-2010.

⁹⁵ Organization of American States, *International Migration in the Americas: SICREMI 2011 Country Reports*, 2011.

⁹⁶ For information on how Mexico's approach to U.S.-Mexico migration issues has historically ebbed and flowed, see: Marc R. Rosenblum, *Obstacles and Opportunities for Regional Cooperation: The US-Mexico Case*, MPI, April 2011, available at: <http://www.migrationpolicy.org/pubs/USMexico-cooperation.pdf>.

however, increasing emigrant deaths along the U.S.-Mexico border and the precarious situation of unauthorized Mexican migrants in the United States led the Mexican government to take a more active and comprehensive approach to migration issues, including through greater engagement with the United States and reforms to its own migration policy.⁹⁷

The “Whole Enchilada” Framework

Vicente Fox’s election in 2000 ended 71 years of one-party rule, and his government made reaching a U.S.-Mexico immigration agreement a top priority. Fox and President George W. Bush met five times during the first nine months of 2001, and on September 6, 2001 the two presidents announced a framework agreement to negotiate a major bilateral migration accord.⁹⁸ Although the possibility of a U.S.-Mexico migration accord faded after the 9/11 terrorist attacks, the Mexican government supported efforts to enact comprehensive immigration reform in the United States. In February 2006, for example, the Mexican Congress passed a Concurrent Resolution on Migration acknowledging Mexico’s *shared responsibility* to enforce legal emigration, increase security along its northern and southern borders, and create opportunities for workers in Mexico so that fewer individuals would emigrate.⁹⁹ In exchange for these commitments, the resolution called for the development of a U.S. guest worker program

Recent Migratory Reforms and 2011 Immigration Law

Between 2006 and 2011, the Calderón Administration and the Mexican Congress took significant steps to overhaul Mexico’s migration policies, although the implementation of recent reforms remains a work in progress.¹⁰⁰ Previously, Mexico’s primary immigration law, the General Population Act of 1974, limited legal immigration and restricted the rights of foreigners in Mexico, with unauthorized migrants subject to criminal penalties. A 2007 law made human trafficking a criminal offense at the federal level, and by 2010, all 32 Mexican states had enacted some form of anti-trafficking reform. In 2008, the Mexican Congress reformed the General Population Act to decriminalize simple migration offenses, making unauthorized migrants subject to fines and voluntary repatriation or deportation, but no longer subject to imprisonment. That year the Calderón government also announced a new strategy and more than \$200 million in new investments to improve security conditions, modernize customs and immigration installations, and promote development in Mexico’s southern border region. In 2010, Mexico’s Congress passed a law stiffening penalties for alien smuggling, particularly abuses committed by public officials. Efforts to identify and punish corrupt officials who may have abused migrants have advanced a bit further at the federal level than in most states and municipalities.

⁹⁷ This section is drawn from: Laura V. González-Murphy and Rey Koslowski, *Entiendo el Cambio a las Leyes de Migración de México*, Woodrow Wilson International Center for Scholars Mexico Institute, March 2011; Marcelle Beaulieu, “Mexican Immigration Policy: Candil de la Calle, Oscuridad de la Casa,” (Ph.D. diss., Tulane University, forthcoming).

⁹⁸ The White House, Joint Statement between the United States of America and the United Mexican States, <http://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010906-8.html>.

⁹⁹ An English translation of the resolution is available at <http://hirc.house.gov/archives/109/Mexico%20Migration%20Phenomenon.pdf>.

¹⁰⁰ Beaulieu, *op. cit.* For comments on Mexico’s recent efforts, see: The United Nations Office at Geneva, “Committee on the Rights of Migrant Workers Considers Report of Mexico,” press release, April 5, 2011, [http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/20DEDEC635336C4EC1257869004679DE?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/20DEDEC635336C4EC1257869004679DE?OpenDocument).

The long-term results of Mexico's recent migratory reform efforts are likely to hinge on how well the Mexican government is able to implement a new immigration law that was unanimously approved by the Mexican Congress and signed by President Calderón in May 2011.¹⁰¹ Some of the main objectives of the law are to:

- Guarantee the rights and protection of all migrants who transit Mexican territory;
- Simplify the procedures governing migration in Mexico to facilitate legal immigration;
- Establish the principles of family reunification and humanitarian protection as key elements of the country's immigration policy; and,
- Delineate the roles of each entity responsible for aspects of migration policy so as to improve migration management and reduce abuses of migrants by public officials.¹⁰²

The first and fourth objectives most directly respond to the criticisms that have been leveled against the Mexican government for failing to adequately prevent, investigate and punish abuses of migrants by public officials and organized crime groups. Within the first objective, the law guarantees all migrants access to education, justice and healthcare services and reduces the time that unauthorized migrants can be held in detention centers to 15 working days. The law also gives legal status to special government "Beta Groups"¹⁰³ that assist migrants in distress and establishes special procedures for how children and other vulnerable groups should be treated. Under the fourth objective, the law gives INM legal authority to enforce immigration policy and stipulates that only federal immigration officials can ask for documents to verify a migrant's status. Since the regulations for this new migration law are still being developed, its actual implications for Mexico are not yet known.

Efforts to Enact Comprehensive Immigration Reform in the United States

As previously stated, since the mid-2000s, the Mexican government has supported efforts to enact comprehensive immigration reform in the United States. Comprehensive bills have generally addressed border security, enforcement of immigration laws within the United States, employment eligibility verification, temporary worker programs, permanent admissions and, most controversially, unauthorized aliens in the United States. Comprehensive immigration reform was debated in the 109th and 110th Congresses, but not enacted.¹⁰⁴

The Speaker of the House and the Senate majority leader pledged to take up immigration reform legislation in the 111th Congress. President Obama reiterated his support for comprehensive immigration reform during a joint press appearance with President Calderón on May 19, 2010,

¹⁰¹ For a general description of the law in English, see: Gobierno Federal de México, "Mexico's New Law on Migration," September 2011, available at: <http://usmex.ucsd.edu/assets/028/12460.pdf>.

¹⁰² CRS translation of a briefing document prepared by INM in response to a CRS request.

¹⁰³ Beta Groups were first established to assist migrants along the U.S.-Mexico border in 1990 and expanded to Mexico's Southern border region in the mid-1990s. In 2010, "Beta Groups" rescued 4,163 migrants in distress.

¹⁰⁴ See: CRS Report RL33125, *Immigration Legislation and Issues in the 109th Congress*, coordinated by Andorra Bruno and CRS Report RL34204, *Immigration Legislation and Issues in the 110th Congress*, coordinated by Andorra Bruno.

but also said that he lacked the votes in Congress to move a reform bill forward.¹⁰⁵ Some analysts interpreted President Obama's May 2010 decision to send 1,200 National Guard troops to the border and to request supplemental funds for border security as designed to gain support for an immigration reform measure from Members of Congress whose top priority was border security.¹⁰⁶ The 111th Congress did not take up a comprehensive reform bill, but it did consider a narrower DREAM Act bill to legalize the status of certain unauthorized alien students. On December 8, 2010, the House approved a version of the DREAM Act as an amendment to an unrelated bill, the Removal Clarification Act of 2010 (H.R. 5281) on a vote of 216 to 198. Ten days later, a cloture motion in the Senate to agree to the House DREAM Act amendment failed on a 55-41 vote.¹⁰⁷

Despite President Obama's calls for a national conversation on immigration reform and stated commitment to pursue such reform, immigration has not been a front-burner issue for the 112th Congress. A comprehensive immigration reform bill (S. 1258) and DREAM Act bills (S. 952, H.R. 1842) have again been introduced in the 112th Congress, but are unlikely to be considered. The 112th Congress has taken legislative action on some measures containing provisions on a range of immigration-related topics.¹⁰⁸

Mexico's Reaction to Arizona's S.B. 1070 and Other State Laws to Deter Unauthorized Immigration¹⁰⁹

In the absence of immigration reform at the federal level, several states, beginning with Arizona, have enacted strict laws to deter unauthorized immigration. On April 23, 2010, Arizona enacted S.B. 1070, which is designed to discourage and deter the entry to or presence of aliens in Arizona who lack lawful status under federal immigration law. Potentially sweeping in effect, the measure requires state and local law enforcement officials to facilitate the detection of unauthorized immigrants in their daily enforcement activities. The measure also establishes criminal penalties under state law, in addition to those already imposed under federal law, for alien smuggling offenses and failure to carry or complete alien registration documents. Further, it makes it a crime under Arizona law for an unauthorized alien to apply for or perform work in the state, either as an employee or an independent contractor.

The enactment of S.B. 1070 has sparked significant legal and policy debate. Supporters argue that federal enforcement of immigration law has not adequately deterred the migration of unauthorized aliens into Arizona, and that state action is both necessary and appropriate to combat the negative effects of unauthorized immigration. Opponents argue, among other things, that S.B. 1070 will be expensive and disruptive, will be susceptible to uneven application, and may undermine community policing by discouraging cooperation with state and local law enforcement. While acknowledging the increasing frustration that some states and localities feel as a result of the federal government's failure to tackle immigration reform, President Obama has

¹⁰⁵ Michael Muskal, "Obama Calls for Help with Immigration Reform," *Los Angeles Times*, May 20, 2010.

¹⁰⁶ Jennifer Bendery and John Stanton, "Obama Sends Mixed Messages on Immigration," *Roll Call*, June 1, 2010.

¹⁰⁷ See: CRS Report R40848, *Immigration Legislation and Issues in the 111th Congress*, coordinated by Andorra Bruno; CRS Report RL33863, *Unauthorized Alien Students: Issues and "DREAM Act" Legislation*, by Andorra Bruno.

¹⁰⁸ For information, see: CRS Report R42036, *Immigration Legislation and Issues in the 112th Congress*, coordinated by Andorra Bruno.

¹⁰⁹ For background, see CRS Report R41221, *State Efforts to Deter Unauthorized Aliens: Legal Analysis of Arizona's S.B. 1070*, by Kate M. Manuel, Michael John Garcia, and Larry M. Eig.

criticized S.B. 1070, stating that the law threatened “to undermine basic notions of fairness that we cherish as Americans, as well as the trust between police and our communities that is so crucial to keeping us safe.” In part to respond to these concerns, the Arizona State Legislature modified S.B. 1070 on April 30, 2010, through the approval of H.B. 2162. Nonetheless, in July 2010, the Department of Justice sued the state of Arizona in the U.S. District Court for the District of Arizona to block S.B. 1070.

In the immediate aftermath of S.B. 1070’s enactment, Mexican President Felipe Calderón also expressed his disapproval of the measure and stated that it “opens the door to intolerance and hatred.” On April 27, 2010, the government of Mexico issued travel warnings to Mexicans planning to travel to Arizona and stated that Arizona’s recent immigration changes show “an adverse political atmosphere for migrant communities and for all Mexican visitors.” On May 20, 2010, President Calderón again criticized S.B.1070 during his address to a joint session of Congress by stating that it creates a dangerous precedent of “using racial profiling as a basis for law enforcement.” And in July 2010, citing its right under international law and existing US-Mexican treaties to protect the interests of its citizens abroad, Mexico filed a friend of the court brief in another federal lawsuit to block the Arizona law. The brief argues that

SB 1070 institutes an independent state system of immigration enforcement that not only derails bilateral economic, social and security efforts, but imperils the U.S. federal government’s effort at a comprehensive solution for immigration policy.... Mexico cannot effectively cooperate or engage in meaningful bilateral relations with the U.S. when states are permitted to interfere with the sovereigns’ bilateral efforts.

On July 29, 2010, a federal judge blocked large parts of S.B. 1070, Arizona’s controversial new state law against illegal immigration, from taking effect pending the results of a U.S. Department of Justice lawsuit challenging its constitutionality. The state of Arizona filed a countersuit, citing the federal government’s failure to enforce immigration laws, but in April 2011 the Ninth Circuit Court of Appeals upheld the lower court’s injunction. Arizona then appealed to the Supreme Court, which granted certiorari on December 12, 2011. The Court's decision could determine the permissibility not only of the challenged provisions of S.B. 1070 but also of subsequent measures enacted by Alabama, South Carolina, and Utah. The Mexican government has filed *amicus curiae* briefs in lawsuits seeking to block the immigration laws passed by Alabama and South Carolina.

Energy and Environmental Issues

The future of oil production in Mexico is of great importance for Mexico’s economic well-being and for U.S. energy security, a key congressional interest. Oil continues to be important for the Mexican economy, representing almost 14% of overall export earnings in 2010.¹¹⁰ The state-oil company, Petróleos Mexicanos (PEMEX), contributes more than a third of the federal government’s budget. Mexico was the third largest supplier of crude oil to the United States in 2011 after Canada and Saudi Arabia, accounting for about 11.7% of U.S. oil imports.¹¹¹

Oil production in Mexico has declined significantly since the mid-2000s, with some predicting that the country could become a net oil importer as soon as 2015.¹¹² There are concerns that

¹¹⁰ U.S. Energy Information Administration (EIA), *Country Analysis Brief- Mexico*, July 2011.

¹¹¹ U.S. Department of Commerce, Census Bureau, via Global Trade Atlas.

¹¹² Duncan Wood, “The Administration of Decline: Mexico’s Looming Oil Crisis,” *Law and Business Review of the* (continued...)

Mexico's proven oil reserves are declining because of insufficient funds available for maintenance and exploration. The Cantarell field in the Gulf of Mexico, which once accounted for almost two-thirds of Mexico's crude oil production, is in steep decline, with production down 74% from its peak production level in 2004.¹¹³ This decline has been only partially offset by the increased productivity of other fields. In part because of the Mexican government's heavy fiscal demands, PEMEX has had financial difficulties, with its debt increasing and the company registering an annual operating loss since 1998. PEMEX has also recently been losing hundreds of millions of dollars a year due to criminal groups illegally tapping into its pipelines. PEMEX currently lacks the technology and expertise needed to perform the deep-water exploration and drilling that is needed to tap into new reserves.

Thus far, the aforementioned 2008 energy reforms have not resulted in significant changes for Mexico's oil sector. President Calderón originally proposed measures that would have allowed PEMEX to enter into joint ventures with foreign companies in exploration and production, and would have allowed private companies to build and operate refineries, pipelines, and storage facilities in Mexico. His proposal prompted strong resistance from Mexico's leftist opposition and was significantly watered down in the Mexican Congress. Nevertheless, the final legislation brought private sector experts into PEMEX's management structure, created an independent board to advise the company, and added greater flexibility to its procurement and investment processes. Most significantly, the law allowed PEMEX to enter into incentive-based service contracts with foreign oil companies. PEMEX awarded its first private operating contracts ever in August 2011 and announced a second round of bidding in January 2012.¹¹⁴

The United States and Mexico have been collaborating on geothermal energy projects since the 1970s, but the possibility of expanding joint efforts to produce renewable energy sources has just recently returned to the bilateral agenda. On April 16, 2009, President Obama and Mexican President Calderón announced the Bilateral Framework on Clean Energy and Climate Change to jointly develop clean energy sources and encourage investment in climate-friendly technologies. Among others, its goals include enhancing renewable energy, combating climate change, and strengthening the reliability of cross-border electricity grids. Bilateral meetings to advance the Framework were held in January 2010 and May 2011, and the next meeting is being planned for mid-2012. On January 19, 2012, USAID and Mexico signed an MOU to strengthen and expand cooperation on environmental issues with the *Mexico Global Climate Change (GCC) Program*, a five-year, approximately \$70 million, program. Part of the program seeks to reduce emissions from the energy sector and will assist Mexico's long-term, low emissions development planning. A second component focuses on reducing emissions from the forestry sector and promoting economic development in forest-dependent communities. Mexico and the United States also continue to work together, along with Canada, to complete a North American Carbon Storage Atlas by April 2012.

(...continued)

Americas, vol. 16, Fall 2010.

¹¹³ EIA, op. cit.

¹¹⁴ "Mexico Opens Second Round of Private Oil Contracts," *Reuters*, January 19, 2012.

Trade Issues¹¹⁵

The United States and Mexico have strong economic ties through the North American Free Trade Agreement (NAFTA), which has been in effect since 1994. Prior to NAFTA, Mexico had followed a strong protectionist policy for decades until it began to unilaterally liberalize its trade regime in the late 1980s. Since the implementation of NAFTA, U.S.-Mexico trade has tripled and the stock of U.S. foreign direct investment in Mexico has risen from \$17 billion in 1994 to close to \$90.3 billion in 2010.¹¹⁶ Mexico ranks third as a source of U.S. imports, after China and Canada, and second, after Canada, as an export market for U.S. goods and services. Through NAFTA, the United States, Mexico, and Canada form the world's largest free trade area, with about one-third the world's total GDP. Most studies show that the net economic effects of NAFTA on both the U.S. and Mexican economies have been small but positive, though there have been adjustment costs to some sectors within both countries.

Since NAFTA, the Mexican economy has increasingly become a manufacturing-for-export nation that is dependent on the U.S. economy. Exports represent 32% of Mexico's GDP, up from 10% twenty years ago, and about 80% of Mexico's exports are destined for the United States. In 2010, the top three Mexican exports to the United States were: machinery/electrical goods (40%), cars/auto parts (17%), and oil (15%). Mexico remains the second-largest U.S. oil supplier. When the U.S. economy is expanding, the Mexican economy benefits. However, when the U.S. economy stagnates or is in decline, the Mexican economy tends to be hit hard. In 2009, for example, GDP growth in the United States fell by 2.5% and Mexico's GDP declined by 6.5%. The Mexican economy rebounded in 2010, with better-than-expected GDP growth of 5.5%.

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, TX. In addition, the bilateral Border Environment Cooperation Commission (BECC), located in Ciudad Juárez, Mexico; and the North American Development Bank (NADBank), headquartered in San Antonio, TX, were created to promote and finance environment projects along the U.S.-Mexico border. 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. 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. Legislation has been proposed in the 112th Congress (H.R. 2216) and in the Mexican Congress to further broaden the functions of NADBank to include other types of infrastructure development to foster economic growth along the border.

¹¹⁵ For more information, see CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

¹¹⁶ Data is from the U.S. Department of Commerce, Bureau of Economic Analysis and Census Bureau.

Trade Disputes

Outstanding trade disputes between the countries include access for Mexican trucks to operate in the United States and access for Mexican tuna to the U.S. market. A long-standing dispute involving sugar and high fructose corn syrup was resolved in 2006.¹¹⁷

*Trucking*¹¹⁸

Since 1995, the implementation of NAFTA trucking provisions has been in dispute. In March 2009, Congress included a provision in P.L. 111-8, the FY2009 Omnibus Appropriations Act, to terminate a pilot program that had allowed Mexican-registered trucks to operate beyond the 25-mile border commercial zone inside the United States. This move prompted retaliation from Mexico, which argued that the U.S. action was protectionist. Mexico imposed tariffs on over 90 U.S. agricultural and industrial products. The goods accounted for a value of \$2.4 billion in U.S. exports to Mexico in 2007.¹¹⁹ The FY2010 Consolidated Appropriations Act (P.L. 111-117) and FY2011 Full-Year Continuing Appropriations Act (P.L. 112-10) do not include language that was in P.L. 111-8 prohibiting the Department of Transportation from funding a pilot project for Mexican-registered trucks to operate in the United States.

Obama Administration officials have repeatedly expressed confidence that a resolution to the current trucking dispute can be found that will satisfy congressional concerns about the safety of Mexican trucks, but still fulfill U.S. market access obligations under NAFTA. In January 2011, the Obama Administration released a concept document for a proposed program to implement the trucking provisions. The proposed plan has been endorsed by the Mexican government and was published in the Federal Register on April 8, 2011.¹²⁰ The Mexican government agreed to phase out the retaliatory tariffs it has imposed once the plan was finalized and to end all retaliatory tariffs once the first Mexican carrier is certified to operate in the United States. On July 6, 2011, the Department of Transportation signed a formal agreement with Mexico that establishes a pilot trucking program and ends 50% of the retaliatory tariffs that had been imposed on U.S. exports to Mexico.¹²¹ The first Mexican truck entered the United States under the pilot program on October 21, 2011. With that milestone having been reached, Mexico ended the rest of the retaliatory tariffs it had imposed on the United States.¹²² Some Members of Congress continue to oppose the implementation of the trucking provisions because they remain concerned about the safety of Mexican trucks operating in the United States. Others support a resolution to the issue and contend that Mexico's retaliatory tariffs have had strong negative effects on local U.S. industries and jobs.

¹¹⁷ For more information on recent trade disputes, see CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by M. Angeles Villarreal.

¹¹⁸ *Ibid*; for background, see CRS Report RL31738, *North American Free Trade Agreement (NAFTA) Implementation: The Future of Commercial Trucking Across the Mexican Border*, by John Frittelli.

¹¹⁹ Christopher Conkey, Jose de Cordoba, and Jim Carlton, "Mexico Issues Tariff List in U.S. Trucking Dispute," *Wall Street Journal*, March 19, 2009.

¹²⁰ Department of Transportation, Federal Motor Carrier Safety Administration, "Pilot Program on NAFTA Long-Haul Trucking Provisions," FMCSA-2011-097, April 8, 2011.

¹²¹ DOT, "United States and Mexico Announce Safe, Secure Cross-Border Trucking Program," press release, July 6, 2011, <http://www.fmcsa.dot.gov/about/news/news-releases/2011/MX-trucks.aspx>.

¹²² "NAFTA's Long Haul," *San Francisco Chronicle*, October 24, 2011.

Tuna

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. That decision was appealed to the U.S. Ninth Circuit Court of Appeals, which ruled against the Administration in April 2007, finding that the Department of Commerce did not base its determination on scientific studies of the effects of Mexican tuna fishing on dolphins.

In late October 2008, Mexico initiated World Trade Organization (WTO) dispute proceedings against the United States, maintaining that the documentary evidence required for meeting U.S. "dolphin-safe" standards unfairly discriminated against Mexican tuna exporters. In April 2009, the WTO agreed to set up a dispute panel to rule on Mexico's complaint. In September 2011, the panel ruled that U.S. standards were "more trade restrictive than necessary," but not discriminatory towards Mexico. The U.S. government has appealed the ruling.¹²³ Separately, in September 2010, the U.S. government requested that a dispute resolution panel be convened under the auspices of the NAFTA agreement rather than through the WTO. The NAFTA panel proceedings have made little progress.

North American Cooperation on Security and Economic Issues

In addition to the increased U.S.-Mexican bilateral cooperation that has occurred during the past two decades, trilateral cooperation between the United States, Mexico, and Canada has also increased, particularly since NAFTA took effect. During the second George W. Bush Administration, annual meetings between the North American leaders and their ministers took place within the framework of the Security and Prosperity Partnership (SPP) of North America, established in March of 2005.¹²⁴ Through the SPP, which consisted of expanded cooperation and harmonization of policies, the three governments sought to advance the common security and prosperity of their countries. To make this partnership operational, the leaders established ministerial-led working groups to develop measurable and achievable goals in priority areas: competitiveness, smart and secure borders, energy security and environmental protection, food and product safety, and emergency response. Beginning in June 2005, the SPP working groups provided annual reports to the three North American leaders on their work and key

¹²³ "U.S. Appeals WTO Ruling in Mexico Dolphin-Tuna Row," *Agence France Presse*, January 20, 2012.

¹²⁴ For more information, see CRS Report RS22701, *Security and Prosperity Partnership of North America: An Overview and Selected Issues*, by M. Angeles Villarreal and Jennifer E. Lake.

accomplishments, with the last SPP report submitted prior to the April 2008 North American Leaders' Summit.

North American cooperation has continued to occur, albeit somewhat less intensely, under the Obama Administration, but that cooperation is no longer referred to as occurring under the SPP initiative. As previously discussed, a North American Leaders' Summit took place in Guadalajara, Mexico, on August 9-10, 2009. In addition to important discussions that occurred with respect to combating drug trafficking and preparing for the fall flu season, the leaders produced, among other things, a list of energy deliverables aimed at reducing carbon emissions in North America.¹²⁵ The North American leaders did not meet in 2010, as had been planned, prompting some observers to argue that North American integration efforts have waned even as U.S.-Mexican and U.S.-Canadian bilateral efforts had intensified.¹²⁶ Another North American Leaders Summit was scheduled to take place after the APEC Forum in Hawaii in November 2011, but was cancelled after President Calderón was unable to travel after his Interior Minister died in a helicopter crash.

Legislation in the 112th Congress¹²⁷

Approved Measures

P.L. 112-10 (H.R. 1473), Department of Defense and Full-Year Continuing Appropriations Act, FY2011. Signed into law April 15, 2011, the measure funds government programs, including foreign assistance to Mexico, at reduced levels for the remainder of FY2011. The legislation had no accompanying report and did not designate a funding level for Mexico. It did direct the Obama Administration to report back to Congress within 30 days on its proposed allocations of the appropriated funds. After consultations with Congress, the State Department allocated \$178 million for Mexico in FY2011, including \$143 million in Mérida-related assistance.¹²⁸ The funds are subject to the same human rights conditions as in P.L. 111-8.

P.L. 112-74 (H.R. 2055), Consolidated Appropriations Act, 2012. Signed into law December 23, 2011, the measure funds government programs, including foreign aid to Mexico, for the remainder of FY2012. The Act does not include a final funding level for Mexico, but does make 15% of assistance provided to the Mexican military and police subject to human right conditions that are slightly different than previous Mérida appropriations. The conditions require the Secretary of State to report that the Mexican government is taking steps to investigate human rights abuses by military and police forces in civilian courts and prohibiting the use of torture, but does not require the Secretary to report that Mexico is improving police transparency or consulting with civil society on the Mérida Initiative. The restrictions do not apply to assistance to promote transparency, anti-corruption and the rule of law within the military and police forces. In the report (H.Rept. 112-331) accompanying the Act, the conferees express their support for the

¹²⁵ The White House, Office of the Press Secretary, "North American Leaders' Declaration on Climate Change and Clean Energy," August 10, 2009.

¹²⁶ Andrés Oppenheimer, "The Slow Decline of North America," *Miami Herald*, March 5, 2011.

¹²⁷ For more information on immigration and border security legislation in the 112th Congress, see: CRS Report R42036, *Immigration Legislation and Issues in the 112th Congress*, coordinated by Andorra Bruno.

¹²⁸ FY2011 653(a) allocation data provided to CRS by the U.S. Department of State, August 2011.

Obama Administration's request for Mexico, including the \$282 million requested for the Mérida Initiative. The conferees also direct the Secretary of State to provide a report within 90 days of the enactment of the Act detailing how U.S. programs are helping to achieve judicial and police reform in Mexico. They also call upon the State Department to develop and implement a border security strategy with Mexico. The Act also contains a number of border security provisions.

P.L. 112-81 (H.R. 1540), National Defense Authorization Act for FY2012. Signed into law December 31, 2011, the measure contains a provision that allows for the Department of Defense to continue providing support for counter-drug activities in Mexico.

P.L. 112-87 (H.R. 1892), Intelligence Authorization Act for FY2012. Signed into law January 3, 2012, the measure requires the Secretary of Homeland Security to submit a report to the congressional intelligence and homeland security committees within 90 days of the enactment of the Act on whether restrictions on the use of airspace are inhibiting the use of unmanned aerial vehicles by DHS along the U.S.-Mexico border.

P.L. 112-93 (H.R. 3801), Ultralight Aircraft Smuggling Prevention Act of 2012. Signed into law February 10, 2012, the measure amends the Tariff Code of 1930 with respect to aviation smuggling to extend its coverage of aircraft to ultralight vehicles or any other contrivance used to fly in the air.

Considered Measures¹²⁹

H.R. 1 (Rogers), Full Year Continuing Appropriations Act, FY2011. Introduced February 11, 2011; House approved February 19, 2011. Senate rejected March 9, 2011. The bill would have reduced funding for foreign assistance, including assistance to Mexico, from FY2010 levels. An amendment to this bill would have prohibited ATF from implementing the proposed multiple rifle sales reporting requirement that was previously described in this report. Final action on FY2011 appropriations concluded with the enactment of P.L. 112-10.

H.R. 704 (Goodlatte), SAFE for America Act. Introduced February 15, 2011. House Judiciary Committee held markup and ordered the bill reported (H.Rept. 112-275). The measure would amend the Immigration and Nationality Act (INA) to eliminate the diversity immigrant program.

H.R. 915 (Cuellar), Jaime Zapata Border Enforcement Security Task Force Act. Introduced March 3, 2011. House Homeland Security Committee held markup and ordered the bill reported (H.Rept. 112-268). The measure would formerly establish a Border Enforcement Security Task Force (BEST) program within ICE to foster collaboration and information-sharing among federal, state, and local border and law enforcement officials. It would authorize funding for the BEST program for FY2012-FY2016 and would require annual reports on the program's effectiveness.

H.R. 1299 (Miller), Secure Border Act of 2011. Introduced March 31, 2011; House Homeland Security Committee held markup and ordered the bill reported (H.Rept. 112-274). The measure directs the Secretary of Homeland Security to submit to the appropriate congressional committees a comprehensive strategy for gaining operational control of the international borders between U.S. ports of entry within five years.

¹²⁹ "Considered" measures include bills that were reported out of committee and/or voted on.

H.R. 1741 (Smith), Secure Visas Act. Introduced May 5, 2011; House Judiciary Committee held markup and ordered the bill reported June 23, 2011. The measure would give the Secretary of Homeland Security exclusive authority to issue regulations, establish policy, and administer and enforce the provisions of the INA and all other immigration or nationality laws relating to the functions of consular officers of the United States in connection with the granting and refusal of a visa.

H.R. 1932 (Smith), Keep Our Communities Safe Act. Introduced May 23, 2011; House Judiciary Committee held markup and ordered the bill reported (H.Rept. 112-255). Among other things, the bill would allow DHS to detain indefinitely, subject to six-month reviews, an alien under orders of removal who cannot be removed under certain circumstances.

H.R. 1933 (Smith). Introduced May 23, 2011; House Judiciary Committee held markup and ordered the bill reported (H.Rept. 112-153). House approved August 2, 2011. The measure would amend the INA to modify the requirements for admission of nonimmigrant nurses in health professional shortage areas.

H.R. 2017 (Aderholt), Department of Homeland Security Appropriations Act, FY2012. Introduced May 26, 2011; House Committee on Appropriations ordered the bill reported (H.Rept. 112-91). House approved June 2, 2011. The bill would have reduced discretionary funding for DHS to \$40.6 billion, some 6.9% below the Administration's request. The bill would have fully funded the Administration's request for border security fencing and infrastructure, but reduced funding for border surveillance technology and technology pilot programs by \$25 million. The bill would have increased funding for CBP by \$44 million and funding for ICE by \$26 million above the Administration's request. Final action on FY2012 appropriations concluded with the enactment of P.L. 112-74.

H.R. 2583 (Ros-Lehtinen), Foreign Relations Authorization Act, FY2012. Introduced July 19, 2011; House Committee on Foreign Affairs held markup and ordered the bill reported (H.Rept. 112-223). The measure would place certain limitations on USAID contracting under the Mérida Initiative and expand the State Department Rewards Program to enable the Secretary of State to offer monetary rewards for information leading to the arrest or conviction of any individual for illegally exporting or attempting to export small arms or light weapons to Mexico.

H.R. 3012 (Chaffetz), Fairness for High-Skilled Immigrants Act of 2011. Introduced September 22, 2011; House Judiciary Committee held markup and ordered the bill reported (H.Rept. 112-292). House approved November 29, 2011. The measure would eliminate the per country numerical limitation for employment-based immigrants, and increase the per country numerical limitation for family based immigrants from 7% to 15% of the total number of family-sponsored visas.

H.R. 2885 (Smith), Legal Workforce Act. Introduced September 12, 2011; House Judiciary Committee held markup and ordered the bill reported September 15, 2011. The measure would amend the INA to direct the Secretary of Homeland Security to establish an employment eligibility verification system (EEVS) patterned after the E-Verify system to replace the current paper-based I-9 system.

H.R. 3401 (Mack), Enhanced Border Security Act. Introduced November 20, 2011; House Committee on Foreign Affairs Subcommittee on the Western Hemisphere held markup and ordered the bill reported December 15, 2011. The bill would require the Secretary of State to

submit a detailed counterinsurgency strategy "to combat the terrorist insurgency in Mexico waged by transnational criminal organizations."

S. 1236 (Feinstein), Border Tunnel Prevention Act of 2011. Introduced June 20, 2011; Senate Judiciary Committee ordered the bill reported December 15, 2011. Senate approved January 30, 2012. The bill would create criminal penalties to deter the construction and use of border tunnels.

S. 1601 (Leahy), Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012. Introduced and reported to the Senate (S.Rept. 112-85) September 22, 2011. The report accompanying the measure would have provided \$220 million in INCLE assistance to Mexico, \$180 million of which would be for Overseas Contingency Operations. In the report, appropriators express support for assistance to Mexican state and local law enforcement and judicial authorities and concern about whether the current Mérida Initiative strategy can be sustained given the violence that is occurring in Mexico. Final action on FY2012 appropriations concluded with the enactment of P.L. 112-74.

S. 1612 (Feinstein), Targeting Transnational Drug Trafficking Act of 2011. Introduced September 22, 2011. Senate approved December 15, 2011. The measure would amend the Controlled Substances Import and Export Act to establish penalties for drug trafficking activity when individuals have reasonable cause to believe that illegal drugs will be trafficked into the United States. It would also ensure that current penalties apply to chemical producers from other countries (including producers of pseudoephedrine used for methamphetamine) that illegally ship precursor chemicals into the U.S. knowing these chemicals will be used to make illegal drugs.

Legislation in the 111th Congress

Approved Measures¹³⁰

P.L. 111-5 (H.R. 1), American Recovery and Reinvestment Act of 2009. Signed into law February 17, 2009, the measure provided \$220 million for construction for the water quality program of the International Boundary and Water Commission, United States and Mexico. The measure also provided \$40 million in Department of Justice state and local law enforcement assistance for competitive grants to provide assistance and equipment along the southern border and in high-intensity drug trafficking areas to combat criminal narcotics activity, of which \$10 million was to be transferred to ATF for Project Gunrunner.

P.L. 111-8 (H.R. 1105), Omnibus Appropriations Act, 2009. Signed into law March 11, 2009. In Division H, the measure appropriated \$300 million for Mexico as a second installment under the Mérida Initiative. Human rights conditions similar to those included in the FY2008 Supplemental Appropriations Act (P.L. 110-252) applied to 15% of the total funds provided, not including assistance for judicial reform, institution building, anti-corruption, and rule of law activities. In Division I, Section 136, the measure prohibited funds in the Act from being used for

¹³⁰ For detailed information about immigration and border security legislation that was enacted or considered during the 111th Congress, see CRS Report R40848, *Immigration Legislation and Issues in the 111th Congress*, coordinated by Andorra Bruno.

a pilot program granting certain Mexican trucks access to U.S. highways beyond the commercial zone. In the joint explanatory statement for Division B, not less than \$5 million was provided for Project Gunrunner and other firearms trafficking efforts targeting Mexico and the border region.

P.L. 111-32 (H.R. 2346), Supplemental Appropriations Act, 2009. Signed into law June 24, 2009, the measure appropriated \$420 million in Mérida Initiative funding for Mexico: \$160 million in INCLE assistance and \$260 million in FMF assistance. Of the \$420 million in FY2009 supplemental assistance to Mexico, 15% of the \$160 million in INCLE assistance was subject to the same human rights conditions set forth in P.L. 111-8, section 7045(e) of Division H. However, the FMF funds appropriated were not subject to human rights conditions. According to the conference report (H.Rept. 111-151), the supplemental measure required a report from the Secretary of State within 45 days of enactment of the measure detailing actions by the government of Mexico since June 30, 2008, to investigate and prosecute human rights violations by members of the Mexican Federal Police and military forces. The report also called for a “thorough, independent, and credible investigation” of the murder of Bradley Will, an American journalist killed while covering a protest in Oaxaca in 2006.

P.L. 111-84 (H.R. 2647), National Defense Authorization Act for FY2010. Signed into law October 28, 2009, the measure contained a provision that allowed the Department of Defense to continue providing support for counter-drug Activities in Mexico.

P.L. 111-117 (H.R. 3288), Consolidated Appropriations Act, FY2010, Signed into law December 16, 2009. In Division F, the measure appropriated up to \$210.3 million in Mérida Initiative funding for Mexico: \$190 million in INCLE assistance, \$15 million in ESF, and \$5.25 million in FMF assistance. Human rights conditions applied to 15% of the total funds provided, not including assistance for judicial reform, institution building, anti-corruption, and rule of law activities. In the Joint Explanatory Statement to P.L. 111-117, the conferees directed the Secretary of State to submit a report to within 90 days of the enactment of the Act addressing how prior Mérida funds have been used, progress to date, any planned adjustments in the uses of funds, and post-Merida plans. Apart from the Mérida Initiative, the measure included \$10 million in DA assistance for Mexico. The measure did not include language prohibiting funds appropriated in the Act from being used for a pilot program granting certain Mexican trucks access to U.S. highways beyond the commercial zone.

P.L. 111-118 (H.R. 3326), Defense Appropriations Act, FY2010, Signed into law December 19, 2009, the measure appropriated \$50 million in funding for counternarcotics communication equipment for Mexico.

P.L. 111-212 (H.R. 4899), Supplemental Appropriations Act, 2010. Signed into law July 29, 2010, the measure included \$175 million in assistance for “judicial reform, institution building, anti-corruption, and rule of law activities” in Mexico (under the State Department’s INCLE account) and \$5 million in funds for emergency diplomatic security support in Mexico (under the State DC&P account). The INCLE assistance provided was subject to the same human rights conditions as in P.L. 111-8. Funds were also not to be made available until the State Department submitted a multiyear, interagency strategy on how to address the causes of drug trafficking-related violence and crime in Latin America and the Caribbean to the Appropriations Committees.

P.L. 111-230 (H.R. 6080). Signed into law August 12, 2010, the measure provided \$600 million in supplemental funds for law enforcement efforts along the U.S.-Mexico border. That total included \$394 million for DHS: \$244 million to hire new CBP officers and Border Patrol agents,

\$84 million to hire new ICE agents, \$32 million for two unmanned aerial detection systems, \$6 million for bases for Border Patrol agents, \$14 million for communications equipment, and \$8 million to train new law enforcement personnel. The supplemental funds also included \$196 million to support DOJ efforts on the Southwest border.

P.L. 111-242 as amended (H.R. 3081, Continuing Appropriations Act, 2011. Signed into law September 30, 2010, the measure, as amended, continued funding most programs, including assistance to Mexico, at the FY2010-enacted level through March 4, 2011.

P.L. 111-376 (H.R. 6472), Anti-Border Corruption Act of 2010. Signed into law January 4, 2011, the measure required DHS to ensure that within two years of the enactment of the Act, all applicants for CBP positions would receive polygraph examinations, and that within 180 days of the enactment of the Act, CBP would begin periodic background reinvestigations of all of its law enforcement personnel.

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